



EUROPEAN COMMISSION

Brussels, 17.1.2022
C(2022) 344 final

PUBLIC VERSION

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**Subject: State Aid SA.101088 (2021/N) – Slovakia
COVID-19: Aid to bus companies**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 16 December 2021, Slovakia notified aid in the form of limited amounts of aid (*State aid scheme to support undertakings in the international regular bus services and occasional bus transport services sectors in connection with the outbreak of COVID-19*, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).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 1/1958² and to have this Decision adopted and notified in English.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by 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).

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

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2. DESCRIPTION OF THE MEASURE

- (3) Slovakia considers that the COVID-19 pandemic affects the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) According to the Slovak authorities, reduced mobility due to the measures imposed by the government against the COVID-19 pandemic led to a dramatic decline in the use of public transportation, which in March/April 2020 exceeded 50% compared to long term averages. Similar decline was measured from the end of November 2020 until the end of January 2021. In October 2020, a state of emergency was declared by the Slovak government that lasted until May 2021. A new State of emergency was declared in November 2021 and is still in place as of today.
- (5) The Slovak authorities also note that providers of international regular bus transport services recorded a 75% decline in kilometres made in the second and fourth quarters of 2020 compared to 2019. Similar decrease in kilometres made was recorded in the first and second quarters of 2021. Providers of occasional bus transport services suffered similar declines for the above-mentioned periods. Decrease in kilometres made resulted in a turnover decline for undertakings in the international regular bus services and occasional bus transport services sector.
- (6) According to the Slovak authorities, the drastic decrease of turnover had a serious impact on the operation of companies in the international regular bus services and occasional bus transport services sectors, who are facing sudden liquidity shortages since they had to bear the costs of their fleet of buses, regardless of their turnover declines.
- (7) Therefore, the objective of the notified aid measure is to support undertakings engaged in international regular bus transport and occasional bus transport, with the purpose of providing liquidity to cover the expenditures that had to be incurred regardless of the decreased volume of services provided and turnover decline in relation to the COVID-19 pandemic and the State measures taken to mitigate the negative impacts of the pandemic.
- (8) 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.
- (9) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

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

2.2. Legal basis

- (11) The legal basis for the measure is the State aid scheme to support undertakings in the international regular bus services and occasional bus transport services sectors in the context of the COVID-19 outbreak [*Schéma štátnej pomoci na podporu podnikov v odvetví medzinárodnej pravidelnej autobusovej dopravy a príležitostnej dopravy v súvislosti s vypuknutím ochorenia COVID-19*]. This scheme is based on the following acts: Act No. 56/2012 Coll. on Road transport, as amended, Act No. 357/2015 Coll. on Financial Control and Audit and on Amendments to Certain Acts, as amended, Act No. 358/2015 Coll. on Regulation of Certain Relations in State Aid and De Minimis Aid and on Amendments to Certain Acts, Act No. 431/2002 Coll. on Accounting, as amended and Act No. 523/2004 Coll. on Budgetary Rules of Public Administrations and on Amendments to Certain Acts, as amended.

2.3. Administration of the measure

- (12) The Ministry of Transport and Construction of the Slovak Republic is responsible for administering the measure.

2.4. Budget and duration of the measure

- (13) The estimated budget of the measure is EUR 9 million, coming from the State budget.
- (14) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022.

2.5. Beneficiaries

- (15) The final beneficiaries of the measure are undertakings engaged in international regular bus services and/or occasional bus transport services, active in Slovakia. However, financial institutions are excluded as eligible final beneficiaries.
- (16) Aid may not be granted under the measure to medium³ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")⁴ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁵ or restructuring aid.⁶

³ 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.

⁴ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁵ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to undertakings active in the international regular bus services and occasional bus transport services sectors. Therefore, undertakings active in the financial sector are excluded from the measure.
- (18) The measure applies to the entire territory of the Slovak Republic.

2.7. Basic elements of the measure

- (19) Aid will be granted under the measure for the period from 1 April 2020 to 31 May 2022 (the “eligible period”) for the performance of international regular bus services and/or occasional bus transport services (the “relevant activities”).
- (20) In order to be eligible for support under the measure, the applicants must:
- Have been engaged in international regular bus services and/or occasional bus transport services before 1 March 2020;
 - Have been affected by the measures taken by the competent authorities in the context of the COVID-19 pandemic, through which the mobility of the population was restricted, leading to a reduction in the demand for the services provided by the beneficiaries of the aid;
 - Have suffered, as a result of the government measures, a decrease in turnover during the eligible period (i.e. from 1 April 2020 to 31 May 2022) of at least 30% compared to the reference period⁷ specified in the scheme;
 - Have hold a valid authorisation to carry out one of the relevant activities listed in recital (19) during the eligible period or part of the eligible period for which they are applying for aid;
 - Not be subject to insolvency proceedings, bankrupt, in liquidation or undergoing a restructuring;
 - Not be obliged to reimburse State aid on the basis of a decision of the European Commission declaring such State aid unlawful and incompatible with the internal market.
- (21) Aid under the measure can only be granted in relation to the relevant activities listed in recital (19). Where applicants carry out economic activities other than the

⁶ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

⁷ The reference period for the part of the eligible period from 1 April 2020 to 31 December 2020 is the period from 1 April 2019 to 31 December 2019. The reference period for the part of the eligible period from 1 January 2021 to 31 March 2021 is the period from 1 January 2020 to 31 March 2020. The reference period for the part of the eligible period from 1 April 2021 to 31 December 2021 is the period from 1 April 2019 to 31 December 2019. The reference period for the part of the eligible period from 1 January 2022 to 31 March 2022 is the period from 1 January 2020 to 31 March 2020. The reference period for the part of the eligible period from 1 April 2022 to 31 May 2022 is the period from 1 April 2019 to 31 May 2019.

relevant activities, a separation of accounts must ensure that aid is not granted to support economic activities other than the relevant activities.

- (22) The amount of aid per beneficiary will be calculated based on the percentage decrease in turnover from the relevant activity and the cost of the beneficiary's technical base, which is determined at a flat rate on the basis of the number of motor vehicles used by the beneficiary to carry out the relevant activities, their emission class and vehicle category. The overall nominal value of direct grants cannot exceed EUR 2.3 million per undertaking.⁸
- (23) Undertakings compensated for performing public service obligations ("PSO") as per Regulation (EC) No 1370/2007 are excluded from the measure to the extent to which these undertakings perform public service obligations. Vehicles used by the beneficiary (during the eligible period) to perform PSO will be excluded from the calculation of the technical base of the beneficiary. As a result, costs of the beneficiary's technical base will not include costs incurred on vehicles included in the performance of PSO during the eligible period and thus only non-subsidised bus services provided on a commercial basis will be eligible for aid under the measure.

2.8. Cumulation

- (24) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁹ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (25) 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 Framework provided the provisions in those specific sections are respected.
- (26) 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 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (27) The Slovak authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁰).

⁸ All figures used must be gross, that is, before any deduction of tax or other charges.

⁹ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 352, 24.12.2013, p. 1.

¹⁰ Referring to information required in Annex III to the GBER.

3. ASSESSMENT

3.1. Existence of State aid

- (28) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (29) The measure is imputable to the State, since it is administered by the Ministry of Transport and Construction of the Slovak Republic (recital (12)) and it is based on a number of national legal acts (recital (11)). It is financed through State resources, since it is financed by public funds (recital (13)).
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (10)). The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings (i.e. undertakings active in the international regular bus transport and occasional bus transport), excluding the financial sector (recital (17)).
- (32) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (33) 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.

3.2. Compatibility

- (34) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (35) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (36) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.

- (37) The measure aims at providing liquidity support to undertakings engaged in international regular bus transport and occasional bus transport, at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (38) The measure is one 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 measure to preserve employment and economic continuity of the undertakings engaged in international regular bus transport and occasional bus transport, who are suffering liquidity issues 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 (“*Aid in the form of limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (39) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grants (recital (10)).

The overall nominal value of direct grants shall not exceed EUR 2.3 million per undertaking (recital (22)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework.
 - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (13). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium¹¹ and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹² or restructuring aid¹³ (recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
 - Aid will be granted under the measure no later than 30 June 2022 (recital (14)). The measure therefore complies with point 22(d) of the Temporary Framework.

¹¹ As defined in Annex I to the GBER.

¹² Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹³ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

- (40) The Slovak authorities confirm 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 (recital (8)).
- (41) The Slovak authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). The Slovak authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (24) to (26)).
- (42) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

