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**PUBLIC VERSION**

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**Subject: State Aid SA.58856 (2020/N) – Lithuania  
COVID-19: Aid in favor of poultry producers and poultry processing  
undertakings facing economic difficulties caused by the outbreak of  
COVID 19**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 5 October 2020, Lithuania notified aid in the form of limited amounts of aid (Aid in favor of poultry producers and poultry processing undertakings 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”).<sup>1</sup>
- (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 with

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

<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, 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, 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, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340I, 13.10.2020, p. 1.

Mr. Linas LINKEVIČIUS  
Užsienio Reikalų Ministerija  
J. Tumo-Vaižganto g. 2  
LT-01511 Vilnius  
Lietuvos Respublika



Article 3 of Regulation 1/1958<sup>2</sup> 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) Lithuania confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

### **2.1. The nature and form of aid**

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

### **2.2. Legal basis**

- (7) The legal basis for the measure is:
  - Draft Order of Minister of Agriculture of Republic of Lithuania on the Approval of the Rules for the Administration of Temporary State Aid to poultry farmers facing economic difficulties caused by the outbreak of Covid-19,
  - 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 poultry processing undertakings facing economic difficulties caused by the outbreak of Covid-19.

### **2.3. Administration of the measure**

- (8) The Ministry of Agriculture of the Republic of is responsible for administering the measure. The National Paying Agency of the Republic of Lithuania is responsible for the management of the measure.

### **2.4. Budget and duration of the measure**

- (9) The estimated budget of the measure is EUR 12 million.
- (10) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

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

- (11) Aid beneficiaries that are poultry primary producers shall submit the aid applications from 3 to 13 November 2020. Aid beneficiaries that are poultry processing and marketing companies shall submit the aid applications from 26 to 30 October 2020.

## **2.5. Beneficiaries**

- (12) The final beneficiaries of the measure are microenterprises, SMEs and large enterprises<sup>3</sup> active in poultry primary production and in its processing and marketing. The estimated number of beneficiaries in the primary production is approximately 1000. The estimated number of beneficiaries active in the processing and marketing is 25.
- (13) Aid may not be granted under the measure to medium<sup>4</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”) and Agricultural Block Exemption Regulation (“ABER”)<sup>5</sup> on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER and ABER<sup>6</sup> on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>7</sup> or restructuring aid<sup>8</sup>.

## **2.6. Sectoral and regional scope of the measure**

- (14) The measure is open to the sectors of poultry primary production and poultry processing and marketing. It applies to the whole territory of Lithuania.

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<sup>3</sup> 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, 26.6.2014, p. 1.

<sup>4</sup> 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, 26.6.2014, p. 1.

<sup>5</sup> As defined in Article 2(18) of 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, 26.6.2014, p. 1 and in Article 2(14) of 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, 1.7.2014, p. 1.

<sup>6</sup> As defined in Article 2(18) of 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, 26.6.2014, p. 1 and Article 2(14) of 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, 1.7.2014, p. 1.

<sup>7</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>8</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

## 2.7. Basic elements of the measure

- (15) The measure is designed to support the agricultural poultry sector in response to the COVID-19 outbreak and to help combat the liquidity and solvency problems caused by the COVID-19 outbreak, thus contributing to the preservation of the viability, production infrastructure and social stability in rural areas.
- (16) In order to stop the coronavirus spread, the Government of the Republic of Lithuania introduced on 16 March 2020 quarantine measures, temporarily prohibiting business activities, which were not compatible with the social distancing requirement. Temporary closure of markets, non-food stores, catering facilities, restaurants, cafes, bars, nightclubs and other places of entertainment was also ordered (except for take-away services).
- (17) By Resolution No. 588 of 10 June 2020, in order to protect the population and the environment from the further disease spread, as well as to prevent a new outbreak of COVID-19 in the territory of the country, the Government of the Republic of Lithuania has declared a state-level emergency throughout the country as from 17 June.
- (18) Apart from sectors directly affected by the suspension or restriction of the business activities, the introduced measures affected also the economic conditions of other market operators. The disruption of the supply chains has led to the income loss of farmers and companies involved in the primary production and in processing of agricultural products in the country. According to the Lithuanian authorities, the business continuity of agricultural enterprises has been seriously jeopardised by the price drop and by the lack of working capital. The main problem faced by farmers and processing companies due to the COVID-19 pandemic has been the lack of funds related to both working capital needs and investments. This has a significant adverse impact also on the timely fulfilment of already existing financial commitments.
- (19) Lithuania seeks to tackle these difficulties by providing aid addressing the liquidity needs and contributing to maintaining the viability and continuity of the business, to preservation of the production infrastructure and to providing social stability in rural areas.

### *Aid in favour of undertakings active in poultry primary production*

- (20) The purpose of the aid is to help maintaining the potential of poultry production, facing market disturbance.
- (21) Aid will be granted to poultry farmers facing economic difficulties caused by the outbreak of Covid-19.
- (22) Eligible for aid will be poultry primary producers who in October 2020 suffer at least a 5% drop in the total average income from sales of poultry (broilers, turkeys) for slaughter, compared to October 2017–2019 (according to the data of the State Enterprise Agricultural Information and Rural Business Centre).
- (23) The aid to poultry producers will be paid per number of broilers and turkeys registered by a beneficiary in the Register of Livestock on 1 October 2020 until the date of the aid application. Aid will amount to EUR 0,5 for a broiler and EUR 4 for a turkey.

- (24) The Lithuanian authorities confirmed that the total aid amount granted under this scheme may not exceed EUR 100000 per undertaking, before any deduction of tax or other charges.
- (25) The Lithuanian authorities confirmed that 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

#### *Aid in favour of poultry processing enterprises*

- (26) Aid will be granted in compliance with the national Rules for the Administration of Temporary State Aid to poultry processing undertakings facing economic difficulties caused by the outbreak of Covid-19.
- (27) Aid will be granted to processing undertakings, which slaughter poultry (broilers, turkeys) and sell or process their carcass.
- (28) Eligible for aid will be undertakings, which from July to September this year recorded at least a 5% loss in their average income, compared to their average income in the same period in years 2017–2019.
- (29) Aid will be granted per poultry slaughter from July to September 2020. The aid will amount to EUR 0,5 per broiler slaughtered and EUR 4 for a turkey slaughtered during that period.
- (30) The Lithuanian authorities confirmed that the total aid amount granted under this scheme to one processing undertaking may not exceed EUR 800 000 per undertaking, before any deduction of tax or other charges.
- (31) Aid granted to undertakings active in the processing and marketing of agricultural products cannot be 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 the market by such producers.
- (32) The Lithuanian authorities confirmed that 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 TF COVID-19 as amended, it will be ensured, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the TF COVID-19 as amended, the overall maximum amount of EUR 120 000 per beneficiary will not be exceeded.

### **2.8. Cumulation**

- (33) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis regulations<sup>9</sup> or the GBER and ABER provided the provisions and cumulation rules of those regulations are respected.

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<sup>9</sup> 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).

- (34) The Lithuanian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant guidelines or regulations are respected.
- (35) 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.
- (36) 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, will be respected.

## **2.9. Monitoring and reporting**

- (37) 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 above EUR 100 000 granted under the measure and EUR 10 000 in the agricultural sector) on the Commission's IT tool within 12 months from the moment of granting<sup>10</sup>.

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (38) 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**

- (39) 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.
- (40) The measure is imputable to the State, since it is administered by the Ministry of Agriculture of Lithuania and it is based on the Orders issued by the Minister of Agriculture (recital 7). It is financed through State resources, since it is financed by public funds.
- (41) 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 had to bear under normal market conditions.

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<sup>10</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014.

- (42) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the sectors of poultry production and processing and subsequent marketing.
- (43) 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.
- (44) 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

- (45) 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.
- (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 (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*”.
- (48) The measure aims at supporting the agricultural poultry sector in response to the COVID-19 outbreak, specifically, to help undertakings to tackle the liquidity and solvency 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.
- (49) 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 ensuring sufficient liquidity for running activities of agricultural enterprises has been widely accepted. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in Section 3.1 of the Temporary Framework.
- (50) 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:
- The aid takes the form of the direct grant (recital (6)).
  - The overall nominal value of aid granted to processing enterprises does not exceed EUR 800 000 per undertaking (recital (30)); all figures used must be



gross, that is, before any deduction of tax or other charges (recital (30)). The measure therefore complies with point 22(a) of the Temporary Framework;

- The overall nominal value of aid granted to primary producers does not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (24)). The measure therefore complies with point 23(a) of the Temporary Framework;
- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to medium<sup>11</sup> and large enterprises that were already in difficulty on 31 December 2019 (see recital (13)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>12</sup> or restructuring aid<sup>13</sup> (see recital (13)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
- Aid will be granted under the measure no later than 31 December 2020 (recital (10)). The measure therefore complies with point 22(d) of the Temporary Framework;
- Aid granted to 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 the market by such producers (recital (31)). The measure therefore complies with point 22(e) of the Temporary Framework.
- 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 (25)). The measure therefore complies with point 23(b) of the Temporary Framework;
- Where an undertaking is active in several sectors to which different maximum aid 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 those activities and that the overall maximum amount of EUR 800 000 is not

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<sup>11</sup> 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, 26.6.2014, p. 1.

<sup>12</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>13</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (32)). The measure therefore complies with point 23bis of the Temporary Framework.

- (51) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (37)). The Lithuanian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant regulations are respected (recitals (33) to (36)).
- (52) 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

