



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

**Subject: State Aid SA.57848 (2020/N) – Czechia
COVID-19: Aid to mitigate the effects of SARS COV-19 on
agricultural, food and feed production**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 29 June 2020, Czechia notified aid in the form of limited amounts of aid “Aid to mitigate the effects of SARS COV-19 on agricultural, food and feed production” (“the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹
- (2) Czechia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ 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 by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1-9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3-15.

² 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

- (3) Czechia considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1. of the Temporary Framework.

2.1. The nature and form of aid

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

2.2. Legal basis

- (6) The legal basis for the measure is
- Act No. 252/1997 Coll., on agriculture, as amended and supplemented;
 - Aid to mitigate the effects of SARS COV-19 on agricultural and food production (program AGRICOVID);
 - Rules for granting contributions based on §§§ 1, 2 and 2d of the Act No 252/1997 Coll, on agriculture (Granting Principles).

2.3. Administration of the measure

- (7) The State Agricultural Intervention Fund and the Ministry of Agriculture are responsible for administering the measure.

2.4. Budget and duration of the measure

- (8) The estimated budget of the measure is CZK 10 billion (approximately EUR 370 million).
- (9) Aid may be granted under the measure as from its approval until no later than 31 December 2020. Aid applications can be submitted as from 1 August 2020 until 30 November 2020.

2.5. Beneficiaries

- (10) The final beneficiaries of the measure are micro enterprises, SMEs³ and large enterprises active in Czechia.

³ As defined in Annex I to 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.

- (11) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)⁴ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (12) The measure is open to undertakings active in agricultural primary production and in food and feed production. It applies to the whole territory of Czechia.

2.7. Basic elements of the measure

- (13) Under this measure, aid will be granted on the basis of the framework subsidy program which aims at mitigating the negative impact of the emergency measures taken at national level to prevent the spread of SARS COV-19. These measures directly affected the demand and supply chain, as well as the agricultural food and feed production.
- (14) According to the Czech authorities, the impact of the coronavirus crisis on the food industry has been very particular, due to the essential role of the sector for ensuring the citizens’ basic alimentary needs. In particular, large enterprises kept their production and supply chain running in order to deliver products for citizens but seen their costs increasing. This increase has been due to necessary personal protective equipment and disinfectants, while, on the other hand, the workforce productivity decreased (separation of employees in shifts, disinfection of workplace, etc.). Further costs increased due to more frequent supplies shipments, difficulties in logistics etc. Losses were significantly high in certain sectors, such as the dairy sector, mainly because of decreased demand and the necessity to process the contracted quantities of raw material in durable products with significantly lower added value (UHT milk; powdered milk), its storage and subsequent sales at loss. Run-down or interruption of production was also significant for catering services, bakeries or small food business operators, running their activities in places with high concentration of people (e.g. at traffic hubs).
- (15) The agricultural sector suffered losses due to the lack of workers in the crop and animal production (e.g.: 10 000 workers in fruit and vegetables sector, 3 000 workers in hops sector), as well as due to increased costs in terms of protective measures and disinfection requirements. The crisis had a general profound impact on the supply and demand of agricultural products.
- (16) Without aid, the running activities of companies in these sectors will be jeopardised due to the lack of working capital. The aim of this measure is therefore to ensure sufficient liquidity of the beneficiaries.
- (17) Aid under this measure will be granted in compliance with the conditions laid down in the program AGRICOVID. The scheme constitutes a subsidy framework. The specific conditions for applicants (scope of beneficiaries, production sectors, the aid amount of aid etc.) will be further laid down in the Granting Principles.

⁴ Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1.

- (18) Eligible for aid will be companies which experience a decrease in:
- i. total takings of at least 25 %, as compared with the same period in 2019⁵, if these takings come from an independent activity pursuant to § 7 of the Act No 586/1992 on Income Taxes, or
 - ii. operating results of economic activity (according to designation of items in the profit and loss statement) of at least 25 %, as compared with the same period in 2019⁶, if the aid applicant is an accounting entity under the implementing regulation n. 500/2002 to the Act No 563/1991 on Accountancy.
- (19) According to the Czech authorities, the threshold of 25 % was fixed in order to support companies that suffered most damage in consequence of the national emergency measures.
- (20) The aid amounts are provisionally estimated at up to CZK 200 000 per business (approximately EUR 7 450) and up to CZK 20 000 per each co-worker or employee (approximately EUR 745). The final aid amounts will be set up in the Granting Principles.
- (21) The total amount of aid per beneficiary (i.e. one undertaking with ID number) in the primary production must not exceed the equivalent of EUR 100 000. The beneficiaries in the food and feed production sector can receive aid up to the equivalent of EUR 800 000. All figures used will be gross, that is, before any deduction of tax or other charges. Where a beneficiary is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, the Czech authorities undertake to ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount is not exceeded per undertaking.
- (22) The Czech authorities confirmed that aid granted to undertakings active in the processing and marketing of agricultural products will not be partly or entirely passed on to primary producers and will not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.
- (23) Furthermore, aid to undertakings active in the agricultural primary production will not be fixed on the basis of the price or quantity of products put on the market.

2.8. Cumulation

- (24) The Czech authorities confirm that aid granted under this measure may not be cumulated with aid under the de minimis Regulation⁷ or aid under the

⁵ March-May 2019.

⁶ March-May 2019.

⁷ Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9).

Agricultural Block Exemption Regulation, or with the EU funding or with aid granted on the basis of Regulation 2020/872⁸.

- (25) The Czech authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected. Likewise, aid may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (26) Moreover, where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, and where the same undertaking receives aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the Czech authorities, by appropriate means such as separation of accounts, will ensure that for each of these activities the relevant ceiling is respected and that the highest possible amount of aid is not exceeded in total.

2.9. Monitoring and reporting

- (27) 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 the measure on the comprehensive Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (29) 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.

⁸ Regulation (EU) 2020/872 of the European Parliament and of the Council of 24 June 2020 amending Regulation (EU) No 1305/2013 as regards a specific measure to provide exceptional temporary support under the European Agricultural Fund for Rural Development (EAFRD) in response to the COVID-19 outbreak. OJ L 204 of 26.6.2020, p. 1.

⁹ Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

- (30) The measure is imputable to the State, since it is administered by the State agricultural and Intervention Fund and by the Ministry of Agriculture and it is based on the acts of the State indicated in recital 6. It is financed through State resources, since it is financed by public funds.
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (5)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in agricultural primary production and in food and feed production, excluding the financial sector.
- (33) 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.
- (34) 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.

3.3. Compatibility

- (35) 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.
- (36) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (37) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in Section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (38) The measure aims at ensuring sufficient liquidity of undertakings in primary agricultural production and in food and feed production at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (39) The measure is one of a series of measures conceived at national level by the Czech authorities to remedy a serious disturbance in their economy. The importance of ensuring sufficient liquidity for running activities of primary producers and of food and feed production companies is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Czech economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid

(“*Limited amounts of aid*”) described in Section 3.1 of the Temporary Framework.

- (40) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grants (recital (5)).
 - The overall nominal value of direct grant shall not exceed EUR 800 000 per food and feed producing undertaking (recital (21)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;
 - The overall nominal value of direct grant shall not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (21)). The measure therefore complies with point 23(a) of the Temporary Framework;
 - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (8). The measure therefore complies with point 22(b) of the Temporary Framework;
 - Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (recital (11)). The measure therefore complies with point 22(c) of the Temporary Framework;
 - Aid will be granted under the measure no later than 31 December 2020 (recital (9)). The measure therefore complies with point 22(d) of the Temporary Framework;
 - Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (22)). The measure therefore complies with point 22(e) of the Temporary Framework.
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (23)). The measure therefore complies with point 23(b) of the Temporary Framework;
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Czechia will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. (recital (21)). The measure therefore complies with point 23bis of the Temporary Framework.

- (41) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). The Czech authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (25) and (26)).
- (42) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION