



EUROPEAN COMMISSION

Stálé zastoupení ČR při EU BRUSEL		
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Brussels, 07.05.2009  
C(2009)3782

**Subject:** State aid N 236/2009 – Czech Republic  
Limited amounts of compatible aid under the Temporary Framework  
("Český přechodný rámec")

Sir,

## 1. PROCEDURE

- (1) By electronic notification of 21 April 2009, the Czech Republic notified a temporary aid scheme ("*Český přechodný rámec*") for granting limited amounts of compatible aid under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the Temporary Framework)<sup>1</sup>.
- (2) By electronic communications of 23 April 2009, 24 April 2009 and 29 April 2009, the Czech authorities submitted to the Commission further clarifications and confirmations.

## 2. DESCRIPTION

### 2.1. Objective of the aid scheme

- (3) The Czech Republic considers that the financial crisis starts affecting its real economy as a whole at national, regional and local level. According to the Czech

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<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ C 16 of 22 January 2009, as amended on 25 February 2009, OJ C 83, 7.4.2009, p.1. ([http://ec.europa.eu/competition/state\\_aid/legislation/horizontal.html](http://ec.europa.eu/competition/state_aid/legislation/horizontal.html)).

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Statistical Office report<sup>2</sup> industrial output fell by 23.3 % year-on-year in January 2009, showing a fourth straight monthly decrease. Construction output in constant prices dropped by 11.1%. Orders in the industry fell by 26.6% in January 2009. Adjusted for the number of workdays, industrial production went down by 21.5%. The Czech authorities expect a GDP decrease by 2% this year with unemployment around 10%.

- (4) In this context, the Czech authorities adopted a national framework "*Český přechodný rámec*" aimed at remedying a serious disturbance in the economy of Czech Republic by boosting the demand side of the economy. The assessed measure is part of this framework that contains also an aid measure in form of loans with subsidised interest rate. The latter is covered by notification N 237/2009 registered at the Commission on 21 April 2009.
- (5) The scheme is expressly based on Article 87 (3) (b) ECT, as interpreted by paragraph 4.2.2 of the Temporary framework.

## **2.2. The nature and form of the aid**

- (6) The aid will be provided in the form of transparent forms of aid, as defined by the General Block Exemption Regulation<sup>3</sup>, and in particular, in the form of direct grants, reimbursable grants, interest rate subsidies, subsidised public loans with an element which is calculated on the basis of the communication on the revision of the method for setting the reference and discount rates (2008/C14/02) and public guarantees where the aid element is calculated either on the basis of notified methodologies, or on the basis of the safe harbour premiums laid down in the annex A to the amended Temporary Framework.

## **2.3. Legal basis**

- (7) The legal basis for the scheme is the "*Český přechodný rámec*", and the following national legal acts:
  - Národní protikrizový plán vlády České republiky; Zákon č. 218/2000 Sb., o rozpočtových pravidlech a o změně některých souvisejících zákonů (rozpočtová pravidla) usnesení vlády České republiky č. 50 ze dne 17. 1. 2007; Zákon č. 47/2002 Sb., o podpoře malého a středního podnikání ve znění pozdějších předpisů. zákon č. 659/2004 Sb., o podmínkách obchodování s povolenkami na emise skleníkových plynů ve znění pozdějších předpisů;
  - Směrnice MŽP č. 05/2008 ze dne 29. 6. 2007 pro předkládání žádostí a o poskytování finančních prostředků pro projekty z OPŽP včetně spolufinancování ze Státního fondu životního prostředí ČR a státního rozpočtu ČR – kapitoly 315 (životní prostředí), Program rozvoje venkova ČR
  - Pravidla, kterými se stanovují podmínky pro poskytnutí dotace na projekty programu rozvoje venkova ČR; Zákon č. 435/2004 Sb., o zaměstnanosti; Zákon

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<sup>2</sup> <http://www.czso.cz/eng/csu.nsf/informace/avyb041609.doc>

<sup>3</sup> OJ L 214, 9 August 2008, p. 3, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

č. 582/1991 Sb., o organizaci a provádění sociálního zabezpečení, ve znění pozdějších podpis;

- Vyhláška MPSV č. 161/1998 Sb., o promíjení penále správami sociálního zabezpečení; Zákon č. 129/2000 Sb., o krajích (krajské zřízení), ve znění pozdějších podpis; Zákon č. 250/2000 Sb., o rozpočtových pravidlech územních rozpočtů, ve znění pozdějších podpis; Zákon č. 40/1964 Sb., občanský zákoník, ve znění pozdějších podpis; Zákon č. 248/2000 Sb., o podpoře regionálního rozvoje, ve znění pozdějších podpis; Zákon č. 131/2000 Sb., o hlavním městě Praze, ve znění pozdějších podpis;
- Operační programy schválené pro ČR Evropskou komisí pro období 2007-2013.

#### **2.4. Administration of the scheme**

- (8) The notified scheme is a national framework scheme; allowing aid to be granted at all levels, including the national, regional, and local level, and is applied in a decentralised way by all relevant aid awarding authorities. The administration of the scheme is coordinated by the Office for protection of competition and Ministry of Industry and Trade of the Czech Republic.

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

- (9) The budget of the scheme has not yet been definitely adopted, but the Czech authorities indicated that the volume resulting for measures in form of limited amounts of compatible aid will amount to 27 billion Czech Koruna (approx. € 1 billion).
- (10) Aid can be granted from the approval of the scheme by the Commission until 31 December 2010".

#### **2.6. Beneficiaries**

- (11) The scheme applies to SMEs and large firms.
- (12) The Czech authorities confirmed that no aid under this scheme will be granted to large firms which were, on 1 July 2008, firms in difficulties in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty<sup>4</sup>, nor to SMEs which were on that date firms in difficulties in the meaning of Art. 1 (7) of the General Block Exemption Regulation. SMEs are defined in line with annex I to the General Block Exemption Regulation.
- (13) The scheme may be applied to firms that were not in difficulty on 1 July 2008, but entered into difficulty thereafter as a result of the global financial and economic crisis. In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.
- (14) The Czech authorities estimate the number of beneficiaries will be over 1000 firms.

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<sup>4</sup> OJ C 244, 1 October 2004, p. 2-17.

## **2.7. Sectoral scope, exclusion of export aid and aid favouring domestic over imported product**

- (15) The scheme applies in all sectors, with the exception of the sectoral exclusions laid down in sections 4.2.2 (d) ("fisheries") and (h) ("primary production of agricultural products"; where this measure applies to undertakings active in the processing and marketing of agricultural products (as defined in Article 2.3 and 2.4 of Regulation (EC) 1857/2006), the amount of the aid is not fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or the aid is not conditional on being partly or entirely passed on to primary producers (section 4.2.2 (h), second sentence of the Temporary Framework).
- (16) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary framework).

## **2.8. Basic elements of the scheme**

- (17) The Czech authorities confirm that the conditions laid down in section 4.2.2 for granting limited amounts of compatible aid will be fully met. In particular,
- the aid shall not exceed 500,000 € per undertaking, as laid down in section 4.2.2(a) of the Temporary framework. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid calculated under points (6) of this decision;
  - before granting the aid, the aid granting authorities shall obtain from the undertakings concerned a declaration about any *de minimis* aid (as defined in the Commission *de minimis*-Regulation<sup>5</sup>) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence);
  - the total amount of *de minimis* aid and aid granted under this measure per undertaking in the period 1.1.2008 to 31.12.2010 may not exceed €500,000 (section 4.2.2 (g), second sentence);
  - where the aid granted under this measure is to be combined with other compatible aid or with other forms of Community financing, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected (section 4.7, last paragraph).

## **2.9. Monitoring and reporting, business secrets, language waiver**

- (18) The Czech authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected (e.g.: by 31 July 2009, a list of schemes put in place on the basis of the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years; by 31 October 2009 a report on the measures put in place should be provided).

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<sup>5</sup> OJ L 379 Official Journal L 379, 28.12.2006

- (19) The Commission notes that the Czech authorities have confirmed that the notification does not contain business secrets.
- (20) The Czech authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

### **3. ASSESSMENT**

#### **3.1. Legality of the measure**

- (21) By notifying the aid measure before putting it into effect, the Czech authorities respected their obligations under Article 88 (3) of the EC Treaty.

#### **3.2. Existence of state aid**

- (22) State resources are involved in the notified scheme since the aid is granted from national, regional and local resources, via the respective aid granting authorities at all levels.
- (23) The measure is selective since aid is awarded only to certain undertakings.
- (24) The measure conveys an advantage by making available limited amounts of compatible aid which would not be available to the beneficiaries without the measure.
- (25) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.
- (26) The measure distorts or threatens to distort competition.
- (27) In view of the above, the Commission considers that the notified measure constitutes state aid within the meaning of Article 87 (1) of the EC Treaty. The Czech authorities do not contest that conclusion.

#### **3.3. Compatibility of the measure**

- (28) Having established that the measure involves state aid within the meaning of Article 87 (1) of the EC Treaty, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.
- (29) As described above under paragraph 3, the recent developments in the Czech economy point to an overall downturn when compared to previous period. The Czech authorities have delivered economic data proving that industrial output fell by 23.3 % year-on-year in January 2009, showing a fourth straight monthly decrease. Construction output in constant prices dropped by 11.1%. Orders in the industry fell by 26.6% in January 2009. Adjusted for the number of workdays, industrial production went down by 21.5%. The Czech authorities expect a GDP decrease by 2% this year with unemployment around 10%.
- (30) By granting limited compatible amounts of aid (EUR 500,000 per undertaking during 2009 and 2010) the Czech authorities aim at supporting those undertakings that have been affected by a sudden shortage or unavailability of credit as a result of the credit crunch and therefore, anticipate producing effects across its entire

economy. Thus, the measure aims at remedying a severe disturbance in the economy of the Czech Republic by boosting the demand side of the economy.

- (31) By adopting the Temporary Framework, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that they may be declared compatible with the common market on the basis of Article 87(3)(b)."
- (32) A measure of such a scale can be reasonably anticipated to produce effects across the entire Czech economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of limited amounts") described in section 4.2.2 of the Temporary Framework.
- (33) The Commission accordingly considers that the notified 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 maximum aid amount will not exceed the cash equivalent of EUR 500,000 per undertaking (point 4.2.2 (a));
  - The measure is granted through an aid scheme in line with point 4.2.2 (b);
  - The aid granting authorities will obtain from the undertakings concerned a declaration about any *de minimis* aid or aid granted under this measure received during the current fiscal year (point 4.2.2 (g), first sentence) and will check that the total aid will not exceed 500 000 per undertaking during the period from 1 January 2008 to 31 December 2010. Thus, the cumulation rules with *de minimis* aid and aid for other purposes are respected (in particular point 4.2.2 (g) and point 4.7);
  - Firms in difficulty (situation of 1.7.2008) are excluded from eligibility under the scheme in compliance with point 4.2.2 (c);
  - Firms active in the fisheries sector are excluded from the scope of this measure (point 4.2.2 (d));
  - Undertakings active in the primary production of agricultural products are excluded from the scope of this measure. Aid to the processing and marketing of agricultural products is subject to the relevant conditions (point 4.2.2 (h));
  - Export aid and aid favouring domestic over imported goods and services are excluded (point 4.2.2 (e));
  - In line with point 4.2.2 (f) aid may be granted until 31.12.2010;
  - The monitoring and reporting rules laid down under point 6 of the Temporary Framework will be respected.

### 3.4. Conclusion

- (34) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary Framework and considers it to be compatible with the Treaty on the basis of Article 87 (3) (b) EC.
- (35) The Commission notes that the Czech authorities have confirmed that the notification does not contain business secrets.
- (36) The Commission notes that the Czech authorities accepted that the decision is adopted in the English language, due to exceptional circumstances.

### 4. DECISION

- (37) The Commission has accordingly decided
- to consider the notified aid scheme as compatible with the EC Treaty
- (38) The Commission reminds the Czech authorities to transmit the concrete implementing rules as soon as possible after the approval of the notified aid.

Yours faithfully,

For the Commission



Neelie KROES  
Member of the Commission