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PUBLIC VERSION

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**Subject: State Aid SA.101719 (2022/NN) – Czechia
COVID-19 – Fourth Amendment to the wage subsidy scheme
approved as State aid under SA.57102, SA.59334, SA.62441 &
SA.100663**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 27 January 2022, Czechia notified amendments (the “notified amendments”) to the wage subsidy scheme previously approved by Decision of 27 July 2020 in case SA.57102¹ (the “initial decision”), as amended by SA.59334², SA.62441³, and SA.100663⁴ (the “existing aid scheme”), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”)⁵.

¹ Commission Decision C (2020) 5265 final of 27 July 2020 - SA.57102 (2020/N).

² Commission Decision C (2021) 244 final of 12 January 2021 – SA.59899 (2020/N) and SA.59334 (2020/N) (hereinafter “first amendment decision”).

³ Commission Decision C (2021) 6928 final of 28 September 2021 – SA.62441 (2021/NN) and SA.62442 (2021/NN) (hereinafter “second amendment decision”).

⁴ Commission Decision C(2021) 8882 final of 2 December 2021 – SA.100663 (2021/N) (hereinafter “third amendment decision”).

⁵ 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 final (OJ C 473, 24.11.2021, p. 1). Given that aid under the notified amendments can only be granted after 18 November 2021 when the 6th Amendment

Jakub KULHÁNEK
Ministr zahraničních věcí
Ministerstvo zahraničních věcí České republiky
Loretánské náměstí 5
118 00 Praha 1
Česká Republika

- (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 1/1958⁶, and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) The overall objective of the existing aid scheme is to preserve employment of persons who, due to the COVID-19 outbreak, would otherwise have been laid off and to allow undertakings to resume their activities immediately after the crisis.
- (4) Under *Mode A* of the existing aid scheme, wage subsidy support is provided to employers in respect of employees who were ordered to quarantine or isolate. Under *Mode B* of the existing aid scheme, wage subsidy support is provided to employers who have restricted or closed down operations because of the reduction of their sales, the lack of input supplies, the absence of a significant proportion of employees or for other reasons related to COVID-19. Czechia explained that those situations related to COVID-19 continue to occur. According to the Czech Labour Code⁷, in the case of such “obstacles to work”, the employer is obliged to pay a wage compensation to the employee for the first 14 days. Those situations where the employer bears the wage costs without earning revenues from the activity of its employees could lead to redundancies.
- (5) Czechia wishes to amend the existing aid scheme as follows:
- (i) prolong the period for which the aid under *Mode A* of the existing aid scheme⁸ can be granted in respect of employees ordered to quarantine or isolate (the “eligibility period”) until 28 February 2022⁹, without increasing the budget of the scheme;
 - (ii) introduce a new (second) period for which the aid under *Mode B* of the existing aid scheme¹⁰ can be granted from 1 November 2021 until 31 December 2021¹¹, without increasing the budget of the scheme;

to the Temporary Framework (C(2021) 8442 final, OJ C 473, 24.11.2021, p. 1) was adopted, the measure will be assessed under the 6th Amendment to the Temporary Framework.

⁶ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁷ Act No. 262/2006 Coll., Labour Code, as amended.

⁸ *Mode A* of the existing aid scheme is defined in recital (14) (a) of the initial decision. Under this mode, wage subsidy support in the amount of 80% of the wage costs, however only up to the maximum of CZK 39,000 (ca. EUR 1546) per employee per month, is provided to employers in respect of employees ordered to quarantine or isolate. *Mode A* further applied to cases where closure or restriction of operations was directly ordered by the Czech authorities, however, this part of *Mode A* expired, i.e. the wage subsidy could only be granted in respect of wage costs incurred until 31 May 2021 (see recital (25) of the second amendment decision).

⁹ Originally in the existing aid scheme (under SA.57102, as amended by SA.59334, SA.62441 and SA.100663), the wage subsidy under *Mode A* could be granted to cover the wage costs (wage compensation and related social security and public health insurance contributions) in respect of employees ordered to quarantine or isolate incurred from 12 March 2020 until 31 December 2021.

¹⁰ *Mode B* of the existing aid scheme is defined in recital (14) (b) of the initial decision. Under this mode, wage subsidy support in the amount of 60% of the wage costs, however only up to the maximum of

- (iii) adjust the application procedure to adapt it to the prolonged eligibility period, as follows:
- Under the existing aid scheme, in order to receive the wage subsidy, the employer must conclude a granting agreement with the Labour Office. According to the notified amendments, the granting agreement must be concluded on 28 February 2022 at the latest.
 - After each month for which the subsidy is claimed, the employer must submit a wage compensation report¹². This wage compensation report must be submitted with the Labour Office before the end of the month following the month for which the subsidy is claimed.
 - The last day on which the wage compensation report can be submitted is 31 March 2022. The Labour Office grants the subsidy within one month from the date of the submission of the wage compensation report, i.e. at the latest by 30 April 2022. In any case, the Czech authorities confirm that no aid will be granted later than 30 June 2022.
- (6) Apart from the notified amendments, Czechia confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (7) The legal basis for the notified amendments is Government Resolution No. 1086 of 29 November 2021 and Government Resolution No. 1208 of 29 December 2021 amending the legal basis of the existing aid scheme (Government Resolution No. 353 of 31 March 2020, as previously amended, adopted on the basis of § 120 of Act No. 435/2004 Coll., Employment Act).

3. ASSESSMENT

3.1. Unlawfulness of the measure

- (8) The Commission observes that Czechia has started to grant the aid under the notified amendments before the Commission has adopted its decision on such measure. The Commission regrets that Czechia put the measure into effect in breach of Article 108(3) TFEU.

CZK 29,000 (ca. EUR 1,097) per employee per month, is provided to employers who have restricted or closed down operations because of the reduction of its sales, the lack of input supplies, due to the absence of a significant proportion of employees or for other reasons related to COVID-19.

¹¹ Originally in the existing aid scheme (under SA.57102, as amended by SA.59334 and SA.62441), the wage subsidy under Mode B could be granted to cover the wage costs (wage compensation and related social security and public health insurance contributions) incurred from 12 March 2020 until 31 May 2021.

¹² In the “wage compensation report”, the employer must list the wage compensations paid to the employees. Furthermore, in this report, the employer needs to declare the existence of obstacles to work related to the COVID-19 outbreak and show that the relevant employees did not work during the period for which the subsidy is claimed.

3.2. Existence of State aid

- (9) For a measure to be categorised as State 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.
- (10) The qualification of the existing aid scheme as State aid was established in the initial decision for both *Mode A* and *Mode B*. The modifications introduced by the notified amendments do not introduce changes that would affect the conclusions on the existence of State aid reached in the initial decision. In particular, the modification of the eligibility period in respect of which the aid is granted and the adjustment of the application procedure have no impact in relation to the assessment of the existence of State aid. The Commission therefore refers, for this analysis, to recitals (27) to (31) of the initial decision, and concludes that the existing aid scheme, as amended by the notified amendments, constitutes State aid within the meaning of Article 107(1) TFEU. The Czech authorities do not contest that the amended scheme involves aid.

3.3. Compatibility

- (11) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of sections 2 and 3.10 of the Temporary Framework for the reasons set out in recitals (32) to (39) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision.
- (12) The notified amendments do not affect that conclusion. In particular:
- The prolongation of the eligibility period (i.e. the period in respect of which the aid can be granted) of *Mode A* and the introduction of a new eligibility period of *Mode B* of the existing aid scheme is a response of Czechia to the lasting COVID-19 pandemic which continues to affect the real economy and put at risk the jobs in sectors particularly affected by the pandemic.
 - The adjustment of the application procedure aims to adapt the administration of the existing aid scheme to the prolonged eligibility period. Even with the extended eligibility period, the aid will be granted before 30 June 2022 in compliance with point 43(c) of the Temporary Framework (see recital (5)).
- (13) Apart from the notified amendments, Czechia confirms that no further amendments are proposed, compared to the existing aid scheme, and that all other conditions of that scheme remain unaltered (see recital (6)).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid awarded pursuant to the notified measure 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