



Brussels, 13.04.2021
C(2021) 2660 final

PUBLIC VERSION

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**Subject: State Aid SA.62580 (2021/N) – Lithuania
Amendment to the scheme SA.60308 “COVID-19: Subsidies for Enterprises”**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 April 2021, Lithuania notified amendments to the State aid scheme SA.60308 “COVID-19: Subsidies for enterprises” (“the existing scheme”), which was approved by the Commission by its Decision of 22 December 2020¹ (“the initial decision”) and amended by SA.60977 which was approved by Decision of 14 January 2021² (“the amendment decision”), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”)³.
- (2) The existing scheme provides limited amounts of aid in the form of direct grants to eligible enterprises severely affected by the COVID-19 outbreak in the territory of Lithuania. The notified amendments refer to: (i) the prolongation of the duration of the scheme until 31 December 2021 (recital (11) of the initial decision); (ii) the extension of the scope of beneficiaries by adding a new category of eligible

¹ Commission Decision C(2020) 9618 final.

² Commission Decision C(2021) 274 final.

³ 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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beneficiaries (recital (15) of the initial decision and recital (12) of the amendment decision); (iii) certain changes regarding the calculation of the aid amount (recital (17 (a) and (b)) of the initial decision); and (iv) the increase of the total amount of aid provided to a single enterprise for eligible beneficiaries of all categories (recital (19) of the initial decision).

- (3) 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 1/1958⁴ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (4) Lithuania considers that the COVID-19 outbreak has affected the real economy, limited liquidity and availability of funds, and put at risk the jobs of workers and employees of undertakings that have suspended partially or entirely their activities due to the state of emergency and containment measures enforced by the national authorities. In particular, the Lithuanian authorities have imposed a lockdown regime as of 7 November 2020, which has already been extended until at least 30 April 2021. In this context, Lithuania intends to modify the existing scheme in order to ensure that it remains suitable and appropriate to achieve its objective to support the national economy throughout the current economic and health crisis.

2.1. Legal basis

- (5) The legal basis of the notified amendments 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”, which will enter into force following the notification of the present decision to Lithuania.

2.2. Notified amendments

- (6) The notified amendments are explained in the recitals (7) to (10).
- (7) Aid may be granted under the amended scheme as from the notification of the approval of the notified amendments until no later than 31 December 2021.
- (8) The notified amendments add a category of eligible undertakings to the categories of eligible beneficiaries laid down in recital (15) of the initial decision and in recital (12) of the amendment decision:
- (a) Enterprises must be established before 31 October 2019 and must have not generated any income in the period from 1 November 2019 until 31 January 2020 (“Category 3”). Those enterprises must also be active in the sectors included in the List of Economic Activities that are Directly and Indirectly Restricted Due to the Quarantine⁵ issued by the

⁴ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁵ The List of Economic Activities that are Directly and Indirectly Restricted Due to the Quarantine 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

government of Lithuania, and must have had at least one employee on 1 November 2019.

- (9) In addition, the notified amendments also cover the change of the calculation of the amount of aid for eligible beneficiaries under Category 1⁶, as follows:
- (a) If the total amount of the withholding personal income tax⁷ paid or credited for the tax year 2019 exceeds EUR 2 000, the aid will be equal to 25% of that amount, or 50% of that amount when the main economic activity of the beneficiary is included in the List of Economic Activities that are Directly and Indirectly Restricted Due to the Quarantine (i.e. the amount of employer payroll tax paid or credited for the tax year 2019).
 - (b) If the total amount of the employer payroll tax paid or credited for the tax year 2019 is lower than EUR 2 000, the aid will be equal to a flat amount of EUR 500, or EUR 1000 when the main economic activity of beneficiary is included in the List of Economic Activities that are Directly and Indirectly Restricted Due to the Quarantine.
- (10) For eligible beneficiaries under all categories, the total amount of aid provided to a single enterprise may not exceed EUR 1 800 000. All figures used for this calculation must be gross, that is, before any deduction of tax or other charges.
- (11) All other definitions, conditions and commitments of the existing scheme, as set out in the initial decision and as modified in the amendment decision, will continue to apply without any further modifications. This includes, but is not limited to, the form of the aid and the budget, the sectoral and regional scope, the basic elements of the scheme and eligibility conditions not explicitly mentioned in recitals (7) to (10) above, as well as the cumulation, monitoring and reporting obligations.

3. ASSESSMENT

3.1. Lawfulness

- (12) By notifying the amendments to the existing scheme before putting them into effect (recital (5)), the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (13) 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.

economic activities that have been restricted in Lithuania due to the restrictions imposed in the context of the COVID-19 outbreak.

⁶ See in this regard recital (17) (a) and (b) of the initial decision.

⁷ 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.

- (14) The existing scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the assessment included in the initial decision (see recitals (27) to (32) of that decision) and concludes that the scheme as modified constitutes State aid in the meaning of Article 107(1) of the TFEU. The Lithuanian authorities do not contest that conclusion.

3.3. Compatibility

- (15) In the initial decision, the Commission declared the existing scheme compatible under Article 107(3)(b) of the TFEU, since it met all relevant conditions of the Temporary Framework.
- (16) The Commission refers to its analysis of compatibility as set out in the initial decision (see recitals (33) to (38) of that decision). After examining the notified amendments, the Commission notes that they do not alter the Commission's conclusion on the compatibility of the respective scheme set out in the initial decision. In particular, the notified amendments meet the conditions of Section 3.1 of the Temporary Framework:
- (a) The overall nominal value of the aid shall not exceed EUR 1 800 000 per undertaking (recital (10)); all figures used must be gross, that is, before any deduction of tax or other charges. The notified amendments therefore comply with point 22(a) of the Temporary Framework;
 - (b) Aid will be granted under the modified scheme no later than 31 December 2021 as indicated in recital (7). The notified amendments therefore comply with point 22(d) of the Temporary Framework.
- (17) An addition of a new category of eligible beneficiaries to the existing scheme and an increase of the aid intensity for the calculation of the aid amount do not alter the Commission's conclusions on the compatibility under section 3.1 of the Temporary Framework.
- (18) Apart from the amendments referred to in recital (7) to (10), the Commission notes that there are no other amendments to the existing scheme (recital (11)).
- (19) The Commission therefore considers that the notified amendments 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.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments to the existing scheme on the grounds that they are 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