



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

Subject: **State Aid SA.57514 (2020/N) – Lithuania**
COVID-19: Temporary State Aid to bovine animal producers and milk producers facing economic difficulties caused by the outbreak of Covid-19

Excellency,

1. PROCEDURE

- (1) By electronic notification of May 2020, Lithuania notified aid in the form of limited amounts of aid (the Draft Order of the Minister of Agriculture of the Republic of Lithuania on the Approval of the Rules for the Payment of Temporary State Aid to Bovine Animal Producers and the Draft Order of the Minister of Agriculture of the Republic of Lithuania on the Approval of the Rules on the Administration of Temporary State Aid to Milk Producers Facing Economic Difficulties Caused by the Outbreak of COVID-19, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹
- (2) Lithuania exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction

* 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 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3-15.

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with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) 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, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (5) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (6) The legal bases for the measure are the following :
 - a) Draft Order of Minister of Agriculture of the Republic of Lithuania “On the Approval of the Rules for the Payment of Temporary State Aid to bovine animal producers”;
 - b) Draft Order of Minister of Agriculture of the Republic of Lithuania “On the Approval of the Rules on the Administration of Temporary State Aid to milk producers facing economic difficulties caused by the outbreak of Covid-19”.

2.3. Administration of the measure

- (7) The granting authority is the State Enterprise Agricultural Information and Rural Business Centre. The municipalities and the National Paying Agency under the Ministry of Agriculture of the Republic of Lithuania are responsible for administering the measure.

2.4. Budget and duration of the measure

- (8) The estimated budget of the measure is EUR 30.5 million (EUR 12 million for bovine animal producers and EUR 18.5 million for milk producers).
- (9) Aid may be granted under the measure as from its approval until no later than 31 December 2020 (for the payments see recitals 20 and 26).

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

2.5. Beneficiaries

- (10) The final beneficiaries of the measure are SMEs and large enterprises³ registered in Lithuania active in the sectors described in recital (14).
- (11) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (the “ABER”)⁴ on 31 December 2019.
- (12) The number of beneficiaries is estimated at 32 000 for bovine animal producers and 28 000 for milk producers.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to bovine animal and milk producers. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

- (14) The measure intends to support the bovine animal and milk producers of the Republic of Lithuania in response to the COVID-19 outbreak and to help combat the liquidity problems caused by the COVID-19 outbreak, thus contributing to the preservation of the viability, production infrastructure and social stability in rural areas.

Aid to milk producers

- (15) Aid shall be granted if the average monthly income of dairy producers during the period of April–May 2020 was at least by 5% lower than the average monthly income during the period of April–December in the years 2017 to 2019 of Lithuanian milk producers who sold milk to milk collectors registered in Lithuania.
- (16) The amount of the aid per dairy cow shall be approved by an Order of the Minister of Agriculture when the number of eligible aid recipients and the number of dairy cows is available (those numbers shall be communicated by 26 June 2020 by the State Enterprise Agricultural Information and Rural Business Centre).
- (17) Eligible milk producers are required to
 - a) be registered in the Register of Agriculture and Rural Business of the Republic of Lithuania as owners or partners of the holding by the 1st June 2020 at the latest;
 - b) have their dairy cows registered in the Register of Farmed Animals (hereinafter – RFA) as of the 1st June 2020;

³ As defined in Annex I to 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.

⁴ As defined in 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.

c) cannot be beneficiaries under the Rural Development program for 2004 – 2006 “Support for early retirement from commercial farming” and the Lithuanian Rural Development Program for 2007 – 2013 “Early retirement from commercial farming”;

d) submit aid applications according to the provisions of the Rules on the Administration of Temporary State Aid to milk producers facing economic difficulties caused by the outbreak of Covid-19.

- (18) The aid is paid for dairy cows that are registered in the RFA as of 1 June 2020.
- (19) Applications for aid shall be submitted to the administration of the municipality in which the applicant holding is registered, during the period from 8 to 19 June 2020 inclusive. Aid shall be paid by 31 December 2020.

Aid to bovine animal producers

- (20) The aid shall be paid to bovine animal producers in three stages :
- a) for bovine animals marketed⁵ from 1 April 2020 until 30 June 2020;
- b) for bovine animals marketed from 1 July 2020 until 30 September 2020;
- c) for bovine animals marketed from 1 October 2020 until 30 November 2020.

- (21) Aid shall be paid only if

- a) the total average income of Lithuanian bovine animal keepers who marketed bovine animals was at least 5% lower in each of the periods April-June and July-September 2020 than in the period January-March 2020;
- b) in the period October-November 2020, the total average income of Lithuanian bovine animal keepers who marketed bovine animals was at least 5% lower than in the period January-February 2020.

- (22) Aid amounts are granted per animal according to the following categories a) EUR 130 for marketed meat breed (pure-breed, crossbreed) cattle if upon sale the age of the bovine animal is at least 12 months;
- b) EUR 100 for marketed dairy breed (pure-breed, dairy crossbreed) or combined (milk-meat) breed cattle if upon sale the age of the bovine animal is at least 6 months;
- c) EUR 100 for marketed meat breed (pure-breed, crossbreed) weaned calf if upon sale the age of the calf is at least six months but not more than 12 months.

- (23) Bovine animal producers are required to

- a) be registered in the Agricultural and Rural Business Register of the Republic of Lithuania as managers or partners of an agricultural holding no later than 1 June 2020;
- b) have kept cattle for at least 6 months in the farm and marketed them during the period from 1 April 2020 until 30 November 2020, broken down as

⁵ For the purposes of the present decision, the term ‘marketed’ refers only to the first sale from the primary producer of bovine animal products to an undertaking active in the processing of such products or to a reseller.

indicated in recital 21;
c) cannot be beneficiaries under the Rural Development program for 2004 – 2006 “Support for early retirement from commercial farming” and the Lithuanian Rural Development Program for 2007 – 2013 “Early retirement from commercial farming;

d) have submitted an application for temporary aid according to the provisions of the Rules for the Payment of Temporary State Aid to bovine animal producers.

- (24) The application for aid shall be submitted to the municipal administration of the district in which the undertaking’s holding is registered according to the following schedule :
- a) from 1 July 2020 until 15 July 2020 (inclusive) for bovine animals sold during the first period mentioned in recital 21;
 - b) from 1 October 2020 until 15 October 2020 (inclusive) for bovine animals sold during the second period mentioned in recital 21;
 - c) from 1 December 2020 until 4 December, 2020 (inclusive) for bovine animals sold during the third period mentioned in recital (21).
- (25) The aid shall be paid starting on 24 August 2020 for the first period mentioned in recital (21), starting on 23 November 2020 for the second period and starting on 21 December 2020 for the third period. All payments shall be made by 31 December 2020.

Common provisions

- (26) The total amount of aid granted per milk producer or bovine animal producer in accordance with the provisions of Chapter 3.1 of the Temporary Framework cannot be more than EUR 100,000⁶. If the calculation of the aid results in an amount exceeding that ceiling, the estimated aid amount shall be reduced to the amount compliant with the provisions of the Temporary Framework before the adoption of the granting decision (in assessing whether the threshold of EUR 100,000 is exceeded, account is taken of the other amounts of State aid already paid under other national measures compatible with the provisions of Chapter 3.1 of the Communication).
- (27) The aids for milk and bovine animal producers will not be based on prices and quantities put on the market.

2.8. Cumulation

- (28) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations for the agricultural primary production⁷ or the General Block Exemption Regulation⁸ provided the provisions and cumulation rules of those Regulations are respected.

⁶ All amounts referred to are gross, that is, before any deduction of tax or other charge.

⁷ 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),

- (29) The Lithuanian 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 Framework provided the provisions in those specific sections are respected.
- (30) The Lithuanian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected.

2.9. Monitoring and reporting

- (31) 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 Commission's IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (32) 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

- (33) 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.
- (34) The measure is imputable to the State, since the granting authority is the State Enterprise Agricultural Information and Rural Business Centre, the administration is taken care of by the municipalities and the National Paying Agency under the Ministry of Agriculture of the Republic of Lithuania (see recital 7) and the

⁸ 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.

⁹ Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

measure is based on the legislative acts mentioned in recital (6). It is financed through State resources, since it is financed by public funds.

- (35) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular those producing bovine animals and milk.
- (37) 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.
- (38) 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

- (39) 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.
- (40) 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”*.
- (41) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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”*.
- (42) The measure aims at combatting the liquidity problems caused by the COVID-19 outbreak, thus contributing to the preservation of the viability, production infrastructure and social stability in rural areas, at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (43) The measure is one of a series of measures conceived at the national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the scheme to ensure the viability of primary producers in the bovine and milk sectors is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the targeted subsectors in Lithuania. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Limited amounts of aid”* in the form of direct grants) described in Section 3.1 of the Temporary Framework.

- (44) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- (45) The aid takes the form of direct grants (recital (5)) and the overall nominal value of the direct grants does not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (26)). The measure therefore complies with point 23(a) of the Temporary Framework;
- (46) Aid granted 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 (27)). The measure therefore complies with point 23(b) of the Temporary Framework;
- (47) Since the abovementioned aid scheme is applicable only to undertakings active in the agricultural sector (recitals (1) and (12)), point 23bis of the Temporary Framework is not relevant.

Common provisions on monitoring and cumulation for all sections

- (48) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (31)). The Lithuanian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the relevant sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (28) to (30)).
- (49) 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 since it 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) 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,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION