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Subject: State Aid SA.59182 (2020/N) – Bulgaria
COVID-19: Aid to micro, small and medium-sized coach companies

Excellency,

1. PROCEDURE

- (1) By electronic notification of 20 November 2020, Bulgaria notified aid in the form of limited amounts of aid (Supporting SMEs, engaged in the carriage of passengers by coach or bus to overcome the economic impact of the COVID-19 pandemic, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“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

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, 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 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

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Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Bulgaria considers that the COVID-19 outbreak is affecting 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) The global spread of COVID-19 and the quarantine measures introduced have disrupted the functioning of almost all economic activities in Bulgaria as well as in all other European countries.
- (5) As Bulgaria declared the state of emergency on 13 March 2020, all international passenger transport and occasional (tourist) transport by coach or bus was suspended. At the same time, coach and bus transport from national, regional and local transport systems was reduced to a minimum due to a lack of demand, specialized transport for enterprises was largely discontinued and specialized transport for students was completely discontinued.
- (6) As a consequence, the coach and bus sector is in an extremely difficult situation. Dozens of companies are on the verge of bankruptcy and thousands of employees are endangered by layoffs. Tensions in the industry, which provides jobs for more than 27.000 employees, are growing steadily.
- (7) In this regard, it is of utmost importance to provide liquidity to micro, small and medium-sized enterprises engaged in transport by coach or bus to deal with the consequences of the COVID-19 pandemic.
- (8) Small and medium-sized enterprises are the key and leading force in the transport by coach or bus sector for the development of competitive and quality services, as well as for ensuring stable economic growth and sustainable employment.
- (9) 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 Bulgarian 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.
- (10) 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

- (11) The measure provides aid in the form of direct grants.

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

2.2. Legal basis

- (12) The legal basis for the measure is the Decision of the Monitoring Committee of the operational program "Innovations and Competitiveness" 2014-2020 (OPIC) and the operational program "SME Initiative" 2014-2020 (OP SMEI) of 26 August 2020 to designate the Ministry of Transport, Information Technology and Communications as a beneficiary under OPIC and to approve the Methodology and Selection Criteria for Grant Scheme "Supporting SMEs, engaged in the carriage of passengers by coach or bus to overcome the economic impact of the COVID-19 pandemic".

2.3. Administration of the measure

- (13) The Ministry of Transport, Information Technology and Communications is responsible for administering the measure.

2.4. Budget and duration of the measure

- (14) The estimated budget of the measure is BGN 30 million (approximately EUR 15,34 million). The measure is a scheme financed by the State budget of Bulgaria.
- (15) The measure will be co-financed by the European Regional Development Fund (ERDF). The Bulgarian authorities confirm that the rules applicable under the ERDF will be respected.
- (16) Aid may be granted under the measure as from its approval until no later than 30 June 2021.

2.5. Beneficiaries

- (17) The final beneficiaries of the measure are micro, small and medium-sized enterprises³, engaged in the transport of passengers by coach or bus (NACE codes 49.31 and 49.39). However, financial institutions are excluded as eligible final beneficiaries.
- (18) Aid may not be granted under the measure to medium⁴ enterprises that were already in difficulty within the meaning of the GBER⁵ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER⁶ on 31 December 2019, if those enterprises, at the moment

³ As defined in the Bulgarian Small and Medium-sized Enterprises Act, aligned to Annex I to the General Block Exemption Regulation ("GBER"), 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 As defined in Annex I to the GBER.

⁵ As defined in Article 2(18) of the GBER.

⁶ As defined in Article 2(18) of the GBER.

of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁷ or restructuring aid.⁸

2.6. Sectoral and regional scope of the measure

- (19) The measure is open to enterprises whose main activity is the transport of passengers by coach or bus. It applies to the whole territory of Bulgaria.

2.7. Basic elements of the measure

- (20) Micro, small and medium-sized enterprises active in the coach and bus sector are eligible if:
- (a) They are a licensed carrier, engaged in transport of passengers by coach or bus under the Carriage by Road Act;
 - (b) They are registered as such before 1 January 2019 and have carried out an economic activity in 2018 and 2019;
 - (c) Their transport of passengers by coach or bus is their main activity (NACE code 49.31 or 49.39);
 - (d) They have a turnover of at least BGN 37.500 (approximately EUR 20.000) in the Annual Tax Return for 2019 (Part V, code 0100 "Total income") or, if in a sole trader capacity, in the Annual Tax Return under Art. 50 of the Income Taxes on Natural Persons Act for 2019 (Appendix 2, Part III, code 2-3001 "Total revenues");
 - (e) They have recorded a decrease of at least 20% in turnover for one of the calendar months in the period from 1 February 2020 to the month preceding the month of application compared to the turnover for the same month from 2019.
- (21) The Bulgarian authorities estimate that approximately 1000 undertakings would be eligible.
- (22) Applicants could file their application as of 21 October 2020, when the measure was announced, until 10 November 2020.
- (23) Grants will cover operating costs of the transport of passengers by coach or bus from 1 February 2020 until six months after the entry into force of the grant agreement concluded between the Ministry of Transport, Information Technology and Communications and the beneficiary and no later than 30 June 2021.
- (24) The following costs will, however, not be covered:

⁷ 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.

⁸ 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.

- (a) costs for activities that were started and physically completed or fully implemented before 1 February 2020, regardless of whether all related payments have been made;
 - (b) costs for the acquisition of tangible and intangible fixed assets;
 - (c) costs of goods intended for sale;
 - (d) costs of refundable VAT;
 - (e) costs of taxes and fees;
 - (f) expenditures financed by public funds;
 - (g) costs of recovering support received from financial instruments financed by public funds;
 - (h) costs for loan repayment, interest on loans, bank fees;
 - (i) costs for lease instalments;
 - (j) staff costs for applicants (whether the funding is for part or all of the company's staff) who have received public funding for staff during the eligibility period of the costs;
 - (k) costs for which subsidies have been granted under Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23 October 2007 and under the Ordinance on the terms and conditions for the provision of funds to compensate for reduced revenues due to controlled prices for public passenger transport by road, provided for in the regulations for certain categories of passengers, for subsidizing public passenger transport on unprofitable bus lines in intercity transport and transport in mountainous and other areas and for issuing transport documents for transport, adopted by Decree No. 163 of the Council of Ministers of 2015 (promulgated, SG No. 51/2015).
 - (l) any other compensation for public service obligations;
 - (m) costs for second-hand raw materials, second-hand materials and second-hand consumables;
 - (n) costs for preparation of the application for grant, management and implementation of the application for grant;
 - (o) expenditure declared ineligible under Decree No. 189 of the Council of Ministers of 2016 for the adoption of national rules for eligibility of expenditure under operational programmes co-financed by the European Structural and Investment Funds (ESIF).
- (25) The grant is limited to transport of passengers activities by coach and bus. To this end, the applicant shall keep separate analytical accounts for revenues and costs, assets and liabilities associated with each activity to ensure that no other activity benefits from the compensation.

- (26) Applicants could submit applications worth BGN 3.000 (approximately EUR 1534) up to BGN 450.000 (approximately EUR 230.081).

2.8. Cumulation

- (27) The total amount of aid provided under the scheme is limited to 8% of the turnover declared in the Annual Tax Return for 2019 or EUR 800.000, whichever is the lower amount. All values used are in gross terms, i.e. before deducting taxes or other charges.
- (28) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the financial support for the project is financed entirely from State resources or partly financed by the ERDF.
- (29) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁹ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (30) 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.
- (31) 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 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (32) 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 100.000 granted under the measure 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

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

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).

¹⁰ 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 to Commission Regulation (EU) No 1388/2014.

3.2. Existence of State aid

- (34) 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.
- (35) The measure is imputable to the State, since it is administered by the Ministry of transport, information technology and communications and it is based on the Decision of the Monitoring Committee of the operational program "Innovation and Competitiveness" 2014-2020 (OPIC) and the operational program "Initiative for small and medium Enterprises" 2014-2020 (OPIMSP) of 26 August 2020 (recital (12)). It is financed through State resources, since it is financed by public funds (recital (14)).
- (36) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (11)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (37) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular micro, small and medium-sized undertakings whose main activity is the transport of passengers by coach or bus, excluding the financial sector (recitals (17)-(19)).
- (38) 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.
- (39) 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

- (40) 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.
- (41) 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*".
- (42) 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*".

- (43) The measure aims to provide liquidity to micro, small and medium-sized enterprises engaged in transport by coach or bus at a time when the normal functioning of 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.
- (44) 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. 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.
- (45) 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 (recital (11)).

The overall nominal value of the grants shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges. 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 (14). The measure therefore complies with point 22(b) of the Temporary Framework;
 - Aid may not be granted under the measure to medium¹¹ enterprises that were already in difficulty on 31 December 2019 (see recital (18)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty 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 aid¹² or restructuring aid¹³ (see recital (18)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
 - Aid will be granted under the measure no later than 30 June 2021 (see recital (16)). The measure therefore complies with point 22(d) of the Temporary Framework;
- (46) The Bulgarian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (32)). The Bulgarian authorities further confirm that the aid under the measure may only

¹¹ As defined in Annex I to the GBER.

¹² 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.

¹³ 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.

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 (29) to (31)).

- (47) The Bulgarian authorities also confirm that the rules under the European Regional Development Fund (ERDF) will be respected.
- (48) 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

