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Subject: State Aid SA.60951 (2021/N) – Slovenia
COVID-19: Modification of SA.59717 (2020/N): Aid in the form of partial reimbursement of the uncovered fixed costs

Excellency,

1. **PROCEDURE**

(1) By electronic notification of 5 January 2021, Slovenia notified modifications ("the Modifications") of the existing aid scheme SA.59717 (2020/N) - COVID-19: Aid in the form of partial reimbursement of the uncovered fixed costs ("the Existing Aid Scheme"), which the Commission had already approved by its decision of 21 December 2020¹ ("the Initial Decision") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").²

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(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 1/1958 and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MODIFICATIONS

(3) The Slovenian authorities submit that the COVID-19 crisis is significantly affecting the national economy. Due to the second, more acute, outbreak of the virus from the end of August 2020 and especially in October 2020, additional restrictive measures were introduced in order to prevent the spread of infections. As a result, many undertakings find themselves facing a sudden shortage or even unavailability of liquidity. Slovenia has therefore taken measures to provide temporary relief and ensure sufficient liquidity in the market, to counter the liquidity shortage faced by undertakings and to ensure that the disruptions caused by the outbreak do not undermine the viability of undertakings.

(4) Given that the lockdown measures remain in force and while keeping the Existing Aid Scheme under constant review, Slovenia intends to modify the system on the determination of the amount of uncovered fixed costs (see recitals (9) and (10)) by amending the domestic law and alleviating its pre-established conditions in order to better mitigate the negative effects the COVID-19 outbreak and the additional restrictive measures on the economy. The Slovenian authorities also submit that they discovered technical issues when calculating the turnover decline based on the conditions of the Existing Aid Scheme. There were certain potential beneficiaries which have made new investments between 2019 and 2020, and grew in their number of employees or in capacities and consequently in turnover, thus not qualifying as eligible according to the calculations laid down in the Existing Aid Scheme. However, taking into account that those undertakings were equally affected by the economic and health crisis, Slovenia intends to modify the calculation of the turnover decline (see recital (12)) in order to include them as potential beneficiaries of the Scheme and to preserve the continuity of economic activity of the eligible undertakings during and after the COVID-19 outbreak.


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

(6) Slovenia intends to modify the Existing Aid Scheme, which consists of two measures: measure 2 is only available to companies registered before 1 October 2019, while all other companies may benefit only from measure 1.

(7) The measures provide for aid in the form of direct grants to undertakings, whose economic activity was suspended or reduced due to the COVID-19 outbreak, aimed at covering part of the uncovered fixed costs, and consequently, at helping them to keep businesses in operation.

(8) The Existing Aid Scheme provides for a system on the determination of the amount of uncovered fixed costs based on the lowest one of the pre-established three ceilings (recital (24) of the Initial Decision). The Modification alters that system in two ways.

(9) First, as regards the category of beneficiaries whose turnover fell from 30% up to and including 70%, the Modification amends the condition relating to the maximum amount of aid per employee in order to add self-employed persons or partners, shareholders or founders. Thus, recital (24)(b) of the Initial Decision, as amended, reads as follows:

(b) EUR 1 000 per month per employee or self-employed person or partner, shareholder or founder during the eligibility period, for the beneficiaries whose turnover fell from 30% up to and including 70%.

(10) Second, the following condition is added to the system on the determination of the amount of uncovered fixed costs (recital (24) of the Initial Decision):

(d) EUR 2 000 per month per employee or self-employed person or partner, shareholder or founder during the eligibility period, for the beneficiaries whose turnover fell by more than 70%.

(11) In addition, the Existing Aid Scheme provides for the system that requires beneficiaries applying for the aid under measure 2 to declare that they suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (recital (21) of the Initial Decision). The turnover is calculated based on the net sales revenues determined in accordance with the accounting rules, which must be substantiated by the beneficiary in his application (recital (22) of the Initial Decision).

(12) The Modification adds to the existing system of calculating the decline in turnover the condition that the decline in turnover can be calculated based on the net sales revenues in the eligible period in relation to the average number of employees or sales revenue in relation to the value of fixed assets, excluding land. This alternative calculation will be available only to beneficiaries of measure 1.

(13) The Slovenian authorities confirm that all other conditions of the Existing Aid Scheme (i.e. nature and form of aid, granting and implementing authority, budget, beneficiaries, regional scope, eligible activities and infrastructures, eligible costs, maximum aid intensities, cumulation, and other applicable conditions) will remain as described in the Initial Decision of 21 December 2020.

(14) The Modification will only be put into effect after the Commission’s approval.
The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 (for measure 1) and 3.12 (for measure 2) of the Temporary Framework.

3. ASSESSMENT

3.1. Lawfulness of the Modifications

By notifying the modifications before putting them into effect (recital (14)), the Slovenian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

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.

The qualification of the Existing Aid Scheme as State aid was established in the Initial Decision of 21 December 2020. The Commission refers to its analysis in recitals (41) to (46) of that Initial Decision. The Commission concludes that the notified Modifications, as described above, do not affect the conclusion that the Existing Aid Scheme, as amended, constitutes aid within the meaning of Article 107(1) TFEU, as set out in the Initial Decision of 21 December 2020. The Slovenian authorities do not contest that conclusion.

3.3. Compatibility

The Commission assessed the Existing Aid Scheme on the basis of Article 107(3)(b) TFEU in light of the Temporary Framework and concluded that it was compliant with the compatibility conditions set out in that Framework.

The Commission refers to the compatibility analysis set out in recitals (47) to (56) of the Initial Decision. The Modifications, as notified, introduce changes limited to alleviating previously imposed conditions that limit the amount of uncovered fixed costs to the pre-defined ceiling in recital (24) of the Initial Decision (recitals (8) and (10) above) and adding a new condition to the existing system of calculating the decline in turnover in part 2.7.2 of the Initial Decision (recital (12) above) in order to address technical difficulties identified.

The Commission has examined the Modifications and concludes that they do not alter its conclusions on the compatibility as set out in the Initial Decision, as the Modifications have no impact on the compliance of the Existing Aid Scheme as amended, with Article 107(3)(b) TFEU, in light of Sections 2 and 3.1 (for measure 1) and 3.12 (for measure 2), as well as on the conditions in point 87 sub-point (a) or the ceilings of points 22 and 87 sub-point (d) of the Temporary Framework.

Apart from the Modifications referred to in recitals (9), (10) and (12), the Commission notes that there are no other alterations to the Existing Aid Scheme (recital (13)).
(23) The Commission therefore considers that the Modifications 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 the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified modifications of an existing aid scheme 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