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**SENSITIVE\***: *COMP Operations*

**Subject: State Aid SA.100321 (2022/N) – Bulgaria  
COVID-19: Aid scheme to air carriers**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 1 February 2022<sup>1</sup>, Bulgaria notified to the European Commission (the “Commission”) an aid scheme in the form of direct grants to air carriers<sup>2</sup> (the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”) <sup>3</sup>.

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<sup>1</sup> Bulgaria pre-notified the measure on 8 October 2021. Upon request by the Commission, Bulgaria submitted additional information on 1 November, 15 November, 22 November and 13 December 2021.

<sup>2</sup> Air carriers permitted to carry passengers as those carriers are defined in Article 2 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

<sup>3</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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3),

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- (2) Upon request by the Commission, Bulgaria submitted additional information on 10 and 17 February and on 1 March 2022.
- (3) 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 Article 3 of Regulation 1/1958<sup>4</sup> and to have this Decision adopted and notified in English.

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

### **2.1. Objective of the measure**

- (4) According to the Bulgarian authorities, the COVID-19 pandemic is affecting the real economy. The measure forms part of an overall package of measures<sup>5</sup> 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.
- (5) The Bulgarian authorities note that the airline industry has been hit particularly hard by the pandemic. Both in Bulgaria and worldwide, airlines were precluded in whole or in part from carrying out their normal activities because of the governmental measures imposed to contain the spread of the COVID-19 pandemic. Moreover, the demand for passenger travel by air in Bulgaria has dropped significantly since the COVID-19 outbreak. Air passenger traffic in Bulgaria was reduced by 67% in 2020 and by 55% in 2021, compared to 2019. That led to a serious collapse in airlines’ financial revenues, causing serious liquidity problems.
- (6) According to the Bulgarian authorities, the airline industry generates economic growth, creates jobs,<sup>6</sup> and facilitates trade, tourism<sup>7</sup> and regional development. In addition, the airline industry has a multiplier economic effect, maintaining the existence of ancillary activities and related industries, including travel agents, tour

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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).

<sup>4</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

<sup>5</sup> See for example Commission decision of 8 April 2020 in case SA.56933 - Bulgaria - COVID-19 - Bulgarian Development Bank Guarantee scheme, OJ C 144, 30.04.2020, p. 1; Commission decision of 18 January 2022 in case SA.100855 – Bulgaria – COVID-19 - Support for self-employed, managers and farmers in form of a partial compensation for the lost income due to the quarantine, not yet published in the OJ and Commission decision of 20 January 2022 in case SA.101306 – Bulgaria - State aid to tour operators, OJ C 46, 28.01.22, p. 1.

<sup>6</sup> According to data provided by the Bulgarian national statistical institute, the aviation sector contributed BGN 1.5 billion and 8 300 jobs to the Bulgarian economy in 2019.

<sup>7</sup> In relation to tourism in particular, Bulgaria submits that due to the Bulgaria’s location, air transport is the fastest and most comfortable way for tourists to travel to Bulgaria. A disruption of air traffic affects the tourist sector as well, which is traditionally perceived as a sector that is a major source of employment and foreign exchange earnings in the country (the revenues from the tourist sector accounted for 8.1% of Bulgaria’s GDP in 2019).

operators, hotels and land transport operators. It also contributes to Bulgaria's integration into a global economy. The disruption of the air traffic severely affects the Bulgarian economy as a whole<sup>8</sup>.

- (7) In that context, the measure's objective is to provide liquidity in the form of direct grants to air carriers with an EU operating licence to carry passengers issued by the competent licensing authority in Bulgaria<sup>9</sup> (a "Bulgarian licence"), to ensure their viability and help them overcome the negative economic consequences of COVID-19.<sup>10</sup> The Bulgarian authorities submit that financial support to such air carriers would generate a positive cumulative effect for the Bulgarian economy as a whole.
- (8) Bulgaria confirms that the support 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.
- (9) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2, 3.1 and 3.12 of the Temporary Framework.

## **2.2. The nature and form of the measure**

- (10) The measure provides support in the form of direct grants.

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<sup>8</sup> Bulgaria refers to a 2015 study by the International Council of Airports in Europe, according to which the aviation sector in Europe employs more than 1.7 million people directly, airlines accounting for 28% of those jobs. In addition, the aviation sector has a multiplier effect to the economy as it induces economic development in other industries. The study also shows a positive relationship between connectivity and GDP per capita. For every 10% increase in a country's air connectivity, GDP per capita is lifted by 0.5%. See: <https://www.aci-europe.org/downloads/resources/INTERVISTAS%20Study%20-%20Economic%20Impact%20of%20European%20Airports.pdf>

<sup>9</sup> I.e. an operating license for a "Community air carrier", with a permit to carry passengers, issued by the Bulgarian Directorate General for Civil Aviation pursuant to Article 3 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3 ("Regulation No 1008/2008").

<sup>10</sup> Bulgaria notes that due to the extremely negative economic consequences of COVID-19, some of the air carriers holding a Bulgarian licence have already lost or are in risk of losing their license and are even facing bankruptcy. Overall, air carriers with a Bulgarian licence recorded a 78% reduction in passenger traffic in 2020 and a 62% reduction in 2021, compared to 2019. Those carriers' contribution to Bulgaria's GDP amounted to 0.189% in 2019 (without counting for the multiplier effect). They provide nearly 3 000 jobs and generate revenues of more than BGN 900 million on an annual basis.

### **2.3. Legal basis**

- (11) The legal basis for the measure is article 109 of the law on Bulgaria's State budget for 2021 and a draft ministerial decree<sup>11</sup> which will set out the terms and conditions for the award of the grants, a draft of which has been shared with the Commission.

### **2.4. Administration of the measure**

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

### **2.5. Budget and duration of the measure**

- (13) The measure will be funded from the Bulgarian State budget<sup>12</sup>. The estimated budget of the measure is BGN 60 000 000 (approximately EUR 30.68 million)<sup>13</sup>.
- (14) The Bulgarian authorities confirm that support may be granted under the measure only as from the notification to the Bulgarian authorities of the Commission's decision approving the measure, until no later than 30 June 2022.

### **2.6. Beneficiaries**

- (15) The final beneficiaries of the measure are air carriers of all sizes, which on 1 January 2020 held a Bulgarian operating licence<sup>14</sup> and which meet the eligibility criteria under the measure (see recitals (19) to (24)).
- (16) The estimated number of beneficiaries is 18.
- (17) Aid may not be granted under the measure to medium<sup>15</sup> and large undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")<sup>16</sup> on 31 December 2019. Aid may be granted to micro and small<sup>17</sup> undertakings that were in difficulty within the meaning of the GBER on 31 December 2019, if those undertakings, 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>18</sup> or restructuring aid<sup>19</sup>.

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<sup>11</sup> A decree by Bulgaria's Council of Ministers.

<sup>12</sup> More specifically, the budget of the Bulgarian Ministry of Transport, Information Technology and Communications.

<sup>13</sup> Exchange rate on 25 January 2022, EUR 1 = BGN 1.9558, OJ C 38, 25.1.2022, p. 1.

<sup>14</sup> As defined in recital (7).

<sup>15</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 (GBER).

<sup>16</sup> As defined in Article 2(18) of the GBER.

<sup>17</sup> As defined in Annex I to the GBER.

<sup>18</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>19</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.

## **2.7. Sectoral and regional scope of the measure**

- (18) The measure is open to all air carriers holding a Bulgarian licence<sup>20</sup>. Undertakings operating in the financial sector are excluded from the measure.

## **2.8. Basic elements of the measure**

- (19) The grants shall be provided to air carriers for the repayment of liabilities (public liabilities, liabilities to banks and liabilities under aircraft leasing contracts)<sup>21</sup>, as well as for covering uncovered fixed costs that the air carriers incurred during the period from 1 March 2020 until 31 December 2021 due to the suspension or reduction of their business activity.
- (20) In order to be eligible under the measure the applicants must:
- (a) Hold a Bulgarian licence<sup>22</sup> on 1 January 2020.
  - (b) Be registered in the register of air carriers kept by the Bulgarian Directorate General for Civil Aviation before 1 January 2020.
  - (c) Have carried out an economic activity in 2020 and in 2021.
  - (d) Have suffered a decline in turnover compared to 2019.
- (21) Regarding the decline in turnover (recital (20)(d)), the Bulgarian authorities explain that the amount of aid an undertaking can receive under the measure will depend on the undertaking's turnover decline between 1 March 2020 and 31 December 2021, compared to 2019. More specifically:
- (a) Undertakings that suffered a decline in turnover of at least 30% between 1 March 2020 and 31 December 2021, compared to the same period in 2019, may apply for grants of up to a total nominal value of EUR 12 million per undertaking. That support under the measure has been designed to meet the requirements set out in section 3.12 of the Temporary Framework.
  - (b) Undertakings that suffered a decline in turnover below 30% between 1 March 2020 and 31 December 2021, compared to the same period in 2019, may apply for grants of up to a total nominal value of EUR 2.3 million per undertaking. That support under the measure has been designed to meet the requirements set out in section 3.1 of the Temporary Framework<sup>23</sup>.
- (22) For the avoidance of doubt, the Bulgarian authorities note that an undertaking may receive support under either section 3.1 or under section 3.12 of the Temporary Framework: an undertaking may apply for aid either under the support described at recital (21)(a) or for aid under the support described at recital (21)(b). In addition, independently of whether the grant is based on section 3.1 or section 3.12 of the Temporary Framework, its amount must not exceed the following

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<sup>20</sup> As defined in recital (7).

<sup>21</sup> Liabilities due as of 31 December 2019.

<sup>22</sup> As defined in recital (6).

<sup>23</sup> With the additional caps set out in recital (22).

caps. First, the total support that an undertaking may receive must not exceed 30% of the undertaking's uncovered fixed costs, with the exception of micro and small undertakings<sup>24</sup>, for which the amount of the grant must not exceed 60% of the undertaking's uncovered fixed costs. Second, the total support that an undertaking may receive must not exceed 20% of the turnover an undertaking recorded in 2019 from realised charter flights and aircraft rental.

- (23) The losses of undertakings declared in their profit and loss statements during the eligible period are considered to constitute uncovered fixed costs. These losses represent the undertakings' uncovered fixed costs, which are fixed costs incurred between 1 March 2020 and 31 December 2021, which are not covered by the profit contribution (i.e. revenues minus variable costs) during the same period and which are not covered by other sources, such as insurance, temporary aid measures under the Temporary Framework, or support from other sources. All figures used must be gross, that is, before any deduction of tax or other charges.
- (24) The support under the measure may be granted based on the undertaking's audited annual accounts for 2020 and for 2021, or if the latter are not yet available, on the undertaking's forecasted losses for 2021, while the final amount of support under the measure shall be determined after realisation of the losses on the basis of audited accounts for 2021. Any aid payment exceeding the finally assessed amount of aid will be recovered.
- (25) Finally, the Bulgarian authorities submit the following observations in relation to the first eligibility criterion under the measure i.e. the holding of a Bulgarian licence (recital (20)(a)).
- (26) First, one of the conditions for granting a Bulgarian licence is that the air carrier has its principal place of business in Bulgaria<sup>25</sup>. The condition of holding a Bulgarian licence, in so far as it requires the principal place of business of the air carriers to be on Bulgarian territory, ensures the administrative and financial stability of the presence of those air carriers, so that the Bulgarian authorities can control the manner in which that the grants under the measure are used by the recipients.
- (27) Second, the condition of holding a Bulgarian licence reflects the possibility and the obligation for the Bulgarian authorities to carry out financial checks of the beneficiaries<sup>26</sup>.
- (28) Third, the continued airworthiness management – i.e., the process by which an aircraft is kept in a condition where it remains airworthy (technically fit for flight) throughout its lifecycle - must also be ensured from the air carrier's principal place of business, pursuant to Article 2(26) of Regulation No 1008/2008<sup>27</sup>.

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<sup>24</sup> As defined in Annex I to the GBER.

<sup>25</sup> Article 4(a) of Regulation No 1008/2008.

<sup>26</sup> The Bulgarian authorities are only competent to monitor the financial situation of air carriers which hold a Bulgarian licence, in accordance with the obligations arising, in particular, under Article 5 and Article 8(2) of Regulation No 1008/2008.

<sup>27</sup> That consideration is supported by Article 5 (on the financial conditions for granting an operating licence), Article 7 (on proof of good repute) and Article 8 (on the validity of an operating licence) of

- (29) The eligibility condition relating to the beneficiaries holding a Bulgarian licence reflects the need for Bulgaria to ensure a certain stability of the beneficiaries' presence and their durable links to the Bulgarian economy. That condition requires not only that a beneficiary should be registered in Bulgaria but also that its principal place of business be located in that territory. According to Bulgaria that is because the aid scheme at issue is intended to support undertakings which are genuinely and enduringly linked to the Bulgarian economy, which is consistent with the objective of the scheme, which is to remedy the serious disturbance in that economy.
- (30) Fourth, air carriers with a Bulgarian licence play an important role in the country's economy, as they employed nearly 3 000 persons in 2019 (many with specialised technical skills) and contributed to 0.189% of Bulgaria's GDP in 2019.
- (31) Finally, the Bulgarian authorities submit that, given the limited total amount of support that Bulgaria envisages to grant (i.e. approximately EUR 30.68 million) with respect to the number of beneficiaries (i.e. 18 beneficiaries), limiting eligibility for the measure only to those air carriers which hold a Bulgarian licence and thus have their principal place of business in the country is a legitimate and efficient use of State resources. Allowing all air carriers operating in Bulgaria to benefit from the measure would render the support meaningless for each one of them because of the limited amount of aid, the State will be able to grant in this case. As a result, the measure would not achieve its intended objective.

## 2.9. Cumulation

- (32) The Bulgarian authorities confirm that support granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>28</sup> or the General Block Exemption Regulation<sup>29</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (33) The Bulgarian authorities confirm that support 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.

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Regulation No 1008/2008. Those provisions create reciprocal regulatory obligations between airlines holding a Bulgarian licence and the Bulgarian authorities, and thus a specific, stable link between them

<sup>28</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) 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).

<sup>29</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.

- (34) 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.
- (35) The Bulgarian authorities also 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 3.12 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.
- (36) Finally, the Bulgarian authorities confirm that support granted under the measure under section 3.12 of the Temporary Framework shall not be cumulated with other aid for the same eligible costs.

## **2.10. Monitoring and reporting**

- (37) 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 granting<sup>30</sup>).

## **3. ASSESSMENT**

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

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

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

- (39) 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.
- (40) The measure is imputable to the State, since it is administered by Bulgarian Ministry of Transport, Information Technology and Communications (recital (12)) and it is based on national legislation and a ministerial decree (recital (11)). It is financed through State resources, since it is financed from the State budget (recital (13)).

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<sup>30</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.

- (41) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (42) The advantage granted by the measure is selective, since it is awarded only to certain undertakings (i.e. air carriers) and excludes undertakings active in other sectors, including the financial sector.
- (43) 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 the air transport sector, in which intra-Union trade exists.
- (44) 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**

- (45) 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.
- (46) 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*”.
- (47) 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*”.
- (48) The measure aims at providing liquidity to air carriers 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.
- (49) 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 (see recital (4)). The Commission considers that air transport can play a key role in Bulgaria’s economic recovery and long-term economic growth. As explained in recital (6), the aviation sector is not only providing a service to other industries and the travelling public but is also a key driver and facilitator of economic growth and prosperity. In addition, air transport contributes to Bulgaria’s integration into the global economy. The Commission therefore accepts the importance of the measure to provide liquidity and to preserve employment and economic continuity and considers that the measure is of a scale which can be reasonably anticipated to produce effects across the entire Bulgarian economy.

- (50) First, the Commission considers that the eligibility criterion relating to the beneficiaries of the aid holding a Bulgarian licence and therefore having their principal places of business in the Bulgarian territory seeks to ensure the stability of their presence and their durable links to the Bulgarian economy. Air carriers holding a licence from another Member State would not be subject to monitoring by the Bulgarian authorities within the meaning of Regulation No 1008/2008 and would not have a stable reciprocal link with Bulgaria. That criterion demonstrates precisely that the measure is intended to support undertakings which are genuinely and enduringly linked to the Bulgarian economy. That is consistent with the objective of the measure, which is to remedy the serious disturbance in that economy. By contrast, the existence of such stable and durable links to the Bulgarian economy is, in principle, less likely in the case of undertakings which have their principal places of business outside the territory of Bulgaria, so that any aid intended to support their activities is less likely to contribute to remedying the serious disturbance in the economy of that Member State.
- (51) Thus, by limiting eligibility for the aid only to those air carriers which hold a Bulgarian licence and imposing as a prerequisite to benefit from the aid the existence of a stable reciprocal link to the Bulgarian economy, the measure is appropriate to achieve the objective of remedying a serious disturbance in the Bulgarian economy as a result of the COVID-19 pandemic, as air carriers with their stable presence in the country support that economy (see recitals (25) to (30)).
- (52) Furthermore, the measure has been designed to meet the requirements of the following sections of the Temporary Framework :
- (a) Either in the form of “*support for uncovered fixed costs*”, described in section 3.12 of the Temporary Framework.
- (b) Or, in the alternative, in the form of “*limited amounts of aid*”, described in section 3.1 of the Temporary Framework.
- (53) The Commission 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:
- (a) Regarding aid for undertakings that suffered a decline in turnover of at least 30% between 1 March 2020 and 31 December 2021:
- Aid is granted under the measure no later than 30 June 2022 and covers uncovered fixed costs incurred during the period between 1 March 2020 to 31 December 2021 (recitals (14) and (19)). The measure therefore complies with point 87(a) of the Temporary Framework.
  - Aid is granted under the measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (recitals (20)(d) and (21)(a)). The measure therefore complies with point 87(b) of the Temporary Framework.
  - Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework and the aid intensity will not

exceed 30% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 60% of the uncovered fixed costs (recital (22)). The losses of undertakings from their profit and loss statements between 1 March 2020 and 31 December 2021<sup>31</sup> are considered to constitute uncovered fixed costs. The aid under the measure may be granted based on the undertaking's audited annual accounts for 2020 and for 2021, or if the latter are not yet available, on the undertaking's forecasted losses for 2021, while the final amount of support under the measure shall be determined after realisation of the losses on the basis of audited accounts for 2021. Any payment exceeding the final amount of the aid must be recovered (recital (24)). The measure therefore complies with point 87(c) of the Temporary Framework.

- The aid takes the form of direct grants (recital (10)). The overall nominal value of the grants will not exceed EUR 12 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (23)). The measure therefore complies with point 87(d) of the Temporary Framework.
- The aid under the measure shall not be cumulated with other aid for the same eligible costs (recital (36)). The measure therefore complies with point 87(e) of the Temporary Framework.
- Aid may not be granted under the measure to medium<sup>32</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (17)). 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 a collective insolvency procedure under national law and they have not received rescue aid<sup>33</sup> or restructuring aid<sup>34</sup> (recital (17)). The measure therefore complies with point 87(f) of the Temporary Framework.

(b) Regarding aid for undertakings that suffered a decline in turnover below 30% between 1 March 2020 and 31 December 2021:

- The aid takes the form of direct grants (recital (10)).

The overall nominal value of direct grants shall not exceed EUR 2.3 million per undertaking (recital (21)(b)); all figures used must be gross, that is, before any deduction of tax or other charges (recital (23)). The measure therefore complies with point 22(a) of the Temporary Framework.

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<sup>31</sup> One-off impairment losses are not included in the calculation of the losses.

<sup>32</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>33</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>34</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.

- 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>35</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (17)). 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 a collective insolvency procedure under national law and they have not received rescue aid<sup>36</sup> or restructuring aid<sup>37</sup> (recital (17)). 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 2022 (recital (14)). The measure therefore complies with point 22(d) of the Temporary Framework.
- (54) As confirmed by the Bulgarian authorities, 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 (8)). Therefore, the Commission considers that the measure complies with point 16ter of the Temporary Framework.
- (55) As confirmed by the Bulgarian authorities, the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (37)). The Bulgarian authorities further confirmed 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 (32) to (36)). Therefore, the Commission concludes that the measure complies with section 4 of the Temporary Framework, as well as with the Temporary Framework's provisions on cumulation.
- (56) 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>35</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>36</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>37</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

