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Subject: State Aid SA.115642 (2024/NN) – Slovakia
Aid for the diversification of agricultural activities in non-agricultural activities.

Excellency,

The European Commission ('the Commission') wishes to inform Slovakia that, having examined the information supplied by your authorities on the State aid for the diversification of agricultural activities in non-agricultural activities, notified as an aid scheme (hereafter 'the scheme' - see recitals (14) and (36)), it has decided not to raise objections to that scheme as it is compatible with the internal market pursuant to Article 107(3), point (c), of the Treaty on the Functioning of the European Union ('TFEU').

The Commission has based its decision on the following considerations:

1. PROCEDURE

(1) By letter of 23 August 2024, registered by the Commission on the same day, Slovakia notified, in accordance with Article 108(3) TFEU, the scheme.

(2) Slovakia exceptionally agrees to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958 ([1]) and to have this Decision adopted and notified in English.

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

H.E. Juraj Blanár
Minister of Foreign Affairs
Hlboká cesta 2
833 36 Bratislava

2. DESCRIPTION OF THE SCHEME

2.1. Objective

(3) The objective of the scheme is to provide aid for the costs of investments in diversification of agricultural activities in non-agricultural activities, specifically in the development of services of freight road transport.

2.2. Legal bases

(4) The legal bases of the scheme are the following:

- Act No 277/2023 on granting subsidies within the competence of the Ministry of Agriculture and Rural Development of the Slovak Republic (*Zákon č. 277/2003 Z.z. o poskytovaní dotácií v pôsobnosti Ministerstva pôdohospodárstva a rozvoja vidieka Slovenskej republiky)*;

- Act No 280/2017 on the granting of support and subsidies in agriculture and rural development and amending Act No 292/2014 on the contribution provided by the European Structural and Investment Funds, as amended (*Zákon č. 280/2017 Z.z. o poskytovaní podpory a dotácie v pôdohospodárstve a rozvoji vidieka a o zmene zákona č. 292/2014 Z. z. o príspevku poskytovanom z európskych štrukturálnych a investičných fondov v znení neskorších predpisov;*

2.3. Duration

(5) The aid scheme was in place from 19 June 2015 until 31 December 2020. The Slovak authorities specified that the aid was granted on 15, 17 and 18 March 2016.

(6) The Slovak authorities confirmed that aid under this scheme was granted only for the costs which incurred after the aid application was submitted.

2.4. Budget and form of aid

(7) The total budget of the scheme for years 2015-2020 was EUR 6 431 215.7. The aid was paid from the State budget and co-financed from the European agricultural fund for rural development (hereafter 'EAFRD')**.**

(8) Under this scheme, the aid was granted in the form of direct grants. The Slovak authorities identified this aid form as the most suitable for covering high investment costs resulting from the diversification of agricultural activities into the non-agricultural ones.

2.5. The granting authority:

(9) The granting authority was the Agricultural Payment Agency of Slovakia.

2.6. Beneficiaries

(10) The beneficiaries were undertakings active in agricultural primary production who fell within the definition of micro or small enterprises in conformity with Annex I to the Commission Regulation (EU) no 702/2014 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 TFEU[2] and whose share of total annual sales/income from agricultural primary production in the year preceding the year of submission of the aid application represented at least 30%.

(11) The Slovak authorities confirmed that undertakings in difficulty within the meaning of point (35)(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014-2020[3] (the '2014 Guidelines') were not eligible for aid.

(12) Likewise, undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision and subject to a recovery obligation were not eligible for aid.

(13) The number of beneficiaries was below 10.

2.7. Description of the scheme

(14) The Slovak authorities notified the aid as a scheme within the meaning of point (35)(4) of the 2014 Guidelines.

(15) The scheme was designed to promote the diversification of agricultural activities into the non-agricultural ones. The Slovak authorities explained that at the time when the measure was implemented, the agricultural sector had one of the highest unemployment rates as well as job seekers with limited prospects of reintegration into the labour market and low potential for acquiring broader skills. Moreover, the employment rate was presenting a decreasing tendency.

(16) The scheme was designed to support investments in the creation and development of non-agricultural activities, specifically investments in freight road transport services aimed to respond to the need for maintaining employment and increasing labour market opportunities in rural areas. This goal corresponds to one of the priorities of the CAP rural development policy. Further, such support sought to diversify income of agricultural undertakings in order to create an additional source of income that would help them bridge unfavourable yield years. The Slovak authorities recalled that income from agricultural primary production is traditionally significantly affected by weather fluctuations, plant and animal diseases, pest infestation, price volatility of agricultural commodities, high prices of agricultural inputs, etc.

(17) The measure was included in the Rural Development Programme ('RDP') of Slovakia 2014-2022, under measure 6.4. (Support of investments in creation and development of no-agricultural activities). It sought to fulfil the rural development objective of achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment, set out in in Article 4 (c) of Regulation (EU) No 1305/2013[4]. It also followed the Union objective of enhancing farm competitiveness as laid down in Article 5 (2) and promoting economic the development of rural areas, through facilitating

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([2]) Commission Regulation (EU) 702/2014

([3]) OJ C 204 of 1.7.2014, p. 1.

([4]) Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), OJ L 345, 20.12.2013, p. 487.

diversification, creation and development of small enterprises, as well as job creation and fostering local development in rural areas, as laid down in Article 5 (6) (a) and (b) of that Regulation.

(18) The following costs of investments in tangible and intangible assets were eligible for aid:

- the costs of construction, acquisition, including leasing, or improvement of immovable property;
- the costs of purchase or lease purchase of machinery and equipment up to the market value of the assets;
- the costs of investments in the following intangible assets: acquisition or development of computer software and acquisitions of patents, licences, copyrights and trademarks.

(19) The beneficiaries could receive aid only for the diversification into non-agricultural activities which they had not carried out before.

(20) The value added tax ('VAT') was not considered as an eligible cost, except in case it was not recoverable under the national law. Likewise, working capital was not eligible for aid.

(21) Aid could be granted for up to 55% of the eligible costs.

(22) The Slovak authorities confirmed that the aid calculation could contain only elements that were verifiable and that the aid had to be determined by a fair, equitable and verifiable calculation method based on statistical data, other objective information or an expert judgement and verified data for individual beneficiaries.

(23) The maximum aid amount had to be calculated in a non-discriminatory manner by the granting authority at the moment of granting the aid. For the purposes of calculating the aid intensity and the eligible costs, all figures used had to be taken before any deduction of tax or other charge.

(24) The aid could not simply subsidise the costs of an activity that an undertaking would have incurred in any event, could not compensate for the normal business risk of an economic activity and was not intended to simply improve the financial situation of undertakings, without any contribution to the development of the sector.

(25) The aid could not be cumulated with aid granted concurrently under other aid schemes, or with ad hoc aid or de minimis support covering the same eligible costs.

(26) The Slovak authorities confirmed that the aid beneficiaries had to submit the aid application to the national authorities before any work on the project or activity had started. The aid application had to include at least the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs.

(27) The Slovak authorities undertook to design the scheme in compatibility with the transparency requirements laid down in Section 3.7. of Part I. of the 2014

Guidelines. They confirmed that they would publish in the European Commission's transparency award module[5] the full text of the aid scheme and its implementing provisions or legal basis, the identity of the granting authority and the identity of the beneficiaries which would receive an individual aid award exceeding EUR 60 000 after the 1st of July 2016. The Slovak authorities confirmed that such information would be published after the decision to grant the aid had been made, it would be kept for at least 10 years and would remain available for the general public without restrictions.

3. ASSESSMENT OF THE AID

3.1. Lawfulness of the aid – Application of Article 108(3) TFEU

(28) The scheme was notified to the Commission on 23 August 2024. It was implemented before that date (recital (6)). Therefore, Slovakia did not respect its obligation under Article 108(3) TFEU.

3.2. Existence of aid - Application of Article 107(1) TFEU

(29) According to Article 107(1) TFEU, *'[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market'*.

(30) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

(31) The scheme was imputable to the State as it was based on the legal acts described in recital (4) and implemented by State authority (Agricultural Payment Agency, recital (9)). It was paid from the State budget and it was therefore financed through State resources (recital (7)).

(32) The scheme conferred an advantage on its beneficiaries in the form of direct grants (recital (8)).

(33) The scheme was selective since aid was awarded only to certain undertakings, specifically to primary producers with the income share from this activity representing at least 30% of total income (recital (10)). The scheme thus relieved those beneficiaries of costs, which they would have to bear under normal market conditions. As a general rule, economic operators should cover their own costs.

(34) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade[6]. The beneficiaries of aid operate in the sector of primary

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([5]) https://webgate.ec.europa.eu/competition/transparency/public/search/home/

([6]) See in particular the judgment of the Court of 13 July 1988 in Case 102/87 French Republic v Commission of the European Communities, EU:C:1988:391.

agricultural production, where intra-EU trade takes place. This sector is thus open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the scheme is liable to distort competition and to affect trade between Member States.

(35) In light of the above, the conditions of Article 107(1) TFEU were fulfilled. It can therefore be concluded that the scheme constituted State aid within the meaning of that Article. The Slovak authorities do not contest that conclusion.

(36) Due to the fact that the notified aid was governed by an act on the basis of which, without further implementing measures being required (recital (4)), individual aid awards could be made to undertakings defined within the act in a general and abstract manner (sections 2.2, 2.6 and 2.7), the Commission considers that it is an aid scheme within the meaning of point (35)(4) of the 2014 Guidelines.

3.3. Compatibility of the aid

(37) The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.3.1. Application of Article 107(3), point (c), TFEU

(38) Under Article 107(3), point (c), TFEU, an aid may be considered compatible with the internal market, if it is found '*to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*'.

(39) Therefore, compatible aid under that provision of the Treaty must (i) facilitate the development of a certain economic activity or of certain areas (positive condition) and (ii) must not adversely affect trading conditions to an extent contrary to the common interest (negative condition).

(40) Pursuant to point (656) of the Guidelines for State aid in the agricultural and forestry sectors and in rural areas[7], unlawful aid will be assessed in accordance with the rules in force on the date of granting the aid.

(41) Aid under the present scheme was granted in 2015 (recital (5)). At that time, applicable rules where the 2014 Guidelines.

(42) The Commission has therefore assessed the compatibility of the measure in light of the conditions laid down in Chapter 3 of Part I, as interpreted by the judgement of the Court in case C-594/18 P[8] and Section 3.1. of Part II of the 2014 Guidelines.

(7) OJ C 485, 21.12.2022, p.1.

(8) Judgment of the Court of 22 September 2020 in case C-594/18 *P, Hinkley Point C,* EU:C:2020:742

3.3.1.1. Positive condition: the aid must facilitate the development of an economic activity or of certain economic areas

(a) Identification of the aided economic activity

(43) The Commission notes that the present scheme was designed to support the diversification of primary agricultural production activity in non-agricultural activity, in view of maintaining employment and increasing labour market opportunities in rural areas and diversifying income sources of agricultural undertakings (recital (3)).

(44) Pursuant to point (44) of the 2014 Guidelines, aid in the agricultural and forestry sectors and in rural areas should relate closely to the CAP, should be consistent with the rural development objectives referred to in point (10) of those Guidelines and should be compatible with the rules on the common organisation of the markets in agricultural products.

(45) Pursuant to point (46) of the 2014 Guidelines, the Commission considers that measures, implemented pursuant to and in conformity with Regulation (EU) No 1305/2013 and its implementing and delegated acts or as an additional national financing in the framework of a rural development programme, are per se consistent with and contribute to the objectives of rural development.

(46) The present scheme was designed in line with the rural development objectives (recital (17)). Further, the aid was co-financed under measure 6.4 of the RDP of Slovakia (recital (17)).

(47) The Commission therefore concludes that aid facilitated the development of economic activity, specifically diversification of primary agricultural production in a non-agricultural activity.

(b) Incentive effect

(48) Pursuant to point (66) of the 2014 Guidelines, the scheme has an incentive effect if it changes the behaviour of undertakings in such a way that they engage in additional activity contributing to the development of the sector, in which they would have normally not engaged in without aid or would have engaged in a different or restricted manner. The aid must not subsidise the costs of an activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.

(49) Pursuant to point (67) of the 2014 Guidelines, unilateral State aid measures which are simply intended to improve the financial situation of undertakings but which in no way contribute to the development of the sector, and in particular aid which is granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aid which is incompatible with the internal market. Furthermore, by its very nature, such aid is also likely to interfere with the mechanisms regulating the organisation of the internal market.

(50) Pursuant to point (70) of the 2014 Guidelines, the Commission considers that aid does not present an incentive for the beneficiary wherever work on the relevant

project or activity has already started prior to the aid application by the beneficiary to the national authorities.

(51) Pursuant to point (71) of the 2014 Guidelines, the aid application must include at least the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs. In addition, pursuant to point (72) of the Guidelines, large enterprises must describe in the application the situation without the aid, which situation is referred to as the counterfactual scenario or alternative project or activity and submit documentary evidence in support of the counterfactual described in the application. Pursuant to point (73) of the Guidelines, when receiving an application, the granting authority must carry out a credibility check of the counterfactual scenario and confirm that the aid has the required incentive effect. A counterfactual scenario is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the project or activity concerned.

(52) In the present case, the Commission notes that under the scheme, the aid could had been granted for the costs related to investments in diversification of primary agricultural activities into non-agricultural activity (recital (18)). According to the Slovak authorities without the aid, the beneficiaries would not have the necessary means to cover the investments costs of the diversification of their activity. Thus, the aid was designed to create financial conditions for the diversification projects.

(53) The Commission agrees on that basis that the aid was designed to change the beneficiaries' behaviour in such a way that it led to the change in the activities those undertakings were involved in and therefore had a positive economic impact for the beneficiaries and for the rural areas. Without aid, they would not have engaged in such projects or they would have done so to a different extent. The aid was therefore intended to contribute to the development of the sector.

(54) The Slovak authorities confirmed that the aid applications had to be submitted prior to the start of work on the commitment (recital (26)). Large enterprises were not eligible for aid. Therefore, the Commission considers that the condition of submitting the counterfactual scenario was not applicable (recital (10)).

(55) The aid could be granted for specific investments costs of diversification of activities of primary producers (recital (18)). Thus, it did not subsidise the costs of an activity that an undertaking would have incurred in any event, it did not compensate for the normal business risk of an economic activity and it did not intend to simply improve the financial situation of undertakings (recital (24)).

(56) On that basis, the Commission concludes that the scheme presents an incentive effect.

(c) No breach of relevant provisions and general principles of Union law

(57) Pursuant to point (41) of the 2014 Guidelines, if a State aid measure, the conditions attached to it, including its financing method when the financing method forms an integral part of the State aid measure, or the activity it finances entails a violation of relevant Union law, the aid cannot be declared compatible with the internal market.

(58) The conditions of this scheme were set out in accordance with the applicable EU legislation. There is no indication that the aid or the conditions attached to it would entail any violation of the relevant provisions and general principles of Union law. Therefore, the Commission finds that point (41) of the Guidelines is complied with.

(59) Pursuant to point (28) of the 2014 Guidelines, the Commission will not authorise aid for export-related activities to third countries or to Member States which would be directly linked to the quantities exported, aid contingent upon the use of domestic over imported goods, or aid to establish and operate a distribution network or to cover any other expenditure linked to export activities. The scheme did not provide for such types of aid.

3.3.1.2. Negative condition: the aid must not affect trading conditions to an extent contrary to the common interest

(60) Pursuant to point (108) of the 2014 Guidelines, for the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.

(a) Need for State intervention

(61) Pursuant to point (53) of the 2014 Guidelines, State aid should be targeted towards situations where it can bring about a material improvement that the market cannot deliver on its own.

(62) Pursuant to point (55) of the 2014 Guidelines, for the purposes of these Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of those Guidelines. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified under Section 3.1. of Part I of those Guidelines.

(63) The present scheme fulfilled the specific requirements laid down in Section 3.1. of Part II of the 2014 Guidelines (recitals (96) to (106))**.** Therefore, in line with point (55) of the 2014 Guidelines, the Commission considers that there was a need for State intervention.

(b) Appropriateness of aid

(64) Pursuant to point (56) of the 2014 Guidelines, the proposed aid measure must be an appropriate policy instrument to address the concerned policy objective. An aid measure will not be considered compatible if other less distortive policy instruments or other less distortive types of aid make it possible to achieve the same positive contribution to the objectives of CAP and in particular of rural development.

(65) The objective of the aid scheme was to promote the transformation of agricultural activities and the diversification of micro and small agricultural enterprises into non-agricultural activities. The aid was co-financed under the RDP 2014-2022 of Slovakia and pursued the policy objectives set out in Regulation 1305/2013, in particular employment in rural areas and economic viability of agricultural

undertakings in those areas (recital (17)). The Commission concludes on this basis that the aid was an appropriate policy instrument for achieving those objectives.

Appropriateness among alternative policy instruments

(66) As provided for in point (57) of the 2014 Guidelines, the Commission considers that aid granted in the agricultural and forestry sectors and in rural areas, which fulfils the specific conditions laid down in the relevant Sections of Part II of those Guidelines, is an appropriate policy instrument.

(67) The scheme fulfilled the specific requirements laid down in Section 3.1. of Part II of the 2014 Guidelines (recitals (96) to (106)). Therefore, the Commission considers that it was an appropriate policy instrument.

(68) Pursuant to point (58) of the 2014 Guidelines, where a Member State decides to put in place a rural development like aid measure financed exclusively from national funds, when at the same time the same measure is provided for in the relevant rural development programme, the Member State should demonstrate the advantages of such a national aid instrument compared to the rural development programme measure at stake. This condition is not applicable in the case at hand, because the aid was co-financed from the RDP of Slovakia (recital (17)).

Appropriateness among different aid instruments

(69) Pursuant to point (59) of the 2014 Guidelines, aid may be granted in various forms. The Member State should however ensure that the aid is granted in the form that is likely to generate the least distortions of trade and competition.

(70) Pursuant to point (60) of the 2014 Guidelines, where a specific form is set out for an aid measure as described in Part II, such form is considered to be an appropriate aid instrument for the purpose of these Guidelines. The applicable rules are those of Section 3.1. of Part II of the 2014 Guidelines, which does not set out a specific aid form.

(71) Pursuant to point (61) of the 2014 Guidelines, the Commission further considers as regards rural development measures, co-financed by EAFRD or granted as an additional financing for such co-financed rural development measures, that aid granted in the form provided for in the respective rural development measure is an appropriate aid instrument.

(72) In this legal framework, the Commission notes that the aid was granted in the form of direct grants (recital (8)), which corresponds to the form provided for in the respective rural development measure, under which the measure was co-financed from the EAFRD.

(73) On this basis, the Commission concludes that the aid was appropriate.

(c) Proportionality of the aid

(74) Pursuant to point (81) of the 2014 Guidelines, aid is considered proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided activity. Pursuant to point (82) of the 2014 Guidelines, for aid to be proportionate, the amount of aid should not exceed the eligible costs, with some

exceptions. Pursuant to point (83) of the 2014 Guidelines, to ensure predictability and a level playing field, the Commission applies maximum aid intensities for aid.

(75) Pursuant to point (84) of the 2014 Guidelines, if the eligible costs are correctly calculated and the maximum aid intensities or maximum aid amounts set out in Part II are respected, the criterion of proportionality is deemed to be fulfilled.

(76) Aid granted on the basis of the scheme could not exceed 55% of the eligible costs (recital (21)). This aid intensity complied with the maximum intensity allowed under points (638)(a)(ii) and (638)(d) of the 2014 Guidelines (recitals (21), (102) and (103)). From that point of view, the criterion of proportionality was respected, in the light of point (84) of the 2014 Guidelines.

(77) Pursuant to point (85) of the 2014 Guidelines, the maximum aid intensity and aid amount must be calculated by the granting authority when granting the aid. The eligible costs must be supported by documentary evidence which should be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used must be taken before any deduction of tax or other charge. VAT is not eligible for aid, except where it is not-recoverable under national VAT legislation.

(78) Under this scheme, VAT was not considered as eligible cost, except where it could not be recovered under national VAT legislation (recital (20)).

(79) Furthermore, the Commission notes that the Slovak authorities confirmed that the eligible costs were correctly calculated by the granting authority when granting the aid (recital (23)).

(80) The Commission therefore concludes that the aid was proportionate.

(d) Cumulation of aid

(81) Pursuant to point (99) of the 2014 Guidelines, aid may be granted concurrently under several schemes or cumulated with ad hoc aid, provided that the total amount of State aid for an activity or project does not exceed the aid ceilings laid down in those Guidelines.

(82) Pursuant to point (100) of the 2014 Guidelines, aid with identifiable eligible costs may be cumulated with any other State aid, as long as those aids concern different identifiable eligible costs. Aid with identifiable eligible costs may be cumulated with any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this type of aid under the Guidelines.

(83) Pursuant to point (104) of the 2014 Guidelines, aid should not be cumulated with any *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding that fixed in these Guidelines.

(84) The Commission notes that the Slovak authorities confirmed that the aid could not be cumulated with aid from other local, regional or national sources or EU funds or with *de minimis* aid or ad hoc aid covering the same eligible costs (recital (25)).

(e) Transparency

(85) Pursuant to point (128) of the 2014 Guidelines, Member States must ensure the publication of the information listed in that point in the European Commission's transparency award module or on a comprehensive State aid website at national or regional level.

(86) Pursuant to point (131) of the 2014 Guidelines, Member States were not required to publish the identity of individual beneficiaries which received aid exceeding EUR 60 000 before 1 July 2016 (recital (27)).

(87) The Slovak authorities undertook in the aid scheme to fulfil the transparency requirements (recital (27)).

(f) Avoidance of adverse negative effects on competition and trade

(88) Pursuant to point (108) of the 2014 Guidelines, for the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.

(89) Pursuant to point (110) of the 2014 Guidelines, if the aid is well targeted, proportionate and limited to the net extra costs, the negative impact of the aid is softened and the risk that the aid will adversely distort competition will be more limited. Further, the Commission establishes maximum aid intensities or aid amounts.

(90) Pursuant to point (113) of the 2014 Guidelines, due to its positive effects on the development of the sector, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities, laid down in the applicable Sections of Part II of these Guidelines, the negative effect on competition and trade is limited to the minimum.

(91) Aid under the scheme was granted towards the costs of investments in the transformation of agricultural activities into non-agricultural ones (recital (18)). In line with point (118) of the 2014 Guidelines, the Commission considers that the negative impact of the aid was limited, because the aid was well targeted towards its objectives (recital (65)) and proportionate (recital (80)). Further, the aid scheme fulfilled the conditions of Section 3.1. of Part II of the 2014 Guidelines (recital (96) to (106)). Therefore, the negative effect on competition and trade were limited to the minimum.

(92) Pursuant to point (116) of the 2014 Guidelines, where aid is granted under investment aid schemes in rural areas, the Member State concerned must demonstrate that any negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the expected beneficiaries as well as the characteristics of the targeted sectors.

(93) Under the aid scheme at hand, the size of the aided projects was limited. Eligible for aid were only micro and small enterprises and aid could only be granted up to 55% of the eligible costs.

(94) On the basis of the above considerations, the Commission concludes that the aid did not lead to undue distortions of competition and trade.

3.3.2. Application of the Guidelines

(95) The aid which will be granted under the scheme falls under the scope of Section 3.1. of Part II. of the 2014 Guidelines *("Aid for investments concerning the processing of agricultural products into non-agricultural products, the production of cotton or investments in the creation and development of non-agricultural activities")* as well as Common provisions applicable to Chapter 3 of Part II of the 2014 Guidelines.

(96) Pursuant to point (631) of the 2014 Guidelines, aid under Chapter 3 of Part II of those Guidelines must be granted in the framework of a rural development programme pursuant to and in conformity with Regulation (EU) No 1305/2013 either as aid co-financed by the EAFRD or as additional national financing to such aid.

(97) The aid which was granted on the basis of this scheme covered the measure included in the RDP of Slovakia. Thus, it was granted pursuant to Regulation (EU) No 1305/2013 as aid co-financed by the EAFRD (recital (17)). Points (631) of the 2014 Guidelines was therefore fulfilled.

(98) Pursuant to point (635) of the 2014 Guidelines, the eligible costs for investment aid measures falling within the scope of Chapter 3 of Part II of these Guidelines must be limited to the costs listed in that point. The costs which were eligible under the present scheme (recital (18)) were all included in point (635) of the 2014 Guidelines. Therefore, that condition was fulfilled.

(99) Pursuant to point (636) of the 2014 Guidelines, costs, other than those referred to in point (635), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges will not be considered to be eligible costs.

(100) Pursuant to point (637) of the 2014 Guidelines, working capital is not eligible cost under Chapter 3 of Part II of those Guidelines.

(101) None of these costs were included in the scheme (recital (18)). Therefore, points (636) and (637) of the 2014 Guidelines was complied with.

(102) Point (638) of the 2014 Guidelines laid down the maximum aid intensities applicable depending on the regional status of an area in which aid was granted. Aid under the present scheme was granted for investment in the less developed regions whose GDP per capita was between 45 % and 60 % of the EU-27 average. Therefore, point (638) (a) (ii) of the 2014 Guidelines applies, which sets out the maximum aid intensity of 35 % of the amount of the eligible costs.

(103) Further, pursuant to point (638) (d) of the 2014 Guidelines, with the exception of aid granted in favour of large investment projects, the maximum aid intensities set out in points (a) to (c) of that point may be increased by up to 10 percentage points for medium-sized undertakings and by up to 20 percentage points for micro and small undertakings.

(104) The maximum aid intensity under the present scheme was set at 55% of the eligible costs. Eligible for aid were only micro and small enterprises, which in line with point (638) (d) of the 2014 Guidelines could benefit from the aid intensity increased by 20%. The maximum aid intensity therefore complied with points (638) (a) (ii) and (638) (d) of the 2014 Guidelines.

(105) Pursuant to point (641) of the 2014 Guidelines, aid for investments in the creation and development of non-agricultural activities covers investment in tangible and intangible assets. This condition was fulfilled (recital (18)).

(106) Further, point (642) of the 2014 Guidelines lays down the categories of aid eligible under Section 3.1. of the 2014 Guidelines. Aid under the present scheme was granted for investments in the development of non-agricultural activities by farmers that were micro or small enterprises. Therefore, it falls under point (642) (c) of the 2014 Guidelines.

(107) The Commission notes that under the scheme no aid could be granted to undertakings in difficulty within the meaning of point 35 (15) of the 2014 Guidelines (recital (11)).

(108) Likewise, no aid could be granted to undertakings, which still had at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision and subject to a recovery obligation (recital (12)).

(109) The Commission therefore concludes that the extent of the negative impact on competition and trade of the aid in favour of investments in diversification of agricultural activities into non-agricultural ones was such as to justify aid towards the costs of this diversification and the risk that such aid would distort competition was limited.

(110) Pursuant to point (719) of the 2014 Guidelines, the Commission only authorizes aid measures of a limited duration. Schemes covering State aid for measures that can also benefit from EAFRD co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. It follows from recital (5) that this requirement was met.

3.3.3. Weighting up the positive and the negative effects of the aid

(111) Pursuant to point (108) of the 2014 Guidelines, for the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be outweighed by the positive effects in terms of contribution to the objective of common interest.

(112) Pursuant to point (44) of the 2014 Guidelines, aid in the agricultural and forestry sectors and in rural areas should relate closely to the CAP, should be consistent with the rural development objectives referred to in point (10) of these Guidelines and should be compatible with the rules on the common organisation of the markets in agricultural products. This condition is fulfilled, as detailed in recital (17).

(113) The Commission considers on that basis that the positive effects of aid outweighed the risk of distortions of competition and impact on trade between Member States, because the aid scheme was designed to contribute to the development of rural

areas, through supporting the employment and diversification of micro and small agricultural enterprises.

3.3.4. Conclusion with regard to the compatibility of the scheme

(114) Considering the above, the Commission concludes that the scheme facilitates the development of an economic activity and does not adversely affect trading conditions to an extent contrary to the common interest. Therefore, the Commission considers that the scheme is compatible with the internal market based on Article 107(3), point (c), TFEU as interpreted by the relevant provisions of Guidelines.

4. CONCLUSION

The Commission regrets that Slovakia put the aid in question into effect, in breach of Article 108(3), of the Treaty on Functioning of the European Union.

However, it has decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3), point (c), of the Treaty on the Functioning of the European Union.

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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