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**Subject: State Aid SA. 103269 (2022/N) – Bulgaria
COVID-19: Amendment of aid scheme to air carriers (SA.100321)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 6 June 2022¹, Bulgaria notified to the European Commission (the “Commission”) an amendment of State aid measure SA.100321, which concerned an aid scheme in the form of direct grants to air carriers² (the “Initial Measure”). This scheme was approved by decision of 17 March 2022 (the “Initial Decision”),³ under Article 107(3)(b) TFEU in light of the Temporary

¹ Bulgaria pre-notified the notified amendment on 9 May 2022. Upon request by the Commission, Bulgaria submitted additional information on 7 June 2022.

² 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.

³ Decision of the Commission of 17 March 2022, SA.100321 (2022/N) – Bulgaria COVID-19: Aid scheme to air carriers (not yet published in the OJ).

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Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).⁴

- (2) 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 1/1958⁵ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. The Initial Measure

- (3) The Initial Measure is an aid scheme aiming to provide liquidity support to air carriers with a Bulgarian operating licence to ensure their viability and help them overcome the negative economic consequences of the COVID-19 pandemic. The Initial Measure involves two alternative types of support both in the form of direct grants. Air carriers 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, as described in recital 21(a) of the Initial Decision. This type of support has been designed to meet the requirements set out in section 3.12 of the Temporary Framework. Air carriers 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, as described in recital 21(b) of the Initial Decision. This type of support has been designed to meet the requirements set out in section 3.1 of the Temporary Framework. The other eligibility conditions are detailed in recital 20 of the Initial Decision. The scheme is further described in recitals 4 to 37 of the Initial Decision.
- (4) By the Initial Decision, the Commission decided not to raise objections to the Initial Measure on the grounds that it was compatible with the internal market pursuant to Article 107(3)(b) TFEU. In particular, the Commission concluded that the Initial Measure was in line with sections 3.1, 3.12 and 4 of the Temporary Framework (recitals (52) to (56) of the Initial Decision).

2.2. The Notified Amendment

- (5) With the notified amendment, the Bulgarian authorities plan to amend the type of support granted under the Initial Measure falling under section 3.1 of the Temporary Framework (described at recital (3)). By the notified amendment, air carriers with a Bulgarian operating licence that have suffered losses in 2020 or 2021 as a result of the COVID-19 pandemic may be granted aid under section 3.1

⁴ 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).

⁵ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

of the Temporary Framework. As a result of the introduction of the notified amendment, aid under section 3.1 of the Temporary Framework may therefore be granted to air carriers that suffered a decline of turnover below 30% between 1 March 2020 and 31 December 2021, compared to the same period in 2019 (as explained in recitals 20(d) and 21(b) of the Initial Decision) as well as to air carriers that have suffered losses in 2020 or 2021 as a result of the COVID-19 pandemic (the “amended eligibility criteria”).

- (6) The Bulgarian authorities note that no other change will be made to the Initial Measure. In particular, no other change will be made to the eligibility conditions of the type of support under section 3.1 of the Temporary Framework detailed in recital 20(a), 20(b), and 20(c) of the Initial Decision. Furthermore, no change will be made to the type of support granted under section 3.12 of the Temporary Framework, including the eligibility conditions detailed in recital 20(a), 20(b), 20(c) and 21(a) of the Initial Decision.⁶ Bulgaria explained that all other elements of the Initial Measure as described in Section 2 of the Initial Decision (3) will remain unchanged.⁷
- (7) According to the Bulgarian authorities, the amended eligibility criteria will enable the support under section 3.1 of the Temporary Framework to also cover air carriers that suffered losses because of the COVID-19 pandemic even without a decline in turnover. Bulgaria explained that this change is introduced to take into account various situations of air carriers affected by the COVID-19 pandemic, which has resulted in them facing losses. In particular, Bulgaria explained that in some cases air carriers may have suffered losses because of the COVID-19 pandemic, even if they did not register a turnover decline during 2020 or 2021, for example in case the COVID-19 pandemic resulted in high additional costs or if the pandemic hampered their ability to raise sufficient revenues to cover the costs of investment that could not be cancelled. Therefore, according to Bulgaria, the initial eligibility criterion providing that an undertaking had “suffered a decline in turnover below 30% between 1 March 2020 and 31 December 2021, compared to the same period in 2019” is not sufficient to encompass all situations where the COVID-19 pandemic undermined the viability of air carriers. Bulgaria thus considers that the notified amendment, which introduces the amended eligibility criteria for the support under section 3.1 of the Temporary Framework, is in line with the objective of the scheme to address the liquidity needs of companies affected by the pandemic and to help them overcome the difficulties related with the pandemic.

⁶ The Bulgarian authorities also indicated that, as also explained in recital 22 of the Initial Decision, the support under section 3.12 of the Temporary Framework and the support under section 3.1 of the Temporary Framework are alternatives and cannot be granted cumulatively. Accordingly, an undertaking that meets the criteria for both types of support, for example a turnover decline of at least 30% and losses in 2020 or 2021 as a result of the COVID-19 pandemic, will only receive support under one of them.

⁷ The Bulgarian authorities also indicated that they will ensure compliance by the airlines with all applicable environmental rules and regulations and encourage airlines to integrate concerns relating to the climate change, environmental protection, biodiversity, and wider sustainability considerations into their business plans.

2.3. Legal basis

- (8) The legal basis for the notified amendment is Article 109 of the law on Bulgaria's State budget for 2021 and a draft ministerial decree.⁸This ministerial decree will amend Decree № 454 of the Council of Ministers of 2021 setting out the terms and conditions for the award of the grants. This ministerial decree contains a standstill provision, according to which aid can only be granted based on the amended eligibility criteria after the Commission's authorisation.

3. ASSESSMENT

3.1. Lawfulness

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

3.2. Existence of State aid

- (10) As already set out in recitals 39 to 44 of the Initial Decision, the Initial Measure constitutes State aid within the meaning of Article 107(1) TFEU.
- (11) The notified amendment to the Initial Measure does not affect the Commission's assessment in that respect. It only consists of the addition of an eligibility condition under the support under section 3.1 of the Temporary Framework, which affects the scope of the beneficiaries without materially changing the content and the design of the Initial Measure (recitals (5) and (6)).
- (12) Therefore, and for the same reasons detailed in section 3.2 of the Initial Decision, the Initial Measure as modified with the notified amendment also constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (13) As regards the assessment of the notified amendment, reference is made to section 3.3 of the Initial Decision, where the Commission concludes that the Initial Measure constitutes State aid which fulfils the conditions of sections 3.1 and 3.12 of the Temporary Framework and therefore remedies a serious disturbance in the economy of a Member State within the meaning of Article 107(3)(b) TFEU
- (14) The notified amendment to the Initial Measure introduces an additional eligibility condition for the support granted under the Initial Measure falling under section 3.1 of the Temporary Framework, which provides for limited amounts of aid. Based on the amended eligibility criteria, air carriers will be eligible for this support under section 3.1 of the Temporary Framework, if they: either (i) have suffered a decline in turnover below 30% between 1 March 2020 and 31 December 2021, compared to the same period in 2019 (eligibility condition under the Initial Decision); or (ii) have suffered losses in 2020 or 2021 as a result of the

⁸ A decree by Bulgaria's Council of Ministers.

COVID-19 pandemic (recitals (5) and (6)) (additional eligibility condition introduced with the notified amendment).

- (15) The notified amendment has no impact on the Commission's evaluation of the compatibility of the Initial Measure with the Temporary Framework, as described in Section 3.3 of the Initial Decision. In particular, recital 53(b) of the Initial Decision as to the compatibility of the support granted under section 3.1 of the Temporary Framework remains unchanged. The Commission notes that this support still meets all the conditions of sections 3.1 and 4 of the Temporary Framework since there are no changes in the essential characteristics of the scheme other than enlarging the circle of eligible beneficiaries. The Commission also notes that no changes are made to the support granted under section 3.12 of the Temporary Framework.
- (16) The Commission, therefore, considers that the Initial Measure as amended remains necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Bulgaria pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework. The Initial Measure as amended with the notified amendment is thus compatible with the internal market.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments on the grounds that the aid 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

