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Subject: **State Aid SA.57483 (2020/N), SA.57484 (2020/N), SA.57485 (2020/N) – Slovakia – COVID-19 Restrictions Alleviation Instrument of Guarantee – Temporary Framework (CRAIG-TF)**

Excellency,

1. PROCEDURE

(1) On 16 June 2020, the Slovak Republic notified a package of measures in the form of guarantees on loans and limited amounts of aid (grants covering the value of the guarantee premiums) ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1]

(2) The Slovak Republic 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.

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15.

[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) The Slovak Republic considers that the COVID-19 outbreak has started to affect 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 outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings, and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Sections 2, 3.1, 3.2 and 3.4 of the Temporary Framework.

2.1. The nature and form of aid

(5) The measure provides aid in the form of guarantees on loans and limited amounts of aid (direct grants covering the value of the premiums applicable to such guarantees).

(6) The measure consists of three parts:

(a) Part 1: the Export-Import Bank of the Slovak Republic ("Eximbanka") guarantee and grant scheme for loans between EUR 2 and 20 million (notified under case number SA.57483 (2020/N)).

(b) Part 2: the National Development Fund I guarantee and grant scheme for loans with a nominal amount of maximum EUR 2 million (notified under case number SA.57484 (2020/N)).

(c) Part 3: the National Development Fund II guarantee and grant scheme for loans with a nominal amount of maximum EUR 2 million (notified under case number SA.57485 (2020/N)).

2.2. Legal basis

(7) The national legal bases for Part 1 and Part 2 of the measure are:

(a) Act No. 358/2015 on the regulation of certain relations in the field of State aid and minimum aid and on amendments to certain acts (hereinafter referred to as the "State Aid Act")[3];

(b) Act No 523/2004 on budgetary rules for the public administration, amending certain laws, as amended;

(c) Act No. 67/2020 on some extraordinary measures in the financial area in connection with the spread of the dangerous and contagious human illness COVID-19[4] ("Lex Corona"), as amended.

[3] Available at: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/358/20160101

[4] Available at: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/67/

(8) The national legal bases for Part 3 of the measure are:

(a) the State Aid Act;

(b) Act No 523/2004 on budgetary rules for the public administration, amending certain laws, as amended;

(c) Act No 292/2014 on the contribution received from the European Structural and Investment Funds and amending certain acts, as amended;

(d) Act No 323/2015 on financial instruments financed by the European Structural and Investment Funds and amending certain acts. On the basis of this law, NDF II and SIH as its managing company are empowered to implement financial instruments in order to provide aid to the financial beneficiary and secure the common programme goals of the Slovak Republic and the European Union.

2.3. Administration of the measure

(9) Eximbanka is responsible for administering Part 1 of the measure. Eximbanka was established in 1997 by virtue of Act No. 80/1997 Coll.; It is a specialised financial institution that combines banking, guarantee and insurance activities inter alia with the aim of promoting tradeThe Lex Corona extended Eximbanka's scope of activities to include the provision of financial aid to mitigate the negative consequences of the COVID-19 pandemic in the form of guarantees and guarantee fee waivers.

(10) The granting authority for Part 2 of the measure is National Development Fund I, s.r.o. ("NDF I"), run by the asset management company Slovak Investment Holding, a.s. ("SIH"). NDF I is an investment company established initially to implement financial instruments under the European Structural and Investment Funds ("ESIF") in the 2007-2013 programming period. The Lex Corona extended the scope of activities of the funds managed by SIH (including NDF I) to include the provision of financial aid to mitigate the negative consequences of the COVID-19 outbreak in the form of guarantees and guarantee fee waivers. On behalf of NDF I, SIH is further responsible for the administering Part 2 the measure.

(11) The granting authority for Part 3 of the measure is the Ministry of Transport and Construction, with the Ministry of the Economy acting as the intermediate body on behalf of granting authority. The entity competent to manage Part 3 of the measure is National Development Fund II, a.s. ("NDF II"), run by the asset management company SIH. NDF II is an investment fund used for the implementation of the ESIF in Slovakia in the 2014-2020 programming period, based on a financing agreement between the managing/intermediate bodies, SIH and NDF II. On behalf of NDF II, SIH is further responsible for administering Part 3 of the measure.

2.4. Budget and duration of the measure

(12) The estimated total budget of the measure is EUR 3 976 million, broken down as follows (figures in millions of EUR):

Aid instrument	Part 1	Part 2	Part 3	Total
Estimated maximum principal loan amount to be guaranteed	1750	1750	350	3850
Estimated amount of grants (guarantee premium waivers)	65.625	52.500	7.875	126
Total:	**1815.625**	**1802.500**	**357.875**	**3976**

(13) Part 3 of the measure will be financed by the ESIF, and more specifically, by resources of the European Regional Development Fund ("ERDF") provided through the Operational Programme "Integrated Infrastructure". The Slovak authorities commit that the rules under the ERDF will be respected and clarify they will not make use of the Coronavirus Response Investment Initiative (CRII) to finance the measure.

(14) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

(15) The final beneficiaries of the measure are the following types of enterprises active in Slovakia:

(a) for Part 1 of the measure: small and medium enterprises ("SMEs")[5] (excluding micro enterprises) and large enterprises;

(b) for Part 2 of the measure: SMEs (including micro enterprises) and large enterprises;

(c) for Part 3 of the measure: SMEs (including micro enterprises).

[5] 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 of 26.6.2014, p. 1.

(16) Aid may not be granted under the measure to:

(a) undertakings that were already in difficulty on 31 December 2019 within the meaning of the General Block Exemption Regulation ("GBER")[6], the Agriculture Block Exemption Regulation ("ABER")[7] or the Fisheries Block Exemption Regulation ("FIBER")[8], as appropriate;

(b) credit institutions and other financial institutions;

(c) undertakings, which were established and started their activities later than 12 March 2020;

(d) undertakings subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market;

(e) undertakings in arrears of more than 90 days in payment of social security contributions, mandatory old-age pension savings contributions or mandatory health insurance contributions;

(f) undertakings in possession of a license to provide paid employment intermediation services[9] or temporary employment agencies;

(g) an undertaking whose beneficial owner is a tax resident in a non-cooperative jurisdiction[10];

(h) under Part 3 of the measure: undertakings active in the sectors of agriculture, forestry, the fishery and aquaculture.

(17) Aid is granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries.

2.6. Sectoral and regional scope of the measure

(18) The measure is open to all sectors, with the following exceptions:

(a) credit institutions and other financial institutions (as final beneficiaries);

6 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 of 26.6.2014, p. 1.

7 Article 2(14) of the 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, OJ L 193, 1.7.2014, p. 1.

8 Article 3(5) of the 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, OJ L 369, 24.12.2014, p. 37.

9 As per the Act No. 455/1991 Coll.

10 A jurisdiction listed in the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes 2020/C 64/03, OJ C 64, 27.2.2020, p. 8–14.

(b) licensed employment intermediaries and temporary employment agencies: as the liquidity support provided under the measure seeks to preserve employment, while for such intermediaries and agencies this requirement is impossible to objectively determine;

(c) under Part 3 of the measure: undertakings active in the sectors of primary agricultural production, forestry, fishery and aquaculture. This exclusion is due to the fact that Part 3 of the measure is financed from the Operational Programme "Integrated Infrastructure", while the abovementioned sectors are targeted by other dedicated programmes (namely: "Rural Development Programme" and Operational Programme "Fishing Economy").

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

2.7. Basic elements of the measure

(20) The measure encompasses State aid to the eligible beneficiaries in the form of guarantees on loans under Section 3.2 of the Temporary Framework and direct grants under Section 3.1 of the Temporary Framework. Those two elements are described below.

2.7.1. Guarantees on loans

(21) Under the measure, the loans covered by the guarantees shall have the following features:

(a) They shall be new investment and/or working capital loans (including loans for the payment of tax, custom and social security liabilities). The loans may not be used to refinance existing liabilities towards either the financial intermediary or other credit institutions.

(b) The maximum principal amount of the loan per undertaking shall not exceed the following ceilings:

– double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

– 25% of the beneficiary's total turnover in 2019; or

– under exceptional circumstances and in urgent cases, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and 12 months for large enterprises, for those undertakings whose turnover or wage bill of 2019 is not a good proxy to forecast their expenses in the coming months (e.g. when the beneficiary is a new enterprise or an early stage enterprise; if the undertaking is facing higher than normal costs due to COVID-19 outbreak; if the undertaking needs higher liquidity to restart its business after the suspension of industrial and commercial production activities). The liquidity needs shall be established through self-certification by the beneficiary, followed by an assessment on an individual basis by the financial intermediary;

– and, in any event, the aid shall not exceed EUR 20 million for Part 1 of the measure and EUR 2 million for Parts 2 and 3 of the measure.

(c) The maturity of the eligible loans shall be between 2 years and 6 years.

(d) The maximum interest rate that can be charged by the financial intermediary to the borrower is 3.9 per cent per annum for micro-enterprises and 1.9 per cent per annum for SMEs (excluding micro-enterprises) and large enterprises.

(e) Until the guaranteed loan is repaid, the beneficiary will undertake not to pay out dividends, provide loans and disburse any intra-group loans.

(f) The eligible loans shall include a grace period (deferral of repayments of both the principal and the interest) for a period of 1 year (with the possibility for the borrower to opt out of such a grace period).

(22) Under the measure, the guarantees shall have the following features:

(a) The guarantees shall be granted no later than on 31 December 2020.

(b) The duration of the guarantee shall match the duration of the underlying loan, i.e. will range from 2 to 6 years (it will not be extended beyond 6 years even where the loan itself is extended beyond that period).

(c) The losses on the underlying loan shall be sustained proportionally and under the same conditions by the lender and by the State.

(d) The guarantee coverage shall not exceed 80% of the loan principal for Part 1 of the measure and not exceed 90% of the loan principal for Parts 2 and 3 of the measure.

(e) When the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount must decrease proportionally.

(f) The mobilisation of the guarantee is contractually linked to specific conditions to be agreed upon by the parties which have to be agreed between the parties when the guarantee is initially granted.

(g) Guarantee premiums are set per individual loans at a minimum level, which shall increase progressively as the duration of the guaranteed loan increases, as set out in the table below:

Type of recipient	For 1st year	For 2nd-3rd year	For 4th - 6th year
SMEs (including micro-enterprises)	25 bps	50 bps	100 bps
Large enterprises	50 bps	100 bps	200 bps

(23) The measure contains safeguards to ensure that the benefit of the guarantees is passed on by the lenders to the final beneficiaries to the largest extent possible. This is ensured in particular through the following mechanisms.

(a) The interest on the guaranteed loans is capped at 3.9 percent per annum for micro enterprises and at 1.9 percent per annum for SMEs (excluding micro enterprises) and large enterprises, which is significantly below lenders' expectations in terms of profit margin.[11] The beneficiaries will therefore obtain lower interest rates than in the absence of such State guarantees.

(b) The measure will not be used to repay pre-existing financial exposures. The guarantee cannot apply to existing loans (including new loans taken to refinance existing loans). In addition, where a given lender has already extended a loan to a beneficiary prior to the granting of the guaranteed loan under the measure, the lender will undertake not to increase the repayments of their existing loans, and not to allow accelerated or extraordinary repayment of such existing loans. A reduction of existing overdraft facilities will be accepted only with a proportional reduction of the loan guaranteed under the measure (except for overdrafts financing one-off transactions).[12]

(c) The financial intermediaries that will be able to offer loans guaranteed under the measure will be selected in an open, transparent and non-discriminatory procedure. Such financial intermediaries may include any financial institution with a valid banking license and authority to grant loans in the Slovak Republic (i.e. a bank or a branch of a foreign bank)[13] which comply, inter alia, with the applicable legislation on the prevention of money laundering, fight against terrorism and fight against tax fraud.

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[11] In accordance with a survey run by the Slovak Banking Association among its members, the results of which were communicated to the Slovak authorities on 28 April 2020. According to that survey, the average margin expected from a loan was estimated at 6 percent per annum for loans with no State guarantee, and at 2.5 percent per annum for State-guaranteed loans. For micro-enterprises, the margin expectation was 11.4% p.a. for loans with no State guarantee and 4.8% p.a. for State-guaranteed loans.

[12] The restrictions in the second sentence of item (23)(b) will not apply where the beneficiary is in default under such existing loans or facilities.

[13] With the exception of entities established in a jurisdiction listed in the Council conclusions referred to in footnote 16.

2.7.2. Grants to cover guarantee premiums

(24) Under the measure, the beneficiaries of the guarantees described in Section 2.7.1 are eligible to benefit from a grant to allow them to cover the premium for the guarantees, if they meet the following cumulative conditions:

(a) they maintain, for a period of 12 months from the first drawdown of the guaranteed loan, the average number of employees in line with the average number of its employees for the 12 months preceding the request for the loan[14], multiplied by a coefficient specified in the agreement between the granting authority and the financial intermediary[15];

(b) they do not have, at the end of the 12-month period from the first drawdown of the guaranteed loan, overdue liabilities in respect of social security contributions, mandatory old-age pension savings contributions, or mandatory public health insurance contributions (together, "social security contributions"), which:

– are overdue for more than 1 month – if at the time of granting of the guaranteed loan, the sum of such overdue liabilities was equal to or lower than the amount of the loan; or

– in all other cases, are higher in total than the sum of such overdue liabilities at the time of granting of the guaranteed loan, reduced by the amount of the loan; while at the same time the beneficiary must have agreed a repayment schedule for these remaining liabilities and comply with that schedule.

(25) Where the beneficiary has not respected the requirements described in recital (24), it will be required to return the aid received, i.e. to pay the total amount of the guarantee premium as applicable.

(26) The aid in the form of grants will be granted no later than on 31 December 2020.

(27) The grant shall be equal to the total of the guarantee premiums applicable to the given loan (the notional values of those premiums will be added up as at the date of granting the guarantee, with no discounting of future premiums to present values). However, in any event, the amount of the grant per undertaking[16] shall not exceed EUR 800 000, with the exceptions specified in recital (28)(b) and (28)(c). Where the guarantee premium to be covered with a grant were to exceed

[14] However, a decrease in employment levels due to unforeseeable circumstances that occur within the last three months of the 12-month period and can be duly demonstrated (such as e.g. death of a staff member) is not considered a breach of the abovementioned requirement.

[15] The coefficient's initial value shall be 1. Any change of the coefficient shall only be possible before 31 December 2020, it will apply without distinction to all beneficiaries and it will be determined in a transparent, non-discriminatory procedure that shall be made public before the guaranteed loans are first provided. Such procedure for changing the coefficient will be incorporated into the agreements between the granting authorities and financial intermediaries. Agreements between financial intermediaries and final beneficiaries shall include a clause to automatically reflect such changes of the coefficient in the terms of the guaranteed loan.

[16] All figures are expressed as gross amounts, i.e. before any deduction of tax or other charge.

the applicable ceiling, the financial intermediary shall inform the borrower and request an adjustment of the aid amount so that the ceiling is not exceeded; the loan may only be granted if, following such an adjustment, the amount of the waiver is reduced to comply with the relevant ceiling.

(28) The following specific rules apply where the beneficiary is active in the fishery, aquaculture or agriculture sectors[17]:

(a) grants to undertakings active in the processing and marketing of agricultural products[18] is conditional on not being passed on (in part or in full) to primary producers, and must not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertaking concerned;

(b) grants to undertakings active in the primary production of agricultural products[19] must not exceed be EUR 100 000 and must not be fixed on the basis of the price or quantity of products put on the market;

(c) grants to undertakings active in the fishery and aquaculture sector[20] must not exceed EUR 120 000 and must not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014;

(d) where an undertaking is active in several sectors to which different maximum amounts apply as specified in recitals (27), (28)(b) and (28)(c), the Slovak authorities commit to ensure, by appropriate means (such as separation of accounts), that the relevant ceiling for each of those activities will be respected and an overall amount of EUR 800 000 per undertaking will not be exceeded;

(e) where an undertaking is only active in the sectors referred to in recitals (28)(b) and (28)(c), an overall amount of EUR 120 000 per undertaking will not be exceeded.

(29) The grant is delivered through the same financial intermediaries as under section 2.7.1. The advantage is fully passed on to the final beneficiary, since the amount of the aid given is precisely equal to the sum of the guarantee fees the beneficiary would otherwise be obliged to pay. The financial intermediary is purely a channel through which this transfer takes place.

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17 In light of the sectoral exclusion applicable to Part 3 of the measure, only item (a) of point (28) applies to that part of the measure.

18 As defined in Article 2(6) and Article 2(7) 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.

19 All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

20 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.

2.8. Cumulation

(30) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the ESIF.

(31) The Slovak authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[21] or the Block Exemption Regulations[22], provided the provisions and cumulation rules of those Regulations are respected.

(32) The Slovak authorities confirm that aid under the notified 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.

(33) 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.

(34) Concerning the aid in the form of grants, 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 points 22(a) and 23(a) of that framework, shall be respected.

(35) Concerning the aid in the form of guarantees on loans, the Slovak authorities confirm that:

(a) the guarantees granted under Section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.3 of that framework and vice versa;

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[21] 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).

[22] 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 of 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.

(b) aid granted under Section 3.2 and Section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework;

(c) a beneficiary may benefit in parallel from multiple schemes under Section 3.2 (including different loans provided under this measure) provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) of the Temporary Framework.

2.9. Monitoring and reporting

(36) 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 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[23]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(37) 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

(38) 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.

(39) The measure is imputable to the State, since it is administered either by State authorities (involved in the management of Part 3 of the measure) or by entities established by the State with the objective of implementing public policy objectives (i.e. implementing the ESIF, in the case of NDF I, NDF II and SIH, and promoting exports, in the case of Eximbanka), based on the relevant national legislation as described in recitals (7) and (9) to (11). The measure is financed through State resources, since it is financed by public funds.

(40) The measure confers an advantage on its beneficiaries in the form of direct grants and non-market conform guarantees on loans. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(41) The advantage granted by the measure is selective, since it is awarded only to certain undertakings. In particular, the measure excludes undertakings that were

[23] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

already in difficulty on 31 December 2019, undertakings active in the financial sector, and those active in employment intermediation.

(42) 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.

(43) 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

(44) 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.

(45) 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".

(46) 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".

(47) The measure aims at facilitating the access of undertakings to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(48) 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 stimulate lending by private banks to enterprises during the COVID-19 outbreak and to preserve employment and economic continuity 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 and ("Aid in the form of guarantees on loans ") described in Section 3.2 of the Temporary Framework, and the requirements for aid in the form of guarantees and loans channelled through credit institutions described in Section 3.4 of the Temporary Framework.

(49) 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:

For limited amounts of aid:

(50) As regards the part of the measure covering limited amounts of aid, the measure meets all the conditions laid down in Section 3.1 of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (24));

- Subject to the sector-specific ceilings as assessed below, the overall nominal value of aid in the form of grants shall not exceed EUR 800 000 per undertaking; 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 (recital (27));

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;

- Aid will not be granted under the measure to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework (recital (16)(a));

- Aid will be granted under the measure no later than 31 December 2020 (recital (14) and (26)). The measure therefore complies with point 22(d) of the Temporary Framework;

- Aid granted to undertakings active in the processing and marketing of agricultural products is not conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (28)(a)). The measure therefore complies with point 22(e) of the Temporary Framework.

- The overall nominal value of aid in the form of direct grants does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (28)(c)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (28)(b)). The measure therefore complies with point 23(a) of the Temporary 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 (28)(b)). The measure therefore complies with point 23(b) of the Temporary 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, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (28)(c)). The measure therefore complies with point 23(c) of the Temporary Framework.

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Slovakia commits to 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 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (28)(d)). The measure therefore complies with point 23bis of the Temporary Framework.

For guarantees on loans:

(51) As regards the part of the measure covering guarantees on loans, the measure meets all the conditions provided for by Sections 3.2 and 3.4 of the Temporary Framework. In particular:

- The measure sets minimum levels for guarantee premiums, applied progressively from 25 to 100 basis points for loans to SMEs and from 50 to 200 bps for loans to large enterprises (recital (22)(g)). It therefore complies with the point 25(a) of the Temporary Framework.

- Guarantees may be granted under the measure by 31 December 2020 at the latest (recital (22)(a)). The measure therefore complies with point 25(c) of the Temporary Framework.

- For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital (21)(b)). Where the loan amount is determined by 25(d)(iii) of the Temporary Framework, the higher amount of the loan principal is appropriately justified by reasons of exceptional circumstances where the turnover or the wage bill of 2019 is not a good proxy to forecast the beneficiary's expenses in the coming months (recital (21)(b)). In addition, since loans guaranteed under the measure have a maturity of at least 2 years, point 25(e) of the Temporary Framework will not be applicable.

- The measure limits the duration of the guarantees to a maximum of 6 years (recital (22)(b)). Those guarantees cover up to 90% of the loan principal (recital (22)(d)) and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (recital (22)(c)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (22)(e)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to new investment and working capital loans (recital (21)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Undertakings already in difficulty on 31 December 2019) are excluded from benefitting from the measure (recital (16)(a)). The measure therefore complies with point 25(h) of the Temporary Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. The Commission takes note that the financial intermediaries offering State-guaranteed loans under the measures will be selected in an open, transparent and non-discriminatory procedure (recital (23)(c)). Such a process will ensure competition between financial intermediaries. Furthermore, the Commission takes into account that the measure introduces a cap on the interest rate of the underlying loan of 3.9 percent per annum for micro enterprises and 1.9 percent per annum for other borrowers. This maximum reflects the costs incurred by the lender in providing these small loans and is below the market expectations for such loans (recital (23)(a)). In addition, the guarantees will only apply to loans that feature a grace period of one year, thereby further enhancing the final beneficiaries' liquidity position (recital (21)(f)). Lastly, the measure does not allow for guarantees on new loans used to decrease the existing financial exposure of the financial intermediary towards the final beneficiary (recital (23)(b)). The safeguards thus ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The cumulation rules set out in point 24bis of the Temporary Framework are respected (recital (35)).

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (22)(f)).

(52) The Slovak authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (36)). 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 are respected and the cumulation rules of the relevant Regulations are respected (recital (30) to (33)).

(53) The Slovak authorities also confirm that the rules under the ERDF will be respected where applicable (recital (13)), i.e. to Part 3 of the measure insofar it is financed from the ERDF.

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(54) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[24] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"**SRMR**"**), [25] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD and the SRMR.

(55) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[26] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(56) Moreover, as indicated in recitals (50) and (51) above, the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiaries.

(57) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and the SRMR.

[24] OJ L 173, 12.6.2014, p. 190-348.

[25] OJ L 225, 30.7.2014, p. 1-90.

[26] Points 6 and 29 of the Temporary Framework.

5. 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.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION