



EUROPEAN COMMISSION

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C(2021) 1985 final

**SENSITIVE<sup>\*</sup>: COMP Operations**

**Subject:** State Aid SA.60280 (2021/N) – Czechia  
**COVID-19: Support to tour operators**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 11 February 2021, Czechia notified aid in the form of limited amounts of aid (COVID – support of tourism, 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.

## 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 that aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity

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\* Handling instructions for SENSITIVE information are given at <https://europa.eu/!db43PX>

<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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shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

- (4) Czechia submits that the spread of COVID-19 and the associated public health measures (e.g., lockdown, travel restrictions, closure of borders etc.) adopted by the Czech authorities and other authorities across the world in order to mitigate the spread of the pandemic have adversely affected the tourism sector in Czechia.
- (5) According to the Czech authorities, from March 2020 until May 2020 it was not possible to carry out any international tourist travel. In addition, continued concerns and distrust by travellers affected the sale of package tours even during summer season. Among other things, Czechia noted that international travel for recreational purpose has been severely restricted by the COVID-19 outbreak<sup>3</sup>, which has led to the widespread cancellation of package holidays with an estimated total value of CZK 5 billion (approx. EUR 191 million)<sup>4</sup>. Tour operators in Czechia have prepaid tourism services (accommodation, transportation, guiding, sports equipment, *etc.*) for a total amount of approx. CZK 2,9 billion (approx. EUR 111 million). As a result, tour operators incurred severe losses. In particular, they had to pay back significant portions of their respective sales to consumers while new sales significantly declined. The second wave of COVID-19 infections in Czechia and around the world has made tour operators' economic situation even worse.
- (6) According to the Czech authorities, the aim of measure is to support tour operators that suffer a lack of income and insufficient liquidity due to the COVID-19 outbreak. In particular, the aim of the measure is to support the largest tour operators selling package tours in Czechia. As a result, the aid measure aims at strengthening liquidity, preserving employment and maintaining the operation of businesses in the tourism sector and maintaining the supply of existing services and jobs in tourism sector, which was critically hit by the second wave of pandemic.
- (7) Czechia confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the Czech territory. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (8) 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.

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<sup>3</sup> The Czech authorities explained that as from 20 February 2020, the epidemic began to have far-reaching consequences for the tourism sector, hence the measure concerns package holidays cancelled due to Covid-19 with commencement dates as from that date.

<sup>4</sup> Exchange rate of February 2021: 1 EUR = 26,114 CZK, available at [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro\\_en](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en), accessed on 8 March 2021.

## **2.1. The nature and form of aid**

(9) The measure constitutes an aid scheme providing aid in the form of direct grants.

## **2.2. Legal basis**

(10) The legal basis for the measure is Government Resolution No. 49 of 18 January 2021 on support for tourism, in combination with Government Resolution No. 1070/2020 of 19 October 2020 – On support of tourism (Aid scheme – COVID – support of tourism) and on the amendment of Government resolution No. 766 of 20 July 2020 as well as the following legal acts:

- Act No. 218/2000 Coll. on Budgetary Rules;
- Act No. 159/1999 Coll. on certain conditions in tourism sector; and
- Government Resolution No. 631/2020, of 8 June 2020, on the Crisis Action Plan for Tourism in the Czech Republic 2020–2021.

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

(11) The Ministry of Regional Development is responsible for granting and administering the measure.

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

- (12) The budget of the measure is CZK 75 million (approx. EUR 2.9 million).<sup>5</sup> The measure is a scheme financed by the Czech State budget.
- (13) Aid may be granted under the measure from the notification of the Commission's approval until no later than 30 June 2021.

## **2.5. Beneficiaries**

(14) The beneficiaries of the measure are large tour operators selling package tours in Czechia as defined by Act No. 159/1999 Coll<sup>6</sup>. The Czech authorities estimate that eight tour operators will benefit from the scheme. Financial institutions are excluded as eligible beneficiaries.

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<sup>5</sup> Exchange rate of February 2021 1 EUR = 26,114 CZK, available at [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro\\_en](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en), accessed on 8 March 2021.

<sup>6</sup> In order to qualify as eligible operators under the scheme applicants have to fulfill the conditions further detailed at recital (20) below. The Czech authorities also explained that the measure supplements existing measures of the recently established “COVID – Tourism” program which provide similar support to small undertakings within the *de minimis* thresholds. The notified measure thus aims at supporting tour operators with higher turnovers (exceeding 500 million CZK). Details are available at <https://www.mmr.cz/cs/narodni-dotace/covid-podpora-cestovniho-ruchu/covid-cestovni-kancelare>

- (15) Aid may not be granted under the measure to medium<sup>7</sup> and large enterprises that were already in difficulty within the meaning of the GBER<sup>8</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>9</sup> or restructuring aid.<sup>10</sup>

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

- (16) The measure is open to the tourism sector and excludes the financial sector. It applies to the whole territory of Czechia.

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

- (17) The Czech authorities submit that the total amount of aid will be allocated pro rata among the eligible beneficiaries on the basis of the contribution of the respective beneficiary to the tour operators' Guarantee Fund for the year 2020.
- (18) According to Czech Act No. 159/1999 Coll. all tour operators established in Czechia are obliged to contribute to that fund with an amount set by a Ministerial Decree. The contribution is calculated as a certain percentage (maximum 0.1%) of their revenues as further detailed in the table in recital (23) below. The Czech authorities add that the Guarantee Fund together with the mandatory insurance are insolvency protection instruments in line with Article 17 of the Package Travel Directive<sup>11</sup>.
- (19) In order to be eligible to receive aid under the measure, applicants must satisfy the following (cumulative) conditions:
- a) they must qualify as a tour operator pursuant to Section 2, Paragraph 1 of Act No. 159/1999 Coll., on Certain Business Conditions and on the Performance of Certain Activities in the Field of Tourism, as amended;
  - b) they must be a natural or legal person that meets the conditions set by Act No. 159/1999 Coll. and has held in the previous two years before the application and still holds a licence for organising package holidays and brokerage of linked travel arrangements; and

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<sup>7</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 (“GBER”).

<sup>8</sup> As defined in Article 2(18) of GBER.

<sup>9</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>10</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>11</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, OJEU of 11.12.2015, L 326/1.

- c) they must have paid a contribution for 2020 to the tour operators' Guarantee Fund corresponding to projected revenues from the sale of package holidays and from the sale of tourism services, which are part of linked travel arrangements for 2020, where those projected revenues amounted to at least CZK 500 million (approx. EUR 19.1 million)<sup>12</sup>.
- (20) Eligible applicants must also meet all of the following conditions:
- the applicant must not be an unreliable payer or an unreliable person pursuant to Act No. 235/2004 Coll., on Value Added Tax, as amended (in the case of non-VAT payers, this condition does not apply);
  - the applicant shall not have overdue liabilities in relation to the State budget, State funds and health insurance companies as of the date of submitting the application for the grant. Liabilities to the State budget are considered to be liabilities to the tax office, the social security administration and the customs administration. An agreement on tax instalments or deferrals pursuant to Section 156 of Act No. 280/2009 Coll., the Tax Code as amended, is not considered as a violation of this condition nor are late payments of taxes or levies in connection with the spread of COVID-19 on the basis of the liberation packages of the Ministry of Finance or measures of the Ministry of Labour and Social Affairs;
  - the applicant must state in the grant application whether it is an independent undertaking or part of a group of connected undertakings;
  - in the grant application the applicant must specify the amount of support provided to it according to section 3.1 of the Temporary Framework, and inform about the applications submitted for other support under section 3.1 of that framework;
  - the applicant must indicate whether, pursuant to Annex I to the GBER, it is a micro, small, medium or large enterprise;
  - the applicant must not, at the moment of granting the aid, be in bankruptcy, insolvency or liquidation and no insolvency or insolvency proceedings may be instituted against it under national law; at the same time, no recovery order have been issued against it which has not yet been repaid; at the same time, a court or administrative body may not have issued an order ordering the enforcement of any ruling on seizure of property;
  - the applicant shall not suspend or terminate the existing business activities on the basis of which they provide tour operator services within six months from the granting of aid under the measure;
  - the applicant must be secured for the event of insolvency pursuant to Section 6 of Act No. 159/1999 Coll. and fulfil its obligations to submit an original or an officially certified copy of the relevant insurance contract

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<sup>12</sup> § 10g of Czech Act No. 159/1999 Coll.

and the copy of the insurance certificate to the Ministry pursuant to Section 8a (2) of Act No. 159/1999 Coll.; this condition will be verified in the list of tour operators maintained by the Ministry of Regional Development on the website <https://mmr.cz/cs/ministerstvo/cestovní-ruch/seznam-cestovních-kanceláří>;

- the applicant shall indicate the total number and the value of vouchers issued in the calendar year 2020, i.e. the travel vouchers issued pursuant to Act No. 185/2020 Coll., as well as the number and value of travel vouchers to which customers applied as of the application date.
- (21) The total nominal value of the grants shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge.
- (22) The Czech authorities indicate that the relevant period to which the aid relates is the period from 20 February 2020 to 4 January 2021.
- (23) The Czech authorities explain that the maximum amount of aid under the measure is calculated according to the following formula:

A		B		C		A / B x C
Projected revenues of the applicant for 2020  / (divided by)	The sum of projected revenues <sup>13</sup> for 2020 of all tour operators with revenues over CZK 500 million	X  (multiplied by)	Total allocation of the call (75,000,000)  =			<b>Maximum grant amount</b>

- (24) The beneficiary may use the funds obtained from the grant to cover the following eligible costs, up to the maximum grant amount calculated as described in recital (23):
- operating costs incurred in the period from 11 October 2020 to 4 January 2021; and
  - customer claims from package travel contracts with a commencement date in the period from 20 February 2020 to 31 December 2020, which have been cancelled due to the COVID-19 outbreak, provided that funds received on the basis of *de minimis* aid or of aid under the GBER have not been used in relation to the same eligible costs. The Czech authorities confirmed that up to 100% of the funds may be used to cover these eligible costs depending on the applicant's particular situation.

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<sup>13</sup> Projected revenues are considered to be revenues reported for the purpose of paying a contribution to the guarantee fund of tour operators corresponding to projected revenues from the sale of package holidays and from the sale of linked travel arrangements.

## **2.8. Cumulation**

- (25) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>14</sup> or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (26) 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.
- (27) 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 points 22(a) of that framework, will be respected.

## **2.9. Monitoring and reporting**

- (28) 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. Lawfulness of the measure**

- (29) By notifying the measure before putting it into effect, the Czech authorities have respected their obligations under Article 108(3) TFEU.

### **3.2. Existence of State aid**

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of Regional Development (recital (11)) and it is based on the national laws identified in recital (10). It is financed through State resources, since it is financed by the State budget of Czechia (recital (12)).

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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) 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).

<sup>15</sup> Referring to information required in Annex III to the GBER.

- (32) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (9)). The measure thus confers on those beneficiaries an advantage which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the tourism sector, excluding the financial sector (recital (14)).
- (34) 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.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Czech authorities do not contest that conclusion.

### **3.3. Compatibility**

- (36) 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.
- (37) 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*”.
- (38) 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*”.
- (39) The measure aims at ensuring liquidity for undertakings active in the tourism sector 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.
- (40) 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 is widely accepted by economic commentators. 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.
- (41) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
  - The aid takes the form of direct grants (recital (9)).

The overall nominal value of the grants shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge (recital (21)). The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme (see recital (9)) with a budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to medium<sup>16</sup> and large enterprises that were already in difficulty on 31 December 2019 (see 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>17</sup> or restructuring aid<sup>18</sup> (see recital (15)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
- Aid will be granted under the measure no later than 30 June 2021 see recital (13)). The measure therefore complies with point 22(d) of the Temporary Framework;

- (42) 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 (7)).
- (43) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). The Czech authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (25)-(27)).
- (44) 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> As defined in Annex I to the GBER.

<sup>17</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>18</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

CERTIFIED COPY  
For the Secretary-General

Martine DEPREZ  
Director  
Decision-making & Collegiality  
EUROPEAN COMMISSION