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Subject: State Aid SA.104846 (2022/N) – Slovakia
TCF: State aid scheme to support undertakings following Russia's aggression against Ukraine

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 November 2022, Slovakia notified aid in the form of limited amounts of aid (State aid scheme to support undertakings following Russia's aggression against Ukraine, 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”)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 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).

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 Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken by Russia ('the current crisis') so far affects the real economy. 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.
- (4) The impact of the current crisis on the Slovak economy is manifold and affects all sectors. In August 2022, the inflation rate reached 13.4%, and was the highest since 2000. The increase of oil and gas prices results in higher prices for energy and other input costs across economic sectors. For instance, the industries of metallurgy, glassmaking, chemistry, cement production and plastics production are especially burdened by the high energy prices, as the price increase cannot be fully reflected in their final products, and the production of many of them thus runs at a loss. It is difficult for undertakings to react to the sudden rises of energy prices. Furthermore, the lack of liquidity faced by many companies causes problems within supplier-customer relations. As a result, there is a need for State aid in order to maintain employment, liquidity of companies and to generally prevent a collapse of the Slovak economy.
- (5) The measure aims to maintain the competitiveness of Slovak undertakings of all sectors by first and foremost remedying the liquidity shortage faced by many undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia, and thereby to support investments to ensure security of energy supply.
- (6) 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.
- (7) 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

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

2.2. Legal basis

- (9) The legal basis for the measure are the following laws and decrees:
- Draft act supplementing Act No. 71/2013 and Act No. 523/2004;
 - Act No. 71/2013 Coll. on subsidies within the powers of the Ministry of Economy of the Slovak Republic, as amended;

- Act 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 (Act on State Aid);³
- Act No. 523/2004 Coll. on budgetary rules of public administration and amendments to certain laws, as amended;
- Act No. 575/2001 Coll. on the organization of government activities and the organization of the central state administration, as amended;
- Act No. 431/2002 Coll. on accounting, as amended;
- Act No. 278/1993 Coll. on the administration of state property, as amended;
- Act No. 357/2015 Coll. on financial control and audit and on the amendment of certain laws, as amended;

2.3. Administration of the measure

- (10) The Ministry of Economy of the Slovak Republic is responsible for administering the measure.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is EUR 600 million, financed by the State budget of Slovakia.
- (12) The Slovak authorities have explained that in the future the measure may be co-financed by the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF).
- (13) 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

- (14) The final beneficiaries of the measure are micro, small, medium-sized⁴ and large undertakings active in Slovakia that are affected by the current crisis. Credit and financial institutions are excluded from the scope of this scheme and cannot benefit from the aid.
- (15) The Slovak authorities estimate that the number of beneficiaries will be more than 1000.
- (16) 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;

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).

(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.

- (17) 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 regulations⁵. 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

- (18) The measure is open to all sectors, except the financial sector (recital (14)).
- (19) The measure applies to the whole territory of Slovakia.

2.7. Basic elements of the measure

- (20) The purpose of the aid is to mitigate the effects of the high electricity and gas prices affecting companies in Slovakia and to overcome the unfavourable period caused by Russia's aggression. The aid provided will thus help to maintain employment, liquidity and cash flow of companies and continuity of their economic activity, otherwise threatened by the current crisis, and ensure that stability remains on the market.
- (21) The aid granted will cover the increased costs of natural gas and electricity. That increase in the price is calculated as the difference between the unit price for the supply of the commodity (gas/electricity) that the applicant (as final customer)⁶ paid on average during the eligible period⁷ and the unit price for the supply of electricity in the amount of EUR 199 per MWh and/or the unit price for the supply of gas in the amount of EUR 99 per MWh.
- (22) The maximum amount of aid per undertaking shall not exceed EUR 2 million. This amount is expressed as a gross amount, i.e. before deduction of tax or other charges. The aid shall not exceed EUR 250 000 per undertaking active in the

⁵ 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).

⁶ Only natural gas and/or electricity consumed by the applicant as a final customer, as demonstrated by the beneficiary, e.g. on the basis of the relevant invoice, will be eligible.

⁷ The eligible period covers in principle the period from 1 February 2022 until 31 December 2023). However, the eligible period of each individual call for application may be shorter.

primary production of agricultural products⁸ and EUR 300 000 per undertaking active in the fishery and aquaculture sectors⁹.

- (23) The Slovak authorities confirm that the aid 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.
- (24) For agricultural, fisheries and aquaculture sector, Slovakia confirms that:
- (a) aid to undertakings active in the primary production of agricultural products¹⁰ will not be fixed on the basis of the price or quantity of products put on the market;
 - (b) aid to undertakings active in the fishery and aquaculture sector¹¹ does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) Commission Regulation (EU) No 717/2014¹²;
 - (c) where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 55(a) and 56(a) of the Temporary Crisis Framework, it will be ensured, by appropriate means such as separation of accounts, 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 covered by point 56(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 300 000 is not exceeded per undertaking.

2.8. Cumulation

- (25) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹³ and/or with aid under the

⁸ As defined in Article 2(5) of 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).

⁹ As defined in Article 2(1) of 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).

¹⁰ As defined in Article 2(5) of Commission Regulation (EC) No 702/2014.

¹¹ Commission Regulation (EC) No 717/2014.

¹² Commission Regulation (EC) No 717/2014.

¹³ 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

General Block Exemption Regulation¹⁴ or with aid under the Agricultural Block Exemption Regulation¹⁵ or with aid under the Fisheries Block Exemption Regulation¹⁶. The provisions of the relevant Regulations will be respected.

- (26) 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.
- (27) There is no approved scheme under the COVID-19 Temporary Framework with which cumulation of aid provided under this scheme would be possible.
- (28) 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.
- (29) 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 point(s) 55(a) and 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 new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (30) 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 100 000 granted under the measure and EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid

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).

¹⁴ 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).

¹⁵ 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).

¹⁶ 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).

website or Commission's IT tool within 12 months from the moment of granting¹⁷.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (31) 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

- (32) 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.
- (33) The measure is imputable to the State, since it is administered by the Ministry of Economy of the Slovak Republic and it is based on national legal basis listed in recital (9). It is financed through State resources, since it is financed by public funds (recital (11)).
- (34) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (35) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings affected by the current crisis, excluding the financial sector (recital (14) and (18)).
- (36) 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.
- (37) 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

- (38) 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.
- (39) 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*".

¹⁷ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

- (40) By adopting the Temporary Crisis Framework, 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 agri-food sector. 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, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.
- (41) The measure aims at supporting undertakings affected by the high energy prices 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.
- (42) 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 ("*Aid in the form of limited amounts of aid*") described in section 2.1. of the Temporary Crisis Framework.
- (43) 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 (8)).
 - The overall nominal value of grants will not exceed EUR 2 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (22)). The measure therefore complies with point 55(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 (11). 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 (recital (13)). 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 (recital (14)). The measure therefore complies with point 55(d) of the Temporary Crisis 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 (23)). The measure therefore complies with point 55(e) of the Temporary Framework.
 - The overall nominal value of grants does not exceed EUR 250 000 per undertaking active in the primary production of agricultural products and EUR 300 000 per undertaking active in the fishery and aquaculture sectors (recital (22)). The measure therefore complies with point 56(a) of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market (recital (23)). The measure therefore complies with point 56(b) of the Temporary Crisis Framework.
 - Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) Commission Regulation (EU) No 717/2014 (recital (24)). The measure therefore complies with point 55(c) of the Temporary Crisis Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 55(a) and 56(a) of the Temporary Crisis 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 million is not exceeded per undertaking (recital (22)). Where an undertaking is active in the sectors covered by point 56(a) of the Temporary Framework, the overall maximum amount of EUR 250 000 (primary production of agricultural products) and/or EUR 300 000 (fishery and aquaculture) is not exceeded per undertaking (recital (22)). The measure therefore complies with point 57 of the Temporary Crisis Framework.
- (44) 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 (6)).
- (45) 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 (recital (16)).

- (46) The Slovak authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (30)). 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 25 to 28)).
- (47) The Slovak authorities also confirm that the rules under the European Regional Development Fund (ERDF), European Social Fund (ESF) and Cohesion Fund (CF) will be respected, should such funds be used (recital (13)).
- (48) 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