



EUROPEAN COMMISSION

Brussels, 1.03.2021
C(2021) 1470 final

PUBLIC VERSION

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Subject: **State Aid SA.62044 (2021/N) – Czechia**
COVID-19: Aid to mitigate the impact of SARS COV-19 outbreak
on the agrifood production (AGRICOID II)

Excellency,

1. PROCEDURE

- (1) By electronic notification of 19 February 2021, Czechia notified aid in the form of limited amounts of aid (Aid to mitigate the impact of SARS COV-19 outbreak on the agrifood production, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (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.

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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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 affects 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) Czechia confirms 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 3.1 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:
 - Resolution of the Government of the Czech Republic of 1 February 2021 No. 100 on reducing the impact of the crisis situation caused by the coronavirus pandemic through the second call grant program Agricovid potravinářství;
 - Aid to mitigate the impact of SARS COV-19 outbreak on the agrifood production (program AGRICOVID II).

2.3. Administration of the measure

- (8) Ministry of Agriculture of Czechia is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 110 million (approximately CZK 3 billion).
- (10) Aid may be granted under the measure as from the notification of the Commission's approval decision until no later than 31 December 2021.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are enterprises of all sizes in Czechia, which are:

- (a) food producers in accordance with Act No. 110/1997 Coll. on foodstuffs and tobacco products, as amended, whose activity is the production and marketing of food intended for catering service operators;
 - (b) agricultural undertakings in accordance with Act No. 252/1997 Coll. on agriculture, as amended, whose activity is the marketing of their own products of agricultural production and food intended for food service operators.
- (12) Aid may not be granted under the measure to enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”) or the Agricultural Block Exemption Regulation (“ABER”)³ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

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

2.7. Basic elements of the measure

- (14) The program AGRICOVID II aims at supporting enterprises affected by the government measures introduced in the first and second wave of the COVID-19 pandemic.
- (15) The program aims at mitigating the negative impact of the emergency measures taken at national level to prevent the spread of SARS COV-19. The aid is designed to preserve the viability of enterprises where these measures have directly affected the demand and supply chain and the agricultural and food production and thereby limited the activities of the enterprises concerned.
- (16) According to the Czech authorities, the coronavirus crisis has had a very specific impact on the food industry, due to the essential role of the sector for ensuring the citizens’ basic alimentary needs. Specifically, enterprises have kept their production and supply chain running in order to deliver products for citizens but, in return, have seen their costs increased 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 have increased due to more frequent supplies shipments, difficulties in logistics etc.
- (17) According to the Czech authorities, the costs and losses associated with the first (spring) wave of the pandemic were mostly borne by companies themselves. Thus, the companies exhausted their available equity reserves and are now unable to bear the costs of the measures undertaken due to the second pandemic wave. Without the aid, the running of their activities will be jeopardised due to the lack of working capital. The aim of this measure is therefore to ensure sufficient liquidity of the beneficiaries.
- (18) The program AGRICOVID II is design to partially compensate for the impacts of the measures taken in connection with the second (and possibly next) pandemic wave of the COVID-19 outbreak.

- (19) Aid under this measure will be granted in compliance with the conditions laid down in the program AGRICOVID II.
- (20) Eligible for aid will be companies that recorded a decrease in total income from the sale of food of at least 25 %, as compared to the reference period of December 2019 - February 2020. If the 3rd and 4th calls for aid applications³ are launched, the reference period for loss calculation will be March - May 2019 or June – August 2019 respectively.
- (21) The aid amounts will be up to CZK 200 000 per business (approximately EUR 7 500) and up to CZK 20 000 per co-worker or employee (approximately EUR 750).
- (22) The total amount of the aid under this subsidy program may not exceed 75 % of the actual proven income decrease from the sale of food.
- (23) The total aid amount per beneficiary (i.e. one undertaking with ID number) in the primary production of agricultural products must not exceed the equivalent of EUR 225 000. The beneficiaries in the food production sector can receive aid up to the equivalent of EUR 1 800 000. 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.
- (24) The Czech authorities confirmed aid granted to undertakings active in the processing of agricultural products will be excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.
- (25) 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

- (26) The Czech authorities confirm that aid granted under the measure may not be cumulated with aid under de minimis Regulations⁴ or the GBER or ABER or with other forms of Union financing.

³ The 1st call for aid applications was open under the aid scheme SA.59336 (2020/N).

⁴ 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).

- (27) 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.
- (28) 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 point(s) 22(a) and 23(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (29) 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 primary agricultural production on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁵).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (30) 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

- (31) 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.
- (32) The measure is imputable to the State, since it is administered by the Ministry of agriculture of Czechia and it is based on the national legislative acts referred to in recital (7) of this decision. It is financed through State resources, since it is financed by public funds.
- (33) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in primary agricultural production and in the food production (recital (11)).

⁵ 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.

- (35) 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.
- (36) 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

- (37) 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.
- (38) 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”*.
- (39) 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”*.
- (40) The measure aims at ensuring sufficient liquidity of undertakings in primary agricultural production and in food 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.
- (41) 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 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.
- (42) 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)).

The overall nominal value of direct grant shall not exceed EUR 1.8 million per food producing undertaking (recital (23));

The overall nominal value of direct grant shall not exceed EUR 225 000 per undertaking active in the agricultural primary production (recital (23)).

All figures used must be gross, that is, before any deduction of tax or other charges (recital (23)). 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 (9). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to enterprises that were already in difficulty on 31 December 2019 (recital (12)). The measure therefore complies with point 22(c) of the Temporary Framework.
- Aid will be granted under the measure no later than 31 December 2021 (recital (10)). The measure therefore complies with point 22(d) of the Temporary Framework.
- Aid granted to undertakings active in the processing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (recital (24)). 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 (25)). 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 1.8 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 270 000 is not exceeded per undertaking (recital (23)). The measure therefore complies with point 23bis of the Temporary Framework.

- (43) The Czech authorities confirm 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 (recital (4)).
- (44) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (29)). 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 (recital (27)).

- (45) 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