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Subject: State Aid SA.58328 (2020/N) – Bulgaria
COVID-19: Aid to provide liquidity to farmers active in primary agricultural production to overcome the effects of the negative economic impact of COVID-19

Excellency,

1. PROCEDURE

- (1) By electronic notification of 10 August 2020, Bulgaria notified aid in the form of limited amounts of aid (Act on the Measures and Actions during the State of emergency Declared by a Resolution of the National Assembly of 13 March 2020, “the measure”) 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) Bulgaria exceptionally agrees 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 1/1958² and to have this Decision adopted and notified in English.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/ldb43PX>

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.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

- (3) Bulgaria considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) 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 the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The measure provides aid in the form of direct grants, in order to ensure the liquidity of the beneficiaries affected by the COVID-19 outbreak.

2.2. Legal basis

- (7) The legal basis for the measure is Act on the Measures and Actions during the State of emergency Declared by a Resolution of the National Assembly of 13 March 2020, Promulgated: SG No. 64/18.07.2020, effective: 13.03.2020. (Закон за мерките и действията по време на извънредното положение, обявено с Решение на Народното събрание от 13.03.2020 г. и за преодоляване на последиците (ДВ, бр. 64 от 18.07.2020 г.)).

2.3. Administration of the measure

- (8) The State Fund for Agriculture is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is BGN 56.58 million (approximately EUR 29 million).
- (10) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings active in Bulgaria in the sectors defined in recital (13). However, financial institutions are excluded as eligible final beneficiaries.

- (12) Aid may not be granted under the measure to medium³ and large enterprises that were already in difficulty within the meaning of the the Agricultural Block Exemption Regulation (“ABER”)⁴. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the ABER⁵ on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁶ or restructuring aid⁷.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to primary agricultural production, notably the breeding of small and large ruminants and potato growing. It applies to the whole territory of Bulgaria.

2.7. Basic elements of the measure

- (14) The aid consists of writing off the remaining principal amount and interest due of loans taken out by the beneficiaries from the State Fund for Agriculture between 2008 and 2012.
- (15) The aid is granted on application
- (16) The amount of the aid cannot exceed EUR 100 000 (BGN 195 583) per beneficiary.

2.8. Cumulation

- (17) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid under the agricultural *de minimis* Regulation⁸ or the ABER, provided the provisions and cumulation rules of those Regulations are respected.

³ As defined in Annex I to 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, 26.6.2014, p. 1.

⁴ Commission Regulation (EU) 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.

⁵ As defined in Article 2(14) of Commission Regulation (EU) 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, OJ L 193, 1.7.2014, p. 1.

⁶ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁷ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

⁸ 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)

- (18) The Bulgarian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (19) 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.
- (20) The Bulgarian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (21) The Bulgarian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (22) By notifying the measure before putting it into effect, the Bulgarian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (23) 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.
- (24) The measure is imputable to the State, since it is administered by the State Fund for Agriculture (recital (8)) and it is based on the Act on the Measures and Actions during the State of emergency (recital (7)). It is financed through State resources, since it is financed by public funds.
- (25) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

⁹ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014.

- (26) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in primary agricultural production (recital (13)).
- (27) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (28) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Bulgarian authorities do not contest that conclusion.

3.3. Compatibility

- (29) 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.
- (30) 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”*.
- (31) 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”*.
- (32) The measure aims at ensuring liquidity for the beneficiaries affected by the COVID-19 outbreak at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (33) 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 relieve the beneficiaries from part of their payment obligations during the COVID-19 outbreak and thereby to preserve 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 ruminant and potato sectors. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in Section 3.1 of the Temporary Framework.
- (34) The Commission accordingly 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 is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 22(b) of the Temporary Framework;
 - Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework (recital (12));
 - Aid will be granted under the measure no later than 31 December 2020 (recital (10)). The measure therefore complies with point 22(d) of the Temporary Framework;
 - The aid takes the form of direct grants (recital (6)). The overall nominal value of direct grants does not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (16)). The measure therefore complies with point 23(a) of the Temporary Framework;
 - Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market (recital (14)). The measure therefore complies with point 23(b) of the Temporary Framework;
- (35) The Bulgarian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (21)). 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 (Section 2.8).
- (36) 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.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid 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/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
Secretary-General

Ilze JUHANSONE
EUROPEAN COMMISSION