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**Subject: State Aid SA.63354 (2021/N) – Romania
COVID-19: Third amendment of the existing aid scheme SA.56895**

**State Aid SA.63562 (2021/N) – Romania
COVID-19: First amendment of the existing aid scheme SA.58462**

Excellency,

1. PROCEDURE

- (1) By electronic notifications of 7 and 17 June 2021 respectively, Romania notified amendments concerning the following existing aid schemes (“the existing aid schemes”), which the Commission had already approved in light of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”)¹:
- (a) SA.56895 – Romania *COVID-19: Support scheme for SMEs*, which the Commission approved by Decision C(2020) 2363 final of 10 April 2020 (the “initial decision in case SA.56895”), amended by Decision C(2020) 5555 final, SA.57572 of 7 August 2020 and by Decision C(2020) 9633 final, SA.60236, of 23 December 2020.
- (b) SA.58462 – *COVID-19: Guarantees on Factoring*, which the Commission approved by Decision C(2020) 8349 final of 23 November 2020 (the “initial decision in case SA.58462”).

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) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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- (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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) On 28 January 2021, the Commission adopted a Communication prolonging until 31 December 2021 the validity of the Temporary Framework, which would otherwise expire at the end of June 2021. The Communication also increased the overall aid ceiling per undertaking, as referred to in section 3.1 of the Temporary Framework, from EUR 800 000 to EUR 1.8 million per undertaking, with the exception of (i) undertakings active in the fishery and aquaculture sector, for these undertakings the ceiling has been increased from EUR 120 000 to EUR 270 000; and (ii) undertakings active in the primary production of agricultural products, for them the ceiling has been increased from EUR 100 000 to EUR 225 000.
- (4) The Romanian authorities submit that the COVID-19 outbreak continues to affect the real economy.
- (5) Following the prolongation of the Temporary Framework, the Romanian authorities wish to extend the duration of the existing aid schemes until 31 December 2021, with the effect that, under both schemes listed in recital (1), aid can be granted until 31 December 2021 at the latest.
- (6) The Romanian authorities also notified for both schemes listed in recital (1) an increase in the aid ceiling per undertaking, which can be granted, depending on the sector, up to the maximum ceiling referred to in point 22(a) or 23(a), section 3.1 of the Temporary Framework. Where an undertaking is active in several sectors to which different maximum amounts apply Romania shall ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a), the overall maximum amount of EUR 270 000 for undertakings active in the fishery and aquaculture sector and EUR 225 000 for undertakings active in the primary production of agricultural products should not be exceeded per undertaking.
- (7) With respect to the existing aid scheme SA.56895, under which aid is provided in the form of direct grants and State guarantees on loans to SMEs and, since the second amendment decision of 23 December 2020, also to small mid-caps, the Romanian authorities plan to amend the draft legal basis with the effect that for small mid-caps the maximum loan amount may be increased to cover the liquidity needs from the moment of granting for the coming 12 months in line with point 25(d)(iii) of the Temporary Framework.
- (8) In other words, the Romanian authorities want to give the possibility to increase the loan amount not only to SME but also to small-caps on a case-by-case basis.

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

This will concern companies for which 2019 data may not reflect actual financing needs such as the seasonally dependent agricultural sector, small mid-caps that suffered from major interruptions during the lock-down period (e.g. in the tourism or automotive sector), fast-growing companies and enterprises experiencing a higher demand for the goods or services as a consequence of the COVID-19 crisis. The declared liquidity needs by the final beneficiary will be verified during the application.

- (9) All other conditions of the existing aid schemes remain unchanged.
- (10) The legal bases of the existing aid schemes as described in recital (10) of the initial Decision in case SA.56895 and recital (7) of the initial Decision in case SA.58462 will remain valid. Romania will put the amendments of those existing aid schemes into effect after the notification of the Commission decision not to raise objections.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (11) By notifying the amendments to the existing aid schemes before putting them into effect³, the Romanian authorities have respected their obligation under Article 108(3) TFEU.

3.2. Existence of State aid

- (12) 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.
- (13) The existing aid measures concerned constitute State aid in the meaning of Article 107(1) TFEU for the reasons set out in the initial decisions⁴. The notified amendments do not alter that conclusion. The Commission therefore refers to the respective assessment of the aforementioned decisions and concludes that the existing aid schemes as modified by the notified amendments constitute State aid in the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

3.3. Compatibility

- (14) The Commission assessed the existing aid schemes on the basis of Article 107(3)(b) TFEU in light of the Temporary Framework and concluded that they were meeting the relevant conditions set out in that Framework.

³ The Romanian authorities submitted a draft legal basis with their notification, confirming that the measure will not be implemented prior to the approval of the Commission.

⁴ Recitals 22-27 of Commission approved by Decision C(2020) 2363 final, SA.56895 of 10 April 2020; recitals 29-34 of Commission Decision C(2020) 8349 final, SA.58462 of 23 November 2020.

- (15) The Commission refers to its analysis of compatibility carried out for the existing aid schemes⁵. The notified amendments do not alter these conclusions.
- (16) First, the prolongation of the duration of the existing aid schemes until 31 December 2021 (recital (5)) is in line with points 22(d) and 25(c) of the Temporary Framework.
- (17) Second, the increased notified aid ceiling for the existing aid schemes is in line with points 22(a) and 23(a), section 3.1 of the Temporary Framework. For undertakings active in several sectors the maximum aid ceiling will respect the conditions set out in point 23bis section 3.1 of the Temporary Framework (recital (6)(6)).
- (18) Third, the Commission notes that the amendment of the draft legal basis as described in recital (7) is in line with point 25(d)(iii) of the Temporary Framework. The Romanian authorities provide a appropriate justification (recital (8)) as this possibility is available, after verification, only to companies for which data of 2019 do not properly reflect actual financing needs such as small mid-caps that are fast-growing, have irregular turnovers such as those in the agricultural sector and beneficiaries that suffered from major interruptions during the lock-down period or enterprises experiencing a higher demand for the goods or services as a consequence of the COVID-19 crisis.
- (19) Finally, the Commission notes that apart from the notified amendments described in recitals (5) - (7), Romania confirms that no further amendments are proposed to the existing aid schemes SA.56895 and SA.58462 and that all other conditions of those schemes remain unaltered.
- (20) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid schemes in the initial decisions.

⁵ Recitals 28-35 of Commission Decision C(2020) 2363 final, SA.56895 of 10 April 2020; recitals 12-17 of Commission Decision C(2020) 5555 final, SA.57572 of 7 August 2020; recitals 18-26 of Commission Decision C(2020) 9633 final, SA.60236, of 23 December 2020; recitals 35-44 of Commission Decision C(2020) 8349 final, SA.58462 of 23 November 2020.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the schemes, as amended, on the grounds that they are compatible with the internal market pursuant to Article 107(3)(b) TFEU.

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

