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PUBLIC VERSION

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**Subject: State Aid SA.62362 (2021/N) – Czech Republic  
COVID-19: Support programme for the audiovisual sector**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 6 May 2021, the Czech Republic notified a temporary State aid measure in the form of limited amounts of aid (Support programme for the audiovisual sector, 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.

**2. DESCRIPTION OF THE MEASURE**

- (3) The Czech Republic considers that the COVID-19 outbreak affects the real economy. The measure forms part of an overall package of measures and aims to

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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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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) The Czech Republic points out that the audiovisual sector is one of the sectors that have been significantly affected in connection with the government's measures against the spread of SARS-CoV-2 and the restrictions within the framework of emergency measures of the Ministry of Health.
- (5) Since 12 March 2020, there have been various restrictions on the production and distribution of audiovisual works in the context of government measures: from 15 March 2020 to 1 May 2020 (the “spring wave”), due to the general obligation to wear respiratory protection, it was not possible to film with actors wearing face masks, thus it was not possible to proceed with film production. From 13 March to 10 May 2020, cinemas were closed and from 12 October to 31 December 2020, cinemas were closed again.
- (6) In the context of the closure or restriction of cinema operations, there was a disruption in cash flows from audiovisual production available through cinemas and thereby in the financing of film distribution, production and development of related audiovisual works. As a result, in 2020 the volume of audio-visual output has decreased by almost 40%. The disruption of cash flows from the release of audiovisual works from cinema distribution has resulted in an inability on the part of production and distribution companies to pay their invoices and other related production and post-production liabilities.
- (7) Natural persons and/or self-employed persons working in film production suffered a significant reduction in their activities. The possibility of film production and especially filming has been limited, and filming itself has been repeatedly postponed due to either the postponement of foreign productions or to the closure of certain filming locations. These restrictions, therefore, resulted in the postponement or complete cancellation of contractual agreements between productions (film producers) and those involved in the actual shooting of films.
- (8) Restrictions on film production also affected the acquisition of film rights and thus affected distribution companies.
- (9) The support provided on the basis of the notified measure is critical for the audiovisual sector also because there is no entity within the Czech subsidy systems that could provide support to affected entities as proposed in the submitted scheme.
- (10) The Czech Republic 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.
- (11) The Czech Republic confirms that the measure will not be put into effect before a Commission decision is adopted to authorise it.

- (12) The Czech Republic confirmed that the notification does not contain confidential information.
- (13) 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**

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

### **2.2. Legal basis**

- (15) The legal basis for the measure is “Call 3.2 for a support programme for those doing business in culture and affected by the global spread of Covid-19 caused by the SARS-CoV-2 virus: “COVID – CULTURE” Audio-visual”. Act No. 218/2000 Coll. on Budgetary Rules and on Amendments to Certain Related Acts. Government Resolution No. 769 of 20 July 2020 approving the “COVID – CULTURE” Program for the Support of Business Entities in the Field of Culture Affected by the Global Spread of COVID-19 Virus Caused by SARS-CoV-2; RESOLUTION OF THE GOVERNMENT OF THE CZECH REPUBLIC No 1036 of 14 October 2020 on the Continuation of the support programme for businesses in the culture sector affected by the COVID-19 pandemic caused by the SARS-CoV--2 virus COVID – CULTURE; Resolution of the Government of the Czech republic No 1340 of 17 December 2020 on the Continuation of the programme COVID - CULTURE for businesses in the culture and audio-vision sector affected by the COVID-19 pandemic caused by the SARS-CoV-2 virus.

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

- (16) The Ministry of Industry and Trade as well as the Czech Film Fund is responsible for administering the measure. The measure will be financed from the general budget of the State.

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

- (17) The estimated budget of the measure is CZK 200 000 000 (the equivalent of EUR 7 737 841.92<sup>3</sup>).
- (18) Aid may be granted under the measure as from the notification of the Commission’s approval until no later than 31 December 2021.

### **2.5. Beneficiaries**

- (19) The final beneficiaries of the measure are SMEs and large enterprises<sup>4</sup> active in the Czech Republic. However, financial institutions are excluded as eligible final beneficiaries.

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<sup>3</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 23 April 2021.

<sup>4</sup> As defined in Annex I to 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.

- (20) Aid may not be granted under the measure to medium<sup>5</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>6</sup> on 31 December 2019. 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 moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>7</sup> or restructuring aid.<sup>8</sup>
- (21) The estimated number of beneficiaries is expected to exceed 1000 and will include:
1. Natural (self-employed) persons engaged in business in the audiovisual sector (film), such as
    1. Film crew professions (e.g. cameraman, make-up artist, etc.) whose income has been limited by the government’s measure against the SARS-COVID epidemic and whose income from predominantly audiovisual activity in 2020 decreased by at least 50%, compared to 2019 and whose income from the predominant activity in 2020 did not exceed CZK 418 020 (the equivalent of EUR 16 134.17)<sup>9</sup>;
    2. Creative film professions (director, screenwriter, script editor) who were involved in an audiovisual project that was cancelled, restricted or postponed between 1 May and 31 December 2020 in connection with by the government’s measure against the SARS-COVID epidemic;
    3. Performing artists (actors) for whom orders have been cancelled, reduced or postponed by the customer in connection with government measures against the SARS-COVID epidemic; and whose income from predominantly audiovisual activity in 2020 decreased by at least 50%, compared to 2019 and whose income

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<sup>5</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014.

<sup>6</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014, 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, 1.7.2014, p. 1, and 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, 24.12.2014, p. 37.

<sup>7</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>8</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>9</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 23 April 2021.

from the predominant activity in 2020 did not exceed CZK 418 020 (the equivalent of EUR 16 134.17)<sup>10</sup>.

2. Distribution and production companies in the audiovisual sector, including
  1. Cinema operators (for a so-called “seat subsidy”), whose cinemas were completely closed due to government measures against the spread of SARS-CoV-2 and restrictions in the emergency measures of the Ministry of Health, where the decisive period (i.e. the period of closure) was from 12<sup>th</sup> October to 31<sup>st</sup> December 2020;
  2. Distribution companies for eligible expenses incurred in vain between 1 October 2019 and 31 December 2020 as a result of the government measures against the spread of SARS-CoV-2 and restrictions within the emergency measures of the Ministry of Health;
  3. Production companies for eligible expenses (both incurred in vain and liabilities -- i.e. as yet unpaid expenses -- incurred between 1 October 2019 and 31 December 2020) as a result of the government measures against the spread of SARS-CoV-2 and emergency measures of the Ministry of Health.

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

- (22) The measure is open to self-employed persons and undertakings active in the audiovisual sector. The scheme is not open to the financial sector. The measure applies to the whole territory of the Czech Republic.

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

- (23) The aid under the notified scheme will be calculated and allocated as follows:
- (24) In category A, for natural (self-employed) persons engaged in business in the audiovisual sector (film), namely
1. Film crew professionals (in staff film profession), one-time support of CZK 60 000 (EUR 2324.95) will be provided for applicants’ professional activities in the audiovisual field, in order to retain professional and creative know-how, i.e. maintaining the skills of a specific expert profession in the time period between 1 May and 31 December 2020, (the so-called “relevant time period”);
  2. Creative film professionals: screenwriters, playwrights and audiovisual directors, one-time support of CZK 60 000 (EUR 2324.95) will be provided for professional activities carried out in the audiovisual field in the relevant time period;

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<sup>10</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank from 23 April 2021.

3. Performing artists, one-time support of CZK 60 000 (EUR 2324.95) will be provided for professional activities needed and carried out in the relevant time period.
- (25) The support in category A programmes cannot be aggregated with support from Calls 1, 2 and 3.1 of the COVID culture programme, the “Spring 2020 Compensation Bonus Programme” and the “Care Allowance for the Self-Employed” Programme”. In addition, support under categories A1 and A2 cannot be aggregated with support provided under the Covid – Culture I, II and III programmes.
- (26) In Category B 1, the support is allocated in the form of a “seat allowance”, which will be the equivalent of CZK 20 per seat for each day when the cinema was closed as a result of the government measures. The maximum support per beneficiary is CZK 5 000 000 (the equivalent of EUR 193 745.88<sup>11</sup>)
- (27) In Category B 2, the support is provided up to 50% of expenses incurred and paid out in vain in the relevant time period. This relevant time period extends all the way back a few weeks before the pandemic was identified (i.e. to 1 October 2019), given that costs for distribution that were ultimately prevented had already been incurred prior to the entry into force of the emergency measures. Eligible costs include all expenditure related to distribution, such as production costs of copies, energy costs, transport and warehousing costs, personal costs, IT costs, telecommunication costs, licence fees incurred, marketing costs, etc. Applicants would not be able to claim as eligible costs any costs that they claimed under another Covid-19 scheme. The maximum support per beneficiary is capped at CZK 5 000 000 (the equivalent of EUR 192 604<sup>12</sup>).
- (28) In Category B 3, the support is provided up to 50% of expenses incurred and paid out in vain as well as costs unpaid but due (i.e. liabilities) in and for the relevant time period. Eligible costs include all expenditure related to production, such as operating costs of premises, staff costs, cost of suppliers, Covid shooting costs, post-production costs, costs of preparatory works, costs of delivery material, marketing costs; investment costs and costs of overdraft loans to be repayable from tickets, costs of failure to meet sponsorship/advertising commitments, costs of pre-sale rights, loan interests and bank charges. Applicants would not be able to claim as eligible costs any costs that they claimed under another Covid-19 scheme. The maximum support per beneficiary is capped at CZK 5 000 000 (the equivalent of EUR 192 604<sup>13</sup>).
- (29) The form of aid is direct grant, and basic eligibility criteria for the various types of support are described above. Eligibility status must be proven in all beneficiary categories with documentary evidence.

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<sup>11</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 23 April 2021.

<sup>12</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 28 April 2021.

<sup>13</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 28 April 2021.

## **2.8. Cumulation**

- (30) The Czech authorities confirm that aid granted under the measure cannot be cumulated with aid under the *de minimis* Regulation<sup>14</sup> for the same eligible costs and if the aid is cumulated with aid under the GBER, the provisions of the latter will be respected.
- (31) 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. In particular, the Czech authorities confirm that in case of support in categories B2 and B3, in which staff costs are also eligible for support, the aid intensity will not exceed the limit of 80% of the monthly gross wage of the employees or the average income equivalent of the self-employed persons as described in section 3.10 of the Temporary Framework.
- (32) 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) of that framework, will be respected.

## **2.9. Monitoring and reporting**

- (33) 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>15</sup>.

## **3. ASSESSMENT**

### **3.1. 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 Ministry of Industry and Trade as well as the Czech Film Fund and it is based on the national legal bases listed in recital 15 of this decision. It is financed through State resources, since it is financed by public funds.

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<sup>14</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).

<sup>15</sup> 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.

- (36) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries that they would not have had under normal market conditions.
- (37) The advantage granted by the measure is selective, since it is awarded only to certain undertakings active in the audiovisual sector excluding the financial sector.
- (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.
- (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.

### **3.2. 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 compensating the beneficiaries for loss of income or reduction of income and disruption of finance at a time when the normal functioning of 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. 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.
- (44) 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 grant (recital 14);
  - The overall nominal value of the aid shall not exceed EUR 1.8 million per undertaking; 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 of CZK 200 000 000 [approximately EUR 7 737 842<sup>16</sup>] as indicated in recital 17. The measure therefore complies with point 22(b) of the Temporary Framework.
  - Aid may not be granted under the measure to medium<sup>17</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital 20). 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>18</sup> or restructuring aid<sup>19</sup> (recital 20). 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. The measure therefore complies with point 22(d) of the Temporary Framework.
- (45) 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 10).
- (46) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital 33). 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 and the cumulation rules of the relevant Regulations are respected (recitals 30-32).
- (47) 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.

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<sup>16</sup> The conversion into Euros has been made based in the exchange rate of the European Central Bank on 6 May 2021.

<sup>17</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014.

<sup>18</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>19</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.

#### 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

