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Subject: **State Aid SA.62950(2021/N) – *Lithuania***
COVID-19: *Temporary State Aid for the Pig and Poultry Sectors for Losses due to COVID-19 Outbreak*

Excellency,

1. PROCEDURE

(1) By electronic notification of 5 May 2021, Lithuania notified *aid in the form of support for uncovered fixed costs* "*Temporary State Aid for the Pig and Poultry Sectors for Losses due to COVID-19 Outbreak"* ("the scheme") 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 Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

[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).

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

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2. DESCRIPTION OF THE MEASURE

(3) Lithuania considers that the COVID-19 outbreak affects the real economy. The scheme 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 scheme 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 scheme is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.12 of the Temporary Framework.

2.1. The nature and form of aid

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

2.2. Legal basis

(7) The legal basis for the scheme is the "Draft Order of the Minister of Agriculture of the Republic of Lithuania on the Approval of the Rules for the Administration of Temporary State Aid for the Pig and Poultry Sectors (including the Production, Packaging and Processing of Eggs) for Losses due to COVID-19 Outbreak".

2.3. Administration of the measure

(8) The Ministry of Agriculture of Lithuania is responsible for administering the scheme.

2.4. Budget and duration of the measure

(9) The estimated budget of the scheme is EUR 6,8 million, whereas EUR 2,6 million for the pig farming sector and EUR 4.2 million for the poultry farming sector.

(10) The scheme will be financed by the general budget of the State.

(11) Aid may be granted under the scheme as from its approval until no later than 30 June 2021.

2.5. Beneficiaries

(12) The final beneficiaries of the scheme are micro, SMEs and large enterprises[3] active in pig and poultry production and processing. Financial institutions are excluded as eligible final beneficiaries.

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[3] 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.

(13) Aid may not be granted under the scheme to medium[4] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER") or the Agricultural Block Exemption Regulation ("ABER")[5] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER or ABER 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[6] or restructuring aid.[7]

2.6. Sectoral and regional scope of the measure

(14) The scheme is open to undertakings active in the pig and poultry sectors and it applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(15) The aid granted under this aid scheme is intended to maintain the liquidity of undertakings whose activities have been reduced or suspended as a result of the COVID-19 crisis.

(16) The aid will be provided in the form of direct grants. It will be granted for uncovered fixed costs incurred during the period between 1 October 2020 and 30 June 2021.

(17) According to the Lithuanian authorities, uncovered fixed costs for which aid can be granted under this scheme are fixed costs incurred by undertakings during the eligible period which were not covered by profits during that period (i.e. by income minus variable costs), and which were not covered by other sources. One-off impairment losses will not be eligible for aid. The aid under this measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts.

(18) The Lithuanian authorities confirmed that they shall calculate the amount of aid and any payment exceeding the final amount will be recovered.

(19) Eligible for the aid will be undertakings that:

(a) Are engaged in at least one of the following activities: pig farming, poultry farming for meat and egg production, poultry slaughter and/or poultry processing, egg packing and/or egg processing,

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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.

5 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,

6 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.

7 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.

(b) The sales revenue of 2019 from these activities accounted for at least 50% of the undertaking's total sales revenue, and

(c) suffered a decline in turnover during the eligible period of at least 30% of the undertaking's total sales revenue (turnover), compared to the same period from 1 october 2019 to 30 june 2020.

(20) The aid intensity will not exceed 70% of the uncovered fixed costs, for large and medium companies, and 90% of the uncovered fixed costs, for small and micro companies.

(21) The nominal aid amount per undertaking will not exceed the overall cap of EUR 1.8 million per undertaking. All figures are before deduction of any tax or other charges. The aid amount per undertaking cannot exceed the total amount of personal income tax or corporate income tax paid by that undertaking and credited to the State and municipal budgets in 2019.

2.8. Cumulation

(22) The Lituanian authorities confirm that aid granted under this scheme will not be cumulated with aid under de minimis Regulations[8] or the ABER or GBER.

(23) The Lituanian authorities confirm that aid under the notified scheme will not be cumulated with other forms of Union financing.

(24) The Lituanian authorities confirm that aid granted under this scheme will not be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework.

(25) The Lithuanian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the scheme 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.

(26) The Lithuanian authorities confirm that aid granted under this scheme shall not be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

(27) 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 or EUR 10 000 for primary production on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting[9]).

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[8] 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 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).

[9] Referring to information required in Annex III to Commission Regulation (EU) No 702/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(29) 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.

(30) The measure is imputable to the State, since it is administered by The Ministry of Agriculture of Lithuania and it is based on the general budget of the State. It is financed through State resources, since it is financed by public funds.

(31) 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.

(32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the pig and poultry sectors, excluding the financial sector.

(33) 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.

(34) 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

(35) 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.

(36) 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*".

(37) 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*".

(38) The measure aims at ensuring sufficient liquidity of undertakings active in primary agricultural production 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.

(39) 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 employment and 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 Lithuania's economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of support for uncovered fixed costs*") described in section 3.12 of the Temporary Framework.

(40) 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:

- Aid is granted under the measure no later than 30 June 2021 and covers uncovered fixed costs incurred during the period between 1 October 2020 to 30 June 2021 (recital (16). The measure therefore complies with point 87(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (recital (19). The measure therefore complies with point 87(b) of the Temporary Framework.

- Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework (recital (17) and the aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 90% of the uncovered fixed costs (recital (20). The losses of undertakings from their profit and loss statements during the eligible period[10] are considered to constitute uncovered fixed costs. The aid under this measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts (recital (17) Any payment exceeding the final amount of the aid must be recovered (recital (17). The measure therefore complies with point 87(c) of the Temporary Framework.

- The aid takes the form of direct grants (recital (6). The overall nominal value of aid will not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (21)). The measure therefore complies with point 87(d) of the Temporary Framework.

- The aid under the measure shall not be cumulated with other aid for the same eligible costs (recitals (22) to (26) The measure therefore complies with point 87(e) of the Temporary Framework.

[10] One-off impairment losses are not included in the calculation of the losses.

- Aid may not be granted under the measure to medium[11] and large enterprises that were already in difficulty on 31 December 2019 (recital (13). 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[12] or restructuring aid [13] (recital (13). The measure therefore complies with point 87(f) of the Temporary Framework.

(41) The Lithuanian authorities confirm 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 (recital (4).

(42) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27).

(43) 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.

For the Commission

Margrethe VESTAGER
Executive Vice-President

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11 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.

12 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.

13 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.