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**Subject: State Aid SA.62306 (2021/N) – Lithuania
COVID-19: The Measure: Subsidies to Enterprises Most Affected by
COVID-19**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 12 March 2021, supplemented by additional information on 30 March 2021, Lithuania notified aid in the form of a scheme for the protection of enterprises most affected by the second wave of COVID-19 (COVID-19: The Measure; Subsidies to Enterprises Most Affected by COVID-19). The scheme concerns the period from 1 November 2020 until 30 April 2021 and consists of two measures: limited amounts of aid (“Measure 1”) and support for uncovered fixed costs (“Measure 2”), jointly referred to as “the Measures”. The scheme has been notified under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹
- (2) Lithuania exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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

2. DESCRIPTION OF THE MEASURES

- (3) Lithuania considers that the COVID-19 outbreak has affected the real economy. The Measures form part of an overall package of measures adopted by the government of Lithuania to manage the health crisis, protect workplaces and income, ensure liquidity of enterprises, and provide economic stimulus. The Measures aim to ensure that sufficient liquidity remains available in the market by countering the liquidity shortage faced by enterprises, to ensure that the disruptions caused by the outbreak do not undermine the viability of the enterprises, and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) Since March 2020, the COVID-19 outbreak has had a strong impact on the economy in general. On 16 March 2020, the Lithuanian government decided to declare lockdown on the entire territory of the country in order to control the spread of the virus and to impose restrictions on enterprises active in various sectors as specified in List of Restricted Activities³ issued by the government of Lithuania. The first lock-down in Lithuania was in place until 16 June 2020.
- (5) Since November 2020, the economy has again come under significant pressure due to the second pandemic wave. This has led to new lockdown measures imposed by the Lithuanian government on 7 November 2020, which result either in drastic reduction of affected enterprises' activities or even their temporary closure. Economic activities that cannot meet social distancing requirements have been temporarily suspended for the period from November 2020 until the end of April 2021 at least. No exact date has been given when those economic activities can be re-opened, but taking into account the fact that the Lithuanian government recognizes a high risk of a third COVID-19 pandemic wave, and that the lockdown has been extended until the end of April 2021, the restriction may last even beyond the end of April.
- (6) The outbreak has had a negative impact on the economic wellbeing of many enterprises in the short and medium term, while also having long-term effects, ultimately threatening their survival. The Measures aim at preventing a significant decrease in revenues and loss of financial liquidity, and, consequently, at reducing the risk of job losses and bankruptcy of the most affected enterprises.
- (7) Lithuania confirmed that the aid under the Measures 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

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

³ The List of Restricted Activities is approved by Order No.4-1171/A1-1301 'On the Approval of the List of Activities Restricted and Indirectly Restricted During the Quarantine' of 30 December 2020. Essentially, this list includes all economic activities that have been restricted in Lithuania due to the restrictions imposed in the context of the COVID-19 outbreak.

aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

- (8) The compatibility assessment of the Measures is based on Article 107(3)(b) TFEU, in light of sections 2, 3.1 (for Measure 1) and 3.12 (for Measure 2) of the Temporary Framework.

2.1. The nature and form of aid

- (9) The Measures constitute aid schemes and provide aid in the form of direct grants. They are granted to those enterprises for which the COVID-19 outbreak resulted in a suspension or reduction of their business activity and that find themselves facing a sudden shortage or even unavailability of liquidity.

2.2. Legal basis

- (10) The legal basis for the Measures is the Draft Resolution of the Government of the Republic of Lithuania “On the Approval of the Description of the Procedure for Allocating and Using Funds of the Measure: Subsidies to Enterprises Most Affected by COVID-19”.

2.3. Administration of the Measures

- (11) The aid granting authorities responsible for implementing, administering and managing the Measures are: the Ministry of the Economy and Innovation of the Republic of Lithuania, the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania, the Lithuanian Business Support Agency, the Competition Council of the Republic of Lithuania, and the National Centre for General Functions.

2.4. Budget and duration of the Measures

- (12) The estimated total budget of the Measures is EUR 120 million. That budget is allocated as follows:
 - (a) For Measure 1: up to EUR 100 million (“Call I”).
 - (b) For Measure 2: up to EUR 20 million (“Call II”).
- (13) Having assessed the number of submitted applications and the amount of the aid expected to be granted under each of those Measures, the Ministry of the Economy and Innovation of the Republic of Lithuania may, as from 1 June 2021, decide to redistribute the funds allocated for Calls I and II between those calls provided that the estimated total budget of EUR 120 million is not exceeded.
- (14) Aid may be granted under each of the Measures as from the notification of the Commission’s approval until no later than 31 December 2021.

2.5. Sectoral and regional scope of the Measures

- (15) The Measures are open to enterprises of sectors of the economy most affected by the COVID-19 outbreak, as they are defined in recital (16(a)), with the exception of the primary production of agricultural products, processing and marketing of agricultural products, forestry, fishing, aquaculture, credit, insurance, pension

funding and financial sectors. If at least one of the economic activities carried out by an enterprise falls within those areas listed as excluded, no aid shall be granted to that enterprise. The Measures apply to the whole territory of Lithuania.

2.6. Beneficiaries

- (16) The Measures are open to enterprises of all sizes. The beneficiaries shall be legal persons who meet the following eligibility conditions:
- (a) They must qualify as an “enterprise most affected by COVID-19” within the meaning of the national legal basis, namely they must be active in the sectors included in the List of Restricted Activities issued by the government of Lithuania;
 - (b) On the date when the application for aid is filed, they must not be engaged (i) in liquidation, (ii) in bankruptcy, (iii) in reorganisation, (iv) in separation, (v) in cross-border merger, (vi) in restructuring;
 - (c) On the date when the application for aid is filed and on the date of drawing up the Lists of Eligible Applicants⁴, they must be a reliable taxpayer in the sense of Article 40¹ of the Law on Tax Administration of the Republic of Lithuania⁵;
 - (d) The beneficiaries must be enterprises registered in Lithuania. However, aid may also be granted to legal persons or organisations which are not registered in Lithuania, but which maintain a permanent establishment registered in the Register of Taxpayers, in accordance with the relevant national legislation⁶;
 - (e) They must have submitted the yearly financial statement of 2019 and 2020 to the Register of Legal Entities. If the beneficiary is associated with other enterprises operating in Lithuania, they must have also submitted yearly financial statement of 2019 and 2020 to the Register of Legal Entities in accordance with the procedure established by the relevant national legislation. In the event where the financial year of the beneficiary or that of its associated enterprises does not correspond with the calendar year, a set of financial statements for the last completed financial year must be submitted to the Register of Legal Entities. The beneficiaries, whose form of electronic set of annual financial statements has not been approved by the State Enterprise Centre of Registers, must submit their sets of financial

⁴ The Lithuanian Business Support Agency (“LVPA”) assesses the applicants and submits to the STI, the information on the applicants eligible for the subsidy, the eligible amount of the subsidy and the applicants to which no subsidies can be granted.

⁵ The Lithuanian authorities submit that the criteria for a reliable taxpayer relate to violations of tax, criminal and administrative law (e.g., one of the criteria is that the taxpayer has not been punished for non-recorded income and the tax authority did not calculate taxes amounting to more than EUR 15 000 for this infringement). Taxpayers who fulfil those criteria are considered reliable taxpayers, while those who do not, suffer the consequences of not qualifying as such (e.g. non-reliable taxpayers are not allowed to participate in public procurement proceedings).

⁶ Regulations for the Register of Taxpayers approved by Resolution No. 1059 of 6 September 2000 of the Government of the Republic of Lithuania “On the Establishment of the Register of Taxpayers and the Approval of its Regulations”.

statements of 2019 and 2020 together with the aid application. In case the applicant indicates in the aid application that it is linked with a foreign legal enterprise, it shall in the application provide the data on the associated foreign entities.

- (17) The beneficiary must not be subject to international sanctions, and/or have activities, actions or transactions or those of its associated enterprises involving enterprises subject to international sanctions, when the activities of those entities, the performance of the actions and/or transactions is prohibited or contradicts the international sanctions implemented in the Republic of Lithuania in accordance with Article 9 of the Law on the Implementation of Economic and other International Sanctions of the Republic of Lithuania; or the activities, actions or transactions involve foreign citizens included in a public list of foreign citizens prohibited from entering the Republic of Lithuania, and published on the internet website of the Migration Department under the Ministry of the Interior of the Republic of Lithuania at www.migracija.lt.
- (18) Aid may not be granted under the Measures to medium⁷ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁸ on 31 December 2019.
- (19) Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER 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 aid⁹ or restructuring aid.¹⁰

2.7. Basic elements of the Measures

2.7.1. Measure 1

2.7.1.1. Eligibility

- (20) Apart from the eligibility conditions laid down in recitals (16) to (19), undertakings that wish to apply for aid under Measure 1 must also fulfil one of the following conditions:
 - (a) They must suffer a decline in turnover of at least 50% in the period from 1 November 2020 until 31 January 2021 as compared to the same period in 2019 and 2020, i.e. from November 2019 to January 2020 (“Category 1”). The turnover decline will be calculated and proved by using the existing data declared in the monthly submitted VAT returns. Alternatively, for instance in cases where the undertaking is not required to submit monthly

⁷ 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.

⁸ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

⁹ 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.

¹⁰ 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.

VAT returns, the national authorities may request other documents or forms in accordance with national legislation to substantiate the levels of turnover for the period at issue. In addition, undertakings must have paid or credited at least part of the amount of their withholding personal income tax (“the IIT”)¹¹ liability for the tax period of 2019 by 31 January 2020, or

- (b) They must have been established before 31 October 2019 and they must have not generated any income in the period from 1 November 2019 until 31 January 2020 (“Category 2”). Those undertakings must also have paid or credited at least part of the amount of their withholding personal income tax (“the IIT”) liability for the tax period of 2019 by 31 January 2020, or
- (c) They must have been established between 1 November 2019 and 30 November 2020 and they must have not generated any income in the period from 1 November 2019 until 31 December 2019 (“Category 3”).

2.7.1.2. *On the determination of the aid amount*

- (21) The beneficiaries of Measure 1 can choose to apply for one of the following grants under Measure 1:
 - (a) A direct grant under which the aid amount is the product of the rate of the decrease of the monthly turnover of the enterprises, in the period from 1 November 2020 to 31 January 2021 as illustrated by the formula: $S_{\text{amount}} = (GPM_{\text{DU}} \cdot A_p)$. In practice, that means that the amount of the individual income tax (“IIT”) (all or part thereof) paid or accrued from the income related to employment relations or the relations consistent with the employment relations (account will be taken of the payments and/or amounts credited until 31 January 2020 for the tax period of 2019) (GPM_{DU}) is multiplied by the rate of the turnover decline expressed as a percentage of the enterprise’s one month’s turnover within the period from 1 November 2020 to 31 January 2021 in comparison to the same period in 2019-2020 (A_p), or
 - (b) A direct grant that cannot be higher than 70% of total fixed costs, and must not exceed EUR 40 000 per undertaking.
- (22) The aid granted under recital (21(b)) covers fixed costs, which include the costs of renting premises, utilities, operating, security, equipment that is inseparable from the premises, parking spaces, indexing under the lease agreement, and which are incurred regardless of the level of production. Those costs must have been incurred during the period from 1 November 2020 to 30 April 2021.
- (23) The aid granted under recital (21(b)) is determined on the basis of the actual figures. The beneficiary is obliged to provide the rental agreement, which has to be registered in the Center of Registers in accordance with national law, as well as documents declaring other rental costs specified in recital (22).

¹¹ The “withholding personal income tax” (in Lithuanian: “gyventojų pajamų mokesčiai”), is laid down in Article 23 of the Law of the Republic of Lithuania on Income Tax for Individuals. The Lithuanian authorities submit that it is a withholding tax, calculated on the basis of wage costs and paid by the employer on behalf of the employees

- (24) The amount of aid under Measure 1 may not be less than EUR 500 and may not exceed EUR 350 000 per undertaking. All figures used must be gross, that is, before any deduction of tax or other charge.
- (25) The highest possible aid amount may not exceed the amount derived from the full IIT amount calculated from the income paid corresponding to the employment relations (or relations corresponding to employment relations) that covered the IIT obligation for the 2019 tax period, and the amount of decline in the monthly turnover of the economic activity of the undertaking.
- (26) In addition, the highest possible aid amount may not exceed 100% of the amount calculated from the income generated from employment relations (or relations corresponding employment relations) discharging the IIT obligation for the 2019 tax period, and the amount of decline in the monthly turnover of the economic activity of the undertaking.

2.7.2. Measure 2

2.7.2.1. Eligibility

- (27) Apart from the eligibility conditions laid down in recitals (16) to (19), undertakings that wish to apply for aid under Measure 2 must also suffer a decline in their turnover in two phases as follows:
 - (a) For the period from 1 November 2020 to 31 January 2021 (“phase 1”), a turnover decline of at least 50% must be established by comparison with the figures for the respective months of 2019 on a month-to-month basis. For that period, the turnover decline will be calculated and proved on the basis of actual figures. In principle, the undertakings will prove those figures by using the existing data declared in the monthly submitted VAT returns. Alternatively, for instance in cases where the undertaking is not required to submit monthly VAT returns, the national authorities may request other documents or forms in accordance with national legislation to substantiate the decrease in the levels of turnover for the period at issue; and
 - (b) For the period from 1 February 2021 to 30 April 2021 (“phase 2”), a turnover decline of at least 30% must be established by comparison with the figures for the respective months of 2019. Lithuania explained that a turnover decline during that period would logically follow from the lockdown restrictions introduced in November 2020 (recital (5)), which will remain in effect at least until 30 April 2021; even on that date, it is expected that the Lithuanian government will not lift those restrictions. Hence, the impact on undertakings in several sectors (recitals (4) and (5)) would continue in the period from 1 February to 30 April 2021, where the governmental plan would continue to impose restrictions. Undertakings active in the sectors specified in the List of Restricted Activities (recitals (4) and (5)) will continue to suffer significant limitations to their economic activities as they are not be able to guarantee appropriate social distancing rules. Due to the government’s decision to keep the lockdown measures, those sectors will not be able to realise the turnover usually generated. In light of the above, Lithuania claims that the beneficiaries of Measure 2, will continue to suffer a monthly average turnover decline of at least 30% in the entire phase 2. In order to substantiate their eligibility for Measure 2,

beneficiaries must submit forecasted levels of turnover for phase 2 along with the actual revenue figures for the respective months of 2019. Those forecasts should be in accordance with national legislation (accounting rules) and must be verified with respect to their plausibility by the administering authority in view of the economic environment.

- (28) The Lithuanian authorities clarify that there might be cases where beneficiaries are eligible both for Measure 2 and for Measure 1 under Category 1 (recital (20(a))). In those cases, the beneficiaries may choose to apply for and receive aid only under one of the Measures.

2.7.2.2. Eligible period

- (29) The aid under Measure 2 covers uncovered fixed costs incurred during the period between 1 November 2020 and 30 April 2021 (the “eligible period”).

2.7.2.3. The determination of the aid amount

- (30) Under Measure 2, uncovered fixed costs are the net losses (i.e., pre-tax losses, or the undertaking’s financial result before tax, taking into account operating profit/loss as well as financial costs and revenues) incurred in the period from 1 November 2020 to 30 April 2021, that are not covered by revenues during the same period, and which are not covered by other sources, such as insurance, temporary aid measures covered by the Temporary Framework or support from other sources.¹²
- (31) Aid under Measure 2 is granted up to 70% of the uncovered fixed costs, but not more than EUR 350 000 per undertaking. All figures used must be gross, that is, before any deduction of tax or other charge.
- (32) The aid granted under Measure 2 is determined on the basis of actual figures provided by the beneficiaries in their yearly financial statements of 2019 and 2020 for the months that have elapsed, and on the basis of the forecasted uncovered fixed costs for the other months. The beneficiary is obliged to provide loss forecasts, which will be calculated based on their best knowledge in line with the general provisions of the Law on Income Tax of the Republic of Lithuania and be substantiated by the beneficiary’s declaration that those forecasts are credible.
- (33) As of July 2021, the STI will conduct the ex-post verification of the aid granted. The aid will be recalibrated to the actual incurred losses. To that end, the beneficiaries will have to submit by 31 July 2021 their financial statements showing actual figures, demonstrating the uncovered fixed costs for the period between November 2020 and April 2021. The beneficiaries must substantiate their actual financial results by means of audited financial accounts, audited by an independent external auditor in line with the general provisions of the Law on Income Tax of the Republic of Lithuania.
- (34) Should the losses incurred by the beneficiary be lower than forecasted at the time of application, the excess amount of the direct grant must be recovered.

¹² One-off impairment losses are not included in the calculation of the losses.

Nevertheless, should the beneficiary suffer even higher loss than forecasted during the eligible period, the amount of aid will not be adapted.

2.8. Cumulation

- (35) The Lithuanian authorities confirm that aid granted under the Measures may be cumulated with aid under the de minimis Regulations¹³ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (36) The Lithuanian authorities confirm that aid granted under the Measures 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.
- (37) The Lithuanian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under Measure 1 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 point 22(a) of that framework, will be respected.
- (38) The Lithuanian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under Measure 2 or aid under other measures approved by the Commission under section 3.12 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.
- (39) The Lithuanian authorities confirm that aid granted under Measure 2 shall not be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

- (40) 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 Measures on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁴).

3. ASSESSMENT

3.1. Lawfulness of the Measures

- (41) By notifying the Measures before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

¹³ 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) 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).

¹⁴ Referring to information required in Annex III to the GBER.

3.2. Existence of State aid

- (42) 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.
- (43) The Measures are imputable to the State, since they are administered by the State authorities, and are based on the Resolution of the Government of the Republic of Lithuania (recitals (11) and (10)). They are financed through State resources, since they are financed by public funds.
- (44) The Measures confer an advantage on its beneficiaries in the form of direct grants of limited amounts (“Measure 1”) and a support for uncovered fixed costs (“Measure 2”). The Measures thus provide those beneficiaries with an advantage, which they would not have had under normal market conditions.
- (45) The advantage granted by the Measures is selective, since it is awarded only to certain undertakings fulfilling the criteria specified in recitals (16) to (19), with the exception of the primary production of agricultural products, processing and marketing of agricultural products, forestry, fishing, aquaculture, credit, insurance, pension funding and financial sectors (recital (15)).
- (46) The Measures are liable to distort competition, since they strengthen the competitive position of its beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (47) In view of the above, the Commission concludes that the Measures constitute aid within the meaning of Article 107(1) TFEU. The Lithuanian authorities do not contest that conclusion.

3.3. Compatibility

- (48) Since the Measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those Measures are compatible with the internal market.
- (49) 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*”.
- (50) 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*”.

- (51) The Measures aim at countering the damage inflicted on undertakings and to preserve the continuity of their economic activity sustained by the beneficiaries during and after the COVID-19 outbreak at a time when the normal functioning of markets is severely disturbed by the COVID-19 and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (52) The Measures are part 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 Measures to preserve economic continuity and liquidity of undertakings is widely accepted by economic commentators and the Measures are of a scale that can be reasonably anticipated to produce effects for all sectors of the Lithuanian economy, which are most affected by the COVID-19 outbreak and lockdown measures. Furthermore, the Measures have been designed to meet the requirements of specific categories of aid: “Limited amounts of aid”, described in section 3.1 of the Temporary Framework (“Measure 1”) and “Aid in the form of support for uncovered fixed costs”, described in section 3.12 of the Temporary Framework (“Measure 2”).
- (53) The Commission accordingly considers that the Measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular, they meet the conditions of the following sections:
- (54) As regards Measure 1 (concerning the requirements described in Section 3.1):
- The aid takes the form of direct grants (recital (21) (a) and (b)). The overall nominal value of the aid shall not exceed EUR 1 800 000 per undertaking (recital (24)); all figures used must be gross, that is, before any deduction of tax or other charges. The Measure 1 therefore complies with point 22(a) of the Temporary Framework;
 - Aid is granted under the Measure 1 on the basis of a scheme with an estimated budget as indicated in recital (12). The Measure 1 therefore complies with point 22(b) of the Temporary Framework;
 - Aid may not be granted under the Measure 1 to medium¹⁵ and large enterprises that were already in difficulty on 31 December 2019 (recital (18)). The Measure 1 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 aid¹⁶ or restructuring aid¹⁷

¹⁵ 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.

¹⁶ 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.

¹⁷ 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.

(recital (19)). The Measure 1 therefore complies with point 22(c)bis of the Temporary Framework;

- Aid will be granted under the Measure 1 no later than 31 December 2021 (recital (14)). The Measure 1 therefore complies with point 22(d) of the Temporary Framework;

(55) As regards Measure 2 (concerning the requirements described in Section 3.12):

- Aid is granted under the Measure 2 no later than 31 December 2021 (recital (14)) and covers uncovered fixed costs incurred during the period from 1 November 2020 until 30 April 2021 (recital (29)). The Measure 2 therefore complies with point 87(a) of the Temporary Framework;
- Aid is granted under the Measure 2 on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 50% in the period from 1 November 2020 to 31 January 2021 (“phase 1”) compared to the respective months of 2019, and of at least 30% in the period from 1 February 2021 to 30 April 2021 (“phase 2”) compared to the respective months of 2019. Undertakings must demonstrate the abovementioned turnover decline on the basis of actual figures for phase 1 (recital (27) (a)) and on the basis of forecasts for phase 2 (recital 27 (b)). The Commission notes that strict COVID-related restrictions on the operations of undertakings in various sectors were imposed on 7 November 2020 and will remain in place at least until 30 April 2021, as explained in recital (27 (b)). Therefore, all elements which have already affected undertakings in phase 1 remain in place and will continue to affect severely those undertakings in phase 2. On that basis, the Commission accepts that it is adequate to use forecasted turnover figures for phase 2 and considers it reasonable to expect that the affected undertakings addressed by the Measure 2 will suffer a minimum of 30% decline in their turnover in phase 2. The Measure 2 therefore complies with point 87(b) of the Temporary Framework;
- Uncovered fixed costs are defined under the Measure 2 in accordance with point 87(c) of the Temporary Framework and the aid intensity will not exceed 70% of the uncovered fixed costs (recitals (30) and (31)). The net losses of undertakings during the eligible period¹⁸ are considered to constitute uncovered fixed costs (recital (30)). The aid under this Measure 2 may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses in July 2021 on the basis of audited accounts (recital (33)). Any payment exceeding the final amount of the aid must be recovered (recital (34)). The Measure 2 therefore complies with point 87(c) of the Temporary Framework;
- The aid takes the form of direct grants. The maximum aid amount under the Measure 2 is EUR 350 000 per undertaking (recital (31)). Therefore, the overall nominal value will not exceed EUR 10 000 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other

¹⁸ One-off impairment losses are not included in the calculation of the losses.

charges (recital (31)). The Measure 2 therefore complies with point 87(d) of the Temporary Framework;

- Aid may not be granted under the Measure 2 to medium¹⁹ and large enterprises that were already in difficulty on 31 December 2019 (recital (18)). 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 aid²⁰ or restructuring aid²¹ (recital (19)). The Measure 2 therefore complies with point 87(f) of the Temporary Framework;
- The aid under Measure 2 shall not be cumulated with other aid for the same eligible costs (recital (39)). Measure 2 therefore complies with point 87(e) of the Temporary Framework.

- (56) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (40)). The Lithuanian authorities further confirm that the aid under the Measures 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 (35) to (38)).
- (57) The Lithuanian authorities confirm that the aid under the Measures 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 (recital (7)). This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (7)).
- (58) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since they meet all the relevant conditions of the Temporary Framework.

¹⁹ 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.

²⁰ 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.

²¹ 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.

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