Subject: SA.39622 (2014/N) - Republic of Slovenia - Aid to make good the damage caused by glaze ice in Slovenia in January and February 2014 (all sectors except agriculture, forestry, fisheries and aquaculture)

Dear Sir,

1. PROCEDURE

(1) By electronic notification dated 13 October 2014, the Slovene authorities notified the scheme, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter "TFEU"). On 1 December 2014 and 26 January 2015, the Commission requested additional information, which was submitted by Slovenia on 18 December 2014 and 16 February 2015. The last complementary information was submitted by Slovenia on 23 February 2015.

2. DESCRIPTION OF THE AID MEASURE

2.1. Objective of the aid scheme

(2) The notified aid scheme aims at compensating undertakings for damage suffered as a result of the glaze ice which occurred in the regions Posavski, Zahodno stajerski, Gorenjski, Osrednje slovenski, Vzahodno stajerski, Severno primorski, Notranjski, Podravski, Koroski and Zasavski in February 2014 (hereinafter: "glaze ice"). The glaze ice hit the mentioned areas between 30 January and 10 February 2014.

2.2. Legal bases

(3) The legal bases of the scheme are:
- Zakon o varstvu pred naravnimi in drugimi nesrečami (Protection against Natural and Other Disasters Act; ZVNDN; UL RS 51/06-UPB1, 97/10),

- Zakon o odpravi posledic naravnih in drugih nesreč (Elimination of Consequences of Natural and Other Disasters Act; ZOPNN; UL RS, 114/05-UPB1, 90/07, 102/07, 40/12 – ZUJF and 17/14),

- Zakon o ukrepih za odpravo posledic žieda med 30. januarjem in 10. februarjem 2014 (Act laying down measures for recovery from glaze ice damage between 30 January and 10 February 2014; ZUOPŽ, UL RS 17/14),

- Uredba o metodologiji za ocenjevanje škode (Decree on Damage Assessment Methodology; UL RS 67/03, 79/04, 33/05, 81/06 and 68/08),

- Pravilnik o postopkih za ocenjevanje škode in odpravo posledic škode ob naravnih in drugih nesrečah v slovenskem gospodarstvu (Rules on procedures for assessing damage and making good the damage caused to the Slovenian business enterprise sector by natural and other disasters).

2.3. Ascertainment of the adverse climatic event and geographic scope

(4) On 30 January 2014 a front of warmer air began to move across Slovenia at a high altitude. That day a layer of warmer air with a temperature greater than zero inserted itself above the layer of air at ground level, where the temperature remained as low as -5 °C. This happened in particular above the Notranjska region and part of northern Primorska. The majority of the precipitation transformed into a covering of ice. As a result of the large quantity of precipitation, copious amounts of glaze ice formed in some areas even on this first day. Between 30 January and 10 February 2014 a large part of Slovenia was affected by glaze ice, which shattered trees in forests, resulting in road closures and damage to the electricity distribution network and high-voltage transmission lines, which in turn caused protracted power cuts. The unfavourable meteorological conditions, in which precipitation combined with thawing of snow and ice, caused rivers to swell and increased the water level and area of the karst that had become lakes. Between 30 January and 27 February 2014 a series of floods also occurred. Both river and sea flooding occurred and large flood areas formed in karst lakes. The notified scheme will compensate only for damage caused by glaze ice.

(5) By decision No 84400-3/2014/12 of 28 March 2014 at its 105th correspondence session, the Government of the Republic of Slovenia took note of the final estimate of direct damage resulting from high snowfall, glaze ice and floods, between 30 January and 27 February 2014, which amounts to EUR 42,713,030.57 in the business sector.

(6) The Government of the Republic of Slovenia found that the final assessment of direct damage exceeds 0.3% of planned national budget revenue for 2014 and that the limit for the granting of aid under the Zakon o odpravi posledic naravnih nesreč (Elimination of Consequences of Natural Disasters Act) is therefore reached.

(7) The Government of the Republic of Slovenia therefore instructed the competent ministries to prepare programmes for the removal of the consequences of direct damage to property, civil engineering works, the business enterprise sector, cultural heritage, national roads, forests and forest roads, railway infrastructure and
watercourses in accordance with the ZOPNN and with the Zakon o ukrepih za odpravo posledic žleda med 30. januarjem in 10. februarjem 2014 (Act laying down measures for recovery from glaze ice damage between 30 January and 10 February 2014; ZUOPŽ, see the legal basis referred to in recital 3).

2.4. **Budget and financing of the aid scheme**

(8) The scheme will be funded through general budget resources of the Slovene authorities, and its notified budget amounts to EUR 26 million.

2.5. **Beneficiaries**

(9) Aid under the present scheme is addressed to undertakings which suffered damage being a direct consequence of the glaze ice.

(10) The notified scheme applies to undertakings in all economic sectors, with the exception of undertakings active in the forestry, fishery and aquaculture sectors and those active in the production, processing and marketing of agricultural products listed in Annex I of the TFEU.

(11) Aid under the present scheme aims at small and medium enterprises as well as large enterprises.

(12) The Slovene authorities confirmed that undertakings in difficulties are not eligible for aid under this scheme unless the adverse climatic event was the cause of them becoming undertakings in difficulties in the meaning of Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulties.¹

(13) The Slovene authorities estimated the number of potential beneficiaries of the scheme to be 487, i.e. the number of undertakings that already reported damages under the notified measure.

2.6. **Duration of the aid scheme**

(14) Aid under the present scheme may be granted within two years following the Commission approval.

2.7. **Eligible expenses**

(15) Eligible costs under the present scheme are those related to compensation of damage that is a direct consequence of the glaze ice. Aid may be granted exclusively for material damage on the machines and stocks as well as for loss of income.

(16) The concept of material damage as applied by the Slovenian authorities is based on the principle that only the costs necessary to restore or replace the damaged asset to its former condition insofar as the asset is necessary for business continuity. This concept includes in particular refinancing costs of machinery and equipment partially or

wholly destroyed due to the event, costs to replace partially or wholly lost stocks of materials, unfinished production, products and merchandise.

(17) The Slovene authorities have confirmed that damage to buildings has been excluded from the damage recovery of the scheme.

**2.8. Calculation method to establish the damage**

(18) The Slovene authorities have confirmed that the methodology for the calculation of damage is identical to the one approved in the Commission decision SA.34680 (2012/N) of 4.9.2012.

(19) The beneficiary applying for aid shall provide a sworn statement quantifying the damage issued by a qualified licenced expert or the sworn statement by an insurance company.

**2.9. Mechanism of aid provision**

(20) Aid under the notified scheme can only be granted upon application of the potential beneficiary located in the eligible area. The applicants have to indicate the damaged assets and the amount of damage. Each item of damage must be proven by adequate documentation.

(21) Calculation of damage will follow the methodology laid down by the Decree on Damage Assessment Methodology.

(22) Damage to plant and equipment is determined by the modified purchase-value method, which includes a valuation of damaged machinery and equipment before and after the disaster. The estimated market value, including depreciation, is taken into account in the calculation. Compensation for damage cannot be claimed for machinery and equipment that is fully depreciated.

(23) Damage to stocks of materials, unfinished production, products and merchandise is determined on the basis of submitted accounting documents proving their existence at the time of the disaster. It is determined on the basis of the difference between the purchase value and the actual value after the disaster, also taking into account variations in the value of these stocks at the time of the event as a result of changes in market prices. Damage to stocks may only be claimed for goods that have been transferred to the balance sheet of the undertaking in the 24 months prior to the disaster.

(24) Damage due to loss of income represents the earnings which the undertaking could have realised after the disaster compared to its own performance before the disaster, if the disaster had not happened and the undertaking had operated normally. The damage suffered by an individual affected party due to loss of income is calculated by calculating the monthly average of added value on the basis of figures from the

---


\textsuperscript{3} Uredba o metodologiji za ocenjevanje škode, UL RS 67/03, 79/04, 33/05, 81/06 and 68/08.
income statement, for the period of the last 12 months before the disaster, and then multiplying it by the number of months of loss of income, but for a maximum of 3 (three) months. In the event of 'negative' added value, damage due to loss of income cannot be claimed.

(25) For all damages, the damage amount is declared on the beneficiary application form (the Form defined in the Decree on Damage Assessment Methodology) and must be certified by a sworn Court evaluator with expertise in the relevant sector or an authorised evaluator from the Slovenian Institute of Auditors. Copies of any insurance policies for insurance against damage in the case of destruction of stocks must also be enclosed, along with a statement from a responsible officer guaranteeing that all data contained in the form are true and accurate; that use of the personal details quoted in the form is permitted for the purposes of obtaining funds to eliminate the consequences of a natural disaster; that in the event of submitting false data, duplication of data or deliberate errors, the beneficiary will repay the funds obtained, with interest, within the required period; and that the beneficiary will facilitate an eventual control inspection, on the basis of a submitted application, to all persons so authorised by the Commission for the Elimination of the Consequences of Damage in the Business Sector.

(26) The Ministry of Economic Development and Technology prepared a scheme the "Programme for making good damage to the business enterprise sector as a result of glaze ice in 2014", which was confirmed on 3 September 2014 by the Commission for Eliminating the Consequences of Damage in the Business Enterprise Sector, set up by the Government. After provision of financial resources in the budget of the Republic of Slovenia, and following approval of the scheme by the European Commission, the Ministry of Economic Development and Technology will invite beneficiaries to submit an application, along with the completed forms and relevant proofs and statements, to the Ministry of Economic Development and Technology or implementing institution within 30 days. Following examination of the forms and proofs, affected economic operators are granted funds to eliminate the consequences of the natural disaster and in this way re-establish operation as soon as possible.

(27) Upon completion of the assessment, the Ministry of Economic Development and Technology will take the granting decision on the basis of a formal administrative procedure. The decision includes in particular the information on the beneficiary, the exact description of the reasons of granting the aid, the calculation method for the amount of the compensation, the time-frame for the use of the granted funds (not exceeding twelve months) and the payment method.

2.10. Form of aid and aid intensity

(28) The aid is awarded in the form of direct grants corresponding to a percentage of the value of the damage suffered by the undertakings.

(29) The total aid per beneficiary cannot exceed the direct damage incurred. The aid intensity is expressed as a percentage of the eligible costs. The Slovenian authorities confirmed that the maximum aid intensity for compensation of damage to non-insured property or loss will not exceed 50 % of the eligible costs. In case the property or loss
was insured against an event of the type suffered by the beneficiary, the compensation will not exceed 60% of the eligible costs. The higher aid intensity in case of insured property or loss of income may stimulate insurance against losses from natural disasters among undertakings.

2.11. Cumulation of aid

(30) The level of damage is determined for each individual case. The amount of the compensation received cannot exceed the direct damage suffered from the event.

(31) The Slovene authorities confirmed that account will be taken of the rules on cumulation of aid and that the overall amount of compensation received by an individual beneficiary from any public funds combined with insurance payments will not exceed 100% of the assessed damage in any circumstances.

2.12. Outstanding recovery orders

(32) The legal basis excludes from the scheme any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

2.13. Professional confidentialities

(33) The Slovene authorities declared that the notification does not contain any confidential information which should not be disclosed to third parties.

3. ASSESSMENT OF THE AID MEASURE

3.1. State aid character of the measure

(34) The compensation is provided through State resources within the meaning of Article 107(1) TFEU. Since the compensation will be granted to a limited number of undertakings, the measure is considered to be selective and to confer an advantage which may distort or threaten to distort competition. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect such trade. The proposed aid measure therefore constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Legality of the aid measure

(35) The Commission notes that the Slovene authorities complied with their obligation to notify the measure in accordance with Article 108(3) TFEU.

3.3. Compatibility of the aid measure

3.3.1. Assessment of the measure on the basis of State aid rules

(36) The Slovene authorities informed the Commission of the exceptional weather conditions which resulted in glaze ice that occurred in the regions Posavski, Zahodno
The Slovene authorities provided details on the description and the quantification of the damage caused to undertakings by the glaze ice.

The Slovene authorities notified an aid scheme to compensate for the damage caused by the glaze ice under Article 107(2)(b) TFEU, which states that aid to make good the damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market.

The Commission notes that aid to make good damage due to glaze ice has not been assessed under Article 107(2)(b) in previous State aid decisions. However, in various Commission decisions aid for damage caused by heavy snow, and subsequent frost has been considered compatible with Article 107(3)(c) TFEU as compensation for damage caused by an adverse climatic event which can be assimilated to a natural disaster. All of these decisions refer to comparable adverse climatic events (heavy snow, ice and frost).

Article 107(3)(c) TFEU stipulates 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 compatible with the internal market. As the notified measure aims exclusively at re-establishing the conditions of the undertakings before the adverse climatic event occurred, it can be considered compatible with the internal market as far as it does not provide a compensation exceeding the amount of damage caused by the adverse climatic event to the beneficiaries' property. Therefore, the Slovene authorities have to verify that the compensation only relates to damage directly caused by the event, and never results in overcompensation.


3.3.2. Mechanism to rule out overcompensation

(41) In order to be compatible with the internal market, the aid must be proportional to the damage caused by an adverse climatic event which can be assimilated to the natural disaster and the compensation for damage to assets claimed for by the beneficiaries must be a proven direct consequence of the former. Aid must not result in overcompensation of damage; it should only make good the damage caused by the adverse climatic event.

(42) The objective of the present scheme is to restore the situation of the affected entities to the one as from before the adverse climatic event.

(43) Aid under the present scheme and compensation from other sources, including insurance payments, may not exceed the value of the damage to the individual beneficiary. Overcompensation is therefore ruled out.

(44) Aid under the notified scheme can only be granted upon application of the potential beneficiary located in the eligible area. The applicants have to indicate the damaged assets and the amount of damage. Each item of damage must be proven by adequate documentation.

(45) The damage resulting from adverse climatic events incurred by the applicants is to be assessed by an independent assessor or expert teams under the control of regional and national committees for damage assessment.

(46) Damage to machinery and equipment is determined through the purchase-value method, which includes a valuation of damaged machinery and equipment before and after the disaster. The estimated market value is considered, taking into account the effect of depreciation. Reimbursement cannot be claimed for machinery and equipment that is fully depreciated. The amount of damage reported by the beneficiary must be confirmed by a sworn Court evaluator or an authorised evaluator of the Slovenian Institute of Auditors. Copies of insurance policies should also be attached and will be taken into consideration.

(47) Damage to stocks of material, unfinished production, products and commercial goods is established on the basis of accounting documents (delivery notes, invoices, etc.) proving their existence at the time of the disaster. Damage to stocks of material and commercial goods is determined on the basis of the difference between the purchase value and the actual value after the disaster, also taking into account variations in the value of these stocks at the time of the disaster as a result of changes in market prices. Damage to stocks may only be claimed for goods that have been transferred to the balance sheet of the undertaking in the 24 months prior to the disaster. The amount of damage reported by the beneficiary must be confirmed by a sworn Court evaluator or authorised evaluator of the Slovenian Institute of Auditors. Copies of insurance policies should also be attached and will be taken into consideration.

(48) Damage due to loss of income represents the earnings which the undertaking could have realised after the disaster compared to its own performance before the disaster, if the disaster had not happened and the company had operated normally. Compensation
is calculated on the basis of the average monthly added-value\(^6\), multiplied by the number of months (up to a maximum of three months) during which the undertaking was not able to resume its business as before the disaster. The methodology used takes account of the undertakings’ earnings before interest and taxes (EBIT), depreciation and labour costs.

(49) Upon completion of the assessment, the Ministry of Economic Development and Technology will take the granting decision on the basis of a formal administrative procedure. The decision includes in particular the information on the beneficiary, the exact description of the reasons of granting the aid, the calculation method for the amount of the compensation, the time-frame for the use of the granted funds (not exceeding twelve months) and the payment method.

(50) On the basis of the above, the Commission finds that the measure compensates damage caused by the glaze ice only and that it introduces an appropriate mechanism to ensure that there will be no overcompensation. The objective of the notified measure is to restore the situation of the affected entities to the status as from before the adverse climatic event and to enable them to resume their activities, but does not give them an additional advantage.

(51) In view of the above, the Commission considers that the notified aid scheme is compatible with the internal market in accordance with Article 107(3)(c) TFEU.

4. **DECISION**

(52) The Commission has accordingly decided not to raise objections to the aid scheme 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.

(53) As the Slovene authorities confirmed that the information provided to the Commission during the notification does not contain confidential information which should not be disclosed to third parties, the Commission will publish the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/competition/elojade/isef/index.cfm

Yours faithfully,

For the Commission

*Margrethe VESTAGER*

Member of the Commission

---

\(^6\) Figures are based on the income statement, the application form or other proof for the 12 months before the disaster. If the undertaking has been in operation for less than 12 months before the disaster, the average monthly value-added is calculated on the basis of figures from the income statement or the application form, or other proof for the period of operation of the undertaking.