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Subject: State Aid SA.105065 (2022/N) – Czechia
TCF: EGAP Plus

Excellency,

1. PROCEDURE

(1) By electronic notification of 29 November 2022, Czechia notified aid in the form of a loan guarantee scheme for exporting medium ([1]) and large undertakings (*Provisions of the Law on Insurance and Financing of Exports with State Support in Relation to the Guarantee Provided as part of State Support of the Economy in Response to Russia's Aggression Against Ukraine*, the "measure") under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the "Temporary Crisis Framework") ([2]).

([1]) Medium enterprises are defined as undertakings with 100 employees or more.

([2]) Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p. 1) This Temporary Crisis Framework ('current Temporary Crisis Framework') replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) ('previous Temporary Crisis Framework'). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

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(2) Czechia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958 ([3]) and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) Czechia considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken by Russia ("the current crisis") so far affects the real economy. The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. Annual inflation is expected to accelerate further in the second half of the year and approach 20%. The average rate of inflation should thus reach 16.2% this year. The external trade balance has also reduced economic growth, not only because of weak exports but also due to a recovery in import-intensive investment activity and continued accumulation of inventories, which boosted import growth. The Czech economy should experience a mild recession in the second half of the year. According to the composite leading indicator, the Czech economy will most likely remain below potential output in Q2 and Q3 2022 in response to the war in Ukraine, problems in supply chains and rising inflationary pressures.

(4) The Czech economy is strongly export-oriented and strongly dependent on trade relations with foreign countries, as reflected by the ratio of exports of goods to GDP which amounted to 62.1% in 2021. The composite indicator of exports of goods indicates a year-on-year decline in exports of goods. Czechia argues that exports have been and continue to be one of the most affected areas of the Czech economy as a result of international and Russian sanctions, which restrict economic activities in relation to Russia and Belarus and the satisfaction of claims from these regions. Furthermore, the rising price of production and the disruption of supply chains is also having a negative impact on Czechia's export-oriented enterprises even if they are focused on other markets. For these reasons, the measure is aimed at supporting the liquidity needs of export-oriented enterprises as business entities which, as a result of the current crisis, have a need for additional liquidity, both in terms of working capital and investment needs with a view to innovation and improvement of production or services. Thus, the measure aims to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia.

(5) Czechia confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Czechia granting the aid.

([3]) Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(6) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 1 and 2.2 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(7) The measure provides aid in the form of guarantees on loans.

2.2. Legal basis

(8) The legal basis for the measure consists of:

(a) The Act No. 58/1995 Coll. on insurance and financing of exports with State support and on amendments to Act No. 166/1993 Coll., on the Supreme Audit Office, as amended by Act No. 214/2020 Coll. and the amendment No. 363/2022 Coll.; and

(b) Government Regulation No.364/2022 of 30 November 2022 Coll. on the implementation of certain provisions of the Act on Insurance and Financing of Exports with State Aid in relation to the guarantee provided within the framework of State aid for the economy in response to aggression of Russia against Ukraine.

2.3. Administration of the measure

(9) The State-owned Czech Export Guarantee and Insurance Corporation (hereinafter referred to as "EGAP") is responsible for administering the measure.

2.4. Budget and duration of the measure

(10) The initial monetary contribution to the fund to cover liabilities from the export insurance company's guarantees from the State budget is proposed in the amount of CZK 500 million (approximately EUR 20 million). The Czech authorities estimate that this sum shall leverage guarantees in the amount of up to CZK 6.25 billion (approximately EUR 256 million).

(11) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2023.

2.5. Beneficiaries

(12) The final beneficiaries of the measure are business entities with more than one hundred employees incorporated or registered in Czechia for which exports amount to at least 25% of their total sales revenues in the preceding financial year. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.

(13) Aid is granted under the measure through credit institutions and other financial institutions as financial intermediaries.

(14) Czechia confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

(15) Czechia confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations ([4]). In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

(16) The measure applies to the whole territory of Czechia and is open to all sectors, except credit institutions or other financial institutions as well as the ones explicitly mentioned in recital (17).

(17) Apart from credit institutions or other financial institutions, these sectors are excluded (NACE codes used):

- undertakings in accommodation business (Code 55);
- travel agencies, tour operators and other reservation services and related activities (Code 79); and
- undertakings in gambling and betting activities (Code 92).

2.7. Basic elements of the measure

2.7.1. Nature of the qualifying loans

(18) The State guarantee covers losses incurred on new working capital loans and new investment loans to the eligible undertakings, with a maximum maturity of six years and which are contracted in the period referred to in recital (11). Czechia confirms that the loans cannot be targeted at specific export projects or cover liquidity needs exclusively related to a specific export transaction or export credit, and that beneficiaries may receive support from EGAP under the measure for needs unconnected with their export activities. Hence the measure does not qualify as export aid for intra-Union trade and for exports outside the Union.

2.7.2. Eligibility Conditions

(19) The beneficiaries will be selected in compliance with the following eligibility criteria: exporters, producers and commercial entities which:

(a) had in the last accounting period more than 100 employees,

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([4]) For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

(b) provide evidence that the share of exports of goods and services on their annual sales revenues reached at least 25% (manufacturing plants shall demonstrate the export share indirectly through the exporter's export share),

(c) submit an affidavit to the lending bank that they are directly or indirectly negatively affected by either the military aggression against Ukraine or the imposed economic sanctions or the countermeasures in connection with this aggression,

(d) have not used the public support instrument in the context of COVID-19 pandemic which is provided in the form of guarantees to cover liquidity needs above the limit specified (for details, see point 2.8 "Cumulation"),

(e) do not make use of a public support instrument in the context of economic support following the aggression by Russia against Ukraine which is provided in the form of interest subsidies on the same underlying credit,

(f) prove to the lending bank with certificates that are not older than 30 days before the date of submission of the application for the provision of the guarantee that they are a debt-free legal person.

2.7.3. Maximum amount of the guarantee

(20) The guarantee applies to the loan principal of the qualifying loans, and cannot exceed:

(a) 90% of the loan principal in case the loan provider is rated by EGAP on the rating scale as “B” or better, and

(b) 80% of the loan principal in case the loan provider is rated by EGAP on the rating scale as “B -”.

(21) In any case, the losses are sustained proportionally and under same conditions, by the credit institution and EGAP. Furthermore, the Czech authorities confirmed that when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

2.7.4. Maximum duration of the guarantee

(22) The guarantee duration must not exceed six years.

2.7.5. Remuneration of the guarantee

(23) The guarantee is remunerated on a per loan basis; it is based on a progressive premium taking into account the maturity of the underlying qualifying loans, as follows:

Rating of Insurance ECA	Guarantee premium for 1st year (p.a.)		Guarantee premium for 2nd and 3rd years (p.a.)		Guarantee premium for 4th – 6th years (p.a.)	
	Large enterprises	SMEs	Large enterprises	SMEs	Large enterprises	SMEs
B + and higher	0,50%	0,25%	1,00%	0,50%	2,00%	1,00%
B	0,68%	0,34%	1,35%	0,68%	2,00%	1,00%
B -	1,30%	0,65%	2,00%	1,00%	2,25%	1,13%

(24) According to the Czech authorities, the fact that the measure is open to all banks, and that the interest rate margin is capped (recital (28)), ensures that the aid will be passed on to the final beneficiaries.

2.7.6. Mobilisation of the guarantee

(25) The Czech authorities confirm that the mobilisation of the guarantee is contractually linked to specific conditions agreed between the parties when the guarantee is initially granted.

2.7.7. Maximum amount of the qualifying loans and additional provisions

(26) The credit granted by the lending bank to the credit beneficiary will be added to the total of all granted credits guaranteed under the measure by the Export Insurance Company, which taken altogether will not exceed 15% of the average total annual turnover ([5]) of the credit beneficiary for the last three closed accounting periods.

(27) The maximum amount of all granted credits guaranteed (recital (26)) shall be reduced by the amount of unpaid principal of credits covered by any guarantee provided to the beneficiary under State aid schemes approved in connection with the COVID-19 pandemic (recital (31)).

(28) The resulting amount of the loan provided is at least of the amount corresponding to CZK 5 million (approximately EUR 205 000), while the financial intermediaries are required to keep their interest rate margins limited to:

(a) 1.5% per annum for loans with maturity of up to one year,

(b) 1.75% per annum for loans with maturity of up to three years, and

(c) 3% per annum for loans with maturity of up to six years.

([5]) The turnover corresponds to the total revenue from the sale of products, the provision of services and the sale of goods.

2.8. Cumulation

(29) The Czech authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations ([6]) or Regulation No 651/2014 “GBER” or / and Regulation 702/2014, “ABER” or / and Regulation 1388/2014 for MARE activities ([7]) provided the provisions and cumulation rules of those Regulations are respected.

(30) The Czech authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(31) The Czech authorities confirm that aid under the measure may be cumulated with aid under the “COVID Plus” scheme, which was originally approved by the Commission on 5 May 2020 (SA.57094), and subsequently amended on 20 July 2020 (SA.58015), 23 December 2020 (SA.60374), and on 31 March 2021 (SA.61824). Those measures were approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ([8]) (COVID-19 Temporary Framework) and the aid under the notified measure may be cumulated with those measures provided the respective cumulation rules are respected.

(32) The Czech authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis Framework provided the provisions in those specific sections are respected.

([6]) 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), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), 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) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

([7]) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 of 26.6.2014, p. 1), Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1) and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

([8]) Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

(33) The Czech authorities confirm that for the same underlying loan principal aid granted under section 2.2 of the Temporary Crisis Framework will not be cumulated with aid granted under section 2.3 of that framework and vice versa or with aid granted under sections 3.2 or 3.3 of the COVID-19 Temporary Framework. For different loans, aid granted under section 2.2 may be cumulated with aid granted under section 2.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 61(e) of the Temporary Crisis Framework.

(34) The Czech authorities confirm that when the overall amount of the loan is calculated on the basis of liquidity needs of the beneficiary point 61(e)(iii) of the Temporary Crisis Framework), the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the COVID-19 Temporary Framework.

(35) A beneficiary may benefit in parallel from multiple schemes under section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 61(e) of the Temporary Crisis Framework.

2.9. Monitoring and reporting

(36) The Czech authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting ([9])).

3. ASSESSMENT

3.1. Existence of State aid

(37) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(38) The measure is imputable to the State, since it is administered by EGAP and it is based on Act No. 58/1995 Coll., as last amended by Act. No. 363/2022 Coll., and on Government Regulation No.364/2022 (recital (8)). It is financed through State resources, since it is financed by public funds (recital (10)).

([9]) Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

(39) The measure confers an advantage on its beneficiaries in the form of guarantees on loans not in line with market conditions. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(40) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular medium and large undertakings registered in Czechia, and excludes the financial sector and undertakings pertaining to certain other sectors (recitals (17) and (19)).

(41) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(42) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Czech authorities do not contest that conclusion.

3.2. Compatibility

(43) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(44) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(45) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Czechia. The Commission concluded that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU for a limited period if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.

(46) The measure aims at addressing the liquidity needs of undertakings affected by the current crisis at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Czechia.

(47) The measure is one of a series of measures conceived at national level by the Czech authorities to remedy a serious disturbance in their economy. The importance of the measure to mitigate medium and large companies' refinancing challenges is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Czech economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Liquidity support in the form of guarantees*") described in section 2.2 of the Temporary Crisis Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in point 61(i) and point 64(g) of the Temporary Crisis Framework.

(48) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Czechia and meets all the relevant conditions of the Temporary Crisis Framework. In particular:

- Guarantees may be granted on new individual loans made to undertakings (recitals (1), (12) and (19)). The measure therefore complies with point 61(a) of the Temporary Crisis Framework.

- The measure limits the duration of the guarantees to a maximum of 6 years (recital (18)). The measure sets minimum levels for guarantee premiums. On loans with a 90% guarantee granted to enterprises with credit ratings B+ and higher and a maturity of, respectively, 1, 2 to 3, and 4 to 6 years, the minimum levels for guarantee premiums are set at 25, 50 and 100 bps for SMEs and 50, 100 and 200 bps for large companies (*premia* for enterprises with lower rating classes are always set higher than the minimum rates provided by point 61(b) of the Temporary Crisis Framework) (recitals (20) and (23)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (21)). The measure therefore complies with the guidance provided in point 61(b) and (f) of the Temporary Crisis Framework.

- Guarantees may be granted under the measure by 31 December 2023 at the latest (recital (11)). The measure therefore complies with point 61(d) of the Temporary Crisis Framework.

- The maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 61(e) of the Temporary Crisis Framework (recitals (26) to (28)). The Czech authorities confirm that the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the COVID-19 Temporary Framework (recital (27)). The measure therefore complies with point 61(e) of the Temporary Crisis Framework.

- Guarantees granted under the measure relate to investment and working capital loans (recitals (1) and (18)). The measure therefore complies with point 61(h) of the Temporary Crisis Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. In particular, the fact that the measure is open to all banks, and that there is an interest rate margin cap mechanism (recital (28)), ensure competition among banks and that the aid will be passed on to the largest extent possible to the final beneficiaries. The measure therefore complies with point 61(i) of the Temporary Crisis Framework.

- The cumulation rules set out in point 60 of the Temporary Crisis Framework are respected (recitals (29) to (35)).

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (25)).

(49) The Czech authorities confirm that, pursuant to point 46 of the Temporary Crisis Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of Czechia. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (5)).

(50) The Czech authorities confirm that, pursuant to point 47 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recitals (14) and (15)).

(51) The Czech authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (36)). The Czech authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (29) to (35)).

(52) Czechia confirms that the loans cannot be targeted at specific export projects or cover liquidity needs exclusively related to a specific export transaction or export credit and that beneficiaries may receive support from EGAP under the measure for needs unconnected with their export activities (recital (18)). The Commission therefore agrees that the measure does not qualify as export aid for intra-Union trade and for exports outside the Union.

(53) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Czechia pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Crisis Framework.

4. CONCLUSION

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

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION