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**Subject: State Aid SA.59717 (2020/N) – Slovenia  
COVID-19: Aid in the form of partial reimbursement of the uncovered fixed costs**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 24 November 2020, Slovenia notified the measures for partial reimbursement of the uncovered fixed costs (“Zakon o interventnih ukrepih za omilitev posledic drugega vala epidemije COVID-19 (Uradni list RS, št. [175/20](#))) (“the measures”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).<sup>1</sup>
- (2) By electronic communication of 30 November 2020 and 3 December 2020, Slovenia submitted additional information to complete the notification of the measures.

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<sup>1</sup> 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. 35, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the 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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- (3) Slovenia 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 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURES**

- (4) The Slovenian authorities submit that the COVID-19 is affecting the real economy causing a significant economic impact on the Slovenian economy<sup>3</sup>. Due to the new rapid spread of the virus from the end of August 2020 and especially in October 2020, additional measures to prevent the spread of infections were introduced.
- (5) New restrictive measures were imposed on 16 October 2020 and mainly concern the transport, tourism and hospitality industry and personal services as well as manufacturing. In the most exposed sectors and activities a significant drop in revenue and value added is expected, even up to 70% and more. In industry, trade, transport and some business services, the volume of value added will decrease by at least 50%, mainly due to a reduction in orders and disruptions in supply and sales chains.
- (6) On 19 October 2020, the Government of Slovenia declared an epidemic on the entire territory of Slovenia. Since 20 October 2020, several temporary restrictions apply in Slovenia, such as the restriction of the gathering of more than six people, temporary restriction of the transition between regions and later municipalities, as well as restrictions of the movement of people between 9 pm and 6 am apply. Temporary restrictions on offering goods and services directly to consumers in the territory of Slovenia was adopted, with some exceptions (posts, banks and insurances, pharmacies, delivery services, service workshops, service stations, open markets, medical and orthopaedic stores and agricultural stores etc.).
- (7) The objective of the measures is to mitigate the negative effects of the COVID-19 outbreak on the economy by providing direct grants to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity, and by covering part of the uncovered fixed costs of those undertakings for which the COVID-19 outbreak resulted in the suspension or reduction of their business activity. These measures will help them to keep businesses in operation by covering part of the uncovered fixed costs.
- (8) Slovenia confirmed that the aid under the measures 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.

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

<sup>3</sup> As a small open economy, Slovenia is strongly exposed to the economic development of key trading partners, especially in large euro area countries. Slovenia was severely affected by the fall in international trade (Slovenian exports, which account for 70% of GDP, fell by 12% year on year in the first half of the year). Severely affected was also tourism, which normally contributes 7% of GDP (tourist arrivals has reduced by 80% in the first half of 2020).

- (9) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, in light of Sections 2, 3.1 (“measure 1”) and 3.12 (“measure 2”) of the Temporary Framework.

### **2.1. The nature and form of aid**

- (10) The measures provide aid in the form of direct grants to undertakings aiming to cover part of the specifically defined uncovered fixed costs (see section 2.7) of those undertakings for which the COVID-19 outbreak resulted in a suspension or reduction of their business activity and that find themselves facing a sudden shortage or even unavailability of liquidity. Measure 2 is only available to companies registered before 1 October 2019, while all other companies may benefit only from measure 1.

### **2.2. Legal basis**

- (11) The legal basis for the measures is the Law on Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic (“Zakon o interventnih ukrepih za omilitev posledic drugega vala epidemije COVID-19” or “Uradni list RS, št. 175/20”), hereinafter the “Second Wave Law”, or “2WL”), published in the Official Gazette of the Republic of Slovenia, No. 175/20 on 27 November 2020.

### **2.3. Administration of the measures**

- (12) The aid granting, administering and managing authority is the Ministry of Economic Development and Technology.

### **2.4. Budget and duration of the measures**

- (13) The estimated total budget of the measures is EUR 900 million, with an estimated overall budget for aid to be granted under measure 1 of EUR 150 million and an estimated overall budget to be granted under measure 2 of EUR 750 million.<sup>4</sup>
- (14) Aid may be granted under the measures as from their approval until no later than 30 June 2021. Slovenia commits that, even though the national legal basis has already been put into effect, no application for aid will be examined and no aid will be granted by the national authorities until the notification of the present decision.

### **2.5. Beneficiaries**

- (15) The measures are open to undertakings of all sizes. The beneficiary shall be a legal or natural person who:
- has been registered for the pursuit of an economic activity by 1 September 2020 at the latest;

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<sup>4</sup> The Slovenian authorities have explained that intend to implement the scheme in tranches, with EUR 300 million to be allocated for the first three months (October 2020 – December 2020) and the remainder being allocated for an additional six months, i.e. until 30 June 2021, in case the COVID-19 crisis situation persists.

- has at least one employee on the day when the Second Wave Law enters into force (28 November 2020); or is self-employed who, on the date of entry into force of Second Wave Law, is covered by compulsory pension and disability insurance pursuant to Article 15 of the Pension and Disability Insurance Act; or is a member or shareholder of a commercial company or a founder of a cooperative or a management institution and, on the date of entry into force of the Second Wave Law, is included in the statutory pension and disability insurance under Article 16 ZPIZ-2;
  - is unable to carry out its activity or carries it out on a significantly reduced scale due to the consequences of the COVID-19 epidemic.
- (16) Direct or indirect publicly owned enterprises, whose share of revenues from public sources in 2019 was higher than 70% are excluded as beneficiaries of the measures.
- (17) Aid under the measures may not be granted to medium<sup>5</sup> and large enterprises that were already in difficulty<sup>6</sup> on 31 December 2019. If a company in difficulty is a small or micro enterprise as defined in Annex I to the GBER, Annex I to the ABER and Annex I to the FIBER, the enterprise may nevertheless be granted the aid, provided that it is not the subject to insolvency proceedings under national law and it has not received rescue aid<sup>7</sup> or restructuring aid.<sup>8</sup>

## **2.6. Sectoral and regional scope of the measures**

- (18) The measures are open to undertaking of all sectors of the economy except the credit and financial sector. The measures apply to the whole territory of the Republic of Slovenia.

## **2.7. Basic elements of the measures**

- (19) The measures allow for support in the form of direct grants to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity in order to cover part of the uncovered fixed costs of those undertakings for which the COVID-19 outbreak resulted in the suspension or reduction of their business activity. The measures allow for the coverage of uncovered fixed costs for all undertakings but distinguish between those undertakings which have been registered before 1 October 2019 and may receive up to EUR 3 million (measure

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<sup>5</sup> 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, 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, OJ L 193, 1.7.2014, p. 1, and Annex I to Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

<sup>6</sup> As defined in Article 2(18) of the GBER, Article 2(14) of ABER, and Article 3(5) of FIBER.

<sup>7</sup> 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.

<sup>8</sup> 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.

2), while undertakings registered after that date can only receive aid up to EUR 800 000 (measure 1).

#### *2.7.1. Eligible period*

- (20) Aid is granted under the measures no later than 30 June 2021. The eligible period for the aid is from 1 October 2020 to 31 December 2020 (hereinafter the “eligible period”). The eligible period may, by decision of the Government of the Republic of Slovenia, be extended by a maximum of six months until not later than 30 June 2021 (cf. Article 109 (8) 2WL).

#### *2.7.2. Eligibility*

- (21) When applying for the aid under measure 2, beneficiaries will have to declare that they suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (Article 112 (1) and (3) 2WL).
- (22) The turnover is calculated based on the net sales revenues determined in accordance with the accounting rules (Article 112(2) 2WL), which must be substantiated by the beneficiary in his application.

#### *2.7.3. On the determination of the aid amount*

- (23) The uncovered fixed costs shall represent the monthly uncovered fixed costs over the eligible period that are not covered by profit contributions during the same period, and which are not covered by other sources, such as insurance, temporary aid measures covered by the Temporary Framework or support from other sources, and which are forecasted at:
- (a) 1,2 % of the annual turnover in the entire year 2019, or the turnover between the time of registration of the beneficiary until 1 September 2020, converted to an annual period, in the event of a decline in turnover of more than 70%; or
  - (b) 0,6 % of the annual turnover in 2019, or the turnover between the time of registration of the beneficiary until 1 September 2020, converted to an annual period, in the event of a decline in turnover from 30% up to and including 70%.
- (24) The amount of uncovered fixed costs shall, according to Article 109 (5) 2WL, be determined as the lowest one of the following three ceilings:
- (a) In line with the previous recital, as a fixed percentage of the beneficiary’s annual sales revenues in 2019 as calculated for the purpose of the forecasts stipulated in the previous recital per month in the eligible period and, if the beneficiaries are registered before 1 October 2019, as a fixed percentage of the beneficiary’s sales revenues from its registration until 1 September 2020, calculated to the same accounting period, per month during the eligible period,
  - (b) EUR 1 000 per month per full-time employee during the eligibility period,
  - (c) 70% of the net loss of the beneficiary, which is a medium-sized or large company or 90% of the net loss of the beneficiary, which is a micro or

small company as stated in the income statement in the eligible period. Net loss means fixed costs incurred by undertakings during the eligible period, which are not covered by the profit contribution (i.e. revenues minus variable costs) during the same period and which are not covered by other sources, such as insurance, temporary aid measures covered by this Communication or support from other sources<sup>9</sup> (cf Article 109 (1) and (5) 2WL).

- (25) For beneficiaries registered before 1 October 2019, the coverage of uncovered fixed costs during the eligible period may not exceed the maximum aid of EUR 3 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge (measure 2).
- (26) For beneficiaries registered from including 1 October 2019 to 1 September 2020, the coverage of uncovered fixed costs, together with other aid authorised under section 3.1, may not exceed the maximum aid of EUR 800 000 per undertaking and EUR 120 000 per undertaking active in the fishery and aquaculture sector, or EUR 100 000 per undertaking active in the primary production of agricultural products; all figures used must be gross, that is, before any deduction of tax or other charge (measure 1).
- (27) The beneficiaries may apply for the aid on the basis of a self-assessment using estimated data.

#### 2.7.4. *The ex post verification of the aid amount*

- (28) The ex post verification of the aid granted will be ensured in accordance with criteria in recitals (23) and (24). On the one hand, the Slovenian authorities will verify whether the level of turnover decline (which is expected to be higher than 30%) has been maintained within the thresholds of recital (23) for the whole eligible period, insofar as it is linked to the aid intensity and the ceilings in recital (24)<sup>10</sup>. On the other hand, the realised net losses are calculated ex post according to the accounting rules, on the basis of audited accounts (Articles 109 (10) 112 (3) 2WL), or in case of undertakings which do not need to produce audited accounts, on the basis of their tax accounts. The beneficiaries should in principle substantiate their actual financial results by means of audited financial accounts. However, in Slovenia only large enterprises and medium-size share-holding companies are legally required to produce audited financial accounts (Article 57 ZGD-1). Slovenia argues that it would not be proportionate to require other companies to provide audited accounts solely for the purpose of these measures, as it would oblige the beneficiaries to enter into a time-consuming and costly procedure, by seeking professional assistance from certified auditors only for a relatively short period of time (three months of the calendar year).
- (29) Slovenia has established a mechanism that any payment exceeding the final amount of the aid shall be recovered (Article 112 2WL).

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<sup>9</sup> One-off impairment losses are not included in the calculation of the losses.

<sup>10</sup> In particular, the Slovenian authorities will verify ex post whether the level of turnover decline has been maintained within the thresholds defined in recital (23), i.e. either between 30% - 70% or above 70%. Based on this verification, the Slovenian authorities will verify the aid intensity granted to each beneficiary and the compliance with the calculations defined in recitals (23) and (24).

- (30) Aid for beneficiaries that are active in the processing and marketing of agricultural products will not be 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.
- (31) Aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014.
- (32) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, appropriate means such as separation of accounts will be ensured, so that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking.

## **2.8. Cumulation**

- (33) The Slovenian authorities confirm that aid granted under the measures may be cumulated with aid under de minimis Regulations<sup>11</sup>, the GBER, the ABER or the FIBER provided the provisions and cumulation rules of those Regulations are respected.
- (34) The Slovenian authorities confirm that aid under the notified measures may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (35) The Slovenian authorities confirm that aid granted under the measures 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.
- (36) The Slovenian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measures 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 points 22(a) and 23(a) of that framework, will be respected.
- (37) The Slovenian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measures or aid under other measures approved by the Commission under section 3.12 of the Temporary Framework,

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<sup>11</sup> 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), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) 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).

the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.

- (38) The Slovenian authorities confirms that aid granted under the measures may not be cumulated with other aid for the same eligible costs.

## **2.9. Monitoring and reporting**

- (39) The Slovenian 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 measures and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>12</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measures**

- (40) By notifying the measures before putting them into effect, the Slovenian authorities have respected their obligations under Article 108(3) TFEU.

### **3.2. Existence of State aid**

- (41) 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.
- (42) The measures are imputable to the State, since they are administered by the Ministry of Economic Development and Technology (recital (12)) and they are based on the legislative act 2WL (recital (11)). They are financed through State resources, since they are financed by public funds.
- (43) The measures confer an advantage on its beneficiaries in the form of direct grants (recital (10)) for specifically defined uncovered fixed costs (section 2.7.3). The measures thus provide those beneficiaries with an advantage, which they would not have had under normal market conditions.
- (44) The advantage granted by the measures is selective, since they are awarded only to certain undertakings, fulfilling the conditions referred to in recital (15) excluding the financial sector and certain undertakings (see recitals (16), (17) and (18)).
- (45) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

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<sup>12</sup> Referring to information required in Annex III to the GBER and Annex III to the ABER and Annex III to the FIBER.



- (46) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Slovenian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (47) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those measures are compatible with the internal market.
- (48) 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”*.
- (49) 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”*.
- (50) The measures aim at contributing to cover part of uncovered fixed costs 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.
- (51) The measures are part of a series of measures conceived at national level by Slovenia to remedy a serious disturbance in their economy. The importance of the measures to e.g., stimulate economic continuity is widely accepted by economic commentators and the measures are of a scale, which can be reasonably anticipated to produce effects across the entire Slovenian’s economy. Furthermore, the measures have 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 (measure 1), and of a specific category of aid (“Aid in the form of support for uncovered fixed costs”) described in section 3.12 of the Temporary Framework (measure 2).
- (52) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:
- (53) First, for companies receiving grants which have been founded after 1 October 2019, measure 1 complies with Section 3.1:
- The aid takes the form of direct grants (recital (10)). The overall nominal value of the direct grants shall not exceed EUR 800 000 per undertaking, EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (26)); all figures used must be gross, that is, before any

deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (13). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (see recital (17)). 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 aid<sup>13</sup> or restructuring aid<sup>14</sup> (see recital (17)). 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 (recital (20)). 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 the market by such producers (recital (30)). The measure therefore complies with point 22(e) of the Temporary Framework.
- Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (30)). The measure therefore complies with point 23(b) of the Temporary Framework;
- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (31)). The measure therefore complies with point 23(c) of the Temporary Framework.
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Slovenia will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (26)). The measure therefore complies with point 23bis of the Temporary Framework.

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<sup>13</sup> 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.

<sup>14</sup> 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.

(54) Second, for companies receiving grants which have been founded before 1 October 2019, measure 2 complies with Section 3.12:

- Aid is granted under the measure no later than 30 June 2021. The eligible period for the aid is from 1 October 2020 to 31 December 2020, and may be prolonged by Slovenia for six additional months, namely until 30 June 2021 at the latest (recital (20)). The measure therefore complies with point 87(a) of the Temporary Framework;
- Aid is granted under the measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (recital (21)). The measure therefore complies with point 87(b) of the Temporary Framework;
- The aid takes the form of direct grants (recital (10)). The overall nominal value of grants will not exceed EUR 3 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (25)). The measure therefore complies with point 87(d) of the Temporary Framework;
- Aid may not be granted under the measure to medium<sup>15</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (17)). 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 aid<sup>16</sup> or restructuring aid<sup>17</sup> (recital (17)). The measure therefore complies with point 87(f) of the Temporary Framework;
- The specifically defined uncovered fixed costs are in accordance with point 87(c) of the Temporary Framework and the aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 90% of the uncovered fixed costs (recitals (23) and (24)). The actual losses of undertakings from their profit and loss statements during the eligible period are considered to constitute uncovered fixed costs (recitals (23) and (24));
- The aid under this measure may be granted based on estimated losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts or on the basis of tax accounts (recital (28)). The Slovenian authorities have justified that the use of tax accounts would be proportionate in cases where undertakings are not required to produce commercial audited accounts under Article 57 ZGD-1 (recital (28)). The Commission considers that the justification provided is appropriate;

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<sup>15</sup> As defined in Annex I to the GBER, in Annex I to the ABER and in Annex I to the FIBER.

<sup>16</sup> 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.

<sup>17</sup> 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.

- Any payment exceeding the final amount of the aid must be recovered (recital (29)). The measure therefore complies with point 87(c) of the Temporary Framework.
- (55) The Slovenian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (39)). The Slovenian authorities further confirm that the aid under the measures 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 (33) to (35)).
- (56) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since they meet 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