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**Subject: State Aid SA.58452 (2020/N) – Romania
COVID-19: Supporting the activity of breeders in the poultry sector
in the context of the economic crisis caused by the COVID-19
pandemic**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 24 August 2020, Romania notified aid in the form of limited amounts of aid “Supporting the activity of breeders in the poultry sector in the context of the economic crisis caused by the COVID-19 pandemic” (*“Susținerea activității crescătorilor din sectorul avicol în contextul crizei economice generate de pandemia COVID -19”*, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹ By email of 27 August 2020, Romania submitted supplementary information on the measure.
- (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

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

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 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, 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 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of 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.

Bogdan Aureescu
Ministru al Afacerilor Externe
Aleea Alexandru nr. 31
Sector 1
RO - 011822 BUCUREȘTI

Commission européenne, B-1049 Bruxelles – Belgique
Europese Commissie, B-1049 Brussel – België
Telefon: +32 2 299. 11. 11.

Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) On 16 March 2020, the state of emergency was declared in Romania in order to limit the effects of the COVID-19 pandemic. Following the declaration of the state of emergency in the Romanian territory, legislation was adopted to reduce the risk of pandemic effects, but this had a negative impact in the chain of agricultural production.
- (4) Romania considers that the COVID-19 outbreak has started to affect 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 outbreak, to 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.
- (5) 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

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

2.2. Legal basis

- (7) The legal basis for the measure is the Draft Emergency Order approving the State aid scheme to support the activity of breeders in the poultry sector in the context of the economic crisis arising from the COVID -19 pandemic (*“Proiect de Ordonanță de Urgență privind aprobarea Schemei de ajutor de stat pentru susținerea activității crescătorilor din sectorul avicol în contextul crizei economice generate de pandemia COVID -19”*).

2.3. Administration of the measure

- (8) The Ministry of Agriculture and Rural Development (MARD) in Romania is responsible for administering the measure.
- (9) The measure will be implemented by the Paying and Intervention Agency for Agriculture and its territorial network, which is subordinated to the Ministry of Agriculture and Rural Development.

2.4. Budget and duration of the measure

- (10) The estimated budget of the measure is RON 109 800 000, approximately EUR 22 700 000.
- (11) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

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

2.5. Beneficiaries

- (12) The final beneficiaries of the measure are micro enterprises, SMEs and large enterprises³ active in the poultry breeding sector in Romania. Financial institutions are excluded as eligible final beneficiaries.
- (13) The number of beneficiaries is estimated at over 1 000 undertakings active in the aforementioned sector.
- (14) The aid shall be granted to poultry farmers, individual and family undertakings, authorised natural persons, as well as legal persons carrying out activities such as breeding and/or hatching and/or rearing of poultry for meat or eggs.
- (15) As eligibility criteria, the beneficiaries must be authorised for veterinary health purposes and have carried out breeding and/or hatching and/or rearing of poultry activities in the first half of 2020.
- (16) Aid may not be granted under the measure to medium⁴ and large enterprises that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)⁵ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁶ 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 aid⁷ or restructuring aid⁸.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to the poultry breeding sector. It excludes undertakings operating in the financial sector.
- (18) It applies to the whole territory of Romania.

2.7. Basic elements of the measure

- (19) The objective of the notified scheme is to support the activity of poultry breeders in the context of the economic crisis caused by the COVID-19 pandemic, and to compensate for the losses caused by it. The Romanian poultry sector has suffered

³ 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.

⁴ As defined in Annex I to Commission Regulation (EU) No 651/2014.

⁵ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1–75.

⁶ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014, Article 2(14) of Commission Regulation (EU) No 702/2014, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

⁷ 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.

⁸ 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.

substantial losses resulting in fewer breeding animals and slaughter numbers, as well as disruption of supply chains.

- (20) The total number of birds fell from 73.20 million heads in April 2019 to 70.14 million heads in April 2020, a decrease of 4.17 %. The production of poultry meat in April 2019 was 199.6 thousand tonnes and in the same month this 2020 was 169.3 thousand tonnes, a decrease of 15.17 %.
- (21) In April 2020, the average price in the EU per 100 kg of poultry carcass was EUR 181.23/100 kg carcass, and in Romania it was EUR 138.47/100 kg carcass. Compared to 2019, when the average EU price was EUR 188.29/100 kg carcass and in Romania it was EUR 147.78/100 kg carcass, this represents an average price decrease at EU level of 3.75 %, and of 6.3 % at national level.
- (22) The period for submitting aid applications is 20 working days from the date of entry into force of the Emergency Order establishing the notified aid scheme.
- (23) The aid shall be granted based on the production capacity of the beneficiary, according to the species and categories of poultry and broilers, turkey chickens, laying hens, heavy breeds and hatched chicks.
- (24) The aid amount is EUR 100/livestock unit, equivalent in RON, conversion rates being 0.03/livestock unit for broilers, turkey chickens and hatched chicks and 0.014/livestock unit laying hens and heavy breeds.
- (25) The euro/leu exchange rate for the calculation of the maximum total amount of aid is the National Bank of Romania rate valid on the date of entry into force of the aforementioned Emergency Order.
- (26) The total amount of aid granted to an undertaking under the scheme cannot exceed the overall amount of EUR 100 000 (RON equivalent) per undertaking active in the primary production of agricultural products.
- (27) Romania confirmed that the aid shall not be fixed on the basis of the price or quantity of products put on the market by the undertakings concerned.

2.8. Cumulation

- (28) The Romanian authorities confirm that aid granted under the measure cannot be cumulated with any other aid for the same identifiable eligible costs.
- (29) The Romanian authorities confirm that aid under the measure shall not be cumulated with other forms of Union financing.
- (30) The Romanian 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.
- (31) The Romanian 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 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (32) The Romanian 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 10 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (33) 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

- (34) 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.
- (35) The measure is imputable to the State, since it is administered by the Ministry of Agriculture and Rural Development (recital (8)) and it is based on the draft legal order describer in recital (7). It is financed through State resources, since it is financed by public funds.
- (36) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (37) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the poultry breeding sector, as described in recital (12), excluding the financial sector.
- (38) 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.
- (39) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

⁹ 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 of the Commission Regulation (EU) No 1388/2014.

3.3. Compatibility

- (40) 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.
- (41) 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*”.
- (42) 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*”.
- (43) The measure aims at addressing the liquidity needs of undertakings at a time when the normal functioning of credit 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.
- (44) The measure is one of a series of measures conceived at national level by the Romanian authorities to remedy a serious disturbance in their economy. The importance of the measure to ensure the viability of primary producers in the poultry sector during the COVID 19 outbreak is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the targeted agricultural sector in Romania. 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.
- (45) 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 aid takes the form of direct grants (recital (6)).
 - 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 medium¹⁰ and large enterprises that were already in difficulty on 31 December 2019 (see recital (16)). 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

¹⁰ As defined in Annex I to Commission Regulation (EU) No 651/2014.

rescue aid¹¹ or restructuring aid¹² (see recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 31 December 2020. The measure therefore complies with point 22(d) of the Temporary Framework.
 - The overall nominal value of the direct grants does not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (26)). The measure therefore complies with point 23(a) of the Temporary Framework.
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (27)). The measure therefore complies with point 23(b) of the Temporary Framework.
- (46) The Romanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (32)). The Romanian 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 are respected and the cumulation rules of the relevant Regulations are respected (recitals (28) to (31)).
- (47) 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.

¹¹ 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.

¹² 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.

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

