



EUROPEAN COMMISSION

Brussels, 21.12.2020
C(2020) 9570 final

PUBLIC VERSION

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**Subject: State Aid SA.59996 (2020/N) – Slovakia
COVID-19: Fixed costs subsidies**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 4 December 2020, Slovakia notified aid in the form of limited amounts of aid to grant fixed costs subsidies to eligible beneficiaries (“State Aid Scheme for support of undertakings in relation to COVID-19 outbreak – fixed costs subsidies”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

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- (2) Slovakia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Slovakia considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) Slovakia confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (7) The legal basis for the measure is “State Aid Scheme for support of undertakings in relation to COVID-19 outbreak – fixed costs subsidies”.

2.3. Administration of the measure

- (8) The Ministry of Economy of the Slovak Republic is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 100 million. The measure will be financed from the general budget of the State.
- (10) Aid may be granted under the measure as from its approval until no later than 30 June 2021 and covers uncovered fixed costs incurred during the period between 1 March 2020 and 30 June 2021, including such costs incurred in part of that period (“eligible period”).

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings active in Slovakia. However, financial institutions and undertakings active in the primary agricultural and the fisheries and aquaculture sector are excluded as eligible final beneficiaries. Where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.
- (12) Aid may not be granted under the measure to medium³ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”) and the Regulation 702/2014 (“ABER”)⁴ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁵ or restructuring aid⁶.
- (13) In addition, the eligible beneficiaries shall meet the following conditions:
- are not subject to an ongoing recovery order following a previous Commission decision declaring an aid granted by Slovakia illegal and incompatible with the internal market;
 - have their financial relations with the state budget settled;
 - are not subject to enforcement of the decision;
 - have not violated the prohibition of illegal employment under national law during the previous three years;
 - have not been legally prohibited to receive grants or subsidies;
 - have not been legally prohibited to receive aid and support provided from European Union funds;
- (14) Aid shall be granted under the measure to applicants that have suffered a decline in turnover during the eligible period of at least 30% compared to the same period in 2019.

³ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (“GBER”), OJ L 187, 26.6.2014, p. 1 and Annex I to Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (“ABER”), OJ L 193, 1.7.2014, p. 1.

⁴ As defined in Article 2(18) of GBER and Article 2(14) of ABER.

⁵ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁶ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

- (15) Aid may not be granted to applicants that have registered arrears on social security contributions and health insurance company records overdue receivables pursuant to national legislation.

2.6. Sectoral and regional scope of the measure

- (16) The measure is open to all sectors except the financial, the primary agricultural and the fisheries and aquaculture sector. It applies to the whole territory of Slovakia.

2.7. Basic elements of the measure

2.7.1. Nature and objective of the aid instrument

- (17) The measure provides the aid in the form of direct grants. The objective of the aid is to provide subsidies to eligible beneficiaries that generated uncovered fixed costs due to, or in relation to, restrictions imposed by Slovak authorities in connection with the COVID-19 outbreak.
- (18) The measure is introduced by a general/framework act and shall be further specified in calls for proposals upon sectoral or regional implementation of the scheme by the competent granting authorities.

2.7.2. Period during which the aid can be granted

- (19) The support shall be provided to contribute to uncovered fixed costs incurred by the beneficiaries during the eligible period. The eligible period cannot start before 1 March 2020 and cannot end after 30 June 2021 and shall be specified in the call for proposals by the competent authorities.

2.7.3. Method by which to calculate the uncovered fixed costs

- (20) The measure provides that aid may be granted where the fixed costs of the beneficiary are not covered by the profit contribution, *i.e.*, revenues minus variable costs, and which are not covered by any other contributions such as insurance or aid granted through other aid measures under the Temporary Framework or through other support measures.
- (21) For the purpose of the calculation, all figures used must be gross, that is, before any deduction of tax or other charges.

2.7.4. Turnover loss

- (22) Applications shall be submitted by companies that have suffered a decline in turnover during the eligible period of at least 30% compared to the same period in 2019.

2.7.5. Aid intensity

- (23) The measure is capped at maximum 70% of uncovered fixed costs with respect to large and medium-size undertakings and at 90% for small and micro enterprises.

- (24) The overall maximum aid amount per undertaking (gross, i.e. before any deduction of tax or other charge) shall not exceed an amount equal to EUR 800 000.

2.8. Cumulation

- (25) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁷ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (26) The Slovak authorities confirm that aid granted under the measure shall not be cumulated with other aid for the same eligible costs.
- (27) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (28) The Slovak authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected. Aid granted under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 30 June 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (29) The Slovak authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework, including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁸.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (30) By notifying the measure before putting it into effect, the Slovak authorities have respected their obligations under Article 108(3) TFEU.

⁷ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

⁸ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

3.2. Existence of State aid

- (31) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (32) The measure is imputable to the State, since it is administered by the Ministry of Economy and it is based on “State Aid Scheme for support of undertakings in relation to COVID-19 outbreak – fixed costs subsidies”. It is financed through State resources, since it is financed by public funds.
- (33) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings. In particular the measure applies only to undertakings based in Slovakia that fulfil the conditions detailed in section 2.5 above active in sectors other than the financial, agriculture fisheries and aquaculture sector.
- (35) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (36) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Slovak authorities do not contest that conclusion.

3.3. Compatibility

- (37) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (38) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (39) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (40) The measure aims at providing liquidity to undertakings at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(41) The measure is one of a series of measures conceived at national level by the Slovak authorities to remedy a serious disturbance in their economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 3.1 of the Temporary Framework.

(42) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (6)).

The overall nominal value of direct grants shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges. If the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected. The measure therefore complies with point 22(a) of the Temporary Framework (see recitals (24) and (28));

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 22(b) of the Temporary Framework;

- Aid may not be granted under the measure to medium⁹ and large enterprises that were already in difficulty on 31 December 2019 (see recital (12)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹⁰ or restructuring aid¹¹ (see recital (12)). The measure therefore complies with point 22(c)bis of the Temporary Framework;

- Aid will be granted under the measure no later than 30 June 2021 (see recital (10)). The measure therefore complies with point 22(d) of the Temporary Framework;

- Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on

⁹ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

¹⁰ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹¹ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

the market by such producers (see recital (11)). The measure therefore complies with point 22(e) of the Temporary Framework.

- (43) The Slovak authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (29)). The Slovak authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (25) to (28)).
- (44) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President