



EUROPEAN COMMISSION

Brussels, 1.10.2021
C(2021) 7260 final

**Subject: State Aid SA.64711 (2021/N) – Bulgaria
COVID-19: Second amendment to SA.56933 (2020/N) –
Intermediated SME loan guarantee program**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 7 September 2021, Bulgaria notified amendments (“the notified amendments”) to State aid scheme SA.56933, *Covid-19: Intermediated SME loan guarantee program* (“the existing aid scheme”), which the Commission approved by Decision of 8 April 2020¹ (“the initial decision”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”)².
- (2) The Commission has already approved amendments to the existing scheme in its Decision of 24 November 2020³ in SA. 59449, *Covid-19: Amendments to SA.56933*. That decision extended the scope of the eligible beneficiaries, prolonged the duration of the aid scheme to 30 June 2021, increased the additional portfolio guarantee cap, prolonged the duration of the guarantee to 6 years, modified the maximum threshold for guaranteed loans and streamlined the conditions that the financial advantage is transferred by the credit and financial institutions to the final beneficiaries.

¹ Commission Decision C(2020) 2342 final of 8 April 2020 - SA.56933 (2020/N).

² 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).

³ Commission Decision C(2020) 8384 final of 24 November 2020 – SA.59449 (2020/N).

Ekaterina Zaharieva
Minister of Foreign Affairs
ул. „Ал. Жендов“ № 2
1113 СОФИЯ/Sofia
БЪЛГАРИЯ/BULGARIE

- (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 1/1958,⁴ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (4) The existing aid scheme concerns a guarantee program that provides aid in the form of state-funded guarantees for individual loans or loan portfolios for micro, small and medium-sized enterprises (“SMEs”) and large enterprises⁵, channelled through credit institutions and other financial institutions.
- (5) With the notified amendments Bulgaria seeks, to the extent possible, to align the terms and conditions of the existing aid scheme with the Bulgarian SME recovery program⁶ and to improve its implementation conditions in order to enable more Bulgarian companies to benefit faster from it. The amendments refer to: (i) the duration of the scheme set at 31 December 2021; (ii) the limitation of the beneficiaries as regards large companies to small midcaps only and the simplification of certain eligibility criteria; (iii) the limitation of the duration of the underlying loan instrument and of the scope of the scheme to new loans only; and (iv) the increase of the overall guaranteed loan amount. Finally, the safeguards to ensure that any financial advantage is transferred to the largest extent possible by the credit and financial institutions to the final beneficiary are modified, mainly by decreasing the level of the required collateral *in rem* (e.g. fixed assets) to 0%.
- (6) The legal basis for the notified amendments to the existing aid scheme is Decision No. 578 of 5 August 2021 to amend Decision No. 310 of the Council of Ministers 2020 approving a Portfolio Guarantees Program to support the liquidity of SMEs affected by the emergency situation and the epidemic of COVID-19 and entrust its implementation to the Bulgarian Development Bank AD as amended by Decision No. 797 of the Council of Ministers 2020 and as amended and updated by Decision No. 194 of the Council of Ministers 2021⁷.
- (7) The Bulgarian authorities clarify that the notified amendments will be implemented as modifications to the national legal base as described in recital (6). Those

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

⁵ Enterprises that were already in difficulty on 31 December 2019 are excluded from the measure except for micro and small enterprises.

⁶ SME Recovery Program, implemented by the Fund Manager of Financial Instruments in Bulgaria EAD and funded by the Operational Programme Innovation and Competitiveness 2014-2020 (under ESIF) to facilitate access of businesses to loans in order to resume activities after the gradual termination of measures introduced in response to the COVID-19 pandemic, see also <https://www.fmfib.bg/en/fi/20-dalgovi-instrumenti/15-garantsii-po-opik>.

⁷ Under Decision No. 194 of the Council of Ministers of March 2021, BGN 100 million was relocated from the SME guarantee program to the interest-free loans to individual guarantee program. Therefore, the budget of the guarantee program is now set at BGN 400 million (instead of the initial BGN 500 million) meant to cover a loan portfolio of BGN 1 000 million, a guarantee portfolio of BGN 800 million and a guarantee cap of BGN 400 million.

modifications will be put into effect following the notification of the present decision to Bulgaria.

- (8) Once the new terms of the guarantee program enter into force, Bulgaria will apply a transitional period in which both the existing and the new conditions of the guarantee program may be applied. The transition period shall end one month after signing the annexes with the partner banks with the new terms and in any case on 30 October 2021.⁸
- (9) Bulgaria confirmed that the aid under the notified amendments 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 Bulgaria. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

2.1. Amendments to the existing aid scheme

- (10) The notified amendments seek to modify the following elements of the existing aid scheme:
- (a) the scope of beneficiaries will be limited to SMEs and small midcaps⁹ that were not in difficulty on 31 December 2019 with the exception of micro and small enterprises. The eligibility criteria establishing that a beneficiary has suffered from the economic effects of the COVID-19 outbreak will be waived in order to simplify the application procedure. Instead, the companies should have at least three completed financial years, with financial statements that include sales revenue and accounting profit for at least one of the three years. Also, no guarantees will be granted to companies that have a link to jurisdictions that are included on the EU list of non-cooperative jurisdictions¹⁰;
 - (b) existing loans will be excluded from the scope of the measure;
 - (c) the maximum duration of the guarantee will remain at 6 years but the maximum duration of the underlying loan instrument will be set at 7 years with the possibility of a grace period of maximum 3 years¹¹;
 - (d) the period for granting the guarantees is set at 31 December 2021;
 - (e) the maximum loan amount will increase to BGN 3 million (around EUR 1.5 million), both for SMEs and small midcaps, taking into account the thresholds set in point 25(d) and (e) of the Temporary Framework;

⁸ So in case an annex with a partner bank is signed on 28 September 2021, the transitional period shall end on 28 October 2021. However, in case an annex is signed on 5 October 2021, the transitional period shall end on 30 October 2021.

⁹ Defined as companies with no more than 499 employees and either total assets of up to EUR 100 million or turnover of up to EUR 86 million.

¹⁰ In accordance with Commission Recommendation (EU) 2020/1039 of 14 July 2020 on making State financial support to undertakings in the Union conditional on the absence of links to non-cooperative jurisdictions.

¹¹ Grace period relates to both principal and interest payments.

- (f) in order to ensure the pass-on of any possible indirect advantage by the credit and financial institutions to the beneficiaries, the institutions have to refrain from requiring a collateral *in rem* or any other security. Exceptions can be made for personal guarantees provided by the beneficial owner(s)¹², as well as, if applicable, for pledges of receivables on accounts under the Obligations and Contracts Act, the Special Pledges Act, as well as through a financial collateral agreement under the Financial Collateral Arrangements Act. Other co-debtors or guarantors can provide an (individual) commitment to pay the loan in case the borrower defaults subject to the condition that they are related to the beneficial owner(s) of the borrower¹³ and neither the borrower nor the individual co-debtors or guarantor provided any collateral *in rem*.

An additional and subsequent collateral may be established for the part of the loan that is not covered by the guarantee, subject to the following conditions:

- (i) upon an explicit written request from the borrower or potential third-party co-debtor if the loan is overdue for more than 90 days and the credit or financial institution agrees to its establishment or;
- (ii) in case of the death or incapacity of the beneficial owner(s) of the borrower or in case of a new beneficial owner(s) or;
- (iii) when liquidation/insolvency proceedings have been initiated against a guarantor/co-debtor by a petitioner other than the credit or financial institution.

As regards the pricing of the loan, including the interest, this shall be determined on the basis of the policy of the credit and financial institution, taking into account the guarantee provided by the Bulgarian Development Bank. The credit and financial institutions will not be allowed to introduce credit, non-credit fees and commissions that differ from their existing policy and that would lead to the retention of the economic benefit. They are also not allowed to add conditions other than the standard ones that could lead to an increase in the cost of the loan or the administrative burden for the final beneficiary. The guarantee premiums as listed in the existing aid scheme remain unchanged.

Finally, under the notified amendments, the time for the credit and financial institutions to approve/refuse the loan is shortened to 5 working days after receipt of the necessary documents to review the loan application and the time to disburse the loan to 10 working days.

- (11) Bulgaria explicitly confirms that all the other characteristics and conditions listed in the existing aid scheme remain unchanged.

¹² The personal guarantee provided by beneficial owner(s) can take the form of co-debt, cross-guarantee or any other appropriate form, according to the bank's internal rules. The concept of beneficial owner is defined in §2 of the Additional Provisions of the Anti-Money Laundering Act or any other definition that amends or replaces the existing legal definition by a new one.

¹³ Related party as defined in the additional provisions of the Credit Institution Act.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (12) 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

- (13) Article 107(1) TFEU defines State aid as ‘any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, in so far as it affects trade between Member States, be incompatible with the common market’.
- (14) The qualification of the existing aid scheme as State aid was established in the initial decision. The notified amendments do not affect that qualification. The Commission therefore refers to the assessment contained in recital (36) of the initial decision.
- (15) The Bulgarian authorities do not contest that conclusion.

3.3. Compatibility

- (16) The Commission assessed the notification of the initial aid scheme on the basis of Article 107(3)(b) of the TFEU in light of the Temporary Framework and concluded that it was compliant with the compatibility conditions set out in the Temporary Framework.
- (17) The Commission notes that all features of the initial decision which are not amended by the notified amendments remain unchanged, so that all general compatibility conditions, including anti-cumulation rules, continue to remain satisfied. In that regard, the Commission refers to its analysis of compatibility as set out in the initial decision authorising the existing aid scheme, in particular recitals (40) to (42).
- (18) The amendments to the existing aid scheme concerning the scope of beneficiaries (see recital (10)(a)), the eligible loans (see recital (10)(b)) and the maximum duration of the underlying loan instrument (see recital (10)(c)) have no impact on the compatibility of the scheme, in particular in light of sections 3.2, and 3.4 of the Temporary Framework. The amendment to the duration during which the aid may be granted (see recital (10)(d)) reflects changes made through the fifth amendment of the Temporary Framework of 28 January 2021 and complies with point 25(c) of the Temporary Framework.
- (19) The amendment setting the absolute maximum of a loan to be covered by a guarantee under the scheme at BGN 3 million (see recital (10)(e)) does not affect the company-specific limitations reflecting the thresholds set in point 25(d) and (e) of the Temporary Framework and therefore complies with those points.
- (20) The amendment of the conditions for credit and financial institutions under which a collateral may be required, on the pricing of the loan and on the shorting of the period of approval and disbursement of the guaranteed loan to five and ten days respectively (see recital (10)(f)) provide more specific safeguards ensuring that

these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore continues to comply with points 28 to 31 of the Temporary Framework.

- (21) Apart from the amendments referred to in recital (10) above, there are no other alterations to the existing aid scheme (see recital (11)).
- (22) The Commission therefore considers that the notified amendments do not alter the Commission's conclusions on the compatibility of the aid scheme as set out in the initial decision. The measure continues to be 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 continues to meet all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments 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

