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**Subject: State Aid SA.104815 (2022/N) – Slovakia**  
**TCF: State aid scheme to support primary agricultural production, fisheries and aquaculture**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 10 November 2022, Slovakia notified aid in the form of limited amounts of aid (“TCF: *Schéma štátnej pomoci na podporu poľnohospodárskej prvovýroby, rybolovu a akvakultúry v dôsledku agresie Ruska proti Ukrajine*”, “the measure”) under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”)<sup>1</sup>.
- (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<sup>2</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p. 1).

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

H.E. Rastislav Káčer  
Minister of Foreign Affairs  
Hlboka cesta 2  
833 36 Bratislava

## 2. DESCRIPTION OF THE MEASURE

- (3) Slovakia considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia (“the current crisis”) so far affects the real economy. According to the Slovak authorities, the current crisis has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agriculture, fishery and aquaculture sectors. Those effects taken together have caused a serious disturbance of the economy in all Member States. The geopolitical crisis caused by the Russian aggression against Ukraine has had a particularly serious impact on Slovak agriculture and on the fishery and aquaculture sectors in Slovakia. According to the Slovak authorities, the rise in oil and gas prices results in higher prices for energy, feed and fertilisers, and it is inextricably linked to the increase in input costs for farmers and businesses active in the fisheries and aquaculture sector. The concentration on the market of input suppliers in these sectors is high, with limited possibility for farmers to counteract the evolution of price trends. There is a high market concentration not only before primary production but also in the (re)marketing of food, putting farmers under additional cost pressure. To manage operations in the agriculture, fishery and aquaculture sectors, in the current situation of increased input costs, there is a continuous need for operational resources for the management of inputs and resources, including energy, soil and nutrient management, irrigation technology, seeds, agrochemicals, etc. The prices of energy and lubricants have increased by 23% in comparison with one year ago, the prices of fertilisers and soil improvers by 24%, the prices of animal feed increased by 15%, and the prices of seeds and seedlings increased by almost 5%, which points to the need for farmers to facilitate access to funds to cover operating capital needs<sup>3</sup>. Thus, the measure aims at remedying the liquidity shortage faced by undertakings that are directly or indirectly affected by the current crisis.
- (4) 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.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 1 and 2.1 of the Temporary Crisis Framework.

### 2.1. The nature and form of aid

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

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<sup>3</sup> Source: Ministry of Agriculture and Rural Development of the Slovak Republic.

## 2.2. Legal basis

- (7) The legal bases for the measure are the Act No 358/2015 regulating certain relations in the field of State aid and *de minimis* aid and amending certain acts ('State Aid Act')<sup>4</sup>, and the Regulations of the Ministry of Agriculture and Rural Development "State aid scheme to support primary agricultural production, fisheries and aquaculture following Russia's aggression against Ukraine"<sup>5</sup>.

## 2.3. Administration of the measure

- (8) The Ministry of Agriculture and Rural Development<sup>6</sup> is responsible for administering the measure.

## 2.4. Budget and duration of the measure

- (9) The estimated budget is EUR 50 million, financed from the State budget.
- (10) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure<sup>7</sup> until no later than 31 December 2023.

## 2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings active in the primary agricultural production, fishery and aquaculture sectors that are affected by the current crisis. The estimated number of beneficiaries is more than 1 000.
- (12) Slovakia confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.
- (13) Slovakia confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations<sup>8</sup>. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

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<sup>4</sup> *Zákon č. 358/2015 Z. z. o úprave niektorých vzťahov v oblasti štátnej pomoci a minimálnej pomoci a o zmene a doplnení niektorých zákonov („zákon o štátnej pomoci“).*

<sup>5</sup> *Schéma štátnej pomoci na podporu poľnohospodárskej prvovýroby, rybolovu a akvakultúry v dôsledku agresie Ruska proti Ukrajine.*

<sup>6</sup> *Ministerstvo pôdohospodárstva a rozvoja vidieka Slovenskej republiky.*

<sup>7</sup> According to § 9 par. 1 of the State Aid Act (national legal basis), state aid can be granted on the basis of notified schemes only if it is approved by the European Commission.

<sup>8</sup> 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).

## 2.6. Sectoral and regional scope of the measure

- (14) The measure is open to undertakings active in the primary production of agricultural products, fishery and aquaculture sectors, as described in recital (11), and it applies to the whole territory of Slovakia. Slovakia confirms that credit institutions or other financial institutions are excluded from being beneficiaries of the aid.

## 2.7. Basic elements of the measure

- (15) The measure aims at mitigating the negative direct social and economic consequences of the current crisis on Slovak agriculture, fishery and aquaculture. The measure also contributes to ensuring the continuity of economic activities and jobs and sufficient liquidity for the beneficiaries due to the economic situation created by the current crisis, in particular in light of the increased costs and related operating capital needs of the enterprises operating in primary agricultural production, fishing and aquaculture, which must be borne by those enterprises and that represent a relatively large burden on them. The aid will help maintain the continuity of the economic activity of these enterprises and ensure that sufficient liquidity remains available on the market.
- (16) The amount of aid for the fishery and aquaculture sector will be fixed as follows:
- (a) lowland fish farming sector (fish farming sector): EUR 100 per hectare of pond or small water reservoir and EUR 25 per m<sup>3</sup> of hatcheries and breeding facilities;
  - (b) salmonid fish farming sector (trout farming sector): EUR 100 per hectare of pond, EUR 25 per m<sup>3</sup> of hatchery and rearing house, and a rate of EUR 3 per m<sup>3</sup> of plastic reservoirs, concrete reservoirs, gutter and cages.
  - (c) RAS (closed recirculation aquaculture facilities)<sup>9</sup>: EUR 50 per m<sup>3</sup> of RAS.
- (17) The amount of aid for the primary production of agricultural products will be fixed on the basis of the area under cultivation as follows:

Crop group	Flat rate per hectare (in EUR)
Fruits	122.01
Vegetables	148.50
Potatoes	144.18
Legumes	82.26

<sup>9</sup> A closed RAS is considered a facility in which aquaculture is carried out within a closed environment, using recirculation of water after its mechanical, chemical and biological treatment, dependent on a constant external input of energy to stabilise the environment with the aim of making the best use of the production capacities of the facility with maximum delivery of water at the level of 15% in 24 hours.

Hops	234.11
Vineyards in integrated and organic production	581.11
Vineyards in conventional production	238.64
Sugar beet	174.21
Other crops: herbs and spice plants, medicinal plants, oilseeds and fibre plants, breeding material, flowers and ornamental plants	89.85

- (18) The amount of aid for the primary production of agricultural products in covered areas<sup>10</sup> will be fixed on the basis of the area under cultivation as follows:

Crop group	Flat rate per hectare of covered area (in EUR)
Energy-intensive crops: tomato, sweet peppers, cucumber and gherkin	15 000
Less-energy intensive crops: early and summer onions, watermelon, melon, pumpkin, head lettuce, pod peas, early and summer kohlrabi, early and summer cabbage, early and summer cauliflower, lettuces, radishes, carrots, parsley and parsnips, celeriac, and pod peas.	7 500

- (19) However, the overall nominal value of the direct grants under the measure will not exceed EUR 250 000 per undertaking active in the primary production of agricultural products sector, and EUR 300 000 per undertaking active in the fishery and aquaculture sector, at any given point in time; all figures are gross, that is, before any deduction of tax or other charges.
- (20) The Slovak authorities confirm that the aid is not fixed on the basis of the price or quantity of products put on the market.
- (21) Slovakia confirms that aid granted to undertakings active in the fishery 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<sup>11</sup>.

<sup>10</sup> Aid for a covered area planted with energy-intensive crops can only be granted for a covered area from which the operator of the area has achieved at least EUR 400 000 in revenue per hectare in the last past 12 months accounting period. Aid for a covered area planted with less energy-intensive crops can only be granted for a covered area from which the operator of the area has achieved at least EUR 90 000 in revenue per hectare in his last past 12 months accounting period.

- (22) Where an undertaking is active exclusively in the sectors covered by point 56(a) of the Temporary Crisis Framework to which different maximum aid amounts are applied, Slovakia will ensure by the 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 300 000 is not exceeded per undertaking.

## 2.8. Cumulation

- (23) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>12</sup> or the Block Exemption Regulations<sup>13</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Slovak authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (25) The Slovak authorities confirm that aid under the measure may be cumulated with aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak<sup>14</sup> (“COVID-19 Temporary Framework”) provided the respective cumulation rules are respected.
- (26) 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 Framework provided the provisions in those specific sections are respected.

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<sup>11</sup> 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).

<sup>12</sup> 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 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).

<sup>13</sup> 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), Commission Regulation (EC) 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) and 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).

<sup>14</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1) and C(2022) 7902 (OJ C 423, 7.11.2022, p. 9).

- (27) 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 Framework, the overall maximum cap per undertaking, as set out in points 55(a) or in 56(a) of that framework, will be respected. Aid granted under the measure and other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework which has been reimbursed before granting of new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

## **2.9. Monitoring and reporting**

- (28) The Slovak authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 10 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within twelve months from the moment of granting<sup>15</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (29) By notifying the measure before putting it into effect, the Slovak authorities have respected their obligations under Article 108(3) TFEU (recital (10)).

### **3.2. Existence of State aid**

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of Agriculture and Rural Development (recital (8)) and it is based on the State Aid Act and on the Regulations of the Ministry of Agriculture and Rural Development "State aid scheme to support primary agricultural production, fisheries and aquaculture following Russia's aggression against Ukraine" (recital (7)). It is financed through State resources, since it is financed by public funds (recital (9)).
- (32) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in the primary production of

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<sup>15</sup> Referring to information required in Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

agricultural products, fishery and aquaculture sectors, excluding the financial sector (recital (14)).

- (34) 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.
- (35) Therefore, 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**

- (36) 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.
- (37) 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*”.
- (38) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in Section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agricultural, fishery and aquaculture sectors. 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)(b) TFEU for a limited period if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine.
- (39) The measure aims at providing liquidity to certain undertakings active in the primary production of agricultural products at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Slovakia.
- (40) The measure is one of a series of measures conceived at national level by the Slovak authorities to remedy a serious disturbance in the Slovak economy. The importance of the measure to ensure sufficient liquidity of the beneficiaries that face cost increases of fertilisers, fuel, and other production inputs is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Slovak economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in Section 2.1 of the Temporary Crisis Framework.



(41) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the relevant conditions of the Temporary Crisis Framework. In particular:

- The aid takes the form of direct grants (recital (6)).
- The overall nominal value of the grants does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products and EUR 300 000 in the fishery and aquaculture sector; all figures used are gross, that is before any deduction of tax or other charges (recital (19)). If the beneficiary receives aid on several occasions under the measure or aid under other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in points 55(a) or 56(a) of that framework, will be respected (recital (27)). The measure therefore complies with point 56(a) of the Temporary Crisis Framework.
- Aid is granted under the measure on the basis of a scheme with an estimated budget, as indicated in recital (9). The measure therefore complies with point 55(b) of the Temporary Crisis Framework.
- Aid will be granted under the measure no later than 31 December 2023, as indicated in recital (10). The measure therefore complies with point 55(c) of the Temporary Crisis Framework.
- Aid will be granted only to undertakings affected by the current crisis (recitals (3), (11) and (15)). The measure therefore complies with point 55(d) of the Temporary Crisis Framework.
- Aid granted is not fixed on the basis of the price or quantity of products put on the market (recital (20)). The measure therefore complies with point 56(b) of the Temporary Crisis Framework.
- Aid granted to undertakings active in the fishery sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Commission Regulation (EU) No 717/2014 (recital (21)). The measure therefore complies with point 56(c) of the Temporary Crisis Framework.
- Where an undertaking is active exclusively in the sectors covered by point 56(a) of the Temporary Crisis Framework to which different maximum aid amounts are applied, 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 300 000 is not exceeded per undertaking (recital (22)). The measure therefore complies with point 57 of the Temporary Crisis Framework.

(42) The Slovak authorities confirm that, pursuant to point 46 of the Temporary Crisis Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is

irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (4)).

- (43) The Slovak authorities confirm that, pursuant to point 47 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recitals (12) and (13)).
- (44) The Slovak authorities confirm that the monitoring and reporting rules laid down in Section 3 of the Temporary Crisis Framework will be respected (recital (28)). 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 Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recital (23) to (26)).
- (45) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Crisis Framework.

#### 4. CONCLUSION

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

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

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President