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Subject: State Aid SA.102618 (2022/N) – Romania
State aid scheme for opening new routes at Sibiu international airport

Excellency,

1. Procedure

- (1) By electronic notification of 24 May 2022 the Romanian authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (TFEU)¹, a measure (hereafter the “measure” or the “notified measure”) aiming to provide support for the opening of new air passenger transport services connecting Sibiu international airport to other airports in the European Union². The notification was registered under case number SA.102618.
- (2) Romania exceptionally agrees to waive its rights deriving from Article 342 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

¹ OJ L 138 of 30.4.2004.

² Other airports within Romania are not excluded.

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

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2.1. Sibiu international airport

- (3) According to the Romanian authorities, Sibiu international airport plays an important role for the regional connectivity of Transylvania⁴, and its activity supports numerous jobs linked to the region's economy. Notably, businesses in production, commerce and tourism rely heavily on air connectivity, especially for the economic recovery of the region after the pandemic. Currently, Sibiu international airport is connected to a limited number of destinations in Europe, which do not fully cover the region's needs for mobility and connectivity. Table 1 presents the evolution of air traffic in the airport for the period 2017-2021.

Table no. 1 - Evolution of commercial air traffic, reference period 2017 – 2021

	2017	2018	2019	2020	2021
Commercial passenger numbers	496 406	662 468	729 160	226 451	280 644

- (4) According to the Romanian authorities, the closest airport to Sibiu international airport is Targu-Mures airport at a distance of 145 km (or approximately 2 hours 45 minutes' drive by road). There are no current or planned high-speed rail services anywhere near Sibiu.

2.2. Objective of the measure

- (5) The aim of the notified measure is to grant start-up support to one or more air carriers, to be selected through an open call for applications, thereby opening new routes that will contribute to increased connectivity between Sibiu international airport and other airports within the European Common Aviation Area (ECAA)⁵.
- (6) The notified measure is designed to improve regional connectivity. It also aims to support the development of tourism in Transylvania, thus promoting job creation and the local economy.

2.3. Form of the support

- (7) The support will be provided in the form of direct grants. It will cover up to 50% of the costs of airport charges⁶ incurred in operating the new routes for a duration of up to three years, for each route concerned.

2.4. Legal basis

- (8) The notified measure is based on the draft Sibiu County Council decision approving the support to the opening of new routes to/from Sibiu international airport, a copy of which was submitted to the Commission.

2.5. Budget and duration

⁴ Serving amongst others the Deva, Alba Iulia, Medias, Fagaras, Ranca and other cities in its vicinity.

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:4380962&rid=1>

⁶ See in particular paragraphs 31 and 150 of the Community Guidelines on State aid to airports and airlines (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2014:099:TOC>).

- (9) The notified measure will have a maximum total budget of EUR 2,234,485.44 and will be financed with Sibiu County's own funds. Sibiu's County Council has set a maximum contribution of EUR 372,414.24 per route.
- (10) The notified measure will be implemented only after the European Commission's approval and will run up to 31 December 2025. The maximum period during which a route can benefit from support is three years. Support for a given route will thus cease when three years from its launch has taken place or on 31 December 2025, whichever is earlier.

2.6. Beneficiaries

- (11) The beneficiaries of the notified measure will be the air carriers whose application has been successful, following the open call for applications for start-up support, in relation to the opening of new routes contributing toward increased connectivity between Sibiu international airport and other airports within the ECAA. Airlines of all sizes are eligible to apply provided they hold a valid operating licence in the European Union.

2.7. Selection procedure

- (12) The County of Sibiu together with the Sibiu international airport will organise an open call for applications to select the projects to be supported. They will make their plans public in advance and ensure adequate publicity to enable all interested airlines to apply. The call will be published in the Official Journal of the European Union, at least in one sector-specific publication with international visibility, as well as on the websites of the Sibiu County Council and the Sibiu international airport.
- (13) The Romanian authorities have submitted the open call specifications which they intend to publish. These set out the procedure and describe the purpose of the call, the eligibility conditions and the selection criteria. The Romanian authorities undertake to publish, on an annual basis, the list of aided routes, the beneficiaries, the amounts of support granted and the number of passengers actually transported.

2.8. Eligible routes

- (14) Under the notified measure, start-up aid to support airlines can only be provided where certain cumulative criteria are met, including:
 - a) where the proposed air connection is not yet operating between the two airports at the ends of the proposed route⁷;
 - b) where there is no high speed rail between the city pairs to be served; and
 - c) where the proposed air connection does not concern an airport within the catchment area of another airport, which is already served with direct flights from Sibiu international airport.

⁷ The city pair must be within the European Common Aviation Area (see point 142 of the Communication from the Commission — Guidelines on State aid to airports and airlines (OJ C 99, 4.4.2014, p. 3)).

- (15) The Romanian authorities will ensure that there will be no overlap between any of the routes launched as part of the proposed measure, with existing ones. Furthermore, the Romanian authorities will ensure that indirect flights, such as flights with intermediate stops, will not be eligible for support.
- (16) In order to be eligible for support, the new services will have to start only after the application for support has been submitted to the granting authority.
- (17) Where, before the three-year expiry of the support, any supported new route becomes profitable according to the business plan submitted by the airline, the support will stop being paid out to the airline as from the date of the route becoming profitable under commercial terms.

2.9. Business plan

- (18) Applicant airlines will have to produce a business plan for each route in relation to which they apply for support. The business plan will have to include at least the following information:
 - a) The period for which the airline requests the start-up aid;
 - b) Details on the frequency, pricing and promotion of the proposed connection;
 - c) The expected number of passengers and their profile over the duration of the support;
 - d) A study on the viability of the proposed new route, including future viability of the route without public funding after the maximum three years of support.

2.10. Aid intensity and cumulation

- (19) Under the notified measure, the support will cover up to 50% of the cost of airport charges incurred by participating airlines for the operation of a new route. The aid will not be cumulated with other types of aid for the same route, a condition which will be included by the Romanian authorities in both the call for applications and in the eventual contracts to be signed with the supported airlines.
- (20) A penalty mechanism to sanction cases of non-compliance with the applicable requirements will be included to the agreement concluded between the Sibiu County Council, the Sibiu international airport and the participating airlines. In line with this penalty mechanism, if an airline fails to meet its contractual obligations, the support will be discontinued, the airline will repay the aid already received, and it must comply with any other sanctions that may be provided under the national law or the Union legislation in the field of State aid.
- (21) If an airline decides to cease operating a route for which it received financial support before completion of the agreed period, all the support received until the cessation of operations will be reimbursed to Sibiu County Council.

2.11. Performance review

- (22) All airlines benefitting from support under the notified measure will be expected to review the operation of the subsidised routes and provide the Sibiu international airport operator with information on the number of flights, passenger

numbers and financial results of the new connections on an annual basis. This information will be shared with the Sibiu County Council.

2.12. Transparency

- (23) The Romanian authorities will ensure compliance with the rules on transparency as provided for in points 162 and 163 of the Guidelines on State aid to airports and airlines⁸ (hereinafter: the 'Aviation Guidelines') as amended by the Transparency Communication⁹. The publication of information on individual awards will be made available on the following websites: www.aeroportultulcea.ro; www.cjtulcea.ro and www.ajutordestat.ro.

3. Assessment of the measure

3.1. Existence of aid

- (24) By virtue of Article 107(1) TFEU *"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 shall, in so far as it affects trade between Member States, be incompatible with the internal market."*
- (25) The criteria laid down in Article 107(1) TFEU are cumulative. Therefore, for a measure to constitute State aid within the meaning of Article 107(1) TFEU, each of the following conditions has to be fulfilled. The financial support must:
- a) be imputable to the State and financed through State resources;
 - b) provide a selective economic advantage to undertakings;
 - c) distort or threaten to distort competition; and
 - d) affect trade between Member States.
- (26) In the following sections, the Commission will assess whether the measure meets these cumulative criteria thus constituting aid within the meaning of Article 107(1) TFEU.

3.1.1. Use of State resources and imputability to the State

- (27) The notified measure will be introduced by a local public authority, the County of Sibiu, which will organise a call for applications and select the beneficiary airlines. The notified measure will also be financed from the budget of the County of Sibiu. It is thus imputable to the State and is financed from State resources.

3.1.2. Economic advantage

⁸ Communication from the Commission — Guidelines on State aid to airports and airlines (OJ C 99, 4.4.2014, p. 3).

⁹ Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2015-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (OJ C 198, 27.6.2014, p. 30).

- (28) The notified measure involves grants allocated to airlines selected by the County of Sibiu. The grants will reduce the costs normally borne by the beneficiary airlines for operating air transport services on new routes. Therefore the grants involve an economic advantage. Furthermore, they will result in additional air transport services being offered from Sibiu international airport but will not provide the County of Sibiu with a profit that a market economy operator would take into consideration. Therefore, those grants do not comply with the market economy operator principle.
- (29) Moreover, the Romanian authorities do not claim that those grants could be seen as compensation for the operation of a genuine service of general economic interest which could fulfil the four criteria laid down in the Altmark judgement¹⁰. Therefore, those grants will confer an economic advantage on the airlines concerned.

3.1.3. *Selectivity*

- (30) Article 107(1) TFEU requires that a measure, in order to be qualified as State aid “favours certain certain undertakings or the production of certain goods”. The Commission notes that the grants under the notified measure will reduce the operating costs of the airlines that will make a successful application for support in the context of the call for applications launched by the County of Sibiu. As the public financing is directed to a specific sector and will benefit companies selected by the County of Sibiu, to the exclusion of competitors, that advantage is therefore selective.

3.1.4. *Distortion of competition and effect on trade*

- (31) When an economic advantage granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Union trade, the latter must be regarded as affected by that advantage. It is sufficient that the beneficiary competes with other undertakings on markets open to competition. Support by the Romanian authorities of new air services distorts or threatens to distort competition between airlines and affect trade between Member States, as the provision of air transport services on routes within the Union is fully liberalised and many undertakings from different Member States compete against each other on that market.
- (32) Based on the above, the Commission concludes that the notified measure will distort or threaten to distort competition and affect trade between Member States.

3.1.5. *Conclusion on the existence of State aid and the lawfulness of the aid*

- (33) For the reasons set out above, the proposed measure constitutes State aid within the meaning of Article 107(1) TFEU.
- (34) The Commission notes that Romania has respected the standstill obligation laid down in Article 108(3) TFEU as the decision putting in place the proposed measure is not yet adopted and no aid will be granted prior to the Commission’s approval.

¹⁰ Judgment of 24 July 2003 in Altmark Trans and Regierungspräsidium Magdeburg, (case C-280/00), ECLI:EU:C:2003:415.

3.2. Compatibility of the aid

- (35) Article 107(3)(c) TFEU provides that "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*", may be considered to be compatible with the internal market.
- (36) With the notified measure, the Romanian authorities intend to grant start-up support to air carriers opening new routes between Sibiu international airport and other EU airports. The aim of the notified measure is to improve regional connectivity and to support the development of tourism in Transylvania, thus promoting job creation and the local economy. The Commission will thus assess the compatibility of the measure in light of the Aviation Guidelines.
- (37) Point 79 of the Aviation Guidelines sets out cumulative principles with which a measure must comply with in order to be compatible with the internal market:
- a) Contribution to a well-defined objective of common interest
 - b) Need for State intervention
 - c) Appropriateness of the aid
 - d) Incentive effect
 - e) Proportionality of the aid (aid limited to the minimum)
 - f) Avoidance of undue negative effects on competition and trade between Member States
 - g) Cumulation
 - h) Transparency
- (38) Start-up aid granted to airlines is compatible with the internal market under Article 107(3)(c) TFEU provided that those cumulative conditions are fulfilled as set out in points 138 to 153 of the Aviation Guidelines. The aid scheme must comply also with the transparency criteria set out in points 162 and 163 of the Aviation Guidelines as amended by the Transparency Communication.
- a) Contribution to a well-defined objective of common interest*
- (39) Point 139 of the Aviation Guidelines stipulates that start-up aid to airlines will be considered to contribute to the achievement of an objective of common interest, if: a) it increases the mobility of Union citizens and the connectivity of the regions by opening new routes; or b) facilitates regional development of remote regions. In addition, point 140 of the Aviation Guidelines provides that, when a connection which will be operated by the new air route is already operated by a high-speed rail service or from another airport in the same catchment area under comparable conditions, in particular in terms of length of journey, it cannot be considered to contribute to a well-defined objective of common interest.
- (40) According to the Romanian authorities, the support is to be granted to improve the connectivity between the County of Sibiu in the region of Transylvania and

other regions across Europe and hence, to improve the mobility of the citizens of Transylvania at large. The Romanian authorities have committed to ensuring that only new routes will be eligible under the notified measure. Moreover, as indicated in recital (4), there is no high-speed rail in the County of Sibiu. Furthermore, it results from the elements set out in recital (4) that the distance between Sibiu international airport and its closest airport, is significantly above 100 km and the corresponding travelling time is significantly above 60 minutes by car¹¹. Therefore, the Commission considers that there is no other airport in the catchment area of Sibiu international airport within the meaning of point 25(12) of the Aviation Guidelines. In addition, the cumulative eligibility criteria to benefit from aid under the measure, which are set out in recital (14), exclude routes to airports within the catchment areas of airports already served with direct flights from Sibiu international airport.

- (41) Therefore, no route will be eligible for aid under the proposed measure if it connects Sibiu to a destination already served by a high-speed rail or air service under comparable conditions. The notified measure will thus improve the connectivity of the Sibiu County (and more generally of Transylvania) and the mobility of its inhabitants and thereby contribute to a well-defined objective of common interest.

b) Need for State intervention

- (42) Point 142 of the Aviation Guidelines provides that start-up aid will only be considered compatible for routes linking an airport with less than 3 million passengers per annum to another airport within the Common European Aviation Area¹². As indicated in section 2.1, Sibiu international airport is an airport with less than 3 million passengers per year and in order to be eligible for support under the notified measure, a route must connect that airport to another airport within the ECAA.
- (43) Therefore, the notified measure fulfils the requirements of the Aviation Guidelines with respect to the need for State intervention.

c) Appropriateness of the aid

- (44) In accordance with point 146 of the Aviation Guidelines, the Member States must demonstrate that the aid is appropriate to achieve the intended objective or resolve the problems intended to be addressed by the aid. An aid measure will not be

¹¹ Moreover, according to the Romanian authorities Sibiu airport has a distinctly different operational profile to Targu-Mures airport (its closet airport) in terms of configuration and functionality. Important volumes of freight traffic are moved through Sibiu airport as opposed to Targu Mures (which has limited freight traffic) and the passenger traffic split between leisure and business trips is evenly balanced in Sibiu airport, which is not the case in Targu Mures (the latter is more focused on the leisure segment of the passengers air transport market). Furthermore, passenger traffic is relatively stable throughout the year in Sibiu airport while in Targu Mures traffic can be very seasonal and concentrated over specific months of the year.

¹² See: Decision 2006/682/EC of the Council and of the Representatives of the Member States meeting within the Council of 9 June 2006 on the signature and provisional application of the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the Establishment of a European Common Aviation Area (ECAA) (OJ L 285, 16.10.2006, p. 1).

considered compatible with the internal market if other, less distortive policy instruments, or aid instruments, allow the same objective to be reached.

- (45) Furthermore, in accordance with point 147 of the Aviation Guidelines, an *ex ante* business plan prepared by the airline should establish that the route receiving the aid has prospects of becoming profitable for the airline without public funding after three years. In the absence of such business plan, the airline must provide an irrevocable commitment to the airport to operate the route for a period at least equal to the period during which it received the aid.
- (46) The Romanian authorities aim to attract scheduled traffic from and to Sibiu international airport. Following analysis of various alternative ways to achieve the same objective, the Romanian authorities consider that it is highly unlikely that new connections can be developed without aid, as airlines are unwilling to set up new routes if there is a risk that they will be unprofitable in the first years of operation. Moreover, the planned call for applications requires applicants to provide a business plan for each route. The business plan must show the viability of the route in question after three years, in line with point 147 of the Aviation Guidelines.
- (47) Therefore, the Commission concludes that the notified measure fulfils the requirements of the Aviation Guidelines with respect to the appropriateness of an aid measure.

d) Incentive effect

- (48) Points 148 and 149 of the Aviation Guidelines stipulate that start-up aid to airlines has an incentive effect if it is likely that, in the absence of the aid, the level of economic activity of the airline at the airport concerned, would not be expanded. For example, if the new route would not have been launched in the absence of the aid. Furthermore, the new route must start only after the application for aid has been submitted to the granting authority. If the new route is launched before the application for aid is submitted to the granting authority, any aid awarded in respect of that individual route will not be considered compatible with the internal market.
- (49) As set out in recitals (5) to (8) and (14), aid under the notified measure will only be granted for new routes. The fact that these routes will be new demonstrates that it is likely that the level of economic activity at Sibiu international airport would not be the same in the absence of aid. In addition, under the notified measure, only new routes that start after the application for aid has been submitted to the granting authority are eligible for aid.
- (50) In view of the above, the Commission considers that the aid under the notified measure has an incentive effect.

e) Proportionality of the aid (aid limited to the minimum)

- (51) According to point 150 of the Aviation Guidelines, in order to be proportionate, start-up aid to airlines must be limited to up to 50 % of airport charges in respect of a route for a maximum period of three years. The eligible costs are the airport charges in respect of the route.

- (52) As indicated in recital (19), the aid intensity under the notified measure will be limited to 50% of the airport charges incurred due to the operation of the new route in question. In addition, aid will only be granted for any given beneficiary for a maximum period of three years (recitals (10) and (17)).
- (53) In view of the above, the Commission considers that the amount of start-up aid to airlines is proportional and limited to the minimum necessary.

f) Avoidance of undue negative effects on competition and trade between Member States

- (54) Points 151 to 153 of the Aviation Guidelines provide that, in order to avoid undue negative effects on competition and trade, where a connection to be operated by the new air route is already operated by a high speed rail service or by another airport in the same catchment area under comparable conditions (notably in terms of length of journey), such air route will not be eligible for start-up aid. Any public body which plans to grant start-up aid to an airline for a new route, must make its plans public in good time and with adequate publicity, to enable all interested airlines to offer their services. Start-up aid cannot be combined with any other type of State aid granted for the operation of a route.
- (55) There are no high-speed rail services from or to Sibiu, as indicated in recital (4). As set out in recital (40), there are no other airports within the catchment area of Sibiu international airport in the meaning of point 25(12) of the Aviation Guidelines. Moreover, the Romanian authorities will not consider as eligible any routes that connect airports which are within the catchment area of an airport already served by direct flights from/to Sibiu international airport. Furthermore, as indicated in recitals (12) and (13), the aid will be awarded following an open call for applications in line with the requirement laid down in point 152 of the Aviation Guidelines. In addition, the Romanian authorities commit to exclude from the selection procedure any routes already served (recitals (14) and (15)), while ensuring that route financing under the notified measure will not be cumulated with other types of State aid (recital (19)).
- (56) In view of the above, the Commission considers that the negative effects brought about by the notified measure on competition and trade between Member States will be limited and outweighed by the positive contribution of the measure to the mobility of citizens and the connectivity of Union regions. The notified measure thus has no undue negative effects on competition and trade between Member States.

g) Cumulation

- (57) Points 158 and 159 of the Aviation Guidelines provide that the maximum aid intensities under the Aviation Guidelines, apply regardless of whether the aid is financed entirely from State resources or is partly financed by the Union, and that aid authorised under the Aviation Guidelines, may not be combined with other State aid, *de minimis* aid or other forms of Union financing where such a combination results in an aid intensity higher than that laid down in the Aviation Guidelines.
- (58) As indicated in recital (19), the Romanian authorities commit to ensure that aid under the notified measure will not be combined with other types of State aid for

the operation of a same route, and this should thereby ensure that the maximum aid intensity of 50% applicable to start-up aid schemes will not be exceeded. Therefore, the notified measure meets the requirements of points 158 and 159 of the Aviation Guidelines.

h) Transparency

- (59) As described in recital (23), the Romanian authorities will ensure that the notified measure complies with the transparency conditions set out in points 162 and 163 of the Aviation Guidelines as amended by the Transparency Communication.

3.2.1. Conclusions on the compatibility of the aid

- (60) The notified measure meets the compatibility conditions of the Aviation Guidelines and is thus compatible with the internal market under Article 107(3)(c) TFEU.

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)(c) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

