Part I. General Information

1. Status of the notification

Does the information transmitted on this form concern:

(a) ☒ a pre-notification? If so, you may not need to complete the entire form at this stage but to agree with the Commission services which information is required for a preliminary assessment of the proposed measure.

(b) ☐ a notification pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU)?

(c) ☐ a simplified notification under Article 4(2) of Regulation (EC) No 794/2004[1]? If so, please complete only the Simplified Notification Form in Annex II.

(d) ☐ a measure which does not constitute State aid within the meaning of Article 107(1) TFEU but is notified to the Commission for reasons of legal certainty?

If you have selected point (d) above, please indicate below why the notifying Member State considers that the measure does not constitute State aid within the meaning of Article 107(1) TFEU. Please provide a full assessment of the measure in light of each of following four criteria, stressing in particular the criteria that you consider not to be met in the planned measure:

Does the notified measure imply a transfer of public resources or is it imputable to the State?

not applicable

....

Does the notified measure confer an advantage upon undertakings?

not applicable

....

Is the measure discretionary, available only to a limited number of undertakings, in a limited number of sectors of the economy or does it entail any territorial restrictions?

not applicable

....

Does the measure affect competition on the internal market or threaten to distort intra-Union trade?

not applicable

....

[1] Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p 1).

2. Identification of the aid grantor

Member State concerned: the Czech Republic

....

Region(s) of the Member State concerned (at NUTS level 2); include information on their regional aid status:

....

Contact person(s):
Name: **Ing. Roman Vrba, ředitel odboru eGovernmentu**

....

Address: **Ministerstvo vnitra, nám. Hrdinů 1634/3, 140 21 Praha 4 Česká republika**

....

Phone(s):
+420 974 816 614

....

E-mail(s):
roman.vrba@mvcr.cz

....

Please indicate the name, the address (including web address) and the e-mail contact of the granting authority:
Name: **Ministry of the Interior of the Czech Republic**

....

Address: **Nad Štolou 3, postbox 21, 170 34 Prague 7, Czech Republic**

....

Web address: **http://www.mvcr.cz/mvcren/ministery-interior-czech-republic.aspx**

....

E-mail:
oveg@mvcr.cz

....

Contact person at the Permanent Representation
Name:
Václav Nováček

....

Phone(s): **+32 2 2139 269, +32 473 864 407**

....

E-mail:
vaclav_novacek@mzv.cz
....

If you would like a copy of the official correspondence sent by the Commission to the Member State to be forwarded to other national authorities, please indicate here their name, address (including their web address) and e-mail contact:
Name: **Office for the Protection of Competition**
....
Address: **třída Kpt. Jarose 7, 604 55 Brno, Czech Republic**
....
Web address:
http://www.uohs.cz/en/homepage.html
....
E-mail:
posta@uohs.cz
....

3. Beneficiaries

3.1. Location of the beneficiary(ies)

(a) ☒ in (an) unassisted region(s): the Czech Republic

(b) ☐ in region(s) eligible for assistance under Article 107(3)(a) TFEU (specify the region(s) at NUTS level 2):

(c) ☐ in region(s) eligible for assistance under Article 107(3)(c) TFEU (specify the region(s) at NUTS level 3 or lower):

3.2. If applicable, location of the project(s)

(a) ☒ in (an) unassisted region(s): the Czech Republic

(b) ☐ in region(s) eligible for assistance under Article 107(3)(a) TFEU (specify the region(s) at NUTS level 2):

(c) ☐ in region(s) eligible for assistance under Article 107(3)(c) TFEU (specify the region(s) at NUTS level 3 or lower):

3.3. Sector(s) affected by the aid measure (i.e. in which the aid beneficiaries are active):

(a) ☐ Open to all sectors

(b) ☒ Sector specific. If so, please specify the sector(s) at NACE group level[2]: J63 – Information service activities, H53 – Postal and courier activities....

3.4. In the case of an aid scheme, please specify: not applicable

3.4.1. Type of beneficiaries:

(a) ☐ large enterprises
(b) ☐ small and medium-sized enterprises (SMEs)
(c) ☐ medium-sized enterprises
(d) ☐ small enterprises
(e) ☐ micro enterprises

3.4.2. Estimated number of beneficiaries:

(a) ☐ under 10
(b) ☐ from 11 to 50
(c) ☐ from 51 to 100
(d) ☐ from 101 to 500
(e) ☐ from 501 to 1000
(f) ☐ over 1000

3.5. In the case of individual aid, either granted within the scope of a scheme or as ad hoc aid, please specify:

3.5.1. Name of the beneficiary(ies):

Česká pošta, s.p.
(Czech Post)
....

3.5.2. Type of beneficiary(ies):

State
enterprise
....

2 NACE Rev. 2, or subsequent legislation amending or replacing it; NACE is the statistical classification of economic activities in the European Union as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

☐ SME

Number of employees: **28,927 (when corrected for full-time employee units).**

....

Annual turnover (full amount in national currency, in the last financial year):

CZK 20,026

million

....

Annual balance-sheet total (full amount in national currency, in the last financial year):

CZK 20,413

million

....

Existence of linked enterprise or partner enterprises (please attach a declaration according to Article 3(5) of the Commission Recommendation on SMEs[3] attesting to either the autonomous, linked or partner status of the beneficiary undertaking[4]):

....

☒ Large enterprise

3.6. Is the beneficiary(ies) an undertaking in difficulty[5]?

☐ yes ☒ no

3.7. Outstanding recovery orders

3.7.1. In the case of individual aid:

The authorities of the Member State commit to suspend the award and/or payment of the notified aid if the beneficiary still has at its disposal earlier unlawful aid that was declared incompatible by a Commission Decision (either as individual aid or aid under an aid scheme being declared incompatible), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

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3 Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

4 In the case of partner and linked enterprises, please note that the amounts reported for the aid beneficiary should take into account the number of employees and the financial data of the linked enterprises and/or partner enterprises.

5 As defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

☒ yes ☐ no

Please provide the reference to the national legal basis concerning this point:

There is no national legal basis concerning this point. However, the authorities of the Czech Republic are aware of the *Deggendorf* principle.

3.7.2. In the case of aid schemes: **not applicable**

The authorities of the Member State commit to suspend the award and/or payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible), until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

☐ yes ☐ no

Please provide the reference to the national legal basis concerning this point:

....

4. National Legal Basis

4.1. Please provide the national legal basis of the aid measure including the implementing provisions and their respective sources:

National legal basis: **The conditions for the operation of DBIS are set up in the Act No. 300/2008 Sb., on the electronic acts and authorized document conversion (the "Act"), which states in Section 14(2) that "*The administrator of the information system of data boxes is [Ministry of the Interior of the Czech Republic]. The operator of the information system of data boxes is the postal license holder*". Article II. Para. 4 of the Act No. 221/2012 Sb., amending Act No 29/2000 Sb., on postal services and amending certain acts (the Postal Services Act), states that "*if specific legislation to ensure activities other than the provision of postal services provides that the postal licence holder is an obliged person, this means Czech post, or its legal successor.*"**

Czech Post is thus the only entity authorized to operate DBIS irrespective of its possession of the postal license as of 1 January 2023.

On 23 March 2021, the Czech Government accepted the information of the Ministry of the Interior regarding the planned expenditure in the sphere of e-government in the form of procurement of DBIS operation after 2023.

As a result, the Ministry of the Interior entered into negotiations with Czech Post in order to conclude an agreement on the provision of the services of the operation of DBIS (the "Agreement with Czech Post"). The agreement shall be concluded based on the exemption from public procurement rules embedded in Section 29 q) of the Act No. 134/2016 Sb., on Public Procurement (the "Public Procurement Act") based on the exception in art. 11 of the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC ("Procurement Directive"). The duration of the Agreement with Czech Post will be 5 years as from 1 January

2023.

....

....

Implementing provisions (where applicable):

....

....

References (where applicable):

....

4.2. Please enclose with this notification one of the following:

(a) ☐ a copy of the relevant extracts of the final text(s) of the legal basis (together with a web address which provides direct access to it, if available)
(b) ☒ a copy of the relevant extracts of the draft text(s) of the legal basis (together with a web address which provides direct access, if available)

A copy of the relevant legislation is enclosed as Annex No. 1.
A draft of the Agreement with Czech Post is enclosed as Annex No. 2.

4.3. In case of a final text, does the final text contain a stand-still clause whereby the aid granting body can only grant the aid after the Commission has authorised the aid?

☐ Yes

☒ No: has a provision been included to that effect in the draft text?

☐ Yes

☒ No: please explain why such a provision was not included in the text of the legal basis.

For the period before the authorisation by the Commission, the draft Agreement with Czech Post permits payment of a part of the compensation of up to EUR 15 million per calendar year pursuant to Art. 2(1)(a) of the Commission Decision on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU). Any

compensation pursuant to the provisions of the Agreement with the Czech Post in excess of EUR 15 million per year will be paid only after the authorisation by the Commission.

4.4. Where the text of the legal basis contains a stand-still clause, please indicate whether the date of granting of the aid will be:

☐ the date of the approval by the Commission

☐ the date of the commitment of the national authorities to grant the aid, subject to the approval of the Commission

....

5. Identification of the Aid, Objective and Duration

5.1. Title of the aid measure (or name of the beneficiary of the individual aid)

Česká pošta, s.p. (Czech Post)

....

5.2. Brief description of the objective of the aid

The objective of the aid is to compensate Czech Post for the operation of DBIS for the years 2023 - 2027

....

5.3. Does the measure concern the national co-financing of an European Fund for Strategic investment (EFSI)[6] project?

☒ No

☐ Yes: please attach the European Investment Bank application form to the notification form

5.4. Type of aid

5.4.1. Does the notification relate to an aid scheme?

☒ No

☐ Yes: Does the scheme amend an existing aid scheme?

☐ No

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6 Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

☐ Yes: Are the conditions laid down for the simplified notification procedure pursuant to Article 4(2) of Regulation (EC) No 794/2004 fulfilled?

☐ Yes: Please use and complete the Simplified Notification Form (see Annex II).

☐ No: Continue with this form, and specify whether the original scheme which is being amended was notified to the Commission

☐ Yes: please specify:

Aid number[7]:

....

Date of Commission approval (reference of the letter of the Commission) if relevant or exemption number: ..../..../...;

....

Duration of the original scheme:

....

Please specify which conditions are being amended in relation to the original scheme and why:

....

☐ No: please specify when the scheme was implemented:

....

5.4.2. Does the notification relate to individual aid[8]?

☐ No

☒ Yes: please indicate whether:

☐ the aid is based on an approved / block-exempted scheme which should be individually notified. Please provide the reference to the approved scheme or to the exempted scheme:

Title:

....

Aid number[9]:

....

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7 Commission's registration number of the authorised or block-exempted scheme.

8 According to Article 1(e) of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9), individual aid means aid that is not awarded on the basis of an aid scheme and notifiable award of aid on the basis of a scheme.

9 Commission's registration number of the authorised or block-exempted scheme.

Letter of Commission approval (where applicable):

....

☒ individual aid is not based on a scheme

5.4.3. Does the system of financing form an integral part of the aid measure (for example, by applying parafiscal levies in order to raise the necessary funds to allow for the aid to be granted)?

☒ No

☐ Yes: if yes, the system of financing should be notified as well.

5.5. Duration

☐ Scheme

Indicate the planned last date until which individual aid may be granted under the scheme. If the duration exceeds 6 years please indicate why a longer period is indispensable to achieve the objectives of the aid scheme.

....

☒ Individual aid

Indicate the planned date when the aid will be granted[10]: **1. 1. 2023**

....

If the aid will be paid out in instalments, indicate the planned date(s) of each instalment

The period of duration of the entrustment has been set by the Czech Republic (Ministry of the Interior). This length of duration was chosen so that the investment to the development of the capacities to provide the technology services of DBIS operation would extend to a sufficient time period. Czech Post will not have at its disposal the capability to provide the technology services of DBIS in the period starting in 2023, therefore it will be necessary to invest to the technical capabilities (either in-house, and/or by an external service provider). The period of five years was therefore chosen to facilitate re-payment of the investment into the technology services of DBIS operation for the period from 1 January 2023.

The aid will be paid to Czech Post in monthly instalments; the first instalment will be paid out at the earliest in February 2023 for the period of January 2023.

[10] The date of the legally binding commitment to award the aid.

6. Compatibility of the aid

Common assessment principles

(Sub-sections 6.2 to 6.7 do not apply to aid to the agriculture, fishery and aquaculture sectors[11])

6.1. Please indicate the primary objective and, where applicable, the secondary objective(s), of common interest to which the aid contributes:

	Primary objective *(please tick only one)*	**Secondary objective[12]**
Agriculture; Forestry; Rural areas	☐	☐
Broadband infrastructures	☐	☐
Closure aid	☐	☐
Compensation of damage caused by natural disasters or exceptional occurrences	☐	☐
Culture	☐	☐
Aid or disadvantaged workers and/or workers with disabilities	☐	☐
Energy infrastructures	☐	☐
Energy efficiency	☐	☐
Environmental protection	☐	☐
Execution of an important project of common European interest	☐	☐
Fisheries and aquaculture	☐	☐
Heritage conservation	☐	☐
Promotion of export and internationalisation	☐	☐
Regional development (including territorial cooperation)	☐	☐
Remedy for a serious disturbance in the economy	☐	☐
Renewable energy	☐	☐
Rescuing undertakings in difficulty	☐	☐
Research, development and innovation	☐	☐
Restructuring undertakings in difficulty	☐	☐
Risk finance	☐	☐
Sectorial development	☐	☐

11 In the case of aid to the agriculture sector or fishery and aquaculture sector information on compliance with the common assessment principles is requested in Parts III.12 (Supplementary information sheet for aid to the agriculture and forestry sectors and in rural areas sector) and III.14 (Supplementary information sheet for aid to the fishery and aquaculture sector).

12 A secondary objective is one for which, in addition to the primary objective, the aid will be exclusively earmarked. For example, a scheme for which the primary objective is research and development may have as a secondary objective small and medium-sized enterprises (SMEs) if the aid is earmarked exclusively for SMEs. The secondary objective may also be sectorial, in the case for example of a research and development scheme in the steel sector.

Services of general economic interest (SGEI)	☒	☐
SMEs	☐	☐
Social support to individual consumers	☐	☐
Sport and multifunctional recreational infrastructures	☐	☐
Training	☐	☐
Airport infrastructure or equipment	☐	☐
Airport operation	☐	☐
Start-up aid to airlines for the development of new routes	☐	☐
Coordination of transport	☐	☐

6.2. Please explain the need for State intervention. Please note that the aid must be targeted towards a situation where it can bring about a material improvement which cannot be delivered by the market itself, by remedying a well-defined market failure.

Data boxes form an advanced electronic communication channel for internal communication within the public administration and for guaranteed communication of public administration with its clients, the companies and citizens.

The idea of data boxes originated within the eState iniciative in 2005 and 2006 as one of the pillars of a vision of an efficient state. In 2006, data boxes were included as one of the key pillars of a coherent strategy eGON of the Ministry of the Interior, which set clear priorities for the development of eGovernment in the Czech Republic (based on electronic communication and electronic storage of data leading to de-materialisation of the public administration). Other pillars of eGON were electronic registers of key information on citizens, companies, real estate, and the rights and duties related to them ("Basic Registers"), Czech POINT contact points and communication infrastructure of public administration. eGON as a whole was unveiled to the public in 2007.

The benefits of DBIS, which justify the need for the intervention of the Czech Republic, may be divided into general benefits and economic benefits.

General benefits

1. **Data boxes are a secured electronic communication channel, which means that a data message sent via DBIS is undeniable, both in terms of sending the data message and its content, including the determination of the exact time when the message was sent, and, most importantly, as regards confirmation of the exact time of delivery. This gives a high level of confidence in DBIS as a transmission channel for information and documents.**
2. **Data boxes are used for guaranteed communication of public administration with its clients. Public authorities (subject to certain exceptions strictly laid down by law[13]) are obliged pursuant to the provisions of the Act to use data**

[13] According to s. 17(1) of the Act, public authorities are not, in particular, obligated to use data boxes to deliver decisions delivered by public announcement or announced to present parties.

boxes to send documents to clients of public administration and are obliged to accept documents and acts made through data boxes by the clients.

3. **Subject to exceptions, a document sent through a data box does not need to have an additional electronic signature, as it is deemed to have been made in writing and signed; its digital credibility is thus assured. It is therefore more user-friendly to send a document via data box than to procure and send documents with an electronic signature.**
4. **Data boxes are an accessible means of communication for people with special needs, including people with disabilities with a physical handicap. DBIS enables them to send and receive documents and data messages without having to physically visit a post office to pick up or dispatch a registered letter. Such option is an indispensable condition for ensuring the possibility of efficient communication of all citizens (including citizens with disabilities) with the public administration on an equal basis and it fulfils the basic principles of universal governance accessibility.**
5. **DBIS and data messages as such can be used not only to transmit digital documents, but also to facilitate a guaranteed transfer of data sets between databases/information systems. This is undoubtedly the most reliable and safest way to transfer data between different information systems (except direct interconnection through interfaces).**
6. **Data boxes are an ideal means of technical transformation of electronic forms not only in public administration. An electronic form, consisting of a document as well as a data set containing data filled in the form, can be transmitted via data boxes. In such a case, credibility of the identity of the sender is maintained. On a receiving side, there is a benefit of only a minimal need for an adjustment to the information system for processing such forms by connecting to the interface of DBIS (e.g. tax returns).**
7. **The interface of DBIS is technologically neutral – it is open for commercial applications of third parties (especially for document management and archival services).**
8. **One of the indisputable benefits of DBIS is the reduction in administrative costs of the performance of public administration. For public authorities and for their clients, sending a data message via a data box is free. For a communication between private persons, the price for sending a data message is substantially lower than the price for sending a registered mail with a confirmation of delivery.**
9. **Login credentials of DBIS are used to ensure identity when connecting to other eGovernment services in order to make automated filings regarding taxes, pension contributions, sickness insurance, personal IDs, voting passports, and excerpts from basic, criminal and company registers. https://www.datoveschranky.info/o-datovych-schrankach/moznosti-vyuziti-datove-schranky.**
10. **DBIS forms part and is used to log into the Citizen Portal https://obcan.portal.gov.cz/prihlaseni** since 2018**, which aggregates a number of eGovernment services in a single place of access and allows citizens to archive their data messages.**

Economic benefits

The economic benefits of DBIS were initially analysed in an independent socio-economic study performed by CEVRO Institute in 2014 (*see Annex n. 3*).

The study compares costs of data messages with ordinary/registered mail. The costs of ordinary/registered mail include not only direct costs of material and postage, but also indirect costs of the time consumed. According to the data of the Czech Statistical Office, the ratio between the number of ordinary and registered mail is 1:2. Registered mail also includes registered mail with a confirmation of delivery, which is more expensive. The calculations are not discounted to the present value.

It may be summarised that DBIS has a variety of economic and other (non-quantifiable) benefits that contribute to innovation and increase efficiency of processes in the public administration. Not only is the communication between authorities and the communication of citizens and undertakings with the authorities cheaper, but it is also much faster, more transparent and less susceptible to fraud and corruption.

However, there is a cannibalisation effect of DBIS to the detriment of Czech Post as the only current holder of a postal license. This is because due to the introduction of the system Czech Post has been losing a significant portion of its income (revenue) from delivering official correspondence (especially registered mail), which has been replaced by the new form of electronic communication (communication within DBIS). The revenue lost by Czech Post in connection with DBIS constitutes a significant proportion of the savings connected with the use of DBIS. The contribution margin of Czech Post from DBIS is significantly lower than the contribution margin lost from registered mail.

As experience from abroad demonstrates, no system comparable to DBIS has come into existence without the state creating such system and requiring a mandatory use thereof. Furthermore, as it will be explained below, the benefits of DBIS are conditional upon it being controlled by a reliable state-controlled entity and upon being free of charge at the point of use and mandatory for the government entities. Privately operated system would neither come into existence on its own nor would guarantee a sufficient security of communication with public administration. A paid and voluntary use of the system and doubts among the public regarding its security and lasting basis would make it impossible to achieve sufficient economies of scale, making the transfer to eGovernment impossible.

6.3. Please indicate why the aid is an appropriate instrument to address the objective of common interest as defined in point 6.1. Please note that the aid will not be considered compatible if less distortive measures make it possible to achieve the same positive contribution.

From an international perspective, the role of an operator of a data box system (where available) is, in most EU Member States, entrusted to the hands of a national postal operator as a naturally trustworthy entity in the area of official, commercial and private communication. Data boxes are taken as another milestone of electronic communication, which due to its advantages in terms of speed, ability to ensure identification of communicating parties, guaranteed delivery and lower cost surpasses the abilities of a postal delivery network for official communications. In addition to strategic motives there are practical

benefits in the form of a natural integration of physical and data communications on the basis of hybrid services that benefit from the dense network of post offices operated by Czech Post throughout the territory of the Czech Republic. The dense network of post offices plays a key role in the functioning of the DBIS, as the offices provide necessary support to the users of the DBIS, e.g. secure password recovery or conversion of electronic documents to paper documents and vice versa with confirmation of authenticity. Direct control of the Czech Republic over Czech Post (through the Ministry of Interior) helps to ensure the necessary hight security of DBIS and supports public trust in the system.

National postal operators are the operators of the following analogies of data boxes for example in the following European countries such as, for instance, Denmark, France, Slovenia, Sweden or Portugal.

Experiment in this respect is Germany, where an open licensing model of operating a data box system was chosen (DE-mail). The license is available to any commercial entity, which meets the required standards and obtains certifications. Among the system, there is an exchange of messages similar to roaming in mobile communications. The system faces sharp criticism on the issue of trust and security of the transmitted communication. There are concerns that a commercial entity may be motivated to analyse and exploit the content of the transmitted messages. Take-up of the DE-mail system is disappointing and such low penetration would not allow the system to achieve the benefits and savings connected with electronisation and de-materialisation of communication of the public administration with the public permitted by DBIS.

The Czech Republic believes that the system envisaged is the appropriate instrument to address the objective of common interest, the provision of the DBIS service to ensure the implementation of the eGovernment policy. The proposed operation of the DBIS system maintains the necessary full control of the Czech Government over the DBIS where safety, reliability and confidence of the public is key for the functioning of the system.

6.4. Please indicate whether the aid has an incentive effect (that is, when the aid changes the behaviour of an undertaking leading it to engage in additional activity which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner).

☒ yes ☐ no

Please indicate whether activities which started before the submission of an application for aid are eligible.

☐ yes ☒ no

If they are eligible, please explain how the incentive effect requirement is complied with.

The incentive effect of the aid consists of changing the behaviour of Czech Post so that it continues to operate DBIS without charging public authorities and its clients a fee for each data message. The absence of aid would lead to discontinuation of the DBIS because the current law mandates that there is no

charge for sending and receiving the messages (except for messages not involving government which comprise 1% of all messages only) and the use is mandatory for all government entities (sending and receiving messages) and entities registered in the company register, attorneys, tax advisors, auditors, insolvency administrators, court experts, court interpreters and translators[14] (receiving messages). In the absence of the entrustment implying a compensation from the state for the operation of the DBIS on free of charge and mandatory basis for the users, Czech Post would not deem the operation of the DBIS as viable.

This is important because experience from other countries, such as Germany, show that a system that

- **is charging a fee for each data message,**
- **is based on a private initiative - open licensing model, and**
- **is not compulsory,**

is not widely used by its users and therefore cannot fulfil a role of a universal communication tool with the public administration.

6.5. Please indicate why the aid granted is proportionate insofar as it amounts to the minimum needed to induce investment or activity.

The amount of the aid will be calculated strictly in compliance with the European Union framework for State aid in the form of public service compensation (2012/C 8/03) (the "*2012 SGEI Framework*") – see below 14.2.

6.6. Please indicate the possible negative effects of the aid on competition and trade and specify the extent to which they are outweighed by the positive effects.

There is no negative effect of the aid on competition or trade. To the contrary, DBIS stimulates competition since its interface is open for commercial applications of third parties (especially for document management and archival services).

6.7. In accordance with the Transparency Communication[15], please indicate whether the following information will be published on a single national or regional website: the full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority/(ies); the identity of the individual beneficiary(ies), the aid instrument[16] and amount of aid granted to each beneficiary(ies); the objective of the aid, the date of granting, the type

[14] https://www.datoveschranky.info/chci-datovku/typy-datovych-schranek

[15] Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014–2020, on State aid for films and other audio-visual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (OJ C 198, 27.6.2014, p. 30).

[16] Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Risk finance, Other (please specify). If the aid is granted through multiple aid instruments, the aid amount must be provided by instrument.

of undertaking (for example SME, large company); the Commission's aid measure reference number; the region where the beneficiary is located (at NUTS level 2) and the principal economic sector of the beneficiary(ies) (at NACE group level)[17].

☒ yes ☐ no

6.7.1. Please provide the address(es) of the website(s) on which the information will be made available:

Pursuant to Act No. 340/2015 Sb., on special conditions for the effectiveness of some contracts, the publication of these contracts and the register of contracts ("Act on the register of contracts"), contracts concluded with certain subjects, such as the Czech Republic need to be published in the register of contracts (the "Register"). If a contract is not published in the Register within three months of its conclusion, it is considered invalid from the outset (as if the contract was never concluded).

The Register is available online on the following webpage: https://smlouvy.gov.cz/

6.7.2. If applicable, please provide the address(es) of the central website retrieving information from the regional website(s):

The Register is central.

6.7.3. If the address(es) of the website referred to in point 6.7.2 are not known at the time of the submission of the notification, the Member State must undertake to inform the Commission once those websites are created and the addresses are known.

17 Such a requirement can be waived with respect to individual aid awards below EUR 500 000. For schemes in the form of tax advantages, the information on individual aid can be provided in the following ranges (in EUR million): [0.5-1]; [1-2];[2-5]; [5-10]; [10-30]; [30 and more].

7. Aid instrument, Aid amount, Aid intensity and Means of funding

7.1. Aid instrument and aid amount

Specify the form of the aid and the aid amount[18] made available to the beneficiary(ies) (where appropriate, for each measure):

Aid instrument	Aid amount or budget allocation[19]	
	Overall	Annual
☒ **Grants (or similar in effect)** (a) ☒ Direct grant (b) ☐ Interest rate subsidy (c) ☐ Debt write-off	**The estimate amount is approx. CZK 4 billion (approx. EUR 160 million).** **Note: Aid amount specified in section 14 of this form.**	**The estimate amount is approx. CZK 800 million (approx. EUR 32 million).** **Note: Aid amount specified in section 14 of this form.**
☐ **Loans (or similar in effect)** (a) ☐ Soft loan (including details of how the loan is secured and its duration) (b) ☐ Repayable advances (c) ☐ Tax deferral		
☐ **Guarantee** Where appropriate, provide a reference to the Commission decision approving the methodology to calculate the gross grant equivalent and information on the loan or other financial transaction covered by the guarantee, the security required and the premium to be paid, the duration, etc. ……………………………………………………………………		
☐ Any form of **equity or quasi-equity** intervention ……………………………………………………………………		

[18] Overall amount of aid planned, expressed in full national currency amounts. For tax measures, estimated overall revenue loss due to tax concessions. If the average annual State aid budget of the scheme exceeds EUR 150 million, please fill in the section on evaluation.

[19] For information on aid amounts or budget at any chapter of this form and supplementary forms, give the full amount in national currency.

☐ **Tax advantage or tax exemption** (a) ☐ Tax allowance (b) ☐ Tax base reduction (c) ☐ Tax rate reduction (d) ☐ Reduction of social security contributions (e) ☐ Other (please specify)		
☐ **Other** (please specify) .... Please indicate the instruments to which it would broadly match as regards its effect		

For guarantees, please indicate the maximum amount of loans guaranteed: ....

For loans, please indicate the maximum (nominal) amount of the loan granted: ....

7.2. Description of the aid instrument

For each aid instrument chosen from the list in point 7.1, please describe the conditions of application of the aid (such as the tax treatment, whether the aid is awarded automatically based on certain objective criteria or whether there is an element of discretion by the awarding authorities):

As no fees may be collected for communication of the government entities with the public and vice versa (fees are collected for voluntary communication between private parties, which constitutes 1% of the traffic within the DBIS), Czech Post will need to be reimbursed for the costs and adequate profit in compliance with the rules for SGEIs. In the Agreement with Czech Post, a combination of a flat fee, a variable payment per data message and a fee for development of the DBIS requested by the Ministry of Interior will be set. The aid will be paid on a monthly basis (e.g. payment for services provided in January 2023 will be made in February or March 2023[20]). This is to minimise adverse impact on cash flow of either Czech Post.

7.3. Source of funding

7.3.1. Specify the financing of the aid:

(a) ☒ General budget of the State/region/local

(b) ☐ Through parafiscal charges or taxes affected to a beneficiary. Please provide full details of the charges and the products/activities on which they are levied (specify in particular whether products imported from other Member States are liable to the charges). If applicable, please annex a copy of the legal basis of the financing.

....

....

(c) ☐ Accumulated reserves

[20] Czech Post will issue an invoice within 15 days from the end of the month. Invoices are payable within 30 days.

(d) ☐ Public enterprises
(e) ☐ Structural fund co-financing
(f) ☐ Other (please specify)

………

………

7.3.2. Is the budget adopted annually?

☒ Yes

☐ No. Please specify what period it covers:

………

7.3.3. If the notification concerns changes to an existing scheme, please indicate the budgetary effects for each of the aid instruments of the notified changes to the scheme on the:

Overall budget

………

Annual budget[21]

………

7.4. Cumulation

Can the aid be cumulated with aid or *de minimis* aid[22] received from other local, regional or national aid[23] to cover the same eligible costs?

☐ Yes. If available, please provide the name, purpose and objective of the aid

………

………

Please explain the mechanisms put in place in order to insure that the cumulation rules are respected:

………

………

[21] In case of an average annual State aid budget of the scheme above EUR 150 million, please fill in the section on Evaluation of this notification form. The Evaluation requirement does not apply to aid schemes covered by the Supplementary information sheet on Agriculture aid.

[22] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

[23] Union funding centrally managed by the Commission that is not directly or indirectly under the control of the Member State does not constitute State aid. Where such Union funding is combined with other public funding, only the latter will be considered for determining whether notification thresholds and maximum aid intensities are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rates laid down in the applicable Union legislation.

☒ No

8. Evaluation

8.1. Is the scheme considered for evaluation[24]?

☒ No

If the scheme is not considered for evaluation, please explain why you consider the criteria for evaluation not to be fulfilled.

not applicable

....

☐ Yes

According to which criteria is the scheme considered for ex post evaluation:

(a) ☐ A scheme with large aid budget;
(b) ☐ A scheme containing novel characteristics;
(c) ☐ A scheme where significant market, technology or regulatory changes can be foreseen;
(d) ☐ A scheme that you plan for evaluation even if the other criteria referred to in this point do not apply.

If any of the criteria referred to in this point are fulfilled, please indicate the period of evaluation and complete the supplementary information sheet for the notification of an evaluation plan in Annex 1, Part III.8[25].

....

8.2. Please indicate whether any ex-post evaluation has already been carried out for a similar scheme (where relevant, with a reference and a link to any relevant websites)

....

9. Reporting and Monitoring

In order to enable the Commission to monitor the aid scheme and individual aid, the notifying Member State undertakes to:

☐ Annually submit to the Commission the reports provided for by Article 26 of Council Regulation (EU) 2015/1589[26].

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24 The Evaluation requirement does not apply to aid schemes covered by the Supplementary information sheet on Agriculture aid.

25 For guidance, see the Commission Staff Working Document "Common methodology for State aid evaluation", SWD(2014)179 final of 28.5.2014 under http://ec.europa.eu/competition/state_aid/modernisation/state_aid_evaluation_methodology_en.pdf.

26 Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

☒ Maintain for at least 10 years from the date of award of the aid (individual aid and aid granted under the scheme) detailed records containing the information and supporting documentation necessary to establish that all compatibility conditions are met, and provide them, on a written request, to the Commission within a period of 20 working days or such longer period as may be fixed in the request.

For fiscal aid schemes:

☐ In case of schemes under which fiscal aid is granted automatically based on tax declarations of the beneficiaries, and where there is no ex ante control that all compatibility conditions are met for each beneficiary, the Member State undertakes to put in place an appropriate control mechanism, by which it regularly verifies (for example once per fiscal year), at least ex post and on a sample basis, that all compatibility conditions are met, and to impose sanctions in case of fraud. In order to enable the Commission to monitor fiscal aid schemes, the notifying Member State undertakes to maintain detailed records of the controls for at least 10 years from the date of the controls, and provide them, on a written request, to the Commission within a period of 20 working days or such longer period as may be fixed in the request.

10. Confidentiality

Does the notification contain confidential information[27] which should not be disclosed to third parties?

☒ Yes. Please indicate which of the form are confidential and provide reasons for confidentiality.

Czech Republic notes that the following sections of this notification form are confidential:

- **Part 14, section *"Compliance with the 2012 SGEI Framework – amount of compensation"***
- **Part 14, section *"Conclusions"* subsection *"4. Efficiency incentives"***

The following annexes to the notification form are confidential:

2. Draft Agreement with Czech Post

4. Calculation of the net cost under the Net Avoided Cost Methodology

7. Attendance sheet of the public consultation of the Data Box Information System held on 19 August 2020

☐ No

[27] For guidance see Article 339 TFEU that refers to "information about undertakings, their business relations or their cost components". The Union courts have generally defined "business secrets" as information "of which not only disclosure to the public but also mere transmission to a person other than the one that provided the information may seriously harm the latter's interest" in Case T-353/94 *Postbank* v *Commission* ECLI:EU:T:1996:119, paragraph 87.

11. Other Information

Where applicable, please indicate any other information relevant for the assessment of the aid.

It is necessary to sign the Agreement with Czech Post by the end of the year 2022 in order to provide the basis for seamless operation of DBIS since 1 January 2023. *Due to the timing, the Czech Republic respectfully asks the European Commission (DG COMP) to assess the compatibility of the aid as a matter of priority.*

Please note that section 7.1 states the estimated amount of state aid. The reason is that the amount of remuneration under the Agreement with Czech Post is neither fixed or capped and derives from a formula that is explained in section 14 of the form.

Please note that certain annexes are provided in confidential as well as non-confidential version. Certain annexes are entirely confidential and are not provided in non-confidential version for that reason. See section 10 of the notification form.

Additional information relating to point 3.3 – Sector(s) affected by the aid measure

> **In the opinion of the Czech Republic, the Data Box Information System ("DBIS") concerns an information service activity. This is because Czech Post acts as a system integrator, who secures, prepares and operates an IT system (and related infrastructure), which enables users to securely and conclusively create, send, receive, store and convert messages to a physical form and vice versa with a certification of authenticity. The system furthermore ensures guaranteed identification of the sender/addressee of the message and provides exact and guaranteed timestamps of sending and receipt of messages. *Although DBIS replaces a physical delivery of paper-based letters, its quality is that of a secure email with guaranteed electronic signature with an addition of a guaranteed electronic confirmation of delivery – the logistics and costs of operating DBIS are completely different from those of the registered postal service.***

Additional information relating to point 3.5.2 – Type of beneficiary

> **In order to provide a full picture of the beneficiary, an overview of the activities of the Czech Post, including USO and SGEIs, and the description of the way Czech Post is structured by departments and commercial divisions is provided below:**

- Czech Post conducts the following activities:

- *Postal network*
  - *Basic services (USO/SGEI)*
    - *Basic service domestic letters and parcels*
    - *Letters/Consignments abroad*
    - *Letters/Consignments from abroad*
    - *Money orders*
  - *Other postal services*
    - *Express parcels*

        - *Direct mail*
        - *EMS*
        - *EPG parcels*
        - *Hybrid mail*
    - *Services for state institutions*
        - *Sale of duty stamps and highway toll stickers*
        - *Distribution of pensions*
        - *Facilitating payments of Radio and Television charges*
        - *CzechPoint*
    - *Other services in the postal network*
        - *Services for financial partners and lottery companies*
        - *Sale of goods*
        - *Distribution of promotion materials (other than direct mail)*
        - *Distribution of press*
- *Outside the postal network*
    - *Services for state institutions*
        - *Branch ITC Services*
    - *SGEI*
        - *Data boxes information system (DBIS)*
    - *Other services outside the postal network*
        - *Electronic Services (including PostSignum – electronic signatures, certificates, and time stamps)*
        - *Service PostServis (packaging)*
        - *Leasing of buildings and recreations*
        - *Other services*

- The management of Czech Post is structured in the following way:

- *Director General*
    - *Commercial units of Czech Post*
        - *State postal services division*
        - *Logistics division*
        - *Financial services and sales division*
    - *Organisational units directly subject to the Director General*
        - *Trade and marketing section*
        - *Assets management and strategic investment section*
        - *Finances section*

- *ICT and eGovernment section*
- *Transformation and technology section*
- *Section of the Director General*
- *Section of human resources management*
- *Section of international and national relations*
- *Section of security*
- *Section of business development*

12. Attachments

Please list all documents which are attached to the notification and provide paper copies or internet addresses which allow access to the documents concerned.

1. **Legislation relating to the provision of DBIS services**
2. **Draft Agreement with Czech Post**
3. **Independent socio-economic study performed by CEVRO Institute in 2014**
4. **Calculation of the net cost under the Net Avoided Cost Methodology**
5. **Statement on applicability of the exception from the public procurement rules to the assignment of operation of the Data Box Information System to Czech Post**
6. **Recent technical and legislative development of Data Box Information System and forecast of further development up to 2027**
7. **Attendance sheet of the public consultation of the Data Box Information System held on 19 August 2020**

....

....

13. Declaration

I certify that to the best of my knowledge the information provided on this form, annexes and attachments is accurate and complete.

Date and place of signature 1. 8. 2022, PRAGUE
....

Signature:
....

Name and position of person signing ROMAN VRBA, DIRECTOR
....

14. Supplementary Information Sheet

14.1. Based on the information submitted in the general information form, please select the applicable supplementary information sheet to be completed:

(a) ☐ Supplementary information sheets on regional aid
1. ☐ investment aid
2. ☐ operating aid
3. ☐ individual aid

(b) ☐ Supplementary information sheet on research, development and innovation aid

(c) ☐ Supplementary information sheets on aid for restructuring and rescuing undertakings in difficulty
1. ☐ rescue aid
2. ☐ restructuring aid
3. ☐ aid schemes

(d) ☐ Supplementary information sheet on audio-visual production aid

(e) ☐ Supplementary information sheet on aid for broadband aid

(f) ☐ Supplementary information sheet on environment and energy aid

(g) ☐ Supplementary information sheet on risk finance aid

(h) ☐ Supplementary information sheet on aid to the transport sector:
1. ☐ investment aid to airports
2. ☐ operating aid to airports
3. ☐ start-up aid to airlines
4. ☐ aid of a social character under Article 107(2)(a) TFEU
5. ☐ aid for maritime transport

(i) ☐ Supplementary information sheet for the notification of an evaluation plan

(j) ☐ Supplementary information sheets on aid in the agriculture and forestry sectors and in rural areas

(k) ☐ Supplementary information sheet on aid to the fishery and aquaculture sector

14.2. For aid which is not covered by any supplementary information sheet, please select the relevant provision of the TFEU, guideline or another text applicable to State aid:

(a) ☐ Short term export credit[28]
(b) ☐ Emissions Trading Systems[29]
(c) ☐ Banking Communication[30]
(d) ☐ Communication on important projects of common European interest[31]
(e) ☒ Services of General Economic Interest (Article 106(2) TFEU)[32]
(f) ☐ Article 93 TFEU

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28 Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (OJ C 392, 19.12.2012, p. 1).

29 Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post 2012 (OJ C 158, 5.6.2012, p. 4).

30 Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (OJ C 216, 30.7.2013, p. 1).

31 Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (OJ C 188, 20.6.2014, p. 4).

32 Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).

(g) ☐ Article 107(2)(a) TFEU
(h) ☐ Article 107(2)(b) TFEU
(i) ☐ Article 107(3)(a) TFEU
(j) ☐ Article 107(3)(b) TFEU
(k) ☐ Article 107(3)(c) TFEU
(l) ☐ Article 107(3)(d) TFEU
(m) ☐ Other(s), please specify

....

Please provide a justification for the compatibility of the aid falling in the categories selected in this point:

It cannot be excluded that the average annual compensation granted to Czech Post for the years 2023 – 2027 will be above the threshold of EUR 15 million per year* set in Article 2(1)(a) of the Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU) ("*2012 SGEI Decision*"). Accordingly, the compensation granted to Czech Post for the years 2018 – 2022 needs to be assessed under the *2012 SGEI Framework.

Compliance with the 2012 SGEI Framework – amount of compensation

Pursuant to paragraph 21 of the *2012 SGEI Framework*, *"[t]he amount of compensation must not exceed what is necessary to cover the net cost of discharging the public service obligations, including a reasonable profit."*

Methodology for the calculation of costs and reasonable profit

The Czech Republic provides the Commission with a detailed explanation regarding the application of the net avoided cost ("NAC") methodology on the calculation of the net costs of providing the DBIS as Annex No. 4. The document provides a detailed description of the approach to the baseline and counterfactual scenarios including calculation of impacts of cannibalisation.

Amount of compensation pursuant to the Agreement with Czech Post

The amount of compensation for the operation of DBIS is set by the Agreement with Czech Post as follows:

Operation of DBIS	**2023**	**2024**	**2025**	**2026**	**2027**
Flat fee annual amount (in thousand CZK)	712 072	711 787	711 522	711 275	711 044
Amount per message up to 1 MB (in CZK)	0,1124	0,1124	0,1124	0,1124	0,1124
Amount per message up to 20 MB (in CZK)	0,2247	0,2247	0,2247	0,2247	0,2247
Amount per message over 1 GB (in CZK)	5,8090	5,8090	5,8090	5,8090	5,8090
Weighted average per message amount (in CZK)	0,1616	0,1616	0,1616	0,1616	0,1616

Estimated per transaction fee total annual amount (in thousand CZK)	36 373	38 829	41 227	43 575	45 879
Estimated annual fees for development services (in thousand CZK)	29 243	29 243	29 243	29 243	29 243
Estimated total annual compensation (in thousand CZK)	**777 688**	**779 859**	**781 992**	**784 093**	**786 166**

The amount of compensation that will be paid pursuant to the Agreement with Czech Post will depend partially on the number of open DBs and messages that will have been in fact sent. The transaction fees will be set in three bands on the basis of the size of the data message. If the number of open DBs and messages does not reach the estimated level or the size of messages is smaller than expected, the remuneration will be lower. If the number of DBs and messages exceeds the estimated level or the size of messages is larger than expected, the remuneration will be higher.

Compliance with the 2012 SGEI Framework – other conditions

1. Genuine service of general economic interest

Pursuant to paragraph 12 of the ***2012 SGEI Framework, "[t]he aid must be granted for a genuine and correctly defined service of general economic interest as referred to in Article 106(2) of the Treaty."*** **It is explained that** ***"Member States cannot attach specific public service obligations to services that are already provided or can be provided satisfactorily and under conditions, such as price, objective quality characteristics, continuity and access to the service, consistent with the public interest, as defined by the State, by undertakings operating under normal market conditions."***

As explained above, DBIS services cannot be provided by undertakings operating under normal market conditions. A centralized system is required for DBIS to succeed. The DBIS would not be provided if the state would not require its mandatory use by the public entities and would not compensate for the usage of the DBIS, i.e. users would be required to pay for the dispatch of messages. Paid service would not maintain sufficient scale of the service. The above described benefits of electronisation and dematerialisation of the communication with the public administration would not be achieved.

DBIS is operated in the public interest, in order to provide free, guaranteed, secure, efficient and accessible system for electronic communication between individuals and public administration with a proof of delivery of the messages. The Czech Republic decided to entrust the operation of the system to Czech Post (an organisation controlled by the Czech Republic) because it wants to keep control over the DBIS due to its strategic importance for communication of the public administration.

Czech Post has not been motivated by financial/economic incentives to create DBIS, this task was imposed upon it by the state. Czech Post does not operate the DBIS

primarily in order to make profit, but in the first place to guarantee the service in line with the requirements of the Czech Republic. In fact Czech Post has lost a significant amount of revenues from delivering registered mail for public administration at the expense of electronic communication through the DBIS which generates significantly lower revenue for Czech Post (but enables significant savings for the Czech Republic and its citizens). Furthermore, the services of communication with public administration with the use of DBIS are provided free of charge to its users and the costs of the service are borne by the state.

Czech Post does not bear market risks in relation to the operation of the DBIS; Czech Post is contractually guaranteed to receive compensation for the operation of the system. Due to the importance of the system, it is not conceivable that the Czech Republic would let Czech Post fail in its duties to operate the DBIS for economic reasons related to the operation of the DBIS. DBIS cannot also be provided by any other market participant due to its strategic nature (delivery of administrative correspondence, including administrative decisions and court judgements affecting rights and duties of the entities concerned) and exceptional requirements for the security of the system.

It is clear from the information above and the information available to the Commission that DBIS, similarly to the case above, serves official administrative purpose and must fulfil strenuous requirements in relation to secrecy and security. Czech Post is therefore responsible for service of strategic importance provided outside the market.

Public consultation

Pursuant to paragraph 14 of the *2012 SGEI Framework*, "*Member States should show that they have given proper consideration to the public service needs supported by way of a public consultation or other appropriate instruments to take the interests of users and providers into account. This does not apply where it is clear that a new consultation will not bring any significant added value to a recent consultation.*"

Public consultation on operation of the DBIS has been conducted by the Ministry of the Interior. The consultation took place on 19 August 2020 from 9:30 in the premises of the Ministry of the Interior.

Invitation to the public consultation was sent to relevant bodies and organisations that represent stakeholders affected by the DBIS.

Invitation was also published at the website of the Ministry of the Interior (at the address https://www.mvcr.cz/clanek/pozvanka-na-seminar-isds-2020.aspx) and members of the general public have been given an opportunity to apply for attendance at no cost.

A letter of Karolína Sieglová, representative of the eGovernment department of the Ministry of Interior, containing an invitation to the public consultation, which was addressed towards the organisations that were invited individually (unions, associations and societies), was sent on 7 August 2020.

Representatives of stakeholders – enterprises, central as well as regional and local government entities, as well as legal professionals such as attorneys, official translators and tax advisors actively participated on the consultation. Attendance sheet of the public consultation is provided as Annex No. 7.

Conclusions from the public consultation have been published at the following address: https://www.mvcr.cz/clanek/novinky-v-governmentu-verejna-konzultace-k-informacnimu-systemu-datovych-schranek.aspx

A summary of the conclusions from the consultation is provided below.

Evidence of public need for the service

The Czech Republic notes that the consultation was held in compliance with the para 14 of the 2012 SGEI Framework which prescribes the aim of the consultation as *"to take the interests of users and providers into account."* The Czech Republic notes that the article in question does not state that the consultation must be held solely to prove that there is a public need for the SGEI in question, but requires a consultation that would take into account a plurality of interests of users. In compliance with this requirement the consultation was aimed at general review of the functioning of DBIS and the various interests of the private parties in relation to the system.

The consultation therefore fulfilled the requirements of the 2012 SGEI Framework and the DBIS operation needs to be qualified as genuine SGEI.

Summary of the outcome of the public consultation

Representatives of the Ministry of the Interior and Czech Post presented a summary of experience gained from the operation of the DBIS. A plan for the operation and development of DBIS in the period 2023 – 2027 was presented.

Members of the public confirmed their satisfaction with the existence of the DBIS appreciating that DBIS enables simple, highly secure and reliable, fast, and cheap delivery of registered messages with a proof of delivery. Messages can be checked and received abroad, e.g. during exercise of free movement within EU. DBIS avoids the necessity to visit and queue at the postal branches to pick up and send registered mail, which is all the more important at times of COVID-19.

The comments from the public did not question the justification of the continued existence of the DBIS. The attendees pleaded for further development of the DBIS and its functionalities. Following improvements were suggested:

- A member of the public noted that currently, it is possible to send messages up to 50MB in size to databoxes of public authorities. Would it be possible to forward data messages from DBIS to private mailboxes? Would it be possible to provide a larger size for data messages to be sent?
- Representatives of the Ministry of the Interior and the Czech Post explained that the current forwarding limit of 50 MB (valid for delivery to newly established databox) is considered technologically insurmountable. Larger documents will need to be stored in a guaranteed vault and only a link to the saved document will be sent in the data message. Preliminary analyses of possible solutions are currently underway.
- A member of the public asked whether it will become possible to send bulk data messages via the Public Administration Portal?
- Representatives of the Ministry of the Interior and the Czech Post explained that this is a separate application that is not part of the Data Box Information System. The request for distribution is entered via the form on the Portal, see https://portal.gov.cz/formulare/zverejneni-zverejnovane-informace-covid-19.

The Ministry of the Interior will consider publishing methodological instructions on how to use this application.

- A member of the public noted that the public would welcome long-term storage of data messages for on-demand data boxes (data boxes of physical persons and physical persons-entrepreneurs)
- Representatives of the Ministry of the Interior and the Czech Post stated that this will be one of the requirements under the new contract for the operation of DBIS.
- A member of the public enquired whether it would be possible to automatically open a data box for physical person when the person receives the e-ID card and also automatically activate the electronic identity at the NIA (National Identity Authority)?
- Representatives of the Ministry of the Interior and the Czech Post stated that, on the basis of a parliamentary initiative, it is planned to automatically set up a natural person's data box for each eID holder after its first use via the National Point for Identification and Authorization.
- A member of the public noted that DBIS would also be an effective tool for private law relationships (eg contract termination can be delivered very efficiently via DBIS); however, it is currently not possible to deliver a private data message to anyone who has not previously actively set up to receive such private messages. Shouldn't DBIS be reconfigured to allow sending and receiving private messages by default?
- Representatives of the Ministry of the Interior and the Czech Post explained that the prevailing view at present is that electronic communications should not be imposed on private entities. The goal of the system is for citizens to use it voluntarily.
- A member of the public enquired whether the DBIS is intended to become a trusted delivery system in accordance with the eIDAS Regulation and when is it planned?
- Representatives of the Ministry of the Interior and the Czech Post stated that it is not currently being considered that DBIS would be notified as a trusted service.
- A member of the public enquired whether there will be a new professional data box for arbitrators?
- Representatives of the Ministry of the Interior and the Czech Post stated that they did not have information from the relevant issue manager
- A member of the public enquired whether in case of abolition of the DBIS frontend, will there be a possibility to set up a data box via the Citizen's Portal?
- Representatives of the Ministry of the Interior and the Czech Post stated that in that case, the Citizen's Portal would of course have to contain all configuration settings.
- Members of the public enquired how the results of the public consultation will be reflected in further development of the DBIS. Consequently, the Ministry of the Interior and Czech Post have been discussing a new model for operation of the DBIS 2023+. After the current contracts expire, the Ministry of the Interior will continue fulfilling the role of the administrator of the DBIS and Czech Post will continue as operator, as mandated by law. The results of the consultation will be taken into account in the DBIS assignment for the period 2023+.

<u>Conclusion</u>

The future operation of the DBIS has been subject to a public consultation in compliance with the requirements of the EU rules. The public consultation confirmed that the DBIS fulfils the requirements for a genuine Service of General Economic Interest pursuant to para 14 of the 2012 SGEI Framework. In relation to the nature of DBIS as a genuine Service of General Economic Interest see in greater detail Annex No. 6.

2. Entrustment act

Pursuant to paragraph 15 *et seq.* of the *2012 SGEI Framework, "[r]esponsibility for the operation of the SGEI must be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each Member State." It is explained that* "[t]he act or acts must include, in particular:

a. the content and duration of the public service obligations;

b. the undertaking and, where applicable, the territory concerned;

c. the nature of any exclusive or special rights assigned to the undertaking by the granting authority;

d. the description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation; and

e. the arrangements for avoiding and recovering any overcompensation."

The conditions for the operation of DBIS are set up in the Act, which states in Section 14(2) that "*The administrator of the information system of data boxes is [Ministry of the Interior of the Czech Republic]. The operator of the information system of data boxes is the postal license holder*". Article II, para. 4 of the Act No. 221/2012 Sb., amending Act No 29/2000 Sb., on postal services and amending certain acts (the Postal Services Act), states that "*if specific legislation to ensure activities other than the provision of postal services provides that the postal holder is an obliged person, this means Czech post, or its legal successor.*"

Czech Post thus will be entrusted to operate DBIS by the Act as from 1 January 2023 in the whole territory of the Czech Republic (letters b. and c. above).

As regards, letter a., c., d. and e., the Czech Republic notes that the entrustment will be further specified in the Agreement with Czech Post (see draft in Annex No. 2), which sets out:

- **the content of the public service obligation in Article 4 of the Agreement with Czech Post with detailed description of the service in the Annex 1 and quality parameters (SLA) of the service in Annex 2;**
- **the duration of the public service obligation (five years as from 1 January 2023) in Articles 5.1, 16. 1 and 16.2 of the Agreement with Czech Post;**
- **the description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation are set in Article 6 of the Agreement with Czech Post and Annex 3; and**
- **the arrangements for avoiding and recovering any overcompensation in Article 6.5 of the Agreement with Czech Post with detailed provisions on the review of overcompensation in Annex 3.**

3. Compliance with procurement rules

Pursuant to paragraph 19 of the *2012 SGEI Framework*, *"[a]id will be considered compatible with the internal market on the basis of Article 106(2) of the Treaty only where the responsible authority, when entrusting the provision of the service to the undertaking in question, has complied or commits to comply with the applicable Union rules in the area of public procurement. This includes any requirements of transparency, equal treatment and non-discrimination resulting directly from the Treaty and, where applicable, secondary Union law."*

The Agreement with Czech Post shall be concluded based on the exemption from public procurement rules embedded in Section 29 q) of the Public Procurement Act based on the exception in art. 11 of the Procurement Directive. The Czech Republic provides a detailed overview of arguments regarding the compliance of the entrustment of the operation of DBIS to Czech Post in Annex No. 5 explaining in particular that (i) the nature of DBIS justifies the granting of the exclusive right, (ii) the restrictions associated with granting the exclusive right to Czech Post to ensure the operation of the DBIS are in proportion to the general interest pursued, and (iii) the Czech Post fulfils the definition of a contracting authority.

The compliance of this exception with EU law was already confirmed by an inter-service consultation with DG GROW in course of the notification of DBIS for the period 2018-2022.

4. Efficiency incentives

Pursuant to paragraph 39 *et seq.* of the *2012 SGEI Framework*, "*Member States must introduce incentives for the efficient provision of SGEI of a high standard, unless they can duly justify that it is not feasible or appropriate to do so.*" It is explained that *"[e]fficiency incentives can be designed in different ways to best suit the specificity of each case or sector. For instance, Member States can define upfront a fixed compensation level which anticipates and incorporates the efficiency gains that the undertaking can be expected to make over the lifetime of the entrustment act. Alternatively, Member States can define productive efficiency targets in the entrustment act whereby the level of compensation is made dependent upon the extent to which the targets have been met."* In any event, *"[a]ny such mechanism for incentivising efficiency improvements must be based on objective and measurable criteria set out in the entrustment act and subject to transparent ex post assessment carried out by an entity independent from the SGEI provider."*

To fulfil this requirement, the Agreement with Czech Post will set strict SLAs

and a payment which will be a combination of a flat monthly fee and a transaction fee. The flat fee will be set in bands on the basis of the number of the open DB. The levels of the fee relate to the increased costs related to substantial increases in requirements for data storage and systems capacity due to increasing number of DB.

The transaction fee will be a multiple of the number of data messages sent per month. The transaction fees will be set in three bands on the basis of the size of the data message. This differentiation takes into account the increasing requirements

on capacity of the system and required data storage. (See Annex 3 of the Agreement with Czech Post).

It is estimated that the average prices per message for individual years will be a substantially decreasing over the course of the notified measure.

Operation of DBIS	**2023**	**2024**	**2025**	**2026**	**2027**
Estimated number of messages (in thousands)	222 175	237 082	251 630	265 864	279 833
Estimated total annual compensation (in thousand CZK)	777 688	779 859	781 992	784 093	786 166
Estimated total annual compensation per message (in CZK)	3,50	3,29	3,11	2,95	2,81

Finally, as the estimated net avoided costs of DBIS operation for the Czech Post (Annex No. 4) are substantially higher than the expected remuneration from the DBIS operation. Czech Post will thus be motivated constantly to increase its efficiency to recoup the greatest possible share of the costs related to DBIS operation.

5. Account separation

Pursuant to paragraph 44 of the *2012 SGEI Framework*, *"[w]here an undertaking carries out activities falling both inside and outside the scope of the SGEI, the internal accounts must show separately the costs and revenues associated with the SGEI and those of the other services in line with the principles set out in paragraph 31. Where an undertaking is entrusted with the operation of several SGEIs because the granting authority or the nature of the SGEI is different, the undertaking's internal accounts must make it possible to verify whether there has been any overcompensation at the level of each SGEI."*

In this respect, the Czech Republic notes that Czech Post is obliged to keep separate accounts for the universal postal services under the Act No 29/2000, on postal services and amending certain acts (the Postal Services Act). It is technically possible to ensure that this obligation is fulfilled only when the costs of each service (with a substantial importance), including the costs of non-postal services such as DBIS, are kept separately.

Moreover, Czech Post must keep separate accounts for DBIS because, pursuant to Article 7.11 of the Agreement with Czech Post, it has an obligation to report its income and costs related to DBIS to the Ministry.

In addition, the Agreement with Czech Post states in Article 7.10 that Czech Post is required to maintain separate accounts.

6. Control and recovery of overcompensation

Overcompensation constitutes incompatible State aid. Therefore, pursuant to paragraph 49 *et seq.* of the *2012 SGEI Framework*, *"[Member States] must carry out regular checks, or ensure that such checks are carried out, at the end of the period of entrustment and, in any event, at intervals of not more than three years. For aid grated by means other than a public procurement procedure with publication, checks should normally be made at least every two years."*

In this respect, the Czech Republic notes that regular checks that Czech Post is not receiving compensation in excess of the amount determined in accordance with *2012 SGEI Framework* (and going above its requirements) will be carried out every year and a final check will be carried out at the end of the period of entrustment.

To this end, the Agreement with Czech Post contains a provision in Article 6.5.

7. Absence of serious competition distortions

Pursuant to paragraph 52 *et seq.* of the *2012 SGEI Framework*, in some exceptional circumstances, serious competition distortions in the internal market could remain unaddressed and the aid could affect trade to such an extent as would be contrary to the interest of the Union, even though other requirements of the *2012 SGEI Framework* are fulfilled.

In this respect, the Czech Republic notes that there are no competition distortions because of DBIS. *DBIS cannot be effectively maintained by private entities, as was illustrated above, however add-on services are open for private enterprises to utilise. DBIS therefore stimulates competition since its interface is open for commercial applications of third parties (especially for document management and archival services).*

It should also be noted that prior to the introduction of DBIS registered letters were delivered exclusively by Czech Post as the sole holder of the postal licence.

For practical reasons, it is recommended to number the documents provided as annexes and to refer to those document numbers in the relevant sections of the supplementary information sheets.