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**PUBLIC VERSION**  
**WORKING LANGUAGE**

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**Subject: State aid No SA. 36064 (2013/N) – Latvia**  
**Regulation for the support for construction or reconstruction of  
industrial premises**

Dear Sir,

## **1. PROCEDURE**

- (1) By letter registered on 11 January 2013, the Latvian authorities pre-notified the aid scheme named "Regulation for the support for construction or reconstruction of industrial premises" (hereinafter the "scheme"). The Commission requested additional information on 15 February 2013. The Latvian authorities replied by letter registered on 14 March 2013.
- (2) By electronic notification of 27 May 2013, registered by the Commission the same day, the Latvian authorities notified the scheme pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter "TFEU")<sup>1</sup>. The Commission requested additional information by e-mail of 19 June 2013 (D/062521) to which the Latvian authorities replied by e-mail of 21 June 2013 (A/064020).

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<sup>1</sup> With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

Edgars RINKĒVIČS  
Ārlietu Ministrs  
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## **2. DESCRIPTION OF THE MEASURE**

### **2.1. Objective**

- (3) The objective of the scheme is to encourage regional development in Latvia by developing sustainable industrial territories and promoting establishment and expansion of small and medium-sized enterprises (hereinafter: "SMEs").
- (4) The Latvian authorities intend to grant aid to undertakings which will construct new industrial premises, renovate or reconstruct old unused industrial premises into new ones and lease them to SMEs.

### **2.2. Legal basis**

- (5) The legal basis of the scheme is:
  - Supplement to the Operational Programme "Entrepreneurship and Innovation";
  - Law On Management of European Union Structural Funds and Cohesion Fund 15/02/2007 ("LV" of 23/02/2007 No 33 (3609);
  - Regulation regarding sub-activity 2.3.2.2.2. "Support for construction or reconstruction of industrial premises" of the Supplement to the operational programme "Entrepreneurship and Innovation" (hereinafter "the regulation").

### **2.3. Administration of the scheme and authority granting the aid**

- (6) The aid under the notified scheme will be granted on a discretionary basis, following a decision of the national authorities. As the projects under the scheme will be partly financed through the European Regional Development Fund (hereinafter: "ERDF"), the requirements of the EU Structural and Cohesion Funds are applied in the present case.
- (7) The implementation of the scheme is ensured by the responsible institution, i.e. the Ministry of Economics, and the cooperation institution, i.e. the Investment and Development Agency in Latvia.
- (8) Under the scheme, the aid is awarded through an open project selection procedure. The evaluation of the project applications is ensured by a commission which includes representatives from the cooperation institution and the responsible institution. The procedures for evaluating projects and taking decisions are laid down in the regulation. Every potential beneficiary can find the rules on the Internet, at the following address: [www.liaa.gov.lv](http://www.liaa.gov.lv).

### **2.4. Geographical and sectoral scope of the scheme**

- (9) The scheme is applicable in Latvia (except Riga), the whole territory of which qualifies as an assisted region under the derogation of Article 107(3)(a) of the TFEU, in conformity with the Commission's Decision of 13 September 2006 on the Latvian regional aid map for 2007-2013<sup>2</sup>.

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<sup>2</sup> State aid N 447/2006 – Latvia – Regional aid map for 2007-2013, OJ C 287, 24.11.2006, p. 26.

- (10) The Latvian authorities decided to consider Riga as an ineligible area because the majority of the economic activities of the country are already concentrated in this area. Moreover, a sufficient amount of industrial premises is already available there for renting purposes.
- (11) The scheme is sectoral as it applies to renting or leasing of industrial premises<sup>3</sup>.

## **2.5. Beneficiaries**

- (12) According to the regulation, the beneficiaries of the scheme are undertakings, irrespective of their size (small, medium and large), which own the infrastructure where the project is carried out, have possessory rights over it or a long-term lease contract in accordance with national legislation.
- (13) The estimated number of beneficiaries is between 11 and 50.
- (14) The Latvian authorities confirmed that aid under the scheme is excluded for beneficiaries active in the production, processing and/or marketing of the agricultural products listed in Annex I to the TFEU, forestry, fisheries and aquaculture sector, coal industry, synthetic fibres production, shipbuilding, steel sector and transport. In case the beneficiary is also active in any of the ineligible sectors, it must keep separate accounts for the different activities to be eligible for aid under the notified scheme.
- (15) The scheme excludes from its application undertakings that are in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty<sup>4</sup>.

## **2.6. Duration**

- (16) The notified scheme will apply until 31 December 2013. The scheme comes into effect after its approval by the European Commission.

## **2.7. Budget**

- (17) The estimated amount of the total budget of the scheme is LVL 18 million (ca. EUR 25.7 million)<sup>5</sup>.
- (18) The total ERDF financing available under the scheme amount to LVL 6.6 million (ca. EUR 9.4 million). The remaining LVL 11.4 million (ca. EUR 16.2 million) will be financed from the State budget.

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<sup>3</sup> NACE code L 68.2 – Renting and operating of own or leased real estate (Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community, OJ L 293, 24.10.1990, p. 1, as amended).

<sup>4</sup> OJ C 244 of 01.10.2004, p. 2.

<sup>5</sup> For the purposes of this Decision, all the EUR equivalents of the amounts expressed in LVL have been calculated using the exchange rate of 1 EUR = 0,7013 LVL, being the exchange rate of the date of the notification, i.e. 27 May 2013.

## **2.8. Form of aid and aid intensity**

- (19) The aid will be awarded in the form of direct grants. The aid intensity under the scheme is expressed as a percentage of the gross total eligible expenditure.
- (20) The maximum allowable aid intensity under the scheme is 50% Gross Grant Equivalent (GGE) in line with the Latvian regional aid map for 2007-2013.
- (21) The maximum total amount granted to a project shall not exceed LVL 1 million (ca. EUR 1.4 million).

## **2.9. Investments supported under the scheme and eligible costs**

- (22) The following activities are supported under the notified scheme:
  - (a) Investments consisting of construction of industrial premises;
  - (b) Investments consisting of reconstruction of industrial premises;
  - (c) Investments consisting of renovation of industrial premises.
- (23) Under the notified scheme, the eligible costs are costs related to material assets relating to buildings and equipment which are part of an initial investment project. In case of reconstruction or renovation, the investment will be eligible only if the industrial premise concerned has not been used for any economic activity in the last two years preceding the date for applying for aid. This targets in particular unused industrial buildings that have been constructed during the Soviet times.
- (24) The acquired assets forming part of an initial investment project must be new.
- (25) Replacement investments are not eligible under the scheme.
- (26) The eligible costs are established on the basis of investments in material assets relating to construction, reconstruction or renovation costs, including materials and equipment for technical facilities and installations infrastructure, as well as associated supervision costs necessary to implement the investment. Acquisition of machinery is not included in the eligible investment costs.
- (27) The acquisition of material assets must be related to the implementation of an initial investment project which aims at increasing the number of available industrial premises in the regions outside Riga. The project has to be located in a city with at least 20 000 inhabitants or within 10 kilometres from that city (except Riga).
- (28) Costs of intangible assets are not included in the eligible investment expenditures.
- (29) In case the beneficiary is a VAT payer, the VAT is excluded from the eligible expenses. In case the beneficiary is not a VAT payer, the VAT is included in the eligible expenses.
- (30) The beneficiary's contribution to the financing of the aided investment will be at least 25%.

- (31) In order to be eligible, the beneficiary has to lease out the constructed, reconstructed or renovated industrial premises for at least 10 years to at least 3 SMEs active in the manufacturing sector<sup>6</sup>, which are unrelated to each other and to the beneficiary. The beneficiary has to submit the lease contracts to the cooperation institution for agreement on the lease conditions. Moreover, at least 30% of the industrial premise has to be leased out to SMEs during the first 12 months following the completion of the investment project. After 36 months following the completion of the investment project, 80% of the industrial premise has to be leased out to SMEs.
- (32) The Latvian authorities confirmed the lease fee charged to SMEs will be determined in accordance with the market price. Therefore, the aid will not have any impact on the amount of the lease fee.
- (33) Once the lease contracts are signed, and before the 1<sup>st</sup> of September 2015, the SMEs concerned must create at least 20 new direct jobs. After 36 months following the conclusion of the contracts, the SMEs concerned must create at least 50 new direct jobs.
- (34) An investment project of a total value exceeding the LVL equivalent of EUR 50 million, determined according to the official exchange rate of the Latvian currency against the Euro, will not be eligible for financing under the scheme.

#### **2.10. Starting date of the project and incentive effect principle**

- (35) The regulation stipulates that beneficiaries shall start works on the investment project only after the cooperation institution issues a decision approving the project application. If works on the investment project are started before, the entire project's costs are considered as ineligible for aid under the scheme.

#### **2.11. Own contribution**

- (36) The Latvian authorities confirm that the beneficiary will provide a contribution of at least 25% of the value of the total eligible costs either through its own resources or by external financing, in a form which is free of any public support, including *de minimis* support<sup>7</sup>.

#### **2.12. Maintenance of the investment**

- (37) The notified scheme requires a beneficiary (irrespective of its size) to maintain the investment in the corresponding region for a minimum period of ten years after its completion. The Latvian authorities indicate that if this condition is not met, the beneficiary must pay back the aid.

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<sup>6</sup> NACE code C – Manufacturing (Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community, OJ L 293, 24.10.1990, p. 1, as amended).

<sup>7</sup> Commission Regulation (EC) No 1998/2006 on the application of Articles 87 and 88 to *de minimis* aid, OJ L 379, 28.12.2006, p. 5.

### **2.13. Cumulation of aid**

- (38) According to the regulation, aid awarded under the notified scheme will not be cumulated with public financing granted under other aid schemes or individual aid projects (including *de minimis* aid) in relation to the same eligible expenditure and regardless of whether the public financing is provided from local, regional, national or European Union financial sources. This will ensure that the aid intensity ceiling of the notified scheme is not exceeded.

### **2.14. Contribution of the sectoral aid measure to regional development**

- (39) The Latvian authorities explained that the low level of economic activities in regions outside Riga is caused by the lack of infrastructure available for manufacturing companies. Moreover, the Latvian authorities have demonstrated that the currently available industrial premises are not sufficient to cover the existing market demand. As the construction costs are high, the investors consider investment in the regions as too risky and prefer to locate their business in Riga. Only a very limited group of companies is able to develop new large-scale industrial premises for manufacturing. This impedes development and expansion of manufacturing industry in the regions outside Riga and results in high disparities in terms of business activity and employment opportunities. It also reinforces emigration of labour force from regions to Riga or abroad.
- (40) The Latvian authorities emphasise that adequate industrial premises are one of the key preconditions for expansion and creation of new companies. Furthermore, the lack of adequate infrastructure has been identified as one of the major obstacles to attract national and foreign direct investment to the regions outside Riga.
- (41) According to the Latvian authorities, the notified scheme will result in creation of 40 000 m<sup>2</sup> of additional industrial premises and of 500 new direct jobs in the regions concerned.
- (42) In terms of the contribution of the scheme to regional development, the Latvian authorities consider that the scheme will considerably improve the availability of industrial premises in the regions promoting expansion or establishment of new SMEs. Consequently, regional and territorial disparities in terms of business activity and employment will be reduced. The measure will also help preventing further emigration of labour force to Riga or abroad.
- (43) The increase of availability of appropriate industrial premises that fit the needs of the manufacturing companies will also contribute to the improvement of quality of life and cohesion. In a long-term perspective, it is expected that investment opportunities in smaller towns and regional industrial territories will increase, having a positive impact on new business' development and jobs creation.
- (44) To ensure a balanced regional development, the funding under the scheme will be granted to a maximum of two projects per town. Furthermore, the project selection criteria contained in the regulation will guarantee that the financing is equally divided between the regions, ensuring a balanced regional development. The selection criteria which will be applied for projects to be supported under the scheme will give priority to those territories of Latvia where there is a serious lack of industrial premises and where the average development indicators are lower than in other Latvian territories.

### **3. ASSESSMENT**

#### **3.1. State aid character of the scheme**

- (45) According to the proposed aid scheme, the aid in the form of direct grants will be granted to undertakings carrying out investment projects that lead to an increase in industrial premises available for rental purposes.
- (46) The scheme involves the transfer of State resources by public authorities within the meaning of Article 107(1) of the TFEU.
- (47) The aid foreseen under this scheme constitutes an economic advantage because it allows the beneficiaries to reduce the investment costs that they should normally bear in order to develop this type of projects. It may therefore distort or threaten to distort competition.
- (48) The scheme is selective because it applies only to specific categories of undertakings (cf. section 2.5 above), which implement investment projects that lead to an increase of available industrial premises for rent purposes. Moreover, the State has a discretionary power in selecting projects and awarding grants under the scheme.
- (49) Finally, as the scheme concerns sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect that trade.
- (50) Consequently, the proposed aid scheme constitutes aid within the meaning of Article 107(1) of the TFEU.

#### **3.2. Legality of the aid scheme**

- (51) The Latvian authorities have fulfilled their obligation under Article 108(3) of the TFEU by notifying the aid before putting it into effect. The Commission takes note of the fact that the scheme will enter into force only after its approval by the Commission.

#### **3.3. Compatibility of the aid scheme**

- (52) Having established that the notified scheme involves State aid within the meaning of Article 107(1) of the TFEU, it is necessary to consider whether the scheme can be found to be compatible with the internal market.
- (53) The Commission has examined the proposed aid scheme in the light of Article 107(3)(a) of the TFEU and in the light of the Regional Aid Guidelines 2007-2013<sup>8</sup> (hereinafter "RAG"). This assessment has led to the observations below.
- (54) Pursuant to paragraph 10 of the RAG, regional aid as a general rule should be granted under a multi-sectoral aid scheme which forms an integral part of a regional development strategy with clearly defined objectives. Where, exceptionally, it is envisaged to grant aid confined to one area of activity, it is the responsibility of the Member State to demonstrate that the project contributes towards a coherent regional development strategy and that, having regard to the

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<sup>8</sup> Guidelines on national regional aid for 2007-2013, OJ C 54, 4.3.2006, p.13.

nature and size of the project, it will not result in unacceptable distortions of competition.

- (55) The notified scheme can be seen as a sectoral measure, because it is confined to one area of activity, i.e. renting and operating of own or leased real estate.
- (56) As regards the need for the special treatment of investment projects that lead to an increase of available industrial premises for rent purposes and its contribution to regional development, the Commission notes that the notified scheme complies with the objectives set in the National Industrial Policy of Latvia. A policy initiative which is based on activities directed towards eliminating market failures, improving competitiveness and meeting specific needs of different industries.
- (57) Moreover, the notified scheme fully fits within the framework of the Latvian Operational Programme "Entrepreneurship and Innovation" which has been defined on the basis of the National Industrial Policy of Latvia. By enhancing investment in development of industrial premises, the notified scheme meets the objectives of the Operational Programme's priority 2.3 "Promotion of Entrepreneurship", and in particular of the sub-activity 2.3.2.2.2 "Support for construction or reconstruction of industrial premises".
- (58) In view of the above, the notified scheme forms an integral part of a coherent regional development strategy.
- (59) Considering the likely effects of the aid on competition, it should be noted that the maximum amount of aid for a project under the scheme is LVL 1 million (ca. EUR 1.4 million), which will limit the potential distortions of competition.
- (60) Moreover, the project selection criteria are designed in a way to favour the most cost-effective projects. Project requesting less amount of aid per m<sup>2</sup> will receive more points. Thus, the aid will be limited to the minimum necessary for the implementation of a project.
- (61) In light of the foregoing, the Commission considers that although the notified scheme is sectoral, it is on balance acceptable since it contributes towards a coherent regional development strategy of Latvia and, having regard the nature and size of the projects, it will not result in unacceptable distortions of competition.
- (62) As illustrated below, the notified scheme also complies with the remaining relevant criteria established for investment aid in the RAG.
- (63) In line with paragraph 9 of the RAG, the scheme will not apply to undertakings that are in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.
- (64) In line with paragraph 34 of the RAG, the notified scheme provides for regional investment aid which will be awarded for initial investment projects.
- (65) Under the scheme, the eligible costs of investments in tangible assets (as described in section 2.9 above) involve assets relating to buildings and equipment referred to in paragraph 34 of the RAG. The aid is calculated on the basis of expenditure that is considered eligible under the RAG and meets the respective



conditions specified therein. The acquired assets will be new as required by paragraph 54 of the RAG.

- (66) The costs of preparatory studies and consultancy costs linked to the investment project are not eligible.
- (67) Costs of intangible assets, as defined in paragraph 34 of the RAG, are not eligible.
- (68) In accordance with paragraph 34 of the RAG, the scheme ensures that replacement investments will not be supported.
- (69) In accordance with paragraph 41 of the RAG, the level of aid is calculated as a percentage of the value of the investment project's eligible costs and will not exceed the applicable regional aid ceiling.
- (70) The maximum allowable aid intensity allowed under the notified scheme is in conformity with the applicable Latvian regional aid map for 2007-2013.
- (71) The aid awarded under the notified scheme will not be cumulated with public financing granted under other aid schemes or individual aid projects (including *de minimis* aid) in relation to the same eligible expenditure and regardless of whether the public financing is provided from local, regional, national or European Union financial sources. This will ensure that the aid intensity ceiling of the notified scheme is not exceeded.
- (72) Under the scheme, the award of aid is discretionary. In all the cases, an administrative decision to grant the aid is required. Works on a project eligible for aid shall not start before the submission of the application for aid and before the cooperation institution issues a confirmation decision stating the project's conformity with the requirements of the notified scheme. Thus, the condition of the incentive effect as laid down in paragraph 38 of the RAG is respected.
- (73) In accordance with paragraph 108 of the RAG, the scheme excludes the award of aid to projects which have started before the publication of the scheme on the Internet.
- (74) The scheme includes a clause stipulating that the beneficiary shall make a financial contribution of at least 25% of the total eligible costs and that this contribution will be free of any public support in accordance with paragraph 39 of the RAG.
- (75) Large investment projects within the meaning of section 4.3 of the RAG are not eligible under the notified scheme.
- (76) The aid under the scheme is subject to the obligation of the beneficiary to maintain the investment in the region concerned during a minimum period of ten years after its completion which is in accordance with paragraph 40 of the RAG.
- (77) The duration of the scheme is in line with the duration of the Latvian regional aid map for 2007-2013. The scheme will expire on 31 December 2013.

#### **4. CONCLUSION**

- (78) The Commission considers the proposed aid scheme to be manifestly compatible with the internal market as it meets the relevant conditions laid down in the RAG, except for the fact that it is a sectoral scheme. In that respect, since the national authorities have nonetheless justified the scheme's contribution to regional development, the Commission, in accordance with its established practice as regards the approval of sectoral schemes, has decided to raise no objections.
- (79) In view of the above, the Commission considers that the notified aid scheme is compatible with the internal market in accordance with Article 107(3)(a) of the TFEU.

#### **5. DECISION**

- (80) The Commission has accordingly decided not to raise objections to the notified scheme on the grounds that it is compatible with the internal market in accordance with Article 107(3)(a) of the TFEU.
- (81) The Commission reminds the Latvian authorities that the reporting conditions described in the Commission Regulation (EC) N° 794/2004 implementing Council Regulation (EC) N° 659/1999 laying down detailed rules for the application of Article 93 of EC Treaty have to be respected.
- (82) The Commission further reminds the Latvian authorities that all plans to modify this aid scheme have to be notified to the Commission.

Yours faithfully,  
For the Commission

*Joaquín ALMUNIA*  
Vice-President