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Subject: State Aid SA.61132 (2021/N) – Slovenia
COVID-19: Support for companies dealing with public transportation

Excellency,

1. PROCEDURE

- (1) By electronic notification of 13 January 2021, as amended on 2 February 2021, the Republic of Slovenia notified aid in the form of limited amounts of aid (COVID-19 – Support for companies dealing with public transportation, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“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, 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 and by Communication from the Commission C(2021) 564 final of 28 January 2021 on the Fifth 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

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REPUBLIC OF SLOVENIA

- (2) The Republic of 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.

2. DESCRIPTION OF THE MEASURE

- (3) The Republic of Slovenia considers that the COVID-19 outbreak has been affecting 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) The COVID-19 pandemic in combination with strict health and protection measures represents a great negative shock for economic activity in Slovenia, other European countries and globally. The Government of Slovenia has taken a number of mitigation measures to contain the spread of the novel coronavirus and to “flatten the epidemic curve”. The protective measures have led to the suspension of many service activities, hampered the activity of industry, and are expected to inflict adverse impacts on the economy at large.
- (5) The scheme provides for liquidity support to the following categories of undertakings: (i) occasional public passenger transport operators; (ii) school transport operators; (iii) occasional transport operators active in transport by combined vehicles (vans); and (iv) operators of bus stations. In addition, it supports the special regular public passenger transport companies in meeting their expenditure on preventive hygiene means in vehicles.
- (6) Due to the COVID-19 crisis, the number of passengers using public transportation has decreased significantly. As a result, the revenues of companies in this sector have plummeted. The aim of the notified measure is to preserve jobs and keep bus and van fleets as well as bus stations in the condition that they will be in the position to start business immediately after the circumstances will allow it.
- (7) The Republic of Slovenia 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.
- (8) 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.

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 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.

2.1. The nature and form of aid

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

2.2. Legal basis

- (10) The legal basis for the measure is laid down in the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (*Zakon o začasnih ukrepih za omilitjev in odpravo posledic COVID-19*)³, the Act Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic (*Zakon o interventnih ukrepih za omilitjev posledic drugega vala epidemije covid-19*)⁴ and the Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic (*Zakon o interventnih ukrepih za pomoč pri omilitvi posledic drugega vala epidemije COVID-19*)⁵ and Act determining Additional Measures for Mitigation the Consequences COVID-19 *Zakon o dodatnih ukrepih za omilitjev posledic COVID-19 (ZDUOP)*.

2.3. Administration of the measure

- (11) The Ministry of Infrastructure is responsible for administering the measure.

2.4. Budget and duration of the measure

- (12) The estimated overall budget of the measure is approximately EUR 20 451 894.
- (13) Aid may be granted under the measure as from the notification of the Commission's approval decision until no later than 31 December 2021.

2.5. Beneficiaries

- (14) The final beneficiaries of the measure are undertakings active in the area of public transportation in the Republic of Slovenia⁶. However, financial institutions are excluded as eligible final beneficiaries.
- (15) Aid may not be granted under the measure to enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")⁷ on 31 December 2019.

³ <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-2610?sop=2020-01-2610>

⁴ <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-3096?sop=2020-01-3096>

⁵ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8304>

⁶ The beneficiaries are self-employed persons, family business, micro-enterprises, small and medium as well as large enterprises. The Republic of Slovenia estimates that there will be up to 1000 beneficiaries.

⁷ As defined in Article 2(18) of 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, OJL 187, 26.6.2014, p. 1.

2.6. Sectoral and regional scope of the measure

- (16) The measure is open to undertakings, registered in the Republic of Slovenia, that are engaged in activities concerning public transportation. It applies to the whole territory of the Republic of Slovenia.

2.7. Basic elements of the measure

- (17) The first element of the measure provides that occasional transport operators can claim EUR 33,3 per day per bus for the banned period and for the period when the business decreased significantly but only for the vehicles which were not in operation. This amount is calculated on the basis of 20 years amortisation of the buses. The eligibility period is from March 16 to May 11, 2020 and from October 1, 2020 – March 31, 2021. The corresponding budget is EUR 9 091 900.
- (18) The second element provides for support for special regular (school) transport operators, for hygiene means. In the period where public transportation was in operation the transportation companies were faced with significant additional costs for hygiene means recommended by National institute for public health. The eligible period is from October 15, 2020 to June 30, 2021 (but may be extended by 6 months by governmental decree). The corresponding budget is EUR 3 000 000.
- (19) The third element provides that companies dealing with special regular (school) transport are entitled to 50% of the fixed expenses per day for the days when there were no lessons in schools. The eligible period is from November 1, 2020 to March 31, 2021 for all days when education did not take place in schools. The corresponding budget is EUR 2 940 314.
- (20) The fourth element - compensation for occasional transport by combined vehicles - provides that that operators can receive EUR 20 per day per van for the banned period and for the period when the business decreased significantly, but only for the vehicles which were not in operation. The eligible period is from November 1, 2020 to June 31, 2021. The corresponding budget is EUR 5 045 280.
- (21) The fifth element provides that operators of bus stations which offer open access to terminals can receive at most EUR 60 per platform per day when public transportation was banned. The financial support decreases by 50% for uncovered platforms. The eligible period is November 1, 2020 to March 31, 2021 for days when public transportation has been banned. The corresponding budget is EUR 374 400.
- (22) The aid will be awarded on the basis of the objective criteria without discretion by the awarding authorities.
- (23) The amount of aid granted can, however, not exceed EUR 1.8 million per undertaking, before any deduction of tax or other charges, in accordance with point 22(a) of the Temporary Framework.
- (24) Aid granted under the measure may not be cumulated with other aid for the same eligible costs.

2.8. Cumulation

- (25) The Slovenian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁸ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (26) 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.
- (27) 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 points 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (28) 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 measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of Infrastructure. It is financed through State resources, since it is financed by public funds.

⁸ 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).

⁹ 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.

- (32) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (9)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in public passenger transportation, excluding the financial sector (recitals (14) and (15)).
- (34) 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.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Slovenian authorities do not contest that conclusion.

3.3. Compatibility

- (36) 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.
- (37) 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*”.
- (38) 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*”.
- (39) The measure aims at granting liquidity to companies dealing with public passenger transportation 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.
- (40) 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 employment and economic continuity is widely accepted by economic commentators. 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.
- (41) 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 (9)).

- The overall nominal value of the direct grants does not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (see recitals (9) and (23)). 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 enterprises that were already in difficulty on 31 December 2019 (see recital (15)). The measure therefore complies with point 22(c) of the Temporary Framework;
 - Aid will be granted under the measure no later than 31 December 2021 (see recital (13)). The measure therefore complies with point 22(d) of the Temporary Framework;
- (42) The Slovenian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). 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 are respected and the cumulation rules of the relevant Regulations are respected (recitals (25) to (27)).
- (43) 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

