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**Subject: State Aid SA.61837 (2021/N) – Czechia  
COVID-19: Guarantees for travel agencies**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 22 April 2021, Czechia notified aid in the form of limited amounts of aid (“Program COVID Záruka CK” (Program COVID Guarantee TA), 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) 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 1/1958<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 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).

<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) 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) Due to the downturn of the global economy in 2020 as a consequence of the coronavirus, measures to tackle it and their knock-on effects, the tourism sector in Czechia has been hit hard<sup>3</sup>. In particular, the COVID-19 outbreak has necessitated a number of governmental measures which have restricted travel, cross-border movement of persons or resulted in the complete closure of borders<sup>4</sup>. Since the spring of 2020, due to such measures, according to the Czech authorities, the possibility of traveling and organizing tours has been very limited. As a result, travel agencies have lost their main source of revenue for a significant part of 2020 and are currently facing a lack of liquidity.
- (5) Against this backdrop, the measure aims to support these companies through the provision of guarantees that will allow them easier access to compulsory insolvency insurance, in order to ensure the continuity of their businesses.
- (6) 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 its territory. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (7) 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

- (8) The measure is a scheme for aid in the form of guarantees to travel agencies, to secure their co-participation up to a maximum of 30% of the agreed amount of an indemnity under a compulsory insolvency insurance. According to the submission from the Czech authorities, the State-owned Czech-Moravian Guarantee and Development Bank (ČMZRB) guarantees up to 75% of the travel agency's co-participation. The Czech authorities confirmed that the payment from the compulsory insolvency insurance can be used to cover claims from vouchers issued by the agent in the situation when the agent is in insolvency.

### 2.2. Legal basis

- (9) The legal basis for the measure is as follows:

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<sup>3</sup> <https://www.mfcr.cz/en/statistics/macroeconomic-forecast/2021/macroeconomic-forecast-january-2021-40755>

<sup>4</sup> <https://www.vlada.cz/en/media-centrum/aktualne/measures-adopted-by-the-czech-government-against-coronavirus-180545/>

- (i) Act No.159/1999 Col., on business in tourism, as amended;
- (ii) Act. No. 89/2012 Col., Civil Code, as amended;
- (iii) Act No. 218/2000 Col., on budgetary rules, as amended;
- (iv) Act No. 500/2004 Col., Administrative procedure Code, as amended;
- (v) Resolution of the Government of the Czechia of 18 January 2021 No. 51 on the on the *Program COVID Záruka CK*; and
- (vi) Program COVID Záruka CK.

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

- (10) The Ministry of Industry and Trade of Czechia is the granting authority and responsible for administering the measure. ČMZRB, on behalf of the Ministry of Industry and Trade for the Czech State, issues the bank guarantees to the final beneficiaries (travel agencies) that are under the legal obligation to be insured against bankruptcy. The bank is a financial institution that is wholly owned by the Czech State. It is the only promotional bank in Czechia. Representative ministries are respectively the Ministries of Industry and Trade, Finance, and Regional Development<sup>5</sup>.

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

- (11) The estimated budget of the measure is CZK 300 million (approximately EUR 11.6 million)<sup>6</sup>.
- (12) Aid in the form of guarantees may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.
- (13) The Czech authorities confirm that the standstill obligation laid down in Article 108(3) TFEU shall be complied with.

### **2.5. Beneficiaries**

- (14) The final beneficiaries of the measure are undertakings of all sizes that are active in the business of travel services in Czechia. Financial institutions are excluded as eligible final beneficiaries. The support will be not provided to undertakings in the agriculture and fisheries sectors.
- (15) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")<sup>7</sup> on 31 December 2019.
- (16) Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the

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<sup>5</sup> <https://www.cmzrb.cz>

<sup>6</sup> 1 EUR = 25.86 CZK on the notification date of 22 April 2021, [https://www.ecb.europa.eu/stats/policy\\_and\\_exchange\\_rates/euro\\_reference\\_exchange\\_rates/html/euro\\_fxref-graph-czk.en.html](https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/euro_fxref-graph-czk.en.html)

<sup>7</sup> 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

moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>8</sup> or restructuring aid.<sup>9</sup>

- (17) Aid is granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries.

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

- (18) The measure is open to businesses active in the field of travel services (travel agency, tour operator and related activities)<sup>10</sup>. It applies to the whole territory of Czechia.

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

- (19) The measure aims to facilitate the obtaining by final beneficiaries, e.g. travel agencies, of a compulsory insolvency insurance. Under the measure, the aid takes the form of a bank guarantee in the amount of 75% of the 30% of the maximum sum insured (insurance indemnity). The Czech authorities submit that an aid applicant must itself participate at least for 25% of the total maximum amount insured. The maximum amount of the guarantee is CZK 4 million (approximately EUR 154 679) per beneficiary. The authorities confirm that maximum amount of aid per undertaking will be limited by the conditions of section 3.1. of the Temporary Framework.
- (20) The Czech-Moravian Guarantee and Development Bank (ČMZRB) will issue the bank guarantees to travel agencies as final beneficiary of the measure. Only one guarantee may be provided per insurance contract. The bank guarantees will be paid out, in the forthcoming case, to the insurance company that has concluded an insolvency insurance contract with the travel agency. The guarantee is issued in respect of an insurance period of at most 12 calendar months, with a starting date as from 1 October 2020 until ultimately 31 December 2021. The validity of the guarantee may exceed the insurance period by a maximum of 6 months. The Czech authorities confirm that the mobilisation (triggering) of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted. For its part, ČMZRB receives a fee of 1% of the guaranteed amount and any other fees in accordance with a schedule of charges (as published on the bank's website).
- (21) A final beneficiary must meet a number of conditions as set out in the programme and the call for proposals, which is assessed by ČMZRB. These conditions are *inter alia* the following: an applicant must be registered as a taxpayer for income tax, be a tax resident of Czechia or another EU Member State, shall not terminate its activity within at least three months from receiving the aid, waives its right to claim damages, is not insolvent or bankrupt, not in

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<sup>8</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>9</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>10</sup> According to the notification, the business activities in which beneficiaries are active are classified under NACE N.79: travel agency, tour operator and other reservation service and related activities.

liquidation, nor does it have an outstanding obligation arising from a recovery order issued following a previous Commission decision or have any arrears in the salary payments of its employees.

## **2.8. Cumulation**

- (22) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>11</sup> or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (23) 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.
- (24) 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 22(a) of that framework, will be respected.

## **2.9. Monitoring and reporting**

- (25) 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 granting<sup>12</sup>).

## **3. ASSESSMENT**

### **3.1. 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 granted by the Ministry of Industry and Trade (see recital (10)) and it is based on Act No.159/1999 Col., on business in tourism, as amended; Act. No. 89/2012 Col., Civil Code, as amended; Act No. 218/2000 Col., on budgetary rules, as amended; Act No.

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<sup>11</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 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>12</sup> Referring to information required in Annex III to the GBER. For guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary.

500/2004 Col., Administrative procedure Code, as amended; the Resolution of the Government of the Czech Republic of 18 January 2021 No. 51 on the Program COVID Záruka CK; and Program COVID Záruka CK (see recital (9)). It is financed through State resources, since it is financed by public funds.

- (28) The measure confers an advantage on its beneficiaries in the form of a guarantee to secure co-participation by the travel agency up to a maximum amount which is equivalent to 30% of the agreed insurance indemnity (recital (8)). 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 certain undertakings, in particular undertakings active in the field of travel services, excluding the financial sector (recitals (14)-(16)).
- (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.
- (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.

### **3.2. 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 aims to support travel agencies through the provision of guarantees that will facilitate those beneficiaries’ access to compulsory insurance, so as to ensure their business continuity.
- (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 for the affected operators is widely accepted by economic commentators (recital (4)). 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.

(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:

- The aid takes the form of guarantees (recital (8)).
- The mobilisation of the guarantee is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (20)).
- The overall nominal value of the guarantee will not exceed the maximum ceiling per undertaking under section 3.1 of the Temporary Framework; all figures used will be gross, that is, before any deduction of tax or other charges (recitals (19) and (24)). 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 (11). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium<sup>13</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (15)). 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<sup>14</sup> or restructuring aid<sup>15</sup> (recital (16)). 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 2021 included (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework.

(38) 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 (6)).

(39) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (25)). 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

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<sup>13</sup> As defined in Annex I to the GBER.

<sup>14</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>15</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.

Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (22)-(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.

#### 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

