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Subject: N 342/2008 – Czech Republic
Housing and Social Programme for problematic districts

Intervention area 5.2 of the Integrated Operational Programme (hereinafter IOP) on improving the environment of the public housing estates areas. Housing, including social housing, represents one of sectors of the public services, „Improving the environment of the public housing estates“: supported activity 5.2.b Regeneration of apartment houses and relevant segments of the supported activity 5.2.c, Pilot projects focused on localities of the socially excluded Roma communities

Commercial Code (No. 513/1991 Coll., as amended), Civil Code (No. 40/1964 Coll., as amended), and implementing regulations, Housing Property Act (No. 72/1994 Coll., as amended), Act on Financial Control in Public Administration (No. 320/2001 Coll., as amended), Act on Budgetary Rules (No. 218/2000 Coll., as amended).

Sir,

1. PROCEDURE

1. By letter of 3 July 2008, registered on the same day, pursuant to art. 88 (3) EC, the Czech authorities notified the Commission, the aid scheme granting support for the Intervention Area 5.2. of the Integrated Operational Programme (hereinafter IOP) for the period 2007-2013, which is a national policy programme whose priority axis concerns National Support of Territorial Development; Intervention covering the improvement of the environment in problematic housing estates; subsidized activities, revitalization of Prefabs and Pilot projects focused on socially excluded Roma localities.

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The present scheme runs in parallel with other schemes supporting housing regeneration, but aid granted under the former may not be cumulated with aid granted under other authorised schemes.

2. Upon examination of the notification, the Commission found the notification to be incomplete and requested additional information by letter of 25 August 2008 to which the Czech authorities responded by letter of 22 October 2008, registered the same day, following a meeting held on 24 September 2008.

2. DETAILED DESCRIPTION OF THE AID SCHEME

2.1. Objectives, scope and legal basis of the scheme

3. The notified scheme aims at granting financial support to cover part of the investment costs for the regeneration of existing apartment houses in a selected number of the most problematic localities of towns with more than 20 000 inhabitants situated only in regions under the Convergence objective in the Czech Republic. The indicative list includes 62 largest towns of the Czech Republic, without the capital city of Prague, which includes approx. 32.4 % of the total number of inhabitants of the Czech Republic. The city of Prague is not eligible under the scheme and thus is not included in the indicative list.
4. The list of eligible regions and towns is shown below:

Region NUTS 2	Region NUTS 3	Towns
Central Bohemia	Středočeský	Kladno, Mladá Boleslav, Příbram, Kolín, Kutná Hora
South-West	Jihočeský	České Budějovice, Tábor, Písek, Strakonice, Jindřichův Hradec
	Plzeňský	Plzeň, Klatovy
North-West	Karlovarský	Karlovy Vary, Cheb, Sokolov
	Ústecký	Děčín, Chomutov, Most, Teplice, Ústí nad Labem, Litvínov, Litoměřice, Jirkov
North-East	Liberecký	Liberec, Jablonec nad Nisou, Česká Lípa
	Královéhradecký	Hradec Králové, Trutnov, Náchod
	Pardubický	Pardubice, Chrudim
South-East	Vysočina	Jihlava, Třebíč, Havlíčkův Brod, Žďár nad Sázavou
	Jihomoravský	Brno, Znojmo, Hodonín, Břeclav, Vyškov, Blansko
Central Moravia	Olomoucký	Olomouc, Prostějov, Přerov, Šumperk
	Zlínský	Zlín, Kroměříž, Vsetín, Valašské Meziříčí, Uherské Hradiště
Moravia-Silesia	Moravskoslezský	Frýdek – Místek, Havířov, Karviná, Opava, Ostrava, Třinec, Orlová, Nový Jičín, Český Těšín, Krnov, Kopřivnice, Bohumín

5. The eligible regions would appear to qualify as Article 87(3)(a) regions, being NUTS-II level regions under the Commission Decision approving the Regional aid maps for the Czech

Republic¹. Those regions have a GDP per capita of less than 75% of the Community average measured in purchasing power standards. The national investment aid in point is designed to assist the development of the most disadvantaged regions under the Convergence objective in the Czech Republic. Eligible projects must be included in the development strategy of the chosen towns through the Integrated Urban Development Plans (hereinafter IUDP) and contribute to a single strategy of the regional development in the Czech Republic.

6. The eligible investments concern the modernisation and renovation of common areas of existing residential buildings and does scheme not concern the investment in new flats nor new housing construction. On the basis of the available data and experience, the Czech authorities expect that the support will most probably be granted in eligible towns with large quantities of panel housing estates. The scheme grants support to investment projects in towns characterised by the large presence of post-World War II constructions which have led to the creation of enclaves, which are endangered - without adequate and particularly early intervention - not only by physical deterioration but also by social exclusion due to generally lower price level of the flats, which results in subsequent concentration of socially disadvantaged households.
7. The overarching objective of the notified aid scheme, which covers activities 5.2.b. and 5.2.c. of Intervention area 5.2. of the IOP, which will explained in greater detail in section 2, is to improve the quality of life for the inhabitants of problematic housing estates thanks to the regeneration of apartment houses which involves inter alia the improvement of the technical condition of these houses and the reduction of energy demands of houses. Pursuant to the notification, the scheme has three objectives. Firstly, to solve the highly neglected housing fund². Secondly, to prevent the danger of progressive degradation of the environment and weakening of social structure of inhabitants within large areas of the post-war housing estates. Therefore, support in the area of housing is therefore directed at activities preventing social regression, preventing segregation and creation of ghettos of excluded people within the prefabricated housing estates, and they are aimed at sustaining favourable social situation in prefabricated housing estates and thus improving economical situation of these areas. Thirdly, to support of localities with Roma population, especially in the way of interconnecting projects of regeneration with activities of the social integration³.
8. The need to improve the state of the housing fund in new Member States which joined the European Union on 1 May 2004 or later, have been taken into account in Regulation (EC) No 1080/2006 of the European Regional Development Fund (ERDF), where the aid is allowed under the given conditions.
9. The measure notified by the Czech authorities is provided for by Commercial Code (No. 513/1991 Coll., as amended), Civil Code (No. 40/1964 Coll., as amended), and implementing regulations, Housing Property Act (No. 72/1994 Coll., as amended), Act on Financial Control

¹ Commission Decision C(2006)4905 of 24.10.2006 authorising State aid number N 510/2006.

² The neglect of the housing fund is estimated up to CZK 500 billion according to the "Concept of housing policy" approved by the Government Resolution No 292/2005 and because the apartment houses in these prefabricated housing estates frequently suffer from static and technological faults, malfunctions of the siding, loggia, balconies and roofs, they often threaten security and health of inhabitants, among others, they have very poor energetic characteristics which increases heating costs on the one hand side, on the other it prevents to fulfil basic demands for ecologic functions of these buildings.

³ The aid scheme is intentionally linked with a priority measure of the National Lisbon plan 2005 - 2008 - National programme of reforms "Flexibility of the labour market" and with a priority measure "Integration to the labour market". Compliance with the former one ("Flexibility of the labour market") is based on the assumption that the mobility of the labour forces, which substantially contributes to the flexibility of the labour market, is conditioned, inter alia, by the availability of the housing of quality as well. Connection to the latter measure ("Integration to the labour market") stems from the wider concept of the social integration and of the social cohesion, processes to which revitalisation of the problematic prefabricated housing estates can significantly contribute.

in Public Administration (No. 320/2001 Coll., as amended), Act on Budgetary Rules (No. 218/2000 Coll., as amended).

10. In line with the requirements of Article 3 of Council Regulation (EC) No 659/1999⁴ laying down detailed rules for the application of Article 93 of the EC Treaty (now Article 88), the Czech authorities committed not to implement the aid before the Commission's approval.

2.2. Requirements and activities foreseen under the scheme

2.2.1. Requirements of the scheme

11. Intervention area 5.2 aims to changing of the problem districts to multi-functional entity while improving the environment. A basic precondition is the existence of an Integrated Urban Development Plan of and territory development plan of a municipality approved the municipality council. The projects to be realised must be located in the problem districts threatened by the physical deterioration and social exclusion and must meet the following principles (the principles are written in the programme document of the IOP):

- Problem district has to be a part of a town with the total population 20 000 and more.
- A town has to have a prepared Integrated Urban Development Plan – IUDP (see for example Article 7 of Regulation (EC) No 1080/2006) including the verification of the problematic nature of a district.
- Prefab housing estates have to include at least 500 apartments (pilot projects aimed at Roma communities do not have to meet this condition but they have to be a part of a zone having at least 500 apartments).
- The municipality selects a problem district⁵ on the basis of three criteria described in Article 47 of Implementation Regulation (EC) No 1828/2006. The eligible problem districts must meet at least three of the criteria set out in Article 47 of Regulation (EC) 1828/2006, of which two must be quoted under letters (a) to (h) of the aforementioned Article. The criteria of Article 47 of Regulation 1828/2006 are the following:
 - (a) *a high level of poverty and exclusion;*
 - (b) *a high level of long-term unemployment;*
 - (c) *precarious demographic trends;*
 - (d) *a low level of education, significant skills deficiencies and high dropout rates from school;*
 - (e) *a high level of criminality and delinquency;*
 - (f) *a particularly rundown environment;*
 - (g) *a low level of economic activity;*
 - (h) *a high number of immigrants, ethnic and minority groups, or refugees;*
 - (i) *a comparatively low level of housing value;*
 - (j) *a low level of energy performance in buildings.*

⁴ OJ L 83, 27.03.1999, pages 1-9.

⁵ The problem district is a „**deprived residential zone**“ understood as a zone selected for interventions in the housing area described in Article 7 (2)(a) of the Regulation (EC) No 1080/2006.

- Benchmarks of concrete criteria have been collected on the national level by the managing authority of the IOP and negotiated in July 2008 with the Commission (in compliance with Article 47 (1) of Regulation No 1828/2006). The eight chosen criteria include all of the above written criteria except letters (f) and (j). Values of the criteria chosen by a municipality have to always lower than the national average benchmarks.
- After the approval of the Integrated Urban Development Plan (IUDP) by the managing authority of the IOP, i.e. the Ministry for Regional Development, municipalities realise projects in the plans framework: a municipality is responsible for the selection of projects, monitors their realisation as well as the realisation of the whole IUDP, it is responsible for fulfilment of targets set in the IUDP.

2.2.2. Activities foreseen under intervention area 5.2. of the IOP

12. Intervention area 5.2. of the IOP covers three types of activities numbered 5.2.a., 5.2.b. and 5.2.c., which are described hereinafter. Only activities 5.2.b. and 5.2.c. are covered by the present notification⁶:

Activity 5.2.a. - Revitalisation of public areas:

13. The following points will be covered by projects realised within the IUDP of selected problem districts:
- Modifications of housing estate area – e.g. renovation or planting of public greenery,
 - Park modifications incl. acquiring and renovation of municipal movables (benches etc.),
 - Construction, reconstruction and renovation of traffic infrastructure, such as junctions of local roads, parking lots, pedestrian ways, foot-ways, bicycle paths, public areas, construction of noise barriers,
 - Construction, reconstruction and renovation of technical infrastructure, such as facilities for slowing of discharge of the storm waters, measures for removal of upper voltage lines and its replacement by cable lines, renovation and supplementation of public lighting system,
 - Construction and modernisation of non-commercial freely accessible recreational areas, incl. modifications and establishment of playgrounds, water areas and other areas for public recreational and sport usage,
 - Further improvement of public infrastructure within the housing estate units.

⁶ The scheme also foresees the possibility of granting support for the investment costs for the conversion of non-residential buildings into housing estates only for social housing purposes. The aid scheme shall allow renovation and change of the usage of buildings situated on the territory of the problem districts with a goal to ensure the modern social housing. While respecting Commission Regulation (EC) No 1828/2006 Article 47(2)(b) ("delivery of modern social housing of good quality through renovation and change of use of existing buildings owned by public authorities or non-profit operators"), buildings owned by public authorities or non-profit operators can be also a subject of the regional aid because they are not used for housing purposes and they shall be reconstructed for the purpose of social housing, e.g. former shops, civic amenities, kindergartens, which are mainly in communes' possession.

The change of usage of the existing building shall represent only a minority part, estimated at about 5% of interventions in the framework of the proposed aid scheme; the majority of the aid shall be aimed at the regeneration of the existing housing estates.

Social housing means a flat with basic equipment for persons (disabled, with low income or otherwise socially disadvantaged) whose difficult social circumstances prevents them from hiring a flat and fulfilling obligations arising from the rental relationship. Rents in these flats must not exceed the limit laid down by the Ministry for Regional Development. Social housing fulfils conditions for a flat according to the Czech National Standard 73 43 01 for "Residential houses"

14. According to the Czech authorities this activity does not concern reconstructions or modernisations of buildings and it is not part of the proposed aid scheme. The authorities are of the opinion that activity 5.2.a. does not concern economic activity.

Activity 5.2.b. - Regeneration of apartment houses:

15. This activity shall finance reconstructions and modernisations of apartment houses, which are meant as follows:
- construction conversions: e.g. thermal insulation of the siding of buildings, renovation of roofs;
 - provision, reconstruction or modernisation of the technical equipment of buildings: e.g. lifts, heating system, air conditioning.
16. Activity 5.2.b. is devoted to the systematic support of regeneration of the apartment houses in the framework of “problematic prefab housing estates” and to help in this way to prevent or to limit social risks connected with the development of this segment of the housing fund and of the urban environment. It concerns enclaves that are – without adequate and timely intervention – threatened not only by the physical deterioration but also by the social exclusion as a result of the generally lower apartment prices in these areas which subsequently leads to the concentration of socially disadvantaged households. The goal of this measure is not primarily solution of the highly neglected housing fund, but to prevent danger of progressive degradation of the environment and weakening of social structure of inhabitants within large areas of the post-war housing estates. Support in the area of housing is therefore directed at activities preventing social regression, preventing segregation and creation of ghettos of excluded people within the prefab housing estates, and they are aimed at sustaining favourable social situation in prefab housing estates and thus improving economical situation of these areas.
17. According to the Czech authorities the Aid scheme is intentionally linked namely with a priority measure of the National Lisbon plan 2005 - 2008 – National programme of reforms “Flexibility of the labour market” and with a priority measure “Integration to the labour market”. Compliance with the former one (“Flexibility of the labour market”) is based on the assumption that the mobility of the labour forces, which substantially contributes to the flexibility of the labour market, is conditioned, *inter alia*, by the availability of the housing of quality as well. Connection to the latter measure (“Integration to the labour market”) stems from the wider concept of the social integration and of the social cohesion, processes to which revitalisation of the problematic prefab housing estates can significantly contribute.
18. The activity includes modernisation and reconstruction of the so called common parts of apartment houses, it shall not include modernisation and reconstruction of apartments; only in case of social housing reconstructions shall include spaces to be used as social apartments.

Activity 5.2.c. - Pilot projects:

19. This activity is focused on solving of Roma communities (gypsy communities) endangered by the social exclusion. Projects shall be realised in towns chosen by the Ministry of Labour and Social Affairs in cooperation with the Council of the Government for Issues of the Roma community.
20. Compared to activity 5.2.b., the situation is the same in case of pilot projects of the activity 5.2.c. – it concerns regeneration of the problematic prefab housing estates but only one

difference from the activity 5.2b is its direction - support of localities with Roma population, especially in the way of interconnecting projects of regeneration with activities of the social integration that are run by the Operational programme Human resources and Employment and in the framework of the IOP (intervention area 3.1 Social integration services).

21. Pilot project as a group project includes the revitalisation of public areas (activity 5.2.a.) as well as regeneration of apartment houses (activity 5.2.b.). Both of these activities are to be necessarily interlinked on the same territory with activities of the social inclusion (intervention area 3.1 Social integration services) or with activities of the OP Human resources and employment (intervention area 3.2 Integration of socially excluded groups on the labour market of the OP HRE which is directed at the non-investment support of Roma localities).

2.3. Eligible costs

22. The proposed aid scheme primarily covers investment costs for the modernisation and renovation of common areas of existing residential buildings, it does not concern the investment in flats nor new housing construction.
23. On the basis of the available data and experience, the Czech authorities expect that most probably it shall be parts of towns formed by panel housing estates. The massive construction after the World War II created in a number of larger towns the enclaves, which are – without adequate and particularly early intervention – endangered not only by physical deterioration but also by social exclusion due to generally lower price level of the flats which results in subsequent concentration of socially disadvantaged households. According to the Czech authorities the aid scheme is justified for the reasons including:
- poor technical condition of apartment houses built in public housing in so-called mass housing construction,
 - threat, of spatial and social segregation of socially disadvantaged groups,
 - the risk of further deterioration of technical condition of apartment houses that threatens the safety and health of the population,
 - high energy consumption rates in apartment houses, high heat loss.
24. In the framework of the aid scheme, aid is granted as so-called "Initial investment" and shall be provided in connection with investment in material assets, or long-term material assets⁷. Material assets means assets relating to buildings (it does not relate to new buildings but to the reconstruction or modernisation of buildings) and to technical equipment of these building (provision of new equipment, modernisation of the existing one) which are of investment character. Non-investment expenditure, like running costs, is not eligible to be covered from the aid scheme.
25. Under the scheme, renovations, reconstructions and modernisation of apartment houses shall be financed in problematic localities. The aid granted under scheme concerns investments aiming at the regeneration of apartment houses, which includes technical valorisation of the

⁷ Definition of the long-term material assets is based on Act No 536/1991 Coll. on Accounting, as amended and on the Czech accounting standards. The scope of the definition on assets is included in individual implementation notices of Act on Accounting (e.g. Notice No 500/2002 Coll. or Notice No 505/2002 Coll.).

assets, by reconstruction or modernisation in the meaning outlined below; the aid scheme shall not be used for repairs and upkeep⁸. Eligible investments include:

- thermal insulation of the siding of a house, thermal insulation of the chosen inner constructions,
- works on an apartment house aimed at elimination of static technical faults of carrying constructions and renovation of the constructional or functional derangements in the construction of a building,
- redevelopment of the foundations and renovation of the water insulation of the bottom part of a building,
- renovations, reconstructions of the technical equipment of the houses (for example modernisation of the heating system, exchange of distributions of heat, gas and water, modernisation of air conditioning, lifts,
- exchange and modernisation of loggia, balconies including guardrails,
- securing of modern social housing through the renovation of existing buildings
- technical valorisation: expenses on finished conversions, reconstructions and modernisation of the property if it exceed at a single item CZK 40 000 for the taxation period in total,
- reconstruction: is meant as building conversions of a property which results in the change of its purpose or in amelioration of its technical parameters (investment character of executed works),
- modernisation: is meant as expansion of the existing purpose, facilities or use of the property (type of works of investment character),

26. Total eligible expenses of supported projects shall include only expenses for the reconstruction of a building and of its technical equipment. These include :

- the acquisition of the long-term material assets,
- purchase of services immediately linked with realisation of a project,
- expenses for a obligatory publicity for a project,
- value added tax in case of non-taxpayers (at taxpayers in case that they do not claim deduction of tax on entry),
- Costs for preparation studies and consultations connected with investments may benefit from aid up to the intensity level of the aid at 50% of real expenses.

27. It shall be impossible to support non-investment expenditure under the aid scheme, namely:

- indirect costs,
- services connected with the management of the project on administration level, consulting services,
- expenses relative to working out the project documentation including working out the application for the provision of the grant,
- expenses on the obligatory publicity,
- inspection of the construction in form of purchase of services,
- costs of managing the public procurement,
- wages costs.

⁸ Repairs and upkeep are construed as works for the purpose of returning of the building to the original or functional state, renovation of the original technical functionalities, local removal of defects of functional, esthetical and security character (non-investment of executed works).

2.4. Type and number of beneficiaries

28. The beneficiaries shall be the owners of apartment houses regardless of their legal form, who lease and manage property in their own apartment⁹. Given the existence of various forms of ownership in the Czech Republic, the authorities expect that a substantial part of the aid shall be directed to the societies of apartment owners, housing co-operatives and communes, - towns over 20 thousands inhabitants.
29. Beneficiaries of the aid under activities 5.2.b. and 5.2.c., concerning the regeneration of apartment houses in the framework of problematic housing estates, shall be owners of apartment houses classified under No 70.20 – Letting of own property (according to Classification of Economic Activities of the Czech Statistic Office, and according to the NACE Rev. 1.1), which means that the beneficiaries are:
- Municipalities (public corporation according to Act No 128/2000 Coll. on Communes) as owners of apartment houses, or more precisely towns with more than 20 000 inhabitants, that is 62 towns in total in the Czech Republic under the Convergence Objective;
 - Societies of apartment owners or condominiums, a specific legal entity according to Act No 72/1994 Coll. on Ownership of apartments, that are registered by the Register of Companies; they have limited powers to carry out legal acts – for example to deal with issues connected with administration, running and renovations of shared parts of a house or activities connected with operating shared parts of a house. A society can acquire property, rights or other valuables, apartments or non-residential spaces only for specified purposes. Its characteristic can be compared to institutes, to the so called condominium, often practised abroad – they are not undertakings according to the Czech law.
 - Housing co-operatives (legal entity according to par. 221 et seq. of Act No 513/1991 Coll., of the Business Codex). Their members can be either physical or legal persons. As a difference compared to societies of apartment owners, the housing co-operatives are owners of apartments and of other shared spaces in a house and members of the housing co-operative are only tenants. However, not each member has to be necessarily a tenant in a house owned by the housing co-operative, and not each tenant has to be a member of the housing co-operative. Housing co-operatives are formally undertakings according to par. 2 (2)(a) of Act 513/1991 Coll., nevertheless a majority of housing co-operatives limits its economic activity to letting of their apartments to members),
 - Other legal entities (for example companies – most typically a company Ltd. – according to Act 513/1991 Coll., of the Business Codex) and physical persons who are owners of an apartment house and who carry business according to Act 513/1991 Coll., of the Business Codex, or according to Act 455/1991 Coll. on Trade entrepreneurship.
30. All beneficiaries under the scheme have even access to the aid independently from the owner's legal form. The Czech authorities estimate approximately a percentage ratio of individual beneficiaries as follows:

Type of Beneficiary	Expected percentage	Comment
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⁹ According to NACE, Rev. 2 of economic activity 68.2 "Letting of own property and real estate activities with own property"

Municipalities - towns	13%	<i>Communes shall be main beneficiaries of the aid at the supported activity 5.2c in a part that concerns regeneration of apartment houses in the framework of problematic prefab housing estates because a majority of panel houses in Roma localities are in the ownership of communes</i>
Housing co-operatives	65%	
Societies of owners of apartments (condominia)	20%	
Others	2%	

Source: Czech authorities submission of 03.07.2008

31. The Czech authorities estimate that the number of the aid beneficiaries shall not be higher than 500 subjects (the number of projects shall be higher than a number of beneficiaries since; some beneficiaries shall propose more projects).

2.5. Granting mechanisms, form of aid and budget of the scheme

32. The scheme in point is benefitting from co-financing of the European Regional Development Fund, in combination with funding from the Czech's State budget which are supplemented by beneficiaries' own resources.
33. The funds shall be provided as direct grants shared partly by the European Regional Development Fund (ERDF), partly by the state budget of the Czech Republic. The funds shall be provided by the managing authority of the Integrated Operational Programme which is the Ministry for Regional Development.
34. The notified scheme's State aid budget is estimated to amount to CZK 2.356 billion (circa € 90.6 million) for the entire period 2007-2013. The detailed overview is provided in the tables below.
35. The aid scheme is an integral part of the priority axis 5 "National support of the territorial development" under the Convergence objective and its intervention area 5.2 "Improving the environment in the problematic housing estates" of the Integrated operational programme approved by the Commission No C (2007) 6835 of 20 December 2007.
36. The aid scheme covers only part of activities of the Intervention Area 5.2 "Improving the environment in problematic housing estates" which concerns the regeneration of apartment houses. It means that the aid scheme includes the whole activity 5.2b "Regeneration of apartment houses and the activity 5.2.c. "Pilot projects". The Czech authorities consider that public funding for the activity 5.2.a. "Revitalisation of the public areas" concerns non-economic activities in the revitalisation of public areas in the chosen problematic districts, in relation to public goods and infrastructure and should therefore not be tantamount to State aid in the meaning of Article 87(1) EC.
37. With regards to the support granted by the scheme with ERDF funds, it appears that the Intervention area 5.2 "Improving the environment in the problematic housing estates" of the Integrated operational programme of the scheme was approved by the Commission No C (2007) 6835 of 20 December 2007. The IOP has thus earmarked for the intervention in point the following ERDF funds for the duration of the scheme (2007-2013):

Priority axis, intervention area	Earmarked means from the ERDF in mil. EUR (approx.)
Priority axis 5 – National support of the territorial development – Convergence objective	420.9
Intervention area 5.2 – Improving the environment in the problematic housing estates	192.6
Distribution of the ERDF financial means in the intervention areas covered under 5.2:	
Activity 5.2.a. - Revitalisation of the public areas	115.6
Activity 5.2.b - Regeneration of apartment houses	63.6
Activity 5.2.c - Pilot projects (solving the issue of Roma communities)	13.4

38. The indicative distribution of annual allocations of the public/state funding (in million EUR) according to activities (operations) of the intervention area 5.2 is shown in the following tables. However; it is expected that the drawing of financial means will not be taking place exactly within the calendar year:

Activity 5.2a – revitalisation of public areas 2007-2013, in EUR million

Source	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013
ERDF	14.4	11.8	15.1	17.2	18.2	19.1	19.8	115.6
Sources of municipalities	2.5	2.1	2.7	3.0	3.2	3.4	3.5	20.4
Total public expenditure	16.9	13.9	17.8	20.2	21.4	22.5	23.3	136.0
<i>Of which State aid</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>

Note:

Projects are managed mainly by town (public areas on the territory of the prefabricated housing estates belongs mostly to towns), eligible expenditure of projects shall be 85% co-financed from the ERDF and 15% from the town's budgets).

Activity 5.2b. – regeneration of apartment houses 2007-2013, in EUR million

Source	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013
ERDF	7.9	6.4	8.3	9.4	10.1	10.5	11.0	63.6
State budget	1.4	1.15	1.5	1.65	1.7	1.85	1.95	11.2
Total public expenditure	9.3	7.55	9.8	11.05	11.8	12.35	12.95	74.8
Of which Total state aid (1)	9.3	7.55	9.8	11.05	11.8	12.35	12.95	74.8

Note:

The ERDF financial means take part in co-financing in the framework of the public sources at a maximum intensity 85% and sources of the state budget at 15% at minimum. Besides public sources, projects financing is shared by beneficiaries in an extent that respects the Regional Aid Map 2007-2013; the beneficiaries shall take part in co-financing at 40-60% of the total eligible expenditure according to the type of the enterprise.

Activity 5.2c – pilot projects (Issues of Roma communities) 2007-2013, in EUR million

Source	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013
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ERDF	1.7	1.4	1.7	2.0	2.1	2.2	2.3	13.4
State budget	0.3	0.25	0.3	0.35	0.4	0.4	0.4	2.4
Total public expenditure	2.0	1.65	2.0	2.35	2.5	2.6	2.7	15.8
Total State aid (2)	2.0	1.65	2.0	2.35	2.5	2.6	2.7	15.8

Intervention area 5.2 total (5.2. a. + b. + c), 2007-2013, in EUR million, including State aid

Source	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013
ERDF	24.0	19.6	25.1	28.6	30.4	31.8	33.1	192.6
Sources of communes	2.5	2.1	2.7	3.0	3.2	3.4	3.5	20.4
State budget	1.7	1.4	1.8	2.0	2.1	2.25	2.35	13.6
Total public expenditure	28.2	23.1	29.6	33.6	35.7	37.45	38.95	226.6
Of which Total public expenditure 5.2.b and 5.2.c.	11.3	9.2	11.8	13.4	14.3	14.95	15.65	90.6
Of which State aid (1)+(2)	11.3	9.2	11.8	13.4	14.3	14.95	15.65	90.6

39. The Czech authorities estimated that individual interventions shall share the total budget of the intervention area 5.2 in the following proportion (public expenditure in total):

- Activity 5.2.a. Revitalisation of the prefab housing estates: 60.0%
- Activity 5.2.b. Regeneration of apartment houses: 33.0%
- Activity 5.2.c. Pilot projects: 7.0%

2.6. Aid intensities

40. According to the approved Map of national regional support for the period 2007-2013 in the individual regions NUTS 2, the eligible aid (for large companies) in accordance to Article 87(3)(a) of the Treaty is the following (% of the gross grant equivalent- GGE):

Regions NUTS 2 eligible for support according to Article 87 (3)(a) of the Treaty	Period from 1.1.2007 up to 31.12.2010	Period from 1.1.2011 up to 31.12.2013
Central Bohemia	40%	40%
South-West	36%	30%
North-West	40%	40%
North-East	40%	40%
South-East	40%	40%
Central Moravia	40%	40%
Moravia-Silesia	40%	40%

41. The above ceilings can be increased to medium-sized enterprises by 10% and to small enterprises by 20%; small and medium-sized enterprises are enterprises which fulfil criteria of Commission Regulation (EC) No 800/2008, Annex I.; large enterprises are those which do not meet these criteria.

42. Concerning the maximum intensity of the state aid granted, the Czech authorities are of the opinion that the maximum intensity of aid for large enterprises shall be used at each project in such a way that the ceiling given by the Regional Aid Map 2007-2013 will be complied with. In other words, private resources of the beneficiary shall be used in such a way so that the maximum aid intensity does not exceed the limit set in the authorised Regional aid map for the Czech Republic for the period 2007-2013.
43. In practice, according to the Czech authorities, under interventions 5.2.b. and 5.2.c., the state aid within the aid scheme includes co-financing from the ERDF (maximum 85% of the public sources) and the state budget; state budget represents 15% if the public sources within the aid scheme at minimum. Every project has to remain in line with the percentage ceiling of State aid (ERDF + state budget) authorised by the Regional Aid Map 2007-2013 outlined in the above table.
44. In order to ensure that the aforementioned maximum aid intensities will be respected, it is expected that beneficiaries will have to make substantial contributions from own resources. The table below outlines the funding shares from different sources according to the type of beneficiary:

Type of beneficiary	ERDF (in %)	State budget (in %)	Contribution of beneficiary (in %)	Total (in %)
Large enterprise (towns are always considered as large enterprises) – except region South-West	34	6	60	100
Large enterprise - region South-West up to 2010 since 2011	30.5/25.5	5.5/4.5	64.0/70.0	100/100
Medium-sized enterprise (except of region South-West)	42.5	7.5	50.0	100
Medium-sized enterprise - region South-West up to 2010 since 2011	39/34	7/6	54/60	100/100
Small enterprise (except of region South-West)	51	9	40	100
Small enterprise – region South-West	47.5/42.5	8.5/7.5	44/50	100/100

45. The aid scheme concerns only one type of project, i.e. the regeneration of buildings (mainly multi-family houses, only in a limited extent the regeneration of the non-residential buildings for social housing purposes is included). Thus, the differentiation of aid according to type of project, whether 5.2.b. or 5.2.c., does not seem relevant. In every case the authorities will ensure the above presented ceiling applies also for projects in Roma localities.

2.7. Duration and cumulation

46. The scheme duration covers the 7 year period running from 2007 until 2013.
47. The proposed aid scheme shall be launched after its approval by the Commission; with the expectation that this will be at the beginning of 2009. The drawing of financial means for individual projects will be complying with Articles 93 and 94 of Regulation (EC) No 1083/2006 (namely the rule N+2/N+3) up to 2015. The financial means shall be distributed to beneficiaries (on the basis of the decision of the managing authority) during the period from 2009 until 2013; it shall not be possible to issue decisions after 2013.
48. The aid scheme does not allow for aid cumulation. No cumulation will be allowed with *de minimis* aid according to Commission Regulation (EC) No 1998/2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid. Similarly, the Czech authorities confirmed

that no aid will be allowed that infringes the cumulation prohibition with other State aid, nor shall any other means of financing by the Community or by the State in relation to the eligible expenses be allowed, if such cumulation would lead to the exceed of the aid intensity fixed in Guidelines, respectively by the Map.

2.8. Additional aspects and conditions foreseen under the scheme

49. The Czech authorities stated that the scheme only concerns revalorisation residential property and that the beneficiaries under scheme can be both legal and natural persons. However, they also confirmed that they could not exclude that aid recipients would use the property in relation to an economic activity, such as for example renting out to third parties or to carry-out liberal profession activities. In so far as those activities may concern goods or services traded internationally and in so far as an effect on intra-EU trade cannot be excluded, it is not possible to exclude that part of the support granted under the scheme constitutes State aid in the meaning of Article 87(1) EC. Having regard to the latter and in light of the context of application of the scheme, its goals and the limited intra- EU trade affectation, the Czech authorities consider that should the scheme entail State aid in the meaning of Article 87(1) EC, such aid would be compatible with the common market pursuant to Articles 87(3)(a) or 87(3)(c) EC.
50. Moreover, the Czech authorities draw the Commission attention to the facts below which further underpin the scheme's compatibility with the common market.
51. Firstly, the scheme does not discriminate beneficiaries on the basis of nationality. The owner of apartment houses, regardless of his/her nationality, may draw the aid from the aid scheme.
52. Secondly, beneficiaries are obliged to respect the valid national legislation that concerns the public procurement. It is covered mainly by Act No 137/2006 Coll. on Public procurement, which deals comprehensively with the field of public procurement in the Czech Republic. It concurs with the EC legal provisions (e.g. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts). The Act provides (§ 6) that the contracting authority is obliged to ensure compliance with the principles of transparency, non-discrimination and equal treatment.
53. Thirdly, the scheme entails provisions for the non-discrimination against foreign companies, in the context of the execution of the works or provision of eligible supplies under scheme. This is provided at § 17(o) of Act No 137/2006 Coll. “for the purpose of this Act a foreign supplier is a foreign person; in § 51(7) conditions for verification of the qualification are described; in § 112 is defined a supervision over the observance of the Act.
54. The Office for the Protection of Competition is responsible controlling the observance of the § 6 of Act No 137/2006 Coll. on Public procurement.
55. Fourthly, the aid scheme shall not be used to provide support to companies in difficulty in the sense of Community Guidelines on State aid for rescuing and restructuring firms in difficulty¹⁰.

¹⁰ OJ C 244, 1.10. 2004, p. 2.

56. Fifthly, the measure contains dispositions for the verification concerning the existence and reliability of the requests as well as for the recovery of unduly granted benefits. In fact, beneficiaries do not carry out audits but they can be requested to do it through the intermediate body which is in the case of the intervention area 5.2 the Centre for Regional Development. The scheme's beneficiaries have to submit a Report on the sustainability of the project once a year in the given term (this report is an integral part of the programme's monitoring). On the basis of this report the Centre for Regional Development carries out ex-post analysis of risks and decides if the on-the-spot verification is to be realised, in compliance with Article 13 (2)(b) of Commission Regulation (EC) No 1828/2006. The Centre for Regional Development shall carry out ex-post control at all projects.
57. Finally, the Czech authorities undertake to ensure that in all cases the maximum intensity per aid beneficiary will not exceed the ceilings authorised in the Czech Republic under the EC Regional aid guidelines, and the relevant bonuses foreseen under the Regional aid and amended SME guidelines.

3. ASSESSMENT OF THE AID MEASURE

3.1. State aid within the meaning of Article 87(1) of the EC Treaty

58. Pursuant to Article 87(1) EC, *“Save as otherwise provided in this Treaty, 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, insofar as it affects trade between Member States, be incompatible with the common market”*.
59. The Commission initially recalls that in principle State funds granted directly to consumers, natural or legal persons, in the absence of any relation to any economic activity, are not considered as State aid in the meaning of the EC Treaty. Moreover, it is emphasised that even if all the aforementioned conditions of Article 87 (1) EC are met, in case the *“aid is granted directly to consumers and provided that such aid is granted without discrimination related to the origin of the products concerned”*, such an aid shall be compatible with the common market pursuant to Article 87 (2) (a) EC.
60. Pursuant to the notification, natural persons who are the owners/occupiers and legal persons owning the residential properties or prefabs, who are not engaged in any economic activity, are eligible to benefit from the support granted by the scheme. Thus, the Commission remarks that support granted under the scheme to such beneficiaries does not entail any State aid in the meaning of Article 87(1) EC.
61. Nonetheless, it is emphasised that pursuant to the notification, the following considerations ought to be taken into account:
- Firstly, it is not possible to quantify the number of recipients, and consequently the part of the scheme's budget, which would have the characteristics described above for the non-aid or compatible aid under Article 87(2)(a) EC;
 - Secondly, it cannot be excluded that the support granted under the scheme will be used by beneficiaries, whether natural or legal persons, in relation to an economic activity such as for example property letting;

- Thirdly, it is observed that under the scheme more than 90% of the aid in point will be granted to legal persons, rather than to consumers directly. Although State support to housing co-operatives and condominiums may ultimately result in the benefit being granted to the natural person owning the flat in the apartment building or prefabricated building eligible for the aid, the Czech authorities cannot exclude that the beneficiary does not use this property in relation to an economic activity¹¹;
- Fourthly, it cannot be guaranteed that the aid amount per beneficiary will never exceed the *de minimis* threshold, in particular since a beneficiary may own several apartments eligible for support under the scheme.
- Finally, with regards to support granted under the scheme to municipalities as owners of the eligible apartment buildings, the Commission observes that the renting of the residential accommodation is to be considered as an economic activity, which municipalities perform in competition with other property owners. Thus, in so far as this activity may have an effect on competition and on intra-EU trade, State support for the regeneration of apartment buildings or prefabricated buildings owned by municipalities would have to be considered as State aid.

62. Further to the above, in so far as it cannot be excluded that the measure at hand may favour undertakings and/or an economic activity which may lead to distortion of competition and affectation of intra-EU trade, it is necessary to examine the existence of State aid possibly entailed in the scheme and its compatibility with the Common market.

3.1.1. Appraisal of the scheme under State aid provisions of the EC Treaty

3.1.1.1. State Resources

63. The scheme grants support by means of ERDF funds and funds from State's budget which are awarded by managing authority of the Integrated Operational Programme, i.e. which is the Ministry for Regional Development. In light of the foregoing, it appears that the resources of the scheme and decisions of the managing authority of the IOP are directly imputable to the State and thus constitute State resources within the meaning of article 87(1) EC.

3.1.1.2. Favouring of certain economic activities or undertakings and selectivity

64. The scheme favours the production of certain goods only, namely the revalorisation of apartment buildings including prefabricated buildings, and possibly certain property owning undertakings. The proposed measure accordingly confers a selective advantage to its beneficiaries, in so far as they carry out an economic activity.
65. Moreover, the measure compensates apartment buildings property owners for a part of the investment costs they incur for the revalorisation of these prefabricated buildings. Thus, it appears that to the extent that the beneficiaries perform an economic activity, the measure relieves them from costs they would normally support.

3.1.1.3. Intra-EU trade affectation and distortion of competition

¹¹ There is extensive case law discussing the concept of an undertaking in other sectors: e.g. pursuant to the judgement of the European Court of Justice, in case C 41/90, "Höfner v. Elser", [1991], ECR I-1979, "the concept of an undertaking encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed".

66. The Commission remarks that, by favouring certain property owning undertakings operating in markets - in so far as these operate in markets which are open to competition and trade - the aid measure affects or may affect competition between such undertakings and it cannot be excluded that this also affects intra-Community trade in this sector¹².

3.1.1.4. Conclusion on the existence of State aid

67. In light of the foregoing, the Commission considers that, to the extent that the support at hand is granted to beneficiaries performing an economic activity, independently of their legal form, and to the extent that such an activity may have an effect on competition and intra-EU trade, the measure in question constitutes State aid within the meaning of article 87(1) EC.

3.2. Compatibility

68. On the basis of the available information, it appears that intra-EU trade in the specific type of property covered by the present measure is limited and the measure could be deemed to be compatible under article 87 (3)(c) EC¹³.

3.2.1. Compatibility ex Article 87(3) (a) and Article 87(3) (c) EC

69. The Commission has to verify whether any of the derogations provided for in article 87 (3) EC apply. In particular, Article 87(3) reads “*The following may be considered to be compatible with the common market:*

(a) “*aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment*”;

(c) “*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*”.

70. Articles 87(3) (a) and (c) EC provide exceptions for aid assisting areas which are economically underdeveloped by comparison with the Community as a whole or with the rest of the Member State. The conditions in Article 87(3) (a) are fulfilled if the region, being NUTS¹⁴ level II geographical unit, has a per capita gross domestic product, measured in purchasing power standards, of less than 75% of the Community average. The conditions in Article 87(3)(c) are satisfied if the region conforms to the requirements set to qualify as NUTS level III geographical unit.

71. In the present case, the whole Czech Republic with the exclusion of the capital city of Prague, as designated by the Czech Republic’s Regional aid map 2007-2013, falls within either the Article 87(3)(a) or (c) derogation. The country is composed of 7 Article 87(3)(a) Regions and 1 Article 87(3)(c) Regions. In particular, pursuant to the aforementioned regional aid map, with the exclusion of the capital city of Prague, the Czech Republic consists of 7 NUTS II areas and of 13 NUTS III areas, with maximum authorised net grant equivalent aid intensities ranging between 30% and 40% over the entire period 2007-2013, including the adjustments

¹² Small amount of aid are considered to still distort competition (Joined cases T-298 et al./97, T-1 et al./98 Alzetta Mauro and others v Commission of the European Communities [2000] ECR II-2319).

¹³ In fact under the present scheme with regards to investments related to social housing, which could be regarded as a Service of general Economic Interest (SGEI) it is noted that pursuant to the notification the Czech authorities do not foresee a different treatment of the eligible projects in respect of eligibility conditions, eligible investment costs and aid intensities. Similarly they do not request the aid compatibility to be assessed under Article 86(2) EC.

¹⁴ Acronym for Nomenclature of Statistical Territorial Units.

foreseen as from 01.01.2011. In the present case, the scheme shall be granting support in seven Article 87(3)(a) regions excluding the capital city of Prague.

3.2.1.1. Conformity with the Community objectives

72. In line with Commission Decisions¹⁵ ¹⁶authorizing under State aid number N 343/2005 the scheme granting support for the revalorisation of prefabricated panel buildings in the Czech Republic, the so-called Prefabs, the Commission notes that the same reasoning can be followed in the present case.
73. The measure is designed to stimulate private investment in the revalorisation of defective apartment buildings including Prefabs, with a view to improving the health and safety living conditions of the residential accommodations in these residential properties and Prefabs; to improving social cohesion by preventing the creation of social ghettos by improving the quality of life and revitalising housing estates; and enhancing the environmental friendliness of the buildings by upgrading their thermal insulation which will contribute to reduce energy waste. The Commission observes that the present scheme contributes to the attainment of the consumer protection and economic and social cohesion which are objectives warranted by Articles 2, 3(k), 3(l), 3(p), Article 153(1) EC and Article 158 of the EC Treaty.
74. In line with Article 153 (4) EC the scheme contributes to the consumer protection objective of the European Union warranted at Article 153 (1) EC which states that *“In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests”*. Furthermore, in line with Article 158 EC, the scheme under review contributes to promoting the European Union’s economic and social cohesion objective which reads *“In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion. In particular, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas”*. Finally, in line with Article 2 EC, the measure contributes to promote *“a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States”*.
75. Moreover, it is note that the scheme is co-funded by the European Regional Development Fund In line with other EU initiatives and cohesion policies, the scheme also aims at preventing the creation of social ghettos through the stabilisation of the population mix in those areas by improving the quality of life and revitalising housing estates.
76. Accordingly, the measure under review supports the realisation of Community objectives and can thus be considered to be in the common interest.

3.2.1.2. Necessity and proportionality of the measure

¹⁵ OJ C219, 12.08.20062006

¹⁶ Commission Decision C(2008)6638, of 04.11.2008 authorizing the budget increase for approved scheme N 343/2005 mentioned in the above footnote. This Decision has not yet ben published in the OJ.

77. The measure addresses fundamental building defects which affect the safety and habitability of the residential properties and prefabs by the resident owner/occupier. It compensates part of the investment costs incurred by the owner to repair those defects; and it also requires that the beneficiary co-finances the revalorisation works by means of contributions from own resources in proportion of 40% to 70% of the investment costs (see table in sub section 2.6 above). Accordingly, it can be considered that the measure is necessary and that it is in the form of an incentive aiming to spur private investment in problematic districts in Article 87(3)(a) EC regions which are characterised by : low level of economic activity; high levels of unemployment; poverty; exclusion; low level of education; high levels of delinquency and criminality, a high number of immigrants, ethnic minority groups, or refugees.
78. Further, it is observed that, in this case the aid does not offset recurring or continuous costs, which the beneficiary and or undertaking would normally incur; rather it compensates part of the costs required to remedy an extraordinary depreciation due to the lack of maintenance by the original owner of the buildings, namely the State itself. Although, the owners of the eligible flats, or of the entire eligible residential buildings and Prefabs themselves, are obliged to keep those buildings in a safe state in order to be allowed to live in those flats and or to continue their activity, in this case it is found that the aid is granted for one-off investments. In line with the prevailing case-law¹⁷ and Commission decision making practice¹⁸, it can be considered that, to the extent that the scheme entails State aid within the meaning of Article 87(1) EC, the aid granted under the present measure is not operating aid, i.e. aid to relieve undertakings from typical general operating costs normally incurred to carry out their activity, but rather it can be considered as investment aid.
79. Having regard to the incentive form of the measure; to the supported investment; to the commitments undertaken by the Czech Republic to apply the maximum aid intensities authorised under the Regional Aid Guidelines and the aid cumulation provisions, and having regard to the scheme's high number of beneficiaries and the limited budget; the Commission would consider that the support granted under measure is proportionate to the pursued objectives.

3.2.1.3. Effect on competition and trade

80. It is noted that the measure compensates part of the investment costs incurred to repair and regenerate existing apartment buildings and prefabs, which are typically already being occupied by the resident owners. In this, case it thus could be considered that the measure cannot be assimilated to supporting investment in new production capacity or into substitutive capacity. Thus, to the extent that the measure entails State aid, it will not lead to a direct increase in production. This is confirmed by the fact that new constructions cannot access to the benefits awarded under the scheme.
81. The measure also contains safeguards preventing the discrimination of owners, technical experts, suppliers and construction companies on the basis of nationality. Moreover, the scheme is open, irrespective of their legal form, to all owners of apartments buildings and prefabs, or flats in such buildings which present the substantive defects listed above in sub sections 2.2.1, 2.2.2. and 2.2.3. Accordingly, to the extent that the measure entails State aid within the meaning of Article 87(1) EC, it is unlikely to lead to significant distortion of competition.

¹⁷ Case C-278/95 P Siemens SA v Commission of the European Communities [1997] ECR I-2507.

¹⁸ Commission decision in State aid case C 2/2000 Sweden 'Measures to improve the indoor environment', OJ L 295/2000, 23.11.2000, p.30.

82. It is also noted that aid to undertakings in deprived urban areas that carry purely local activity would normally be considered as not affecting trade between Member States. Further, the scheme supports the improvement of health and safety of existing residential accommodations. In addition it is observed that the aid scheme's budget of approximately € 90 million will be spread over 62 towns located in Article 87(3)(a) EC regions, covering more than 500 beneficiaries across the country, over more than 1 000 projects, over 7 years thereby implying that the average support per beneficiary would be of limited importance thus limiting the impact on competition and intra-EU trade.
83. In line with the Commission's decision making practice¹⁹ it appears that, on the basis of the available information and to the extent that the measure under review entails State aid, it would be considered as having a limited effect on intra-EU trade and the latter would not be to an extent contrary to the common interest.
84. In light of the foregoing, in so far as it entails State aid, having regard to the scheme's sectoral focus and objectives, the measure under review can be considered as fulfilling the compatibility requirements set forth in Article 87(3) (c) EC.

3.2.2. Further elements underpinning the compatibility ex Article 87(3) EC

85. The Czech authorities consider the notified the scheme as entailing State aid which would be compatible with the common market under Article 87(3)(a) EC or alternatively under Article 87(3)(c) EC. However, they added they have not designed the measure with reference to the SME and Regional Aid Guidelines. Nonetheless, they have undertaken to apply the scheme with a view to making it broadly in line with the requirements of these Guidelines by assimilation.
86. Concerning the SME Guidelines²⁰. The authorities confirmed that they will use for the scheme the definition of an SME as adopted in the aforementioned Guidelines. As indicated in the above section, the measure under review has the following characteristics: to the extent that the scheme supports housing co-operatives and condominiums, these would fulfil the aforementioned definition of SMEs; it is in the nature of an incentive; it can be assimilated to investment aid and not to operating aid; it is necessary to achieve objectives in the Community interest which the private beneficiaries located in assisted areas would not be able to secure on their own, it is proportional to the handicaps which are sought to be overcome. Accordingly, the Commission notes that, by assimilation, it could be considered that the notified measure would broadly meet the requirements of the SME guidelines according to which, the Commission may consider State aid to be compatible with the common market.
87. Concerning the Regional Aid Guidelines²¹. The latter provide a non-exhaustive list of permissible forms of aid, including aid in the form of a grant, low-interest loan or interest rebate or supply of goods and services at a concessionary price. Aid granted through the notified instrument is in line with the types mentioned in the Guidelines. Further, given that the recipient has to make fund the investment with a significant proportion of own resources,

¹⁹ N 430/2002 – Germany – Subsidies for the improvement of the image of the “Handelshafen” area, OJ C 202, 27.08.2003, p. 22. N 317/2002 – United Kingdom – Scottish Property Support – Bespoke development Scheme, OJ C 228, 17.09.2005, p. 10. N 82/2001 – United Kingdom – English Cities Fund, OJ C 263, 19.09.2001, p. 11.

²⁰ OJ L 10, 12.01.2001, p. 33-42 as amended by Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3–47.

²¹ OJ C 74, 10.03.1998, pages 9-31 and subsequent amendments see OJ C 394, 17.12.1998, page 23 ; OJ C 258, 09.09.2000, page 5 and OJ C 54, 04.03.2006, pages 13-45.

thereby the Czech authorities thus ensure that the recipients carry part of the risk associated with the aided project and make their contribution to the financing of the investment aided. Further, the application for aid will be submitted before work is started on the projects and the investment will be maintained in the region concerned for a minimum period of five years. Accordingly, the Commission notes that, by assimilation, it could be considered that in essence the notified measure would meet the requirements of the Regional aid guidelines according to which the Commission may consider State aid to be compatible with the common market.

88. Moreover, the Czech authorities have undertaken to ensure that, in the event the scheme should entail any State aid, the maximum aid intensity per beneficiary would be in line with the thresholds foreseen in the aforementioned guidelines, in order to allow the scheme to be compatible with the Common market on the basis of Article 87(3)(c) of the EC Treaty, as the advantages in question are related to specific investments eligible to receive aid by assimilation to the above guidelines.
89. The Czech authorities have undertaken to respect the State aid cumulation requirements. Application of more than one aid Scheme to a given investment project must respect the rules on cumulation of aid set forth in the Regional Aid Guidelines.
90. Finally, the authorities have confirmed that the scheme will not be used to grant aid to companies in difficulties within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.
91. Therefore, the Commission notes that, although the measure under review is not designed to be authorised directly under the Regional and SME aid guidelines, by assimilation, it appears to be broadly in line with the requirements of the said guidelines.

3.3. Conclusion

92. In light of the foregoing, the Commission considers that in this case, to the extent that State aid is involved, the distortion of competition created by the scheme would not adversely affect competition and intra-EU trade to an extent contrary to the common interest.
93. The Commission thus considers that the scheme under review would satisfy the conditions in order to be deemed compatible with the common market pursuant to Article 87 (3) (c) of the EC Treaty.

4. DECISION

The Commission has accordingly decided to consider that, to the extent that the notified aid scheme entails State aid within the meaning of Article 87 (1) EC, such aid is be compatible with the EC Treaty. This aid measure can be approved pursuant to Article 87 (3) (c) of the EC Treaty.

The Czech authorities are reminded that, pursuant to Article 88 (3) of the EC Treaty, they must inform the Commission of any plan to continue funding or to extend or amend the scheme.

If this letter contains confidential information that 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

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Directorate-General for Competition
State aid Greffe
BE - 1049 Brussels
Fax No: + 32-2-296 12 42

In all your correspondence, please specify the name of the case and the case number.

For the Commission,

Neelie KROES
Member of the Commission