



EUROPEAN COMMISSION

Brussels, 29.9.2016
C(2016) 6340 final

**Subject: State Aid SA.41540 (2015/N) – Republic of Lithuania
Aid to public legal persons - Science and Technology Parks (STPs)**

Sir,

1 PROCEDURE

- (1) By electronic notification dated 14 April 2015, registered by the Commission on the same date, the Lithuanian authorities notified the above-mentioned measure to the Commission pursuant to Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU"). The measure stems from the Lithuanian authorities' intent to grant State aid to Science and Technological Parks (hereinafter referred to as STPs), i.e. public entities participated by the State or a municipality, a public higher-education school or a research organization, designed to promote the creation and development of innovative undertakings, as well as the implementation of innovations and entrepreneurship.
- (2) Following the clarifications provided by letter of the Lithuanian authorities on 17 November 2015, the scope of the notified measure is confined to the transfer of State-owned buildings to two STPs, Kaunas STP and Klaipeda STP, under a trust contract of 20-year period.
- (3) The Commission requested supplementary information by letters dated 11 June 2015, 21 September 2015, 15 January 2016, 16 March 2016, 23 March 2016, 12 May 2016 and 21 June 2016. The Lithuanian authorities submitted their replies on 16 July 2015, 17 November 2015, 08 March 2016, 29 March 2016, 01 June 2016, 05 July 2016 and 12 September 2016. Additionally, a meeting was held between the Commission services and the Lithuanian authorities on 15 October 2015, as well as a video conference on 15 April 2016.

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- (4) By letter dated 5 July 2016, Lithuanian authorities agreed to waive their rights deriving from Article 342 of the TFEU in conjunction with Article 3 of Regulation 1/1958¹ and to have the present decision adopted and notified in English.

2 DESCRIPTION OF THE MEASURE

2.1 Scope, objective and duration of the measure

- (5) The Lithuanian authorities intend to introduce amendments to Article 15 of the Lithuanian Law on science and education, with a view to providing STPs the possibility to be eligible for State or municipal support, notably in the form of transfer of public property under trust contract to manage and use the transferred facilities for a period up to 20 years, in order to lease this property to SMEs that will engage in applied research and implementation of innovations.
- (6) Out of nine² STPs in Lithuania, the notified measure only concerns the transfer of State-owned buildings to Kaunas STP and Klaipeda STP, under a trust contract for management and use of the facilities for a period of 20 years. These two STPs will be also conferred the right to rent these assets to Small and Medium-sized Enterprises (hereinafter referred to as SMEs) which will carry out research and development activities and will implement innovations.
- (7) Up to present, the two beneficiary STPs have been leasing the buildings covered by the notified measure from the Lithuanian State at market price (since 2011, under public tender procedures) and have been using them to grant access to the facilities and to provide innovation support and advisory services, as well as R&D&I project-related and consultancy services to SMEs incubated or hosted within their premises. Upon the entry into force of the measure, the STPs will be exempted from the payment of the lease.
- (8) Kaunas STP and Klaipeda STP are the only STPs in Lithuania that operate in State-owned buildings. The other STPs in Lithuania are owners of their buildings, except for one STP that currently rents the buildings from private lenders. The Lithuanian authorities have confirmed that any STP that finds itself in the same objective conditions as Kaunas STP and Klaipeda STP (i.e. renting out their buildings from the State) would become a beneficiary of the measure.
- (9) According to the Lithuanian authorities, no advantage will remain at the level of STPs, as it will be fully transferred as *de minimis* aid to the final beneficiaries (the incubated SMEs) through a variety of innovation support services provided to them at reduced prices or for free within the limits established by 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* aid³ (hereinafter referred to as the *De minimis* Regulation).
- (10) The Lithuanian authorities have provided assurances that the STPs do not receive any other form of support from the State budget. In any event, should that be the case, such additional support would fall outside the scope of the present procedure,

¹ Council Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385

² One more entity is registered as an STP, but it is *de facto* not operating as such.

³ OJ L 352, 24.12.2013, p. 1–8

and will have to be notified to the Commission if it amounts to State aid within the meaning of Article 107(1) of TFEU.

- (11) The duration of the measure is 20 years – until 31 December 2035.

2.2 Legal basis, Granting authority and Budget of the measure

- (12) The legal basis of the measure is the draft law amending Article 15 of the Law No XI-242 of the Republic of Lithuania on science and education⁴.
- (13) The granting authority is the Ministry of the Economy of the Republic of Lithuania (Gedimino pr. 38, LT-01104, Vilnius, Lithuania).
- (14) Following the Lithuanian authorities' clarifications as regards the two aforementioned STPs, as well as the value of the foregone rent that those STPs ought to pass-on to the SMEs incubated in their premises, the budget of the measure is estimated at EUR 5 922 802 (see recital (18) below).

2.3 Beneficiaries

2.3.1 At the level of the STPs

- (15) Kaunas STP was established as non-for-profit public law legal entity following a merger between the Regional Science Park of Kaunas University of Technology, Kaunas High-Tech and Information Technology Park and Kaunas Regional Innovation Centre (the decisions of the respective general meetings of stakeholders on the approval of the Articles of association of Kaunas STP were taken on 31.12.2014). Its main fields of activity are the provision of business and innovation support services to knowledge-intensive companies and incubation services to newly established companies.

⁴ The Lithuanian authorities submit also the other national legislation that is applicable to the regulation and activities of STPs:

1. Resolution No 902 of the Government of the Republic of Lithuania of 11 July 2003 on science and technology parks (Official Gazette, 2003, No 70-3189);
2. Order No 4-130 of the Minister for the Economy of 17 February 2010 approving the recommendations for planning science and technology parks and improving the evaluation system (Official Gazette, 2010, No 23-1098);
3. Resolution No 1281 of the Government of the Republic of Lithuania of 18 December 2013 approving the Lithuanian Innovation Programme for 2014-2020 (Official Gazette, 2013, No 140-7110);
4. Resolution No 228 of the Government of the Republic of Lithuania of 25 February 2015 amending Resolution No 963 of the Government of the Republic of Lithuania of 18 July 2003 on the development concept of science and technology parks;
5. Resolution No XI-2015 of the Seimas of the Republic of Lithuania of 15 May 2012 approving the National Progress Strategy "Lithuanian Progress Strategy Lithuania 2030" (Official Gazette, 2012, No 61-3050);
6. Law of the Republic of Lithuania on science and education (Official Gazette, 2009, No 54-2140);
7. Resolution No 16 of the Government of the Republic of Lithuania of 5 January 2001 approving the Procedure for the transfer of public property for management, use and fiduciary disposal (Official Gazette, 2001, No 3-48; 2009, No 90-3903).
8. Resolution No 1524 of the Government of the Republic of Lithuania of 14 December 2001 on the lease of tangible public property (Official Gazette, 2001, No 106-3814).
9. Law of the Republic of Lithuania on the development of small and medium-sized business (Official Gazette, 1998, No 109-2993; 2013, No 79-3991).

(16) Klaipeda STP was established in 2002 by Klaipeda University and the Ministry of the Economy as non-for-profit public law legal entity. It specializes in the areas of blue (marine – construction of ships, maritime transport, aquaculture, offshore energy projects) and green (environmental research for conservation of natural resources) technologies; naturally, such a specialization is one of the general criteria for admission of SMEs.

2.3.2 At the level of the SMEs

(17) In order to achieve the objective of the aid measure, the two STPs will provide innovation support or innovation advisory services to the incubated SMEs. These services are subdivided in eight groups in the Lithuanian Concept of the development of science and technological parks⁵. The actual services provided by each STP may vary depending on the SMEs activities and their potential needs.

2.4 Economic advantage

2.4.1 At the level of Kaunas STP and Klaipeda STP

(18) The economic advantages to be conferred by the notified measure to the two beneficiary STPs stem from the rent forgone by the State, which would have otherwise been due and for the 20-years duration of the measure and amount to:

Name of the beneficiary	Type of the advantage	Total value of the advantage EUR
Kaunas STP 4 buildings to be transferred under the notified measure: Building K. Petrausko st. 26 Building K. Baršausko st. 59 Building Studentų st. 65 Building Breslaujos st. 3B	Rent foregone for 20 years:	3 468 135
Klaipėda STP 2 buildings to be transferred under the notified measure: Building STP V. Berbomo st. 10 Building Incubator H. Manto st. 84	Rent foregone for 20 years	2 454 667 ⁶
Total for the measure:	Rent of current assets foregone for 20 years	5 922 802

(19) The Lithuanian authorities provided the above estimations based on historical data and reasonable projections, pointing out that these may be subject to adjustments in the coming 20-years period, as predictions regarding the evolution of the rental market over the next 20 years may be prone to errors.

(20) The Lithuanian authorities committed to ensure that the government (municipal) property-related assets allocated to STPs for a 20 year period under the trust agreement will not be transferred to any third party under the right of ownership, STPs will not be able to mortgage it or otherwise encumber rights to it, use it as a

⁵ Adopted by the Government of the Republic of Lithuania by Resolution N. 963 of 18 July 2003, as amended by Resolution N. 228 of 25 February 2015

⁶ Includes preliminary estimations of the rental, as the building is still not in use

guarantee, warranty or otherwise use it for the insurance of the performance of own obligations or obligations for other persons. Such property will be used solely for the implementation of the functions assigned to STPs by the laws.

2.4.2 At the level of the incubated SMEs

- (21) The Lithuanian authorities state that no advantage will remain at the level of STPs, as it will be fully passed on to SMEs incubated by the STPs through reduced prices of services or services provided to them free of charge within the limits set out in the *de minimis* Regulation.
- (22) Both Kaunas STP and Klaipeda STP will provide to the incubated SMEs innovation advisory and innovation support services⁷, depending on SMEs' activity and needs. These services generally fall into the following eight groups:
- a) access to physical infrastructure and services related to its maintenance;
 - b) technical and technologic services;
 - c) technologic partnership services;
 - d) innovation management services;
 - e) support services for access to innovation funding;
 - f) intellectual property management services;
 - g) support for dissemination of scientific and technical information;
 - h) innovation promotion services.
- (23) In order to be admitted for incubation into a STP, SMEs have to fulfil certain criteria adopted by each STP in accordance with its internal rules. The final beneficiaries are innovative SMEs that intend to engage in applied research and development, or intend to implement innovations.
- (24) The number of incubated SMEs in a given STP is estimated on provisional basis between 50 and 100. More precisely, for Kaunas STP the total provisional number of SMEs which are to be incubated (i.e. included into the pass-on mechanism) from 2017 onwards is 94, calculated as average between the current and maximum occupation at a 95% occupational rate (based on historical data)⁸. As regards Klaipeda STP, the Lithuanian authorities estimate that, for the next 10 years as from 2017, this STP will host 43 incubated SMEs in total – 23 in the STP building and 20 in the Incubator⁹.

⁷ In accordance with point 15 (r) R&D&I Framework and Article 2 (94) GBER, '**innovation advisory services**' mean consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them. Moreover, in accordance with point 15(t) R&D&I Framework and Article 2 (95) GBER, '**innovation support services**' mean the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purpose of developing more effective products, processes or services.

However, due to the fact that any economic advantage conferred to the SMEs by the provision of these services will be governed by *de minimis* rules, neither the precise classification of the services, nor their exact content are of decisive importance for the position of the Commission on this measure.

⁸ Currently in Kaunas STP there are 80 SMEs already present and the maximum capacity is 102 undertakings.

⁹ Currently in Klaipeda STP there are 22 incubated SMEs in the STP building and the Incubator's building is still to be put in operation.

- (25) STPs can also host enterprises other than the incubated SMEs. However, these enterprises may only obtain the services provided by the STP at market prices. Price reductions for business incubation services will therefore not apply to these enterprises, i.e. they will not benefit from *de minimis* aid¹⁰.
- (26) The aforementioned services (see recital (22) above) will be provided to the incubated SMEs by specialists and experts working in the STPs. In case the services are of such a nature that the STPs would lack qualified personnel (such as notary's, accounting and audit, property appraisal, etc.), these services may be provided at market prices by other undertakings hosted into the STP. In this way, any possible indirect aid to undertakings other than the incubated SMEs but operating within the STPs will be excluded.

2.4.3 *Pass-on of the total economic advantages conferred to the STPs to the final beneficiaries – the incubated SMEs*

- (27) The Lithuanian authorities have provided commitments ensuring that any aid to the incubated SMEs will comply with the *de minimis* Regulation.
- (28) In particular, each STP will set the price rates for innovation support and advisory services. On this basis, *de minimis* aid not exceeding EUR 200 000 over rolling periods of three years will be granted to the incubated SMEs.
- (29) Monitoring of compliance with the *de minimis* rules will be performed by the STPs. The STPs will be responsible for clawing-back any aid amount exceeding the *de minimis* ceilings.
- (30) The incubated SMEs will be given price reductions (partial or full – i.e. services provided for free) on the services provided, including rent of office spaces and consultancy services. In addition, Klaipeda STP will provide rent of conference rooms and equipment^{11,12}.

¹⁰ The number of such undertakings may not exceed 20% of the total number of undertakings hosted in Klaipeda STP and 10% of the total number of undertakings hosted in Kaunas STP.

¹¹ The specific discounts to be applied by each of the STPs are as follows:

Kaunas STP:

- Office space rent discounts apply only for the first three years: 1st year – 60% discount; 2nd year – 40% discount; 3rd year – 20% discount;
- Consultancy services provided by Kaunas' employee specialists: 20 hours per week per SME ,up to 100 hours per year per SME.

Klaipeda STP:

- Meeting rooms rent discounts, applicable to the SMEs hosted in the STP building: up to 10 hours per month per SME free of charge;
- Office space rent discounts applicable to the SMEs hosted in the incubator building: 30% discount on 6m² out of the total surface rented;
- Simulation and industrial equipment rental discount, applicable to the SMEs hosted in the incubator building: 6 hours per month per SME for free
- Consultancy services provided by Klaipeda's employee specialists, applicable for SMEs in both STP and incubator buildings: up to 10 hours per month, i.e. 120 hours per SME per year free of charge.

¹² Annual estimate of the average value of the advantages (rent and services) to be passed-on to a single SME is a relatively small amount, based on current prices: for Kaunas STP - approximately 2 000 EUR, and for Klaipeda STP - around 2500 EUR for an SME incubated in the STP's building and around 5300 EUR for an SME incubated in the Incubator's building

- (31) The Lithuanian authorities submit that the prices of consultancy services provided to the SMEs are calculated for both STPs based on their expenses¹³.
- (32) In the course of the investigation a reality check was sought in order to verify the viability of the suggested pass-on of the total economic advantage conferred to the STPs to the final beneficiaries – the incubated SMEs. To this end, the Lithuanian authorities provided simulations whereby they demonstrated the suggested pass-on mechanism by way of comparison over the 20-years period of the values of the advantages conferred to each of the STPs (in the form of a rent forgone for the buildings transferred to them) with the values of the advantages passed-on to the SMEs. For Kaunas STP, the latter included data on the values of free-of-charge consultations and office space rental discounts, and for Klaipeda STP, data on the values of free-of-charge consultations, meeting rooms rental discounts, office space rental and equipment rental discounts¹⁴. On balance, the simulations demonstrated that for both STPs the pass-on mechanism is likely to achieve equilibrium, and if any difference remains, it will be insignificant and subject to an additional claw-back mechanism as explained in Section 3 below.

3 COMMITMENTS

- (33) In order to introduce a viable mechanism for the full pass-on of the advantages conferred to these two STPs, the Lithuanian authorities committed to the following.
- (34) Firstly, the Lithuanian authorities commit that both Kaunas STP and Klaipeda STP, for the duration of the measure, will make publicly available, through announcing on their web sites (or through other suitable means) at the beginning of each year:
- a) the price lists of all services that they will provide to the SMEs, as well as the rental rates applicable to the SMEs;
 - b) the rules and conditions under which SMEs will be admitted for incubation into the respective STP;
 - c) the price discounts (full or partial) for services and rent that the incubated SMEs will be entitled to.
- (35) Secondly, the Lithuanian authorities commit to perform, by 30 April every year, annual audits in each notified STP in order to monitor and control the correct implementation of the pass-on mechanism. These annual audits will be performed by certified independent external auditors and will be aimed at verifying and comparing:
- a) the amount of the rent foregone by the Lithuanian State for the buildings and other assets transferred to Kaunas STP and Klaipeda STP (adjusted annually in line with the inflation rate or any other index commonly applicable in Lithuania in the real estate rental market) with

¹³ In particular, for Kaunas STP the current price for consultancy services is EUR 17.02 per hour, and for Klaipeda STP – the current price is EUR 15.00 per hour.

¹⁴ See footnote 12 above.

- b) the amount resulting from the difference between the prices paid by the incubated SMEs to each one of the two above mentioned STPs for the services obtained on a year-by-year basis (i.e. for the year under audit), including the provision of office space, and the market prices actually applicable to each one of the relevant services and office rents (defined on the basis of yearly averages), multiplied by the actual volumes of services effectively provided by each STP.

Should the comparison between a) and b) reveal the existence of an advantage remaining at the level of a STP, such an advantage will be offset on an annual basis in the year which follows the audit period either by means of a claw-back mechanism (entailing the obligation for the STP concerned to pay the remaining advantage back to the State budget) or by means of an increase in the volume and diversity (resulting in an increase of the total value) of the services to be provided to the incubated SMEs in the following year.

The balance of any possible residual advantage at the level of a STP through either the claw-back mechanism or an increase in the services provided to the incubated SMEs for the following year will be performed on an annual basis, not allowing for any accumulation of such amounts over the years. At the end of the 20-year period, any economic benefit remaining at level of each STP will be returned to the State budget.

- (36) Thirdly, a *de minimis* declaration will be duly filled in and signed by the incubated SMEs as a condition for their access to the STP's services (at sub-commercial conditions). Each STP will be duly informed of the procedure designed to ensure the respect and correct calculation of the *de minimis* aid to SMEs, under the control of the Competition Council of the Republic of Lithuania, as the leading management body of Lithuanian Register of State Aid and *de minimis* aid.
- (37) Fourthly, each STP commits to verify on an annual basis, for instance on the basis of the central *de minimis* register, whether the conditions for *de minimis* aid continue to be fulfilled by each of the incubated SMEs. Monitoring and verification of *de minimis* aid provided to SMEs will be performed by each STP according to the rules and procedures set by the Lithuanian Register of State aid and *de minimis* aid, as well as to the commitment undertaken by each SME in their contract with the STP so as to guarantee that *de minimis* aid does not exceed the permitted limits. Each incubated SME will submit their commitment to the STP to transfer the excess amount back to the State budget if the *de minimis* aid exceeds the *de minimis* threshold. Should the *de minimis* aid to a specific SME exceeds the *de minimis* threshold, all services to the said SME may continue to be provided at market price.
- (38) Fifthly, once a year, the transfer of *de minimis* aid to final beneficiaries will be supervised by carrying out an annual audit of financial report of each notified STP by certified independent external auditors.

4 ASSESSMENT OF THE MEASURE

- (39) The Commission has assessed the notified measure in the light of Article 107(1) of the TFEU.

4.1 Existence of State aid

(40) According to Article 107(1) of the TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market. Thus, for a measure to constitute State aid within the meaning of that provision, the following four criteria must be cumulatively present:

- a) the measure must involve the use of State resources and be imputable to the State;
- b) the measure must confer an advantage on an undertaking;
- c) this advantage must be selective in that it is limited to certain undertakings;
- d) the measure must be capable of distorting competition and affecting trade between Member States.

4.1.1 State aid at the level of Kaunas STP and Klaipeda STP

(41) For the purposes of the rules on competition laid down in the TFEU, an undertaking is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed¹⁵. Both STPs perform economic activities through the provision of a variety of services to SMEs. Therefore Kaunas STP and Klaipeda STP are undertakings for the purposes of application of State aid rules.

(42) As regards State resources and imputability to the State, waiving revenue which would otherwise have been paid to the State constitutes a transfer of State resources¹⁶. Therefore, the measure involves the use of State resources in the form of revenues foregone (through a long term and free-of-charge trust contract for the State-owned buildings). The decision to grant the trust contracts will be taken by the Ministry of the Economy of the Republic of Lithuania (the granting authority for this measure), thus the measure is imputable to the State.

(43) However, as regards the existence of an advantage, the Commission recognized in point 22 of the R&D&I Framework¹⁷ that under certain conditions,¹⁸ research infrastructure is not considered to be a beneficiary of State aid if it acts as a mere

¹⁵ Case C-222/04 *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA et al.* [2006] ECR I-289

¹⁶ See recital 51 of the Commission Notice on the notion of State aid as referred to in Article 107(1) TFEU and the case law cited therein.

¹⁷ Framework for State aid for research and development and innovation, OJ C 198 of 27.06.2014, p. 1

¹⁸ "22. However, the Commission will not consider the research organisation or research infrastructure to be a beneficiary of State aid if it acts as a mere intermediary for passing on to the final recipients the totality of the public funding and any advantage acquired through such funding. This is generally the case where:

(a) both the public funding and any advantage acquired through such funding are quantifiable and demonstrable, and there is an appropriate mechanism which ensures that they are fully passed on to the final recipients, for example through reduced prices, and

(b) no further advantage is awarded to the intermediary because it is either selected through an open tender procedure or the public funding is available to all entities which satisfy the necessary objective conditions, so that customers as final recipients are entitled to acquire equivalent services from any relevant intermediary.

23. Where the conditions in point 22 are fulfilled, State aid rules apply at the level of the final recipients."

intermediary for passing on to the final recipients the totality of the public funding. In this case, the Commission considers that these conditions apply and that the measure does not confer an economic advantage on Kaunas STP or Klaipeda STP.

- (44) Firstly, the public funding and the advantage to the two STPs are quantifiable and an appropriate pass-on mechanism to incubated SMEs is envisaged through transparent, ex ante identifiable, price reductions. The aid element contained in the long-term and free-of-charge trust contract for the State-owned buildings will be fully passed-on to the final beneficiaries – the incubated SMEs (see section 2.4.3 above) in the form of discounted rental and support services. Should a residual advantage remain at the level of the STPs, this will be offset on an annual basis in accordance with the commitments undertaken by the Lithuanian authorities (see recitals (33) and (34) above). By this mechanism the Lithuanian authorities ensure that no financial advantage will remain at the level of the STPs at the end of any given year.
- (45) Secondly, it should be noted that Kaunas STP and Klaipeda STP have been selected on the basis of an objective criterion which ensures that the same type of support would be available to any STP operating from rented State-owned premises. This criterion should also be seen in the light of the specific situation characterising real estate ownership in Lithuania in the context of the on-going privatisation process. Indeed, the Commission understands that any STP that rents (or will in the future rent) premises from the State is (or will be) entitled to the same funding, in which case the recipient SMEs are entitled to acquire equivalent services from any such STP.
- (46) Having said that, and even assuming that the measure would allow Kaunas STP and Klaipeda STP to enjoy a competitive advantage resulting from their ability to provide rental and support services at discounted prices, it is unlikely that such advantage would distort (or threaten to distort) competition and affect trade between Member States .
- (47) In the first place, given the nature and magnitude of such a potential competitive advantage, it is highly unlikely that the measure could determine an appreciable shift in the demand for these services to the benefit of Kaunas STP and Klaipeda STP. In fact, as regards Klaipeda STP, the measure is not such as to hurt the market position of any other competitor as Klaipeda STP is the only STP in Lithuania currently providing specialized services in the field of blue and green technologies. Moreover, as regards both Kaunas STP and Klaipeda STP, the information at the Commission's disposal shows that both STPs are already now, prior to the entry into force of the measure, operating at virtually full capacity (see recital (24) above and footnotes 8 and 9 above), which means that the measure cannot be expected to lead to an increase in the demand for their services, to the detriment of other STPs.
- (48) In the second place, considering the insignificant amount of aid that will be passed-on to each individual incubated SMEs (see footnote 12 above), it is not foreseeable that the measure would have more than a marginal effect on the conditions of cross-border establishment. Therefore, it cannot be assumed that the measure could have a distortive effect on trade between Member States.
- (49) In the light of the foregoing, the Commission concludes that no State aid is present at the level of Kaunas STP and Klaipeda STP.

4.1.2 State aid at the level of the final beneficiaries – the incubated SMEs

- (50) An economic advantage will be conferred to the SMEs incubated in Kaunas STP and Klaipeda STP by means of price reductions of the services provided to them by the STPs. This advantage will be limited to the *de minimis* amount and subject to all the conditions set out in the *De minimis* Regulation. The Lithuanian authorities have undertaken commitments in order to ensure that the *de minimis* rules will be duly applied through annual audits and monitoring at each of the STPs and in respect of each of the incubated SMEs (see recitals (33),(34), (36), (37) and (38) above).
- (51) Moreover, as the Lithuanian authorities have committed to publish *ex ante*, on annual basis, both the discounts levels available to incubated SMEs and the basic list prices for their rental and support services (see recital (34) above), the gross grant equivalent of the advantage passed on to each incubated SME can be precisely calculated in a transparent manner, in compliance with Article 4 of the *De Minimis* Regulation. In particular, it should be noted that the basic list prices apply to both "incubated" and "non-incubated" SMEs (see recital (25) and (26) above) hosted in Kaunas STP and Klaipeda STP, and therefore they can be assumed to represent a reliable benchmark for market prices¹⁹.
- (52) According to recital (1) of the *De minimis* Regulation, *de minimis* aid is deemed not to meet all the criteria laid down in Article 107(1) of the Treaty. Therefore, the Commission concludes that no State aid is present at the level of the SMEs incubated by Kaunas STP and Klaipeda STP.

5 CONCLUSION

The Commission has accordingly decided that the measure does not constitute State aid within the meaning of Article 107 (1) of the TFEU.

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

¹⁹ Indeed, it is reasonable to assume that these prices represent a reliable market benchmark, insofar as both non-incubated SMEs and incubated SMEs (in case the latter exceed the discount caps as described in footnote 11 above) have to pay the same prices. Should such prices be higher than market conditions, non—incubated SMEs would switch to other STPs (thereby inducing a downwards price adjustments), while in case such prices would be lower than market conditions, the STP concerned would forego part of its income, which would not be a rational economic behavior.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

