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**Subject: State Aid SA.61758 (2021/N) – Portugal
COVID-19: Direct grants to micro, small and medium undertakings
in specific sectors established in the Outermost Region of the Azores
Measure called “APOIAR.PT Açores”**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 February 2021, Portugal notified limited amounts of aid “Programa de apoio à liquidez - APOIAR.PT Açores” (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) 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 Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Portugal considers that the COVID-19 outbreak affects the real economy. The measure aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to

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.

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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 objective of the scheme is to support the liquidity of micro, small and medium-sized undertakings with head offices or permanent establishments in the outermost region of the Azores, which suffered losses due to the COVID-19 outbreak.
- (5) Portugal 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.
- (6) 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

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

2.2. Legal basis

- (8) The legal basis for the measure is the Resolution of the Council of the Government³ No 297/2020 of the 24 December 2020, published in Azores Official Journal n° 183.⁴

2.3. Administration of the measure

- (9) The Regional Directorate for Investment and Competitiveness⁵ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (10) The estimated budget of the measure is EUR 35 million.
- (11) The measure will be financed by the European Structural and Investment Funds (ESIF), to the extent possible⁶, and/or national resources.
- (12) Aid may be granted under the measure as from the notification of the Commission's approval decision until no later than 30 June 2021.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are micro, small and medium-sized undertakings⁷ that had been legally established on 1 January 2020 and active in

³ Resolução do Conselho do Governo.

⁴ <https://jo.azores.gov.pt/api/public/ato/ed526085-c343-4a4e-83411aba33d2bd53/pdfOriginal>.

⁵ Direção Regional de Apoio ao Investimento e à Competitividade,
<https://portal.azores.gov.pt/web/draic draic@azores.gov.pt>.

⁶ The possible use of EU funds will be subject to a separate Commission decision.

the outermost region of the Azores in the following most severely impacted sectors⁸:

- (a) Commerce and Services open to consumers
 - (b) Cultural activities
 - (c) Touristic activities, hospitality sector and food and beverage service activities
- (14) Financial institutions are excluded as eligible final beneficiaries.
- (15) Aid may not be granted under the measure to medium enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁹ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER 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 aid¹⁰ or restructuring aid.¹¹

2.6. Sectoral and regional scope of the measure

- (16) The measure is limited to micro, small and medium-sized undertakings active in the sectors mentioned above (see recital (13)). It applies to the outermost region of the Azores.

2.7. Basic elements of the measure

- (17) The measure provides aid in the form of direct grants to micro, small and medium-sized undertakings¹² active in the sectors listed in recital (13) that suffered losses due to the pandemic and therefore face urgent liquidity needs.
- (18) Undertakings are eligible if they can prove a fall in turnover of 25% or more in the first three quarters of 2020 when compared to the same period in 2019. Undertakings that started operations in 2019, are eligible if they can prove a reduction in the average monthly turnover of at least 25% in the first three quarters of 2020, compared with the monthly average of the period of activity up to 29 February 2020, taking into account only the complete calendar months. An independent accountant must certify the fall in turnover.

⁷ 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.

⁸ As defined in Annex A of the legal basis, by reference to the NACE codes.

⁹ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹⁰ 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.

¹¹ 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.

¹² 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.

- (19) The eligible companies shall be provided with a direct grant equal to 20% of the fall in turnover established in accordance with the method described in recital (18), with a maximum aid amount of EUR 7 500 for micro companies, EUR 40 000 for small companies and EUR 100 000 for medium-sized enterprises.

2.8. Cumulation

- (20) 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).
- (21) The Portuguese authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹³ or the GBER¹⁴ provided the provisions and cumulation rules of those Regulations are respected.
- (22) The Portuguese 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.
- (23) The Portuguese 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

- (24) 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 granting¹⁵).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

¹³ 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 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).

¹⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹⁵ 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

- (26) 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.
- (27) The measure is imputable to the State, since it is administered by the Regional Directorate for Investment and Competitiveness (see recital (9)) and it is based on the Resolution of the Council of the Government No 297/2020 of the 24 December 2020 (see recital (8)). It is financed through State resources, since it is financed by public funds.
- (28) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (7)). The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (29) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, namely those active in the sectors mentioned above and active in the Outermost Region of the Azores (see recital (13)).
- (30) 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 (see recital (13)).
- (31) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Portuguese authorities do not contest that conclusion.

3.3. Compatibility

- (32) 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.
- (33) 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*”.
- (34) 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*”.
- (35) 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.

- (36) The measure is one of a series of measures conceived at national level by the Portuguese authorities to remedy a serious disturbance in their economy. The importance of the measure is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects to the specific sector to which the measure is addressed (see recital (13)). 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.
- (37) 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 measure meets the conditions of section 3.1 of the Temporary Framework :
- The aid takes the form of direct grants (recital (7)).
The overall nominal value of direct grants is capped at EUR 100 000 per undertaking (recital (19)) and shall therefore not exceed EUR 1.8 million; 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 (10). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium¹⁶ enterprises that were already in difficulty on 31 December 2019 (recital (15)). 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 aid¹⁷ or restructuring aid¹⁸ (recital (15)). 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 (12)). The measure therefore complies with point 22(d) of the Temporary Framework.
- (38) The Portuguese authorities 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

¹⁶ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹⁷ 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.

¹⁸ 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.

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 (recital (5)).

- (39) The Portuguese authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (24)). The Portuguese 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 and the cumulation rules of the relevant Regulations are respected (recitals (20) to (23)).
- (40) 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.
- (41) 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 notified measure 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