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**Subject: State Aid SA.60308 (2020/N) – Lithuania
COVID-19: Subsidies for Enterprises**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 16 December 2020, Lithuania notified aid in the form of a scheme providing subsidies for enterprises (the “measure”), which are severely affected by the COVID-19 outbreak. Aid will be granted in the form of direct grants in limited amounts. The measure 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 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. 35, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the 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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Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) 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 31 January 2021. 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 confirms 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 Section 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 the Resolution of the Government of Lithuania “On the Approval of the Description of the Procedure for Allocating and Using Funds of the Measure “Subsidies for Enterprises” of the Plan of Measures for Economic Promotion and Reduction of the Impact of the Spread of Coronavirus (COVID-19)”. The Resolution will be put into effect following the notification of the present Decision to Lithuania.

2.3. Administration of the measure

- (8) The authority responsible for granting and implementing the measure is the Ministry of the Economy and Innovation of the Republic of Lithuania.
- (9) Other authorities responsible for the assessment of the measure are 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 Center for General Functions.

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

2.4. Budget and duration of the measure

- (10) The estimated budget of the measure is approximately EUR 150 million.
- (11) Aid may be granted under the measure as from the notification of its approval until no later than 30 June 2021.

2.5. Beneficiaries

- (12) The beneficiaries of the measure are enterprises³ of all sizes active in Lithuania, who fulfil the following cumulative conditions:
 - (a) They are active in all areas of economic activity, except for agriculture (including processing and marketing of agricultural products), fisheries, aquaculture, credit and financial institutions. If an enterprise is active in several economic sectors and at least one of them belongs to these excluded sectors, this enterprise is not eligible for the measure.
 - (b) Their annual income for 2019 did not exceed EUR 50 000 000 or the book value of its assets (as reflected in the balance sheet of 31 December 2019) did not exceed EUR 43 000 000. For these thresholds, the financial figures of the single enterprise⁴ will be taken into account.
 - (c) On 31 December 2020 and on the first day of the month in which the application is submitted, the beneficiaries must have at least one employee⁵, or be the owner of the sole proprietorship (or the manager of the sole proprietorship appointed by the owner of the sole proprietorship in the case of a civil contract), or manager of the small partnership (or a representative of the small partnership), or general member of the general partnerships and limited partnerships (natural person).
 - (d) On the date when the application for aid is filed, the beneficiaries must be reliable taxpayers in the sense of Article 40¹ of the Law on Tax Administration of the Republic of Lithuania⁶.

³ “Enterprises” for the purpose of this measure are defined in detail in the national legal basis and they can only be legal persons.

⁴ “Single enterprise” for the purpose of this measure are defined in the national legal basis as linked enterprises within the meaning of Annex I of the General Block Exemption Regulation (“GBER”), 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.

⁵ For the purposes of the measure, an employee is defined as a natural person working under an employment contract for remuneration. The number of employees shall not include: women who have been granted maternity leave and persons granted parental leave until the child reaches the age of three.

⁶ 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

- (e) On the date when the application for aid is filed, the beneficiaries must not have suspended their activities; must not be subject to any bankruptcy or restructuring proceedings initiated against them; must not be under any liquidation process and there must be no decision of the meeting of creditors to carry out extrajudicial bankruptcy procedures against them, and finally must be under no pre-trial investigation regarding the its economic activities.
 - (f) The beneficiaries must not be liable to repay previously received State aid which has been found unlawful and incompatible by a decision of the European Commission.
- (13) 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 legislation⁷.
- (14) Aid may not be granted under the measure to medium⁸ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁹ on 31 December 2019. 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 aid¹⁰ or restructuring aid¹¹.
- (15) In addition to the conditions provided in recitals (12) to (14), eligible beneficiaries must also fulfil the following conditions, on the basis of which they are divided in two categories:
- (a) Enterprises must have generated income in the period between 1 October 2019 and 31 January 2020, so as to demonstrate that they

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).

⁷ 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”.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

suffered a comparable turnover decline of at least 30% during the period between 1 October 2020 and 31 January 2021 (“Category 1”)¹². In addition, those enterprises must have paid or credited at least a part of the amount of the withholding personal income tax¹³ liability for the tax period of 2019.

- (b) Enterprises established in the period between 1 October 2019 and 31 January 2020, which cannot demonstrate that they suffered a comparable turnover decline of at least 30% during the period between 1 October 2020 and 31 January 2021, must exercise economic activities included in the List of Restricted Economic Activities of Lithuania (the list will be issued following the adoption of the present decision), (“Category 2”).

2.6. Sectoral and regional scope of the measure

- (16) The measure is open to eligible enterprises active in all sectors of the economy, except for agriculture, fisheries, aquaculture, credit and financial institutions. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

- (17) Eligible beneficiaries will receive a direct grant as a subsidy. For eligible beneficiaries under Category 1, the amount of the aid will be calculated as follows:
 - (a) If the total amount of the withholding personal income tax paid or credited for the tax year 2019 exceeds EUR 2 000, the aid will be equal to 25% of that amount (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.
- (18) Eligible beneficiaries under Category 2 will receive a flat amount of EUR 500.
- (19) For eligible beneficiaries under both categories, the total amount of aid provided to a single enterprise may not exceed EUR 800 000. All figures used for this calculation must be gross, that is, before any deduction of tax or other charges.

¹² The Lithuanian authorities submit that, in principle, those will be enterprises established before 1 October 2019, so that they have sufficient financial figures in order to prove the necessary turnover decline. However, the critical element for eligibility under Category 1 will be the demonstration of turnover decline, rather than the date of establishment. Therefore, for example, even if an enterprise has been established on 10 October 2019 but is able to sufficiently demonstrate the necessary turnover decline, can be eligible under Category 1. Enterprises which cannot demonstrate the turnover decline, may be eligible under Category 2.

¹³ 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.

- (20) Eligible beneficiaries will have to submit an application for aid. The Lithuanian authorities will define the details of the application process, such as the website through which the applications will be submitted, the date as of which the submission will be possible etc. The applications will be submitted and evaluated on an ongoing basis. Each beneficiary may be declared eligible and receive aid only once during the period for which the aid is granted (i.e. until 30 June 2021).
- (21) If it is established by the national authorities that an applicant has provided incorrect information and/or has deliberately concealed information relevant to the approval of the aid, the national authorities will recover the amount unduly received, along with any applicable interest.

2.8. Cumulation

- (22) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations¹⁴ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (23) 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.
- (24) 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 point 22(a) of that Framework, will be respected.

2.9. Monitoring and reporting

- (25) 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 on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁵).

¹⁴ 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).

¹⁵ 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 to Commission Regulation (EU) No 1388/2014. For direct grants, the nominal value of the underlying instrument must be inserted per beneficiary.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (26) By notifying the measure before putting it into effect (recital (7)), the Lithuanian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (27) 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.
- (28) The measure is imputable to the State, since the authority responsible for granting the measure is the Ministry of the Economy and Innovation of the Republic of Lithuania and other authorities are involved in the assessment of the applications (recitals (7), (8)). It is financed through State resources, since it is financed by public funds.
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (6)) and in limited amounts for enterprises, which are severely affected by the COVID-19 outbreak. The measure thus provides those beneficiaries with an advantage, which they would not have had under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, fulfilling the conditions referred to in recitals (12) to (15), while also excluding certain sectors, including the financial sector, and certain non-eligible undertakings (recitals (12) to (16)).
- (31) 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.
- (32) 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

- (33) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether this measure is compatible with the internal market.
- (34) 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*”.
- (35) 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”.

- (36) The measure aims at ensuring that sufficient liquidity remains available in the market in order to counter the liquidity shortage faced by undertakings because of the COVID-19 outbreak, and that the disruptions caused by that outbreak do not undermine the viability of the undertakings. In particular, the measure aims at preserving the continuity of economic activity during and after the COVID-19 outbreak.
- (37) The measure is part of a wider 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 specific categories of aid described in section 3.1 of the Temporary Framework. In particular:
- (a) The aid takes the form of direct grants (recital (6)). The overall nominal value of the aid shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (19)). The measure therefore complies with point 22(a) of the Temporary Framework;
 - (b) Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (10). The measure therefore complies with point 22(b) of the Temporary Framework;
 - (c) Aid may not be granted under the measure to medium¹⁶ and large enterprises that were already in difficulty on 31 December 2019 (recital (14)). 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 aid¹⁷ or restructuring aid¹⁸ (recital (14)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
 - (d) Aid will be granted under the Measure no later than 30 June 2021 (recital (11)). The measure therefore complies with point 22(d) of the Temporary Framework;

¹⁶ As defined in Annex I to the GBER.

¹⁷ 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.

¹⁸ 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.

- (e) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (25)). 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 (22) to (24)).
- (38) 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