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**Subject: State Aid SA.58167 (2020/N) – Czech Republic  
COVID-19: Operational Programme Employment**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 13 August 2020, the Czech Republic notified aid in the form of direct grants under the Operational Programme Employment (“the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“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 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, 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, and by the 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 the Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment to 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.

<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

- (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<sup>3</sup>.
- (4) The Czech Republic confirmed that the measure is not conditioned on the relocation of a production activity or of the beneficiary from another country within the EEA to its territory. 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, as interpreted by sections 2 and 3.1 of the Temporary Framework.

### 2.1. The nature and form of aid

- (6) The measure provides aid in the form of direct grants.
- (7) The aim of the measure is to provide support to projects relating to (i) employee training, (ii) childcare facilities, rent for childcare facilities and upskilling of caregivers and (iii) wage subventions for jobs created for disadvantaged people and for employers who employ unemployed people in line with the objectives of the “Operational Programme Employment 2014-2020” (OPE 2014-2020)<sup>4</sup>.

### 2.2. Legal basis

- (8) The legal bases for the measure are:
- i) The Resolution No 867 of 28 November 2012 to prepare the programmes co-financed by the Common Strategic Framework Funds for programming period 2014-2020<sup>5</sup>;
  - ii) The Budget Rules Act No 2018/2000 of 27 June 2000<sup>6</sup> (part relating to granting of direct grants), section 14 and following.

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<sup>3</sup> The Czech Republic declared a state of emergency between 12 March 2020 and 17 May 2020 to curb the impact of the COVID-19 pandemic, closing schools, restricting events and the operation of shops, and significantly limiting gathering of people (<https://www.vlada.cz/cz/media-centrum/aktualne/vyhlaseni-nouzoveho-stavu-180234/>). Based on the forecast submitted by the Czech Republic, the crisis will significantly affect the whole economy. The real GDP is expected to drop by 5.6% by the end of 2020 and the unemployment rate is expected to grow by more than 60 % by the end of 2020 compared to 2019. To help households and businesses through the crisis, the government announced a stimulus package involving direct support measures and public guarantees.

<sup>4</sup> The aim of the OPE 2014-2020 is to improve the human capital of the population and public administration in the Czech Republic. It also aims promoting equal opportunities for women and men, the adaptability of employees and employers, further education, social inclusion and combating poverty, health services, modernization of public administration and services, and promote international cooperation and social innovation in the field of employment, social inclusion and public administration.

<sup>5</sup> <https://apps.odok.cz/attachment/-/down/KORN97C36JF3>

<sup>6</sup> Collection of Acts, 21 July 2000, part 65.

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

- (9) Aid will be granted under the mechanism of the national OPE 2014-2020. The Ministry of Labour and Social Affairs is the granting authority responsible for administering the measure<sup>7</sup>.

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

- (10) The estimated budget of the measure is CZK 260 million (ca. EUR 97 million<sup>8</sup>).
- (11) The measure will be co-financed by the European Structural and Investment Funds (ESIF), via the OPE 2014-2020 managed by the Ministry of Labour and Social Affairs of the Czech Republic<sup>9</sup>.
- (12) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

### **2.5. Beneficiaries**

- (13) The beneficiaries of the measure are micro, small, medium-sized (SMEs)<sup>10</sup> and large enterprises with an economic activity in the Czech Republic and registered in the Czech Business Register<sup>11</sup>. However, financial institutions are excluded as eligible beneficiaries.
- (14) Aid may not be granted under the measure to medium<sup>12</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>13</sup>, the Agricultural Block Exemption Regulation (“ABER”)<sup>14</sup> and the Fisheries Block Exemption Regulation (“FIBER”)<sup>15</sup> on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER, ABER and FIBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to

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<sup>7</sup> According to the Czech authorities, aid under the Operational Programme Employment, exceptionally, may be granted by the Labour Office (managed by the Ministry of Labour and Social Affairs) or by another organizational unit of the state, namely the Ministry of Health, the Ministry of Culture and the Ministry of Industry and Trade and also by public entities such as the CzechInvest and the CzechTourism.

<sup>8</sup> Based on the exchange rate for July 2020, which was 26.848 CZK/EUR.

<sup>9</sup> Paragraph 2(c) of the Resolution No 867 of 28 November 2012.

<sup>10</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014 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.

<sup>11</sup> [http://www.info.mfcr.cz/ares/ares\\_es.html.cz](http://www.info.mfcr.cz/ares/ares_es.html.cz) .

<sup>12</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014.

<sup>13</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

<sup>14</sup> As defined in 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.

<sup>15</sup> As defined in Article 3(5) of 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, OJ L 369 of 24 December 2014, p. 37.

collective insolvency procedure under national law and have not received rescue aid<sup>16</sup> or restructuring aid<sup>17</sup>.

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

- (15) The measure is open to all sectors except the financial sector. The measure applies to the whole territory of the Czech Republic.

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

- (16) Aid under the measure will be granted in the form of direct grants to projects by the OPE 2014-2020, including projects that have already started, but have not finished yet<sup>18</sup>. The direct grant is granted only to beneficiaries that confirm to run into lack of liquidity as consequence of the COVID-19 outbreak<sup>19</sup>.
- (17) The Czech authorities confirm that the amount of individual grants will not exceed the maximum amount of EUR 800 000 laid down in point 22(a) of the Temporary Framework. In the case of undertakings active in the agriculture, fishery and aquaculture sectors, it will not exceed the amount of EUR 120 000 per undertaking active in the fishery and aquaculture sector<sup>20</sup> or EUR 100 000 per undertaking active in the primary production of agricultural products<sup>21</sup> for all State aid measures, as laid down in point 23(a) of the Temporary Framework. All figures will be gross, i.e. before any deduction of tax or other charge<sup>22</sup>.
- (18) The Czech authorities further confirm that in the case of undertakings active in the agriculture, fishery and aquaculture sectors, the conditions in point 23 and 23bis of the Temporary Framework will be also complied with:
- (a) Aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or

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<sup>16</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>17</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

<sup>18</sup> The current OPE 2014-2020 projects concern the priority axis 1 (Promoting employment and workforce and adaptability) and priority axis 3 (Social innovation and transnational cooperation). The OPE 2014-2020 supports employers who employ unemployed people, employee training, establishment of new childcare facility, rent for childcare facility and upskilling of caregivers and wage subventions for jobs created for people from disadvantaged groups.

<sup>19</sup> By means of a statutory declaration, the beneficiary must declare compliance with the requirements set out in section 3.1 of the Temporary Framework. Furthermore, the granting authority is entitled to carry out random checks of the veracity of the facts stated in the declarations. The criterion for verifying the declaration will be, for example, the amount of the direct grant.

<sup>20</sup> Products listed in Annex I to Regulation No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000, OJ L 354, 28.12.2013, p. 1.

<sup>21</sup> All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

<sup>22</sup> The Czech authorities stated that within the OPE 2014-2020, beneficiaries will be provided with individual aid that usually does not exceed 5% of the thresholds set out in points 22(a) and 23(a) of the Temporary Framework.

quantity of products purchased from primary producers or put on the market by the undertakings concerned.

- (b) Aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.
- (c) Aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1)(a) to (k) of Commission Regulation (EU) No 717/2014<sup>23</sup>.
- (d) Where an undertaking is active in several sectors to which different maximum amounts apply, in accordance with the above, it is ensured, 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. Where an undertaking is active in the sectors of fisheries and aquaculture and the primary production of agricultural products, the overall maximum amount of EUR 120 000 will not be exceeded per undertaking.
- (e) Aid is granted no later than 31 December 2020.

## **2.8. Cumulation**

- (19) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the aid projected is financed from State resources (recital (11)).
- (20) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>24</sup>, or the Regulation 651/2014 (GBER), Regulation 702/2014 (ABER) and Regulation 1388/2014 (FIBER) provided the provisions and cumulation rules of those Regulations are respected.
- (21) The Czech 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.
- (22) The Czech 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.
- (23) 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

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<sup>23</sup> Commission Regulation (EC) No (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 90, 28.6.2014, p. 45.

<sup>24</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 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 of 26.4.2012, p. 8).

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 is respected.

## **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 (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>25</sup>).

## **3. ASSESSMENT**

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

- (25) 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**

- (26) 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.
- (27) The measure is imputable to the State, since it is administered by the Ministry of Labour and Social Affairs (recital (9)) and it is based on the legislative acts mentioned in recital (8). It is co-financed through State resources, since it is financed from the general budget and from the ESIF, for which the national authorities have discretion on the use of those funds (recital (11)).
- (28) The measure confers an advantage on its beneficiaries in form of direct grant (recital (6)). The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.
- (29) The advantage granted by the measure is selective, since it is awarded only to the undertakings of the sectors listed in recitals (13), (14) and (15)), provided they are affected by the economic repercussions of the COVID-19 outbreak.
- (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>25</sup> List of 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.

- (31) 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**

- (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)(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 is one of a series of measures conceived at national level by the Czech authorities to remedy a serious disturbance in their economy. The measure is important to preserve employment and economic continuity. It 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.
- (36) 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 (6) and (16));  
The nominal value of the direct grants shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is before any deduction of tax or other charges (recital (17)). 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 (10). The measure therefore complies with point 22(b) of the Temporary Framework;
  - Aid will not be granted under the measure to undertakings that were already in difficulty on 31 December 2019 (recital (14)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid or restructuring aid (see recital (14)). The

measure therefore complies with point 22(c)bis of the Temporary Framework;

- Aid will be granted under the measure no later than 31 December 2020 (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework;
- Undertakings active in the processing and marketing of agricultural products are 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 (18)(a)). The measure therefore complies with point 22(e) of the Temporary Framework;
- The nominal value of the direct grants does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (17)). The measure therefore complies with point 23(a) 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 (18)(b)). The measure therefore complies with point 23(b) of the Temporary Framework;
- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (18)(c)). The measure therefore complies with point 23(c) 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, the Czech Republic will ensure, by appropriate means such as separation of accounts that the relevant ceiling is respected for each of those activities and that the highest possible total amount of EUR 800 000 or EUR 120 000 is not exceeded (recital (18)(d)). The measure therefore complies with point 23bis of the Temporary Framework.

(37) The Czech authorities 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 (19) to (23)).

(38) The Czech authorities further 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.



#### 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