

**STATE AID SCHEME FOR SUPPORTING
THE ACTIVITY OF AIR OPERATORS IN THE CONTEXT OF ECONOMIC CRISIS
GENERATED BY THE COVID-19 PANDEMIC**

CHAPTER I: General provisions

Article 1

(1) The objective of this state aid scheme is to support the activity of air operators whose activity has been affected by the COVID pandemic 19.

(2) State aids granted under this scheme are compatible with the common market in accordance with the Communication from the European Commission - *Temporary framework for state aid measures to support the economy in the context of the current COVID-19 epidemic (2020/C91/01)*, published in the Official Journal of the EU on 20.03.2020 (hereinafter called as the Communication), and will be granted after obtaining the authorization decision from the European Commission.

(3) The state aid will be granted on the basis of the Communication, subchapter 3.1. - "Limited amounts of aids".

Article 2

For the purposes of this scheme the following terms are defined as follows:

- a) state aid provider - Sibiu County Council;
- b) administrator of the scheme - Sibiu International Airport R.A.;
- c) state aid - any measure that meets the criteria provided in Article 107 (1) of the EC Treaty;
- d) enterprises in difficulty - in accordance with Article 2, point 18 of *REGULATION (EU) No. 651/2014 of the Commission dated 17 June 2014 for declaring certain categories of aids compatible with the internal market pursuant to Articles 107 and 108 of the Treaty, as subsequently amended and supplemented*, an enterprise is considered to be in difficulty in the following situations:

(i) In the case of a limited liability company (other than an SME that has existed for at least three years or, for the purposes of eligibility for risk finance aid, an SME being at 7 years after its first commercial sale qualifying for investments for risk financing following a due diligence process carried out by a selected financial intermediary), when more than half of its subscribed share capital has disappeared due to accumulated losses. This situation occurs when the deduction of accumulated losses from reserves (and from all other items generally considered to be part of the company's own funds) leads to a negative result that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of companies listed in Annex I to Directive 2013/34/EU (4) and "share capital" includes, where appropriate, any additional capital.

(ii) In the case of a company in which at least some of the shareholders have unlimited liability for the company's claims (other than an SME that has existed for at least three years), when more than half of the equity as shown in the company's accounts has disappeared due to accumulated losses. For the purposes of this provision, "a company in which at least some of the shareholders have unlimited liability for the company's claims" refers in particular to those types of companies listed in Annex II to Directive 2013/34 / EU.

(iii) Where the enterprise is the subject of collective insolvency proceedings or meets the criteria set in national law for the opening of collective insolvency proceedings at the request of its creditors.

(iv) Where the enterprise has received rescue aid and has not yet repaid the loan or has not terminated the guarantee or received restructuring aids and is still subject to a restructuring plan.

(v) In the case of an enterprise which is not an SME, when, in the last two years:

1. the debt / equity ratio of the enterprise is higher than 7.5; and
2. the interest coverage capacity calculated on the basis of EBITDA is below 1.0;

e) airline - any airline with a valid operating license issued by a Member State or a member of the European Common Aviation Area under Regulation (EC) No. 1008/2008 of the European Parliament and of the Council;

CHAPTER II: Form of aid

Article 3

(1) Airlines whose activity has been disrupted by the COVID-19 pandemic and which face a sudden liquidity shortage or even the unavailability of liquidity can benefit from a direct grant that cannot exceed the RON equivalent of 800,000 EUR per enterprise if they meet the conditions provided for in this state aid scheme

CHAPTER III: Beneficiaries

Article 4

Airlines that undertake to operate scheduled flights on Sibiu International Airport and meet the following eligibility criteria are eligible for state aid under the scheme:

a) They must have an air operating license issued in accordance with Council Regulation (EC) No. 1008/2008 on common rules for the operation of air services in the EU;

b) They must have compulsory accident insurance covering passengers, cargo, mail, and civil liability in accordance with the conditions of EC Regulation No. 785/2004 ¹;

c) They should not be on the European Commission's blacklist of airlines that fail to meet safety standards, published at: https://ec.europa.eu/transport/modes/air/safety/air-ban/search_en

d) They must have a European Air Operators Certificate (AOC) or other similar document issued by a competent authority in their country of origin;

¹ Regulation (EC) no. 785/2004 of the European Parliament and of the Council of April 21, 2004 on insurance requirements for air carriers and aircraft operators, as amended and supplemented by Regulation (EC) 1137/2008 and Regulation (EC) 285/2010.

e) They have not received any other aid according to Section 3.1 of the Communication, or if they have received, the aid received added to that received under this scheme does not exceed 800,000 EUR;

f) Decisions of the European Commission for the recovery of state aid have not been issued against them or if such decisions have been issued, they have been executed, according to the legal provisions in force.

g) They were not in difficulty, as this notion is defined in Article 2 point d) of this scheme, on December 31, 2019, but they faced difficulties or got into difficulty later, due to the COVID-19 pandemic;

h) They will allocate to / from Sibiu International Airport at least 50% of the capacity allocated in 2019 for a period of 12 consecutive months between the dates of signing the financial aid grant contract and 30.06.2022, for the airlines that operated regular flights to / from Sibiu International Airport in 2019 or will allocate a capacity of at least 50,000 seats for a period of 12 consecutive months between the date of signing the financial aid grant contract and 30.06.2022, for airlines that have not operated regulated flights in year 2019 to / from Sibiu International Airport and who want to start operating scheduled flights to / from Sibiu International Airport.

CHAPTER IV: Duration, budget of the scheme and estimated number of beneficiaries

Article 5

(1) The state aid scheme *for supporting the activity of air operators in the context of economic crisis generated by the COVID-19 pandemic* enters into force after the publication of the Sibiu County Council Decision approving it, after obtaining the authorization of the European Commission and will be valid until the date of June 30, 2021.

(2) The selection period for the beneficiaries is from the date of entry into force of the provisions of the Sibiu County Council Decision, but not later than June 30, 2021, and the period in which the state aid will be paid is between the date of entry into force of the Financial aid grant contract, but not later than June 30, 2022.

(3) The budget of the state aid scheme *for supporting the activities of air operators in the context of economic crisis generated by the COVID-19 pandemic* is of maximum 1,660,000 EUR. The state aid will be financed from the local budget of Sibiu County.

(4) The beneficiaries of the state aid scheme *for supporting the activity of air operators in the context of economic crisis generated by the COVID-19 pandemic* are the airlines that meet the eligibility criteria described in Article 4 of this scheme.

(5) The airlines, which apply for the granting of state aid and which meet the eligibility criteria will receive, following the signing of the financial aid grant contract 1.3 EUR / seat allocated to and from Sibiu International Airport according to the documentation, Annex to the Application for state aid.

(6) The Sibiu County Council estimates that a number of five (5) airlines will benefit from this State aid scheme.

CHAPTER V The manner to run the scheme

Article 6

(1) The State aid measure will be made public together with the eligibility conditions to be met by the airlines concerned. The terms and conditions to be met shall be stated in a clear and non-discriminatory manner.

(2) Interested airlines must send an application for state aid in electronic format to Sibiu International Airport, at the email address secretariat@sibiuairport.ro and demonstrate through the documentation attached that they undertake to allocate to / from the International Airport Sibiu for a period of 12 consecutive months between the date of signing the financial aid grant contract and 30.06.2022 at least 50% of the capacity allocated in 2019 - for airlines that operated regular flights to / from Sibiu International Airport in 2019 or to allocate a capacity of at least 50,000 seats for a period of 12 consecutive months between the date of signing the financial aid grant contract and 30.06.2022, for airlines that did not operate regular flights in 2019 to / from Sibiu International Airport and who wish to start operating regular flights to / from Sibiu International Airport.

At the same time, the interested airlines will send all the documents proving the fulfilment of the eligibility criteria provided in Article 4 (licenses, certificates, affidavit, insurance, etc.).

(3) Sibiu International Airport R.A. will verify if the beneficiaries meet the eligibility conditions provided in Article 4 of this scheme.

(4) After the eligibility verification by the Sibiu International Airport R.A., the representatives of the airport will submit to the Sibiu County Council the documents attesting the fulfilment of the eligibility.

(5) Sibiu County Council will conclude with the beneficiaries financial aid grant contracts until the complete exhaustion of the budget according to the principle first come, first served, but not later than 30.06.2021.

(6) The state aid will be paid by the Sibiu County Council in three parts related to the 12-months period assumed by the airline regarding the allocated capacity, as follows: the first part in the amount of 25% of the total value of the financial aid grant contract in the first month, the second part in the amount of 35% of the total amount of the financial aid grant contract in the 6th month, and the third part in the amount of 40% of the value of the financial aid grant contract in the 10th month.

(7) After signing the financial aid grant contract by the Sibiu County Council and the Beneficiary, Sibiu International Airport as administrator of the scheme, will perform monthly compliance checks on the capacity allocated by the airline to / from Sibiu International Airport and will prepare a report which will contain a comparison between those assumed by the airline in the financial aid grant contract and the number of seats

actually allocated by the airline to / from Sibiu International Airport. The report together with the supporting documents will be submitted to the Sibiu County Council and will be kept for a period of 10 years from the date of granting the aid.

(8) If a beneficiary of the state aid does not comply with the granting conditions provided in the scheme and within the financial aid grant contract, the Sibiu County Council may proceed with the cessation / termination and recovery of the state aid according to the provisions of the Government Emergency Ordinance no. 77/2014 on national procedures in the field of state aid as well as for amending and supplementing the Competition Law no. 21/1996, with subsequent amendments and completions.

(9) The minimum number of seats allocated per month must ensure the operation of at least 2 weekly frequencies during the assumed period, in relation to the capacity of the proposed aircraft. The number of seats allocated monthly to / from Sibiu International Airport can be adjusted during the assumed period of operation compared to the proposed monthly capacity. The Beneficiary will send in advance a written notification to Sibiu International Airport regarding the proposed changes regarding the monthly operating capacities. The total number of places allocated, assumed by the financial aid grant contract during the period provided for operation will NOT be adjustable.

(10) Except for the provisions regarding the cessation / recovery of state aid, in the event that there will be flight restrictions, caused for reasons not attributable to the airline (e.g. flight restrictions issued by the states where / from where the companies operate flights, unfavorable weather conditions etc.) the airline cannot be obliged to reimburse the amounts collected as a result of the non-fulfilment of the allocation condition assumed by the financial aid grant contract for the period in which the airline is unable to operate the flights.

(11) During the period of impossibility to operate the flights, for reasons not attributable to the airline, the allocation condition assumed in the financial aid grant contract will be recalculated as the difference between the allocation actually assumed in the financial aid grant contract and the monthly allocation provided in the documentation attached to the application for state aid which could not be achieved during the impossibility of operating the flights, a situation which will lead to the adjustment of the amount of financial aid by the supplier to the beneficiary.

Example:

Seats assumed by the airline according to the financial aid contract: 160,000 seats

Destinations operated by the airline to / from Sibiu International Airport: destination 1, destination 2, destination 3 and destination 4

Impossibility of operation: May, June, July and 3 months respectively due to flight restrictions imposed by the state in which the destination 1 is operated

Seats allocated in May, June and July 25,000 seats of which 5,000 seats at / from Sibiu International Airport to / from destination 1

Total seats allocated following the adjustment due to inability to operate: 155,000 seats

CHAPTER VI: Cumulative aids

Article 7

1. The temporary aid measures covered by this scheme may be combined with other state aid granted in accordance with the provisions of the specific sections of the various sections of the Communication.

2. The temporary aid measures provided in this scheme may be combined with other aids granted in accordance with Section 3.1 of the Communication, provided that the total support granted to a beneficiary does not exceed 800,000 EUR.

3. The temporary aid measures provided in this scheme may be cumulated with aids falling within the scope of the minimis regulations or with aids falling within the scope of Regulation 651/2014, provided that the provisions and rules for cumulation of these regulations are observed.

(4) In order to verify the cumulation rules, the companies requesting state aid within this scheme will have to submit an affidavit regarding other state aids received, mentioned in paragraphs (1) - (3).

(5) Sibiu County Council will also verify all potential beneficiaries of state aid on the national online platform RegAS (State Aids Register).

CHAPTER VII: Provisions on transparency, monitoring and reporting

Article 8

(1) The Sibiu County Council has the obligation to publish on its website (www.cjsibiu.ro) the full text of the state aid scheme, the period in which applications can be registered, the total budget, the date of exhaustion of the total budget of the scheme.

(2) The Sibiu County Council must keep detailed records regarding all the aid granted under the scheme. These records shall contain all the information necessary to establish whether the criteria of the relevant European regulations are met and must be kept for 10 years from the date of the last aid granted under the scheme.

(3) The beneficiaries of the state aid granted under this scheme must keep all the documents related to it for 10 years and are obliged to make them available to the administrator / supplier or the Competition Council whenever they are requested.

(4) The Sibiu County Council, as a provider of this state aid scheme, has the obligation to transmit to the Competition Council all the data and information necessary for the monitoring of state aid at national level, in the format and term provided by the

Regulation on procedures for monitoring state aids, implemented by the Order of the President of the Competition Council no. 175/2007, as well as the data and information necessary for the elaboration of the inventory of state aids and of the reports and information necessary for the fulfilment of Romania's obligations as a member state of the European Union.

(5) The Sibiu County Council, as a provider of the state aid scheme, has the obligation to upload in the General Register of State Aids Granted in Romania (RegAS) this scheme, financing agreements, payments made and possible recoveries, in accordance with the provisions of the Order of the President of the Competition Council no. 437/2016 for the implementation of the Regulation on the state aids register.

(6) For state aids granted under this scheme, the supplier shall comply with the monitoring and reporting obligations set out in the Communication throughout the duration of the scheme.

CHAPTER VIII: Control of the beneficiaries of the scheme and recovery of state aid

Article 9

(1) The monitoring and control of the beneficiary enterprises within this state aid scheme will be done by Sibiu International Airport which will elaborate a monthly report containing a comparison between those assumed by the airline through the financial aid contract and the number of seats actually allocated by the airline to / from Sibiu International Airport. The report together with the supporting documents will be submitted to the Sibiu County Council.

(2) If it is found that the beneficiary did not comply with the granting conditions provided by this scheme in Article 4 and the operating capacity at / from Sibiu RA International Airport, assumed in the financial aid contract, the supplier will proceed to the cessation / termination and recovery, as the case may be, of the state aid in accordance with the provisions of Government Emergency Ordinance no. 77/2014 on national procedures in the field of state aids as well as for amending and supplementing the Competition Law no. 21/1996, with subsequent amendments and completions.

(3) State aid to be reimbursed or recovered shall also include related interest, due from the date of its payment until the date of recovery or full reimbursement. The applicable interest rate is that established according to the provisions of Regulation (EU) no. 1589/2015 setting detailed rules for the application of Article 108 of the Treaty *on the functioning of the European Union*.