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Subject: State aid No N 497/2006 – Czech Republic
Přerov Municipal Hall (Přerov Městský Dům)

Sir,

1. Procedure

- (1) By e-mail dated 24 July 2006, registered on the same day, the Czech Republic notified to the Commission a subsidy by the City of Přerov (hereafter " Přerov") to the company IMIT s.r.o. for the second half of 2006 and for 2007 in order to run the cultural activities of Přerov Městský Dům (hereafter: Přerov Municipal Hall). By letter dated 18 September 2006, the Commission asked for additional information, which was received on 26 October 2006.
- (2) The Czech Republic also mentioned three former subsidies to IMIT s.r.o. prior to the notified measure. These subsidies are also covered by the present decision (see below).

2. Description of the aid

The provider of the aid

- (3) With ca. 47 000 inhabitants (2005), Přerov is the third-largest city in the region CZ 071 – Olomouc (ca. 640 000 inhabitants), a Nuts 2 or lower level region eligible for regional

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aid under Art. 87(3)(a) of the EC-Treaty. The district of Přerov has 139 000 inhabitants. The nearest border is in a distance of ca. 60-70 km to Slovakia.

The beneficiary

- (4) The beneficiary IMIT s.r.o. is a company which is active in a variety of sectors. The company's core business consists in the manufacturing of light-weight ceramic concrete using a new technology. In addition, IMIT s.r.o. since May 2005 also runs the Přerov Municipal Hall, after having been chosen in a tender procedure which was carried out at the beginning of 2005. Furthermore, the Commission understands that IMIT s.r.o. runs a small number of restaurants – including one situated in the Přerov Municipal Hall – and/or hotel services in Přerov. The limited liability company is owned by two partners and was founded with a basic capital of CZK 1 million (currently ca. EUR 35,000). IMIT s.r.o. is not a company in difficulty within the meaning of Section 2.1 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty¹ and generates profits especially by its core activity.
- (5) At present, IMIT s.r.o. qualifies as a small company according to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises². IMIT s.r.o.'s business figures, with an annual turnover in 2005 of CZK 17,673,000 (ca. EUR 609,300), an annual balance sheet in 2005 of CZK 15,464,000 (ca. EUR 533,150), and a staff of 56 employees (32 in 2004)³ meet the relevant thresholds for a small enterprise as defined in Article 2(2) and 4(2) of the Annex to the Recommendation.
- (6) Following the tender procedure, IMIT s.r.o. has rented the Přerov Municipal Hall with a number of obligations. Besides providing the premises – a big hall for an audience of 500, a small hall for an audience of 100 and an antechamber of 100 - free of charge for a number of meetings and events from the municipality, and at overhead costs to the benefit of non-profit organisations, IMIT is obliged to organise the following number of cultural activities:
 - General concerts 5x
 - Classical music concerts 2x
 - Plays 6x
 - Performances by amateur ensembles 4x
 - Performances by entertainers 2x
 - Presentations for schools 5x
 - Educational lectures for schools 2x
 - Presentations for nursery schools 4x.
- (7) IMIT s.r.o. also operates the restaurant and café which are situated in the Municipal Hall. Besides the events mentioned above, IMIT s.r.o. can use the premises for profit-oriented business such as balls or sales events.

¹ OJ C 244 of 1.10.2004, p. 2.

² OJ L 124 of 20.5.2003, p. 36.

³ And less than 50 (48) in 2006.

The measure under assessment

- (8) The notified measure consists of a direct grant of altogether CZK 5, 69 million (currently ca. EUR 203 000) divided into CZK 1, 89 million (currently ca. EUR 67 500) in the second half of 2006 and CZK 3, 8 million (currently ca. EUR 135 800) in 2007 by Přerov to IMIT s.r.o. to partially cover the costs associated with holding public cultural events and performances in the Přerov Municipal Hall for the citizens of Přerov. The subsidy will be cashed out on the basis of an “agreement on the provision of subsidies” between IMIT s.r.o. and Přerov, a draft of which – for the first half of 2006 – was provided to the Commission. Přerov notified the measure for reasons of legal certainty.
- (9) The details of the notified measure are described in the draft contract on the provision of subsidies for the 2nd half of 2006. According to the Czech authorities, this draft will also be the model for the aid amount to be given in 2007. The aid is granted to “partially cover the costs associated with holding public cultural events and performances”. In particular, the beneficiary is required to provide an overview of all the activities of Přerov Municipal Hall and to specify in a written statement 100 % of the costs and revenues related to the organisation of the public cultural events for the inhabitants and to separate his accounts accordingly. The beneficiary has a duty to return the financial resources not spent. In addition, he is obliged to contribute to at least 20 % of the net costs related to the organisation of the public cultural events in the Municipal Hall, which are not covered by the revenues and by resources other than the subsidy. Therefore, the aid is limited to 80% of net costs.
- (10) Přerov as provider of the aid or a person mandated by it is entitled to monitor the use of the subsidy, which includes access to the entire accounting of the beneficiary.

3. Assessment of the aid

3.1 Aid in the meaning of Article 87(1) of the EC-Treaty

- (11) As set out in Article 87(1) EC, 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, insofar as it affects trade between Member States, be incompatible with the common market.
- (12) In this case of a direct subsidy it is evident that the measure is granted by the state – the budget of Přerov –, conferring an economic advantage to a specific undertaking, IMIT s.r.o.

No affectation of trade

- (13) The measure should at least potentially be able to have an effect on trade, otherwise this criterion of Article 87(1) is not fulfilled. "Trade" applies to goods as well as to services, such as offered by Přerov Municipal Hall. While it is obvious that Přerov Municipal Hall cannot offer its programme elsewhere, there would also be an effect on trade if demand for it came from abroad⁴. In this context, the Commission takes note of the fact that Přerov is situated in a distance of 60-70 km to the nearest border. As it is run today, Přerov Municipal Hall provides cultural events and activities of limited regional importance. The cultural program which consists of concerts of various musical styles

⁴ This is in line with Commission Decision in Case N 258/2000 *Leisure Pool Dorsten*, OJ C 172 of 16.6.2001, p. 16.

and of theatre performances, including performances for children and schools, apparently does not seek to attract an international audience⁵. The representations take place in the Czech language. Neither does it appear to the Commission that it has a unique feature which would distinguish it from other cultural centres which would make it a preferred choice compared to other cultural centres that there might be in the wider area. Rather, the agenda is clearly addressed to the local Czech community.

- (14) However, given that IMIT s.r.o., besides running Přerov Municipal Hall, has a number of other activities including its core business for which there is trade between Member States⁶, the Commission has to exclude that the subsidy granted to IMIT s.r.o. could also be used on other parts of its business. In this respect, the Commission considers that the conditions concerning the separation of accounts and monitoring which are part of the contract whereby Přerov grants the subsidy to IMIT s.r.o. are of the utmost importance. According to the contract, IMIT s.r.o. undertakes to account for all the costs and revenues related to the subsidised cultural activities. IMIT s.r.o. must set out these costs and revenues separately from the costs and revenues it receives from other business activities. The Commission notes that it is also important that Přerov actively monitors that these rules are followed, and thus ensures that no aid goes to other activities than the ones for which the aid is intended.
- (15) In this context, the Commission also notes that IMIT s.r.o. is profitable in its core business of manufacturing of light-weight ceramic concrete, which accounts for 73% of the total turnover in 2005 and generates a profit of CZK 383,000 (currently ca. EUR 13,680) in this year. On the contrary, the cultural activities (even after receiving public subsidy) of IMIT s.r.o. are run at a loss of CZK 173,000 (ca. EUR 6180). Therefore, it appears unlikely that the profitable business side would be subsidised by aid destined to the non-profitable cultural activities.
- (16) In conclusion, the Commission takes the view that the notified measure is not likely to have an effect on trade between Member States and therefore, is not likely to constitute a State aid in the meaning of Article 87(1).

3.2 Compatibility

- (17) In case the measure would be considered a State aid, it should be evaluated in the light of Article 87(3)(d) on aid to promote culture. For the reasons outlined below, the aid would be compatible under the exception of Article 87(3)(d).
- (18) As set out in the tender and the latest tenancy agreement and confirmed by its publicly available agenda, IMIT s.r.o. offers various cultural events such as concerts, performances and the like in line with its obligations set out above which can qualify as "culture" in the meaning of Article 87(3)(d). It is also recalled that according to Article 151(4) the Community shall take cultural aspects into account in its action under other provisions of the Treaty.
- (19) Furthermore, the aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest as required by Article 87(3)(d). As set out above, the effect on trade, if any, would be extremely limited and the aid comes also close to the conditions of the draft De minimis block

⁵ See, in Czech, the Internet homepage of Přerov Municipal Hall, www.mdpr.cz

⁶ See, in Czech, English and German the Internet homepage of IMIT s.r.o., www.imit.cz.

exemption Regulation⁷. Given the substantial number of cultural events IMIT s.r.o. is supposed to organise in Přerov Municipal Hall during the year – around 40 – the aid of ca. EUR 5000 which is on average directed at each single event does not seem to be very high, also taking into account the size of the venue (cf. recital 6 above).

- (20) Moreover, the notified aid is limited to a maximum of altogether CZK 5,69 million, whatever cultural events IMIT s.r.o. might plan to organise. According to the contract passed with IMIT, the subsidy is based on the net costs of the cultural events concerned and limited in any event to 80% of those costs, while IMIT s.r.o. is obliged to provide at least 20% of those costs (see above). Therefore, the Commission can conclude that the aid does not exceed the minimum necessary to provide the relevant cultural activities to the citizens of Přerov.

4. Decision.

The Commission has accordingly decided that the measure given to IMIT s.r.o. is unlikely to constitute aid, as it is unlikely to have an effect on trade between Member States. However, in so far as it cannot totally be excluded that the measure to IMIT s.r.o. for operating the cultural performances in the Přerov Municipal Hall might constitute state aid within the meaning of Article 87(1), it would be considered compatible aid pursuant to Article 87(3)(d).

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://europa.eu.int/comm/secretariat_general/sgb/state_aids/. Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
Directorate State Aid II
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Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission

⁷ See draft of Amended New De minimis block exemption, published on 20.9.2006 on http://ec.europa.eu/comm/competition/state_aid/reform/dm2_en.pdf.