Memorandum on Guidelines for Regional State Aid for 2014-2020

In May 2012 the European Commission started modernization of state aid. Till mid-March 2013 stakeholders have the possibility to take part in public consultation on Regional State Aid Guidelines for the period 2014 – 2020 (RAG). Considering the significance of the document for the economic policy of EU as a whole, **the Confederation of Industry of the Czech Republic, the Polish Confederation of Private Employers Lewiatan, the National Union of Employers of Slovakia and the Confederation of Hungarian Employers and Industrialists** deem it essential to state their crucial objections to the proposal that should be taken into consideration by the European Commission for the sake of ensuring the promotion of real economics.

The European Commission disregards the position of the EU in the international comparison of competitiveness and economic performance and ignores the investors' decision principles. Many EU strategies call for increasing competitiveness, revival of European industry base and boosting smart growth. Unfortunately, this proposal is in deep conflict with above stated goals. We believe that by accepting the RAG in its current shape the European Commission will prevent the use of an important tool for balancing regional disparities and creating jobs. In the context of the European Union's economic crisis, which is increasing differences in regional development, and of steadily rising unemployment rates such a step appears extremely undesirable.

Moreover, the proposal of the European Commission for RAG revision is occurring in time of finalization of the legislative package on the Cohesion Policy for 2014 – 2020. In this context we express our serious concern that the curbing the access of larger enterprises to regional aid schemes in combination with limitation of their eligibility for productive investment in European Regional Development will practically strip Member States from vital instruments belonging to their economic development policies to attract investors, achieve structural change of their economies and boost job creation.

We also doubt whether the Commission has fully assessed impact of the revision RAG on the legislative Framework of the Cohesion Policy as such, including its consequences for accessibility of financial instruments and co-financing.

Last but not least, we would like to underline that the proposal of RAG is based on the incorrect perceptions that large enterprises are potentially the greatest violators of the market and that subsidies awarded to them are ineffective and the Commission fails to present sufficient evidence to prove those claims. The study conducted in the Czech Republic, which analysed the significance of large enterprises for European economy and the effects of the planned aid reduction reached the following conclusions[1]:

[1] Novotny, O., Jaburkova, M. LARGE ENTERPRISES IN THE EUROPEAN ECONOMY AND THEIR ROLE IN REGIONAL SUPPORT PROGRAMS. Prague : Confederation of Industry of the Czech Republic, 2012, ID: VSESPCR120624.

- The evidence presented by the European Commission are too limited and fail to clearly demonstrate the lack of efficiency in investment aid granted to large enterprises
- There is a high probability of negative impacts should the investment aid to large enterprises be restricted.
- The European Commission ignores profound connections among large, small and medium-size enterprises. The decreased competitiveness of large enterprises and limiting their investments will impact directly the economy of small and medium-size firms, which act as goods and service suppliers.

All in all we consider following provisions of RAG particularly harmful:

A. **Reducing the intensity of current regional aid (section 5.4 of the Guidelines)**
B. **Excluding large enterprises from investment aid in the category 'C' areas (section 5.4.2 of the Guidelines and article 10)**
C. **Introducing an obligation to start works on an investment project after an assessment of the presence of the incentive effect of aid is concluded,**
D. **Introducing a large set of procedural requirements (e.g. contra-factual analysis, proof of incentive effect etc.) and stricter assessment rules**

Based on arguments stated below we urge the European Commission:

Ad A. Maintain the current intensity of regional aid

Ad B. Not to exclude larger enterprises from investment aid in 'C' areas

Ad C. Maintain the current approach to evaluating the presence of the incentive effect allowing starting work on investment projects when a request for the aid to the MS is submitted

Ad D. Simplify procedural requirements by removing article 25, 69, 75 and waiving the obligation of counterfactual scenarios in article 62

We categorically disagree with the following proposed revisions:

A. Reducing the intensity of current regional aid (section 5.4 of the Guidelines)

The European Commission proposes the intensity of state aid be reduced against the previous period, while the proposal includes all 'A' areas whose GDP per capita exceeds 45% of the average GDP of EU-27, i.e. the reduction will affect all transition economies which joined the EU in 2004 or shortly afterwards, whose economy has not yet undergone complete restructuring and whose current growth in regional level is not real but only relative due to the new statistics calculation. The growth is even more obvious due to the fact that the proposal takes into consideration the GDP average from the period when the recession started to affect the original member countries and it only began to spread into transition economies later, without fully projecting into the average for 2007-2009.

We request that the existing intensity of regional aid of 40% be maintained. For example, as a result of the simultaneous general reduction of aid rate and the advancement of Czech regions to the higher GDP per capita category (regions with GDP per capita between

60-75%), the aid rate is to be reduced by 15% for all cohesion regions in the Czech Republic in the forthcoming period.

We thus demand following:

1) The existing intensity of regional state aid must be maintained.
2) In order to ensure stability of the environment, the aid map should not be changed in the course of the programming period, which would handicap the regions' opportunity to use state aid (GDP per capita indicator in PPP as the percentage of the EU-27 average may be affected by other factors than a noticeable economic development of the respective country).
3) Particular national aspects must be reflected and Corporate income tax relief must not be regarded as a direct advantage (possibly, increasing the limit of state aid should be enabled in the form of bonuses that take into consideration the tax allowance system).

B. Excluding large enterprises from investment aid in category 'C' areas (section 5.4.2 of the Guidelines and article 10)

No regional investment aid is to be provided to large enterprises in 'C' areas. We assume that cancelling state aid to large enterprises entirely is not well-founded and referring back to the above stated arguments, we express our support to the member countries which have 'C' category regions and which request the possibility of investment aid for large enterprises in these regions based on their concerns regarding decreased competitiveness of the EU as a whole. Moreover, there is the risk for the Czech Republic as well as for Poland, Slovakia and Hungary in the current 'A' category regions falling under 'C' category regions in the next programming period.

We do not question the European Commission's effort to support small and medium-size enterprises yet the economic structure of EU countries must also be considered. Large enterprises are closely linked to the small and middle-size ones, with the large enterprises playing the role of innovation carriers. Unofficial consultations imply that neither small nor medium-size enterprises wish for state aid to large enterprises be significantly reduced, as small and medium-sized enterprises are often sub-suppliers to them. Reducing the aid for large enterprises would significantly limit the development of SME´s and reduce their business-to-business dealings.

We demand:

4) Maintaining a certain form of aid for large companies even in 'C' category regions

C. Incentive effect of the aid, maintaining the current approach to evaluating the presence of the incentive effect

According to the guidelines for existing regional investment aid, work on the project could start during the stage of presenting the request to the member country or submitting the request to the provider. Investors will then only be able to start work on the project after a binding decision has been issued, which will slow down the whole process of implementing the investment project significantly due to this complex administrative procedure. The decisive factor for the investor is the speed at which they enter the market because time is an important competitive advantage. If the investor can only start project work after the state aid has been granted, i.e. the date when the binding decision has been issued, the firms' flexibility and potential for innovation will decrease. Consequently, competitiveness will drop with regard to the varied legal environment of the member countries. Investors cannot wait for the aid to be granted to be able to start the project work (start the investment). There is a real risk that investments will be implemented in countries where the approval procedure is more flexible, i.e. outside the EU.

We demand:

5) Maintain the possibility of starting project work when a request is submitted to the member country.

D. Procedural guidelines of state aid reduction

The European Commission seeks to prevent an unnecessary administration burden, which is why (among other reasons) the regional state aid guidelines have been revised. However, the proposal will have the opposite effect; creating unreasonable bureaucratic and administrative obstacles to the investor e.g. requirement submit documents that can be considered confidential or even trade secrets by investors. According to the proposal the European Commission suggests rendering the evaluation aid process stricter, e.g. by proving the motivation effect or articulating the incentive effect . Provisions as state in article 25, 62, 69 and 75 will increase of bureaucratic and financial burden, significant prolongation of the process, non-transparent decision-making and the discrimination of certain types of recipients.

We demand:

6) Removing article 25 (or establishing a direct connection between completed activities and new investment via job losses).
7) Waiving the obligation of counterfactual scenarios in article 62.
8) Waiving obligations of detailed scenarios, proofs that could be considered confidential or even trade secrets in article 69 and allow the requesting entity is allowed to choose the manner of submitting evidence.
9) Removing Article 75 (adequacy of support) would mean significant prolongation of the process, non-transparent decision making and the discrimination of certain types of recipients.

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