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**Subject: State Aid SA.101016 (2021/N) – Slovakia
COVID-19: Temporary Framework aid for preserving employment
and self-employment (amendments to SA.56986)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 10 December 2021, Slovakia notified amendments (the “notified amendments”) to State aid measure SA.56986 “Temporary Framework aid for preserving employment and self-employment”, as amended by SA.59280, SA.62004 and SA.63294 (collectively, the “existing aid scheme”)¹ under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).²

¹ Commission decision of 21 April 2020 in case SA.56986 (2020/N) – Slovakia – COVID 19: Temporary Framework aid for preserving employment and self-employment (OJ C 144, 30.4.2020, p. 1) (“initial decision”); Commission decision of 25 November 2020 in case SA.59280 (2020/N) – Slovakia – COVID 19: Temporary Framework aid for preserving employment and self-employment – amendment (OJ C 7, 8.1.2021, p. 1) (“first amendment decision”); Commission decision of 22 March 2021 in case SA.62004 (2021/N) – Slovakia – COVID 19: Second modification of SA.56986 (2020/N) – Temporary Framework aid for preserving employment and self-employment (OJ C 134, 16.4.2021, p. 1) (“second amendment decision”); and Commission decision of 21 June 2021 in case SA.63294 (2021/N) – Slovakia – COVID 19: Third modification of SA.56986 (2020/N) – Temporary Framework aid for preserving employment and self-employment (OJ C 317, 6.8.2021, p. 1) (“third amendment decision”).

² 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),

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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 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) Slovakia wishes to prolong and amend the existing aid scheme, as it considers that the COVID-19 outbreak continues to affect the real economy in Slovakia.
- (4) The scheme comprises two sub-measures: (i) *Aid in the form of direct grants* and (ii) *Aid in the form of wage subsidies and wage-equivalent income support for self-employed individuals*.
- (5) Slovakia intends to introduce the following amendments to the existing aid scheme:
- (a) Prolong the duration of the scheme by six months, until 30 June 2022, in accordance with the Sixth amendment of the Temporary Framework;⁴
 - (b) Increase the maximum overall aid amounts that can be granted per undertaking under sub-measure (i) *Aid in the form of direct grants*, in accordance with the Sixth amendment of the Temporary Framework;⁵
 - (c) Increase the scheme’s overall budget of EUR 3 billion, approved in the third amendment decision on State aid measure SA.63294, to EUR 4 billion. This budget increase aims to cater for the six-month prolongation of the scheme until 30 June 2022. The Slovak authorities informed the Commission of their intention to co-finance the additional budget with funds from the Slovak national budget and the European Structural and Investment Funds (ESIF);
 - (d) Extend the deadline for the payment of the aid granted under the scheme by six months, until 30 September 2022;
 - (e) Extend the deadline by which the relevant undertakings must have started operating to be eligible for aid under the scheme, from 1 February 2020 to 31 December 2021. The Slovak authorities explained that this change

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).

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

⁴ Communication from the Commission Sixth Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (OJ C 473, 24.11.2021, p. 1).

⁵ The revised ceilings are EUR 345,000 per undertaking for undertakings active in the fishery and aquaculture sector, EUR 290,000 per undertaking for undertakings active in the primary production of agricultural products sector, and EUR 2.3 million per undertaking for undertakings active in all other sectors. Slovakia confirmed that these ceilings will be applied in accordance with points 22(a), 23(a) and 23bis of the Temporary Framework.

responds to the worsening of the epidemiological situation in Slovakia, which has led to the introduction of new restrictions on the activity of certain undertakings, such as those active in the food and accommodation services sector; and

- (f) Introduce the requirement that the relevant costs must be incurred by 28 February 2022 to be eligible for aid under the scheme.
- (6) Slovakia further wishes to update the description of the existing aid scheme's legal basis by adding the Resolutions of the Government of the Slovak Republic N° 440/2021 of 10 August 2021 and N° 695/2021 of 24 November 2021. These resolutions declare the state of emergency in Slovakia and impose certain restrictions on the activity of undertakings, given the worsening of the epidemiological situation in Slovakia. None of the amendments described in recital (5) stem from these resolutions. The legal basis for the scheme, as amended, comprises the following:
- Draft administrative decision of the Slovak Ministry of Labour, Social Affairs and Family amending the State aid scheme for temporary aid for preserving employment and self-employment during the COVID-19 outbreak, as amended. The draft administrative decision contains a standstill clause that makes the entry into force of the amendments conditional on the Commission's prior approval thereof;
 - Act 311/2001 on the Labour Code;
 - Act 292/2014 on contributions from the European Structural and Investment Funds and on the amendment of certain laws, as amended;
 - Resolutions of the Government of the Slovak Republic N° 111/2020 of 11 March 2020, N° 113/2020 of 15 March 2020, N° 114/2020 of 15 March 2020, N° 115/2020 of 18 March 2020, N° 645/2020 of 12 October 2020, N° 804/2020 of 16 December 2020, N° 808/2020 of 31 December 2020, N° 30/2021 of 17 January 2021, N° 44/2021 of 20 January 2021, N° 64/2021 of 1 February 2021, N° 72/2021 of 2 February 2021, N° 77/2021 of 5 February 2021, N° 176/2021 of 31 March 2021, N° 215/2021 of 26 April 2021, N° 440/2021 of 10 August 2021 and N° 695/2021 of 24 November 2021, imposing measures to contain the spread of the COVID-19 outbreak; and
 - Decree of the Public Health Authority of 31 December 2020 imposing measures in the event of a threat to public health and restrictions on business operations and mass events.
- (7) Slovakia confirmed that, apart from the notified amendments, as described in recitals (5) and (6), no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered. Slovakia confirmed that all the conditions set out in Sections 2, 3.1, 3.10 and 4 of the Temporary Framework will continue to be respected, and that the commitments provided for the existing aid scheme remain valid.⁶

⁶ The commitment to provide the Commission with a list of the measures put in place on the basis of this scheme by 30 December 2021 has been replaced by a commitment to provide the Commission with such a list by 30 June 2022, in accordance with the Sixth amendment of the Temporary Framework.

- (8) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission's decision approving the notified amendments, until 30 June 2022.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (9) The legal basis contains a standstill clause that makes the entry into force of the amendments conditional on the Commission's prior approval thereof (recital (6)). By notifying the amendments before putting them into effect, the Slovak authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (10) 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 be liable to affect trade between Member States.
- (11) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (31) to (38) of the initial decision, recitals (32) to (38) of the first amendment decision, recitals (31) to (33) of the second amendment decision and recitals (9) and (10) of the third amendment decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision, first amendment decision, second amendment decision and third amendment decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (12) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of Sections 2, 3.1, 3.10 and 4 of the Temporary Framework for the reasons set out in recitals (40) to (45) of the initial decision, recitals (39) to (47) of the first amendment decision, recitals (34) to (45) of the second amendment decision, and recitals (11) to (15) of the third amendment decision. The Commission therefore refers to the respective assessment of the initial decision, first amendment decision, second amendment decision, and third amendment decision.
- (13) The notified amendments do not affect that conclusion. In particular, the six-month prolongation, the budget increase, the increase of the maximum overall aid amounts that can be granted per undertaking in the form of direct grants, the six-month extension of the deadline for the payment of the aid, the extension of the deadline by which the relevant undertakings must have started operating to be eligible for aid, and the introduction of the requirement that the relevant costs must be incurred by 28 February 2022 to be eligible for aid do not have any effect on the remaining elements of the existing aid scheme, as described in the initial decision and the first, second and third amendment decisions. Slovakia confirmed

that all the conditions set out in Sections 2, 3.1, 3.10 and 4 of the Temporary Framework will continue to be respected, and in particular the exclusion of undertakings in difficulty, in accordance with points 22(c) and 22(c bis) of the Temporary Framework (Section 3.1), and the cap on the aid amount at 80% of the monthly gross salary of the benefitting personnel (Section 3.10) (recital (7)).

- (14) Similarly, the addition of two resolutions to the legal basis of the existing aid scheme does not affect the other features of that scheme. As explained in recital (6), those resolutions merely declare the state of emergency in Slovakia and impose certain restrictions on the activity of undertakings.
- (15) The Commission notes Slovakia's confirmation that, apart from the notified amendments, all other conditions of the scheme remain unaltered (recital (7)).
- (16) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. The notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

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