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**Subject: State Aid SA.58198 (2020/N) – Czech Republic
COVID-19: Aid scheme to support facilities with in-patient spa
medical rehabilitative care in the Karlovy Vary Region**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 October 2020, the Czech authorities notified aid in the form of limited amounts of aid (support for facilities with in-patient spa medical rehabilitative care in the Karlovy Vary Region, “the measure”) under the Temporary Framework for State aid measures to support the economy in the

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current COVID-19 outbreak, as amended (“the Temporary Framework”).¹ The Czech authorities provided additional clarifications on 13 and 16 October 2020.

- (2) The Czech authorities exceptionally agree 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.

2. DESCRIPTION OF THE MEASURE

- (3) The Czech authorities consider that the COVID-19 outbreak is affecting the real economy. In the second quarter of 2020, the Czech economy suffered the deepest decline in the history of the independent Czechia. Seasonally and calendar adjusted real GDP declined by 8.7% quarter-on-quarter and 11% year-on-year. Household consumption in the same period decreased with 7.3%.
- (4) 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.
- (5) In particular, the objective of the measure is to support spa³ facilities in the Karlovy Vary Region that provide in-patient medical rehabilitative care. According to the Czech authorities, this will be achieved through State financing of direct grants compensating the drop in revenues linked to the decrease in patients.

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, 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 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the 4th Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340I, 13.10.2020, p. 1.

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

³ A spa is defined as an area or part of an area of a municipality or several municipalities where natural mineral springs are located, pursuant to the Czech law on the spa industry.

- (6) The Czech authorities submit that spa facilities constitute an important source of employment. The current economic downturn had and is still having a negative impact on the overall cost of operation of spa facilities, and may also lead to dismissals of highly specialised personnel. In addition, any possible cease of operations or reduction of activity of these facilities will negatively impact local residents as well as foreign visitors, also because of the reduced offering of cultural services. The Czech authorities do not expect that demand for spa treatments will increase in 2020.
- (7) The Czech authorities adopted a series of restrictive measures that affected the operation of spas in the whole country. Measures from 18 March 2020 prohibited all providers of healthcare services providing spa medical rehabilitative care from accepting new patients.
- (8) From 24 April 2020 onwards, spa facilities could resume operations, subject to conditions.⁴ On 17 June 2020, all restrictions were lifted.
- (9) In addition, other measures adopted by the Czech authorities that affected the wider economy, notably the measure adopted on 16 March 2020 restricting the free movement of people within Czechia⁵, had an impact on the operation of spa facilities.
- (10) The Czech authorities have explained that the restrictive measures imposed on spa facilities in March 2020 (see recital (7)) completely halted all operations in spas, thus also halting their financing. From 24 April 2020 onwards, the operations of the affected facilities were so restricted that the possibility of making a profit was minimal. As a result, spa facilities experienced a dramatic decrease in sales and liquidity.
- (11) For this reason, the Czech authorities argue that it is necessary to support spa facilities. This is particularly so in the Karlovy Vary Region, which has multiple spa facilities in e.g. Karlovy Vary, Františkovy Lázně, Mariánské Lázně, Lázně Kynžvart and Jáchymov.
- (12) In this respect, on 7 August 2020, the Commission adopted a Decision in case SA.58018 authorising support for providers of spa medical procedures and

⁴ Meaning that accommodation of patients was allowed only in single-bed rooms, catering to patients could only be provided in a cafeteria if a distance of two meters between patients could be ensured, group therapy procedures could only take place with a maximum of five people present and accommodation could only be provided in the context of spa medical rehabilitative care. From 19 May 2020 onwards, catering could also be provided to other persons using the spa facilities (i.e. non-patients), still a distance of two meters had to be ensured. In addition, the maximum number of people attending group therapy was increased to ten.

⁵ Only travel to and from work and for basic needs was allowed.

curative rehabilitation treatments in the whole territory of Czechia.⁶ The measure in case SA.58018 takes the form of direct payments to cover discounts applied by the beneficiaries to all consumers from the European Economic Area that reserve a minimum package of overnight stays and spa rehabilitation treatments at their facilities.

- (13) The measure, as notified by the Czech authorities on 2 October 2020, complements the one authorised in case SA.58018. It is however limited to spa facilities in the Karlovy Vary Region.
- (14) The Czech authorities have 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.
- (15) 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

- (16) The measure provides aid in the form of direct grants.
- (17) The overall nominal value of the 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.

2.2. Legal basis

- (18) The legal basis for the measure is Act No. 372/2011 Coll., on healthcare services and the conditions of their provision (Healthcare Services Act) and Decree No. 99/2012 Coll. of the Ministry of Health, on the requirements for minimal staff numbers to ensure healthcare services as implemented in the “Call for grant applications from the Karlovy Vary Region Budget” (*Výzva k podání žádosti o dotaci z rozpočtu Karlovarského kraje*).

2.3. Administration of the measure

- (19) The Karlovy Vary Region (*Karlovarský kraj*) is responsible for administering the measure.

⁶ Commission Decision SA.58018 (2020/N) of 7 August 2020 – Czechia – COVID-19: Support for Health Spas, OJ C 302, 11.9.2020, p. 9.

2.4. Budget and duration of the measure

- (20) The estimated budget of the measure is CZK 62 million (approx. EUR 2.27 million⁷) and will be financed directly from the budget of the Karlovy Vary Region.
- (21) Aid may be granted under the measure as from its approval until no later than 30 June 2021.

2.5. Beneficiaries

- (22) The beneficiaries of the measure are all providers of so-called spa rehabilitation care facilities, independently from their size (i.e. micro, small and medium and large enterprises). The estimated number of beneficiaries is 52. Financial institutions are excluded as beneficiaries.
- (23) Under the measure, aid will not be granted to undertakings that were already in difficulty⁸ within the meaning of the General Block Exemption Regulation (“GBER”)⁹ on 31 December 2019. In addition, the Czech authorities have confirmed that they will not make use of the possibility foreseen in point 22(c)bis of the Temporary Framework to grant aid to micro and small enterprises that were in difficulty within the meaning of GBER on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (24) The measure is open to facilities with in-patient spa medical rehabilitative care and is not open to the financial sector. It applies to spa facilities located in the Karlovy Vary Region in Czechia.

2.7. Basic elements of the measure

- (25) The Karlovy Vary Region intends to compensate spa rehabilitation facilities with a lump sum of CZK 10 000 (approx. EUR 367) per bed registered with the regional authorities on 1 March 2020. The support is meant to cover *inter alia* expenditure on energy (electricity, gas, heat, water), wages, social and health insurance of workers and employees and maintenance of technical or technological equipment related to the provision of spa rehabilitation services.

⁷ Exchange rate: CZK 1 = EUR 0.03666 (ECB exchange rates, 16 October 2020).

⁸ 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, 26.6.2014, p.1.

⁹ 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.

- (26) The beneficiaries must have seen their income decrease by at least 30% in the period from 1 March 2020 to 30 June 2020. Moreover, the spa rehabilitation facility must not have entirely terminated its operations before 30 June 2021.
- (27) Applicants should submit an application form via an online portal set up by the Karlovy Vary Region within two weeks of the publication of the call for applications. A physical copy of the application form, duly signed by the applicant needs to be sent to the Karlovy Region by ordinary mail or be brought in person. Alternatively, the national system of Data Boxes can be used.
- (28) No co-funding under EU funds¹⁰ is applicable for the measure.

2.8. Cumulation

- (29) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations¹¹ or the General Block Exemption Regulations¹², provided the provisions and cumulation rules of those Regulations are respected.
- (30) 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.
- (31) The Czech authorities confirm that if a 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) of that framework, will be respected.¹³

¹⁰ European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

¹¹ 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) 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).

¹² 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

¹³ The same rule applies in relation to cumulation with aid under the measure approved in SA.58018.

2.9. Monitoring and reporting

- (32) 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 on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁴).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (33) 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

- (34) 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.
- (35) The measure is imputable to the State, since it is administered by the Karlovy Vary Region and it is based on a call for grant applications from the Karlovy Vary Region budget (see recitals (18) to (20)). It is financed through State resources, since it is financed by public funds.
- (36) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers on those beneficiaries an advantage that they would not have received under normal market conditions.
- (37) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, namely facilities with in-patient spa medical rehabilitative care, and it is also limited to the Karlovy Vary Region.
- (38) 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.

¹⁴ 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 to Commission Regulation (EU) No 1388/2014.

- (39) 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

- (40) 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.
- (41) 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*”.
- (42) 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*”.
- (43) The measure aims at supporting facilities providing in-patient spa medical rehabilitative care located in the territory of the Karlovy Vary Region at a time when the COVID-19 outbreak has severely impacted the turnover of these facilities and is anticipated to lead to increased unemployment in the sector. The regulatory measures enforced in Czechia (recitals (7) to (9)) not only decreased the turnover of these facilities but also affected the regional and national economy.
- (44) In this regard, the Commission notes that due to the above-mentioned regulatory measures, the number of visitors of the beneficiaries’ facilities, both from Czechia as well as from abroad, has significantly decreased given the objective obstacles of closed borders and the application of stringent measures to contain the spread of COVID-19. The Commission also notes that the beneficiaries’ facilities constitute an important source of employment in the Karlovy Vary Region (recital (6)).
- (45) The measure is one of a series of measures conceived by the Czech authorities to remedy a serious disturbance in their economy. The measure is important for preserving employment and economic continuity and is of a scale which can be reasonably anticipated to produce effects across the entire Czechia, and notably the Karlovy Vary Region that has a particularly high concentration of spa facilities. 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.

- (46) 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. The overall nominal value of the direct grants shall not exceed EUR 800 000 per undertaking (see recital (17)); 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 (20). 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 difficulty¹⁵ within the meaning of the GBER on 31 December 2019 (see recital (23)). The measure therefore complies with point 22(c) of the Temporary Framework;
 - Aid will be granted under the measure no later than 30 June 2021 (see recital (21)). The measure therefore complies with point 22(d) of the Temporary Framework.
- (47) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (32)). 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 (29) to (31)).
- (48) 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.

¹⁵ As defined in Article 2(18) of the GBER.

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>.

Your request should be sent electronically to the following address:

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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

