



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

**Subject: State Aid SA.58398 (2020/N) – Czech Republic
COVID-19: Accommodation Facility Support (COVID-
Accommodation)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 21 August 2020, the Czech Republic notified *aid in the form of direct grants* (“Accommodation Facility Support COVID – Accommodation”, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“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

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

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 Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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conjunction with Article 3 of Regulation 1/1958² 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 has started to affect the real economy. The measure (i.e. direct grants to accommodation facilities during closure period, as better described below) forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) The Czech authorities took several measures to counter the effects of the Covid-19 outbreak:
- (5) As of 12 March, a 30-day state of emergency was declared. The state of emergency was extended until 17 May 2020.
- (6) As of 13 March, full-time education in elementary, secondary and tertiary educational facilities was cancelled, as well as in universities and facilities specialised in language training. Events organised by these organisations were forbidden. Also, all sporting, cultural, religious and other activities both public and private involving more than 30 people were forbidden.
- (7) As of 14 March, public access to swimming pools and tourist information centres were forbidden. The same applied to indoor and outdoor sports centres service providers (over 30 people at any one time) and retail sales in stalls and markets.
- (8) As of 16 March, free movement was limited with the exception of travel to and from work and trips necessary to ensure basic human needs (e.g. foodstuffs, pharma shopping, helping older family members). The provision of the accommodation services was forbidden. This limitation on free movement applied until the end of the state of emergency.
- (9) As of Tuesday 7 April, individual outdoor sports were permitted. When keeping a safe distance of two metres and with a maximum of two people, these sports could be performed without respiratory protection. The ban on use of common spaces like showers and lockers was still in force.
- (10) As of Thursday 9 April, all hobby markets, building material shops, ironmongeries and shops providing sale and service of bicycles reopened.
- (11) An accelerated plan to relax restrictions on businesses and other activities has been introduced:
 - as of 20 April – craft workshops, farmers' markets, car dealerships, outdoor training activities for professional athletes, weddings of up to 10 people,

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

- as of 27 April – business premises up to 2,500 m², (only if these are not in shopping malls over 5,000 m²), driving schools, gyms and fitness facilities without the use of locker rooms and showers, church services for up to 15 people, libraries, outdoor expositions of zoological gardens,
 - as of 11 May – shops in shopping centres, business premises over 2,500 m², restaurants can open their gardens while serving food there, beauty services, museums, galleries, outdoor premises of castles and chateaus, outdoor training activities for professional athletes without public access,
 - as of 25 May – restaurants, accommodation services, taxi services, tattoo salons, theatres, cultural and sporting events (limit on number of participants weddings, indoor expositions of zoological gardens.
- (12) The Czech Republic confirmed 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.
- (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 (i) Act No. 218/2000 Coll. on Budgetary Rules, (ii) Government Resolution No. 766/2020 of 20 July, 2020 pertaining to the document Support of the accommodation facilities (COVID-Accommodation), (iii) Act No. 455/1999 Coll., on Trade Licensing and (iv) Act No. 211/2000 Coll., on the State Investment Support Fund of the Czech Republic.

2.3. Administration of the measure

- (16) The Ministry of Regional Development is responsible for administering the measure.

2.4. Budget and duration of the measure

- (17) The estimated budget of the measure is CZK 3.31 billion (EUR 126.7 million)³.
- (18) Aid may be granted under the measure as from its approval by the Commission until no later than 31 December 2020.

2.5. Beneficiaries

- (19) The final beneficiaries of the measure are micro enterprises, SMEs and large enterprises⁴ providing accommodation services in the Czech Republic. However,

³ Exchange rate: CZK 1 = EUR 0.0383 taken in August 2020 from: <https://ec.europa.eu/budget/graphs/inforeuro.html>

financial institutions are excluded as eligible final beneficiaries. The beneficiaries may be either legal entities or natural persons operating accommodation facilities in the Czech Republic on the basis of a trade licence for accommodation services or, on the condition (in both cases) that they were tax residents in the Czech Republic as of 14 March 2020 and/or in the EU/EEA for legal entities.

- (20) Accommodation facilities, which are State spas, cannot receive support under this measure. In the case of spa facilities, accommodation capacities that are intended for the purpose of providing medical rehabilitation care according to the certificate of registration of non-state medical facilities, will be excluded from this measure.
- (21) The beneficiary may not be in bankruptcy or liquidation, may not be an unreliable payer or an unreliable person under the law governing value added tax (VAT), must not have arrears due in relation to the public budget or a health insurance company, and must provide accommodation services on the basis of Act no. 455/1991 Coll., on Trade Licensing, as amended. In addition, the beneficiary waives the right to assert further claims for damages. Finally, the applicant shall not terminate the existing business activity on the basis of which he/she/it provides accommodation services for 6 months from the grant of the subsidy.
- (22) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of 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 aid⁶ or restructuring aid⁷.

2.6. Sectoral and regional scope of the measure

- (23) The measure is open to undertakings offering accommodation services (NACE group level⁸ 55) and excludes the financial sector. It applies to the whole territory of the Czech Republic.

⁴ 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.

⁵ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1

⁶ 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.

⁷ 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.

⁸ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

2.7. Basic elements of the measure

- (24) The aid scheme consists in direct grants to operators offering accommodation services. The objective of the aid scheme is to support the tourism sector, namely accommodation facilities affected by measures related to the COVID-19 outbreak, to preserve jobs, operate facilities, maintain the supply of existing services, strengthen liquidity and support the development of the sector. The grant amount will be determined according to the type of accommodation facility by a lump sum to cover part of the unrealized income / revenues of these facilities. The Czech authorities confirmed that the financial threshold per applicant is EUR 800 000.
- (25) The aid will be provided to the operators in a fixed amount per room and per day for the period when the accommodation facilities were closed, due to the crisis measures adopted by the Czech Government. There are a total of 72 days in the period from 14 March 2020 to 24 May 2020 during which accommodation facilities had to be closed. In the case of spa facilities, accommodation capacities that are intended for the purpose of providing medical rehabilitation care according to the certificate of registration of non-State medical facilities, will be excluded from support.⁹
- (26) The seasonality of a facility will be considered when determining the amount of support. The subsidy will be paid to an accommodation facility which was in operation in at least one of the previous two years during the months of March, April and May and which simultaneously reported accommodated guests during this period.
- (27) This condition does not apply to facilities that were newly opened after 1 June 2019. For facilities that were newly established and were not operated (not even by another entity) in the months of March, April and May 2019, it is not possible to determine in any way whether the facilities planned seasonal or year-round operation. For this reason, the aid is set at a lower level than for facilities that were in operation during the comparable period of the previous year. In this case, the beneficiary/applicant is entitled to support according to the average occupancy in the region where the accommodation facility is located.
- (28) Camps are entitled to support only for accommodation facilities (buildings with rooms or cottages).
- (29) The amount provided per room is differentiated according to the quality of the accommodation facility. According to the Czech authorities, the highest quality is achieved by hotels with 5 and 4 stars, between which there is a slight difference. 3-star hotels also possess a similar quality to the 5 and 4 stars hotels. Hotels with 1 and 2 stars are facilities with a lower quality. A hotel of the Garni type is qualitatively comparable to 3-star hotels, nevertheless it provides lesser catering services, and therefore the rate for this type of hotels is set at a lower amount than for 3-star hotels.

⁹ The certificate is issued by the Health Care Services Department of the Self-Governing Regional Authority.

- (30) Non-State spa facilities (NSF) have varying levels of quality, and therefore the rate for the payment of the subsidy will depend on the quality of accommodation according to individual types of hotels.
- (31) The capped amounts established per beneficiary categories are the following:

Type of accommodation facility	Number of accommodation facilities	Number of rooms	Amount per room per day (in CZK)	Total subsidy amount per 72 days (in CZK)	Total subsidy amount per 72 days (in EUR)
Hotel, NSF *****	70	7 850	330	186 516 000	7 141 282
Hotel, motel, boat hotel, NSF ****	765	46 532	330	1 105 600 320	42 330 972
Hotel, motel, boat hotel, NSF ***	1 476	48 570	300	1 049 112 000	40 168 160
Hotel, motel, boat hotel, NSF **	195	4 285	200	61 704 000	2 362 509
Hotel, motel, boat hotel, NSF *	116	2 268	200	32 659 200	1 250 448
Garni hotel	106	2 920	250	52 560 000	2 012 405
Guesthouse/Boarding House	3 614	36 174	200	520 905 600	19 944 314
Camp (accommodation facilities)	567	9 368	100	67 449 600	2 582 495
Summer cottage settlement	321	7 510	100	54 072 000	2 070 296
Tourist hostel	651	10 095	100	72 684 000	2 782 908
Unclassified facility type	48	7 439	200	107 121 600	4 101 447
Number of accommodation facilities in sum	7 929	183 011		3 310 384 320	126 723 600

2.8. Cumulation

- (32) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁰ or the General Block Exemption Regulation¹¹ provided the provisions and cumulation rules of those Regulations are respected.
- (33) 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.
- (34) 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

¹⁰ 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)

¹¹ 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 of 26.6.2014, p. 1

overall maximum cap per undertaking, as set out in points 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (35) 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 granting¹²).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (36) 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

- (37) 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.
- (38) The measure is imputable to the State, since it is administered by the Ministry of Regional Development in the Czech Republic and it is based on the legislative acts mentioned in recital (14). It is financed through State resources, since it is financed by public funds.
- (39) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (13)). The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (40) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings offering accommodation services, excluding the financial sector (recital (22)).
- (41) 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.
- (42) 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.

¹² 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 of the Commission Regulation (EU) No 1388/2014.

3.3. Compatibility

- (43) 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.
- (44) 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*”.
- (45) 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*”.
- (46) The measure aims at ensuring liquidity for undertakings active in the accommodation services sector at a time when the normal functioning of credit 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.
- (47) 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 and the measure is of a scale which can be reasonably anticipated to produce effects across the entire accommodation services sector across the Czech Republic. 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.
- (48) 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(13)).

The overall nominal value of direct grants shall not exceed EUR 800 000 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 as indicated in recital (16). The measure therefore complies with point 22(b) of the Temporary Framework;

- Aid may not be granted under the measure to medium¹³ and large enterprises that were already in difficulty on 31 December 2019 (see recital (21)). 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 aid¹⁴ or restructuring aid¹⁵ (see recital (21)). 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 2020. The measure therefore complies with point 22(d) of the Temporary Framework;
- (49) The Czech authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (34)). 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 (recital (32)).
- (50) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

¹³ 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.

¹⁴ 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.

¹⁵ 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.

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

