



Brussels, 22.8.2016  
C(2016) 5479 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p style="text-align: center;"><b>PUBLIC VERSION</b></p> <p>This document is made available for information purposes only.</p>
---	--	--

**Subject: State Aid SA.43182 (2015/N) – Czech Republic  
Promotion of electricity production from small hydro power plants**

Sir, /Madam,

**1. PROCEDURE**

- (1) By electronic notification of 25 September 2015, the Czech Republic notified, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), the above-mentioned measure. The Commission requested additional information on 23 November 2015 and on 4 April 2016 to which the Czech Republic replied on 21 January 2016, 3 May and 27 June 2016 respectively.
- (2) On 20 June 2016 the Czech authorities provided a language waiver and agreed that the decision will be adopted in English as authentic language.

Lubomír ZAORÁLEK  
ministr zahraničních věcí  
Ministerstvo zahraničních věcí České republiky  
Loretánské náměstí 5  
118 00 Praha 1  
Česká Republika

## **2. DETAILED DESCRIPTION OF THE MEASURE**

### **2.1. Objective and scope**

- (3) The primary objective of the notified measure is environmental protection through promotion of electricity production from small hydro power plants with an installed capacity of up to 10 MW. The notified measure covers operating aid in the form of feed-in tariffs and feed-in premiums.
- (4) According to the Czech authorities, the State support of renewable energy sources contributes to the friendly utilisation of natural resources and to the permanently sustainable development of society. Furthermore, it creates conditions for the fulfilment of the binding goals concerning the share of energy from renewable sources in the gross final energy consumption in the Czech Republic as established in the Directive 2009/28/EC on the promotion of the use of energy from renewable sources.<sup>1</sup>

### **2.2. Legal basis**

- (5) The legal basis for the notified measure is Act No. 165/2012 Coll. on Promoted Energy Sources, as amended, and complemented by a number of secondary legal provisions<sup>2</sup> as well as the annual price decisions issued by the Czech Energy Regulatory Office (ERO).

### **2.3. Duration**

- (6) The duration of the notified measure is from 1 January 2016 until 31 December 2020.

### **2.4. Granting authority**

- (7) The granting authority is the Czech Ministry of Industry and Trade.
- (8) The administration of the support scheme is entrusted to the Czech Electricity and Gas Market Operator - OTE a.s. that actually grants the aid payments.

---

<sup>1</sup> OJ L 140, 5.6.2009, p. 16–62

<sup>2</sup> Decree No. 436/2013 Coll. on price regulation and price control procedures in the sectors of electricity and heat, amending Decree No. 140/2009 Coll. on price regulation in the energy sector, and price control procedures, as amended, Decree No. 194/2015 Coll. on price regulation and price control procedures in the sectors of electricity and heat, Decree No. 408/2015 Coll. on electricity market rules, Decree No. 296/2015 Coll. on technical and economic parameters for determining the feed-in tariffs for electricity generation and green bonuses for heat production and establishing the life cycle of installations producing power and heat from renewable energy sources, Decree No. 8/2016 Coll. on details of granting business licences in energy sectors, Decree No. 9/2016 Coll. on procedures for support registration with the market operator and the implementation of certain provisions of the Act on Supported Energy Sources, Decree No. 16/2016 on conditions for connection to the electricity grid, Decree No. 145/2016 Coll. on reporting and recording of electricity and heat from supported sources and implementation of certain provisions of the Act on promoted energy resources, Decree No. 193/2014 Coll. on the methods and dates of billing and reimbursing the price for the payment of costs associated with the support of electricity and implementation of certain provisions of the Act on promoted energy resources, Decree No. 82/2011 Coll. on the measurement of electricity and the estimation of damages caused by unauthorized consumption, unauthorized delivery, unauthorized transfer or unauthorized distribution of electricity

- (9) OTE is a State-owned joint-stock company performing the obligations and duties of the market operator, as stipulated by Act No. 458/2000 Coll., the Energy Act. OTE acts as a clearing centre which operates the entire system of state support under the notified measure. OTE administers the registration data system for the purpose of the notified scheme including for instance information about identification of beneficiaries and forms of support. The Czech authorities have explained that OTE does not enter into contractual relationships with energy producers and that this means that claims for support originate directly from Act No. 165/2012.
- (10) The level of the support is set annually by ERO by means of the so-called price decisions.

## **2.5. Beneficiaries**

- (11) Beneficiaries of the notified measure are operators of new or fully refurbished hydro power plants with installed capacity of up to 10MW, which are commissioned in the period 1 January 2016 – 31 December 2020.
- (12) Only beneficiaries located in the territory of the Czech Republic are eligible under the notified scheme.
- (13) The Czech authorities expect only a limited number<sup>3</sup> of new and fully refurbished hydro power plants to become operational in the period 2016 – 2020. Of the total number of potential beneficiaries it is expected that only 4 new hydro power plants will have an installed capacity higher than 1 MW. The number of potential beneficiaries from the category of refurbished hydro power plants with resulting total installed capacity above 1 MW, following the refurbishment, which involves capacity extension, is estimated to be no more than 5.<sup>4</sup>
- (14) The estimated total hydro power capacity to be deployed during the duration of the support scheme is [...] MW, which represents less than 9% of the total currently installed small hydro plants in the Czech Republic.<sup>5</sup> That is due to the very limited number of available sites where new hydro power plants can be constructed. The possibilities for capacity extension of refurbished hydropower plants is also limited due to the specificities of existing sites.
- (15) The Czech authorities have confirmed that hydro power plants will only be deemed eligible for support under the notified scheme where the relevant competent authority has certified that the hydro installation, and its operation, will not compromise the attainment of the environmental objectives for that water body, as indicated in the applicable River Basin Management Plan and in accordance with the requirements of the Water Framework Directive

---

<sup>3</sup> The Czech authorities have estimated that a total of [...] new small hydro power plants will be built in the period 2016 - 2020, of these [...] will be with installed capacity of less than 0.5 MW and only [...] will exceed 1 MW.. The estimated number of small hydro power plants to undergo refurbishment in the same period is [...].

<sup>4</sup> Four of these five hydro power plants will be in the range of [...] MW of installed capacity, while the fifth one will be of [...] MW of installed capacity.

<sup>5</sup> In 2016 there are [...] hydro power plants with installed capacity of up to 10 MW registered with the market operator OTE. These have a total installed capacity of [...] MW.

2000/60/EC.<sup>6</sup> The condition will be certified by the competent authority after a positive opinion by the relevant River Basin administrator.

## **2.6. Source of financing**

- (16) The support scheme is financed through a combination of:
- a levy, which is part of the electricity price in terms of a single payment in CZK/MW of connected output for extra high voltage and high voltage customers, and a payment in CZK/Ampere for customers on the low voltage level and
  - resources from the State budget of the Czech Republic.

## **2.7. Budget**

- (17) The estimated total budget of the scheme is CZK 11.5 billion (EUR 0.43 billion).

## **2.8. Forms of aid**

- (18) Support under the notified measure is granted in the form of:
- feed-in tariffs – the so-called 'mandatory purchase prices'; and
  - feed-in premiums - the 'so-called green bonuses'.
- (19) Beneficiaries with installed capacity below 500 kW can choose their form of support for the duration of one year (*i.e.* between feed-in tariffs in the form of mandatory purchase prices or feed-in premiums in the form of green bonuses) and can switch to a different form of support in any subsequent year.
- (20) The Czech authorities have committed to ensuring that aid to hydro power plants with installed capacity of 500kW or more under the notified scheme will only take the form of green bonuses.
- (21) Support is granted for the lifetime of hydro power plants, which coincides with their depreciation period as set out in Act No. 586/1992 Coll. on Income Tax. For hydro power installation that period is 30 years.
- (22) Electricity subject to the feed-in tariff regime is sold by hydro power producers to mandatory purchasers who pay the established purchase price, *i.e.* feed-in tariff, for the electricity delivered. OTE pays the mandatory purchaser the difference between the feed-in tariff and market hourly electricity price. If the market hourly price is higher than the feed-in tariff, OTE receives the difference from the mandatory purchaser.
- (23) Electricity subject to the feed-in premium regime is sold by hydro power producers directly on the market to electricity traders. In exchange hydro power producers receive the prevailing market price from electricity traders and the support in the form of the green bonuses from OTE.

---

<sup>6</sup> OJ L 327, 22.12.2000, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

- (24) According to the provisions<sup>7</sup> of the Energy Act No. 458/2000 Coll. all electricity producers, including hydro power plants, as participants in the electricity market bear general balancing responsibilities. Electricity producers can choose to bear the balancing responsibilities themselves or to transfer them to a third party against payment.

2.8.1. *Feed-in tariffs – purchase prices*

- (25) Feed-in tariffs are calculated for the economic lifetime of hydro power plants on the basis of the following formula:

$$\sum_{t=0}^{T_{nav}} CF_t = \sum_{t=0}^{T_{nav}} (c_{min,t} \cdot Q_t + P_t - V_{prov,t} - V_{d,t} - INV_t + DOT_t) = 0$$

where

$$c_{min,t} = c_{min,1} \cdot (1 + i_{vc})^{(t-1)}$$

$$V_{prov,t} = V_{prov,1} \cdot (1 + i_{prov})^{(t-1)}$$

$T_{nav}$  is the simple payback period (15 years)

$CF_t$  is annual cash flow (after taxes)

$c_{min,t}$  is annual feed-in tariffs

$Q_t$  is the amount of electricity produced annually [kWh]

$P_t$  is another operating gains [CZK]

$DOT_t$  is the investment aid received [CZK]

$V_{prov,t}$  is the annual operating cost [CZK]

$INV_t$  is the capital expenditure for plant construction [CZK]

$V_{d,t}$  is the annual income tax [CZK]

$c_{min,1}$  is the feed-in tariff in the first year of producing electricity [CZK /kWh]

$V_{prov,1}$  is the operating cost in the first year of producing electricity [CZK]

$i_{vc}$  is the growth rate of feed-in tariffs

$i_{prov}$  is the growth rate of operating costs

- (26) As outlined above the main input parameters, used for the calculation of the feed-in tariffs include investment costs per kWp of installed capacity, operating costs, and annual utilisation rate of hydro power plants. The level of operating

<sup>7</sup> § 22 odst. 2 písm. a) energetického zákona č. 458/2000 Sb.

costs per type of installation is set as a percentage of investment costs (around 2%) and is indexed by 2%<sup>8</sup> on yearly basis.

- (27) All input parameters used for the setting of the level of the feed-in tariffs are updated on an annual basis by ERO.
- (28) The level of the feed-in tariffs, as established by the formula outlined in recital (25), provides for a fifteen-year simple payback period on the investment, calculated on the basis of the net cashflows over the lifetime of hydro power projects. This allows beneficiaries to recover the nominal value of the total production costs, which includes the initial investment, within a period of 15 years.
- (29) That methodology does not guarantee beneficiaries a certain rate of return. The rate of return that could be achieved is the one resulting from the fifteen-year simple payback period. On the basis of the sample calculations provided by the Czech authorities the resulting rate of return ranges from 5.91% to 6.21% after tax, which is close to the estimated weighted average cost of capital<sup>9</sup> for this type of renewable projects at 6.3%.
- (30) Without the support provided the resulting net cashflows for hydro power projects would be negative leading to a negative net present value for the projects, thus making the investment economically unviable.
- (31) The calculations provided by the Czech authorities also show that the levelised cost of energy including the rate of return resulting from the 15 year simple payback period is higher than the level of the feed-in tariff. The table below presents such a sample calculation for a small hydro power installation with installed capacity of 0.22 MW.

**Table 1: Levelised cost of energy for a reference small hydro power project**

[...]

*(source: the Czech authorities)*

- (32) The original feed-in tariffs are subject to yearly indexation by up to 2% throughout the entire support period. The indexation of both the operating costs and the feed-in tariffs is taken into account when setting the level of the initial support.
- (33) The Czech authorities commit to ensuring that where real inflation, in accordance with a recognized inflation index in the Czech Republic, is less than 2% per annum for a certain period of time and this would result in a return which is above the acceptable range of returns deemed reasonable by the Czech authorities and the Commission, the Czech authorities will adopt appropriate measures to avoid overcompensation. The Czech authorities have also confirmed that the feed-in tariffs will not be indexed in accordance with the indexation mechanism by more than 2 % in any given year.

---

<sup>8</sup> The value is linked to the Czech National Bank's inflation target.

<sup>9</sup> Estimated on the basis of the capital asset pricing model.

### 2.8.2. *Feed-in premiums – green bonuses*

- (34) The green bonus represents a supplement to the market price. Two types of green bonus are applicable:
- a yearly green bonus; and
  - an hourly green bonus.
- (35) According to the Czech authorities the yearly green bonus is normally preferred by smaller hydro power plants while the hourly green bonus is preferred by larger ones.
- (36) Green bonuses are established by ERO for the duration of one year and are subject to a yearly revision. As in the case of purchase prices, green bonuses do not guarantee a rate of return but a simple payback period of 15 years. The resulting rates of return under the feed-in premium regime are comparable with the rates of return under the feed-in tariff regime.
- (37) As in the case of purchase prices, green bonuses guarantee that the net present value of investments in hydro power hydro power plants is not negative. Thus the support helps to make hydro power projects economically viable.

#### 2.8.2.1. *Yearly green bonus*

- (38) The yearly green bonus is determined as a fixed value corresponding to the difference between a minimum purchase price (feed-in tariff) and an administratively set technology-specific market price.
- (39) The minimum purchase price is calculated by applying the calculation methodology for the establishment of the feed-in tariffs.
- (40) The administratively set technology specific prices are determined on an annual basis through a consultation process with electricity traders and electricity buyers, taking into account the evolution of electricity market prices. The administratively set market prices tend to be higher than the actual market prices, which minimises the level of the yearly green bonus.

#### 2.8.2.2. *Hourly green bonus*

- (41) The hourly green bonus is calculated as the difference between the feed-in tariffs established for hydro power plants and the hourly price on the day-ahead market organised by OTE. The price calculation refers to the real market prices of electricity in every negotiable hour.
- (42) The incentive for larger electricity producers to apply for the hourly green bonus is that the administratively set market price is set slightly higher than the real market price, so that the yearly green bonus is lower than the hourly green bonus. At the same time, since the hourly green bonus is based on hourly market prices and is therefore more dynamic and risky (e.g. prediction difficulties), smaller producers will usually decide to subscribe for the more certain yearly green bonus.

- (43) The Czech authorities undertake to ensure that no aid is paid under the notified scheme where electricity prices are negative on the day-ahead market in the Czech Republic for a period of six consecutive hours or more.

## 2.9. Cumulation

### 2.9.1. Investment aid

- (44) Aid under the notified measure can be cumulated with investment aid.
- (45) The formula used for the setting of the level of the feed-in tariffs incorporates a parameter for investment aid – see formula outlined in recital (25).
- (46) The Czech authorities have explained that when calculating the level of the feed-in tariffs for the purposes of the price decisions the ERO sets the value of the input parameter for investment subsidies ( $DOT_t$ ) to zero. The reasoning behind this approach is that ERO lacks the complete information about the levels of investment aid granted to individual beneficiaries at the time of the issuing of price decisions.
- (47) Cumulation of investment aid with operating aid under the notified scheme is tackled by applying a different formula for the calculation of the amount (in CZK/MWh) by which the applicable feed-in tariffs and feed-in premiums should be reduced in order to take into account any investment aid granted.
- (48) The formula for calculating the reduction amount reads as follows:

$$RF = (IS \times AF) / YEP$$

where:

$$AF = \frac{IRR}{1 - \frac{1}{(1 + IRR)^{SP}}}$$

$$YEP = P \times UF$$

RF is the reduction amount (in CZK/MWh)

IS is the total investment aid granted to the project (in CZK)

AF is the annuity factor for the project

SP is period of granting operating aid / lifetime period of the plant according to ordinance No. 296/2015 Coll. – Subsidy Period.

IRR is the rate of return of the project (in %)

YEP is the yearly expected energy production (MWh)



P is installed capacity of the plant (in MW)

UF is utilization of capacity per year (h) – Utilization Factor

- (49) The reduction amount will be calculated and applied by the market operator OTE – the entity responsible for administering the operating aid under the notified scheme. OTE will calculate the applicable feed-in tariffs and feed-in premiums for hydro power plants having received investment aid on the basis of the information provided by the latter in the respective aid application forms.
- (50) The reduction formula allows for full deduction of any investment aid received by beneficiaries under the notified scheme.

#### 2.9.2. Other operating aid

- (51) The Czech authorities have ensured that no other operating aid can be cumulated with the aid granted under the notified scheme.
- (52) The Czech authorities have also confirmed that no aid will be granted to undertakings in difficulty<sup>10</sup> or to undertakings subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market.

### 2.10. Reporting and Transparency

- (53) The Czech authorities will ensure that detailed records regarding all measures involving the granting of aid are maintained. These records will be kept for the duration of the scheme plus an additional period of ten years, including all information relevant to demonstrating that the terms of the proposed scheme have been complied with.
- (54) Detailed information about the projects funded will be published on a comprehensive website at national level in order to comply with the provisions of section 3.2.7 of the Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG).<sup>11</sup>

## 3. ASSESSMENT OF THE MEASURE

### 3.1. Presence of State aid

- (55) Article 107(1) TFEU provides that “*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, in so far as it affects trade between Member States, be incompatible with the common market*”.
- (56) The notified measure is financed from the State budget of the Czech Republic and through the collection of a special levy i.e. from both direct State recourses

---

<sup>10</sup> As defined by the applicable Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1–28

<sup>11</sup> OJ C 200, 28.6.2014, p. 1–55

and by means of financial resources which are under the control of the State authorities.

- (57) The feed-in tariffs and green bonuses amount to an economic advantage to the beneficiaries of the scheme, which they would not obtain under normal market conditions. The notified measure solely benefits producers of electricity from hydro power plants and is thus selective in nature.
- (58) Granting of aid to the Czech producers of renewable hydro power electricity strengthens their position on the relevant market *vis-à-vis* other electricity producers, including from other countries of the European Union. As there is cross-border trade of electricity, the measure affects trading and competition conditions on electricity markets across the EU.
- (59) Taking the above into consideration, the Commission concludes that the notified measure involves State aid within the meaning of Article 107(1) TFEU.

### **3.2. Legality**

- (60) The Czech authorities confirmed that the notified measure will not be implemented before the approval of the Commission. The Czech Republic has therefore complied with its obligations under Article 108(3) TFEU.

### **3.3. Compatibility**

- (61) Considering the clear environmental objective of the scheme, that is promoting the generation of electricity from renewable sources in particular from hydro power plants, the Commission has assessed the compatibility of the measure at hand according to Article 107(3)(c) TFEU and in the light of the EEAG, in particular of sections 3.2. on general compatibility provision and 3.3.2.1 on aid for electricity from renewable energy sources thereof.

#### *3.3.1. Objective of common interest*

- (62) The aim of the notified aid measure is to help the Czech Republic achieve the renewable energy targets set by the EU as part of its 2020 strategy. The Commission considers that the notified scheme is therefore aimed at an objective of common interest in accordance with Article 107(3) of the Treaty.

#### *3.3.2. Need for State intervention*

- (63) According to subsection 3.2.2 of EEAG, the Member State has to demonstrate that there is a need for State intervention and in particular that the aid is necessary to remedy a market failure that otherwise would remain unaddressed.
- (64) In the case of production of renewable electricity, the Commission presumes that a residual market failure remains, which can be addressed through aid for renewable energy, for the reasons set out in point 115 of the EEAG.

#### *3.3.3. Appropriateness and incentive effect of the aid*

- (65) According to points 40 *et seq.* of the EEAG, a measure is an appropriate instrument if it is able to address the policy objective concerned, given that other less distortive instruments may not achieve the same results. Member

States must show that State aid is an appropriate instrument to reach the objective. Point 116 EEAG provides that the Commission may presume that aid for renewable energy will be appropriate and the distortive effects of the aid will be limited provided all specific conditions of subsection 3.3 are met. The Commission considers that there are no indications that the current economic and legal context in the Czech Republic provide for a less distortive instrument to incentivise hydro power generation and thus considers the measure an appropriate instrument.

- (66) In line with point 49 of the EEAG, the incentive effect occurs if the aid induces the beneficiary to change its behaviour towards reaching the objective of common interest; something which it would not do without the aid. As explained in recitals (30) and (37) above, hydro power projects would not be economically viable without the support under the notified scheme. Thus in the absence of aid hydro power hydro power plants will not be constructed. The aid therefore has an incentive effect since it causes the beneficiaries to change their behaviour and invest in renewable hydro power projects.
- (67) The Czech authorities confirmed that the beneficiaries have to fill in an application form to receive support. Thus the Commission considers that the aid scheme complies with the obligation to use an application form for obtaining aid set out in point 51 of the EEAG.

#### *3.3.4. Proportionality*

- (68) According to paragraph 69 of the EEAG, environmental aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed to achieve the environmental protection objective aimed for.
- (69) The Commission assessed proportionality of the aid under the provisions of Section 3.3.2 of the EEAG on operating aid to energy from renewable sources.
- (70) Except for hydro power plants with an installed capacity below 500 kW, aid will be granted as a premium on top of market price (see commitment outlined in recital (20)) and these will sell their electricity directly in the market.
- (71) Hydro power plants will be subject to standard balancing responsibilities as explained in recital (24) above.
- (72) Hydro power plants will have no incentive to sell electricity at times of negative market prices as ensured by the commitment made by the Czech authorities not to grant aid in case of negative electricity prices on the day-ahead market for a period of six consecutive hours or more (see recital (43) above).
- (73) The Czech authorities have demonstrated that only a very limited number of projects will have an installed capacity above 1 MW due to the lack of appropriate sites for construction of large hydro power plants. As explained in recital (13) only a maximum of 9 hydro power projects with a total installed capacity above 1 MW are foreseen for the duration of the notified scheme. Of the 9 hydro power plants only 4 will be new installations, the remaining 5 will be refurbished hydro power plants, whose original installed capacity will be increased to reach a total installed capacity above 1 MW. Bearing in mind the small possibilities for deployment of new hydropower plants (see recital (14)),

an introduction of a competitive bidding process may well prevent the Czech Republic from realising the limited hydropower potential still available. Thus, the exemption from the tendering requirement foreseen in point 126 (a) of the EEAG is applicable in the current case.

- (74) The remaining hydro power hydro power plants eligible for support under the scheme will be of installed capacity of less than 1 MW and can therefore benefit from the exemption from tendering provided for by point 127 of the EEAG.
- (75) As specified in point 128 of the EEAG, in the absence of competitive bidding, the Commission assesses proportionality of the aid under the provisions of point 131 of the EEAG.
- (76) For hydro power hydro power plants benefitting from feed-in tariffs the Czech authorities have demonstrated that the aid per unit of energy does not exceed the estimated levelised cost of energy (LCOE) including a reasonable rate of return. The resulting rates of return from the 15 year simple payback period are slightly below or very close to the value of the estimated employed weighted average cost of capital, without exceeding it and thus can be deemed reasonable.
- (77) Green bonuses are determined as the difference between minimum feed-in tariffs and either an administratively set technology-specific electricity price that serves as a proxy for the market price (for the so-called yearly green bonus), or the hourly day-ahead market price (for the so-called hourly bonus). They are meant to compensate beneficiaries for the extra costs resulting from the production of renewable hydro power electricity.
- (78) As a resulting value feed-in premiums depend on their input parameters. Provided that feed-in tariffs do not exceed the relevant LCOE and that for the so-called yearly green bonus the administratively set technology-specific electricity price is a good proxy for the market price, the aid per unit of energy in the form of feed-in premiums will not exceed the difference between the LCOE and the relevant market price for individual beneficiaries. As shown in recitals (31), (40) and (41), the Czech authorities have demonstrated that the LCOEs exceed the levels of the feed-in tariffs and that the administratively set technology specific market price is a good proxy for the actual market price.
- (79) Moreover the Czech authorities have demonstrated that investment aid is taken into account when setting the level of support under the notified scheme. This is done through the application of the so called reduction factor described in section 2.9 of this decision.
- (80) On the basis of recitals (76) to (79) it can be concluded that the requirements of point 131 (a) and (b) of the EEAG are complied with.
- (81) In line with the requirements of point 131(c) of the EEAG the input parameters of the feed-in tariffs, which also form part of the input parameters of the LCOE calculations, are updated on a yearly basis by ERO. The level of feed-in premiums is also set yearly by ERO, taking into account the updated feed-in tariffs and updated technology-specific electricity price. Thus it can be concluded that the requirements of point 131 (c) of the EEAG are complied with.

- (82) In line with the requirements of point 131 (d) of the EEAG aid is not granted beyond full depreciation of hydro power hydro power plants (see recital (21) above).
- (83) In light of the above, the Commission concludes that the aid under the notified scheme satisfies the conditions of point 131 of the EEAG and is, therefore, proportionate.

#### *3.3.5. Distortion of competition and balancing test*

- (84) According to point 90 of the EEAG, the Commission considers that aid for environmental purposes will by its very nature tend to favour environmentally friendly products and technologies at the expense of other more polluting ones. Moreover, the effect of the aid will in principle not be viewed as an undue distortion of competition since it is inherently linked to its very objective.
- (85) As outlined in recital (15) the Czech Republic has confirmed that Directive 2000/60/EC of the European Parliament and the Council of 23 October 2000 establishing a framework for Community action in the field of water policy will be respected, with regard to the support provided to hydro power plants under the notified scheme, in line with point 117 EEAG.
- (86) According to point 116 of the EEAG, the Commission presumes aid to energy from renewable sources to have limited distortive effects provided all other compatibility conditions are met. The Commission considers that the aid to renewable hydro power energy under assessment does not have undue distortive effects on competition and trade because the applicable conditions laid out in Section 3.3.2.1 of the EEAG are fulfilled, as discussed above.
- (87) Consequently, the Commission concludes that the distortion of competition caused by the scheme under assessment is limited.

#### *3.3.6. Transparency. Aid to companies in difficulty or subject to an outstanding recovery order*

- (88) Under Point 104 of the EEAG, Member States have the obligation to ensure the transparency of the aid granted, by publishing certain information on a comprehensive State aid website. In line with point 106 of the EEAG, Member States are requested to comply with this obligation as of 1 July 2016.
- (89) The Czech Republic committed to comply with the transparency requirements in Points 104 – 106 EEAG (see recitals (53) and (54) above).
- (90) The Czech authorities have also confirmed that no aid will be granted to undertakings in difficulty or to undertakings subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (see recital (52) above). Therefore, the notified scheme complies also with points 16 and 17 of the EEAG.

#### *3.3.7. Conclusion with regard to the compatibility of the measure*

- (91) In light of the above, the Commission considers that the notified scheme pursues an objective of common interest in a necessary and proportionate way without

unduly affecting competition and trade, and that therefore the aid is compatible with the internal market on the basis of the EEAG.

#### **4. AUTHENTIC LANGUAGE**

(92) As mentioned under section 1 of this decision, the Czech Republic has waived its right to have the decision adopted in Czech. The authentic language will therefore be English.

#### **5. CONCLUSION**

The Commission has accordingly decided:

not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline, the Czech Republic will be deemed to agree to the publication of the full text of this letter. If the Czech Republic wishes certain information to be covered by the obligation of professional secrecy, please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically in accordance with Article 3(4) of Commission Regulation (EC) No 794/2004,

Yours faithfully

For the Commission

Margrethe VESTAGER  
Member of the Commission

