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Subject: **State aid SA.62827 (2021/N) – Romania**
COVID-19: Support of the activity of cattle breeders in 2021 in the
context of the economic crisis generated by COVID-19

Excellency,

1. PROCEDURE

- (1) By electronic notification of 26 April 2021, Romania notified an aid scheme in the form of limited amounts of aid ("*Susținerea activității crescătorilor din sectorul bovin în anul 2021, în contextul crizei economice generate de COVID-19*", "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. By emails of 6 and 11 May 2021, Romania submitted complementary information.
- (2) 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.

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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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

Excelenta sa dl Bogdan AURESCU
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2. DESCRIPTION OF THE MEASURE

- (3) Romania considers that the COVID-19 outbreak affects 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) Romania confirms 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, as interpreted by Sections 2 and 3.1 of the Temporary Framework.

2.1. Nature and form of aid

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

2.2. National legal basis

- (7) The legal basis of the measure is the Draft Emergency Ordinance on the establishment of a State aid scheme to support the activity of cattle breeders in the context of the economic crisis caused by the COVID-19 pandemic³.

2.3. Administration of the measure

- (8) The Ministry of Agriculture and Rural Development is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is RON 225 537 713.79 (approximately EUR 46 million).
- (10) Aid may be granted under the measure as from the notification of Commission's approval⁴ until no later than 31 December 2021.
- (11) The Romanian authorities confirmed that the measure is not co-financed by the European Regional Development Fund (ERDF), the European Social Fund (ESF), Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD), the European Maritime and Fisheries Fund (EMFF), the European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

³ *Proiect de Ordonanță de urgență privind instituirea unei scheme de ajutor de stat pentru susținerea activității crescătorilor din sectorul bovin, în contextul crizei economice generate de pandemia COVID 19.*

⁴ As provided in Article 15, of the national legal basis.

2.5. Beneficiaries

- (12) The beneficiaries of the measure are the breeders of bovine animals, both individual and family companies, as well as authorized natural persons or legal entities. All sizes enterprises are eligible for aid. The estimated number of beneficiaries will be around 140 000. Financial institutions are excluded as eligible final beneficiaries.
- (13) Aid may not be granted under the measure to enterprises that were already in difficulty within the meaning of the Block Exemption Regulations⁵ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to the cattle sector, as described in recital (12). Financial institutions are excluded as eligible final beneficiaries. The measure applies to the whole territory of Romania.

2.7. Basic elements of the measure

- (15) The aim of the measure is to grant financial assistance to bovine farmers due to loss of income due to the COVID-19 epidemic, in order to mitigate its consequences.
- (16) The cattle sector, severely affected in 2020, maintains the same negative trend in 2021 due to the impossibility of operators to market meat, milk, meat products and dairy products, thus registering significant economic losses. Through the restrictions imposed on the movement since 2020, the cattle sector has faced major problems, namely the decrease in the purchase price, restrictions in the transport of animals to processing or direct sale on the market, HoReCa, decrease in the export of live animals, decrease in animals, as well as disruption of supply chains.
- (17) The restrictions have also led to losses among dairy farmers. Prohibition of labor mobility, impossibility of deliveries of raw milk raw material to the first buyer, stop deliveries of milk processors to retail and HORECA, prohibition of supply by farmers of vending machines for direct sale of milk to the population. At the same time, a large part of farmers are suppliers of milk to the first buyers for its capitalization within the School Program - distribution of milk and dairy products to students. The suspension of the courses in the educational units in the school year 2020-2021 led to the situation in which the contracted products, ready to be delivered, can no longer be distributed to the beneficiaries and risk exceeding the established minimum validity date.
- (18) According to data provided by the Research Institute for Agriculture and Rural Development (ICEADR), in 2021 the downward trend started in 2020 of meat and milk production compared to 2019 continues, being influenced by the increase in feed prices by a percentage between 8-10%, generated, on the one

⁵ As defined in Article 2(18) GBER and 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 (“ABER”).

hand by the effects of the COVID-19 pandemic and on the other hand by the effects produced by the prolonged drought that affected the Romanian territory in 2019-2020, the increase of electricity and fuel prices by approximately 13%, higher costs for medicines and medical supplies by about 11%. Also, for beef cattle, the expenditure estimates for 2021 compared to 2020 indicate an increase in total per capita expenditure by about 7.8%, and for dairy cattle by about 6%.

- (19) The amount of the individual aid is composed by two components depending on a) the size of the herd of cattle kept by the beneficiary in January 2021, and b) the quantity of milk produced in that same month. It will be calculated as follows:
- a) the allocated budget ceiling for each component⁶ is divided by the eligible number of cattle or the quantity of eligible milk (established after the administrative verification of the applications) obtaining an amount of aid for head of animal and for ton of milk;
 - b) the amount obtained per head of animal and per ton of milk, is multiplied by the number of animals requested and by the tons of milk produced by each beneficiary, then the value for each one is obtained⁷.
- (20) The overall nominal value of direct grants does not exceed EUR 225 000 per undertaking active in the primary production of agricultural products, all figures gross, that is, before any deduction of tax or other charges.
- (21) Romania confirms that aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings.
- (22) Romania confirms that aid 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.

2.8. Cumulation

- (23) The Romanian authorities confirmed that aid granted under the measure will not be cumulated with *de minimis* aid⁸ or with aid under the ABER or GBER for the same identifiable eligible costs.

⁶ RON 182 708 014.97 for the number of animals and RON 42 829 698.82 for the quantity of milk produced.

⁷ According to the data from the National System for Identification and Registration of Animals (SNIA) on 31 January 2021, this support would be granted for a number of 1 285 977 head of cattle, having allocated a ceiling of RON 182 708 014.97, resulting in an amount of 142.08 RON/head of cattle. The quantity of milk produced and recovered in January 2021 is estimated at 184 375 tons. The ceiling allocated in order to compensate for losses is RON 42 829 698.82. By dividing this ceiling by the estimated amount of milk for January results an amount of 232.30 RON/ton of milk.

⁸ 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), and Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the

- (24) 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.
- (25) The Romanian authorities confirmed 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.
- (26) The Romanian authorities confirmed 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.
- (27) Moreover, 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 1.8 million is not exceeded per undertaking.

2.9. Monitoring and reporting

- (28) The Romanian authorities confirmed 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 State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (29) 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

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of Agriculture and Rural Development, as shown in recital (8), and is based 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).

⁹ Referring to information required in Annex III GBER and Annex III ABER.

Draft Emergency Ordinance on the establishment of a State aid scheme to support the activity of cattle breeders in the context of the economic crisis caused by the COVID-19 pandemic, as shown in recital (7). It is financed through State resources, since it is financed by public funds.

- (32) The measure confers an advantage on its beneficiaries in the form of direct grants, as shown in recital (6). The measure confers on those beneficiaries an advantage, which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it will be awarded only to certain undertakings, in particular for undertakings active in a specific production sector, excluding the financial sector, as shown in recital (12).
- (34) 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.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

3.3. Compatibility

- (36) 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.
- (37) 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*”.
- (38) 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*”.
- (39) The measure aims at receiving that compensation 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.
- (40) The measure is one of a series of measures conceived at regional level by the Romanian authorities to remedy a serious disturbance in their economy. The measure is important 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 targeted sector in Romania. 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.

- (41) 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, as shown in recital (6).
 - The overall nominal value of direct grants does not exceed EUR 225 000 per undertaking active in the primary production of agricultural products, all figures must be gross, that is, before any deduction of tax or other charges, as shown in recital (20). The measure therefore complies with point 23(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 (9). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid can be granted under the measure to all sizes of enterprises, as shown in recital (12). Aid may not be granted under the measure to enterprises that were already in difficulty on 31 December 2019, as shown in recital (13). The measure therefore complies with point 22(c) of the Temporary Framework.
 - Aid will be granted under the measure no later than 31 December 2021, as shown in recital (10). 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 is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned, as shown in recitals (19) and (21). The measure therefore complies with point 22(e) 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, as shown in recitals (19) and (22). The measure therefore complies with point 23(b) 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 1.8 million 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 270 000 is not exceeded per undertaking, as shown in recital (27). The measure therefore complies with point 23bis of the Temporary Framework.

- (42) The Romanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected, as shown in recital (28). 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, as shown in recitals (23) to (25).
- (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.

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