



EUROPEAN COMMISSION

Brussels, 27.7.2020  
C(2020) 5265 final

PUBLIC VERSION

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**Subject: State Aid SA.57102 (2020/N) – Czech Republic  
COVID-19 - Wage subsidies**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 21 July 2020, the Czech Republic notified aid in the form of wage subsidies to finance the wage costs of undertakings that, due to the COVID-19 outbreak, would otherwise lay off employees (“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”).<sup>1</sup>
- (2) The Czech Republic exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in

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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, OJ C 91I, 20.3.2020, p. 1, 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, 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 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

Tomáš PETŘÍČEK  
Ministr zahraničních věcí  
Ministerstvo zahraničních věcí České republiky  
Loretánské náměstí 5  
118 00 Praha 1  
Česká Republika

conjunction with Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

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

- (3) The Czech Republic considers that the COVID-19 outbreak has started to affect the real economy and puts at risk the jobs of workers and employees of undertakings that have reduced or suspended partially or entirely their activities due to the state of emergency and containment measures enforced by the national authorities. As a result, there has been a risk of significant redundancies<sup>3</sup>. The measure thus aims to preserve employment which, due to the COVID-19 outbreak, would otherwise have been laid off and to allow undertakings to resume their activities immediately after the lockdown period.
- (4) The Czech Republic confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.10 of the Temporary Framework.

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

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

### **2.2. Legal basis**

- (7) The legal basis for the measure is the Government Resolution No. 353 of 31 March 2020, as amended<sup>4</sup>, adopted on the basis of § 120 of Act No. 435/2004 Coll., Employment Act.

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

- (8) The Labour Office of the Czech Republic (“Labour Office”) is responsible for administering the measure.

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

<sup>3</sup> The Czech Republic declared a state of emergency between 12 March 2020 and 17 May 2020 (Government Resolutions No. 194 of 12 March 2020 and No. 485 of 30 April 2020) to curb the impact of the COVID-19 pandemic, closing schools, restricting events and the operation of shops, restaurants and certain other establishments, and significantly limiting gathering of people. Based on the forecast submitted by the Member State, the crisis will significantly affect the whole economy. The real GDP is expected to drop by 5.6% by the end of 2020. The unemployment rate is expected to grow by more than 60% by the end of 2020 compared to 2019. To help households and firms through the crisis, the government announced a stimulus package involving direct support measures and public guarantees.

<sup>4</sup> Government Resolution No. 353 has been amended by Government Resolution No. 481 of 27 April 2020, Government Resolution No. 581 of 25 May 2020, Government Resolution No. 604 of 1 June 2020 and Government Resolution No. 635 of 8 June 2020.

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

- (9) The estimated budget of the measure is CZK 22.9 billion (ca. EUR 866.4 million<sup>5</sup>). The measure will be covered from the State budget.
- (10) Aid may be granted under the measure until no later than 31 December 2020.

#### 2.5. Beneficiaries

- (11) The final beneficiaries of the measure are all undertakings who employ personnel with the exception of employers whose wage costs are covered from public budgets<sup>6</sup>.

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

- (12) The measure is open to all sectors and applies to the whole territory of Czech Republic.

#### 2.7. Basic elements of the measure

- (13) The Czech authorities explain that due to the spread of COVID-19, the declaration of the state of emergency and containment measures enforced in this respect by the national authorities, many undertakings had to close their businesses or reduce their economic activities. The employees of these undertakings therefore had less work or had to stop working completely. According to the Czech Labour Code<sup>7</sup>, in the case of “obstacles to work” the employer is obliged to pay a wage compensation to the employee even though the employee is not working<sup>8</sup>. The employers therefore bear the wage costs without being compensated by any activity of their employees. In order to avoid that this situation results in redundancies, the measure, by means of wage subsidies, provides the employers with a partial reimbursement of their wage costs (wage compensation and related social security and public health insurance contributions) incurred by the employers during periods when their employees are not working.
- (14) The amount of the wage subsidy depends on the type of obstacles to work:
- (a) in **Mode A** the wage subsidy amounts to 80% of the wage costs, however only up to the maximum of CZK 39,000 CZK (ca. EUR 1,476) per employee per month.
    - **Mode A** applies to cases where an employee is ordered to quarantine. In such a case, the employer is obliged to pay the employee a wage compensation for the first 14 days.

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<sup>5</sup> Based on the exchange rate 26.43 CZK/EUR.

<sup>6</sup> The excluded employers are listed in §109 paragraph 3 of Act No. 262/2006 Coll., the Labour Code, and encompass the State, territorial self-governing units, State funds, contributory organizations, school legal entities established by the Ministry of Education, Youth and Sports, regions, municipality or voluntary unions of municipalities or regional councils of the cohesion region.

<sup>7</sup> Act No. 262/2006 Coll., Labour Code, as amended.

<sup>8</sup> The amount of the wage compensation depends on the concrete obstacle to work laid down in §192, §207, §208 and §209 of the Labour Code and ranges between 60% and 100%.

- *Mode A* further applies to cases where closure or restriction of operations was directly ordered by the government, the Ministry of Health or other State institutions for protection of public health<sup>9</sup>.
- (b) in *Mode B* the wage subsidy amounts to 60% of the wage costs, however only up to the maximum of CZK 29,000 (ca. EUR 1,097) per employee per month.
- *Mode B* applies in cases where the employer has restricted or closed down operations because of the reduction of its sales, the lack of input supplies, due to the absence of a significant proportion of employees or for other reasons related to COVID-19.
- (15) The wage subsidy can be granted with respect to wage costs (wage compensation and related social security and public health insurance contributions) incurred from 12 March 2020 until 31 August 2020.
- (16) In order to receive the wage subsidy, the employer must submit an application with the Labour Office, on the basis of which the Labour Office and the employer conclude a granting agreement. The employer may apply for the subsidy for a maximum period starting two calendar months preceding the submission of the application (however, not before 12 March 2020) and ending on 31 August 2020.
- (17) Furthermore, after each month for which the subsidy is claimed, the employer must submit a report listing the wage compensations paid to the employees (“wage compensation report”). In the wage compensation report, the employer needs to declare the existence of the relevant obstacles to work related to the COVID-19 outbreak and show that the relevant employees indeed did not work during the period for which the subsidy is claimed. The wage compensation report must be submitted with the Labour Office before the end of the month following the month for which the subsidy is claimed.
- (18) The Labour Office provides the subsidy within one month from the date of the submission of the wage compensation report. This means that the subsidies will not be paid out later than 31 December 2020.
- (19) The Labour Office will only pay out the wage subsidy to the employer if the latter has duly paid the wage compensation to the employee and the social security and public health insurance contribution to the relevant social security and public health insurance authorities.

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<sup>9</sup> In particular restrictions and closures ordered by the following measures: Extraordinary Measures of the Ministry of Health Ref. No.: MZDR 10666/2020-1/MIN/KAN and Ref. No.: MZDR 10676/2020-1/MIN/KAN of 10. 3. 2020, Ref. No.: MZDR 12296/2020-2/MIN/KAN of 18. 3. 2020, Ref. No.: MZDR 12746/2020-1/MIN/KAN of 23. 3. 2020, Ref. No.: 13285/2020-1/MIN/KAN of 25. 3. 2020, Ref. No.: MZDR 12745/2020-4/MIN/KAN and Ref. No.: MZDR 13361/2020-2/MIN/KAN of 30. 3. 2020 and subsequent Measures, Government Resolutions of 12. 3. 2020 (No. 199 and No. 201), of 13. 3. 2020 (No. 208), of 14. 3. 2020 (No. 211), of 15. 3. 2020 (No. 214 and No. 215), of 16. 3. 2020 (No. 238), of 16. 3. 2020 (No. 239), of 16. 3. 2020 (No. 241), of 18. 3. 2020 (No. 252), of 19. 3. 2020 (No. 264), of 23. 3. 2020 (No. 279), of 23. 3. 2020 (No. 280), of 26. 3. 2020 (No. 309), of 30. 3. 2020 (No. 348), of 23. 4. 2020 (No. 452), of 23. 4. 2020 (No. 453), of 23. 4. 2020 (No. 454), of 23. 4. 2020 (No. 455), of 23. 4. 2020 (No. 456) and subsequent Resolutions.

- (20) Wage subsidies can be granted only in relation to employees who are still employed with the employer at the time when the wage subsidy is paid out to the employer.
- (21) The Labour Office carries out *ex ante* and *ex post* controls of the employer's compliance with the labour laws and the conditions of the wage subsidy scheme. In the context of the *ex post* control, the Labour Office verifies whether the information provided by the employer in the application for subsidy and in the wage compensation report was correct and whether the conditions of the wage subsidy scheme were fulfilled. Non-compliance with the conditions of the wage subsidy scheme would lead to recovery of the subsidy and to further sanctions under the national budgetary laws.

## 2.8. Cumulation

- (22) The Czech authorities confirm that aid granted under the measure cannot be cumulated with:
- aid under de minimis regulations<sup>10</sup> or block exemption regulations<sup>11</sup>;
  - other forms of Union financing;
  - aid granted under other measures approved by the Commission under other sections of the Temporary Framework.
- (23) The Czech authorities further confirm that aid granted under the measure cannot be combined with aid granted under other generally available measures or with aid schemes in the form of employment support measures.

## 2.9. Monitoring and reporting

- (24) The Czech authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission;

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<sup>10</sup> Commission Regulation (EU) No 1407/2013 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 (OJ L 352, 24.12.2013, p. 1), 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), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

<sup>11</sup> 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, Commission Regulation (EC) 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

detailed records regarding the granting of aid must be maintained for ten years upon granting of the aid, etc.).

### **3. ASSESSMENT**

#### **3.1. Lawfulness of the measure**

- (25) The Commission observes that Czech Republic has started to grant the aid according to the notified scheme before the Commission has adopted its decision on the notified scheme. The Commission regrets that Czech Republic put the aid according to the notified scheme into effect, in breach of Article 108(3) TFEU.

#### **3.2. Existence of State aid**

- (26) For a measure to be categorised as State 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.
- (27) The measure is imputable to the State, since it is administered by the Labour Office of the Czech Republic and it is based on Government Resolution No. 353/2020 of 31 March 2020, as amended (recitals (7) and (8)). It is financed through State resources, since it is financed by public funds (recital (9)).
- (28) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions (recital (13)).
- (29) The measure is awarded only to undertakings that have been affected by the COVID-19 outbreak. Although the measure is in principle available to all employers without any explicit restriction based on the type, size, sector or region of the undertaking, the aid is awarded only to undertakings which face certain obstacles in keeping their employees busy at work (recital (13)). Furthermore, certain State institutions whose labour costs are covered from public budgets are excluded from the measure (recital (11)). Also the amount of the subsidy differs based on the reason for the obstacle to work and as a consequence based on the sector in which the employer is active (recital (14)). Indeed, businesses from certain sectors, which the government ordered to close<sup>12</sup>, will receive a higher compensation per employee than those from other sectors, which have not been ordered to close but had to do so due to other reasons related to the outbreak of COVID-19 (e.g. lack of demand/supply, absence of a significant proportion of employees) (recital (14)). Thus, the measure confers a selective advantage.
- (30) 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.

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<sup>12</sup> Sectors laid down in the measures listed in footnote 9.

- (31) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

### 3.3. Compatibility

- (32) Since the measure involves State 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)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (34) 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*”.
- (35) The measure aims at preserving employment and/or avoiding redundancies during the COVID-19 outbreak, which is affecting the wider economy and leading to severe disturbances of the real economy of the Member States.
- (36) 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 the measure to preserve employment and economic continuity 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 (“*Aid in the form of wage subsidies*”) described in section 3.10 of the Temporary Framework.
- (37) 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:
- Aid granted under the measure is aimed at avoiding redundancies during the COVID-19 outbreak (see recitals (3) and (13)). The measure therefore complies with point 43(a) of the Temporary Framework;
  - Aid is granted in the form of a scheme to undertakings that are particularly affected by the COVID-19 outbreak (see recitals (13), (14) and (29)). Indeed, the aid is awarded to undertakings which face certain obstacles in keeping their employees busy at work due to the COVID-19 outbreak, in

particular undertakings from sectors, which the government ordered to close<sup>13</sup> (these undertakings qualify for aid in the amount of 80% of wage costs) and those who had to close for other reasons related to the outbreak of COVID-19 (these undertakings qualify for aid in the amount of 60% of the wage costs). The measure therefore complies with point 43(b) of the Temporary Framework;

- Wage subsidies are granted under the measure (i) over a period of no more than twelve months after the application for aid is made (see recitals (15), (16) and (18)), (ii) for employees that would otherwise have been made redundant as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (see recitals (13), (17) and (21)), and (iii) subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (see recital (20)). The measure therefore complies with point 43(c) of the Temporary Framework;
  - The monthly wage subsidy will not exceed 80% of the monthly gross salary (including the employer's social security contributions) of the benefitting personnel (see recital (14)). The measure therefore complies with point 43(d) of the Temporary Framework;
  - The Czech authorities confirm that wage subsidies granted under the measure cannot be combined with other generally available or selective employment support measures (see recitals (23)). The measure therefore complies with point 43(e) of the Temporary Framework. The Czech authorities further confirm that the aid under the measure cannot be cumulated with other aid granted under de minimis regulations, block exemption regulations and measures approved by the Commission under other sections of the Temporary Framework. The aid also cannot be cumulated with other forms of Union financing (recitals (22), (23)).
  - The measure does not exclusively target employees from the financial sector (see recital (12)). The measure is therefore in line with points 20bis and 43bis of the Temporary Framework.
- (38) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (24)).
- (39) 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.

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<sup>13</sup> Sectors laid down in the measures listed in footnote 9.



#### 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