



EUROPEAN COMMISSION

Brussels,  
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**PUBLIC VERSION**  
**WORKING LANGUAGE**  
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**Subject: State aid No. SA.35012 (2012/N)– UPS Polska Sp. z o.o. – Poland**

Sir,

**1. PROCEDURE AND DESCRIPTION OF THE MEASURE**

- (1) On 20 July 2012, Poland notified to the Commission the above-mentioned aid measure. The measure was notified under the Notice on simplified procedure in particular point 5 (a) (vi) of the Notice<sup>1</sup>.
- (2) A description of relevant features of this measure can be found in the summary of the notification, as published on the website of the Commission [http://ec.europa.eu/competition/state\\_aid/cases/245475/245475\\_1342681\\_22\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/245475/245475_1342681_22_1.pdf) and annexed to the present decision.
- (3) The Commission did not receive any substantiated comments of third parties upon publication of the summary of the notification on its website.

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<sup>1</sup> OJ C136, 16.06.2009, p. 3-12.

Jego Ekscelencja  
Pan Radosław SIKORSKI  
Minister Spraw Zagranicznych  
Al. J. Ch. Szucha 23  
00-580 Warszawa  
POLSKA

## 2. ASSESSMENT OF THE MEASURE

### 2.1. Existence of aid within the meaning of Article 107(1) of the TFEU

- (4) As shown by the features of the measure described in the summary of the notification, the notified individual aid allows UPS Polska Sp. z o.o. in Wrocław to be relieved, by means of State resources, of a part of its costs regarding employment which it would normally have to bear itself. Consequently, the support from the State strengthens the position of the beneficiary enterprise concerned in relation to its competitors in the Union and therefore has the potential of distorting competition. Since the beneficiary is active in selling services which are, at least potentially, subject to intra-Union trade, this support is likely to affect trade between Member States.
- (5) The Commission therefore concludes that the notified individual aid constitutes State aid within the meaning of Article 107(1) TFEU as moreover confirmed by the notifying Member State in its notification.

### 2.2. Compatibility of the aid

- (6) The Commission would first like to highlight that certain types of regional investment aid can, in practice, be implemented without ex ante notification if the measure concerned fulfils the conditions of the General block exemption Regulation<sup>2</sup> (GBER) and, in particular Article 13 of this Regulation. These provisions do not allow, however, *ad hoc* regional aid to be granted, except in the specific circumstances described in Article 13, point 1, second subparagraph. The present aid measure granted to company UPS Polska Sp. z o.o. by the Minister of Economy on an *ad hoc* basis does not therefore fall within the scope of application of the GBER.
- (7) The Commission did not encounter difficulties in the assessment of the notified measure. As the aid aims at promoting regional development, the Commission has assessed the compatibility of the notified measure with the Internal market in the light of the Guidelines on national regional aid for 2007-2013<sup>3</sup> ("the RAG" or "the guidelines").
- (8) In its assessment, the Commission has taken note of the following points:
- a. The Dolnośląskie region where this new project will be carried out is entirely eligible under Article 107(3) (a) of the TFEU, with a standard regional aid ceiling of 40 % gross grant equivalent (GGE).
  - b. In general, the Commission has an unfavourable attitude towards regional aid being granted in the form of *ad hoc* aid (cf. point 10 of the guidelines). However, in this case, the project will have a positive impact on the city of Wrocław and the Dolnośląskie region by creating 250 new direct jobs (of which 201 for persons with a university degree) and 25 new indirect jobs. By introducing modern solutions in the areas of distribution, freight, logistics, customs clearance, human resources and technical support, the

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<sup>2</sup> Commission Regulation (EC) n° 800/2008 of 6 August 2008 (OJ L 214 of 9.8.2008, p. 3

<sup>3</sup> OJ C 54, 04.03.2006, pages 13-45

investment will have a positive impact on the level of innovation, entrepreneurship and know-how transfer in the region. Innovative methods of people management and high standards of work environment will contribute to the enhancement of the quality of employment.

- c. The investment in the project amounts to PLN 2 021 125 (EUR 485 534)<sup>4</sup>. The aid granted amounts to PLN 800 000 (approx. EUR 192 188).
  - d. The eligible expenditure, in the amount of PLN 22 425 888 (EUR 5 289 998), is defined by reference to the expected 2-yearly wage costs in conformity with the guidelines and in particular with points 57 and 58 thereof.
  - e. Therefore, the notified aid intensity of 3.34 % GGE is below the applicable regional aid ceiling of 40 % GGE. The applicable regional aid ceiling will also be respected in case of combination of this *ad hoc* aid with aid from other sources and accordingly complies with the provisions of the guidelines.
  - f. The application for aid had been submitted by the beneficiary before the start of works on the project and the authority granting the aid issued a letter of intent to award the aid (cf. point 38 of the guidelines).
  - g. Aid for the creation of jobs is conditioned by the obligation of the maintenance of the investment for a minimum period of 5 years after its completion and of the jobs created during a minimum period of 5 years as from the day of their creation (cf. point 40 of the guidelines).
  - h. The number of jobs created is calculated in accordance with the provisions of the guidelines (cf. point 58).
  - i. The information provided by the Member State confirms that the subsidised project is a new project and does not concern a replacement investment.
- (9) The notified measure fulfils both the substantive and procedural requirements laid down in the RAG.
- (10) The Commission did not receive any substantiated comments of third parties upon publication of a summary of the notification on its website.

### 3. CONCLUSION

- (11) In the view of the above, the Commission finds that the aid granted on the basis of the measure in question is compatible with the Internal market in accordance with Article 107 (3)(a) of the TFEU and has accordingly decided not to raise objections to the notified measure.

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<sup>4</sup> The EUR equivalent of the aid amount was calculated using the exchange rate of EUR = 4.1626 PLN, being the exchange rate of the date of the notification.

(12) The Member State has indicated in the context of the notification process that the summary nature of this decision implies that it does not contain any confidential information.

Yours faithfully,  
For the Commission

*Joaquín Almunia*  
Vice-President

Annex: Summary of the notification based on the information provided by the Member State according to the standard form provided in Annex to the Notice on simplified procedure.