



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

**Subject: State Aid SA.57135 (2020/N) – Lithuania
COVID-19: Partial Rent Compensation for the Enterprises Most
Affected by COVID-19**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 23 April 2020, Lithuania notified the aid scheme “Partial Rent Compensation for the Enterprises Most Affected by COVID-19” (“the measure” or “the scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹ By email of 29 April 2020, Lithuania submitted supplementary information on the measure.
- (2) The Lithuanian authorities confirm that the notification does not contain confidential information.
- (3) Lithuania exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1-9.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

- (4) On 16 March 2020, the Government of the Republic of Lithuania decided to declare a quarantine³ on its entire territory to control the spread of coronavirus (COVID-19), applying restrictions to undertakings active in various sectors. These restrictions reduced demand and supply and disrupted the free movement of persons and goods, which has caused liquidity problems to undertakings in several sectors.
- (5) Lithuania considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak and to preserve the continuity of economic activity and ensure their viability during and after the outbreak.
- (6) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (7) The measure provides aid in the form of direct grants. The purpose of the measure is to compensate part of the rent for the undertakings most affected by the COVID-19 outbreak, those whose activities were banned during the quarantine period.
- (8) The conditions for awarding grants are as follows:
- the landlord has reduced the rent to the undertaking by at least 30% after the date of declaration of the quarantine;
 - the maximum monthly amount of the grant applied to the tenant is 50% of the rent applied to the tenant in February 2020.
 - undertakings renting premises from budgetary institutions (which manage properties of the State) will be applied an 80 % rent discount.

2.2. National legal basis

- (9) The legal bases for the measure are the Draft Order of the Minister of Economy and Innovation of the Republic of Lithuania “On the Approval of the Description of the State Aid Scheme and Conditions of the Measure ‘Partial Rent Compensation for the Enterprises Most Affected by COVID-19’ (“the Draft Order”)), and the Draft Resolution of the Government of the Republic of Lithuania “On Resolution No. 1524 of the Government of the Republic of Lithuania of 14 December 2001 amendment ‘On the Lease of State Fixed Assets, State and Municipal Real Estate’”.

³ Resolution No 207 of the Government of the Republic of Lithuania.

2.3. Administration of the measure

- (10) The Lithuanian Ministry of Economy and Innovation is responsible for granting the aid and the national promotional institution “INVEGA” will be the authority responsible for administering the measure⁴.
- (11) Chapters II, III and IV of the Draft Order set out in detail the conditions to receive the aid, the procedure to follow and documents to submit to apply for the aid, the commitments to be taken by the aid beneficiaries and the controls and reports to be done by INVEGA.

2.4. Budget and duration of the measure

- (12) The estimated budget of the measure is EUR 101.5 million. Of this amount, EUR 1.5 million will be reserved for entities renting premises from budgetary institutions (which manage properties of the State).
- (13) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

- (14) The final beneficiaries of the measure are enterprises (except state and municipal enterprises and enterprises in which 25% or more of the company's shares, stocks or other shares representing the enterprise's capital or 25% or more of the enterprise's votes are directly or indirectly -under a voting agreement, transfer agreement, power of attorney, etc.- held, either individually or jointly, by the state and/or municipality) which have an annual income not exceeding EUR 50 million in 2019 or an annual balance sheet on 31 December 2019 not exceeding EUR 43 million, and entrepreneurs as defined in the Law on the Development of Small and Medium-Sized Enterprises of the Republic of Lithuania. However, financial institutions are excluded as eligible final beneficiaries.
- (15) The Lithuanian authorities indicate that the number of beneficiaries will exceed 1000.
- (16) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”), the Agricultural Block Exemption Regulation (“ABER”) or the Fisheries Block Exemption Regulation (“FIBER”) ⁵ on 31 December 2019. It may

⁴ The guarantee institution UAB “Investiciju ir verslo garantijos” (INVEGA) was established by the Republic of Lithuania Government Resolution No. 887 of 11 July 2001 on Small and Medium-sized Business Development (for more detail, please consult the webpage: <https://invega.lt/en/about-invega/>). The main objectives of the operations of INVEGA are the provision of financial services and the implementation and administration of financial and other support measures for SMEs.

⁵ As defined in Article 2(18) of the 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; Article 2(14) of the Commission Regulation (EU) 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, OJ L 193 of 1.7.2014, p.1; and Article 3(5) of the 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, OJ L 369 of 24 December 2014, p. 37.

be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered into difficulty thereafter because of the COVID-19 outbreak.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to the sectors whose activities have been banned during the quarantine, as declared by Resolution No. 207 of the Government of the Republic of Lithuania of 14 March 2020 "On the Announcement of Quarantine in the Republic of Lithuania". It mainly concerns undertakings active in retail sales, hotels, restaurants, cultural and sports activities, and certain other activities with a focus on customer relations. The measure also includes undertakings active in the transport sector. It excludes the financial sector.
- (18) It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

- (19) The conditions of the measure are based on the provisions set out in the Commission Communication Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the requirements of Section 3.1).
- (20) Undertakings whose activities were banned during the quarantine period, will be eligible to benefit from the aid according to these conditions (apart from those listed in recital (8) above):
- the undertaking has entered into a rental agreement with the landlord for the performance of the principal economic activity;
 - the rent compensation is calculated on the basis of the rent price excluding value added tax (VAT), except in cases where the undertaking/tenant is not registered for VAT;
 - the rental agreement has been signed no later than 15 March 2020.
 - the compensation is paid only if the rental agreement has not been terminated or has not expired;
 - as of 31 December 2019, the applicant was not an undertaking in difficulty.
 - the undertaking is not undergoing bankruptcy, restructuring or liquidation by the time of submission of the application;
 - the undertaking is registered in the Register of Legal Entities (when the applicant is an enterprise) or has started an activity (when the applicant is an entrepreneur) by no later than 16 March 2020;
 - the undertaking has submitted an application to INVEGA for a partial rent compensation;
 - the undertaking/tenant and the lessor may not belong to a group of companies and/or the undertaking/tenant may not rent premises from the lessor where

the lessor is a natural person holding a majority of votes in the undertaking submitting the application;

- the undertaking must not have received unlawful aid declared illegal and incompatible with the internal market by a decision of the European Commission (individual aid or aid scheme), or the undertaking has returned the full amount of unlawful and incompatible State aid, including the interests.
 - the undertaking, once it has received the rent compensation, should pay the rent in no later than 5 working days.
- (21) The total amount of aid granted to a tenant under the scheme cannot exceed an amount equal to EUR 800 000. The total amount of aid shall not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products.
- (22) Where the undertakings are active in the processing and marketing of agricultural products, the aid will not be partly or entirely passed on to primary producers and will not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.
- (23) If the applicant is active in several sectors, for each of these activities the relevant ceiling should be respected, and the highest possible amount of EUR 800 000 should not be exceeded in total.
- (24) If the aid is granted to undertakings active in the fishery and aquaculture sector, it will not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014.

2.8. Cumulation

- (25) The Lithuanian authorities confirmed that aid under the notified measure may be cumulated with aid under the different *de minimis* Regulations⁶ or the different General Block Exemption Regulations⁷ provided the provisions and cumulation rules of those Regulations are respected.
- (26) The Lithuanian authorities confirmed that aid under the notified measure may be cumulated with aid under measures approved by the Commission under other sections of the Temporary 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 of 26.4.2012, p. 8).

⁷ See supra note 5.

- (27) The Lithuanian authorities confirmed that, if the beneficiary receives several times aid or different forms of aid under the notified measure or aid under another existing scheme approved by the Commission under section 3.1, the overall maximum cap per undertaking as set out in points 22 (a) and 23(a) of the Temporary Framework is respected.

2.9. Monitoring and reporting

- (28) The Lithuanian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting⁸).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (29) By notifying the measure before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of Economy and Innovation and INVEGA and it is based on a legal act (order) of the Ministry of Economy and Innovation (recitals (9)-(11)). It is financed through State resources, since it is financed by public funds.
- (32) The measure confers an advantage on its beneficiaries in the form of a rent compensation paid out by a direct grant. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings active in Lithuania, in particular undertakings as defined in recital (14) and active in several sectors affected by the quarantine (recital(17)), excluding the financial sector.
- (34) 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.

⁸ Referring to information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

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

3.3. Compatibility

- (36) 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.
- (37) 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”*.
- (38) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that *“the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”*. 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, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”*.
- (39) The measure aims at remedying the liquidity shortage faced by undertakings as defined in recital (14) and active in sectors severely disturbed by the COVID-19 outbreak at a time that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (40) The measure excludes financial institutions as eligible final beneficiaries.
- (41) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to help maintain the liquidity of undertakings and ensure their financial stability during the COVID 19 outbreak is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Aid in the form of direct grants”*) described in Section 3.1 of the Temporary Framework.
- (42) The measure notified by Lithuania meets all the conditions provided for in point 22 of Section 3.1 of the Temporary Framework. In particular:
- The aid takes the form of direct grants (recital (7)). The measure therefore complies with point 22 (a) of the Temporary Framework;
 - The overall nominal value of the grants does not exceed EUR 800 000 per undertaking (recital (21)); all figures used must be gross, that is, before any deduction of tax or other charge. Hence, the maximum aid amount per undertaking will not exceed EUR 800 000 as laid down in point 22(a) of the Temporary Framework;

- The aid is granted on the basis of a scheme with an estimated budget as indicated in recital (12). Therefore, the condition of point 22(b) of the Temporary Framework is considered to be met;
- In compliance with point 22(c) of the Temporary Framework, the aid will not be granted to undertakings that were already in difficulty on 31 December 2019 (recital (16));
- The aid will be granted no later than 31 December 2020 (recital (13)); hence the condition set out in point 22(d) of the Temporary Framework is met;
- Undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers or put on market by such producers (recital (22)), hence the condition set out in point 22(e) of the Temporary Framework is met.

The measure notified by Lithuania, which also applies to undertakings active in the agriculture, aquaculture and fisheries sectors, meets all the conditions provided for in point 23 of Section 3.1 of the Temporary Framework. In particular:

- The overall nominal value of the grants does not exceed EUR 120,000 per undertaking active in the fishery and aquaculture sector (recital (21)) or EUR 100,000 per undertaking active in the primary production of agricultural products (recital (21)); hence the condition set out in paragraph 23(a) of the Temporary Framework is met;
- Aid to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (22)); hence the condition set out in paragraph 23(b) of the Temporary Framework is met;
- Aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (24)); therefore the condition set out in paragraph 23(c) of the Temporary Framework is met.
- Where an undertaking is active in several sectors to which different maximum amounts apply, in accordance with points 22(a) and 23(a) of the Temporary Framework, Lithuania will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of these activities and that the highest possible amount of EUR 800,000 is not exceeded in total (recital (23)); hence the condition set out in paragraph 23 bis of the Temporary Framework is considered to be met.

(43) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU and meets all the relevant conditions of the Temporary 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) TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION