



EUROPEAN COMMISSION

Brussels, 12.05.2020
C(2020) 2995 final

PUBLIC VERSION

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**Subject: State Aid SA.56407 – Czechia
Compensation from Forest Act and services to forest owners**

Excellency,

The European Commission ("the Commission") wishes to inform Czechia that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant State aid scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 5 February 2020, registered by the Commission on the same day, the Czech Republic notified, according to Article 108(3) TFEU, the above-mentioned aid scheme.
- (2) The Commission sent a request for additional information to the Czech authorities on 23 March 2020, which the Czech authorities answered by letter of 31 March 2020.
- (3) The present notification relates to the aid schemes SA.31870 (NN 54/2010), SA. 31871 (NN 55/2010), SA. 31872 (NN 56/2010) and SA.31873 (NN 57/2010), which were approved by the Commission in 2011¹ and which expired on 31 December 2019.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/ldb43PX>

¹ Decisions C(2011)1712 final, C(2011)1949 final, C(2011)1999 final, and C(2011)1364 final.

Česká republika

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- (4) The Czech authorities have confirmed their acceptance for the Commission decision to be adopted and notified in English language, due to urgency.

2. DESCRIPTION

2.1. Title

- (5) Compensation from Forest Act and services to forest owners.

2.2. Objective

- (6) With the present notification, the Czech authorities wish to provide support to the forestry sector, in order to strengthen sustainable forest management through:
- (a) strengthening forest ecosystem functions by planting minimum share of amelioration and stabilization tree species within replanting (measure 1);
 - (b) management planning with established forest management guidelines (measure 2);
 - (c) ensuring professional level of forest management in small forests by specific advisory services (measure 3);
 - (d) providing specific services to forest owners, including forest protection and liming/fertilising, knowledge transfer and training for forest owners (measure 4).
- (7) The Czech authorities have provided an analysis of the potential impact of the present aid scheme on the environment and have provided assurances that they will not result in infringement of the applicable EU environmental legislation. The Czech authorities have explained the following. As regards measure 1 (“Compensation for planting of amelioration and stabilisation tree species”), planting of amelioration and stabilisation tree species has a positive impact on forest ecosystem environment, specifically for improving soil acidity and humus constituents’ formation. It has also a positive impact on biodiversity in forests by improving tree species composition creating species-rich forests. As regards measure 2 (“Compensation for establishing forest management guidelines”), aid covers costs for establishing the forest management guidelines and it will have a positive long-term effect of forest management planning. As regards measure 3 (“Compensation for costs of professional forest managers”), the advisory services mainly cover forest protection measures and so such support will have positive effect on forests comparing to the situation where no such advisory help exists. As regards measure 4 (“Services for forest owners”), aerial liming will be limited to locations under influence of past air pollution damage and ex-post evaluation will be conducted each year. Furthermore, under the same measure, expert advisory services will have no negative impact on the environment, as their main aim is to maintain and improve forest health, preventing damage on forests as well as implementing new environmentally friendly approaches. Against this background, the Czech authorities have concluded that the aid will not have a negative impact on the environment. This will also be ensured through the procedure for approving/establishing forest management plans/forest management guidelines, during which they are assessed from the perspective of their impact on the environment in a binding opinion from the Czech nature conservation authority.

2.3. Legal basis

- (8) The legal basis of the present aid scheme is:
- (a) Act No 289/1995 Coll., on forests, as amended (“Forest Act”) [*Zákon č. 289/1995 Sb. o lesích*];
 - (b) Decree No. 80/1996 Coll., on rules for granting the aid for planting minimal share of amelioration and stabilisation tree species and on granting compensations for increased costs [*Vyhláška č. 80/1996 Sb. o pravidlech poskytování podpory na výsadbu minimálního podílu melioračních a zpevňujících dřevin a o poskytování náhrad zvýšených nákladů*];
 - (c) Decree No. 84/1996 Coll., on forest management planning [*Vyhláška č. 84/1996 Sb. o lesním hospodářském plánování*];
 - (d) Decree No. 423/2011 Coll., on calculation of costs of professional forest managers in cases where the costs are paid by the State [*Vyhláška č. 423/2011 Sb. o způsobu výpočtu nákladů na činnost odborného lesního hospodáře v případech, kdy jeho činnost hradí stát*].

2.4. Duration

- (9) From the date of the Commission decision until 31 December 2026. The Czech authorities have committed to adapt the present aid scheme to the new State aid rules, which will be applicable after 31 December 2020.

2.5. Budget

- (10) Overall budget is CZK 2.725 billion (approx. EUR 109 million), financed from the State budget.
- (11) Aid will be granted according to the competence over forests, i.e. by the Ministry of Defence in case of military forests, by the Ministry of Environment in case of forests in National parks and their buffer zones, by the Ministry of Agriculture in case of other forests.

2.6. Beneficiaries

- (12) Beneficiaries will be forest owners or any person who under §58 of the Forest Act is subject to the rights and obligations of forest owners/tenants. They may be undertakings of all sizes. The estimated number of beneficiaries is over 1000.
- (13) Aid will not be granted to undertakings in difficulty, within the meaning of the definition stipulated in point 35(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020² (‘the Guidelines’).
- (14) Likewise, the Czech authorities will suspend the payment of the aid if the beneficiary of aid still has at its disposal an earlier unlawful aid that was declared

² OJ C 204 of 1.7.2014, p. 1. Amended by the Notices published in OJ C 390, 24.11.2015, p. 4, OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10.

incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until the beneficiary has reimbursed or paid into a blocked account the total amount of the unlawful and incompatible aid including the corresponding recovery interest.

2.7. Aid form

- (15) Aid will be provided in the form of:
- (a) direct grant;
 - (b) subsidised services.

2.8. Aid intensity

- (16) Up to 100% of eligible costs.

2.9. Description of the aid scheme

- (17) The Czech authorities have confirmed that no aid will be granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation. Furthermore, no aid will be granted for felling, the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (18) The following measures will be supported under the present aid scheme:
- (a) measure 1: Compensation for planting of amelioration and stabilization tree species;
 - (b) measure 2: Compensation for establishing forest management guidelines;
 - (c) measure 3: Compensation for costs of professional forest managers;
 - (d) measure 4: Services for forest owners:
 - sub-measure “Aerial liming and fertilization in forest stands”;
 - sub-measure “Large-scale preventive and defensive measures in forest protection”;
 - sub-measure “Training and knowledge transfer for forest owners”;
 - sub-measure “Expert advisory services for forest management”.

They are described in detail below.

A. Measure 1 - Compensation for planting of amelioration and stabilisation tree species

- (19) The Czech authorities have explained that in practice aid under this measure will solely be granted to the State enterprise “*Lesy České republiky*” [Forests of Czech Republic]. The Czech authorities have explained that other forest owners are already eligible for (more favourable) support for the same type of costs under the

aid scheme SA.54137 (2019/N) “Subsidy framework for granting contributions for the forest management”³. “*Lesy České republiky*” are excluded from support under that aid scheme. According to the Czech authorities, only in exceptional cases, other forests owners will apply for the aid under the present measure and the Ministry of Agriculture as the granting authority for both relevant aid schemes will carry out cross-checking to exclude any overcompensation.

- (20) The aid aims at restoring ecological and protective forest functions and biodiversity by creating mixed forest stands, raising environmental value of forest, forest stability and forest health. The Czech Republic still has a great share of spruce stands that need to be replaced by species-richer mixed forests stands, which are in general more resilient against any biotic and abiotic agents.
- (21) The aid will be provided for planting amelioration and stabilisation tree species (mainly broad-leaved species and fir) within the forest regeneration. These species are defined by the Decree no. 298/2019 Coll., on the establishment of regional plans for forest development. The Forest Act determines the tree species composition based on groups of basic and amelioration and stabilisation tree species. Species composition (particular share of each groups and each species adapted to particular site conditions) approved in the forest management plan or guidelines must be followed within forest regeneration. Regenerated forest stand can be partially formed by the same species, but comparing to previous compositions will contain significantly higher share of amelioration species. Therefore felled trees will not be replaced by equivalent ones. The aid will not be provided for felling.
- (22) Eligible costs are costs of planting stock, site preparation, carried planting and related costs of work and transport.
- (23) The Czech authorities have confirmed that the rate of support is determined with reference to market prices in order to avoid overcompensation. The amount of support is fixed in Decree No. 80/1996 Coll. and is CZK 5 000/ha of area where amelioration and stabilization species have been planted.
- (24) With the planting density 1m x 1m, which is usual for these species, the number of trees planted on 1 ha corresponds to 10 000 pieces. Price per seedling has been ranging in a long term between 2-10 CZK, in case of fir also up to 25 CZK (depending on tree species, planting technology, age of plants, market situation) and costs of related works, the total costs of planting for 1 hectare range between 40 000 – 180 000 CZK. It therefore results that the rate of support will always be lower than 100% of eligible costs (the actual intensity can vary with regard to market developments).
- (25) Aid will take the form of direct grant. As explained by the Czech authorities, this aid form has been chosen in order to create a sufficient incentive for such environment-oriented aid.
- (26) The Czech authorities have explained that they notified this measure under Section 2.8.1 of the Guidelines, because the related support is connected with a change in the species composition of forest stands. Related activities are referred

³ Approved by Commission decision C(2019) 8643 final of 27 November 2019.

to in Section 2.8.1 of the Guidelines. Even if this measure could be covered by other Sections of the Guidelines (e.g. aid to improve the resilience and environmental value of forest ecosystems under Section 2.1.4 of Part II of the Guidelines), it would only partially fulfil the aims of the present aid scheme. The primary objective of supported activities is to maintain and restore forest ecosystems and biodiversity and, according to the Czech authorities, the objectives under Section 2.8.1 are a better fit for the nature of this measure, which will have a positive impact on several or all the non-productive functions of forests.

B. Measure 2 - Establishing forest management guidelines

- (27) The measure covers support to forest holders with a forest area less than 50 ha. It aims to ensure professional standards in the management of small forests.
- (28) The Czech authorities have confirmed that the aid will be available to all eligible undertakings based on objectively defined conditions.
- (29) The Czech authorities have explained that in accordance with the Forest Act, all forest holders owning more than 50 ha of forest are obliged to manage their forest property in accordance with a forest management plan approved by the State Forestry Administration. Forest holders with less than 50 ha of forest may also manage their forest property in accordance with a forest management plan. Forest management guidelines are a simplified form of forest management plan and are drawn up for all forests of less than 50 ha in the ownership of natural or physical persons, provided that no forest management plan has been drawn up for them. Forest management plans and forest management guidelines are basic tools for planning management in forests and (in conjunction with the binding indicators of forest management plans) tools for sustainable forest management within the meaning of the Ministerial Conferences on the Protection of Forests in Europe. Data from forest management plans and forest management guidelines are stored in the data warehouse of the State Forest Administration. The State then has access to all information from forest management plans and forest management guidelines in order to ascertain the condition of forests, for the State administration to fulfil its remit and for the creation of forestry policy. Data from forest management plans and forest management guidelines stored in the data warehouse are available to all authorities granting forestry aid in the Czech Republic.
- (30) The Forest management guidelines are a set of data information elaborated for a period of 10 years. They serve as a source of information on forests under 50 ha, i.e. their natural conditions, age, species and spatial structure, the representation of various forest categories, the degree of damage by pollution and wildlife, wood stock, etc. They also serve as an essential basis for the exercise of tasks of a professional forest manager⁴ who uses them for operations associated with the methodological support to small forest owners on issues related to forest management and silviculture.
- (31) The Czech authorities have confirmed that the service providers who will elaborate the guidelines will have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with

⁴ See measure 3 below.

respect to the fields they advise in. Pursuant to the Forest Act, forest management guidelines can only be elaborated by a natural or legal person with a licence from the Ministry of Agriculture, in order to ensure high-quality forest data evidence.

- (32) The Czech authorities have also confirmed that, when providing advice, the service provider will respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013⁵.
- (33) Aid will be provided in the form of subsidised services and will not involve direct payments to beneficiaries. The beneficiaries will receive aid in kind in the form of forest management guidelines. The costs of the establishment of the guidelines will be paid to the service provider who will establish the guidelines for the beneficiary. The service will not be provided in group.
- (34) Eligible costs can cover only the costs of elaborating the guidelines, i.e. the costs of forest data collection and their processing, drawing up of forest maps, calculation of bidding indicators for forest owners. The final guidelines are randomly subject to the control carried out by the Forest Management Institute as well as by the Ministry of Agriculture.
- (35) The aid intensity amounts to 100% of costs of elaborating forest management guidelines.

C. Measure 3 - Compensation for costs of professional forest managers

- (36) The measure supports the cost of service of the professional forest manager in forests, for which forest management guidelines⁶ exist. It is based on the Forest Act and is aimed at ensuring professional standards in the management of small forest owners owning less than 50 ha of forests.
- (37) According to the Forest Act, all forest owners must manage their forests in cooperation with a professional forest manager ensuring expert level of forest management. It is, however, difficult for the small forest owners to meet this requirement due to the large fragmentation of Czech forests. Therefore, support is proposed for all forest owners and tenants who manage less than 50 hectares and who did not choose their own professional forest manager.
- (38) The Czech authorities have confirmed that the aid will be available to all eligible undertakings based on objectively defined conditions.
- (39) The Czech authorities have confirmed that the professional forest managers fulfil the requirement of having the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in. According to the Forest Act, a professional forest manager can be only a natural or legal entity with specific licence for such activity granted by the State administration in forestry. Licencing procedure ensures fulfilling the requirements laid down by the legislation, such as appropriate education and expertise in forestry.

⁵ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy, OJ L 347, 20.12.2013, p. 549.

⁶ See measure 2 above.

- (40) The Czech authorities have also confirmed that, when providing advice, professional forest managers will respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.
- (41) The Czech authorities have explained that aid will be granted to help forest holders to benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their holdings, enterprise and/or investment.
- (42) Advice will relate to the forest legislation (in particular the Forest Act) requirements, in order to maintain forests and all their functions. It will include e.g. advice on terms and conditions required by the Forest Act for reforestation after felling, proper implementation on thinning and pruning in forest stands, reporting to State administration, requirements for forest protection against pests etc.
- (43) Advice will also cover the relevant obligations under the Habitats Directive⁷, the Birds Directive⁸ and the Water Framework Directive⁹.
- (44) Eligible costs are costs related to services of a professional forest manager:
- (a) wage of the professional forest manager;
 - (b) other costs (costs of operation of the vehicle, office rental fee, costs of regular education etc. connected with the performance of duties).
- (45) The aid is calculated as a flat rate per hectare of forest and day. The flat rate is set by the Decree No. 423/2011 Coll. and calculated based on average costs of operations of the forest manager. As from the entry into force of the present aid scheme, it will amount to 1,60 CZK per hectare and day. The flat rate will be regularly updated according to the development of inflation and average monthly wages in the forestry sector. The Czech authorities have explained that overcompensation will be excluded. In this context, they have also confirmed that the limit of 1 500 EUR per advisory service will be respected.
- (46) Aid will be provided in the form of subsidised services and will not involve direct payments to beneficiaries. The beneficiaries will receive aid in kind in the form of advice.
- (47) Advice will not be provided in group.

D. Measure 4 - Services for forest owners

Sub-measure “Aerial liming and fertilising in forest stands”

- (48) Aerial fertilizing and liming in the areas of air pollution leads to an improvement of the extremely acidic forest soils, which has a positive impact on forest

⁷ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁸ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

maintenance and restoration of forest ecosystem and its biodiversity. It is mainly limited to the northwest of the Czech Republic (Krušné hory) where serious damage to forest ecosystem including forest soils occurred in the seventies and eighties due to emissions from industry.

- (49) In the case of liming, the calcareous dolomite (predominance of Mg) of grain size 3mm is applied. Liming aims to balance the deficit of calcium and magnesium, whose scarcity is typical for the air pollution areas. Liming also has a significantly positive effect on adjusting of the pH of forest soils in the areas of air pollution¹⁰.
- (50) In the case of fertilising, a powdered mineral fertiliser is used with slow release agents for about 2 years. This type of fertiliser does not increase the concentration of soil solution, thus there is no loss of nutrients by leaching. The ratio of individual components of the fertilizer is directly determined with respect to the selected sites to be fertilised.
- (51) The Czech authorities have explained that the notified measure does not reduce biodiversity and has no negative impact on natural water ecosystems or water protection zones. Sites for liming and fertilising are determined based on previous soil samples analysis and monitoring of forest stands' health condition. List of sites is approved by the relevant State nature protection authority. Before fertilizing or liming no-intervention zones are marked (e.g. water protection zones etc.). The use of fertilisers in the water protection zones is excluded and special rules have to be followed outside the water protection zones, which aim at the protection of natural water ecosystems. A post evaluation of efficiency and quality of liming and fertilizing is carried out after the accomplishment of work. Preparative works as well as post evaluation are carried out by public bodies established by the Ministry of Agriculture: Forestry and Game Management Research Institute, Central Institute for Supervising and Testing in Agriculture and Forest Management Institute.
- (52) The above services are provided for forest holders in the form of subsidised services. The service is operated by a contractor selected via public procurement procedures.
- (53) Eligible costs are only those directly associated with performing the services and are specified in the call for tenders and contracts.
- (54) Planning costs are supported as well.
- (55) The aid intensity amounts to 100 %.
- (56) The Czech authorities have explained that they notified this measure under Section 2.8.2 of the Guidelines, because the primary objective of supported activities is to improve soil quality enabling balanced and healthy tree growth on locations with soils degraded by past air pollution. The objectives under Section 2.8.2 thus are a better fit for the nature of this measure, which will have a positive impact on several or all the non-productive functions of forests. Even if some activities could be covered by other Sections (e.g. aid to improve the resilience

¹⁰ Such areas are determined by Decree No. 78/1996 Coll. on establishing forest risk zones due to pollution.

and environmental value of forest ecosystems under Section 2.1.4 of Part II of the Guidelines), it would only partially fulfil the aims of the present aid scheme.

Sub-measure “Large-scale preventive and defensive measures in forest protection”

- (57) The sub-measure aims at preventing and reducing damage to forest stands caused by pests and diseases, therefore at maintaining all forest functions, which can be jeopardised by serious damage to forests.
- (58) Aid will be provided for large-scale preventive and defensive (treatment) interventions related to forest protection against pests and diseases where there is a serious risk of damage to forest stands and it is not in hands of particular forest owners to prevent the spreading of pests.
- (59) The service will include preventive and treatment measures consisting in aerial monitoring and aerial treatment of particular pests or diseases. It will cover mainly monitoring of bark beetle on the whole area of Czechia. Eligible costs are only those directly associated with performing the preventive and treatment measures.
- (60) Any defensive operations will only be used in case of high risk of damage (i.e. in case of spreading of pests that forest owners are not able to fight individually due to its scale or the way of spreading (leaf-eating beetles in treetops)) and chemical treatments will be used only where other methods are inefficient in preventing bigger damage. Only approved chemicals listed in the register of the Central Institute for Supervising and Testing in Agriculture¹¹ can be used in accordance with § 8 of the Decree No. 101/1996 Coll. All interventions are prepared in close cooperation with the Forestry and Game Management Research Institute.
- (61) The service will concern pests defined by the legislation as a calamity pest (Decree No. 101/1996 Coll.) and other significant pests in forests (*Cameraria ohridella*, *Lymantria dispar*, *Cephalcia abietis*, *Operophtera brumata*, *Amphimallon*).
- (62) A contractor selected through a public procurement procedure will operate the service. The service will be provided for forest holders in kind, by means of subsidised services.
- (63) The aid intensity will amount to 100% of eligible costs.
- (64) The Czech authorities have explained that they notified this measure under Section 2.8.1 of the Guidelines, because it covers large-scale defensive measures. Even if it may be covered by other Sections (e.g. aid to improve the resilience and environmental value of forest ecosystems under Section 2.1.4 of Part II of the Guidelines), it would only partially fulfil the aims of the present aid scheme. The primary objective of supported activities is to maintain and restore forest ecosystems and biodiversity and, according to the Czech authorities, the objectives under Section 2.8.1 are a better fit for the nature of this measure, which

¹¹ <https://www.vulhm.cz/aktivity/lesni-ochranna-sluzba/seznam-povolonych-pripravku-a-dalsich-prostredku-na-ochranu-lesa/>

will have a positive impact on several or all the non-productive functions of forests.

Sub-measure “Training and knowledge transfer for forest owners”

- (65) The Czech authorities have confirmed that the aid will be available to all eligible undertakings based on objectively defined conditions.
- (66) The aid for training and knowledge transfer will comprise vocational training and skills acquisition, including training courses, workshops and coaching and it will also cover information actions.
- (67) It will focus on:
 - (a) sustainable forestry methods and/or technologies;
 - (b) the development of new technologies;
 - (c) the improvement of forest resilience;
 - (d) environmentally friendly technologies in forest logging, improvement of economic performance of forest undertakings, Birds and Habitats Directives¹², national forest legislation, water management in forests, climate change impacts to forest ecosystem, introduced non-indigenous tree species in forest management, reducing damage to forest by game etc.
- (68) Eligible will be the costs of organising vocational training, skills acquisition and information actions.
- (69) Aid will not involve direct payments to the beneficiaries (they will receive aid in the form of subsidised service) and it will be paid to the provider of knowledge transfer and information actions.
- (70) The maximum aid intensity will amount to 100 % of the eligible costs.
- (71) The Czech authorities have confirmed that the bodies providing knowledge transfer and information actions will be selected through public procurement procedures and will have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.

Sub-measure “Expert advisory services for forest management”

- (72) The Czech authorities have confirmed that the aid will be available to all eligible undertakings based on objectively defined conditions.
- (73) The Czech authorities have explained that aid will be granted to help forest holders benefit from the use of highly specialised advisory services for the improvement of the environmental performance as well as climate friendliness and resilience of their holdings, enterprise and/or investment.
- (74) The advice will cover issues as e.g. biotic harmful agents control in forests, forest protection service for forest owners (site monitoring, soil sampling and testing),

¹² See footnotes 7 and 8.

technical expertise in damage indication of inadequate nutrition, air pollution or other anthropogenic impact incl. remedy proposals, methodical help with large-scale treatment measures against biotic agents (beetles), issuing methodical guidelines for practical forest protection for each harmful agent etc.

- (75) Advice will also cover the relevant obligations under the Habitats Directive, the Birds Directive and the Water Framework Directive¹³.
- (76) The advisory service will be tailored to specific conditions of the particular site or property of each forest owner, and the outcomes will be afterwards available for all forest owners.
- (77) The service will be provided by the Forestry and Game Management Research Institute, which is a public body established by the Ministry of Agriculture. The Czech authorities have confirmed that this body has the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in and, when providing advice, it will respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.
- (78) The aid will not involve direct payments to the beneficiaries. It will be provided in the form of subsidised services. The payments will be provided to the service provider based on contracts with the Ministry of Agriculture.
- (79) The aid amount will in any case be limited to EUR 1 500 per advice.
- (80) Advice will not be provided in group.

Coherence with the Rural Development Programme 2014 – 2020 of the Czech Republic ('RDP')

- (81) The Czech authorities have explained that the present aid scheme is in line with the objectives and priorities of Rural Development, in particular objective 2 “Ensuring the sustainable management of natural resources and climate action” and priority 4 “Restoring, preserving and enhancing ecosystems related to agriculture and forestry”.
- (82) The Czech authorities have also provided assurances that coherence with the Czech RDP will be ensured and any overlap will be avoided. They have provided the following clarifications.
- (83) The Czech authorities have explained that the training aid under the present aid scheme (measure 4, sub-measure “Training and knowledge transfer for forest owners”) will complement the Czech RDP as a pure State aid in respect of the following types of operation, which have the same scope:
 - (a) type of operation 1.1.1 “Training actions”;
 - (b) type of operation 1.2.1 “Information actions”
- (84) According to the Czech authorities, the training aid under the present aid scheme is implemented as an additional educational channel for forest owners in case the

¹³ See footnotes 7-9.

RDP does not ensure sufficient budget for training in forestry as well as to fill the gap in a transitional period when no aid would be provided through the RDP. The Czech authorities have explained that the Ministry of Agriculture, which coordinates the granting of aid under both the present aid scheme and the Czech RDP, will ensure that no double funding occurs.

- (85) For other rural-development like measures supported under the present aid scheme (i.e. measure 3 “Compensation for costs of professional forest managers” and measure 4, sub-measure “Expert advisory services for forest management”), the Czech authorities have explained that none of them is included in the Czech RDP and that they nevertheless are consistent with the Czech RDP.

Processing of the aid application

- (86) The Czech authorities have explained that aid under this aid scheme will have an incentive effect in that:
- (a) the granting of aid will be conditioned by the submission of an application prior to the start of an activity and before granting the aid;
 - (b) the aid application must include the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs;
 - (c) large undertakings will have to describe in the aid application the hypothetical situation which would occur if no aid had been granted. This analysis has to be accompanied by verifiable technical documentation. The granting authority will carry out a credibility check of the counterfactual scenario in case of large enterprises and confirm that the aid will have the required incentive effect.

- (87) The aid intensity and amount will be calculated by the granting authority when granting the aid. The eligible costs must be supported by documentary evidence which should be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used will be taken before any deduction of tax or other charge.

- (88) Value added tax (VAT) will not be eligible for aid, except where it is not recoverable under the national VAT rules.

Cumulation

- (89) The Czech authorities have confirmed that the aid under the notified scheme will not be cumulated with any other public aid in respect of the same eligible costs.

Other considerations

- (90) The Czech authorities have informed the Commission that in order to comply with the transparency requirement the publication of the aid scheme and the individual aid awards above EUR 500 000 will be done through the following web page:
<https://webgate.ec.europa.eu/competition/transparency/public/search/home/>.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (91) According to Article 107(1) TFEU, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (92) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (93) The scheme in question is imputable to the State since it is granted and administered by various ministries with competence over forests and it is based on the legislative acts mentioned in recital (8). It is financed through State resources as it is financed from public funds (recital (10)).
- (94) The scheme confers an advantage on its beneficiaries in the form of direct grants and subsidised services (recital (15)). The scheme thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (95) The notified scheme is selective because other undertakings in a comparable legal and factual situation, in the light of the objective pursued by the scheme, within the forestry sector or other sectors, are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain undertakings (recital (12)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.¹⁴
- (96) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade¹⁵. The beneficiaries of aid operate in the forestry sector where intra-EU trade takes place. In 2017, the EU-28 produced a total of 470.3 million m³ of roundwood, of which the Czech Republic produced 19.4 million m³. That same year the Czech Republic exported 6.8 million m³ of roundwood to other Member States and imported 1.9 million m³ from them.¹⁶ The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the

¹⁴Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

¹⁵See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

¹⁶EUROSTAT: Forestry database - Roundwood production and trade.

present scheme is liable to distort competition and to affect trade between Member States.

- (97) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (98) The aid scheme was notified to the Commission on 5 February 2020. It has not been implemented yet. Therefore, the Czech Republic has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Application of Article 107(3)(c) TFEU

- (99) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (100) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

- (101) As regards the notified aid scheme, the following Sections in Part II of the Guidelines are applicable:
- (a) 2.4 (“Aid for knowledge transfer and information actions in the forestry sector”);
 - (b) 2.5 (“Aid for advisory services in the forestry sector”);
 - (c) 2.8.1 (“Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape”);
 - (d) 2.8.2 (“Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector”);
 - (e) 2.8.6 (“Aid for establishing forest management plans”).

3.3.2.1. Specific assessment according to the category of aid

Common provisions under Chapter 2 of Part II of the Guidelines

- (102) Under the present scheme, no aid will be granted to forest based industries (recital (17)), which is in line with point 495 of the Guidelines.
- (103) It follows from point 498 of the Guidelines that there are specific restrictions as to the scope of aid beneficiaries, which stem from the Regulation (EU) No

1305/2013¹⁷ and which apply to co-financed measures in the forestry sector. Such restrictions, in line with the same point, do not apply to rural development like forestry measures, which are funded exclusively from national resources, nor to the specific aid measures of Section 2.8 of Part II of these Guidelines, which is the case for the present aid scheme (recitals (10), (83) and (85)).

Measure under Section 2.4 of the Guidelines (“Aid for knowledge transfer and information actions in the forestry sector”)

- (104) Concerned is the measure 4, sub-measure “Training and knowledge transfer for forest owners”.
- (105) According to point 564 of the Guidelines, the Commission will consider aid for knowledge transfer and information actions in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of the Guidelines and with the specific conditions of Section 2.4 of the Guidelines.
- (106) According to point 565 of the Guidelines, aid must comply with the applicable relevant conditions set out in Section 1.1.10.1 of Part II with the exception as to the conditions of point 294, the maximum aid amount included in point 298 and the possibility to pay the aid directly to the beneficiary in point 296.
- (107) Point 288 and the second and third sentence of point 289 of the Guidelines of the Guidelines are not relevant in the present case. In line with the first sentence of point 289 of the Guidelines, the aid under the present aid scheme will be accessible to all those eligible in the area concerned, based on objectively defined conditions (recital (65)).
- (108) According to point 291 of the Guidelines, the aid can cover vocational training and skills acquisitions, including training courses, workshops and coaching, demonstration activities and information actions. This is the case under the present aid scheme (recital (66)).
- (109) Eligible costs under the present measure cover costs of organising vocational training, skills acquisition and information actions (recital (68)) and thus match the costs listed in point 293(a) of the Guidelines. Point 293 of the Guidelines is therefore complied with.
- (110) According to point 295, bodies providing knowledge transfer and information services must have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks. This requirement is respected (recital (71)).
- (111) It follows from point 565 in conjunction with 296 of the Guidelines that aid covering the relevant eligible costs (recital (109)) must not involve direct payments to the beneficiaries and must be paid to the provider of knowledge transfer and information action. This requirement is respected (recital (69)).

¹⁷ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347, 20.12.2013, p. 487.

- (112) According to point 297 of the Guidelines, the aid intensity must be limited to 100% of the eligible costs. This requirement is respected as well (recital (70)).
- (113) Points 292 as well as points 566-567a of the Guidelines concern short-term forest management exchanges/forest visits/ demonstration projects and thus are not relevant in the present case.
- (114) Based on the above considerations, it can be concluded that the requirements of Section 2.4 of Part II of the Guidelines are fulfilled.

Measures under Section 2.5 of the Guidelines (“Aid for advisory services in the forestry sector”)

- (115) Concerned are the following measures:
 - (a) measure 3 “Compensation for costs of professional forest managers” and
 - (b) measure 4, sub-measure “Expert advisory services for forest management”.
- (116) According to point 568 of the Guidelines, the Commission will consider aid for advisory services in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of the Guidelines and with the specific conditions of Section 2.5 of the Guidelines.
- (117) According to point 569 of the Guidelines, aid for advisory services in the forestry sector to forest holders must be granted in accordance with the applicable relevant conditions specified under point 1.1.10.2 of Part II of the Guidelines, with the additional provisions relating to forestry specified in points 569a-571 of the Guidelines.
- (118) Point 288 and the second and third sentences of point 289 of the Guidelines of the Guidelines are not relevant in the present case. In line with the first sentence of point 289 of the Guidelines, the aid under the present aid scheme will be accessible to all those eligible in the area concerned, based on objectively defined conditions (recitals (38) and (72)).
- (119) In line with point 303 of the Guidelines, aid will not involve direct payments to the beneficiaries and will be paid to the advisory services provider (recitals (46) and (78)).
- (120) In line with point 304 of the Guidelines, bodies selected to provide the advisory service will have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in (recitals (39) and (71)).
- (121) In line with point 305 of the Guidelines, when providing advice, the advisory service providers will respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013 (recitals (40) and (77)).
- (122) Point 306 of the Guidelines is not relevant in the present case, as the advice will not be provided in group (recitals (47) and (80)).

- (123) The limit set in point 307 of the Guidelines (EUR 1 500 per advice) will be respected (recitals (45) and (79)).
- (124) Point 569a of the Guidelines is not relevant in the present case, as aid will not be co-financed under the EAFRD (recitals (81)-(85)).
- (125) In line with point 570 of the Guidelines, aid will be granted to help forest holders to benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their holdings, enterprise and/or investment (recitals (41) and (73)).
- (126) In line with point 571 of the Guidelines, advice will cover among others the relevant obligations under the Habitats Directive, the Birds Directive and the Water Framework Directive (recitals (43) and (75)) and it will also cover issues linked to the economic and environmental performance of the forest holding (recitals (42) and (74)).
- (127) It can be concluded that the requirements of Section 2.5 of Part II of the Guidelines are fulfilled.

Common provisions under Chapter 2.8 of Part II of the Guidelines

- (128) Concerned are the following measures:
- (a) measure 1 (“Compensation for planting of amelioration and stabilization tree species”);
 - (b) measure 2 (“Establishing forest management guidelines”)
 - (c) measure 4, sub-measure “Large-scale preventive and defensive measures in forest protection”;
 - (d) measure 4, sub-measure “Aerial liming and fertilization in forest stands”.
- (129) It follows from recitals (6), (20), (29), (56) and (64) that those measures aim at maintaining and restoring non-productive functions of forests, protecting plant health and maintaining and restoring healthy forest ecosystem and biodiversity. Therefore, points 589 and 590 of the Guidelines are complied with.
- (130) Pursuant to recital (17), point 591 of the Guidelines is complied with and, accordingly, no aid will be granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation, nor for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (131) According to point 592 of the Guidelines, aid may be granted up to 100 % of the eligible costs. It follows from recitals (24), (35), (55) and (63) that the present measures are in line with that provision.
- (132) According to point 593 of the Guidelines, aid may be granted to undertakings active in the forestry sector. This provision is fulfilled complied with (recital (12)).

- (133) Based on the above considerations, it can be concluded that the requirements of the common provisions applicable to Chapter 2.8 of Part II of the Guidelines are met.

Measures under Section 2.8.1 of the Guidelines (“Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape”)

- (134) Concerned are the following (sub-)measures:

- (a) measure 1 (“Compensation for planting of amelioration and stabilization tree species”) and
- (b) measure 4, sub-measure “Large-scale preventive and defensive measures in forest protection”.

- (135) According to point 594 of the Guidelines, the Commission will consider aid for planting, pruning, thinning and felling of trees and other vegetation in existing forests, the removal of fallen trees, and the planning costs of such measures and aid for the costs of treating and preventing the spreading of pests and tree diseases compatible with the internal market under Article 107(3)(c) TFEU if the aid complies with the common assessment principles and the common provisions applicable to Section 2.8 of Part II of the Guidelines, and where the primary objective of such measures is to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape.

- (136) The common provisions applicable to Section 2.8 of the Guidelines are complied with (recital (133)).

- (137) The primary objective of the measures concerned is to conserve and restore forest ecosystems and forest biodiversity in forest stands in Czechia (recitals (20) and (64)). Therefore, point 594 of the Guidelines is complied with.

- (138) Under measure 1, the eligible costs (recital (22)) are those of planting of trees, which is in line with point 594 of the Guidelines.

- (139) Eligible costs under measure 4, sub-measure “Large-scale preventive and defensive measures in forest protection” are costs directly related to the preventive and treatment measures (recital (59)), which is in line with point 594a(a) of the Guidelines. In this context, as required in point 594a(a) of the Guidelines, chemical treatment methods can only be used when other methods are not sufficient to provide satisfactory control over the pests (recital (60)).

- (140) Based on the above considerations, it can be concluded that the requirements of Section 2.8.1 of Part II of the Guidelines are fulfilled.

Measure under Section 2.8.2 of the Guidelines (“Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector”)

- (141) Concerned is measure 4, sub-measure “Aerial liming and fertilization in forest stands”.

- (142) According to point 595 of the Guidelines, the Commission will consider aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector compatible with the internal market under Article 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the specific conditions of the Section 2.8.2 of the Guidelines.
- (143) The common provisions applicable to Section 2.8 of the Guidelines are complied with (recital (133)).
- (144) According to point 596 of the Guidelines, aid can be granted for maintaining and improving the soil quality in forests and ensuring a balanced and healthy tree growth. The supported activities pursue this aim (recitals (48) - (51) and (56)). Point 596 of the Guidelines is therefore complied with.
- (145) According to point 597 of the Guidelines, measures may include soil improvement by fertilisation and other treatments. This is the case for the present measure (recitals (48) - (50)). Furthermore, according to the same point of the Guidelines, Member States should demonstrate that such measures do not reduce biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones. The Czech authorities have demonstrated that this requirement will be respected (recital (51)).
- (146) Planning costs of the eligible operations are also eligible for aid (recital (54)), as allowed under point 598 of the Guidelines.
- (147) Based on the above considerations, it can be concluded that the requirements of Section 2.8.2 of Part II of the Guidelines are fulfilled.

Measure under Section 2.8.6 of the Guidelines (“Aid for establishing forest management plans”)

- (148) Concerned is measure 2 “Establishing forest management guidelines”.
- (149) According to point 617 of the Guidelines, the Commission will consider aid for forest management plans compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of the Guidelines, the common provisions applicable to Section 2.8 of Part II of the Guidelines and with the specific conditions of the Section 2.8.6 of the Guidelines.
- (150) The common provisions applicable to Section 2.8 of the Guidelines are complied with (recital (133)).
- (151) According to point 618 of the Guidelines, since the 2014-2020 rural development policy makes forest management plans or equivalent instruments a pre-condition for eligibility for aid under several measures, with a view to enhance the achievements of the rural development objectives, the Commission maintains its current policy that aid may be given for the establishment of forest management plans. Forest management guidelines can be considered as an equivalent instrument to the forest management plans (recitals (29) - (30)).

- (152) According to point 619 of the Guidelines, aid must comply with the conditions of aid for advisory services, as laid down in points 288, 289 and 303 - 306 of the Guidelines.
- (153) In compliance with point 303 of the Guidelines, aid will not involve direct payments to the beneficiaries and will be paid to the service provider (recital (33)).
- (154) In compliance with point 304 of the Guidelines, the bodies selected to provide the service will have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in (recital (31)).
- (155) In compliance with point 305 of the Guidelines, when providing advice, the service providers will respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013 (recital (32)).
- (156) Point 306 of the Guidelines is not relevant in the present case, as advice will not be provided in group (recital (33)).
- (157) Further, according to point 619 of the Guidelines, the service provider must be the body establishing the forest management plan. This will be the case under the present aid scheme (recital (33)).
- (158) Based on the above considerations, it can be concluded that the requirements of Section 2.8.6 of Part II of the Guidelines are fulfilled.

3.3.2.1. Common Assessment Principles

Contribution to a common objective

- (159) The scheme contributes to a common objective in line with points 43 and 44 of the Guidelines. As described in recital (6) above, the objective of the present aid scheme is to ensure sustainable forest management. The objective of the scheme thus relates to the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth. By its nature, the present aid is closely related to the Common Agricultural Policy, as it aims at sustainable management of natural resources and climate action. It does not interfere with the mechanisms of the common organisation of the markets in agricultural products. As shown in recitals (81) - (85), the present aid scheme is not part of the Czech RDP but it is consistent with the rural development framework. On this basis, it can be concluded that the conditions of point 47 and 58 of the Guidelines are met. In accordance with point 48 of the Guidelines, the Commission considers that the principle of contribution to the objectives of rural development is met regarding the aid measures falling under Section 2.8 of Part II of the Guidelines, which are outside the scope of rural development, since the Commission has gained sufficient experience as to the contribution of those measures to the rural development objectives.
- (160) Taking into account the objective of the aid scheme, no negative impact on the environment within the meaning of point 52 of the Guidelines has been identified (recitals (6) - (7)).

Need for State intervention

(161) As provided for in point 55 of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of the Guidelines. The aid scheme fulfils the specific conditions laid down in Sections 2.4 (recital (114)), 2.5 (recital (127)), 2.8.1 (recital (140)), 2.8.2 (recital (147)) and 2.8.6 (recital (158)) of Part II of the Guidelines. Therefore, in line with point 55 the Commission considers that there is a need for State intervention.

Appropriateness of aid

(162) According to point 57 of the Guidelines, the Commission considers that aid granted in the agricultural and forestry sectors and in rural areas, which fulfils the specific conditions laid down in the relevant Sections of Part II of the Guidelines, is an appropriate policy instrument. The scheme fulfils the specific conditions laid down in Sections 2.4 (recital (114)), 2.5 (recital (127)), 2.8.1 (recital (140)), 2.8.2 (recital (147)) and 2.8.6 (recital (158)) of Part II of the Guidelines, and therefore the requirements under point 57 of the Guidelines are complied with.

(163) Points 59-65 of the Guidelines require that the Member States grant aid in a form, which can be considered as appropriate aid instrument. In the present case, aid will be granted in two forms: aid in kind and as direct grant (recital (15)). As for measure 1, based on the information submitted by the Czech authorities, the form of direct grant constitutes an appropriate aid instrument (recital (25)). Likewise, in case of measure 4 sub-measures “Aerial liming and fertilization in forest stands” and “Large-scale preventive and defensive measures in forest protection”, granting aid by means of subsidised services provided by a contractor selected through public procurement procedures can be considered as an appropriate aid instrument (recitals (52) and (62)). As regards measure 2, measure 3 and measure 4 sub-measures “Training and knowledge transfer for forest owners” and “Expert advisory services for forest management”, the aid is granted in kind, as required under points 296 and 303 of the Guidelines (recitals (111) and (119)). The aid instrument is thus chosen in line with the specific criteria specified in the relevant provisions of the Guidelines. It can therefore be concluded that points 60 and 64 of the Guidelines are complied with.

(164) In line with point 63 of the Guidelines, the Czech authorities have demonstrated for the measures notified under Sections 2.8.1 and 2.8.2 of the Guidelines that the ecological, protective and recreational objectives they are aiming for cannot be achieved with the rural development like forestry measures in Sections 2.1 to 2.7 of Part II of the Guidelines (recitals (56) and (64)).

Incentive effect and need for aid

(165) The beneficiaries under the present aid scheme will have to submit the application for aid prior to the start of activities (recital (86)(a)). Thus, point 70 of the Guidelines is complied with. The application must contain the data specified in point 71 of the Guidelines (recital (86)(b)). In compliance with point 72 of the Guidelines, in order to strengthen the incentive effect of the aid, large enterprises are required to submit a description of the situation without the aid (counterfactual scenario) and, in assessing the application, the granting authority will carry out a credibility check of the counterfactual scenario and confirm that the aid has an incentive effect (recital (86)(c)).

Proportionality of the aid

- (166) As described above (recitals (109), (112), (123), (125), (126), (131), (138), (145) and (151)), the eligible costs, aid intensities and maximum aid amounts respect the requirements set out in the applicable provisions of the applicable Sections of Part II of the Guidelines. In line with point 85 of the Guidelines, aid intensity and amount will be calculated by the granting authority when granting the aid and the eligible costs will be supported by clear, contemporary documentary evidence (recital (87)). For the purposes of calculating the aid amount and the eligible costs, all figures used will be taken before any deduction of tax or other charge (recital (87)). Value added tax will not be eligible for aid, except where it is not recoverable under the national VAT rules (recital (88)), which complies with point 86 of the Guidelines.
- (167) As indicated in recital (89), the aid scheme does not allow for a cumulation of the aid under the present scheme with any other aid to cover the same eligible costs.
- (168) Hence the criterion of proportionality is fulfilled.

Avoidance of undue negative effects on competition and trade

- (169) Since the aid scheme fulfils the conditions laid down in Sections 2.4 (recital (114)), 2.5 (recital (127)), 2.8.1 (recital (140)), 2.8.2 (recital (147)) and 2.8.6 (recital (158)) of Part II of the Guidelines and does not exceed the relevant maximum aid intensities (recital (166)), the Commission considers, in line with point 113 of the Guidelines, that the negative effect on competition and trade of the support concerned is limited to the minimum.

Transparency

- (170) The transparency requirement is complied with as shown in recital (90).

3.3.2.2. Other provisions

- (171) The Commission notes that no aid will be granted to undertakings in difficulty (recital (13)), in line with point 26 of the Guidelines.
- (172) The Commission notes that the Czech Republic will suspend the payment of the aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision, in line with point 27 of the Guidelines (recital (14)).
- (173) The Commission notes that the Czech authorities committed to adapt the aid scheme to the new rules, which will be in force after 2020 (recital (9)).
- (174) The Commission furthermore notes that the Czech authorities accepted that the decision is adopted in the English language, due to urgency (recital (4)).

3.3.2.3. Duration

- (175) Pursuant to point 719 of the Guidelines, the Commission only authorizes schemes of limited duration. Aid schemes other than those benefiting from co-financing under Regulation (EU) No 1305/2013 and its implementing regulation should not

apply for more than seven years. It follows from recital (9) that this condition is fulfilled.

4. CONCLUSION

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

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

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Directorate-General Competition
State Aid Greffe
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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

