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**Subject: State Aid SA.102436 (2022/N) – Croatia
COVID-19: Support to undertakings active in the civil aviation sector in the form of subsidised interest rates on loans under Temporary Framework 3.3**

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, Croatia notified by electronic notification of 17 May 2022 aid in the form of subsidised interest rates on loans (“Aid in the form of subsidised interest rates on loans”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹ The Commission sent requests for additional clarifications on 20 April 2022, 3 May 2022 and 18 May 2022, to which the Croatian authorities replied respectively on 21 April 2022, 25 April 2022, 3 May 2022 and 18 May 2022.
- (2) Croatia 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 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, 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) Croatia considers that the COVID-19 pandemic 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) Taking into consideration the continuance of the economic crisis, Croatia considers it necessary to support undertakings in the civil aviation sector, which are affected by the economic consequences caused by the COVID-19 pandemic, in the form of subsidised interest rates on loans. The Croatian authorities clarify that the COVID-19 pandemic affected especially the transport sector in Croatia.³ The Croatian authorities provided data that shows that air traffic only resumed very slowly following summer 2020. Even in 2021, air traffic in Croatia was far from reaching pre-COVID-19 level of 2019 (see table 1).

Table 1: Development of passenger numbers at Croatian Airports in 2020 and 2021 compared to 2019

| Airport | Passengers per year | | | 2020./2019 | 2021./2019 |
|---------------------------------------|---------------------|------------------|------------------|---------------|---------------|
| | 2019 | 2020 | 2021 | | |
| Franjo Tuđman Airport (Zagreb) | 3,435,531 | 924,823 | 1,404,478 | 26.92% | 40.88% |
| Split Airport | 3,301,930 | 674,366 | 1,577,584 | 20.42% | 47.78% |
| Dubrovnik Airport | 2,896,227 | 330,147 | 927,934 | 11.40% | 32.04% |
| Zadar Airport | 801,347 | 120,747 | 220,853 | 15.07% | 27.56% |
| Pula Airport | 771,210 | 81,918 | 265,480 | 10.62% | 34.42% |
| Rijeka Airport | 200,821 | 27,680 | 56,320 | 13.78% | 28.04% |
| Osijek Airport | 46,361 | 6,625 | 11,390 | 14.29% | 24.57% |
| Brač Airport | 25,339 | 4,250 | 8,052 | 16.77% | 31.78% |
| Mali Lošinj Airport | 6,495 | 3,214 | 5,835 | 49.48% | 89.84% |
| TOTAL | 11,485,261 | 2,173,770 | 4,477,926 | 18.93% | 38.99% |

- (5) The measure is aimed at supporting the companies operating in the civil aviation sector so that they can preserve the continuity of their economic activity.

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

³ The Croatian authorities submit that the national economy was significantly affected by the COVID-19 pandemic and the related economic crisis, especially since Croatia is a small and open economy with an overdependence on tourism. In particular, the Croatian authorities explained that the implementation of the epidemiological measures restricted freedom of movement and caused a major negative impact on the transport sector.

- (6) Croatia confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiaries 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.
- (7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.3 of the Temporary Framework.

2.1. The nature and form of aid

- (8) The measure is a scheme that provides support in the form of subsidised interest rates on loans.

2.2. Legal basis

- (9) The legal basis for the measure comprises the Croatian State Aid Law⁴ in combination with the Implementing Act on the scheme to support the maritime sector, transport sector, transport infrastructure operators and related sectors impacted by the COVID-19 pandemic of 3 July 2020⁵ and subsequent amendments. A new amendment, which includes the notified measure in the form of subsidised interest rates on loans will enter into force only after the adoption of the present decision.

2.3. Administration of the measure

- (10) The granting authority of the measures will be the Ministry of the Sea, Transport and Infrastructure of Croatia.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is HRK 344 million⁶.
- (12) Aid may be granted under the measure until no later than 30 June 2022.

2.5. Beneficiaries

- (13) The beneficiaries of the measure are large enterprises active in the civil aviation sector impacted by the COVID-19 pandemic. The beneficiaries include undertakings registered in Croatia to perform activities in the following sectors according to NACE⁷:

⁴ OG 47/14 and 69/17.

⁵ Available at the following link: <https://mmpi.gov.hr/natjecaji-83/program-drzavnih-potpورا-za-sektor-mora-prometa-i-infrastrukture/22309>.

⁶ Approx. EUR 45.44 million, see exchange rate on 18 May 2022 available the following link: https://ec.europa.eu/info/funding-tenders/procedures-guidelines-tenders/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en.

⁷ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

51.10 Passenger air transport;
 51.21 Freight air transport;
 52.2 Support activities for transport.

- (14) Aid may not be granted under the measure to large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁸ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (15) The measure is open to undertakings active in the civil aviation sector as described in recital (13) in Northern Croatia and the City of Zagreb. The measure is not open to undertakings operating in the financial sector as well as to undertakings active in the primary agricultural production, fisheries and aquaculture sector.

2.7. Basic elements of the measure

- (16) The objective of the measure is to provide immediate liquidity in the form of loans to undertakings operating in the civil aviation sector, which have been impacted by the COVID-19 pandemic.
- (17) The measure consists in subsidised interest rates for loans to beneficiaries that will be provided directly by the granting authority to cover exclusively the working capital needs of potential beneficiaries.
- (18) The loan amounts will not exceed:
- i) double the annual wage bill of the respective beneficiaries (including social charges as well as the cost of personnel working on the undertaking’s site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
 - ii) 25% of the respective beneficiaries’ total turnover in 2019.
- (19) The loan contracts will be signed after the notification of the approval of the measure by the Commission and no later than 30 June 2022, and they are limited to a maximum of 6 years.
- (20) The loans will be granted at reduced interest rates that will be at least equal to the base rate (1-year IBOR or equivalent as published by the Commission) available on 1 January 2020, plus the credit risk margins set out in the table below:

| Type of recipient | 1 st year | 2 nd -3 rd year | 4 th -6 th year |
|-------------------|----------------------|---------------------------------------|---------------------------------------|
| Large enterprises | 50bps | 100bps | 200bps |

⁸ 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.

- (21) Croatia confirms that the loans will not be channelled through credit institutions or other financial institutions.
- (22) The Croatian authorities submitted that the loan agreements will be accompanied by a security package which could include inter alia – depending on the case at hand – pledges on movable and fixed assets, company promissory notes and debenture bonds.

2.8. Cumulation

- (23) The Croatian 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.
- (24) The Croatian 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.
- (25) The Croatian authorities confirm that aid granted under section 3.2 of the Temporary Framework will not be cumulated with aid granted for the same underlying loan principal under section 3.3 of that framework and vice versa. Aid granted under section 3.2 and section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.
- (26) A beneficiary may benefit in parallel from multiple schemes under section 3.2 and 3.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) and 27(d) of the Temporary Framework. Aid granted under the measure and/or other measures approved by the Commission under section 3.2 or 3.3 of the Temporary Framework that has been reimbursed before 30 June 2022 shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (27) The Croatian 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

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).

State aid website or Commission's IT tool within 12 months from the moment of granting¹⁰).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (28) By notifying the measure before putting it into effect, the Croatian 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 measure is imputable to the State, since it is administered by the Ministry of the Sea, Transport and Infrastructure of Croatia (recital (10)) and it is based on an act adopted by the State (recital (9)). It is financed through State resources, since it is financed by resources provided by the granting authority (recital 17).
- (31) The measure confers an advantage on its beneficiaries in the form of subsidised interest rates on loans. The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings in the civil aviation sector, excluding the financial sector.
- (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.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Croatian 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.

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. For repayable guarantees and loans, and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary.

- (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 at supporting and preserving the continuity of the economic activities of undertakings active in the civil aviation sector at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States, including that of Croatia.
- (39) The measure is one of a series of measures conceived at national level by the Croatian authorities to remedy a serious disturbance in their economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of subsidised interest rates on loans*”) described in section 3.3 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 applicable interest rates for loans granted under the measure are at least equal to the base rate (1 year IBOR or equivalent as published by the Commission)¹¹ available on 1 January 2020 plus a credit margin as set out in recital (20) which are in line with point 27(a) of the Temporary Framework. The measure therefore complies with point 27(a) of the Temporary Framework.
 - The loan contracts are signed by 30 June 2022 at the latest and are limited to a maximum of 6 years (recital (19)). The measure therefore complies with point 27(c) of the Temporary Framework.
 - The maximum loan amount per beneficiary is limited in line with point 27(d) of the Temporary Framework (recital (18)). The measure therefore complies with point 27(d) of the Temporary Framework.
 - Loans granted under the measure relate to working capital needs (recital (17)). The measure therefore complies with point 27(f) of the Temporary Framework.

¹¹ Base rates calculated in accordance with the Commission’s Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

- Aid may not be granted under the measure to large enterprises that were already in difficulty on 31 December 2019 (recital (14)). The measure therefore complies with point 27(g) of the Temporary Framework.
 - The cumulation rules set out in point 26bis of the Temporary Framework are respected (recitals (25) and (26)).
- (41) The Croatian authorities explained 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 (recital (6)).
- (42) The Croatian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). The Croatian 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 (23) and (24)).
- (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

