



EUROPEAN COMMISSION

Brussels, 2.6.2010

C (2010) 3573

PUBLIC VERSION

WORKING LANGUAGE

**This document is made available for
information purposes only.**

Subject: State aid N 104/2010 - Poland
Rescue Aid to FLT Krasnik SA

Sir,

I. PROCEDURE

- (1) On 16 March 2010 Poland notified a rescue aid to Fabryka Łożysk Tocznych Kraśnik SA (hereinafter: "FLT Krasnik" or "the company"). Additional information was provided by Poland by e-mail of 13 April 2010.

II. DESCRIPTION

1. The beneficiary

- (2) FLT Krasnik, the beneficiary of the rescue aid, is located in the region of Lubelskie, a Polish region eligible for regional aid under Article 107 (3)(a) TFEU. It is a company manufacturing bearings and gear boxes.
- (3) FLT Krasnik is a large enterprise as it employs 2300 workers¹. The company is part of a larger business group. According to the Polish authorities, 100% of the companies' shares belong to the State Treasury. Apart from the beneficiary, one subsidiary, Zakład Łożysk Wielogabarytowych Kraśnik (hereinafter "ZLW Krasnik"), fully owned by FLT Krasnik, is part of the business group. In 2003, ZLW Krasnik was created out of FLT Krasnik's assets dealing with the production of large size bearings.

¹ Article 3(3) of the Commission recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise, OJ 2003/L 124/36.

2. The measure

- (4) The Polish authorities have notified to the Commission a rescue aid in a form of a PLN 12.5 million loan (c. EUR 3.2 million). This loan is to be granted to the company by a public entity, The Industrial Development Agency (*Agencja Rozwoju Przemysłu S.A.*, hereinafter: "ARP"), in one instalment upon being approved by the Commission. The loan is to be repaid within six months of its authorization by the Commission. The interest on the loan is to be one percentage point higher than the reference rate for Poland (established pursuant to the Commission methodology for calculating the reference rates) that will apply on the date of granting the aid.² The company provides strong collateral to secure the loan. The aid cannot be cumulated with other State aid covering the same eligible costs.
- (5) Poland considers that FLT Krasnik is a firm in difficulty in the meaning of chapter 2.1 of the Rescue and Restructuring Guidelines³ (hereinafter "the Guidelines"), as it experiences:
- increasing losses: in 2008 the company experienced a net loss of PLN 51 million; the forecasted net loss for 2009 is PLN 33 million;
 - decreasing turnover: the value of sales has fallen in the years 2008-2009 from PLN 286 million to PLN 154 million. The decreasing sales lead to significantly lower profitability ratios;
 - decreasing asset value: the asset value has decreased by more than half: from PLN 158 million in 2007 to 72 million in 2009;
 - increasing debt: on 31 December 2007 the ratio of debt to overall capital is 31.5% whereas in 2009 its level is 60%.

III. ASSESSMENT

Existence of State aid

- (6) Article 107 (1) TFEU lays down that any aid granted by a Member State or through State resources in any form whatsoever, which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods and affects trade among Member States, is incompatible with the internal market.

² Under the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p.6.).

³ Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty, OJ 2004/C 244/02.

- (7) The loan in favor of FLT Krasnik is provided by ARP, which is a public entity over which the State exercises control⁴ and, therefore, the loan is granted from State resources and is imputable to the State. The loan constitutes an advantage since it will provide the company with access to credit that, being in a difficult situation, it would not have been able to obtain otherwise. The loan is granted to FLT Krasnik alone; the advantage is therefore also selective. Furthermore, as there is trade between the Member States in bearing and gear boxes which the company manufactures, the measure is apt to improve the competitive position of the beneficiary in relation to its competitors in Poland and the EU, and it consequently, distorts or threatens to distort the competition and affects trade between the Member States.
- (8) Therefore, the Commission considers that the present loan in favour of FLT Krasnik constitutes State aid pursuant to Article 107(1) TFEU.

Compatibility of the Aid

- (9) The Commission considers a rescue aid compatible with the internal market pursuant to Article 107(3) (c) TFEU if it complies with the criteria under the Guidelines which spell out the rules as to the eligibility of the firm for the aid (only firms in difficulty are eligible) and its form, interest rate and other conditions pursuant to chapter 3.1 of the Guidelines.

Eligibility for rescue aid

- (10) A firm in difficulty is defined in chapter 2.1 of the Guidelines. According to point 9 of the Guidelines, the Commission considers a firm to be in difficulty where it is unable, whether through its own resources or with the funds it is able to obtain from its owner/shareholder or creditors, to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to go out of business in the short or medium term. Additionally, point 11 of the Guidelines provides that the usual signs of a firm in difficulty are increasing losses, diminishing turnover, growing stock inventories, excess capacity, declining cash flow, mounting debt, rising interest charges and falling or nil assets value.
- (11) The Commission considers FLT Krasnik to be a firm in difficulty pursuant to point 11 of the Guidelines, as it has experienced increasing losses, increasing liabilities, decreasing turnover and falling assets value (see point 5 above).
- (12) FLT Krasnik is a part of a larger business group (see point 3). Hence for its eligibility for rescue aid it is necessary to demonstrate, pursuant to point 13 of the Guidelines, that the company's difficulties are intrinsic and that they are not the result of an arbitrary allocation of costs within the group, and that its difficulties are too serious to be dealt with by the group itself.

⁴ The owner of all shares is the State Treasury, and the voting rights at the general meeting are exercised by the Minister of the State Treasury.

- (13) The subsidiary of FLT Krasnik is a company which has commercial relationship with the mother company. In fact, the Polish authorities have confirmed that there are no personal ties amongst them and products and materials are being traded on market terms. On this basis, the Commission has no reason to doubt that FLT Krasnik difficulties are intrinsic and are not a result of an arbitrary allocation of costs within the group.
- (14) According to the consolidated financial figures submitted by Poland, the group experienced a net loss of PLN 49 million in 2008. Despite the fact that ZLW Krasnik generated a net profit in 2009 amounting to 0.46 million and that FLT Krasnik realised a dividend from the subsidiary's activity in 2008 amounting to PLN 0.5 million, it did not change the financial situation of the beneficiary. Hence, the Commission considers that the difficulties were too serious to be dealt with within the group itself.
- (15) Therefore, on the basis of the above, that the Commission finds that FLT Krasnik is a company in difficulty and is eligible for rescue aid according to chapter 2.1 of the Guidelines.

Conditions for rescue aid

- (16) A rescue aid must meet the conditions set out in point 25 of the Guidelines in order to be compatible with the internal market.
- (17) According to point 25(a) of the Guidelines, the rescue aid must consist of liquidity support in form of a loan or guarantee; in both cases it must be granted at an interest rate at least comparable to those observed for loans for healthy firms. In this case, the loan is limited to a period of up to six months from being authorised by the Commission. In addition, Poland has provided assurance that the loan will be granted at an interest rate (see point 4 above) above the reference rate applicable to healthy companies at the time of granting. Thus, the rescue aid to FLT Krasnik is in line with point 25(a) of the Guidelines.
- (18) According to point 25(b) of the Guidelines the rescue aid must be warranted on the grounds of serious social difficulties and have no undue spill-over effects on the other Member States. In the present case, if the company ceased its operations, this would have consequences in terms of employment in a region which is an assisted area under Article 107 (3)(a) of the EC Treaty. The company is employing 2 300 workers in a region where the unemployment rate is above Poland's average amounting to 15%. Without the rescue aid, according to the information provided by Poland, the company would go out of business which would result in a significant part of the workers being unemployed. In addition, taking into consideration the very small amount of aid and company's EU market share⁵, the Commission finds that the aid will not create undue adverse spill-over effects on other Member States. On the basis of the above, it can be concluded that the aid is in line with point 25(b) of the Guidelines.

⁵ 0.8 % on the EU market.

- (19) Point 25(c) of the Guidelines stipulates that a rescue aid must be accompanied by the undertaking of the Member State that, not later than six months after the rescue aid is authorised, a restructuring, liquidation plan or proof that the loan has been disbursed in full and/or that guarantee has been terminated is to be communicated to the Commission. In this case, the loan is limited to six months and Poland has undertaken to communicate to the Commission, not later than six months after the rescue aid is authorised, a restructuring plan, a liquidation plan or proof that the loan has been repaid in full. Consequently, the rescue aid is in line with point 25(c) of the Guidelines.
- (20) According to point 25(d) of the Guidelines the rescue aid must be restricted to the amount needed to keep the firm in business for the period during which the aid is authorized. The amount necessary should be based on the liquidity needs of the company stemming from losses. In determining that amount regard will be had to the outcome of the application of the formula set out in the Annex of the Guidelines. In the present case, the formula is as follows: $-26\ 113 + 16\ 169 + [34\ 241 - 58\ 955]/2 = -17\ 329$ (in thousands of PLN). Thus, applying the formula in the Annex of the Guidelines, the maximum amount of rescue aid is PLN 17.3 million. In view of the facts that the notified rescue aid amount of PLN 12.5 million is below the threshold set by the formula, the Commission considers that the amount of aid correctly reflects the liquidity needs of the company. Thus, the aid amount is in line with point 25(d) of the Guidelines.
- (21) According to point 25(e) of the Guidelines the aid must be granted in compliance with of the 'one time, last time' principle as stipulated in point 72 et seq. of the Guidelines. The Polish authorities confirmed that FLT Krasnik has neither received rescue nor restructuring aid in the past. Therefore, the notified aid complies with point 25(e) of the Guidelines.
- (22) In view of the above, the Commission considers the rescue aid to FLT Krasnik to be compatible with the Internal market under Article 107(3)(c) TFEU pursuant to the Rescue and Restructuring Guidelines.

IV. CONCLUSION

- (23) The Commission has decided, on the basis of Article 107 (3)(c) TFEU, to consider that the State aid consisting of a loan of PLN 12.5 million to FLT Krasnik is compatible with the internal market.
- (24) The Polish authorities have committed that at the latest after six months of the adoption of the positive decision regarding the rescue aid by the Commission, they will provide either a restructuring plan, a liquidation plan or a proof that the loan has been reimbursed in its entirety.

[If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of receipt. If the Commission does not receive a reasoned request within 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: http://ec.europa.eu/community_law/state_aids/state_aids_texts_pl.htm](http://ec.europa.eu/community_law/state_aids/state_aids_texts_pl.htm).

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

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B - 1049 Brussels
Fax No: +32 2 296 12 42

We would ask you to state the case name and number in all correspondence.

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-president of the Commission