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**Subject: State Aid SA.56961 (2020/N) – Czech Republic - Investment aid scheme for COVID-19 relevant products**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 6 April 2020, the Czech Republic notified an investment aid scheme for COVID-19 relevant products, under article 107(3)(c) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted respectively by section 3.8 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 health crisis (“the Temporary Framework”).<sup>1</sup> Czech authorities provided additional information by mail of 9 and 10 April 2020.
- (2) The Czech authorities confirmed that the notification does not contain confidential information.
- (3) The Czech Republic exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,<sup>2</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9., as amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9.

<sup>2</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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

- (4) The main objective of the measure is to support the growth and strengthening of the competitiveness of SMEs in the production of medical and personal protection products, technologies, materials and protective equipment needed to fight coronavirus infection directly. The acquisition of facilities for infectious waste disposal will also be supported, as the existence of large amounts of infected waste is problematic.
- (5) The Czech Republic considers that the measure contributes to overcome the public health crisis and thus constitutes a decisive element to restore economic activity to a pre-pandemic level.

### **2.1. The nature and form of aid**

- (6) The measure provides aid in the form of direct grants.

### **2.2. National legal basis**

- (7) The legal basis for the measure is the Call COVID 19 of the Technologies Support Programme.

### **2.3. Administration of the measure**

- (8) The Ministry of Industry and Trade of the Czech Republic is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (9) The total budget of the measure is estimated at CZK 1 billion (EUR 37 million).
- (10) Aid may be granted under the measure until 31 December 2020.

### **2.5. Beneficiaries**

- (11) The final beneficiaries of the measure are small and medium-sized enterprises (SMEs)<sup>3</sup>.
- (12) Aid may not be granted under the measure to undertakings in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>4</sup>.

### **2.6. Sectoral and regional scope of the measure**

- (13) The measure applies to the following sectors:
- C.13 - Manufacture of textiles

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<sup>3</sup> As defined in Annex 1 of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1

<sup>4</sup> As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

- C.14 - Manufacture of wearing apparel
- C.20 - Manufacture of chemicals and chemical products, and in particular C.20.4 - Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations
- C.21 - Manufacture of basic pharmaceutical products and pharmaceutical preparations
- C.22 - Manufacture of rubber and plastic products
- C.28 - Manufacture of machinery and equipment n.e.c.
- C.32.50 - Manufacture of medical and dental instruments and supplies
- E.38.12 - Collection of hazardous waste

(14) The measure applies to all regions eligible for assistance under Article 107(3)(a) TFEU in the Czech Republic, as set out in the Czech regional aid map for the period 1 July 2014 to 31 December 2020<sup>5</sup>.

## **2.7. Basic elements of the measure**

- (15) The aid measure is based on an investment aid scheme called Call COVID 19 of the Technologies Support Programme. It takes the form of direct grants. All individual aid under the aid measure is to be granted by 31 December 2020.
- (16) The aid measure supports the investment to create production capacities to manufacture COVID-19 relevant products, such as medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; data collection/processing tools; including also the investment into acquisition of facilities for COVID-19 related infectious waste disposal.
- (17) The aid scheme requires the aid beneficiary to introduce an application for aid. The aid application can be introduced for investment projects on which works did not start before 1 February 2020. Investment projects on which works were started before 1 February 2020 are eligible only if the aid is needed to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope will be eligible for aid.
- (18) Eligible costs relate to all investment costs necessary for the production of the products listed in Recital (16) and to the costs of trial runs of the new production facilities.
- (19) Under the aid scheme, the maximum allowable aid intensity is 50 %.

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<sup>5</sup> SA.37553 (2013/N), OJ C 172 of 06.06.2014.

- (20) The investment projects have to be completed within six months after the date of the granting of aid. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants is to be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary.

## **2.8. Cumulation**

- (21) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (22) Individual aid under the notified aid measure will not be combined with other investment aid for the same eligible costs.

## **2.9. Transparency, monitoring and reporting**

- (23) The Czech authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework, including the obligation to publish relevant information on each individual aid granted under this Communication on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting.

# **3. ASSESSMENT**

## **3.1. Existence of State aid**

- (24) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (25) The notified measure is imputable to the State, since it is administered by the Ministry of Industry and Trade of the Czech Republic and it is based on the Call COVID 19 of the Technologies Support Programme.
- (26) It is financed through State resources, since it is financed by public funds.
- (27) The notified measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (28) The advantage granted by the measure is selective, since it is awarded, upon application, and based on a discretionary decision of the aid granting authority, only to certain small and medium-sized enterprises in the sectors listed in Recital (13) and regions referred to in Recital (14), carrying out COVID-19 relevant investments.
- (29) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

- (30) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Czech authorities do not contest that conclusion.

### **3.2. Legality of the measure**

- (31) By notifying the measure before putting it into effect, the Czech authorities have respected their obligations under Article 108(3) TFEU.

### **3.3. Compatibility**

- (32) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (33) Pursuant to Article 107(3)(c) TFEU the Commission may declare compatible with the internal market “*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*”.
- (34) By adopting the Temporary Framework on 19 March 2020, as amended on 3 April 2020, the Commission acknowledged the need to take specific temporary measures enabling Member States to combat the health crisis caused by the COVID-19 outbreak.
- (35) The measure aims at enhancing the production of COVID-19 relevant products to address the current emergency health crisis. It has been designed to meet the requirements of a specific category of aid (“Investment aid for the production of COVID-19 relevant products”) described in section 3.8 of the Temporary Framework.
- (36) The Commission accordingly considers that the notified measure contributes to the achievement of a common objective of crucial importance, is appropriate and necessary to fight the health crisis and meets all the conditions of the Temporary Framework, and in particular its section 3.8:
- Investment aid under this aid measure is limited to creating production capacities for COVID-19 relevant products that are listed in paragraph 39(a) of the Temporary Framework (see recital (16) of this decision); although the acquisition of waste disposal facilities is not specifically listed in paragraph 39(a), that list is not limitative. Such acquisition is an investment that directly relates to COVID-19.
  - In conformity with paragraph 39 (b) of the Temporary Framework, the aid is granted in the form of a direct grant (see recital (6) of this decision).
  - Individual aid under the aid measure has to be granted by 31 December 2020, as required by paragraph 39 (b) of the Temporary Framework (see recital (10) of this decision).

- In accordance with paragraph 39 (c) of the Temporary Framework, eligible investment projects under the aid measure are projects started as from 1 February 2020, as well as investment projects on which works were started before that date, provided the aid is necessary to accelerate their implementation, or to extend their scope (see recital (17) of this decision).
- In conformity with paragraph 39 (d) of the Temporary Framework, eligible investment projects have to be completed within six months after the investment aid was granted. If this deadline is not respected, the aid amount is reduced by 25% per month of delay for aid in the form of direct grants (see recital 0 of this decision).
- Eligible investment costs under the aid measure are defined in accordance with the provisions laid down in paragraph 39 (e) of the Temporary Framework (see recital (18) of this decision). For projects started before 1 February 2020, only costs incurred after the date of the aid application are eligible, as required by paragraph 39 (c) of the Temporary Framework (see recital (17) of this decision).
- The overall aid intensities under this aid measure are defined in conformity with the provisions laid down in paragraph 39 (e) of the Temporary Framework (see recital (18) of this decision).
- In accordance with paragraph 39 (g) of the Temporary Framework cumulation of the investment aid with other investment aid for the same eligible costs is not allowed (see recital (22) of this decision).
- In line with paragraph 39 (i) of the Temporary Framework, undertakings in difficulty are not eligible under the aid measure (see recital (12) of this decision).
- The Czech authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (23) of this decision).

(37) In the light of the above elements, the Commission considers that the measure is compliant with the compatibility conditions set out by the Temporary Framework, through which the Commission took due consideration of the common objective pursued by such aid measures and their positive effects on tackling the health emergency crisis provoked by the COVID-19 outbreak when balancing them against the potential negative effects of such measures on the internal market.

#### **4. 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.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President