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**Subject: State Aid SA.58885 (2020/N) – Lithuania
COVID-19: Deferral of social security contributions**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 6 October 2020, Lithuania notified aid in the form of a deferral of payment of social security contributions (“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

¹ 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 340 I, 13.10.2020, p. 1.

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- (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 Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English. Lithuania further confirmed that the notification does not contain any confidential information.

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) On 26 February 2020, the Government of Lithuania declared a State-wide emergency situation due to the COVID-19 outbreak. On 14 March 2020, the government ordered quarantine measures including prohibition or restriction of certain economic activities. In order to mitigate the economic impact of the quarantine measures, the Government of Lithuania decided on 16 March 2020 that responsible ministries and institutes should adopt accompanying support measures to help undertakings preserve liquidity and remain viable, inter alia by deferring tax and social security contribution payments. In order to better target the undertakings in need, the State Tax Inspectorate compiled a list of activities which have been particularly affected by the COVID-19 outbreak, and the State Social Insurance Fund Board adopted the current measure.
- (5) 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.
- (6) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.9 of the Temporary Framework.

2.1. The nature and form of aid

- (7) The measure provides aid in the form of deferral of payment of social security contributions.

2.2. Legal basis

- (8) The legal basis for the measure is Article 19¹ of the State Social Insurance Act³ and the Rules of the State Social Insurance Fund on the granting of State aid to

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

³ The State Social Insurance Act of the Republic of Lithuania, published on May 31, 1991, No. 107-0; No.17-447, Id. Code: 0911010ISTA00I-1336, as amended.

undertakings affected by the COVID-19 outbreak, including the draft rule amending the period during which aid can be granted under the measure (submitted to the Commission on 16 November 2020).

2.3. Administration of the measure

- (9) The State Social Insurance Fund is responsible for administering the measure.

2.4. Budget and duration of the measure

- (10) The Lithuanian authorities estimated that no more than EUR 100 million will be granted under the measure.
- (11) Aid may be granted under the measure as from its approval until no later than 30 June 2021.

2.5. Beneficiaries

- (12) The beneficiaries of the measure are SMEs and large enterprises⁴.
- (13) An undertaking can only benefit from the measure provided that:
- the social security contribution arrears have not been transferred to a bailiff for their enforcement;
 - its financial liabilities do not exceed its assets;
 - the undertaking is not subject to insolvency proceedings (bankruptcy or restructuring) on the date on which it submits the application for aid.

2.6. Sectoral and regional scope of the measure

- (14) The measure is limited to sectors listed by the State Tax Inspectorate as sectors particularly affected by the COVID-19 outbreak⁵. The list includes sectors the activities of which have been suspended or restricted based on Government's resolutions (No. 207 of 14 March 2020 and No. 222 of 16 March 2020). The financial sector is not included in this list.
- (15) The measure applies to the whole territory of Lithuania.

⁴ 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, Annex I to 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 Annex I to 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.

⁵ The list of sectors particularly affected by the COVID-19 outbreak is published on the website of the State Tax Inspectorate: <https://www.vmi.lt/evmi/en/informacija-verslui>.

2.7. Basic elements of the measure

- (16) The measure consists in deferring the social security contribution arrears and the social security contribution payments which become due before the date of granting, subject to the conditions listed in recital (13) above. The end date for the deferral shall not be later than 31 December 2022.
- (17) Undertakings active in the sectors listed by the State Tax Inspectorate who wish to benefit from the measure shall submit to the local office of the State Social Insurance Fund (“SSIF office”) the following documents:
- (i) an application indicating how the undertaking will carry out its activities so as to be able to pay the deferred social security contribution arrears as well as the future social security contributions;
 - (ii) a repayment schedule which provides for equal monthly instalments and the final repayment date which should be no later than on 31 December 2022;
 - (iii) a provisional financial report as at the date of 30 June 2020.
- (18) The SSIF office will examine the application and the enclosed documents within 20 working days after their receipt. It will examine whether all the conditions listed in recital 13 above are fulfilled. If the conditions are fulfilled, the SSIF office will allow for the deferral of the social security contributions. If the conditions listed in recital 13 above are not fulfilled, the SSIF office will not allow for the deferral of the payment of the social security contributions due. If any of the documents listed in recital 17 above is missing, the SSIF office will inform the undertaking thereof and set a deadline of no more than 10 working days for the submission of the missing documents. If the undertaking fails to submit the missing documents within the set deadline, the SSIF office will deny the deferral of the payment of the social security contributions.

2.8. Cumulation

- (19) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations⁶ or the Block Exemption Regulations⁷ provided the provisions and cumulation rules of those Regulations are respected.

⁶ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

⁷ Regulation (EU) No 651/2014, Regulation (EC) No 702/2014 and Regulation (EU) No 1388/2014, cf. footnote 4.

- (20) 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.

2.9. Monitoring and reporting

- (21) The Lithuanian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework. In particular, by 30 June 2021 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.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (22) 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

- (23) 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.
- (24) The measure is imputable to the State, since it is administered by the State Social Insurance Fund (see recital 9 above) and it is based on the State Social Insurance Act (see recital 8 above). It is financed through State resources, since it is financed by public funds.
- (25) The measure confers an advantage on its beneficiaries in the form of deferral of social security contribution payments (see recital 7 above). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions if they could not have deferred the payments concerned (interest on the amounts of payment deferred, over the period of deferral).
- (26) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, namely undertakings active in sectors which have been listed by the State Tax Inspectorate as sectors particularly affected by the COVID-19 outbreak⁸ (see recital 14 above). The measure therefore discriminates in favour of its beneficiaries as compared to undertakings which are subject to the same social security contribution system, are in a comparable factual and legal situation in the light of that system and are not allowed to benefit from the deferral of payment of social security contributions. The Lithuanian authorities have not provided any justification for that discrimination based on the nature or

⁸ The list of sectors particularly affected by the COVID-19 outbreak is published on the website of the State Tax Inspectorate: <https://www.vmi.lt/evmi/en/informacija-verslui>

the general scheme of the social security contribution system. Accordingly, the advantage is selective.

- (27) 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.
- (28) 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

- (29) 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.
- (30) 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*”.
- (31) 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*”.
- (32) The measure aims at preserving the liquidity of undertakings affected by the outbreak of COVID-19 (in particular in sectors which have been prohibited or restricted in carrying out economic activities) and keeping those undertakings viable 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.
- (33) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of deferrals of social security contributions*”) described in section 3.9 of the Temporary Framework.
- (34) The Commission accordingly considers that the measure meets all the conditions of the Temporary Framework. In particular:
- The measure provides for a form of aid explicitly covered by section 3.9 of the Temporary Framework, i.e. deferral of social security contributions.

- The measure assists undertakings that are particularly affected by the COVID-19 outbreak, i.e. undertakings active in sectors particularly affected by the measures ordered by the Lithuanian government and mentioned in the list compiled by the State Tax Inspectorate (see recitals 4 and 14 above). By deferring the payment of social security contributions, the measure eases the liquidity constraints faced by those undertakings due to the COVID-19 outbreak and contributes to preserving the continuity of their economic activities.
 - Aid granted under the measure will be granted before 30 June 2021 (see recital 11 above), and the end date of the deferrals will be not later than 31 December 2022 (see recital 16 above). The measure therefore complies with point 41 of the Temporary Framework.
- (35) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Lithuania 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 TFEU.

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

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Executive Vice-President