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**SENSITIVE\***: *COMP Operations*

**Subject: State Aid SA.101779 (2022/N) – Slovenia  
COVID-19: Digital transformation of the economy (RRF)**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 1 February 2022, Slovenia notified an aid scheme in the form of direct grants for investment support towards a sustainable recovery (“Digital transformation of the economy”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).<sup>1</sup> The Slovenian authorities provided additional information on 7, 14, 22 and 23 February 2022.
- (2) Slovenia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

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

<sup>2</sup> 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) Slovenia considers that the COVID-19 pandemic continues to affect the real economy. During the pandemic, most of the companies have been unable to invest in their business. The measure forms part of an overall package of measures and aims to support private investment as a stimulus to overcome this investment gap accumulated in the economy due to the crisis.
- (4) Slovenia confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(c) TFEU, in light of sections 2 and 3.13 of the Temporary Framework.

### **2.1. The nature and form of aid**

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

### **2.2. Legal basis**

- (7) The legal bases for the measure are the Recovery and Resilience Plan (“RRP”) of the Republic of Slovenia, approved by the Government of the Republic of Slovenia on 28 April 2021<sup>3</sup>; the Decree<sup>4</sup> on the implementation of the Recovery and Resilience Facility<sup>5</sup> (“RRF”); the Programme for the Implementation of the Financial Incentives of the Ministry of Economic Development and Technology for the period 2015-2023; and the draft public tender “Digital transformation of the economy”.

### **2.3. Administration of the measure**

- (8) The Ministry of Economic Development and Technology is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (9) The estimated budget of the measure is EUR 44 million, totally made available through the RRF.
- (10) 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 2022.

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<sup>3</sup> As approved by the Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Slovenia of 20 July 2021 (the Council Implementing Decision).

<sup>4</sup> Published in the Official Gazette of the Republic of Slovenia, no. 167/2021.

<sup>5</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p.17.

## **2.5. Beneficiaries**

- (11) The beneficiaries of the measure are undertakings of all sizes that are registered under the Companies Act<sup>6</sup> or the Cooperatives Act<sup>7</sup> and that have a registered office or branch in Slovenia. Credit and financial institutions are excluded as eligible beneficiaries.
- (12) Aid may not be granted to enterprises that are in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>8</sup>, the Agricultural Block Exemption Regulation (“ABER”)<sup>9</sup> or the Fisheries Block Exemption Regulation (“FIBER”)<sup>10</sup>.

## **2.6. Sectoral and regional scope of the measure**

- (13) The measure is open to all sectors, except the financial sector. It applies to the whole territory of Slovenia.

## **2.7. Basic elements of the measure**

- (14) The objective of the measure is to support undertakings in making investments to carry out a comprehensive digital transformation, namely in order to increase their resilience and to reduce the negative effects of the crisis caused by the COVID-19 pandemic. As emphasised in the Council Implementing Decision, companies in Slovenia are in need to adapt to the changes brought by digitalisation and to accelerate the use of advanced technologies. Through digital transformation, which is of particular importance for the economic recovery, the undertakings will be able to continue doing business and improve their efficiency and productivity through the optimisation of their business processes and use of advanced technologies.
- (15) As mentioned in the RRP, the beneficiaries shall be undertakings grouped in a consortium, for the implementation of a given project for the comprehensive digital transformation of undertakings or a digital transformation of individual business functions. Projects will be selected through a tender procedure following an evaluation by an expert panel on the basis of several criteria, such as the relevance, quality and sustainability of the project, whether the project is planned properly to ensure a smooth implementation, as well as the location of the project<sup>11</sup>. The cooperation in a consortium will strengthen the entire value chain

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<sup>6</sup> Published in the Official Gazette of the Republic of Slovenia no. 65/09.

<sup>7</sup> Published in the Official Gazette of the Republic of Slovenia no. 97/09.

<sup>8</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

<sup>9</sup> As defined in Article 2(14) of 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.

<sup>10</sup> Article 3(5) of 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.

<sup>11</sup> These criteria are further specified in the explanatory document for the call for public tender “Digital transformation of the economy”.

in their field of activity, thus contributing to a wider and more effective and efficient digital transformation. In fact, one of the criteria to evaluate the eligible projects relates to the complementarity and collaboration of the enterprises within the consortium, the integration in the value chain and the benefit of such cooperation for the implementation of the digital transformation project.

- (16) In order to be eligible, each consortium shall be composed of one large undertaking and at least two micro, small or medium-sized enterprises (“SMEs”)<sup>12</sup>. Each SME may participate in up to three digital transformation projects and therefore in up to three consortia. Conversely, a large enterprise may participate in only one consortium. The amount of funding will depend on the concrete role and activities by each of the members of the consortium to implement the digital transformation project (larger undertakings are expected to have larger eligible costs).
- (17) The maximum aid amount granted under the measure will be EUR 2.2 million per digital transformation project, of which at least 23% is intended for the SMEs and a maximum of 77% for the large enterprise. Therefore, the maximum aid amount per undertaking is approximately EUR 1.7 million, which represents more than 1% of the overall budget of the measure. The Slovenian authorities argue, in light of point 89(a) of the Temporary Framework, that Slovenia is a small Member State; with the available budget, only a limited number of projects can be effectively financed.
- (18) The eligible costs under the measure may include only the costs of investments in tangible and intangible assets. Costs related to purchasing land and financial investments are not eligible.
- (19) The aid intensities will not exceed 35% of the eligible costs for small enterprises<sup>13</sup>, 25% for medium-sized enterprises<sup>14</sup> and 15% for large enterprises. Slovenia confirmed that it does not intend to use the possibility of an increased aid intensity in line with regional aid rules.
- (20) The Slovenian authorities confirm that aid will concern projects started after the notification of the approval of the measure by the Commission.
- (21) Aid may only be granted on the basis of a written application submitted before works on the investment have started.
- (22) The Slovenian authorities confirm that the aid under the measure does not support activities in breach of the ‘do no significant harm’ principle. Indeed, the RRF only supports measures that respect such principle (Article 5(2) of Regulation (EU) 2021/241). Moreover, section C2.K1 of the Slovenian RRP establishes that the digital transformation of the economy is fully in line with the ‘do no significant harm’ principle as it focuses on the green transformation of business processes, products and services. The digital transformation projects must comply with this principle, as they will be assessed on the basis of several criteria, such as the project’s contribution to environmental sustainability. The Slovenian

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<sup>12</sup> As defined in Annex I to the GBER.

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authorities note that compliance with this principle will be evaluated in two stages. First, during the assessment and selection of projects the relevant authorities will check if the declarations submitted by the applicants are correct and relevant. Once the projects have been selected, the relevant authorities will check if the principle is respected throughout the execution of the project.

## **2.8. Cumulation**

- (23) The Slovenian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>15</sup> or the GBER, the ABER or the FIBER, provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Slovenian authorities confirm that aid under this scheme may be added to notifiable regional investment aid and cumulated with other types of aid under the conditions specified in point 20 of the Temporary Framework. Under no circumstances may the total aid amount exceed 100% of eligible costs. As a result, cumulation with other aid instruments that allow the coverage of a funding gap is excluded.
- (25) The Slovenian authorities also 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.

## **2.9. Monitoring and reporting**

- (26) The Slovenian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>16</sup>).

## **3. ASSESSMENT**

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

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

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<sup>15</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 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, 26.4.2012, p. 8).

<sup>16</sup> Referring to information required in Annex III to GBER and Annex III to ABER and Annex III to FIBER.

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

- (28) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (29) The measure is imputable to the State, since it is administered by the Ministry of Economic Development and Technology (recital (8)) and it is based on the national legal bases referred to in recital (7). The notified measure is financed with RRF funds assigned to Slovenia (recital (9)). RRF funds assigned to a Member State constitute State resources as they are subject to the Member's State control. Aid granted under the measure is therefore financed through State resources.
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants for the implementation of digital transformation projects (recital (6)). The measure thus confers an advantage on those beneficiaries, which they would not have under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, excluding the financial sector (recital (13)).
- (32) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (33) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Slovenian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (34) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (35) Pursuant to Article 107(3)(c) TFEU, the Commission may declare compatible with the internal market "*aid 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*".
- (36) When it amended the Temporary Framework on 18 November 2021, the Commission sought to provide options for Member States, to avoid a repetition of the post-crisis investment drop that occurred in the Union in the wake of the 2008 crisis, with the potential to hold back long-term growth. Investment support measures under section 3.13 of the Temporary Framework seek to overcome the negative economic effects of the crisis including a widening of the investment gap. The measure, which does not contain any specific sectoral restrictions except the exclusion of credit and financial institutions, aims at supporting private investment in assets as a stimulus to overcome an investment gap accumulated in

the economy due to the crisis. The investments which take place as part of the implementation of the digital transformation projects will advance the digital objective, which is one of the pillars of the RRF, and which will contribute to the recovery and resilience of Slovenia. It has been designed to meet the requirements of section 3.13 of the Temporary Framework. The Commission assesses the compatibility of the measure based on Article 107(3)(c) TFEU, in light of section 3.13 of the Temporary Framework.

- (37) The Commission accordingly considers that the measure facilitates the development of certain economic activities (recitals (13) and (15)) that are important for the economic recovery and to achieve the objective of the digital transition, is appropriate and necessary to address the economic consequences arising from the crisis induced by the COVID-19 pandemic. In particular:
- Considering the maximum aid amount per undertaking (recital (17)) and the total budget of the scheme (recital (9)), it is not excluded that some beneficiaries may obtain a grant that exceeds 1% of the total budget of the scheme. The Commission considers that, given the size of the Member State, the budget made available, the target to reach at least 20 consortia (and accordingly at least 60 beneficiaries), and the fact that the scheme only supports investments towards the digital transformation, the number of potential beneficiaries is de facto limited. In any event, the maximum aid amount that could be granted to a single beneficiary remains limited in comparison with the total budget of the scheme (recital (17)), thereby ensuring that the benefit of the scheme is distributed as broadly as the circumstances of Slovenia allow. The maximum aid amount compared to the total budget of the scheme therefore appears justified in accordance with point 89(a) of the Temporary Framework.
  - The aid finances investments in tangible and intangible assets (recital (18)). Financial investments are not eligible. The measure therefore complies with point 89(b) of the Temporary Framework.
  - The measure applies to the whole territory of Slovenia (recital (13)). Furthermore, the sectoral scope of the measure is designed broadly since it applies to all sectors, except for the financial sector (recitals (11) and (13)). In addition, the aid is foreseen for the digitalisation of undertakings regardless of their main economic activity. Furthermore, the limitations to the eligible investments (only investments related to digitalisation) are justified in view of the objective of the measure to achieve a comprehensive digital transformation and foster the recovery and resilience of undertakings. Digitalisation is an area of particular importance for the economic recovery, as the optimisation of business processes and the use of advanced digital technologies is deemed to increase productivity of undertakings and stimulate competitiveness and innovative solutions in line with point 16 of the 6<sup>th</sup> amendment to the Temporary Framework. The measure therefore complies with point 89(c) of the Temporary Framework.
  - The aid intensities under the measure may not exceed the limits laid down in point 89(d) of the Temporary Framework (recital (19)). Furthermore, the Slovenian authorities confirm that they will not use the possibility of an increased aid intensity in line with regional aid rules.

- The overall aid granted may not exceed EUR 2.2 million per project (recital (17)). Since a large enterprise may obtain a grant of a maximum of 77% of that amount, the maximum aid amount for a large enterprise will be approximately EUR 1.7 million, which is the maximum aid amount per undertaking under the measure. The Slovenian authorities therefore confirm that the aid granted under the measure may not exceed EUR 10 million per undertaking in nominal terms (recital (17)). The measure therefore complies with point 89(e) of the Temporary Framework.
  - The aid is granted in the form of direct grants (recital (6)). The measure therefore complies with point 89(f) of the Temporary Framework.
  - Aid may not be granted under the measure to enterprises that are in difficulty (recital (12)). The measure therefore complies with point 92 of the Temporary Framework.
  - 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 2022 (recital (10)). In addition, aid will only concern projects started after the approval of the aid measure by the Commission (recital (20)). The measure therefore complies with point 93 of the Temporary Framework.
  - The beneficiary must have submitted a written application for the aid before works on the investment have started (recital (21)). The measure therefore has an incentive effect pursuant to point 94 of the Temporary Framework.
- (38) The Slovenian authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses that actually occurred in the initial establishment of the beneficiary in the EEA (recital (4)).
- (39) The Slovenian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)).
- (40) The Slovenian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (23) to (25)); they also confirm that the total aid amount cannot exceed 100% of the eligible costs (recital (24)). The measure therefore complies with points 20 and 91 of the Temporary Framework.
- (41) The measure will support consortia that invest in projects of comprehensive digital transformation, which is considered an appropriate path towards achieving the digitalisation of the economy and a more resilient Member State. The measure will have positive effects on the development of the economic activities carried out by the undertakings, as it will contribute to a reduction of the investment gap that could hamper long-term economic growth. The measure will however strengthen the financial situation of certain undertakings (recital (13)) operating in sectors where there is cross border competition; it will thus have negative effects on competition and trade (recital (32)). In weighing the positive effects of the aid against its negative effects on competition and trade (point 90 of the Temporary



Framework), the Commission has paid particular attention to the fact that the measure does not support activities in breach of the ‘do no significant harm principle’ (recital (22)). In particular, the digital transformation projects will be assessed based on their contribution to environmental sustainability. Moreover, since the measure is identical to a measure within the RRP as approved by the Council, compliance with this principle is considered fulfilled in accordance with footnote 91 of the Temporary Framework. In addition, the measure was designed to meet the conditions laid down in section 3.13 of the Temporary Framework: as the measure is necessary, proportionate and appropriate to achieve its objective, it is unlikely to have undue negative effects on competition and trade and such effects are limited to the minimum necessary. In particular, aid under section 3.13 can only finance investment costs relating to tangible and intangible assets, it benefits a broad range of beneficiaries, aid amounts are capped and maximum aid intensities are lower when the size of the undertaking increases.

- (42) The Commission has taken due consideration that the measure facilitates the development of certain economic activities towards digitalisation and of the positive effects of the measure on supporting the recovery from the health crisis provoked by the COVID-19 pandemic when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of that measure outweigh its potential negative effects on competition and trade.

#### 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)(c) 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

