EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.109076 (2023/N) – Slovakia
TCTF: Reduction of social contributions due by employers in agriculture and food sectors**

Excellency,

1. PROCEDURE

(1) By electronic notification of 16 August 2023, Slovakia notified aid in the form of limited amounts of aid ("*Reduction of social contributions due by employers in agriculture and food sectors*", the "measure") 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") ([1]). Slovakia submitted additional information on 7 and 12 September 2023.

([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 The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

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(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 MEASURE

(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'). 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 and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. Slovakia considers that, although the current crisis affects all sectors of the economy of Slovakia, the effects of the crisis on the agriculture and food industry should be addressed with priority due to their importance for the population. The increase in oil and gas prices results in higher prices for energy and other input costs in food production. The prices of the supply of products and services (inputs) to agriculture and the food industry increased by 39,8% year-on-year in 2022. Record increases were recorded mainly in the prices of fertilizers and soil improvers (+ 139,7%), energy and lubricants (+ 79,5%), animal feed (+ 43,6%), seeds and seedlings (+ 18,0%) and agricultural machinery and other equipment (+ 18,5%). In the first quarter of 2023, the input price index continued to increase by 18,1% year-on-year, which was mainly influenced by the high prices of energy and lubricants (+ 31,8%), animal feed (+29,2%), fertilizers and soil improvers (+ 21,5%).

(4) Thus, the measure aims to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy.

(5) Slovakia 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.

(6) The compatibility assessment of the measure is based on Article 107(3), point (b) TFEU, in light of sections 1 and 2.1 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

(7) The measure provides aid in the form of a reduction of social contributions due by employers.

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

2.2. Legal basis

(8) The legal bases for the measure are the following laws and decrees:

(a) Law no. 358/2015 Coll. on the adjustment of certain relations in the field of state aid and minimum aid and on the amendment of certain laws (Law on State Aid) ([3]);

(b) Law no. 274/2023 supplementing Law no. 461/2003 Coll. on social insurance and amending Law no 43/2004 Coll on old-age pension savings;

(c) Act no. 357/2015 Coll. on financial control and audit and on the amendment of certain laws, as amended;

(d) Act no. 523/2004 Coll. on budgetary rules of public administration and amendments to certain laws, as amended;

(e) Draft Guidelines on "State aid scheme to reduce social contributions due by employers in agriculture and the food industry following Russia's aggression against Ukraine", that actually set the conditions of application of the measure. According to section P(1) of those Draft Guidelines, the Draft Guidelines will be published in the Official Gazette after the approval by the Commission of the scheme and will only enter into force on the day of that publication.

2.3. Administration of the measure

(9) The Social Insurance Agency, a body governed by public law and entrusted with the operation of sickness insurance and pension funding, is the granting and managing authority.

2.4. Budget and duration of the measure

(10) The estimated budget of the measure is EUR 70 million and is financed by giving up public funds.

(11) 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

(12) The beneficiaries of the measure are micro, small, medium-sized ([4]) and large undertakings operating in specific sectors of agriculture, food industry and beverage sector identified in the Draft Guidelines by reference to their NACE

([3]) Art. 9 (1) of the Act on State aid contains a general standstill clause.

([4]) As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 ("GBER") 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).

Codes ([5]). Credit and financial institutions are therefore excluded from the scope of this scheme.

(13) Slovakia estimates the number of beneficiaries to be around 6 000.

(14) Slovakia confirms that the aid under the measure is 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.

(15) Slovakia confirms that the measure 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 ([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

(16) The measure is open only to undertakings operating in the sectors referred to in recital (12), which have been affected by the current crisis (recital (3)).

(17) The measure applies to the whole territory of Slovakia.

2.7. Basic elements of the measure

(18) The aim of the measure is to support undertakings active in the sectors referred to in recital (12) by reducing the cost of labour through a temporary reduction of social contributions due by employers.

(19) The eligible period for the reduction of the social contributions covers the period from 1 August 2023 until 31 January 2024. As mentioned in recital (11), aid will however be granted no later than 31 December 2023.

(20) The reduction will in principle ([7]) correspond to an amount up to EUR 700 per month per employee in the eligible period. If the social contribution to be paid is lower than EUR 700 per month, the beneficiary will be exempted from payment.

(21) The overall aid under the measure will not exceed at any given point in time EUR 250 000 per undertaking in Slovakia active in the primary production of

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([5]) The measure exclusively applies to the following NACE codes: in the agriculture sector, for animal production: 01.41, 01.42, 01.45, 01.46, 01.47; in the food sector: 10.11, 10.12, 10.13, 10.20, 10.31, 10.32, 10.39, 10.41, 10.42, 10.51, 10.61, 10.71, 10.73, 10.81, 10.83, 10.84, 10.85, 10.86, 10.89, 10.91; in the beverage sector: 11.07.

([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]) Specific rules apply notably in the case of seasonal employees.

agricultural products, EUR 300 000 per undertaking in Slovakia active in the processing of fisheries and aquaculture, and EUR 2 million per undertaking in Slovakia in other sectors. All these amounts are expressed as a gross amount, i.e. before deduction of tax or other charges.

(22) The Slovak authorities confirm that aid granted 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.

(23) They also confirm that 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.

(24) 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. Where an undertaking is only 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.

(25) The Slovak authorities confirm that 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 and is 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.

2.8. Compliance with relevant provisions of Union law

(26) The Slovak authorities confirm that the proposed measure does not by itself, or by the conditions attached to it or by its financing method, constitute a non-severable violation of Union law.

2.9. Cumulation

(27) The Slovak authorities confirm that aid granted under the measure may not be cumulated for the same eligible costs (the social security contributions due in the eligible period from August 2023 until January 2024) with de minimis Aid ([8]),

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([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), 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 of 26.4.2012, p. 8).

with aid under the General Block Exemption Regulation ([9]), with aid under the Agricultural Block Exemption Regulation ([10]), with aid under the Fisheries Block Exemption Regulation ([11]), with aid under the COVID-19 Temporary Framework) ([12]), or with other aid under other sections of the Temporary Framework than section 2.1. Limited amounts of aid.

(28) The Slovak authorities confirm that for aid granted under section 2.1 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.

(29) The Slovak 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 and Transition Framework for other eligible costs, provided the provisions in those specific sections are respected.

(30) The Slovak 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 and Transition Framework, the overall maximum cap per undertaking, as set out in points 61(a) and 62(a) of that framework, will be respected.

2.10. Monitoring and reporting

(31) 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 or above EUR 10 000 in the primary agriculture and fisheries sectors granted under the measure on the comprehensive

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([9]) 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).

([10]) Commission Regulation (EU) No 702/2014 of 25 June 2014 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 193, 1.7.2014, p.1).

([11]) Commission Regulation (EU) No 1388/2014 of 16 December 2014 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 369, 24.12.2014, p. 37).

([12]) 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 340 I, 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).

national State aid website or Commission's IT tool within 12 months from the moment of granting ([13])).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(33) 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.

(34) The measure is imputable to the State, since it is granted by the Social Insurance Agency (recital (9)) and it is based on the legal bases listed in recital (8)). It is financed through State resources, since it is solely financed by national public funds (recital (10)).

(35) The measure confers an advantage on its beneficiaries in the form of a reduction of social contributions that would otherwise be due (recital (7)). The measure thus relieves those beneficiaries of costs they would have had to bear under normal market conditions.

(36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings active in the sectors referred to in recital (12), excluding notably the financial sector.

(37) 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.

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

3.3. Compatibility

(39) 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.

([13]) Referring to information required in Annex III to the GBER and Annex III to Commission Regulation (EU) No 702/2014 of 25 June 2014 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 193, 1.7.2014, p. 1).

(40) 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*".

(41) 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.

(42) 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.

(43) The measure aims at supporting undertakings facing liquidity shortages 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 Slovakia.

(44) The measure is conceived at national level by the Slovak authorities to remedy a serious disturbance in their economy. The importance of the measure to support undertakings facing liquidity shortages because of the current crisis 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 measure has been designed to meet the requirements of a specific category of aid described in section 2.1 of the Temporary Crisis and Transition Framework.

(45) 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 and Transition Framework. In particular:

- the aid takes the form of a reduction of social contributions (recital (7));

- the overall nominal value of the aid does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products in Slovakia, or EUR 300 000 per undertaking active in the fishery and aquaculture sectors in Slovakia, or EUR 2 000 000 per undertaking active in other sectors in Slovakia; all figures used must be gross, that is, before any deduction of tax or other charges (recital (21)). The measure therefore complies with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework;

- aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (10). The measure therefore complies with point 61(b) of the Temporary Crisis and Transition Framework;

- aid will be granted under the measure no later than 31 December 2023 (recital (11)). The measure therefore complies with point 61(c) of the Temporary Crisis and Transition Framework;

- aid will be granted only to undertakings affected by the current crisis (recital (16)). The measure therefore complies 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 (recital (25)). The measure therefore complies with point 61(e) of the Temporary 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 (recital (22)). The measure therefore complies 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 (recital (23)). The measure therefore complies 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 (recital (24)). 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 (recital (24)). The measure therefore complies with point 63 of the Temporary Crisis and Transition Framework.

(46) 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 ([14]).

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

(47) Slovakia has confirmed that the measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law. In addition, the Commission has no indications of any possible breach of Union law that would prevent the measure from being declared compatible with the internal market.

(48) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.

(49) Slovakia confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall aid granted under sections 2.1 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 (recital (28)(21)).

(50) The Slovak authorities confirm that, pursuant to point 51 of the Temporary Crisis and Transition 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)).

(51) The Slovak authorities confirm that, pursuant to point 52 of the Temporary Crisis and Transition 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 (recital (14)).

(52) The Slovak authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (31)). The Slovak authorities further confirm that the aid under the measure may only be cumulated with other aid on different eligible costs, provided the specific provisions in the sections of the Temporary Crisis and Transition Framework and the cumulation rules of the relevant Regulations and applicable Communications are respected (recitals (27) to (30)).

(53) 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), point (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), 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.

Yours faithfully,

For the Commission

Didier REYNDERS
Member of the Commission