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**Subject: State Aid SA.61358 (2021/N) – Czech Republic
COVID-19: Compensation bonus to self-employed persons and to
partners in small limited liability companies**

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, by electronic notification of 4 February 2021, the Czech Republic notified aid in the form of limited amounts of aid (*compensation bonus*, the “measures”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹
- (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 1/1958,² 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 MEASURES

- (3) The Czech Republic considers that the COVID-19 outbreak affects the real economy³. The measures form part of an overall package of measures and aim 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) The Czech Republic confirms that the aid under the measures 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 aid will be granted under two similar measures covering two different periods of the pandemic:
 - (a) *Measure 1*: Compensation bonus laid down by Act No. 159/2020 Coll., as amended, applicable during the “first wave” of the COVID-19 outbreak, i.e. between 12 March 2020 and 8 June 2020.
 - (b) *Measure 2*: Compensation bonus laid down by Act No. 461/2020 Coll., as amended, applicable during the “second wave” of the COVID-19 outbreak, i.e. from 5 October 2020 until the end of the state of emergency in Czech Republic or until 31 December 2021 (whichever occurs earlier).
- (6) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, in the light of sections 2 and 3.1 of the Temporary Framework.

2.1. Description of Measure 1

2.1.1. *The nature and form of aid*

- (7) Measure 1 provides aid in the form of direct grants.

³ The Czech Republic declared the first 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, restaurants and certain other establishments, and significantly limiting gathering of people. Due to a second wave of the COVID-19 outbreak, certain restrictions were re-introduced in September 2020. A second state of emergency was declared on 5 October 2020 (and currently lasts until 14 February 2021). This brought new restrictions on gathering of people, events, operation of schools, shops, catering facilities and other businesses. Based on the macroeconomic forecast submitted by the Member State, the crisis significantly affects the whole economy. It is estimated that the real GDP dropped by 6.1% in 2020. To help households and firms through the crisis, the government announced a stimulus package involving direct support measures and public guarantees.

2.1.2. *Legal basis*

- (8) The legal basis for Measure 1 is Act No. 159/2020 Coll., on the compensation bonus in connection with the crisis measures related to the current outbreak of coronavirus SARS CoV-2, as amended⁴.

2.1.3. *Administration of Measure 1*

- (9) The locally competent Financial Administration Bodies (Tax Offices) are responsible for administering the measure.

2.1.4. *Budget and duration of Measure 1*

- (10) The estimated budget of Measure 1 is CZK 22 billion (ca. EUR 847 131 000⁵).
- (11) The aid is granted in respect of two bonus periods: (i) the first bonus period (12 March 2020 - 30 April 2020), and (ii) the second bonus period (1 May 2020 - 8 June 2020).
- (12) The aid under Measure 1 may be granted until no later than 31 December 2021.

2.1.5. *Beneficiaries of Measure 1*

- (13) The beneficiaries of the measure are:
- (a) *Self-employed persons*⁶
 - (b) *Partners of “small limited liability companies”* (small limited liability companies are defined as limited liability companies with a maximum of two partners who are natural persons, or limited liability companies where all partners are members of the same family).
- (14) Large and medium undertakings⁷ that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁸ on

⁴ Act No. 159/2020 Coll. has been amended by the following acts: Act No. 234/2020 Coll., Act No. 262/2020 Coll., Act No. 299/2020 Coll., Act No 331/2020 Coll. Act No. The conditions for the entitlement to benefit from Measure 1 have further been amended by Act No. 540/2020 Coll., Article II, par 5.

⁵ Based on the exchange rate 25.97 CZK/EUR.

⁶ As defined in Article 9, paragraphs 2 and 3 of Act No. 155/1995 Coll., on pension insurance.

⁷ 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, Annex I to Commission Regulation (EC) 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Annex I to 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 on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

⁸ As defined in Article 2(18) of the Regulation (EU) No 651/2014. Wherever reference is made in this Decision to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation

31 December 2019 are excluded from Measure 1. Micro or small enterprises⁹ that were already in difficulty within the meaning of the GBER on 31 December 2019 can benefit from Measure 1 provided that they are not subject to collective insolvency procedure under national law, and that they have not received rescue aid¹⁰ or restructuring aid¹¹.

2.1.6. Sectoral and regional scope of Measure 1

- (15) Measure 1 is in principle open to all sectors. Account taken of the categories of eligible beneficiaries described in recital (13) above, credit and financial institutions are excluded from its scope. It applies to the whole territory of the Czech Republic.

2.1.7. Basic elements of Measure 1

- (16) The aid granted under Measure 1 aims at supporting self-employed persons and partners of small limited liability companies, who have been prevented – completely or partially – from carrying out their business activities as a result of the COVID-19 outbreak.
- (17) Self-employed persons are eligible for aid under Measure 1 subject to the following conditions:
- the self-employed person cannot, at the same time, be in an employment relationship and participate, in relation to this employment relationship, in the sickness insurance system¹²;
 - the person must have been a self-employed person (not participating in the sickness insurance system in relation to an employment relationship) on 12 March 2020, or its self-employment activity must not have been interrupted earlier than on 1 September 2019 (this is meant for seasonal workers who usually suspend their activities during the winter period and who could not recover their activities due to the “first wave” of the COVID-19 outbreak).

(EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

⁹ Cf. footnote 8.

¹⁰ 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 this Communication.

¹¹ 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 this Communication.

¹² Certain exemptions from this rule exist for persons employed for pedagogical activity, volunteer social works and foster care.

- (18) Partners of small limited liability companies are eligible for aid under Measure 1 subject to the following conditions:
- (a) they must be natural persons;
 - (b) the limited liability company has a maximum of two partners or all partners are members of the same family¹³ (partners of such companies are considered to be personally involved in the activities of the companies in a similar manner to self-employed persons; for such partners, the participation in the company is usually the only source of their income);
 - (c) they are not, at the same time, in an employment relationship (other than in the limited liability company itself), in relation to which they would participate in the sickness insurance system¹⁴;
 - (d) they were partners in the small limited liability company on 12 March 2020;
 - (e) on 12 March 2020, they were tax residents in the Czech Republic¹⁵;
 - (f) the small limited liability company in which they are partners:
 - is not bankrupt or in liquidation during the bonus period,
 - is not, during the bonus period, an unreliable payer/person pursuant to the Czech VAT Code¹⁶,
 - achieved, in the fiscal period¹⁷ preceding the bonus period, a turnover of at least CZK 180 000 (ca. EUR 6 931),
 - is tax resident in Czech Republic or in another Member State of the EU or the EEA.
- (19) The aid under Measure 1 amounts to CZK 500 (ca. EUR 19.25) per beneficiary per day of the bonus period. The maximum amount of aid per beneficiary is therefore CZK 15 500 (ca. EUR 597) per month, which corresponds to CZK 25 000 (ca. EUR 963) for the first bonus period (12 March – 30 April 2020) and CZK 19 500 (ca. EUR 751) for the second bonus period (1 May – 8 June 2020).

¹³ The share of the partners must not have the form of a tradable common certificate (“kmenový list”).

¹⁴ Certain exemptions from this rule exist for persons employed for pedagogical activity, volunteer social works and foster care.

¹⁵ A partner who was not tax-resident in the Czech Republic is still eligible for the aid if he/she is tax resident in an EU or EEA country and at least 90% of his/her income is generated in the Czech Republic.

¹⁶ Act No. 235/2004 Coll., VAT Act.

¹⁷ Fiscal period for the purposes of the corporate income tax as defined in §21a of Act No. 586/1991 Coll., Income Tax Act.

- (20) The aid under Measure 1 is granted to self-employed persons and to partners of small limited liability companies who, during the bonus period, had to restrict their business activities completely or partially beyond the usual extent¹⁸ as a result of health threats caused by COVID-19 or the crisis measures adopted by the national authorities to fight such health threats, especially because of:
- a) the need to close or limit the operation of the establishment of the self-employed person or the limited liability company;
 - b) the quarantine of the beneficiary, its staff or the staff of the limited liability company;
 - c) the need of childcare in case of the beneficiary, its staff or the staff of the limited liability company;
 - d) reduction of the demand for products, services and other outputs of the self-employed persons or the limited liability company; or
 - e) interruption or reduction of supplies or services necessary for the activities of the self-employed person or the limited liability company.
- (21) The aid under Measure 1 cannot be granted to a person who, for the same period, receives unemployment benefits. The aid cannot be granted to a partner of a small limited liability company who is employed in the company if the company receives wage subsidies to cover the wage costs of such partner. A person cannot receive the compensation bonus twice with respect to the same calendar day; a person can either benefit from the compensation bonus as self-employed person or as partner of a small limited liability company (not both at the same time). A person who is a partner in more than one small limited liability company can only receive the aid under Measure 1 once.
- (22) The aid under Measure 1 is granted on the basis of an application for aid, in which the beneficiary declares that he/she fulfils the conditions for granting the aid under Measure 1. The application has to be submitted not later than 60 days after the end of the relevant bonus period¹⁹. The Tax Office records the compensation bonus in the tax account of the self-employed person and disburses it to the self-employed person without undue delay.
- (23) The Tax Office carries out *ex ante* and *ex post* controls of the compliance with the above described conditions of Measure 1.

¹⁸ Activities have fallen above the level of usual economic fluctuations.

¹⁹ Those beneficiaries who have been newly entitled to benefit from the compensation bonus by Act No. 540/2020 Coll., Article II, par 5. can submit the application for aid within 60 days from the entry into force of Act No. 540/2020 Coll. (the act was enacted on 18 December 2020 and entered into force as of 1 January 2021).

2.2. Description of Measure 2

2.2.1. *The nature and form of aid, the administration, the beneficiaries and the sectoral and regional scope of Measure 2*

- (24) The nature and form of aid, the administration, the beneficiaries and the sectoral and regional scope of Measure 2 are the same as for Measure 1 (see recitals (7), (9), (13) - (15) above).

2.2.2. *Legal basis*

- (25) The legal basis for Measure 2 is Act No. 461/2020 Coll., on the compensation bonus in connection with the ban or restriction on the business activity related to the current outbreak of coronavirus SARS CoV-2, as amended²⁰.

2.2.3. *Budget and duration of Measure 2*

- (26) The estimated budget of Measure 2 is CZK 10.4 billion (ca. EUR 400 462 072).
- (27) The aid is granted in respect of (i) the first bonus period (5 October 2020 until 4 November 2020), and (ii) further bonus periods, which correspond to the gradual prolongation of the state of emergency in the Czech Republic²¹.
- (28) The Czech authorities confirmed that the aid under Measure 2 may be granted until no later than 31 December 2021.

2.2.4. *Basic elements of Measure 2*

- (29) The aid granted under Measure 2 aims at supporting self-employed persons and partners of small limited liability companies, whose business activities have been directly affected, i.e. banned or restricted, as a result of crisis measures adopted in relation to the COVID-19 outbreak by the national authorities. Furthermore, the aim of Measure 2 is also to support self-employed persons and partners of small limited liability companies whose business activities are significantly linked to the business activities of those directly affected by COVID-19 crisis measures. As a consequence of the crisis measures, these entities are not able (or their ability has been significantly reduced) to sell goods, services or other outputs to those directly affected entities.
- (30) Self-employed persons are eligible for aid under Measure 2 if they were self-employed on 5 October 2020 or if their self-employment activity was not interrupted earlier than on 13 March 2020 (this is meant for seasonal workers who usually suspend their activities during the summer period and who could not recover their activities due to the “second wave” of the COVID-19 outbreak).

²⁰ Act No. 461/2020 Coll. has been amended by Act No. 584/2020 Coll.

²¹ § 10 of the Act No. 461/2020 Coll. lays down the first bonus period and at the same time stipulates that if the state of emergency is prolonged beyond that first bonus period, the next bonus period will always correspond to the period of extension of the state of emergency. Until now, there have been six bonus periods. The state of emergency currently lasts until 14 February 2021 and so does the sixth bonus period.

- (31) Partners of small limited liability companies are eligible for aid under Measure 2 subject to the following conditions:
- (a) they must be natural persons;
 - (b) the limited liability company has a maximum of two partners or all partners are members of the same family²²;
 - (c) they were partners in the small limited liability company on 5 October 2020;
 - (d) on 5 October 2020, they were tax residents in the Czech Republic²³;
 - (e) the limited liability company in which they are partners fulfils the conditions listed in recital (18)(f) above.
- (32) The aid under Measure 2 amounts to CZK 500 (ca. EUR 19.25) per beneficiary per day of the bonus period. The maximum amount of aid per beneficiary is therefore CZK 15 500 (ca. EUR 597) per month.
- (33) The aid under the measure is granted to self-employed persons and to partners of small limited liability companies whose business activities:
- have been directly affected, i.e. banned or restricted, as a result of COVID-19 crisis measures adopted by the national authorities;
 - have been indirectly affected, i.e. restricted by at least 80% due to a prohibition or restriction of a linked business activity on which the activity of the self-employed person or the limited liability company is dependent (e.g. ban or restriction of the business activity of the main customer) if such linked activity cannot be easily replaced by another activity.
- (34) Self-employed persons and partners of small limited liability companies are only eligible for aid under Measure 2 if more than half of their income during the reference period (1 June 2020 – 30 September 2020) stems from the activities falling in the scope of recital (33) above²⁴.
- (35) The aid under Measure 2 cannot be granted to a person who, in respect of the same period, receives (i) unemployment benefits, or (ii) another support related to mitigation of the negative effects of the COVID-19 outbreak granted by the Czech Republic or another Member State of the EU or the EEA²⁵.
- (36) The conditions listed under recitals (21) - (23) above apply also in case of Measure 2.

²² The share of the partners must not have the form of a tradable common certificate (“kmenový list”).

²³ Cf. footnote 15.

²⁴ In case of the partners of limited liability companies, the condition that half of the income must stem from activities listed in recital (34) applies both for the income of the partner and of the company.

²⁵ With the exception of the following support measures: rent compensation support, wage subsidy support, allowance for taking care of a child or another dependent person.

2.3. Commitments for Measure 1 and Measure 2

- (37) The Czech authorities confirmed that the overall value of direct grants under Measure 1 and Measure 2 shall not exceed EUR 225 000 per beneficiary active in the primary production of agricultural products, EUR 270 000 per beneficiary active in the fishery and aquaculture sector, and EUR 1 800 000 per company active in all other sectors as provided by the Temporary Framework, all figures used being gross, before any deduction of tax or other charges.
- (38) For the agricultural, fisheries and aquaculture sectors, the Czech authorities confirmed that:
- where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is conditional on not being partly or entirely passed on to primary producers and is not 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;
 - aid to undertakings active in the primary production of agricultural products²⁶ is not fixed on the basis of the price or quantity of products put on the market;
 - aid to undertakings active in the fishery and aquaculture sector²⁷ does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k) of Commission Regulation (EU) No 717/201416;
 - where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22 (a) and 23 (a) of the Temporary Framework, it will be 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 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.

²⁶ As defined in Article 2(5) of Regulation (EU) No 702/2014.

²⁷ As defined in Article 2(1) of Regulation (EU) No (EU) No 717/2014.

2.4. Cumulation

- (39) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations²⁸ or the General Block Exemption Regulations²⁹ provided the provisions and cumulation rules of those Regulations are respected.
- (40) 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.
- (41) 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.
- (42) The Czech authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measures 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) and 23(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.5. Monitoring and reporting

- (43) 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 agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting³⁰).

²⁸ 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 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 190, 28.6.2014, p. 45) 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).

²⁹ Regulation (EU) No 651/2014, Regulation (EC) No 702/2014 and Regulation (EU) No 1388/2014.

³⁰ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014, Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

3. ASSESSMENT

3.1. Lawfulness of the measures

- (44) The Commission observes that the Czech Republic has started to grant the aid under the measures before the Commission has adopted its decision on the notified measures. The Commission regrets that the Czech Republic put the measures into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union. However, it has decided, on the basis of the following assessment, not to raise objections to the notified aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

3.2. Existence of State aid

- (45) 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.
- (46) The measures are imputable to the State, since they are administered by the Financial Administration Bodies (Tax Offices) and are based on Act No. 159/2020 Coll. and Act No. 461/2020 Coll., as amended. They are financed through State resources, since they are financed by public funds.
- (47) The measures confer an advantage on their beneficiaries in the form of direct grants. The measures thus confer an advantage on those beneficiaries which they would not have had under normal market conditions.
- (48) The advantage granted by the measures is selective, since the aid is awarded only to certain undertakings, namely self-employed persons and partners of small limited liability companies particularly affected by the COVID-19 outbreak.
- (49) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (50) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Czech authorities do not contest that conclusion.

3.3. Compatibility

- (51) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those measures are compatible with the internal market.
- (52) 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*”.

- (53) 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”*.
- (54) The measures aim at facilitating the access of undertakings to external 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.
- (55) The measures are two 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 measures to preserve economic continuity is widely accepted by economic commentators and the measures are of a scale which can be reasonably anticipated to produce effects across the entire Czech economy. Furthermore, the measures have been designed to meet the requirements of a specific category of aid (*“Aid in the form of limited amounts of aid”*) described in section 3.1 of the Temporary Framework.
- (56) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grant (recitals (7) and (24)).
 - The overall value of the direct grants shall not exceed EUR 1.8 million per undertaking, except for undertakings active in the primary production of agricultural products and undertakings active in the fishery and aquaculture sector (recitals (19), (32) and (37)); all figures used must be gross, that is, before any deduction of tax or other charges. The measures therefore comply with point 22(a) of the Temporary Framework.
 - Aid is granted under the measures on the basis of a scheme with an estimated budget as indicated in recitals (10) and (26). The measures therefore comply with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measures to medium³¹ and large enterprises that were already in difficulty on 31 December 2019 (recitals (14) and (24)). 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

³¹ As defined in Annex I to Regulation (EU) No 651/2014, Annex I to Regulation (EU) No 702/2014 or Annex I to Regulation (EU) No 1388/2014.

rescue aid³² or restructuring aid³³ (recitals (14) and (24)). The measures therefore comply with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measures no later than 31 December 2021 (recitals (12) and (28)). The measures therefore comply with point 22(d) of the Temporary Framework.
- 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 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 (38)). The measures therefore comply with point 22(e) of the Temporary Framework.
- The overall value of the direct grants does not exceed EUR 270 000 per undertaking active in the fishery and aquaculture sector (recitals (19), (32) and (37)) or EUR 225 000 per undertaking active in the primary production of agricultural products (recitals (19), (32) and (37)). The measures therefore comply 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 (38)). The measures therefore comply 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 (38)). The measures therefore comply 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 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. The measures therefore comply with point 23bis of the Temporary Framework (recital (38)).

³² 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.

³³ 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.

- (57) The Czech authorities confirm that the aid under the measures are 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)).
- (58) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (43)). The Czech authorities further confirm that the aid under the measures 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 (39) - (42)).
- (59) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since they meet 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