



EUROPEAN COMMISSION

Brussels, 23.XI.2005
C 2005)4451

**Subject: State aid No N 354/05 –Slovak Republic
Madách-Posonium, s.r.o., Individual aid in favour of periodical**

Sir,

I Procedure:

1. On June 27, 2005 the Slovak Authorities notified to the Commission a project to grant a subsidy to the company Madách-Posonium, spol. s.r.o. in order to promote the weekly periodical Szabad újság. The notification was registered with the Secretary General on July 1, 2005. The Commission asked questions by letter dated September 2, to which the Slovak authorities replied by letter dated October 4, registered on October 11.

II Detailed description of the measure/aid

2. Madách-Posonium, s.r.o. Bratislava is the editor of the periodical Szabad újság. The periodical is targeted towards the Hungarian minority, in particular in the south of Slovakia and is edited in Hungarian language.
3. Szabad újság reports about political and economical topics and cultural history (in particular with regard to the Hungarian minority in southern Slovakia).
4. There are 52 editions and in overall 667 420 prints in 2005 (coming to 12835 prints per edition). The support amounts to 1 500 000 SKK (appr. € 38500). It amounts to 11.7% of the overall costs in 2005 (amounting to SKK 12 800 000).
5. The Slovak authorities indicated that the measure cannot be considered as being de minimis. In the last 3 years, previous to enlargement, Madách-Posonium already received aid.

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6. The Slovak authorities are of the view that the aid should not have an effect on trade between Member States because the periodical is only distributed on a local level. The measure was notified only for ensuring legal certainty.
7. Moreover, they argue that the measure has a cultural objective i.e. favouring the diffusion of a periodical in a minority language and could therefore be covered by the relevant Treaty derogation.

III Assessment of the measure/aid

8. The measure is a subsidy directly granted by the Slovak Ministry of Culture out of its own resources. Therefore, it is granted through State resources. The total cost of the periodical amount to SKK 12 800 000 in 2005. The subsidy covers 11,7% (appr. € 38 500) of this cost. There is no doubt that the measure gives an advantage to Madách-Posonium in the sense that it covers a cost that in normal market circumstances would have been borne by Madách-Posonium itself. The measure may allow Madách-Posonium to increase the sales of Szabad újság and accordingly its profits while the sales. In this sense the aid is capable of affecting competition.
9. However, the periodical has only a local character; it is not even sold in the whole of Slovakia, let alone other Member States. It is unlikely in these circumstances that a possible increase in sales of Szabad újság would affect cross border trade in periodicals or prevent in any appreciable way competitors from getting established in the market. Given further the very limited amount of aid, some doubts can be raised, whether the measure constitutes State aid in the meaning of Article 87(1) of the EC Treaty. However, also bearing in mind that Szabad újság is published in Hungarian, one cannot exclude that there is a potential affectation of trade between Member States.
10. Insofar as the measure constitutes aid, the Commission has to verify whether any of the derogations provided for in article 87 (3) EC could apply and thus the measure may be considered to be compatible. Slovakia stated that the aid has a cultural objective i.e. favouring the diffusion of a periodical in a minority language and could therefore be derogated under Article 87(3)(d) EC.
11. Article 87(3)(d) states that an “*aid to promote culture and heritage conservation may be considered to be compatible with the common market where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest*”.
12. In accordance with the Broadcasting Communication¹ and Commission practise², the cultural derogation provided for in Article 87(3)(d) must be interpreted restrictively, and should be limited to measures for specific projects which are related to the national

¹ Communication from the Commission on the application of State aid rules to public service broadcasting . OJ C 320 of 15.11.2001, page 5. See the consideration of the cultural derogation at paragraph 26, and reference to the decision in case NN 70/98 *State aid to public broadcasting channels Kinderkanaal and Phoenix*, OJ C 238 of 21.8.1999, page 3.

² NN 88/98 *Financing of a 24-hour advertising-free news channel with licence fee by BBC*, OJ C 78 of 18.03.2000, page 6.

notion of culture. Furthermore, it is considered that the notion of culture must be applied to the content and nature of the publication, not the medium or its distribution per se.

13. In the present case, the Commission observes that the aid measure aims at promoting the Hungarian language, accordingly the Hungarian minority and therefore cultural diversity.
14. Szabad újság is partly designed to support the information on cultural history. It is therefore noted, the measure has some elements exemptible under Article 87 (3)(d) EC, inasmuch as they may contribute to the awareness of cultural history and cultural diversity. The aid amount is very small and trading conditions and competition in the Community are not affected to an extent that is contrary to the common interest.
15. Insofar the periodical reports about political and economical issues, no other specific compatibility clause seems to be applicable to the notified aid apart from the always possible general application of Article 87(3)(c) EC. The latter provides that, *“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, may be considered to be compatible with the common market”*.
16. Since the aid is exclusively aimed at printed publications in Hungarian language earmarked for the Hungarian minority in Slovakia, it is unlikely that other publications in Slovak or Hungarian would be real substitutes, since they do not focus on “Minority issues”, and in turn that subscribers and/or advertisers would switch between them due to the subsidy. The aid is proportional to the stated objective, a periodical for the Hungarian language minority. It would thus seem that the distortion of intra-EU trade and competition is likely to be very limited. Moreover, the evaluation concerning the potentially limited trade and competition distortion of the measure under review, and in particular, its proportionality to the stated objective, is also underpinned by the comparatively limited amount of aid.
17. Furthermore, the promotion of cultural diversity is considered a common interest goal. Indeed Article 151 (1) EC, provides that *“the Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore”*. Further, the publication of the minority language periodical is in line with Council Resolution of 14.2.2002 concerning the promotion of language diversity and language learning in the framework of the implementation of the objectives of the European Year of Languages 2001; and finally the publication is also in line with Article 22 of the Charter of Fundamental Rights of the European Union, which reaffirmed the principle that the EU respects cultural, religious and linguistic diversity in Member States.
18. Moreover, according to Article 151 (4) EC Treaty, the Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.
19. For these reasons, the Commission considers that in this case, the distortion of competition created by the aid would not adversely affect intra-Community trade and competition to an extent contrary to the common interest.

20. In this respect, the Commission considers that the aid under review would satisfy the conditions in order to be deemed compatible with the common market pursuant to Article 87 (3) (c) and (d) of the EC Treaty.

IV Decision

The Commission has accordingly decided:

that to the extent that this measure constitutes State aid, the aid is compatible with the EC Treaty under Article 87(3)(c) and (d).

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://europa.eu.int/comm/secretariat_general/sgb/state_aids/.

Your request should be sent by registered letter or fax to:

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Directorate-General for Competition
State Aid Greffe
SPA3 6/5
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Fax No: +32.2.296.12.42

Yours faithfully,

For the Commission

Nelie KROES
Member of the Commission