



EUROPEAN COMMISSION

Brussels, 19.8.2020
C(2020) 5786 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.58213 (2020/N) – Czech Republic
COVID-19: Aid to the cultural sector**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 August 2020, the Czech Republic notified the aid scheme “Covid-Culture” to support the cultural sector (“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) 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 conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

¹ 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.

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

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

2. DESCRIPTION OF THE MEASURE

- (3) The Czech Republic 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) On 10 March 2020, theatrical, musical, film, cultural and other artistic performances and other gatherings and events attended by more than 100 persons at the same time were prohibited. On 12 March 2020, the Czech Republic declared a state of emergency due to the COVID-19 outbreak. As of 13 March 2020, all cultural activities, both public and private, involving more than 30 people, were forbidden.
- (5) According to the Czech authorities, the COVID-19 pandemic, the associated declaration of a state of emergency and the imposed activity restrictions have significantly affected the field of culture. In general, the organizers of all major cultural events, in particular, music and multi-genre festivals³ with an audience of thousands of visitors are most affected. Due to the restrictions, “stone” cultural facilities are not allowed to sell a sufficient number of tickets (theatres, operas, etc.) to at least cover the costs of a planned program and are therefore at loss. Individual artists (approx. 40,000⁴) who were supposed to perform at these events have also been affected.
- (6) According to the Czech authorities, currently only less than 30% of the usual cultural events take place. By way of example, the music sector currently operates at only 15% of normal levels, and its estimated loss is CZK 9 billion⁵.
- (7) The Czech Republic confirmed that aid granted 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 that actually occurred in the initial establishment of the beneficiary in the EEA.
- (8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

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

³ Around 20% of the music and multi-genre festivals are attended by more than 10,000 people

⁴ According to the academic research conducted on the basis of mapping the impacts of covid on the live arts sector, which was coordinated by the IDU. <https://www.idu.cz/cs>

⁵ Data source: Czech Music Community “Analysis of impacts on the music sector”.

2.2. Legal basis

- (10) The legal basis for the measure is the Government Resolution No. 769 of 20 July 2020 approving the “COVID – CULTURE” Program of Support for Business Entities in the Field of Culture Affected by the Worldwide Spread of COVID-19 Caused by the SARS-CoV-19 Virus and the Act No. 218/2000 Coll., on budgetary rules and on the amendment of some related acts, as amended.

2.3. Administration of the measure

- (11) The Ministry of Industry and Trade and the Ministry of Culture are responsible for administering the measure (i.e. reviewing the applications and granting the aid).

2.4. Budget and duration of the measure

- (12) The estimated budget of the measure is EUR 34.2 million (CZK 900 million). The measure is financed by the State budget of the Czech Republic.
- (13) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

- (14) The final beneficiaries of the measure are undertakings active in the Czech Republic whose main activity is the organization or provision of musical, musically dramatic and theatrical projects with the primary goal to provide cultural services to the public in the field of performing arts. This includes, among others, individual artists, organisers of film and music festivals, technical companies providing cultural services for the public and private galleries and museums.
- (15) Financial institutions are excluded as final beneficiaries eligible for aid under the measure.
- (16) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁶ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to the cultural sector (see recital (19) below). It applies to the whole territory of the Czech Republic.

2.7. Basic elements of the measure

- (18) Under the scheme, beneficiaries will be allowed to apply for a subsidy covering 50% of their eligible expenses.

⁶ As defined in Article 2(18) of 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, 26.6.2014, p. 1.

- (19) Eligible expenses are expenses incurred in vain because the event was cancelled or postponed due to the adoption of COVID-19 related measures. Eligible expenses must meet the following basic criteria:
- A cultural event is to be understood as an event held for the purpose of providing a cultural service to the public and specifically to watch a live artistic performance, for which at least 50 tickets were sold by 10 March 2020.
 - Expenses must have been incurred between 1 October 2019 and 17 May 2020 for the organisation of cultural events, which were to take place between 10 March 2020 and 31 August 2020.
 - Expenses are eligible only if these were incurred in vain and cannot be used for another or already postponed event. An expense refunded or remitted (e.g. compensation from insurance, compensation by voucher etc.) cannot be considered as incurred in vain.
- (20) The maximum amount of aid per undertaking is CZK 5 million (EUR 190 000).
- (21) The Ministry of Industry and Trade and the Ministry of Culture will evaluate the applications and select the applicants.

2.8. Cumulation

- (22) The Czech Republic's authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁷ or the General Block Exemption Regulation⁸ provided the provisions and cumulation rules of those Regulations are respected.
- (23) The Czech Republic's authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

⁷ 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).

⁸ 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.

- (24) The Czech Republic's authorities confirm that aid granted under the measure 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.
- (25) The Czech Republic's 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, will be respected.

2.9. Monitoring and reporting

- (26) The Czech Republic's 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 above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by the Ministry of Industry and Trade and the Ministry of Culture (recital (11)) and it is based on a national act (recital (10)). It is financed through State resources, since it is financed by the State budget (recital (12)).
- (30) The 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.
- (31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the cultural sector, excluding the financial sector.

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

- (32) 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.
- (33) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Czech Republic's authorities do not contest that conclusion.

3.3. Compatibility

- (34) 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.
- (35) 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*".
- (36) 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*".
- (37) The measure aims at ensuring liquidity for undertakings active in the cultural sector 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.
- (38) The measure is one of a series of measures conceived at national level by the Czech Republic's authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve 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 Republic's 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.
- (39) 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 ((9)).

The overall nominal value of the grant shall not exceed EUR 800 000 per undertaking (recital (20)); 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;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to undertakings that were already in difficulty on 31 December 2019 (see recital (16)). 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. The measure therefore complies with point 22(d) of the Temporary Framework;
- The Czech Republic's authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)). The Czech Republic's 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 (recital ((24)).

(40) 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.

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