**APPLICATION CONDITIONS FOR APPLICATION**

**OF STATE AID SCHEME**

**PHASE 1**

***"STATE AID FOR TOUR OPERATORS WHICH USE AIR CARRIERS WITH A VALID OPERATING LICENSE FOR PERFORMANCE OF CHARTER FLIGHTS TO THE REPUBLIC OF BULGARIA FOR THE PURPOSE OF TOURISM according to Art. 26 of the LAW on the measures and actions during the state of emergency, declared by a decision of the National Assembly of 13 March 2020 and on overcoming the consequences (Title amended, SG No. 44/2020, effective 14.05 .2020, amended SG No. 60 of 07.07.20) for the period from 14.05.2020 to 31.12.2020.***

1. **Title of the State aid measure:**

State aid for tour operators who use air carriers with a valid operating license to operate charter flights to the Republic of Bulgaria for tourism.

1. **Short description of the measure**

The measure is a grant to provide operating capital for tour operators who carry out organized tourist trips in the Republic of Bulgaria.

The administrator of the aid is the Minister of Tourism.

The Ministry of Tourism plans to implement the measure in 2 independent phases.

Phase 1 with a period of validity from the date of entry into force of the norm of Art. 26 of the LAW on the measures and actions during the state of emergency, declared by a decision of the National Assembly of 13 March 2020 and on overcoming the consequences until 31.12.2020 according to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak adopted on 19 March 2020 (C (2020) 1863), and its amendments C (2020) 2215 and C (2020) 3156, adopted on 3 April 2020, 8 May 2020 respectively and 29.06.2020.

Phase 2 - 01.01.2021 to 14.05.2022. Phase 2 is subject to separate notification and approval by the EC in accordance with the state aid regime.

This procedure covers only phase 1, as temporary aid for overcoming the effects of the COVID-19 epidemic.

1. **Purpose of the measure**

The measure is a scheme for providing state aid to support tour operators who provide tourist packages to consumers with a final point of arrival on the territory of the Republic of Bulgaria in order to mitigate the socio-economic consequences for the tourism sector of the COVID-19 pandemic and enable businesses recipients to recover from the crisis and stabilize their liquidity..

**Justification:**

The COVID-19 pandemic is putting unprecedented pressure on the European Union's tourism ecosystem. Tourist businesses are facing a serious liquidity crisis. According to estimates by reputable analytical institutes, revenue losses at European level have reached 85% for tour operators and travel agencies by the middle of this year compared to the same period last year. The crisis has affected not only small and medium-sized enterprises that carry out activities such as travel, transport, food, recreation on land or water, culture or nature, but the entire tourism industry. The support to the tour operators will stimulate the incoming tourism and hence the revenues realized as a result of the provision of tourist services on the territory of the country.

According to the National Statistical Institute, the visits of foreign tourists to the Republic of Bulgaria, organized by a tour operator are a little over 2.3 million in the period May-December 2019. The main part of them are from more distant markets (Germany, Poland, Czech Republic, Slovakia, the Scandinavian markets, Great Britain, Russia, etc.), therefore, the majority of tourists have arrived by air.

As a result of the pandemic, there were significant changes in the expectations for the development of inbound tourism in Bulgaria in 2020. The number of canceled flights at Varna and Bourgas airports increased very quickly. According to the latest data from airport operators, the decline in the number of scheduled flights has increased significantly and now for charters and scheduled flights is about 42% for the summer season 2020. The planning of new flights and flight cancellations continues.

In this regard, the focus of the measure is on tour operators, which form tourist packages, including the use of basic tourist services in incoming tourism in the territory of the Republic of Bulgaria. These economic entities, through the realization of the sold travel package services, multiply to the highest degree the effect of the consumption of goods and services in the tourist destination.

The expected results are in the direction of strengthening the interest in the tourist destination Bulgaria and increasing the revenues from the economic activity in the tourism sector, respectively positive impact on the tax revenues from realized turnovers.

1. **Legal basis:**

Art. 26 of the Law on Measures and Actions during the State of Emergency, declared by a decision of the National Assembly of 13 March 2020 and for overcoming the consequences (Title amended, SG No. 44/2020, effective 14.05 .2020 amended SG No. 60 of 07.07.20). The provision regulates the existence of the measure and obliges the Minister of Tourism to develop the terms and conditions for its implementation.

The measure is being planned in accordance with the Communication from the Commission: Temporary framework for State aid measures to support the economy in the context of the current COVID-19 outbreak, adopted on 19 March 2020 (C (2020) 1863), and its amendments C (2020) 2215 and C (2020) 3156, adopted on 3 April 2020, 8 May 2020 and 29.06.2020 respectively.

The aid shall be provided after a positive decision for notification of the procedure by the EC, but covers the period from 14.05.2020 till 31.12.2020..

1. **Total amount of the state aid**

The estimated budget for the measure during phase 1 of implementation - period from 14.05.2020 to 31.12.2020 is expected to amount **to BGN 55 000 000** (fifty-five million BGN). Estimated number of organized tourist visits of foreign tourists for the same period is about **795 000 foreign tourists**.

1. **Beneficiaries**

Eligible applicants (beneficiaries) for the aid under phase 1 are tour operators using air carriers with a valid operating license to operate charter flights to the Republic of Bulgaria for the purpose of tourism. Potential beneficieries are enterprises in the following sectors and activities by NACE Rev. 2008:

- 79.12 Tour operator activity

**Amount of aid**

Tour operators who use air carriers with an operating license to operate charter flights to the Republic of Bulgaria for tourism may receive aid of **35 (thirty-five) Euros** for each seat of the maximum passenger capacity of the aircraft for each flight. The aid is granted for each seat **occupied by a person,** using a tourist service in our country, only for flights with a capacity of not less **than 100 seats**.

**Minimum amount** of the aid under the scheme is not provided.

**The maximum amount** under this scheme may not exceed EUR 800 000 per enterprise in the form of a direct grant, all values used being in gross terms, ie before deduction of taxes or other charges, in accordance with item 3.1 of the Temporary framework for State aid measures to support the economy in the context of the current COVID-19 outbreak, adopted on 19 March 2020 (C (2020) 1863), and its amendments C (2020) 2215 and C (2020) 3156, adopted on 3 April 2020, 8 May 2020 and 29 June 2020 respectively. (Temporary framework).

The limit according to item 3.1 of the Temporary Framework is calculated at the level of a group of related enterprises. Connectivity shall be determined in accordance with Annex 1 to Regulation (EU) № 651/2014.

When an enterprise carries out an activity other than in the tourism sector according to the admissible code in NACE Rev. 2008, the Ministry of Tourism, as an aid administrator, requires evidence and may carry out an audit for accounting separation of activities, revenues, expenditures and assets so that there is traceability of the aid that each of these activities complies with the relevant eligible ceiling under item 22. of the Temporary Framework.

The value of the requested grant should be filled in the application form.

1. **Eligible for funding activities and eligible applicants:**

The aid shall be granted in accordance with Section 3.1 "Limited amount of aid" of the Temporary framework for State aid measures to support the economy in the context of the current COVID-19 outbreak, adopted on 19 March 2020 (C (2020) 1863), and its amendments C (2020) 2215 and C (2020) 3156, adopted on 3 April 2020, 8 May 2020 and 29 June 2020 respectively, published in the Official Journal of the European Union CI 91/1.

The funds are provided for operating capital of tour operators who form travel packages to be used for subsidizing of the price of realized tourist product on the territory of the Republic of Bulgaria.

Тhe provided aid to tour operators covers all or part of the costs that are a component of the total price of the tourist package for air transport.

It is provided to tour operators who use air carriers with an operating license to perform charter flights to the Republic of Bulgaria for tourism purposes. **The amount of the aid is 35 (thirty five) Euros for each seat of the maximum passenger capacity of the aircraft for each flight. The aid is granted for each seat occupied by a person using a tourist service in our country, only for flights with a capacity of not less than 100 seats.**

**IMPORTANT:** Under this procedure, applicants can only apply for support for their main economic activity. The code of the main economic activity will be checked on the basis of data for 2019.The source of verification of the code of the main economic activity is the indicated by the applicants in the application form field Code of the organization under NACE Rev.2008 and official checks by the aid administrator.

The following conditions must be met for any tour operator applying for state aid:

* As of 31 December 2019, the applicant tour operator is not in a difficult situation (within the meaning of the General Block Exemption Regulation - Article 2, item 18 of Commission Regulation (EU) № 651/2014;
* the aid shall not exceed EUR 800 000 per tour operator’s enterprise at group level;
* the amount of support of 35 euros for a tourist who has arrived in the Republic of Bulgaria in the period 14 May - 31 December 2020 is in gross terms, ie before deducting taxes or other charges;
* aid recipients may not be enterprises which have already been in difficulty (within the meaning of Regulation (EU) № 651/2014-GBER, Regulation (EU) № 702/2014-ABER) as of 31 December 2019;
* the aid should be granted for flights performed no later than 31 December 2020;
* The granted aid under the measure may be cumulated with aid under the de minimis regulations or the General Block Exemption Regulation, provided that the rules on cumulation of those regulations are complied with.
* The granted aid under the measure may be cumulated with aid granted under other measures approved by the European Commission under other sections of the Temporary Framework, provided that the provisions of these specific sections are complied with.
* If the tour operator applying for a state subsidy receives several times or in several forms under the measure or aid under other measures approved by the European Commission under section 3.1 of the Temporary Framework, the overall maximum limit per enterprise as referred to in point 22 (a) of this framework will be observed. In this regard, tour operators will have to declare the amount of funds received, the period to which they relate and the scheme under which the aid was received.

Branches of legal entities registered in Bulgaria cannot participate in the aid scheme due to the lack of independent legal personality.

For the purposes of these Guidelines, the following definitions shall apply in accordance with the legislation of the Republic of Bulgaria and the European Union:

* *“international flight”* means any flight in which the place of departure, stopover, if any, or destination is situated on the territory of two or more countries;
* *"charter flight"* means an international flight carrying passengers under travel package contracts and/or travel package vouchers;
* *“operating license”* means an authorization issued by a competent licensing authority to an enterprise which allows it to provide the aviation services specified in the operating license;
* *“competent licensing authority”* means an authority of a Member State of the European Union or of the countries of the European Economic Area and the Swiss Confederation or of third countries which is empowered to grant, refuse, revoke or suspend an operating license;
* *“airport”* means any area specially adapted for aviation services;
* *“aviation operator's certificate”* means a certificate issued to an enterprise certifying that the operator has the professional capacity and organization to ensure the safety of the activities specified in the certificate in accordance with the applicable relevant provisions of the Community or national law;
* *“air carrier”* means an enterprise with a valid operating license or equivalent;
* *„ticket“* means a paper document or the equivalent of a non-paper document, including in electronic form, certifying the existence of a passenger contract issued or authorized by an air carrier, tour operator or travel agent;
* *“final point of arrival”* means the place of arrival marked on the ticket presented for check-in and baggage transfer at the airport or, in the case of direct connecting flights - the place of arrival of the last flight;
* *“tour operator”* means a trader who combines and sells or offers for sale travel packages, either directly or through another trader or together with another trader, and holds a tour operator's permit issued by the State in which it is established, and it is also covered by insolvency protection scheme (s) in relation to travel packages.
* *"travel package"* is defined according to § 1, item 66 of the Additional Provisions of the Tourism Act and is a combination of at least two different types of tourist services for the purposes of the same trip or vacation, if:

а) these services are combined by a single trader, including at the request of or in accordance with the traveler's choice, before concluding a general contract for these services, or

b) whether or not separate contracts are concluded with individual suppliers for each tourist service, those services shall be:

1. purchased from only one point of sale and are selected before the traveler agrees to pay;
2. offered, sold or charged at package or total price;
3. advertised or sold under the name "travel package" or other similar name;
4. combined after the conclusion of a contract by which the trader entitles the traveler to choose between different types of selected tourist services, or
5. purchase from individual traders through related online booking processes in which the traveler's name, payment information and e-mail address are passed on from the trader with whom the first contract was concluded to another trader or traders; and no later than 24 hours after confirmation of the reservation for the first tourist service, a contract shall be concluded with this trader or with these traders.

- “enterprise in difficulty” means an enterprise in respect of which at least one of the following circumstances is fulfilled:

(a) in the case of a limited liability company (other than an SME, which has existed for less than three years or, for the purposes of eligibility for risk finance aid, an SME which made its first commercial sale not more than 7 years ago and which qualifies for risk finance investments based on a financial and legal analysis performed by the selected financial intermediary) when its subscribed share capital has decreased by more than half due to accumulated losses. This is the case when the deduction of accumulated losses from reserves (and all other elements that are generally considered part of the company's equity) leads to a negative cumulative result that exceeds half of the subscribed share capital. For the purposes of this provision, the term 'limited liability company' means in particular the types of companies listed in Annex I to Directive 2013/34 / EU, and the term 'share capital' includes, where appropriate, share premiums;

(b) in the case of a company in which at least some partners have unlimited liability for the obligations of the company (which is not an SME that has existed for less than three years or, for the purposes of eligibility for risk finance aid, an SME that has its first commercial sale at most 7 years ago and which qualifies for risk finance investments based on a financial and legal analysis carried out by the selected financial intermediary) when the capital entered in the company's balance sheet has decreased by more than half due to accumulated losses. For the purposes of this provision, the term "company in which at least some of the partners have unlimited liability for the obligations of the company" means in particular the types of companies listed in Annex II to Directive 2013/34 / EU;

(c) where the enterprise is in collective insolvency proceedings or meets the criteria of the national law in order to be subject to collective insolvency proceedings at the request of its creditors;

(d) where the entity has received rescue aid and has not yet repaid the loan or has not terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;

(e) where the enterprise is not an SME and for the last two years:

1) the liability / equity ratio of the enterprise was greater than 7.5; and

2) the enterprise's interest rate ratio, calculated on the basis of EBITDA, was below 1.0;

1. **Procedure for granting the aid according to Art. 26, para. 3 of the Law on the Measures and Actions during the State of Emergency, declared by a decision of the National Assembly of March 13, 2020 and for overcoming the consequences**

To participate in the state aid scheme, the tour operator shall submit an application form as per a template (provided in Annex 1), published on the institutional website of the Ministry of Tourism. Tour operators must apply for assistance under the scheme by 24 December 2020 at the latest and the decision on the application must be taken by 31 December 2020 at the latest.

The application may be submitted by an authorized representative with an explicit written power of attorney, submitted in original or signed with a qualified electronic signature.

The application shall be accompanied by the documents described in this section containing information on the fulfillment of the legal requirements under the State aid scheme.

The application and accompanying documents shall be submitted on paper, electronically or by registered letter with acknowledgment of receipt through a licensed postal operator by 24 December 2020 at the latest for flights operated during Phase 1 of a State aid scheme (period 4 May - 31 December 2020)

The address of the aid administrator is:

Sofia 1000, 1 Saborna Str

Ministry of Tourism

E-mail address: edoc@tourism.government.bg

The application and the supporting documents described below shall be submitted after the flight to the Republic of Bulgaria, but not earlier than the date on which the assistance was authorized by the European Commission, in original or with an electronic signature[[1]](#footnote-1). One application can be used to request more than one flight - for example: one application to request state aid for flights operated in a given month or one application to request aid for flights operated throughout the season. The application shall be accompanied by the set of documents certifying the described requirements for each individual flight.

**Indicative** dates by which applications may be submitted for participation in the State aid scheme for the summer tourist season:

* for flights performed between 14 May and 31 July 2020 until 31 August 2020;
* for flights performed in the period 1 - 31 August - until 30 September 2020;
* for flights performed in the period 1 - 30 September - until 30 October 2020;
* for flights performed between 1 and 31 October 2020, until 30 November 2020.

The applications sent to the Ministry of Tourism with the accompanying documentation are considered in the order of their receipt.

The following shall be attached to the application:

1. Certified by the legal[[2]](#footnote-2) representative (s) of the tour operator or a person authorized by him certificate of commercial registration;
2. Certified by the legal representative (s) of the tour operator or a person authorized by him document certifying the right of the trader to perform tour operator activity in cases when the tour operator is registered in the Republic of Bulgaria, in a Member State of the European Union, a party to the Agreement on the European Economic Area or Confederation Switzerland and provides a link to the public register in which it is entered for the exercise of activity. In cases when the tour operator is a registered trader in a third country, outside the Republic of Bulgaria, the EU, the EEA and the Swiss Confederation – it should provide a document officially certified by the competent state authorities, certifying its right to perform tour operator activities;
3. Handwritten declaration by the legal representative (s) of the tour operator that the trader they represent is not in bankruptcy proceedings or has not been declared bankrupt or liquidated (Annex II);
4. Certified by the legal representative (s) or a person authorized by him copy of a contract concluded with an air carrier for the performance of an aviation service flight to the Republic of Bulgaria, concluded and performed in the period from 14.05.2020 to 31.12.2020;
5. Certified by the legal representative (s) or a person authorized by him copies of contracts for travel packages and/or vouchers for travel packages with the passengers of the flight to the Republic of Bulgaria for the realization of which a state aid is requested;
6. Certified by the legal representative (s) or a person authorized by him copies of the register of accommodated tourists, according to art. 116, para. 1 of the Tourism Act
7. Certified copy by person authorized from the airport administration of the documentation of the air carrier performed the flight - with the names of the passengers for the specific flight to the Republic of Bulgaria.
8. Declaration signed by the legal representative (s) of the tour operator for code under NACE Rev. 2008;
9. Declaration signed by the legal representative (s) that the applicant is not in difficulty within the meaning of para. 22, item "c" of the Temporary Framework;
10. Declaration signed by the legal representative (s) for received minimum and state aid and for the total amount of state aid according to par. 22, item 1 of the Temporary Framework.
11. Bank account declaration, signed by the legal representative or a person authorized by him - in free text.

**IMPORTANT:** Under this procedure, applicants can only apply for support for their main economic activity. The code of the main economic activity will be checked on the basis of data for 2019. The source of verification regarding the code of the main economic activity is the indicated by the applicants in the application as a Declaration (provided in Annex 3).

***Important information:***

The additional funds required under the budget of the aid administrator will be approved by a Decree of the Council of Ministers on the basis of the actual expenses incurred on a monthly basis.

For the purposes of the control exercised under the scheme, the Ministry of Tourism is supplied weekly ex officio from Sofia Airport, Varna Airport, Bourgas Airport and Plovdiv Airport with information on:

- Number of international flights landed for the carriage of passengers under travel package contracts and/or travel package vouchers;

- Number of passengers landed with international flights for the carriage of of passengers under travel package contracts and/or travel package vouchers;

- Total number of seats in the aircrafts landed, which have performed international flights for the carriage of passengers under travel package contracts and/or travel package vouchers;

- Number of seats in landed aircrafts with 100 or more seats performing international flights for the carriage of passengers under travel package contracts and/or travel package vouchers;

- Number of aircrafts landed with 100 or more seats, performing international flights for the carriage of passengers under travel package contracts and/or travel package vouchers.

The data provided ex officio by the DG CAA shall contain at least the following information:

* Operating license number of the air carrier pursuant to Regulation 1008/2008 of the European Parliament and of the Council of 24 September 2008 on the common rules for the operation of air services in the Community, as well as the aviation operator's certificate pursuant to Regulation № 37 of 19.10.2016 and data on the representative power of the company. For the purposes of the application of the state aid according to art. 26 of the Law on the Measures and Actions during the State of Emergency, declared by a decision of the National Assembly of 13 March 2020 and for overcoming the consequences (Title amended, SG No. 44/2020, effective 14.05.2020) for the period from 14.05.2020 to 31.12.2020 this information will be public. It will be published on the institutional website of the CAA and the Ministry of Tourism.

The applications for receiving a state aid shall be submitted to the Ministry of Tourism, address Sofia 1000, 1 Saborna Str., signed in original or by a qualified electronic signature, on site or by a licensed postal operator.

"Electronic signature" is an electronic signature within the meaning of Art. 3, item 10 of Regulation (EU) № 910/2014. Advanced electronic signature is an electronic signature within the meaning of Art. 3, item 11 of Regulation (EU) № 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC. A qualified electronic signature is an electronic signature within the meaning of Art. 3, item 12 of Regulation (EU) № 910/2014. The legal force of the electronic signature and of the advanced electronic signature is equivalent to that of the handwritten signature, when this is agreed between the parties.

All documents - the application and its annexes shall be submitted in Bulgarian or in any of the official languages of the European Union, accompanied by an official translation into Bulgarian.

The application can also be submitted through a proxy of the legal representative (s) of the tour operator. The power of attorney must be explicit for the specific flight or group of flights.

1. **Consideration of the submitted application**

The submitted application with the accompanying documents shall be considered within 7 days by a commission of officials appointed by the Minister of Tourism. The Minister of Tourism may also involve external experts to assist the evaluation process in examining applications for state aid.

The commission has the right to make a request for inspection before the competent authorities at the seat of the tour operator ex officio for all declared / requested data and circumstances.

Upon finding an irregularity or incompleteness in the Application and the submitted documents, the aid administrator shall notify the applicant of the need to complete the documentation, giving explicit instructions for elimination of the incompleteness and irregularities.

Within 10 days from the date of receipt of the notification, the applicant shall submit the necessary documents and information.

The term for ruling of the administrator shall cease to run from the date of sending the notification to the applicant and shall be resumed from the date of receipt of the documents with which the irregularity has been eliminated.

The commission appointed by the Minister of Tourism assesses the conformity of the submitted application, together with the accompanying documents by filling in a checklist for compliance with the requirements of the law and the Guidelines (Annex № 6). The checklist is accompanied by an inventory of the tourists who arrived in the Republic of Bulgaria and used the "accommodation" service for each flight separately. The Commission shall submit a reasoned report to the Minister with a proposal to allow the aid for the number of tourists for the specific flight or to refuse to allow the aid.

In case of non-compliance with any of the requirements of Art. 26 of the LAW on the measures and actions during the state of emergency, declared by a decision of the National Assembly of 13 March 2020 and for overcoming the consequences (Title amended, SG No. 44/2020, in force from 14.05 .2020, amended SG No. 60 of 07.07.20) for the period from 14.05.2020 to 31.12.2020, the present Guidelines and / or the decision of the EC, the application shall be rejected.

The Commission shall elaborate a report on a case-by-case basis. The report shall contain a conclusion on the number of passengers for each specific flight for which the State aid is received and the total value of the submitted application.

The Minister of Tourism shall issue an order for granting a state aid for each flight on the application within 30 days from the submission of the application for state aid. The order is the act for providing the state aid within the meaning of the State Aid Act.

The provision of aid under Art. 26 of the Law on Measures and Actions during the state of emergency, declared by a decision of the National Assembly of March 13, 2020 and to overcome the consequences shall be carried out within 45 days from the issuance of the order of the Minister of Tourism and paid by payment account of the tour operator marked with the International Bank Account Number (IBAN), maintained by a payment service provider licensed by the national competent authority of the country in which the tour operator is registered.

To keep detailed records regarding the granting of aid for 10 years upon granting of the aid and commit to provide them to the Commission upon request. Such records must contain all information necessary to establish that the necessary conditions set out in the TF COVID-19 as amended have been observed;

The refusal to provide state aid under the scheme is subject to appeal under the Administrative Procedure Code of the Republic of Bulgaria.

1. Electronic signature ”is an electronic signature within the meaning of Art. 3, item 10 of Regulation (EU) № 910/2014 [↑](#footnote-ref-1)
2. Where the legal representatives exercise their representative power only together, the certification must be done by both legal representatives [↑](#footnote-ref-2)