EUROPEAN COMMISSION

Brussels 17.11.2023
C(2023) 7981 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: **State Aid SA.109597 (2023/N) – Slovakia**
TCTF: Aid to undertakings in the form of guarantees, guarantee fee subsidies and partial rebates of loan principals

State Aid SA.109598 (2023/N) – Slovakia
TCTF: Aid to undertakings in the form of a guarantee and partial rebates of loan principals

Excellency,

1. PROCEDURE

(1) By two electronic notifications of 6 October 2023, Slovakia notified:

(a) the aid SA.109597 (2023/N) in the form of limited amounts of aid and liquidity support in the form of guarantees (‘*aid to enterprises in the form of a guarantee, guarantee fee subsidies and a partial rebate of the loan principal*’, the ‘measure A’), and

(b) the aid SA.109598 (2023/N) in the form of limited amounts of aid (‘*aid to enterprises in the form of a guarantee and a partial rebate of the loan principal*’, the ‘measure B’; measure A and measure B together, the ‘measures’)

Miroslav Wlachovský
Ministerstvo zahraničných vecí a európskych záležitostí SR
Hlboká cesta 2
833 36 Bratislava 37
Slovak Republic

under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the 'Temporary Crisis and Transition Framework' or 'TCTF') ([1]).

(2) Slovakia 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 ([2]) and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

(3) Slovakia considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia have economic repercussions on the entire internal market ('the current crisis').

(4) The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas ([3]) and electricity ([4]), but also in numerous other input and raw materials and primary goods. The Slovak economy specifically encountered major negative impacts from the sharp increase in energy prices (electricity and gas commodities). ([5]) In particular, the impact on industrial small and medium-sized enterprises has been significant, leading to restrictions in production, rising product prices and even a decline in the activity of firms, with significant social consequences. This impact is significant as Slovakia's industrial enterprises are characterised by high energy intensity. For example, the metallurgical, glass, chemical, cement and plastics industries, which are also suffering from high energy prices, are unable to fully pass these costs on to the end customers, with the result that many companies are operating at a loss.

([1]) Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1), ('Temporary Crisis Framework'), which had already replaced the previous Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

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

([3]) The Institute for Economic Analyses ('IHA') of the Ministry of the Economy of the Slovak Republic expects gas consumption in the corporate sector to increase from just under EUR 500 million in 2021 to almost EUR 2.4 billion in 2023. The increase in costs is expected despite the fact that gas consumption is expected to fall by 8%.

([4]) Between 2021 and 2023, the IHA expects the cost of supplying electricity to the corporate sector to increase by a factor of about five, from around EUR 1 billion to almost EUR 5 billion in 2023, based on current forward prices. The increase in costs is expected despite the fact that electricity consumption is expected to fall by 18% between 2021 and 2023.

([5]) According to the latest forecast by the Finance Ministry's Financial Policy Institute ('IFP'), growth in Slovakia is expected to decline from 1.7% in 2022 to 1.3% in 2023. However, as the IFP's macroeconomic commentary suggests, even this development depends on a slow pace of fiscal consolidation, as under current conditions a balanced budget in 2024 would cause the economy to enter a recession of -6.4%. IFP's macroeconomic commentary: https://www.mfsr.sk/files/archiv/50/Komentar_MV_sep2023.pdf

(5) Thus, the measures aim to remedy the liquidity shortage faced by undertakings that are affected by the serious disturbance of the economy.

(6) Slovakia confirms 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 European Economic Area ('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 measures is based on Article 107(3), point (b), TFEU, in light of sections 1, 2.1 and, for the measure A additionally, 2.2 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

(8) Measure A provides aid on the basis of a scheme in the form of guarantees on loans, guarantee fee subsidies, and partial rebates of the principal of guaranteed loans.

(9) Measure B provides aid on the basis of a scheme in the form of guarantees on loans and partial rebates of the principal of guaranteed loans.

2.2. Legal basis

(10) The legal bases for the measures are:

(a) 'Act No. 523/2004 Coll. on Budget Rules of Public Administration and on Amendments and Additions to Certain Acts'; ([6])

(b) 'Act No. 358/2015 on the regulation of certain relations in the field of state aid and minimum aid and on the amendment and supplementation of certain acts'; ([7])

(c) 'Act No. 368/2021 Coll. on the Mechanism for Supporting Recovery and Resilience and on Amendments to Certain Acts, as amended'; ([8])

(d) 'Act No. 121/2022 Coll. on contributions from European Union funds and amending certain acts'; ([9])

(e) 'Act 357/2015 Coll. on financial control and audit and on the amendment to certain acts, as amended'; ([10])

(f) Draft of the TCTF Scheme of State Aid pursuant to section 2.1 and 2.2 Temporary Crisis and Transition Framework for State Aid Measures to Undertakings in the Form of Guarantee, Waiver on Guarantee Fee and Partial Rebate on Loan Principal (Guarantee Instrument for Aiding SMEs

([6]) Act No. 523/2004: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/523/

([7]) Act No. 358/2015: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/358/20160101

([8]) Act No. 368/2021: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2021/368/20220719

([9]) Act No. 121/2022: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/121/20230901

([10]) Act No. 357/2015: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/357/20230701 and Other Selected Priorities 2) ([11]) as a compulsory and binding secondary norm under Act No. 358/2015 Coll. above, applicable for Measure A;

(g) Draft of the TCTF Scheme of State Aid pursuant to section 2.1 Temporary Crisis and Transition Framework for State Aid Measures to Undertakings in the Form of Guarantee and Partial Rebate on Loan Principal (Guarantee Instrument for Aiding SMEs and Other Selected Priorities 1) ([12]) as a compulsory and binding secondary norm under Act No. 358/2015 Coll. above, applicable for Measure B.

2.3. Administration of the measures

(11) *SLOVAK INVESTMENT HOLDING*, a.s. (SIH), (the 'SIH') a joint stock company set up and fully owned by the Ministry of Economy of the Slovak Republic, is responsible for administering the measures.

2.4. Budget and duration of the measures

(12) The estimated budget of the measure A is EUR 296 million. Of this amount EUR 105 million is allocated for guarantees and EUR 191 million is allocated for guarantee fee subsidies, and partial rebates of the principal of guaranteed loans. The measure A is funded by the State budget as well as other national-level public resources and EU structural funds managed by Slovakia.

(13) The estimated budget of the measure B is EUR 264 million. Of this amount EUR 105 million is allocated for guarantees and EUR 159 million is allocated for partial rebates of the principal of guaranteed loans. The measure B is funded by the State budget as well as other national-level public resources and EU structural funds managed by Slovakia.

(14) Aid may be granted under the measures as from the notification of the Commission's decision approving the measure until no later than 31 December 2023.

2.5. Beneficiaries

(15) The final beneficiaries of the measures are SMEs ([13]) and large enterprises ([14]) operating in Slovakia and affected by the crisis (see recitals (26) and (44).

([11]) *In Slovak: Schéma štátnej pomoci podľa oddielu 2.1. a 2.2. Dočasného krízového a prechodného rámca na poskytnutie pomoci podnikom vo forme záruky, odpustenia záručného poplatku a odpustenia časti istiny (záručný nástroj na podporu MSP a ďalších vybraných priorít 2.*

([12]) *In Slovak: Schéma štátnej pomoci podľa oddielu 2.1. Dočasného krízového a prechodného rámca na poskytnutie pomoci podnikom vo forme záruky a odpustenia časti istiny (záručný nástroj na podporu MSP a ďalších vybraných priorít 1.*

([13]) 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).

([14]) As defined in Article 2, point 24, 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 (OJ L 187, 26.6.2014, p. 1).

However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.

(16) Aid is granted under the measures through credit institutions and other financial institutions as financial intermediaries.

(17) Slovakia confirms that the aid under the measures are not granted to undertakings under sanctions adopted by the Union, 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 Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.

(18) Slovakia confirms that the measures may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations. ([15]) In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measures.

2.6. Sectoral and regional scope of the measures

(19) The measures are open to all sectors except the financial sector. They apply to the whole territory of Slovakia.

2.7. Basic elements of the measures

(20) Measure A provides aid in the form of:

(a) guarantee fee subsidies and partial rebates of the principal of guaranteed loans under section 2.1 (Limited amounts of aid) of the TCTF (explained under section 2.7.1 below); in combination with

(b) guarantees on loans under section 2.2. (Liquidity support in the form of guarantees) of the TCTF (explained under section 2.7.3 below).

(21) Measure B provides aid in the form guarantees on loans and partial rebates on the principal of guaranteed loans under section 2.1 (Limited amounts of aid) of the TCTF (explained under section 2.7.2 below).

2.7.1. Measure A – Limited amounts of aid

(22) Limited amounts of aid are provided in the form of guarantee fee subsidies and partial rebates of the principal of guaranteed loans (together ‘subsidies’) up to the limit defined in section 2.1 of the TCTF.

([15]) 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).

(23) The guarantee fee subsidies are granted, provided that all repayments within the reference period of one year since the granting of the loan are made in full and on time, i.e., no repayment is more than 15 days late. ([16])

(24) Furthermore, if the beneficiary completes the investment for which the loan was provided, part of the loan principal shall be waived, up to the limits as defined in the TCTF (see recital (25) below).

(25) The total nominal value of the aid in the form of subsidies – both the guarantee fee subsidy and the waiver of the last instalment – remain below the overall maximum cap of respectively: ([17])

(a) EUR 250 000 per undertaking active in the primary production of agricultural products (while linking enterprises as a single economic unit);

(b) EUR 300 000 per undertaking active in the fishery and aquaculture sectors; and

(c) EUR 2 million per undertaking active outside the sectors referred to in points (a) and (b) of this paragraph.

(d) Where an undertaking is active in several sectors under points (a) to (c) in this paragraph, it will be ensured that for each of those activities the relevant ceiling is respected and that the overall maximum amount of EUR 2 million is not exceeded per undertaking. Where an undertaking is active exclusively in the sectors referred to in points (a) and (b) of paragraph, the overall maximum amount is limited to EUR 300 000 per undertaking.

(26) Slovakia commits that only undertakings affected by the crisis will be granted aid. This is ensured by:

(a) their self-declaration of honour – upon request of the SIH or other authorised audit institutions, the beneficiary is obliged to provide them with concrete evidence to prove the declared facts stated in the self-declaration, namely that the undertaking is affected by the crisis; and

(b) their demonstration that, between 2021 and 2023, they have suffered from an increase in costs of at least 10%, or a decrease in revenue of at least 10%, or both – upon request of the SIH or other authorised audit institutions, the beneficiary is obliged to provide evidence in the form of official documents such as financial statements and tax returns.

(27) Aid granted to undertakings active in the processing and marketing of agricultural products([18]) is conditional on not being partly or entirely passed on to primary

---

([16]) If at least one payment is made more than 15 days after the due date, *or* if any of the repayments is not made in full, guarantee fee subsidy shall not be granted.

([17]) All amounts shall be understood on a gross basis, i.e., before deduction of taxes or other charges.

([18]) As defined in Article 2(44) of 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 on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1).

producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

(28) Aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.

(29) Aid to undertakings active in the fishery and aquaculture sector ([19]) does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) of Commission Regulation (EU) No 717/2014 ([20]).

(30) Aid will be granted by 31 December 2023 at the latest.

(31) Aid will be channelled through financial intermediaries, which are by force of law obliged to pass on the benefit in full to the final beneficiaries. ([21])

2.7.2. *Measure B – Limited amounts of aid*

(32) Limited amounts of aid are provided in the form of guarantees on loans, and partial rebates of the principal of guaranteed loans under section 2.1 of the TCTF.

(33) Furthermore, if the beneficiary completes the investment for which the loan was provided, part of the loan principal shall be waived, up to the limits as defined in the TCTF (see recital (34) below).

(34) The total nominal value of the aid in the form of guarantees and partial rebates of the principal of guaranteed loans remain below the overall maximum cap of respectively: ([22])

(a) EUR 250 000 per undertaking active in the primary production of agricultural products (while linking enterprises as a single economic unit);

(b) EUR 300 000 per undertaking active in the fishery and aquaculture sectors; and

(c) EUR 2 million per undertaking active outside the sections referred to in points (a) and (b) of this paragraph.

(d) Where an undertaking is active in several sectors under points (a) to (c) in this paragraph, it will be ensured that for each of those activities the

([19]) Commission Regulation (EC) 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 90, 28.6.2014, p. 45).

([20]) 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 90, 28.6.2014, p. 45).

([21]) Aid granted in compliance with section 2.1 of the TCTF will be provided in the form of a guarantee fee subsidy and capital rebate, neither of which can be utilised by the credit institution/financial intermediaries. Therefore, by definition, the benefit will be passed on in full.

([22]) All amounts shall be understood on a gross basis, i.e., before deduction of taxes or other charges.

relevant ceiling is respected and that the overall maximum amount of EUR 2 million is not exceeded per undertaking. Where an undertaking is active exclusively in the sectors referred to in points (a) and (b) of paragraph, the overall maximum amount is limited to EUR 300 000 per undertaking.

(35) Guaranteed loans will be used to finance the investments and/or working capital.

(36) The maximum duration of the guaranteed loans is 15 years and there is no minimum duration of the guaranteed loans.

(37) The total maximum volume of the covered loans per beneficiary will not exceed:

(a) EUR 312 500 in the case of undertakings active in the primary production of agricultural products;

(b) EUR 375 000 in the case of undertakings active in the fishery and aquaculture sectors;

(c) EUR 2 500 000 in the case of undertakings active in the sectors other than those under (a) and (b) above. ([23])

(38) The maximum amount of the guarantee is 80% of the loan principal.

(39) The duration of the guarantee is 0-15 years, depending on the duration of the underlying loan.

(40) Losses are sustained proportionally and under same conditions by the credit institution and the State, with a guarantee cap of 25% of the covered loan portfolio. ([24])

(41) The guarantee will be provided free of charge, i.e. the guarantee premiums are zero.

(42) The guarantee covers the full duration of the underlying loan.

(43) Aid will be granted by 31 December 2023 at the latest.

(44) Slovakia commits that only undertakings affected by the crisis will be granted aid. This is ensured by:

(a) their self-declaration of honour – upon request of the SIH or other authorised audit institutions, the beneficiary is obliged to provide them with concrete evidence to prove the declared facts stated in the self-declaration, namely that the undertaking is affected by the crisis; and

(b) their demonstration that, between 2021 and 2023, they have suffered from an increase in costs of at least 10%, or a decrease in revenue of at least 10%, or both – upon request of the SIH or other authorised audit

([23]) Depending on the amount of the intended capital rebate, these maximum amounts shall be reduced proportionately before the loan is granted, so that the sum of the two forms of aid does not exceed the maximum amounts specified in recital (33).

([24]) Payments under a portfolio guarantee are additionally capped at 25% of the guaranteed portfolio.

institutions, the beneficiary is obliged to provide evidence in the form of official documents such as financial statements and tax returns.

(45) In the case where the beneficiary receives aid on several occasions or in several forms under the notified aid scheme under section 2.1 or under another existing scheme approved by the Commission under section 2.1, the overall maximum cap per undertaking as set out in recital (33) and in points 61(a) and 62(a) of the TCTF is respected.

(46) Aid granted to undertakings active in the processing and marketing of agricultural products ([25]) is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

(47) Aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.

(48) Aid to undertakings active in the fishery and aquaculture sector ([26]) does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) of Commission Regulation (EU) No 717/2014 ([27]).

(49) The mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the financial intermediaries and the State when the guarantee is initially granted.

(50) Aid will be channelled through financial intermediaries. For guarantees, the credit institution is by force of law obliged to pass on the advantage of the guarantee to the beneficiaries to the greatest extent possible and must be able to demonstrate that it uses a mechanism that ensures the fulfilment of this obligation, namely by reducing the risk related margin on the interest rate (i.e. lower guarantee premiums or lower interest rates) to the value corresponding at least to the guaranteed part of the loan at the level of a minimum of 80% of the loan principal amount. As capital rebates cannot be utilised by the credit institution, the advantage is passed on in full.

2.7.3. Measure A – Liquidity support in the form of guarantees

(51) Liquidity support in the form of guarantees is granted under section 2.2 of the TCTF. Specifically:

([25]) As defined in Article 2(44) of 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 on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1).

([26]) Commission Regulation (EC) 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 90, 28.6.2014, p. 45).

([27]) 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 90, 28.6.2014, p. 45).

(a) guarantees will be provided on new individual loans made to undertakings (excluding credit institutions or other financial institutions);

(b) guarantees will be used to finance the investments and/or working capital;

(c) the maximum duration of the guaranteed loans is six years and there is no minimum duration of the guaranteed loans;

(d) the maximum amount of the loan will be (i) 15% of the beneficiary's average total annual turnover over the last three closed accounting periods or ([28]) (ii) 50% of energy costs over the 12 months preceding the month when the application for aid is submitted ([29]);

(e) the maximum amount of the guarantee is 80% of the loan principal;

(f) the duration of the guarantee is 0-6 years, depending on the duration of the underlying loan;

(g) losses are sustained proportionally and under same conditions by the credit institution and the State, with a guarantee cap of 25% of the covered loan portfolio([30]);

(h) guarantee premiums are set per individual loans at a level increasing progressively as the duration of the guaranteed loan increases:

Type of beneficiary	**For 1st year**	**For 2nd-3rd year**	**For 4th-6th year**
SMEs	25 basis points	50 basis points	100 basis points
Large enterprises	50 basis points	100 basis points	200 basis points

(i) guarantees will be granted by 31 December 2023 at the latest;

(j) the mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the financial intermediaries and the State when the guarantee is initially granted;

(k) the guarantee covers the full duration of the underlying loan.

(l) the financial intermediary is obliged to pass on the advantage of the guarantee to the beneficiaries to the greatest extent possible and must be able to demonstrate that it uses a mechanism that ensures the fulfilment of

([28]) When the beneficiaries of the measure are newly established enterprises that do not hold three closed annual accounts, the applicable cap provided by this point will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking.

([29]) When the beneficiaries of the measure are newly established enterprises that do not have records for the entirety of the preceding twelve months, the applicable cap provided by this point will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking.

([30]) Payments under a portfolio guarantee are additionally capped at 25% of the guaranteed portfolio.

this obligation, namely by reducing the risk related margin on the interest rate to the value corresponding at least to the guaranteed part of the loan at the level of a minimum of 80% of the loan principal amount.

2.8. Compliance with relevant provisions of Union law

(52) The Slovak authorities confirm that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law.

2.9. Cumulation

(53) The aid ceilings and cumulation maxima fixed under the measures will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Structural and Investment Funds (ESIF).

(54) The Slovak authorities confirm that aid granted under the measures may be cumulated with aid under *de minimis* Regulations ([31]) or the General Block Exemption Regulation, the Agriculture Block Exemption Regulation and the Fisheries Block Exemption Regulation ([32]) provided the provisions and cumulation rules of those Regulations are respected.

(55) The Slovak authorities confirm that aid under the 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.

(56) The Slovak authorities confirm that aid under the measures may be cumulated with aid under the COVID- Temporary Framework ([33]). Those measures were

---

([31]) 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).

([32]) 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 of 26.6.2014, p. 1), 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 on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1) and Commission Regulation (EU) 2022/2473 of 14 December 2022 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 on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 82).

([33]) These measures are:

- SA.56986 COVID-19 TF aid to preserve employment and self-employment during the health crisis as amended by SA.63294, SA.101016;
- SA.57483 Covid-19 Government Resources Higher Level Liquidity Needs Support State Aid Scheme – Eximbanka as amended by SA.59982, SA.61931;

approved by the Commission under the COVID-19 Temporary Framework ([34]) and the aid under the notified measures may be cumulated with those measures provided the respective cumulation rules are respected.

(57) The Slovak 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 Crisis and Transition Framework provided the provisions in those specific sections are respected.

(58) Slovakia confirms that for aid granted under sections 2.1 and 2.2 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework, the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework are respected at any point in time.

(59) The Slovak 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 2.1 of the Temporary Crisis and Transition Framework, the overall maximum cap per undertaking, as set out in point(s) 61(a) and 62(a) of that framework, will be respected. Aid granted under the measures and other measures approved by the Commission under section 2.1 of the Temporary Crisis and Transition Framework which has been reimbursed before granting new aid under the notified measures will not be taken into account in determining whether the relevant ceiling is exceeded.

- SA.57484 Covid-19 Government Resources Basic Level Liquidity Needs Support State Aid Scheme – SIH as amended by SA.59982, SA.63394, SA.100963;
- SA.57485 Covid-19 ESIF Basic Level Liquidity Needs Support State Aid Scheme – SIH State Aid as amended by SA.59982, SA.63394, SA.100963;
- SA.57599 COVID-19: Rent rebate for tenants as amended by SA.64688, SA.100900;
- SA.57829 (2020/N) – State aid scheme for temporary aid to support COVID-19 research, development and testing as amended by SA.59808;
- SA.58054 (2020/N): ESIF Liquidity Support State Aid Scheme for Innovative Companies with Limited Access to Credit Facilities as amended by SA.62712;
- SA.59240 COVID-19 – Aid to airport operators as amended by SA.63467, SA.100845;
- SA.59768 State aid scheme to support innovative enterprises with limited access to loan financing from ESIF resources in the context of the COVID-19 outbreak – SIH as amended by SA.58054, SA.62712;
- SA.59996 COVID 19: costs subsidies under 3.1 of the TF as amended by SA.64688;
- SA.60212 Covid 19 – Aid for professional sport clubs – SK as amended by SA.62727;
- SA.62256 COVID 19 – support to the tourism sector
- SA.64415 COVID-19: State aid scheme to safeguard liquidity for travel agencies;
- SA.64148 – Support to professional sport clubs II as amended by SA.100962;
- SA.100438 COVID-19: Aid scheme to support Slovak air carriers;
- SA.101088 COVID-19 - SK - Bus companies.

([34]) 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), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

(60) The Slovak authorities confirm that for the same underlying loan principal aid granted under section 2.2 of the Temporary Crisis and Transition Framework will not be cumulated with aid granted under section 2.3 of that framework and vice versa or sections 3.2 or 3.3 of the COVID-19 Temporary Framework.

(61) A beneficiary may benefit in parallel from multiple schemes under section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 67(e) of the Temporary Crisis and Transition Framework.

2.10. Monitoring and reporting

(62) The Slovak authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition 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 primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting ([35]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(63) By notifying the measures before putting it into effect, the Slovak authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(64) 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.

(65) The measures are imputable to the State, since they are administered by SLOVAK INVESTMENT HOLDING, a.s. (SIH), a fully owned subsidiary of the Ministry of Economy of the Slovak Republic, and they are based on the applicable national legal acts as well as bylaws of SIH (recital (10)). They are financed through State resources, since they are financed by the State budget and co-financed by EU structural funds (recitals (12) and (13)).

(66) The measures confer an advantage on their beneficiaries in the form of guarantees, guarantee fee subsidies, and partial rebates on loan principals (recitals (8) and (9)). The measures thus confer an advantage on those beneficiaries which they would not have had under normal market conditions.

([35]) Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) 2022/2472 and Annex III to Commission Regulation (EU) 2022/2473. For guarantees, loans other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

(67) The advantage granted by the measures is selective, since it is awarded only to certain undertakings, excluding the financial sector (recital (15)).

(68) 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.

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

3.3. Compatibility

(70) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measures are compatible with the internal market.

(71) Pursuant to Article 107(3), point (b), TFEU, the Commission may declare compatible with the internal market aid '*to remedy a serious disturbance in the economy of a Member State*'.

(72) By adopting the Temporary Crisis and Transition Framework, the Commission acknowledged (in section 1) that 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.

(73) Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Slovakia. The Commission concluded that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (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 current crisis.

(74) The measures aim at facilitating the access of undertakings to external finance 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 Slovakia.

(75) The measures are part of a series of measures conceived at national level by the Slovak authorities to remedy a serious disturbance in their economy. The importance of the measures to stimulate lending by private banks to enterprises during the current crisis or to compensate for the severe increase in natural gas and electricity prices is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Slovak economy. Furthermore, the measures have been designed to meet the requirements for the specific categories of aid ('*Aid in the form of limited amount of aid and liquidity support in the form of guarantees*') described in sections 2.1 and 2.2 of the Temporary Crisis and Transition Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in point 67(i) of the Temporary Crisis and Transition Framework.

(76) 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 relevant conditions of the Temporary Crisis and Transition Framework. In particular:

For limited amounts of aid under section 2.1 of the TCTF granted under Measure A and B:

- The aid takes the form of guarantees, guarantee fee subsidies, and partial rebates on loan principals (recitals (8) and (9));

- The overall nominal value of guarantees, guarantee fee subsidies, and partial rebates on loan principals will not exceed EUR 2 000 000 per undertaking per Member State; all figures used must be gross, that is, before any deduction of tax or other charges (recitals (23) and (33)). The measures therefore comply with point 61(a) of the Temporary Crisis and Transition Framework;

- Aid is granted under the measures on the basis of schemes with estimated budgets as indicated in recitals (12) and (13). The measures therefore comply with point 61(b) of the Temporary Crisis and Transition Framework;

- Aid will be granted under the measures no later than 31 December 2023. The measures therefore comply with point 61(c) of the Temporary Crisis and Transition Framework;

- Aid will be granted only to undertakings affected by the crisis (recital (15)). The measures therefore comply with point 61(d) of the Temporary Crisis and Transition Framework;

- Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (recitals (27) and (46)). The measures therefore comply with point 61(e) of the Temporary Crisis and Transition Framework;

- The overall nominal value of guarantees, guarantee fee subsidies and partial rebates on loan principals does not exceed EUR 250 000 or 300 000 per undertaking active in the primary production of agricultural products, fishery and aquaculture sectors per Member State; all figures used must be gross, that is, before any deduction of tax or other charges (recitals (23) and (33)). The measures therefore comply with point 62(a) of the Temporary Crisis and Transition 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 (recitals (27) and (46)). The measures therefore comply with point 62(b) of the Temporary Crisis and Transition 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(1), points (a) to (k), of Regulation (EU) No 717/2014 (recitals (29) and (48)). The measures therefore comply with point 62(c) of the Temporary Crisis and Transition Framework;

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework, Slovakia 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 per Member State (recitals (23) and (33)). Where an undertaking is active in the sectors covered by point 62(a) of the Temporary Crisis and Transition Framework, the overall maximum amount of EUR 300 000 is not exceeded per undertaking per Member State (recitals (23) and (33)). The measures therefore comply with point 63 of the Temporary Crisis and Transition Framework;

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (49)).

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. There is a legally binding and enforceable obligation of the credit institutions or other financial institutions acting as intermediaries to pass on the benefits granted by the measures to the final beneficiaries of the aid. The advantages of the measures are passed on to the final beneficiaries in the form of lower guarantee premiums or interest rates. These safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recitals (31) and (50)). The measure therefore complies with point 67(i) of the Temporary Crisis and Transition Framework.

<u>For guarantees granted under section 2.2 of the TCTF under Measure A:</u>

- Guarantees may be granted on new individual loans made to undertakings (recital (51)). The measure A therefore complies with point 67(a) of the Temporary Crisis and Transition Framework;

- The measure A sets minimum levels for guarantee premiums as laid down in in point 67(b) of the Temporary Crisis and Transition Framework (recital (51)). It therefore complies with the requirements in point 67(b) of the Temporary Crisis and Transition Framework;

- Guarantees may be granted under the measure A until 31 December 2023 at the latest (recital (51)). The measure A therefore complies with point 67(d) of the Temporary Crisis and Transition Framework;

- The maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 67(e) of the Temporary Crisis and Transition Framework (recital (51)). The Slovak authorities confirm that the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the previous Temporary Crisis Framework and/or the COVID-19 Temporary Framework (recital (60)). The Slovak authorities confirm that if additional support is granted to cover new liquidity needs not included in the original liquidity plan, the same liquidity needs are only covered once and such additional support complies with all the conditions under the Temporary Crisis and Transition Framework. The measure A therefore complies with point 67(e) of the Temporary Crisis and Transition Framework;

- The measure A limits the duration of the guarantees to a maximum of 6 years (recital (51)). Those guarantees cover 80% of the loan principal and losses stemming from the loans are sustained proportionally and under same conditions by the implementing institution and the State (recital (51)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (51)). The measure A therefore complies with point 67(f) of the Temporary Crisis and Transition Framework;

- Guarantees granted under the measure relate to investment and/or working capital loans (recital (51)). The measure A therefore complies with point 67(h) of the Temporary Crisis and Transition Framework;

- The measures introduce safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. The safeguards are provided in the form of lower guarantee premiums or interest rates. There is a legally binding and enforceable obligation of the credit institutions or other financial institutions acting as intermediaries to pass on the benefits granted by the measures to the final beneficiaries of the aid. The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (51)(l)). The measures therefore comply with point 67(i) of the Temporary Crisis and Transition Framework.

- The cumulation rules set out in point 59 of the Temporary Crisis and Transition Framework are respected (recitals (53) to (61)).

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (51)(j)).

(77) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market ([36]).

(78) Slovakia has confirmed that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law (recital (53). In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.

([36]) Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paras, 96 *et seq*.

(79) The Commission takes note that the Slovak authorities committed to monitor the measure, to report on its implementation (recital (62)), and to take all necessary measures to ensure that the measure remains in line with relevant provisions of Union law.

(80) Therefore, the Commission considers that the measures do not infringe any relevant provisions of Union law.

(81) Slovakia confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall aid granted under sections 2.1 and 2.2 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework will not exceed the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework at any point in time (see recital (58)).

(82) The Slovak authorities confirm that, as required by point 51 of the Temporary Crisis and Transition Framework, the aid under the measures are 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)).

(83) The Slovak authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measures will not be granted to undertakings under sanctions adopted by the Union, 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 Union; or

c) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital (17)).

(84) The Slovak authorities confirm that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (62)). The Slovak authorities further confirm that aid under the measure may only be cumulated with other aid if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework, the previous Temporary Crisis Framework and the COVID-19 Temporary Framework and the cumulation rules in the relevant Regulations and applicable Communications are respected (recital (57)).

(85) The Slovak authorities also confirm that the rules under the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), and European Union Solidarity Fund (EUSF) will be respected.

(86) The Commission therefore concludes that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and are compatible with the internal market pursuant to Article 107(3), point

(b) TFEU, since they meet all the relevant conditions of the Temporary Crisis and Transition Framework.

4. CONCLUSION

The Commission has decided not to raise objections to the aid on the grounds that they are compatible with the internal market pursuant to Article 107(3), point (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: https://competition-cases.ec.europa.eu/search?caseInstrument=SA.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Didier REYNDERS
Member of the Commission

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION