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Subject: State Aid SA.57759 (2020/N) – Bulgaria – COVID-19 – Short-term employment support in response to the COVID-19 pandemic

State Aid SA.57646 (2020/N) – Bulgaria – COVID-19 – Prolongation and modification of SA.56905 (2020/N) – Employment scheme for preserving jobs in the most affected sectors

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, by electronic notification of 2 July 2020 Bulgaria notified (under case SA.57759) aid in the form of wage subsidies under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹
- (2) Following pre-notification contacts, by electronic notification of 6 July 2020 Bulgaria notified (under case SA.57646) additional aid in the form of wage subsidies under the Temporary Framework. This measure is a prolongation and

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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modification of the State aid scheme approved by Commission Decision of 14 April 2020 in case SA.56905 (2020/N) (hereinafter, “the initial Decision”).²

- (3) The two measures (‘both measures’ or ‘the measures’) pursue the same objective, namely to preserve employment that would otherwise be lost due to the COVID-19 outbreak. The measures are therefore assessed together in one single decision.
- (4) Bulgaria exceptionally agrees, as regards both measures, to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”) in conjunction with Article 3 of Regulation 1/1958³, and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

2.1. Background: the serious disturbance in the economy of Bulgaria

- (5) Bulgaria considers that the COVID-19 outbreak affects the real economy and puts at risk the jobs of workers and employees of undertakings, as well as the business activity of self-employed persons that have reduced or suspended partially or entirely their activities due to the state of emergency and containment measures enforced by the national authorities. As a result, there is a risk of significant redundancies, and a risk of discontinuation of the business activities of self-employed individuals.⁴
- (6) As a response to the COVID-19 outbreak, on 13 March 2020 the Bulgarian National Assembly declared a state of emergency. The measures applicable during the state of emergency are set out in the State of Emergency Measures Act, effective as of 13 March 2020, as subsequently amended⁵, and in the Health Act, as amended⁶.

² Commission Decision C(2020) 2395 final of 14 April 2020, OJ C 144, 30.4.2020, p. 20 (available at: https://ec.europa.eu/competition/state_aid/cases1/202016/285501_2148301_44_2.pdf)

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ According to data of the Bulgarian National Employment Agency, the number of persons registered as unemployed increased from 201,021 persons on 13 of March 2020, when the state of emergency was declared, to 272,790 persons on 1 July 2020, which represents a 35.7% increase. During this period, the inflow of unemployed persons registered at the Labour Offices totalled 163,629, which equals a daily average of 2,556 persons, compared to 1,334 persons before 13 March 2020. Most of the newly registered unemployment comes from the following economic sectors: manufacturing (food, textile, clothing, wood, paper, plastics), accommodation and food service activities, tourism, wholesale and retail trade, and repair of motor vehicles and motorcycles. The Bulgarian authorities also point out that bus transport, and in particular the public transport of passengers on regular bus lines, is one of the sectors most affected by the COVID-19 outbreak, as the imposed anti-epidemic measures, related to the restriction of the movement and gathering of citizens, lead to a logical reduction in travel.

⁵ Act on the measures and actions during the state of emergency declared by a resolution of the National Assembly of 13 March 2020, promulgated in OJ No. 28 of 24 March 2020, as last amended and supplemented by OJ No. 44 of 13 May 2020, effective as of 14 May 2020.

⁶ Health Act, promulgated in OJ No. 70 of 10 August 2004, as last amended by OJ No. 44 of 13 May 2020, in force as of 14 May 2020.

- (7) On 14 May 2020, the Bulgarian Council of Ministers adopted a Decision declaring an extraordinary epidemic situation, which was extended until 15 July 2020 by the Decision of the Council of Ministers of 25 June 2020. Pursuant to these decisions, some of the measures imposed pursuant to the state of emergency were prolonged, whereas others were lifted.
- (8) Given the restrictions imposed under the state of emergency and the extraordinary epidemic situation, undertakings in various sectors have been obliged to suspend their activities entirely or partially and others have voluntarily suspended their activities or introduced part-time work arrangements, which has resulted in a significant decrease in revenues. The measures undertaken in the framework of the extraordinary epidemic situation impact the undertakings negatively because the latter continue to suffer losses and decreases in revenues, compared to the same period last year. Notwithstanding the mitigation of the containment measures, most of the affected undertakings continue to experience obstacles in their activities because of the restrictions. Undertakings active in sectors such as passenger transport, hotels and restaurants, culture and entertainment, and certain retail sectors are particularly affected by these restrictions, and face the risk of important lay-offs in the absence of public support.

2.2. SA.57759 – Short-term employment support in response to the COVID-19 pandemic.

- (9) The measure aims to preserve employment by contributing to the wage costs of undertakings which, due to the COVID-19 outbreak, would otherwise lay off personnel, and to the wage-equivalent income of self-employed individuals for whom the adoption of national measures in response to the COVID-19 outbreak resulted in the suspension or reduction of their business activity.
- (10) Bulgaria confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of Bulgaria. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (11) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.10 of the Temporary Framework.

2.2.1. The nature and form of aid

- (12) The measure provides aid in the form of direct grants for wage subsidies, or, in the case of self-employed persons, for compensation of their lost income.

2.2.2. National legal basis

- (13) The national legal basis for the measure is the Decision of the Bulgarian Council of Ministers No. 429 of 26 June 2020⁷, effective as of the same date. That

⁷ Decision No. 429 of 26 June 2020 laying down the terms and conditions for the payment of compensation to self-employed individuals and employers in order to preserve the employability of workers and employees in companies directly affected by the state of emergency declared by the National Assembly on 13 March 2020. This decision was adopted on the basis of the Bulgarian Health Act, as amended.

Decision provides that aid under the measure may not be paid until the Commission adopts a positive decision on its compatibility with the internal market.⁸

2.2.3. *Administration of the measure*

- (14) The Bulgarian National Employment Agency is responsible for administering the measure.

2.2.4. *Budget and duration of the measure*

- (15) The estimated budget of the measure is BGN 40 million⁹.
- (16) The measure will be financed with public resources, co-financed by the European Social Fund (ESF). The Bulgarian authorities have confirmed that the rules applicable under the ESF will be respected.
- (17) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.2.5. *Beneficiaries*

- (18) The final beneficiaries of the measure are undertakings¹⁰ and self-employed persons active in sectors particularly affected by the COVID-19 outbreak, as described in section 2.2.6 below.
- (19) Applications for wage subsidies are open to undertakings that:
- are local natural¹¹ or legal persons, or foreign legal persons, which carry out economic activities in the Republic of Bulgaria;
 - have declared a decrease in sales revenue of not less than 20 percent in the month preceding the date of the application for aid, compared to the same month of the previous calendar year¹²;
 - have no pending payment of taxes or of compulsory social security contributions within the meaning of Article 162, para. 2, item 1 of the

⁸ Final provisions, §5.

⁹ Approximately EUR 20.5 million at the exchange rate of BGN 1 = EUR 0.5113 (fixed exchange rate), source: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eur_ofxref-graph-bgn.en.html.

¹⁰ Including municipal enterprises established pursuant to Article 52 of the Bulgarian Municipal Property Act.

¹¹ The Bulgarian authorities have confirmed that all natural persons who perform an economic activity in Bulgaria as self-employed persons (registered as exercising liberal professions and/or craftsmen according to the generally applicable rules of the Bulgarian laws, or registered as sole traders according to the rules of the Trade law) will be eligible as beneficiaries of aid under the measure (provided they also meet all conditions of the measure), regardless of their nationality.

¹² For undertakings registered between 1 June 2019 and 1 March 2020, the average income for January and February 2020 is used as reference.

Bulgarian Tax and Social Security Procedure Code, established by an effective act of a competent authority, and for which the employer has not taken action for rescheduling, deferring, or securing the obligations;

- are not bankrupt or in bankruptcy or liquidation proceedings;
- do not terminate the employment contracts of employees pursuant to Article 328, para. 1, items 2, 3, and 4 of the Bulgarian Labour Code during the period for which aid is granted;
- maintain the relevant employees in continuous employment for the period for which aid is granted, as well as for an additional period equal to half the period for which aid is granted;
- have not committed a breach of the labour legislation, established by a penal order¹³ or judicial decision, during the six months preceding the date of the application for aid.

(20) As regards self-employed persons, aid is granted on the condition that they:

- have declared a decrease in sales revenue of not less than 20 percent in the month preceding the date of the application for aid, compared to the same month of the previous calendar year¹⁴;
- have no pending payment of taxes or of compulsory social security contributions within the meaning of Article 162, para. 2, item 1 of the Bulgarian Tax and Social Security Procedure Code, established by an effective act of a competent authority, and for which the employer has not taken action for rescheduling, deferring, or securing the obligations;
- maintain their business activities during the period for which aid is granted, as well as for an additional period equal to half the period for which aid is granted;
- have not committed a breach of the labour legislation established by a penal order or judicial decision during the six months preceding the date of the application.

(21) Aid under this measure will not be granted for:

- employees which were not in an employment relationship with the employer as of 13 March 2020;
- employees which take unpaid leave, or leave due to temporary incapacity, for pregnancy or childbirth, for raising a child of up to two years of age, or in case of adoption of a child of up to five years of age¹⁵;

¹³ An administrative act issued by the “General Labour Inspectorate” Executive Agency, by which a violation of the labour legislation is established.

¹⁴ For self-employed persons registered between 1 June 2019 and 1 March 2020, the average income for January and February 2020 is used as reference.

¹⁵ Those categories of employees do not receive salaries (wages) from their employer: the first group, as the leave is unpaid, and all the rest receive, instead of a salary, payments of benefits from the budget of the national social security system (on grounds of Art. 40, Art. 48 – 54 of the Social Insurance Code – Promulgated OJ No. 110 of 17.12.1999, as amended and supplemented, last supplemented by OJ No. 28 of 24.03.2020, effective 13.03.2020).

- employees for which the employer receives financing from the European Structural and Investment Funds (ESIF) or other public funds, if the total aid amount exceeds 80% of the monthly gross salary, including the employer's social security contributions;
- self-employed persons that started their activity after 1 March 2020;
- employees who have left their posts, with respect to the month of their departure;
- employees for which the employer receives public funds for the payment of remunerations and social security contributions pursuant to Article 71 of the Bulgarian Public Finance Act.

2.2.6. *Sectoral and regional scope of the measure*

(22) The measure applies to the whole territory of the Republic of Bulgaria, to undertakings and self-employed persons¹⁶ in the sectors most affected by the COVID-19 outbreak. The measure covers the following sectors, which follow the 2008 NACE classification of economic activities (NACE.BG-2008):

- 49.31 – Urban and suburban passenger transport
- 49.39 – Other passenger land transport, not elsewhere classified
- 49.41 – Freight road transport
- 50 – Water transport
- 51.10 – Passenger air transport
- 51.21 – Freight air transport
- 52.23 – Ancillary activities in air transport
- I – Hotels and restaurants
- 79 – Travel agency and operator activities, other travel and reservation activities.

2.2.7. *Basic elements of the measure*

(23) The wage subsidies for undertakings and income support for the self-employed are granted on the basis of an aid scheme called Short-term Employment Support in Response to the COVID-19 Pandemic. This measure intends to contribute to the wage costs of undertakings which, due to the COVID-19 outbreak, would otherwise lay off personnel, and to compensate self-employed individuals for the loss of income resulting from measures adopted at national level to respond to the COVID-19 outbreak.

2.2.7.1. Maximum aid intensity and absolute aid amount

(24) Under the measure, the monthly wage subsidy paid to eligible undertakings and self-employed persons amounts to BGN 290 per employee or self-employed

¹⁶ The following categories of self-employed individuals are eligible for aid: persons registered as exercising a liberal profession or craft, and persons operating as sole traders in the relevant sectors.

person¹⁷. This amount is set to match the minimum monthly unemployment compensation (including taxes and social security contributions due by the employer and the employee, or the self-employed person) in Bulgaria.

- (25) The Bulgarian authorities confirm that the maximum aid intensity of 80% of the benefitting employee's monthly gross salary (including employer's social security contributions) or of the self-employed person's wage-equivalent income, set out in section 3.10 of the Temporary Framework, will be respected.

2.2.7.2. Restriction of the measure to sectors most affected by the COVID-19 outbreak

- (26) The measure is only available to undertakings and self-employed persons that operate in one of the sectors most affected by the COVID-19 outbreak in Bulgaria, as detailed under section 2.2.6 above.

2.2.7.3. Aid application and payment conditions

- (27) Individual aid applications may be submitted from 1 July 2020 until 31 December 2020. Aid may be granted under the measure until no later than 31 December 2020. The individual wage subsidies will be paid out on a monthly basis.

- (28) Aid applications must be submitted to the Labour Office serving the place of employment. Applications submitted by undertakings must be accompanied by:

1. a declaration by the employer and evidence of a decrease in sales revenue of at least 20%;
2. a declaration by the employer that aid is not requested for employees which take unpaid leave, or leave due to temporary incapacity, for pregnancy or childbirth, for raising a child of up to two years of age, or in case of adoption of a child of up to five years of age;
3. a commitment to maintain the relevant employees in continuous employment for the period for which aid is granted, as well as for an additional period equal to half the period for which aid is granted;
4. a commitment not to terminate the employment contracts of the relevant employees pursuant to Article 328, para. 1, items 2, 3, and 4 of the Bulgarian Labour Code during the period for which aid is granted;
5. a list of the employees for whom aid is requested, containing details such as full names and identity card numbers, and the period for which aid is applied for;
6. the employer's bank account information.

- (29) Applications submitted by self-employed persons must be accompanied by:

1. a declaration and evidence of a decrease in sales revenue of at least 20% in the month preceding the date of the application for aid, compared to the same month of the previous calendar year;

¹⁷ Approximately EUR 148 at the exchange rate of BGN 1 = EUR 0.5113 (fixed exchange rate), source: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eur_ofxref-graph-bgn.en.html.

2. a declaration that they have no pending payment of taxes or of compulsory social security contributions within the meaning of Article 162, para. 2, item 1 of the Bulgarian Tax and Social Security Procedure Code, established by an effective act of a competent authority, and for which the employer has not taken action for rescheduling, deferring, or securing the obligations;
 3. a commitment to maintain their business activities during the period for which the aid is granted, as well as for an additional period equal to half the period for which aid is granted;
 4. a declaration that they have not committed a breach of the labour legislation established by a penal order¹⁸ or judicial decision during the six months preceding the date of the application;
 5. the self-employed person's bank account information.
- (30) Non-compliance with the condition to maintain the relevant employees in continuous employment during the period specified above and, as regards self-employed persons, to maintain their business activities during the same period, will result in the obligation to repay the full aid amount received.

2.2.7.4. Monitoring and control of compliance under national law

- (31) Before the aid is granted, the relevant Labour Office within the National Employment Agency will conduct eligibility checks for each individual employee (or self-employed person), to ensure that the conditions described above are met and that the maximum aid intensity of 80% (see recital 25 of the present Decision) will be respected.
- (32) The Bulgarian National Social Security Institute will carry out additional checks before the aid is transferred to the individual beneficiaries, with support from the General Labour Inspectorate Executive Agency and the National Revenue Agency.

2.2.8. *Cumulation*

- (33) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the ESIF.
- (34) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁹ or a block-exemption

¹⁸ See above footnote 13.

¹⁹ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

Regulation²⁰, with the exception of aid for the same eligible costs, provided the provisions and cumulation rules of those Regulations are respected.

- (35) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework, with exception of aid for the same eligible costs, provided the provisions in those specific sections are respected.
- (36) The Bulgarian authorities confirm that aid granted under the measure may be combined with aid granted under other measures approved by the Commission under section 3.10 of the Temporary Framework (such as the other measure (SA.57646) covered by the present Decision). The Bulgarian authorities confirm that the combined aid amount will not exceed the maximum aid intensity of 80% (see recital 25 of the present Decision).
- (37) The Bulgarian authorities confirm that aid granted under the measure may be combined with aid granted under other generally available measures or with aid schemes in the form of employment support measures, provided the total amount of aid does not lead to overcompensation of the wage costs of the personnel concerned.

2.2.9. *Monitoring and reporting*

- (38) The Bulgarian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

2.3. SA.57646 – Employment scheme for preserving jobs in the most affected sectors.

- (39) Bulgaria intends to prolong and modify the wage subsidy scheme approved by the Commission in its Decision of 14 April 2020, mentioned in recital (2). The modifications to the initial scheme which Bulgaria intends to introduce are described below.
- (40) Like the initial scheme, the current measure aims to preserve employment by contributing to the wage costs for employees which, due to the COVID-19 outbreak, would otherwise have been laid off, and to allow undertakings to resume their activities after the lockdown period.

²⁰ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

- (41) Bulgaria confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of Bulgaria. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (42) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.10 of the Temporary Framework.

2.3.1. National legal basis

- (43) The national legal basis for the prolongation and amendments measure is the Decree of the Bulgarian Council of Ministers No. 151 of 3 July 2020, in force as of 1 July 2020.²¹ The Decree provides that aid under the measure may not be paid until the Commission adopts a positive decision on its compatibility with the internal market.²²

2.3.2. Duration of the measure

- (44) Aid may be granted under the measure as from its approval until no later than 31 December 2020. This prolongation of the initial measure will have no effect on the budget approved in the initial Decision.

2.3.3. Beneficiaries

- (45) The final beneficiaries of the measure are undertakings active in the sectors described under section 2.3.4 below.
- (46) Under the initial scheme, undertakings active in the sectors covered by the scheme could apply for aid with respect to two categories of employees (see recital (16) of the initial Decision). These are namely:
- Employees for whom work is suspended during the state of emergency, in accordance with Article 120c of the Bulgarian Labour Code;
 - Employees which, during the state of emergency, have been asked to work part-time, in accordance with Article 138a, para. 2 of the Bulgarian Labour Code.
- (47) The Bulgarian authorities intend to add three categories of eligible employees, as follows:
- Employees which, during the state of emergency or the extraordinary epidemic situation, have taken leave, in accordance with Article 173a of the Bulgarian Labour Code;

²¹ Decree No. 151 of 3 July 2020 laying down the terms and conditions for the payment of wage subsidies for maintaining the employment of workers and employees after the period of the state of emergency declared by the decision of the National Assembly of 13 March 2020 and the extraordinary epidemic situation declared by the decisions of the Council of Ministers No. 325 of 14 May 2020 and No. 378 of 12 June 2020. This decree was adopted on the basis of the Public Social Insurance Budget Act for 2020.

²² Final provisions, §5.

- Employees whose employment has been retained following a notification of mass dismissals pursuant to Article 130a of the Bulgarian Labour Code and Article 24 of the Employment Promotion Act, in the period between 13 March and 30 June 2020;
- Employees in the accommodation and food services sector.

2.3.4. Sectoral scope of the measure

(48) The measure applies to all of the sectors covered by the initial scheme (see recital (19) of the initial Decision²³). In addition, the Bulgarian authorities intend to include the following economic activities (which follow the 2008 NACE classification of economic activities (NACE.BG-2008)) in the scope of the measure:

- 85.5 – Other education;
- 86.23 – Dental practice activities;
- 86.90 – Other human health services.

(49) The sectors excluded from the scope of the initial scheme (see recital (23) of the initial Decision²⁴) are equally excluded from the scope of the current measure.

(50) The scope of the measure therefore remains limited to sectors particularly affected by the COVID-19 outbreak.

2.3.5. Aid intensity

(51) The maximum aid intensity of the monthly wage subsidy paid to eligible undertakings will remain, as in the initial scheme (see recital (27) of the initial Decision), at 60 % of the monthly gross salary (including employer's social security contributions) of the benefitting personnel, based on reference amounts paid in May 2020. In case of financing of the same expenses from the ESIF or other public funds, the total (cumulated) aid amount will not exceed 80% of the monthly gross salary including employer's social security contributions (see recital (57) below).

²³ Namely, the following sectors in the 2008 NACE classification of economic activities (NACE.BG-2008): 47 – retail trade (with a few subsectors excluded), 49.3 – other passenger land transport, 51.1 – passenger air transport, 55 – accommodation, 56.1 – restaurants and mobile food service activities, 56.3 – beverage serving activities, 59.14 – motion picture projection activities, 79 – travel agency, tour operator and other reservation services and related activities, 82.30 – organisation of conventions and trade shows, 85.10 – pre-school education (private sector), 85.53 – driving school activities, 88.91 – day-care activities for young children (private sector), 90 – creative, arts, and entertainment activities, 91 – libraries, archives, museums, and other cultural activities, 93 – sports activities and amusement and recreational activities, 96.04 – physical well-being activities, and other economic activities (for employers who have ceased activities carried out on the territory of individual settlements, where, by order of a State authority, anti-epidemic measures were introduced on the grounds of Art. 63 of the Health Act).

²⁴ Namely, the following sectors in the 2008 NACE classification of economic activities (NACE.BG-2008): A – agriculture, forestry, and fishing, B – financial and insurance activities, O – public administration and defence, compulsory social security, P – education, Q – human health and social work activities, T – activities of households as employers, undifferentiated goods and services producing activities of households for own use, U – activities of extraterritorial organisations and bodies.

2.3.6. *Aid application and payment conditions*

- (52) The documents that must be provided with the aid application are the same as under the initial scheme, as described in recital (37) of the initial Decision. In addition, applicants must submit:
- a certified copy of the annual income tax declaration for 2019 pursuant to the Bulgarian Corporate Income Tax Act or the Personal Income Taxes Act;
 - a declaration by the employer that at the moment of the aid application the maximum aid intensity of 80%²⁵ of the monthly gross salary (including the employer's social security contributions) is not exceeded for the employees for whom the employer receives other public support.
- (53) The procedure and conditions for granting the aid remain otherwise unchanged.

2.3.7. *Cumulation*

- (54) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the ESIF.
- (55) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations or a block-exemption Regulation provided the provisions and cumulation rules of those Regulations are respected.
- (56) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (57) The Bulgarian authorities confirm that aid granted under the measure may be combined with aid granted under other measures approved by the Commission under section 3.10 of the Temporary Framework (such as the other measure (SA.57759) covered by the present Decision). The Bulgarian authorities confirm that in such case the combined aid amount will not exceed the maximum aid intensity of 80%.
- (58) The Bulgarian authorities confirm that aid granted under the measure may be combined with aid granted under other generally available measures or with aid schemes in the form of employment support measures, provided the total amount of combined aid does not lead to overcompensation of the wage costs of the personnel concerned. This is a modification of the initial scheme, under which such cumulation was not possible (see recital (30) of the initial Decision).

3. ASSESSMENT

3.1. Lawfulness of the measures

- (59) By notifying the two measures before putting them into effect, the Bulgarian authorities have respected their obligations under Article 108(3) TFEU.

²⁵ See recital (57) below.

3.2. Existence of State aid

- (60) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (61) The qualification of the measure under case SA.57646 as State aid was established in the initial Decision. The Commission refers, for analysis, to recitals (45) to (50) of the initial Decision. The Commission concludes that the notified amendments, as described above, do not affect the assessment that the measure constitutes aid within the meaning of Article 107 (1) TFEU as set out in the initial Decision.
- (62) As regards the measure under case SA.57759, it is imputable to the State, since it is granted and administered by the National Employment Agency (see recital (14)) and is based on the Decision of the Bulgarian Council of Ministers No. 429 of 26 June 2020 (see recital (13)). The measure is financed through State resources, since it is financed with public funds (see recital (16)).
- (63) Both measures confer an advantage on their respective beneficiaries in the form of wage subsidies to undertakings or income support to self-employed persons. The measures thus relieve those beneficiaries of costs that they would have had to bear under normal market conditions.
- (64) The advantage granted by both measures is selective, since it is awarded only to certain undertakings and self-employed persons, in particular those active in the sectors listed in recital (22) (SA.57759) and section 2.3.4 (SA.57646) above.
- (65) Both measures are liable to distort competition, since they strengthen the competitive position of its beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (66) In view of the above, the Commission concludes that both measures constitute aid within the meaning of Article 107(1) TFEU. The Bulgarian authorities do not contest that conclusion.

3.3. Compatibility

3.3.1. SA.57759 – Short-term employment support in response to the COVID-19 pandemic

- (67) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (68) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.

- (69) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that *“the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”*. The Commission concluded that *“State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”*.
- (70) The measure aims to preserve employment, avoid redundancies, and ensure the continuation of the business activities of undertakings and self-employed individuals during the COVID-19 outbreak, which is affecting the wider economy and leading to severe disturbances of the real economy of the Member States.
- (71) The measure is one of a series of measures conceived at national level by the Bulgarian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Bulgarian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Aid in the form of wage subsidies”*) described in section 3.10 of the Temporary Framework.
- (72) The Commission considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- Aid granted under the measure is aimed at avoiding redundancies during the COVID-19 outbreak and at ensuring the continuation of the business activities of undertakings and self-employed individuals (see recital (9)). The measure therefore complies with point 43(a) of the Temporary Framework;
 - Aid is granted in the form of schemes to undertakings and self-employed persons in sectors that are particularly affected by the COVID-19 outbreak (see recital (18)). The measure therefore complies with point 43(b) of the Temporary Framework;
 - Wage subsidies are granted under the measure (i) over a period of not more than twelve months after the application for aid is made (see recital (17)), (ii) for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (see recitals (18) and (19)) and for self-employed individuals whose business activity has been negatively affected by the COVID-19 outbreak (see recitals (18) and (20)), (iii) subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted, as well as for an additional period equal to half the period for which aid is granted (see recital (19)) and, as regards self-employed individuals, that their business activity is maintained for the entire period for which the aid is granted, as well as for an additional period equal to half the period for which aid is granted (see recital (20)). The measure therefore complies with point 43 (c) of the Temporary Framework;

- The monthly wage subsidy is fixed at BGN 290²⁶, an amount equal to the minimum monthly unemployment compensation (including taxes and social security contributions due by the employer and the employee, or the self-employed person) in Bulgaria (see recital (24)). That alternative methodology ensures that the aid remains proportional to the objective pursued by the measure. The Bulgarian authorities moreover confirm that if the aid granted under the measure is combined with aid granted under other measures approved by the Commission under section 3.10 of the Temporary Framework (such as the other measure (SA.57646) covered by the present Decision), the combined aid amount will not exceed the maximum aid intensity of 80% set under section 3.10 of the Temporary Framework (see recital (36) above). The measure therefore complies with point 43(d) of the Temporary Framework;
 - The Bulgarian authorities confirm that if wage subsidies granted under the measure are combined with other generally available or selective employment support measures, overcompensation of the wage costs of the personnel concerned will be excluded (see recital (37)). The measure therefore complies with point 43(e) of the Temporary Framework.
 - The measure does not exclusively target employees from the financial sector (see recital 22). The measure is therefore in line with points 20bis and 43bis of the Temporary Framework.
- (73) The Bulgarian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (38)). The Bulgarian authorities further confirm that the aid under the measure may only be cumulated with other aid provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (see recitals (34) and (35)).
- (74) The Bulgarian authorities also confirm that the rules under the ESF will be respected (see recital (16)).
- (75) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.
- 3.3.2. SA.57646 – Employment scheme for preserving jobs in the most affected sectors.*
- (76) The Commission refers to the compatibility analysis of the initial scheme, as set out in recitals (51) to (56) of the initial Decision.
- (77) The limited modifications as to the measure’s legal basis (recital (43) above), the duration of the measure (recital (44) above), the categories of eligible workers (recitals (46) and (47) above), the sectoral scope (recital (48) above), the aid intensity (recital (51) above), the documents to be included in the aid application (recital (52) above), and the possibility to combine this measure with other public

²⁶ Approximately EUR 148 at the exchange rate of BGN 1 = EUR 0.5113 (fixed exchange rate), source: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-bgn.en.html.

support measures (section 2.3.7 above) have no impact on the compliance by the initial scheme, as amended, with Article 107(3)(b) TFEU, as interpreted by the Temporary Framework.

- (78) The Commission therefore considers that the notified amendments do not affect the compatibility analysis of the initial scheme as set out in the initial Decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid under either of the notified measures on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/ejojade/isef/index.cfm>

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President