



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

**Subject: State Aid SA.56932 (2020/N) – Latvia
Procedure for administration and monitoring of emergency support
in the sector of agriculture and food due to a negative impact of
COVID-19 virus spread.**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 3 April 2020, Latvia notified the aid scheme in the form of direct grants “Procedure for administration and monitoring of emergency support in the sector of agriculture and food due to a negative impact of COVID-19 virus spread” (“the scheme”), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹ Latvia sent additional information on 6, 9, 14 and 15 April 2020.
- (2) The Latvian authorities confirm that the decision does not contain any confidential information.
- (3) Latvia 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, C(2020) 1863 final, OJ C 91I, adopted on 20.3.2020, p. 1-9; Communication from the Commission – Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, adopted on 3 April 2020, C(2020) 2215 final, OJ C 112I, 4.4.2020, p. 1.

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 SCHEME

- (4) Latvia considers that the COVID-19 outbreak has started to affect the real economy. The scheme aims to ensure that sufficient liquidity remains available in the market, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.
- (5) The scheme is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The scheme provides aid in the form of direct grants.

2.2. National legal basis

- (7) The legal basis for the scheme are the Draft Regulations of the Cabinet of Ministers “Procedure for administration and monitoring of emergency support in the sector of agriculture and food due to a negative impact of COVID-19 virus spread”.

2.3. Administration of the scheme

- (8) The Rural Support Service is responsible for administering the scheme.

2.4. Budget and duration of the scheme

- (9) The Latvian authorities confirm that no more than EUR 35.5 million in aid (estimate) will be granted under the scheme.
- (10) Aid may be granted under the scheme as from its approval until 31 December 2020.

2.5. Beneficiaries

- (11) The final beneficiaries of the scheme, the number of which is estimated at 22 250, are undertakings, active in Latvia, of all size in the following sectors: primary production of agricultural products, food industry (including processing of fishery and aquaculture products) and school catering sector.
- (12) Aid may not be granted under the scheme to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation³) on 31 December 2019.

³ 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. Wherever reference is made in this Temporary Framework to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

2.6. Sectoral and regional scope of the scheme

- (13) The scheme is earmarked for the following sectors: primary production of agricultural products, food industry (including processing of fishery and aquaculture products) and school catering sector. It applies to the whole territory of Latvia.

2.7. Basic elements of the scheme

- (14) The scheme consists of three measures: aid for income stabilization, for destroyed or donated products, or for accrued costs of stocks and decreased turnover. Each of these measures is available to some or all sectors covered by the scheme, as described below.

Aid for income stabilization

- (15) This aid measure concerns animal production (milk, bovine animals and pigs) in the sector of agricultural primary production. It shall be granted as a compensatory lump sum (direct grant) per animal if the income of producers in the relevant branch sector during the period April-June 2020 was at least by 20 percent lower than the average indicator of total income of that branch during the same period in the three preceding years, for milk cows and other bovine animals, and at least by 20 percent lower than the average indicator of total income of the branch during the period April-June 2019, for pigs.
- (16) The aid amount per animal under this measure shall be calculated by dividing the total amount of aid amount established per category of eligible animals (for dairy cows, EUR 12 500 000; for marketed bovine animals, EUR 3 000 000; for fattening pigs sold or delivered to a slaughterhouse, EUR 3 500 000) by the respective number of animals, but shall not exceed EUR 86 per dairy cow, EUR 137 per beef animal, EUR 96 per bull of dairy breed and EUR 22,15 per fattening pig.

Aid for destroyed or donated products

- (17) This aid measure will be granted to food enterprises (for products other than fishery and aquaculture products) or entities (hereinafter referred to as “caterers”) and primary producers of vegetables whose products were intended for ensuring catering at pre-school and general educational establishments but have not been used during the emergency situation announced according to the Cabinet of Ministers Decree No 103 of 12 March 2020 “On announcing of emergency situation” because the on-site teaching process has been suspended.
- (18) The total amount earmarked for this measure is EUR 2 500 000.
- (19) The aid to the caterer shall be granted as a lump sum payment for food products with a shelf life up to two months, which have been destroyed or distributed free of charge to one or several of the following groups of beneficiaries: charity organizations and funds, hospitals, nursing homes and the State social care centers, correctional establishments, zoos and parks, animal shelters and hunting collectives. The amount of aid for food products destroyed or distributed free of charge shall be equal to the value of the products indicated in a consignment note

or invoice received from a supplier. The proof of destruction or distribution shall be attached to the application for aid.

- (20) The aid to the vegetable producer shall be granted as a lump sum payment for vegetables distributed free of charge to one or several of the following groups of beneficiaries: charity organizations and funds, hospitals, nursing homes and the State social care centers, correctional establishments, zoos and parks, animal shelters and hunting collectives. The amount of aid for products distributed free of charge shall be equal to the value of the products indicated in the agreement signed with the caterer.

Aid for accrued costs of stocks and decreasing turnover

- (21) This aid measure is earmarked for undertakings (applicants) producing foodstuffs (products resulting from the processing of products listed in Annex I of the TFEU into products used as food, excluding spirits), including undertakings processing fishery and aquaculture products. It will cover goods not sold or the reduction in net turnover.
- (22) The total amount of aid under this measure is EUR 14 000 000, of which EUR 5 000 000 are earmarked for milk processors and EUR 9 000 000 for producers of other foodstuffs and primary agricultural producers, amongst others egg producers, pig breeders, specialized in rearing for marketing of two to three months old piglets.
- (23) The applicants shall be registered with the State Revenue Service as tax payers, who on the date of submission of the application do not have more than EUR 1000 tax and social insurance payment debts or for which, by decision of the State Revenue Service, the payment deadline has been extended or deferred in accordance with Article 24 of the Law on Taxes and Duties. They also have to be registered with or approved by the Food and Veterinary Service as an undertaking involved in the food chain if this requirement applies to them.
- (24) The applicants' stocks of goods ready for marketing in the main branch of their activity on one of the following dates – 31 March, 30 April, 31 May or 30 June 2020 - must have increased by more than 25 percent compared with the same dates in 2019 or the applicants' net turnover must have decreased by more than 25 percent in the period March - June 2020 or in any of the months of that period as compared with the corresponding period or month of 2019.
- (25) The aid under this measure will be equal to :
- a) 20 percent of the value of goods, ready for marketing in the main branch of the applicant's activity on one of the following dates – 31 March, 30 April, 31 May or 30 June 2020 minus the value of the stock fixed at that date in 2019;
 - b) 20 percent of the net turnover value recorded for the period of March to June 2020 or in one of the months of the period from which the net turnover value of the period or month concerned 2019 has been deducted.
- (26) The applicants shall receive the aid as a lump sum payment. They may request an advance payment, which shall not exceed 40 percent of the amount they are entitled to receive.

- (27) To apply for the support, the applicants shall submit an application showing the increase of their stocks or the decrease of their net turnover and the link with restrictions introduced to control the spread of COVID. Operative balance sheets confirmed by a chartered auditor in accordance with the Law on Annual Reports and Consolidated Annual Reports, must be attached to the application.
- (28) No aid will be granted to a person who deliberately accumulates stocks and does not comply with product delivery obligations with a view to receive an aid.

General provisions applicable to the scheme

- (29) The amount of aid per beneficiary, under all three aid measures envisaged (aid for income stabilization, for destroyed or donated products, or for accrued costs of stocks and decreased turnover) will not exceed EUR 100 000 for primary producers (including vegetable producers), EUR 120 000 for undertakings active in the processing of fishery and aquaculture products and EUR 800 000 for the food industry and undertakings providing school catering services. All figures are before deduction of any tax or other charges.
- (30) If the total claims exceeds the total amounts of aid, a proportional reduction of the aid will be applied.
- (31) Beneficiaries operating in processing/marketing of agricultural/fishery and aquaculture products or in catering services and in primary agricultural production ensure by means of separate accounts, when carrying out several activities, that for each activity, the relevant ceiling is respected and that in total, the amount of support of EUR 120 000 per undertaking active in the fishery and aquaculture sector, or 100 000 EUR per undertaking active in the primary production of agricultural products, or EUR 800 000 per undertaking active in other sectors is not exceeded.
- (32) Aid to undertakings active in the processing and marketing of agricultural products will not be partly or entirely passed on to primary producers nor will it be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by those undertakings.
- (33) Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market.
- (34) Aid to undertakings active in the fishery and aquaculture sectors will not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014⁴.
- (35) In case of infringement of the conditions governing the granting of aid, the beneficiary shall be obliged to pay back the aid received unlawfully with interests, the rate of which is published by the European Commission according

⁴ 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 90, 28.6.2014, p. 45).

to Article 10 of Commission Regulation (EC) No 794/2004⁵ adding 100 base points to them, from the day when the aid was paid to the beneficiary until the day of its recovery, taking into account the application method of interest rate laid down in Article 11 of Commission Regulation No 794/2004.

2.8. Cumulation

- (36) The Latvian authorities confirmed that aid granted under section 3.1 of the Temporary Framework will not be cumulated with other aid granted under sections 3.2 and 3.3 of the Temporary Framework.

2.9. Monitoring and reporting

- (37) The Latvian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

3. ASSESSMENT

3.1. Lawfulness of the scheme

- (38) By notifying the scheme before putting it into effect, the Latvian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (39) For a scheme 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 scheme 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 scheme must distort or threaten to distort competition and affect trade between Member States.
- (40) The scheme is imputable to the State, since it is administered by the Rural Support Service and is based on the Regulations of the Cabinet of Ministers on Arrangements for administration and supervision of exceptional support measures in agriculture and food sectors in relation to the negative impact of spread of COVID-19 (recitals (7) and (8)). It is financed through State resources, since it is financed by public funds (recitals (8) to (10)).
- (41) The scheme confers an advantage on its beneficiaries in the form of direct grants (recital (6)). The scheme thus relieves those beneficiaries of costs or losses, which they would have to bear under normal market conditions.
- (42) The advantage granted by the scheme is selective, since it is awarded only to certain undertakings, active in Latvia, in the sectors indicated in recital (11) of

⁵ Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).

this decision, namely in the primary production of agricultural products, food industry (including processing of fishery and aquaculture products) and school catering sector (recital (11)).

- (43) The scheme 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.
- (44) In view of the above, the Commission concludes that the scheme constitutes aid within the meaning of Article 107(1) TFEU. The Latvian authorities do not contest that conclusion.

3.3. Compatibility

- (45) Since the scheme involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether the scheme is compatible with the internal market.
- (46) 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*”.
- (47) 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*”.
- (48) The scheme aims at remedying the liquidity shortage faced by undertakings and ensuring that the disruptions caused by the COVID-19 outbreak do not undermine their viability at a time when the normal functioning of 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.
- (49) The scheme has been designed at national level by the Latvian authorities to remedy a serious disturbance in their economy. The importance of the scheme to ensure viability of the undertakings in the targeted sectors is widely accepted by economic commentators and the scheme is of a scale which can be reasonably anticipated to produce effects across the entire Latvian economy. Furthermore, the scheme 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.
- (50) The Commission accordingly considers that the scheme 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 for the following reasons.
- (51) As far as support to the catering service sector and to undertakings processing and marketing agricultural products (aid for destroyed or donated products and aid for

accrued costs of stocks and decreased turnover) is concerned, point 22 of the Temporary Framework states the following: “*The Commission will consider such State aid compatible with the internal market on the basis of Article 107(3)(b) TFEU, provided that all the following conditions are met (the specific provisions for the primary agriculture, the fishery and aquaculture sectors are set out in point 23):*”

- a) *The overall aid does not exceed EUR 800 000 per undertaking. The aid may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures remains below the overall cap of EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge;*
- b) *The aid is granted on the basis of a scheme with an estimated budget;*
- c) *Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation⁶) on 31 December 2019;*
- d) *The aid is granted no later than 31 December 2020;*
- e) *The aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.”*

- (52) The provisions of point 22 a) of the Temporary Framework are complied with, as shown in recital 29.
- (53) The provisions of point 22 b) of the Temporary Framework are complied with, as shown in recital 9.
- (54) The provisions of point 22 c) of the Temporary Framework are complied with, as shown in recital 12.
- (55) The provisions of point 22 d) of the Temporary Framework are complied with, as shown in recital 10.
- (56) The provisions of point 22 e) of the Temporary Framework are complied with, as shown in recital 32.
- (57) As far as support to undertakings active in the primary agricultural production and in the fishery sector (the three measures provided under the scheme, for primary producers, and aid for accrued costs of stocks and decreased turnover, in the case of

⁶ 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. Wherever reference is made in this Temporary Framework to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

undertakings processing fishery and aquaculture products) is concerned, points 23 and 23bis of the Temporary Framework state the following: “By way of derogation from point 22(a), the following specific conditions shall apply to aid granted to undertakings in the agriculture, fishery and aquaculture sectors, in addition to the conditions of point 22 (b) to (e):

- a) *the overall aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector⁷ or EUR 100 000 per undertaking active in the primary production of agricultural products⁸; the aid may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures does not exceed the overall cap of EUR 120 000 or EUR 100 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge;*
- b) *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;*
- c) *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.”*

23bis. Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a), the Member State concerned shall ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.”

- (58) The provisions of point 23 a) of the Temporary Framework are complied with, as shown in recital 29.
- (59) The provisions of point 23 b) of the Temporary Framework are complied with, as shown in recital 33.
- (60) The provisions of point 23 c) of the Temporary Framework are complied with, as shown in recital 34.
- (61) The provisions of point 23bis of the Temporary Framework are complied with, as shown in recital 31.
- (62) All remaining provisions of point 22 of the Temporary Framework are complied with, as shown in recitals 53 to 55 cross-referring to recitals 9, 12 and 10, applicable to the whole scheme Recital 32 is not relevant here, as the aid referred to in recitals (56) to (61) refers to aid to undertakings active in the primary agricultural production and in the processing of fishery and aquaculture products.

⁷ As defined in Article 2(1) of 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.

⁸ All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

(63) Moreover, aid may not be granted under the scheme to undertakings that were already in difficulty on 31 December 2019 (recital 12) in line with point 22 c) of the Temporary Framework. The Latvian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (37)) and the applicable cumulation rules are complied with (recital (36)).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid scheme 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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

