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Subject: State Aid SA.105295 (2022/N) – Greece
TCF: State aid grants to agricultural undertakings due to the energy crisis and the increase in the cost of fertilisers

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 December 2022, Greece notified aid in the form of limited amounts of aid (“TCF: *Κρατικές ενισχύσεις σε αγροτικές επιχειρήσεις λόγω της ενεργειακής κρίσης και της αύξησης του κόστους των λιπασμάτων*”, “the measure”) under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”) ⁽¹⁾. On 3, 25 and 26 January 2023, Greece submitted complementary information.
- (2) Greece exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

⁽¹⁾ Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p. 1). This Temporary Crisis Framework (‘current Temporary Crisis Framework’) replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

Κύριος Νίκος Δένδιας
Υπουργός Εξωτερικών
Βασιλίσσης Σοφίας 5
Ελλάδα - 10671 Αθήνα

Article 3 of Regulation 1/1958 ⁽²⁾ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Greece considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia (“the current crisis”) so far affects the real economy. According to the Greek authorities, the current crisis has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including fertilisers, highly relevant for the agricultural sector. Those effects taken together have caused a serious disturbance of the economy in all Member States. The Greek authorities point out that since mid-2021 there has been a large increase in the prices of the basic fertilisers used by farmers, and those prices have further risen due to the current crisis. This fact led to an increase in the cost of production of agricultural products, with adverse effects on agricultural income and on the purchasing power of consumers, even for basic agri-food products. In this unfavourable context, the effects of the current crisis were added, resulting in the creation of more unfavourable conditions for Greek farmers, especially with regard to the supply of fertilisers, which are a basic category of inputs. In the period from September 2021 to October 2022 the cost of fertilisers has increased by 65%. Prices increased by 34% from February until November 2022 (thus, after the Russian aggression against Ukraine), mainly regarding nitrogen fertilisers ⁽³⁾. The current conditions, with the rise in input and energy prices, cannot be absorbed by the increase of the prices paid by the consumers, resulting in a direct economic impact on the farmers. Consequently, the increase in costs in the farming sector on the one hand and the decrease in demand on the other hand, are a threat to the continuation of agricultural production in Greece. The Greek authorities consider that given that the Russian military aggression against Ukraine is limiting and will continue to limit the agricultural activities of the countries involved, it is clear that market instability will continue to be observed for the next years. The Greek authorities note that Russia and Ukraine are significant fertiliser producers at the global level. Thus, the measure aims at remedying the liquidity shortage faced by undertakings that are directly or indirectly affected by the current crisis.
- (4) Greece 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.

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

⁽³⁾ Data on the increase in the prices of fertilisers was collected by the competent regional services (Directorates of Rural Development and Controls) of the Ministry of Rural Development and Food. <https://www.statistics.gr/en/statistics/-/publication/DKT30/>

- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 1 and 2.1 of the Temporary Crisis 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 the draft of the decision of the Ministers of Finance and Rural Development and Food concerning "Granting aid to agricultural undertakings in accordance with the rules of state aid due to the energy crisis and the increase in the cost of fertilisers in accordance with article 95 of Law 4982/2022 (A' 195)" ⁽⁴⁾.

2.3. Administration of the measure

- (8) The OPEKEPE ⁽⁵⁾ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget is EUR 60 million, financed from the State budget.
- (10) 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 2023.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings (natural or legal persons, and other legal entities) affected by the current crisis and active in the primary agricultural production sector.
- (12) Greece confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.
- (13) Greece confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable

⁽⁴⁾ Απόφαση των Υπουργών Οικονομικών, Αγροτικής Ανάπτυξης και Τροφίμων που αφορά «Χορήγηση ενίσχυσης σε αγροτικές επιχειρήσεις σύμφωνα με τους κανόνες της κρατικής ενίσχυσης λόγω της ενεργειακής κρίσης και της αύξησης του κόστους των λιπασμάτων σύμφωνα με το άρθρο 95 του Ν. 4982/2022. Α' 195)".

⁽⁵⁾ ΟΡΕΚΕΡΕ -ΟΡΕΚΕΡΕ (Οργανισμός Πληρωμών και Ελέγχου Κοινοτικών Ενισχύσεων Προσανατολισμού και Εγγυήσεων)- is the Greek Payment Authority of Common Agricultural Policy (C.A.P.) Aid Schemes. It is a private legal entity operating since 2001 for the public interest. ΟΡΕΚΕΡΕ is supervised by the Ministry of Rural Development and Food (<http://www.orekepe.gr>).

regulations ⁽⁶⁾. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to undertakings active in the primary agricultural sector, as described in recital (11). It applies to the whole territory of Greece. Greece confirms that credit institutions and other financial institutions are excluded from being beneficiaries of the aid.

2.7. Basic elements of the measure

- (15) The measure aims to maintain the continuity of the economic activity of the beneficiaries and will ensure that sufficient liquidity remains available on the market after the difficulties provoked by the consequences of the Russia's military aggression against Ukraine. The measure will also contribute to the stabilisation of the food market, thus ensuring the health and well-being of the citizens, as well as their social and economic interests.
- (16) The aid will be equal to 10.95% ⁽⁷⁾ of the total value of the purchase of fertilisers made by each beneficiary in the period from 1 October 2021 to 30 September 2022 (growing season). The Greek authorities note that the increase of fertiliser prices in the period between February and November 2022 is, on average, 34%. However, aid under the measure may only cover 10.95% of the total value of the purchase of fertilisers during the growing season (i.e. from 1 October 2021 to 30 September 2022). The Greek authorities explain that they have chosen to apply this specific time period merely for calculation purposes ⁽⁸⁾. However, even though that period encompasses also months preceding the Russian aggression against Ukraine, the aid intensity has been set at 10.95% to ensure that only the increase of fertiliser prices that took place after that aggression is in fact addressed by the measure.
- (17) Furthermore, the overall nominal value of the direct grants under the measure will not exceed EUR 250 000 per undertaking, at any given point in time; all figures are gross, that is, before any deduction of tax or other charges.
- (18) The Greek authorities confirm that the aid is not fixed on the basis of the price or quantity of products put on the market.
- (19) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 55(a) and 56(a) of the Temporary Crisis

⁽⁶⁾ For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

⁽⁷⁾ According to the data provided by the Greek authorities, this aid intensity will be equal to less than a third of the average price increase (34%) of fertilisers that occurred between February and November 2022.

⁽⁸⁾ The Greek authorities submit that this period provides reliable quantitative data concerning the increase of the cost of fertilisers for the whole growing season (beginning in October 2021 and ending on 30 September 2022), allowing them to derive an objective calculation method, which will lead to a fair allocation of the total budget of the measure to the potential beneficiaries.

Framework, Greece 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 2 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 56(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 300 000 is not exceeded per undertaking.

2.8. Cumulation

- (20) The Greek authorities confirm that aid granted under the measure will not be cumulated with aid under *de minimis* Regulations ⁽⁹⁾ or the Block Exemption Regulations ⁽¹⁰⁾.
- (21) The Greek authorities confirm that aid under the measure will not be cumulated with other forms of Union financing.
- (22) The Greek authorities confirm that aid under the measure will not be cumulated with aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ⁽¹¹⁾ (“COVID-19 Temporary Framework”).
- (23) The Greek 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 Crisis Framework provided the provisions in those specific sections are respected.
- (24) Greece confirms that for aid granted under Section 2.1 of the previous and current Temporary Crisis Framework, the aid ceilings provided in the respective section of the current Temporary Crisis Framework are respected at any point in time.
- (25) The Greek 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 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in points 55(a)

⁽⁹⁾ 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) 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).

⁽¹⁰⁾ 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) and Commission Regulation (EU) 2022/2472 of 14 December 2022 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 327, 21.12.2022, p. 1).

⁽¹¹⁾ 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 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1) and C(2022) 7902 (OJ C 423, 7.11.2022, p. 9).

or in 56(a) of that framework, will be respected. Aid granted under the measure and other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework which has been reimbursed before granting of new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (26) The Greek authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within twelve months from the moment of granting ⁽¹²⁾).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (27) By notifying the measure before putting it into effect, the Greek authorities have respected their obligations under Article 108(3) TFEU (recital (7)).

3.2. Existence of State aid

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by the OPEKEPE, the Greek Payment Authority of Common Agricultural Policy, (recital (8)) and it is based on the draft of the Decision of the Ministers of Finance and Rural Development and Food concerning "Granting aid to agricultural undertakings in accordance with the rules of state aid due to the energy crisis and the increase in the cost of fertilisers" (recital (7)). It is financed through State resources, since it is financed by public funds (recital (9)).
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in the primary agricultural sector, excluding the financial sector (recital (14)).

⁽¹²⁾ Referring to information required in Annex III to Commission Regulation (EU) 2022/2472.

- (32) 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.
- (33) Therefore, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Greek authorities do not contest that conclusion.

3.3. Compatibility

- (34) 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.
- (35) 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*”.
- (36) By adopting the Temporary Crisis Framework, the Commission acknowledged (in Section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agricultural sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Greece. 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 if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine.
- (37) The measure aims at providing liquidity to certain undertakings active in the primary production of agricultural products at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Greece.
- (38) The measure is one of a series of measures conceived at national level by the Greek authorities to remedy a serious disturbance in the Greek economy. The importance of the measure to ensure sufficient liquidity of the beneficiaries that face cost increases of fertilisers, fuel, and other production inputs is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Greek economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in Section 2.1 of the Temporary Crisis Framework.
- (39) 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 relevant conditions of the Temporary Crisis Framework. In particular:

- The aid takes the form of direct grants (recital (6)).
 - The overall nominal value of the grants does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products; all figures used are gross, that is before any deduction of tax or other charges (recital (17)). If the beneficiary receives aid on several occasions under the measure or aid under other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in points 55(a) or 56(a) of that framework, will be respected (recital (24)). The measure therefore complies with point 56(a) of the Temporary Crisis Framework.
 - 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 55(b) of the Temporary Crisis Framework.
 - Aid will be granted under the measure no later than 31 December 2023, as indicated in recital (10). The measure therefore complies with point 55(c) of the Temporary Crisis Framework.
 - Aid will be granted only to undertakings affected by the current crisis (recitals (3), (11) and (16)). The measure therefore complies with point 55(d) of the Temporary Crisis Framework.
 - Aid granted is not fixed on the basis of the price or quantity of products put on the market (recital (18)). The measure therefore complies with point 56(b) of the Temporary Crisis Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 55(a) and 56(a) of the Temporary Crisis Framework, Greece 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 2 000 000 is not exceeded per undertaking (recital (19)). Where an undertaking is active in the sectors covered by point 56(a) of the Temporary Framework, the overall maximum amount of EUR 300 000 is not exceeded per undertaking (recital (19)). The measure therefore complies with point 57 of the Temporary Crisis Framework.
- (40) Greece confirms that, in accordance with point 84 of the Temporary Crisis Framework, overall aid granted under Section 2.1 of the previous and current Temporary Crisis Framework will not exceed the aid ceilings provided in the respective section of the current Temporary Crisis Framework at any point in time (see recital (24)).
- (41) The Greek authorities confirm that, pursuant to point 46 of the Temporary Crisis Framework, 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 (4)).

- (42) The Greek authorities confirm that, pursuant to point 47 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recitals (12) and (13)).
- (43) The Greek authorities confirm that the monitoring and reporting rules laid down in Section 3 of the Temporary Crisis Framework will be respected (recital (26)). The Greek authorities further confirm that the aid under the measure may only be cumulated with other aid under the Temporary Crisis Framework, provided the specific provisions of that Framework are respected (recitals (20) to (23)).
- (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 Crisis 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