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Subject: State Aid SA.64152 (2021/N) – Slovenia
COVID-19: Aid for financing the holiday pay

Excellency,

1. PROCEDURE

- (1) By electronic notification of 16 July 2021, Slovenia notified aid in the form of limited amounts of aid (*Aid for financing the holiday pay*, the “measure”) under section 3.1 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”) ¹.
- (2) 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 1/1958² and to have this Decision adopted and notified in English.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 911, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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

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2. DESCRIPTION OF THE MEASURE

- (3) Slovenia considers that the COVID-19 outbreak continues to affect the real economy. In particular, Slovenian authorities note that the uncertainty revolving around the epidemiological situation remains high and that, although the gross domestic product is expected to gradually grow in 2021, the economic recovery will still be slow and remain differentiated across sectors. Notably, undertakings active in sectors related to tourism³ remain particularly affected.
- (4) The notified aid measure consists in direct grants to certain enterprises in order to cover the holiday pay corresponding to their employees' annual leave. The objective of the notified measure is thus to mitigate the negative economic effects of the outbreak on the labour market of certain sectors, and to help undertakings to keep their businesses operative and to preserve jobs.
- (5) The measure forms part of an overall package of measures and aims to counter the liquidity shortage faced by certain undertakings in specific sectors because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine their economic viability and thereby to preserve the continuity of economic activity during and after the outbreak.
- (6) Slovenia confirms 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.
- (7) 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

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

2.2. Legal basis

- (9) The legal basis for the measure is the Slovenian Act on Intervention Measures to Assist the Economy and Tourism Sector, in particular, Articles 27 to 32⁴.
- (10) Article 32 of the abovementioned Act contains a stand-still clause whereby aid under the notified measure may only be granted after its approval by the Commission.

2.3. Administration of the measure

- (11) The Ministry of Economic Development and Technology is responsible for administering the measure.

³ Such as accommodation and food service activities, rental and leasing activities, travel agencies, tour operator reservation services, and arts, entertainment and recreation.

⁴ Published in the Official Journal of Slovenia (*Uradni list - Vsebinska Uradnega lista (uradni-list.si)*), available at the following link: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2021-01-2454/zakon-o-interventnih-ukrepih-za-pomoc-gospodarstvu-in-turizmu-pri-omilitvi-posledic-epidemije-covid-19-ziupgt>

2.4. Budget and duration of the measure

- (12) The estimated budget of the measure is EUR 22.8 million financed, in principle, by the State budget.
- (13) The Slovenian authorities noted that the measure may also be co-financed by EU funds. The Slovenian authorities confirm that, if used, the rules applicable under such funds will be respected.
- (14) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2021.

2.5. Beneficiaries

- (15) The beneficiaries of the measure are SMEs⁵ and large enterprises that fulfil the following criteria:
 - (a) they are registered in the Business Register of Slovenia until 31 May 2021;
 - (b) they are active in the sectors⁶ listed in Article 27 of the national legal basis (recital (9));
 - (c) they must be unable or limited to carry out their economic activities as a result of the COVID-19 outbreak. To qualify in that sense, they must prove an annual turnover decrease of at least 20% in 2021 compared to the annual turnover in 2019 or 2020⁷;
 - (d) must have at least one employee included in the compulsory pension and disability insurance⁸ on the day the national legal basis enter into force;

However, credit and financial institutions as well as publicly financed enterprises with a higher than 70% share of public funding in 2020 are excluded as eligible beneficiaries. Slovenian authorities estimate that there will be more than 1 000 beneficiaries.

⁵ 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.

⁶ Mainly, sectors belonging to the following divisions of the NACE Rev. 2 classification: accommodation and food service activities (divisions 55 and 56), rental and leasing activities (division 77), travel agencies, tour operator reservation services (division 79), organisation of conventions and trade shows (division 82), sports, recreation and cultural education (division 85), and arts, entertainment and recreation (divisions 90 – 93).

⁷ According to Article 27(3) of the national legal basis, if the applicant undertaking has not operated in 2019 and 2020, he may be eligible for the aid if his average monthly income in 2021 at the moment of applying for the aid (i.e. 1 September 2021, at the soonest) has decreased by more than 20% compared to the average monthly income obtained the same year 2021 but only until 31 May 2021. That Article 27(3) also contains more detailed eligibility rules for cases where the beneficiary has not fully operated the years 2019, 2020 or 2021.

⁸ According to Article 14 of the Slovenian Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia, Nos. 96/12, 39/13, 99/13, "ZPIZ-2").

- (16) Aid may not be granted under the measure to medium⁹ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)¹⁰ 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 aid¹¹ or restructuring aid¹².

2.6. Sectoral and geographical scope of the measure

- (17) The measure is open to the sectors listed in Article 27 of the national legal basis (mainly, the sectors summarised in footnote 6). The financial sector is excluded. In addition, the Slovenian authorities indicate that the measure is not applicable to the primary production of agricultural products, nor to the processing and marketing of agricultural products, nor to the fisheries and aquaculture sector.
- (18) The measure applies to the whole territory of Slovenia.

2.7. Basic elements of the measure

- (19) The aid under the measure is granted to the beneficiary in order to cover the holiday pay corresponding to the annual leave to which employees are entitled in accordance with the Employment Relationships Act.¹³ If the employer (i.e. the beneficiary) does not pay to its employees the mentioned holiday pay within the period specified in Article 131 of that latter Act (i.e. no later than 1 July of the calendar year concerned), the beneficiary shall return the aid to the administering authority.
- (20) The amount of the aid is calculated based on the number of employees included in the compulsory pension and disability insurance in accordance with Article 14 of the Slovenian Pension and Disability Insurance Act (footnote 8) and on the basis of an amount of 1 024 EUR per employee¹⁴.
- (21) The maximum aid amount per undertaking (gross, i.e. before any deduction of tax or other charge) shall not exceed EUR 1.8 million.
- (22) Beneficiaries may submit the application for aid between 1 and 30 September 2021.

⁹ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹⁰ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹¹ 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.

¹² 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.

¹³ See, to this effect, Article 131 of the Slovenian Employment Relationships Act (“ZDR-1”), according to which the employer is obliged to pay the employee who is entitled to annual leave a holiday pay at least in the amount of the minimum wage.

¹⁴ According to Article 27(5) of the national legal basis, the amount of 1 024 EUR per employee may be determined pro rata if the employee has the right to use only a proportional part of the annual leave. The aid amount shall be determined on the basis of the submitted withholding tax returns, showing the payment of holiday pay, data on the employees or other evidence.

2.8. Cumulation

- (23) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by EU funds.
- (24) The Slovenian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁵ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (25) The Slovenian 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.
- (26) The Slovenian 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 respected¹⁶.

2.9. Monitoring and reporting

- (27) The Slovenian authorities confirm that they will respect all 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 granting¹⁷).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (28) By notifying the measure before putting it into effect (recital (10)), the Slovenian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (29) 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

¹⁵ 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).

¹⁶ Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

¹⁷ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

- (30) The measure is imputable to the State, since it is administered by the Ministry of Economic Development and Technology (recital (11)) and it is based on the Slovenian Act mentioned in recital (9). It is financed through State resources, since it is financed by public funds (recital (12)).
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants, which are intended to cover the holiday pay corresponding to their employees' annual leave (recital (19)). The measure thus relieves those beneficiaries of costs that they would have had to bear under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular, undertakings fulfilling the eligibility criteria described in recitals (15) and (16). Moreover, as indicated also in recital (17), the measure applies only to certain sectors.
- (33) 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.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (35) 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.
- (36) 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”*.
- (37) 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”*.
- (38) The measure aims at providing extra needed liquidity to undertakings to help them to keep their businesses operative and to preserve jobs at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak, which is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (39) The measure is one of a series of measures conceived at national level by the Slovenian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve economic continuity and employment is

widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Slovenian 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.

(40) The Commission considers that the measure meets all the relevant conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (8)). The overall nominal value of those direct grants shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (21)). 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 (recital (26)). 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 (12). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium¹⁸ and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). 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 aid¹⁹ or restructuring aid²⁰ (recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
- Aid will be granted under the measure no later than 31 December 2021 (recital (14)). The measure therefore complies with point 22(d) of the Temporary Framework.
- Aid is not granted to undertakings active in the processing and marketing of agricultural products. Therefore, point 22(e) of the Temporary Framework is not applicable.

(41) The Slovenian authorities confirm 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 (recital (6)).

¹⁸ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹⁹ 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.

²⁰ 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.

- (42) The Slovenian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). The Slovenian 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 and the cumulation rules of the relevant Regulations are respected (recitals (23) to (26)).
- (43) The Slovenian authorities also confirm that, should EU funds be used, the rules under such funds will be respected (recital (13)).
- (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 notified 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