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**Subject: State Aid SA.58166 (2020/N) – Romania
COVID-19: Support for SMEs and certain related large enterprises
to overcome the economic crisis caused by the COVID-19 pandemic**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 20 August 2020, Romania notified aid in the form of limited amounts of aid to support SMEs, and certain related large enterprises, to overcome the economic crisis caused by the COVID-19 pandemic (draft Government Emergency Ordinance on some measures for the granting of financial support from non-reimbursable external funds, related to the Operational Program Competitiveness 2014 - 2020, in the context of the COVID-19 crisis, as well as other measures in the field of European funds, “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) Romania submitted additional information on 21 August 2020.

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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- (3) Romania 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.

2. DESCRIPTION OF THE MEASURE

- (4) Romania considers that the COVID-19 outbreak has started to affect the real economy. Beyond the immediate effects on mobility and trade, the COVID-19 outbreak is increasingly affecting all types of companies active in all sectors, especially small and medium-sized enterprises (“SMEs”).
- (5) Romania submits that, in these exceptional circumstances, businesses of all types face a severe lack of liquidity especially in the context where companies had to invest in isolation measures for health protection³. This is especially true for SMEs, the situation of which may be seriously affected in the short and medium terms.
- (6) The measure, therefore, is intended to support SMEs and certain large enterprises related to SMEs in overcoming the economic crisis, by providing grants for working capital and investments.
- (7) Romania 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.
- (8) 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

- (9) The measure provides aid in the form of direct grants, and is divided into three sub-measures, as follows:
- fixed amount micro-grants (“Sub-Measure 1”);
 - grants for working capital in the form of a lump sum, based on a percentage of turnover (“Sub-Measure 2”); and
 - grants for investments in productive activities (“Sub-Measure 3”).

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

³ The measures adopted by Romania included social distancing measures, travel restrictions, quarantine measures and other types of restrictions designed to reduce the shocks and limit their effects over time.

2.2. Legal basis

- (10) The legal basis for the measure is the draft Government Emergency Ordinance (the “GEO”) on some measures for the granting of financial support from non-reimbursable external funds, related to the Operational Program Competitiveness 2014 - 2020, in the context of the COVID-19 crisis, as well as other measures in the field of European funds. The measure will be approved through Order of the Minister of European Funds (the “Order”).

2.3. Administration of the measure

- (11) The granting authority is the Ministry for European Funds, through the Managing Authority for the Competitiveness Operational Programme 2014-2027 (“COP MA”). The aid will be administered by the Ministry of Economy, Energy and Business Environment (“MEEBE”).

2.4. Budget and duration of the measure

- (12) The estimated total budget of the measure is RON 4.521 billion, approximately EUR 0.935 billion.
- (13) The measure will be partly co-financed⁴ by the European Structural and Investment Funds (ESIF), in particular, the European Regional and Development Fund (ERDF), under the Competitiveness Operational Programme 2014-2020. Romania confirms that the rules applicable under the ERDF will be respected.
- (14) Aid may not be granted under the measure later than 31 December 2020.

2.5. Beneficiaries

- (15) The final beneficiaries of the measure are SMEs and certain related large enterprises established in Romania, active in the eligible sectors set out at recitals (18), (19), and (20), below. Credit and financial institutions are excluded as eligible final beneficiaries. The GEO sets out the technical eligibility criteria applicable to the beneficiaries. Romania estimates the maximum number of beneficiaries will be 50 000 for Sub-Measure 1, 100 000 for Sub-Measure 2, and 15 000 for Sub-Measure 3.
- (16) Aid may not be granted under the measure to undertakings that were in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵, the Block Exemption Regulation for the Agricultural Sector (“ABER”)⁶, or the Block

⁴ With regard to sub-measure 2, the financial support to certain related large enterprises related to SMEs at the RON equivalent of EUR 50 million will be financed only from state resources and is therefore not co-financed by the ERDF.

⁵ As defined in Article 2(18) of 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.

⁶ 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.

Exemption Regulation for the Fishery and Aquaculture Sector (“FIBER”)⁷ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (17) The sectors to receive aid under Sub-Measures 1, 2, and 3 are set out in the GEO. The Romanian authorities have confirmed that it is not available to the financial sector.
- (18) Sub-Measure 1 is open to SMEs in all sectors of activity, except fishing, aquaculture, primary production of agricultural products, processing and marketing of agricultural products, gambling and betting, and manufacture of alcohol, tobacco, and armaments. It is also open to certain authorised natural persons (“ANPs”)/individual medical offices involved in the transport, equipment, evaluation, diagnosis, and treatment of patients diagnosed with COVID-19, and to ANPs and non-governmental organisation (“NGOs”) that carry out certain specified activities, listed in Annex 1 to the GEO.
- (19) Sub-Measure 2 is open to SMEs, and certain related large enterprises, in certain specific sectors of activity, set out at Annex 2 to the GEO. Beneficiaries include organisations whose current activity has been affected by the spread of COVID-19, or whose activity has been banned by military ordinances during the state of emergency and/or during the alert state. It is also open to NGOs active in the field of education.
- (20) Sub-Measure 3 is open to SMEs in certain specific sectors of activity, set out at Annex 3 to the GEO. They include the following industries: food, automotive, transport, metal/wood/furniture, textile/leather garments, pharmaceuticals, construction, creative, energy efficiency, transport, tourism, body care services, education services, health services, and repair and maintenance services.
- (21) The measure applies to the whole territory of Romania.

2.7. Basic elements of the measure

- (22) Sub-Measures 1 and 2 may be used to support expenditure set out in the GEO, including expenditure relating to stock necessary for the beneficiaries’ activity, payment of debts and rent, and expenditure on medical protective equipment.
- (23) Under Sub-Measure 1, aid is capped at the RON⁸ equivalent of EUR 2 000 per beneficiary, grantable only once, in a single instalment, in the form of a unit cost.
- (24) Under Sub-Measure 2, the amount of aid is calculated according to the beneficiary’s turnover, as follows:

⁷ Article 3(5) of 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, OJ L 369, 24.12.2014, p. 37.

⁸ The euro/leu exchange rate for calculating the ceilings for the sub-measures is the INFOREURO exchange rate valid in the month in which the call for projects is launched.

- for SMEs, or NGOs active in the field of education, with a turnover for 2019 between the RON equivalent of EUR 5 000 and EUR 13 500, the grant is the RON equivalent of EUR 2 000;
- for SMEs, or NGOs active in the field of education, with a turnover for 2019 between the RON equivalent of EUR 13 501 and EUR 1 000 000, the grant is set at 15% of turnover, and may not exceed the RON equivalent of EUR 150 000;
- for SMEs, or NGOs active in the field of education, with a turnover for 2019 over equivalent in RON of EUR 1 million, the maximum amount of aid is equivalent in RON to EUR 150 000; and
- for eligible related large enterprises, that are not SMEs, the maximum amount of aid is the RON equivalent of EUR 150 000.

The beneficiary's own contribution must be at least 15% of the grant value.

(25) Grants awarded pursuant to Sub-Measure 3 are intended to implement investments necessary for:

- the extension of existing production and service provision capacities;
- the realisation of new units for existing production capacities and the provision of services; and
- rehabilitation / modernisation of existing production units and new service units.

The maximum amount of aid available under Sub-Measure 3 is the RON equivalent of between EUR 50 000 and EUR 200 000 per beneficiary. The financing selection criteria of the investment projects are established by the COP MA, and are included in Annex 4 to the GEO. The beneficiaries' own contribution must be at least 30% of the value of the grant for beneficiaries in the Bucharest-Ilfov region, and 15% for beneficiaries from the other regions in Romania.

(26) Aid granted under this measure will, therefore, not exceed the total gross nominal value of EUR 800 000 per undertaking.

(27) As concerns the agricultural, fisheries, and agriculture sectors, the Romanian authorities have confirmed the following (excluding sub-measure 1):

- the overall aid will not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector, or EUR 100 000 per undertaking active in the primary production of agricultural products;
- where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Romania will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the

sectors covered by point 23 (a) of the Temporary Framework, Romania will ensure that the overall maximum amount of EUR 120 000 is not exceeded per undertaking;

- where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is not partly or entirely passed on to primary producers, and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned;
- aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market; and
- aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k) of Commission Regulation (EU) No 717/2014.

2.8. Cumulation

- (28) 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 European Structural and Investment Funds (ESIF).
- (29) Beneficiaries of Sub-Measures 1 and 2 can also access Sub-Measure 3.
- (30) The Romanian authorities confirm that aid granted under the measure may not be cumulated with aid under de minimis Regulations⁹, the GBER, the ABER, or the FIBER.
- (31) The Romanian 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.
- (32) The Romanian 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 requirements in those specific sections are respected.
- (33) The Romanian 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

⁹ 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, 26.4.2012, p. 8).

overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (34) The Romanian 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 100 000 granted under the measure and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁰).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (36) 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.
- (37) The measure is imputable to the State, since it is granted by the Ministry for European Funds, through the COP MA, and administered by the MEEBE (11)(see recital (11)). It is based on the GEO and the Order (see recital (10)). It is financed through State resources, since it is financed on the general budget.
- (38) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (9)). The measure thus confers an advantage on those beneficiaries that they would not have obtained under normal market conditions, since market operators do not offer direct grants to other undertakings.
- (39) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs and certain related large enterprises active in the defined eligible sectors, excluding the financial sector (see recital (15)).
- (40) 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.

¹⁰ Referring to information required in Annex III to the GBER, Annex III of the ABER, and Annex III of the FIBER.

- (41) In view of the above, the Commission concludes that the measure, to the extent the beneficiaries qualify as undertakings, constitutes aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

3.3. Compatibility

- (42) 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.
- (43) 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*”.
- (44) 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*”.
- (45) The measure aims at supporting SMEs, and certain related large enterprises, 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.
- (46) The measure is one of a series of measures conceived at national level by the Romanian authorities to remedy a serious disturbance in their economy. The importance of the measure to support SMEs is widely accepted by economic commentators, and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Romania’s economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of direct grants, repayable advances or tax advantages*”) described in section 3.1 of the Temporary Framework.
- (47) 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:
- The aid takes the form of direct grants (see recital (9)). The overall nominal value of the direct grants under Sub-Measures 1, 2, and 3 shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (see recital (26)). The measure therefore complies with point 22(a) of the Temporary Framework;
 - Aid is granted under the measure on the basis of a scheme with an estimated budget, as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;

- Aid may not be granted under the measure to undertakings that were already in difficulty on 31 December 2019 (see recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework;
 - Aid will be granted under the measure no later than 31 December 2020 (see recital (14)). The measure therefore complies with point 22(d) of the Temporary Framework;
 - Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (27)). The measure therefore complies with point 22(e) of the Temporary Framework;
 - The overall nominal value of the direct grants does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (27)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (27)). The measure therefore complies with point 23(a) of the Temporary Framework;
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (27)). The measure therefore complies with point 23(b) of the Temporary Framework;
 - Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (27)). The measure therefore complies with point 23(c) of the Temporary Framework;
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Romania will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (see recital (27)). The measure therefore complies with point 23bis of the Temporary Framework; and
- (48) The Romanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (34)). The Romanian 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 (recitals (31), (32), and (33)).
- (49) The Romanian authorities also confirm 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 (see recital (7)). The measure, therefore, complies with the requirements of section 16ter of the Temporary Framework.

- (50) The Romanian authorities also confirm that the rules under ERDF will be respected (see recital (13)).
- (51) 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