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**Subject: State Aid SA.59450 (2020/N) – Portugal  
COVID-19: Direct grants to micro, small and medium companies in  
specific sectors. Measures “Apoiar.PT” and “Apoiar Restauração”**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 22 November 2020, Portugal notified aid in the form of limited amounts of aid (‘Apoiar.PT’ and ‘Apoiar Restauração’, “the measures”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).<sup>1</sup>
- (2) Portugal exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

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<sup>1</sup> 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.

S. Ex.<sup>a</sup> o Ministro dos Negócios Estrangeiros  
Augusto Santos Silva  
Largo do Rilvas  
P – 1399-030 – Lisboa

Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURE**

- (3) In Portugal, commerce and services open to consumers, cultural activities and touristic activities, hospitality sector and food and beverage service activities have been subject to several measures that, although necessary for the containment of the Covid-19 outbreak, constrained their ability to operate, causing a lack of liquidity for the business concerned.
- (4) These companies have had their activity restricted by various measures adopted by public authorities since the start of the Covid-19 outbreak, and in particular:
  - (a) firstly, in the first national state of emergency, whereby they could not operate at all or could operate at specific times only and with restrictions in terms of people allowed;
  - (b) secondly, when the national emergency state moved into a calamity state<sup>3</sup>, whereby specific timetables and restrictions in terms of people allowed remained effective; and
  - (c) finally, with the second national state of emergency, whereby these sectors located in the most severely impacted municipalities are prohibited to operate on business days after 23:00h, on weekends and holidays after 13:00h and on days before holidays after 15:00h (in both cases with restrictions in terms of people allowed when they operate).
- (5) Furthermore, specific sub-sectors within the concerned sectors have been subject to stricter restrictions:
  - (a) bars, discos and amusement parks, which remained closed in Portugal since March by administrative decision;
  - (b) undertakings providing food and beverage service activities, which were severely impacted by the latest restrictions on weekends, holidays and days before holidays.
- (6) Considering the context described above and relating to the specific sectors mentioned, this notified aid measure creates the “Apoiar” Program, designed to support micro and small companies in these sectors, with two different types of grant: a) “Apoiar.PT” and b) “Apoiar Restauração” (the latter including medium undertakings).
- (7) The measures aim to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the

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

<sup>3</sup> The state of calamity is foreseen in the Portuguese Framework Law of Civil Protection and may be applied when, in relation to a catastrophe or serious accident, the country has the need to adopt exceptional measures to mitigate, react or reconstruct living normality. It rests, unlike the state of emergency, in the availability and decision making of the Government alone.

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.

- (8) Portugal confirmed that the aid under the measures 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.
- (9) The compatibility assessment of the measures 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**

- (10) The measures provide aid in the form of direct grants.

### **2.2. Legal basis**

- (11) The legal basis for the measure is the Resolution of the Council of Ministers no. 101/2020, of 5 November 2020<sup>4</sup> and the specific regulation approved by governmental Ordinance n.º 271-A/2020 of 24 November 2020<sup>5</sup>, setting up the “Programa APOIAR”.

### **2.3. Administration of the measure**

- (12) The Management Authority of the Competitiveness and Internationalization Thematic Operational Programme<sup>6</sup> in Portugal is responsible for administering the measures.

### **2.4. Budget and duration of the measures**

- (13) The estimated budget of the measures is EUR 750 million.
- (14) The Portuguese authorities indicated that the measures will be financed by the European Structural and Investment Funds (ESIF), more concretely by the Competitiveness and Internationalization Thematic Operational Programme (COMPETE 2020). This is without prejudice to the final eligibility and availability of funds within the Competitiveness and Internationalization Thematic Operational Programme, which are still to be approved by the Commission. The Portuguese authorities confirmed that the rules applicable under the European Structural and Investment Funds (ESIF)<sup>7</sup> will be respected.

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<sup>4</sup> Diário da República, 1.ª série, N.º 227, 20 de novembro de 2020, Pág. 10, <https://dre.pt/web/guest/home/-/dre/149104781/details/maximized>

<sup>5</sup> Diário da República, 1.ª série, N.º 229, 24 de novembro de 2020, Pág. 22-(2), <https://dre.pt/application/conteudo/149532792>

<sup>6</sup> Autoridade de Gestão do Compete 2020 – Programa Operacional Temático Competitividade e Internacionalização

<sup>7</sup> European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries

- (15) Aid may be granted under the measures as from its approval until no later than 30 June 2021.

## **2.5. Beneficiaries**

- (16) The final beneficiaries of the measure Apoiar.PT are micro and small undertakings<sup>8</sup> legally established on 1 January 2020 and active in Portugal in the following three most severely impacted sectors<sup>9</sup>:
- (a) Commerce and Services open to consumers;
  - (b) Cultural activities;
  - (c) Touristic activities, hospitality sector and food and beverage service activities.
- (17) The final beneficiaries of the measure Apoiar Restauração are micro, small and medium undertakings<sup>10</sup> legally established on 1 March 2020 and active in Portugal in the sector of food and beverage service activities<sup>11</sup>. The eligible beneficiaries of the “Apoiar Restauração” measure can also apply for aid from the Apoiar.PT measure. The overall maximum aid amount (gross, i.e. before any deduction of tax or other charge) is limited to EUR 800 000.
- (18) Financial institutions are excluded as eligible final beneficiaries from both measures.
- (19) Aid may not be granted under the measure Apoiar Restauração to medium<sup>12</sup> enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>13</sup> on 31 December 2019. Aid may be granted under both measures to micro and small enterprises that were in difficulty

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Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

<sup>8</sup> 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.

<sup>9</sup> The sectors are more specifically defined in Annexes A and B of the legal basis, by reference to the NACE codes.

<sup>10</sup> 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.

<sup>11</sup> As defined in Annex B of the legal basis, by reference to the NACE code.

<sup>12</sup> 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.

<sup>13</sup> 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.

within the meaning of the General Block Exemption Regulation (“GBER”)<sup>14</sup> 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 aid<sup>15</sup> or restructuring aid.<sup>16</sup>

## **2.6. Sectoral and regional scope of the measures**

- (20) The measures are limited to the sectors mentioned above. The measure Apoiar.PT applies to the whole territory of Portugal. The measure Apoiar Restauração applies only to municipalities where additional curfews were imposed by administrative decisions.

## **2.7. Basic elements of the measures**

- (21) *Apoiari.PT*

- The measure provides aid in the form of direct grants to micro and small undertakings active in the sectors listed in recital (16) that suffered losses due to the pandemic and therefore face urgent liquidity needs.
- Eligible are undertakings that can prove a fall in turnover above 25% in the first three quarters of 2020 when compared to the same period in 2019<sup>17</sup>, certified by an independent accountant.
- The eligible companies shall be provided with a direct grant equal to 20% of the fall in turnover in the first three quarters of 2020 compared to the same period in 2019, with a maximum aid amount of EUR 7 500 for micro companies and EUR 40 000 for small companies, on a first come first served basis. In the case of companies whose main activity is closed administratively (bars, disco clubs and amusement parks), the maximum aid amount is increased to EUR 11 250 euros, in the case of micro-enterprises, and to EUR 60 000, in the case of small enterprises.

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<sup>14</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> 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.

<sup>17</sup> For companies that started their activity in 2019, the turnover decrease is compared to the monthly average turnover of the activity period until end of February 2020.

(22) *Apoiar Restauração*

- This measure is complementary to the measure Apoiar.PT. The measure provides additional aid in the form of direct grants to micro, small and medium undertakings in the sector of food and beverage service activities that have suffered losses due to additional restrictions (curfews) on certain days imposed by administrative decision. The measure applies only in municipalities where this restriction is effective.
- Eligible are undertakings that can prove a fall in turnover on certain days when it is prohibited to circulate on the streets by administrative decision compared to the medium turnover during the period from 1 January 2020 to 31 October 2020.
- The eligible undertakings shall be provided with a direct grant equal to 20% of the decrease in the company's billing on those days when it is prohibited to circulate on the streets by administrative decision when compared to the average daily billings recorded on weekends during the period from 1 January 2020 to 31 October 2020<sup>18</sup>. The overall maximum aid amount (gross, i.e. before any deduction of tax or other charge) (also in cumulation with aid received from the measure Apoiar.PT) is limited to EUR 800 000.

**2.8. Cumulation**

- (23) The aid ceilings and cumulation maxima fixed under the measures 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).
- (24) The Portuguese authorities confirm that aid granted under the measures may be cumulated with aid under de minimis Regulations<sup>19</sup> or the General Block Exemption Regulation<sup>20</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (25) The Portuguese authorities confirm that aid granted under the measures may be cumulated with each other and 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.
- (26) The Portuguese authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measures or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the

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<sup>18</sup> For companies incorporated in 2020, the reference period is the period of activity until end of October 2020.

<sup>19</sup> 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).

<sup>20</sup> 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.

overall maximum cap per undertaking, as set out in points 22(a) of that framework, will be respected. Aid granted under other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 30 June 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

## **2.9. Monitoring and reporting**

- (27) The Portuguese 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 granting<sup>21</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

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

### **3.2. Existence of State aid**

- (29) 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.
- (30) The measures are imputable to the State, since it is administered by 'Autoridade de Gestão do Compete 2020 – Programa Operacional Temático Competitividade e Internacionalização' in Portugal (recital (12)) and it is based on a Resolution of the Council of Ministers (recital 11). It is financed through State resources, since it is financed by public funds.
- (31) 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.
- (32) The advantage granted by the measures is selective, since it is awarded only to certain undertakings, namely those active in the following three sectors: commerce and services open to consumers; cultural activities; and touristic activities, hospitality sector and food and beverage service activities.
- (33) 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.

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<sup>21</sup> 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.

- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. Portugal's authorities do not contest that conclusion.

### 3.3. Compatibility

- (35) 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.
- (36) 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”*.
- (37) 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”*.
- (38) The measure aims to remedy situation of liquidity shortages 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.
- (39) The measure is one of a series of measures conceived at national level by Portugal's authorities to remedy a serious disturbance in their economy. The importance of the measure to provide liquidity to undertakings is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the sectors concerned in Portugal's economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Aid in the form of limited amounts of aid”*) described in section 3.1 of the Temporary Framework.
- (40) 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 grant (recital (10)).  
The overall nominal value of direct 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 (see recitals (21) and (22)). 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 (13). The measure therefore complies with point 22(b) of the Temporary Framework;



- Aid may not be granted under the measure to medium<sup>22</sup> enterprises that were already in difficulty on 31 December 2019 (see recital (19)). 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 aid<sup>23</sup> or restructuring aid<sup>24</sup> (see recital (19)). 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 (recital (15)). 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. The measure therefore complies with point 22(e) of the Temporary Framework.
- (41) The Portuguese authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). They 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 (23) to (26)).
- (42) The Portuguese authorities also confirm that the rules under the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII) will be respected (see recital (14)).
- (43) 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.

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<sup>22</sup> 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.

<sup>23</sup> 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.

<sup>24</sup> 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.

#### 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