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Subject: State Aid SA.57572 (2020/N) – Romania
COVID-19: Amendment of SA.56895 (2020/N) - Support scheme for SMEs

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts between 3 June 2020 and 23 July 2020, by electronic notification of 27 July 2020, Romania notified an amendment (“the measure”) of the scheme SA.56895 (2020/N) - support scheme for SMEs (“the existing scheme”) -under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the

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Temporary Framework”).¹ The Commission approved the scheme by Decision of 10 April 2020 (“the initial decision”).²

- (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 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) The measure consists of an amendment of the existing scheme which comprises direct grants and guarantees on loans. The objective of the existing scheme is to remedy the severe lack of liquidity suffered in particular by small and medium-sized enterprises (“SMEs”).⁴ The measure pursues the same objective while facilitating internal procedures.
- (4) The legal basis for the measure is a Government Emergency Ordinance⁵ that will amend the Government Emergency Ordinance no. 110/2017⁶ on the approval of the Programme for supporting the SMEs, as well as for amending and supplementing the State aid scheme to support the activity of SMEs in the framework of the economic crisis generated by the COVID-19 pandemic.
- (5) The amended law increases the budget for direct grants by RON 325 million (approximately EUR 67 million), i.e. from initially RON 781 million (approximately EUR 161 million) to RON 1 106 million (approximately EUR 228 million), as referred to in recital (12) of the initial decision.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1-9, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3-15 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3-8.

² Commission Decision C(2020) 2363 of 10 April 2020 – SA.568985 (2020/N), OJ C144 30 April 2020, p.19.

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ As defined in Annex I 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.

⁵ The relevant Government Emergency Ordinance will be adopted only after the adoption of this State aid decision by the Commission.

⁶ Government Emergency Ordinance no 110/2017 on the Program for Supporting SMEs - IMM INVEST ROMANIA, as approved and amended by Law no. 209/2018, as subsequently amended and supplemented by Government Emergency Ordinance no. 29/2020 and Government Ordinance no. 42/2020.

- (6) With respect to recital (14) of the initial decision, the Government Emergency Ordinance⁷ also extends the categories of enterprises which can be beneficiaries (e.g. cooperative companies as new category), nonetheless all beneficiaries must be classified as SMEs.
- (7) Further changes concern internal procedures to remove bottlenecks and procedural barriers to the implementation of the scheme.
- (8) The other elements of the existing scheme that were described in recital (11) and recitals (13) to (20) of the initial decision remain unchanged.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (9) 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

- (10) For a measure to be categorised as State 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.
- (11) The existence of aid within the meaning of Article 107(1) TFEU was established in the initial decision, recitals (23) to (27). The measure does not alter that assessment.

3.3. Compatibility

- (12) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether it is compatible with the internal market.
- (13) The Commission assessed the existing scheme in the initial decision under Article 107(3)(b) TFEU. Accordingly, the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”. The Commission will assess the measure under the same legal basis.
- (14) By adopting the Temporary Framework, the Commission acknowledged 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”.

⁷ See footnote 6.

- (15) In its initial decision, the Commission concluded that the existing scheme was compliant with the compatibility conditions set out in sections 3.1 and 3.2 of the Temporary Framework.
- (16) The Commission refers to its analysis of compatibility as set out in recitals (30) to (35) of the initial decision. The amendments put forward by Romania do not affect the compatibility assessment of the initial decision. In particular, the Commission considers that the increase in the budget is appropriate, proportionate and necessary to achieve the objectives of the existing scheme more effectively.
- (17) The Commission therefore considers that the measure does not affect the compatibility analysis of the existing scheme as set out in the initial decision.

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

