



Brussels, 29.07.2021
C(2021) 5751 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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Subject: State Aid SA.62162 (2021/N) – Lithuania – Investment aid to Palanga airport

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts¹, by electronic notification of 8 July 2021, the Lithuanian authorities notified to the European Commission (“Commission”), in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU” or “Treaty”), their plan to grant investment aid (“the measure”) to the Palanga International Airport (“Palanga airport”). The notification was registered under case number SA.62162.
- (2) Lithuania exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958² and to have this decision adopted and notified in English.

¹ Pre-notification contacts started on 1 March 2021 and included, until the notification, exchanges of emails and telephone calls.

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

2.1. The beneficiary

- (3) The measure concerns a grant to Palanga airport, which is located seven kilometres north from Palanga city and 336 kilometres from the Vilnius International Airport (“Vilnius airport”).
- (4) Since 2014, Lietuvos Oro Uostai ("Lithuanian Airports", hereafter “LOU”) has been the owner of Palanga airport and of two further airports in Lithuania, namely Kaunas airport and Vilnius airport.³ LOU is a fully State-owned enterprise that is under the control of the Ministry of Transport and Communications. According to the Lithuanian authorities, LOU posted a net profit of EUR 13.627 million in 2019 and EUR 8.693 million in 2018. According to Lithuania, LOU ensures account separation for the different airports. LOU is the direct beneficiary of the notified measure.
- (5) The three Lithuanian airports complement each other in terms of destinations covered, airlines and passenger groups served. Vilnius airport is the main capital gateway for business and tourist travel from and to the country. Kaunas airport is focused on facilitating travel at low cost of Lithuanian nationals working or living abroad. Palanga airport provides access to the Scandinavian region, using premium Scandinavian airlines for tourists and for business to and around the port city of Klaipeda.
- (6) Palanga airport is open to all users. It is currently used by several airlines, including Wizz Air, Ryanair, SAS and Air Baltic. Palanga airport serves mainly passengers from the Scandinavian countries and the Lithuanian authorities consider it of strategic importance for the development of the region. It accounts for around 8% of Lithuanian airport traffic in terms of passenger numbers. In 2020, Palanga airport offered flights to Oslo, Bergen, Copenhagen, Riga, London, Dublin and Dortmund. Moreover in 2020, 43% of the flights were to or from the Scandinavian region. The division of number of flights between different destinations is illustrated in Table 1.

Table 1: The division of flight volumes of Palanga airport between different destinations in 2020

Route	2020
Oslo Gardermoen	21.3%
Copenhagen	19.8%
Riga	18.8%
London Luton	14.3%
London Stansted	11.5%

³ On 1 July 2014, State Enterprise Vilnius International Airport, State Enterprise Kaunas Airport, and State Enterprise Palanga International Airport were merged together, forming LOU.

Dublin International	5.8%
Dortmund	5.1%
Bergen	2.4%
Other ⁴	1%
Total	100%

- (7) According to Lithuania, in 2019, the passenger traffic at Palanga airport increased by around 7% from 316,000 passengers per annum to 338,309 passengers per annum compared to 2018. The main reasons for that increase were two new routes between Palanga and Bergen airport and Palanga and Dortmund airport. In addition, the increase was influenced by a higher frequency of flights between Palanga and Riga International Airport (“Riga airport”) by Air Baltic and between Palanga and Copenhagen airport by SAS. In 2020, due to the COVID-19 outbreak, passenger traffic at Palanga airport decreased over 60% compared to the previous year, amounting in total to 123,948 passengers.
- (8) Lithuania anticipates that the future recovery from the COVID-19 crisis is likely to take several years. For the period from 2020 to 2021, Lithuania expects the passenger numbers at Palanga airport to grow by 2.7%. For the years from 2021 to 2025, Lithuania estimates the average annual forecasted growth rate to be 21.3%. Finally, during the period from 2025 to 2027, the average growth rate is estimated to be 8% per annum. In 2027, Lithuania expects the passenger count number to reach 340,223 passengers per annum, and therefore, slightly surpass the passenger count level of 2019.
- (9) According to Lithuania, that outlook is broadly consistent with the more cautious forecasts of the European airport industry growth rates projected by EUROCONTROL in November 2020.⁵ According to EUROCONTROL, it is likely that in 2024 traffic will recover to 95% of the 2019 level of traffic if there is widespread vaccination and coordinated easing of travel restraints with more long-haul flights between global regions by early 2022. However, according to a more pessimistic scenario provided by EUROCONTROL, full recovery to 2019 figures would not occur before 2029, if there were patchy vaccine uptakes and/or renewed outbreaks of new virus strains, which undermine passenger confidence. In view of the various mutations of the COVID-19 virus and the uncertainty created due to them, Lithuania has opted for a scenario between the two, and forecasts a return of the traffic volume to a 2019 level by 2027.
- (10) According to the Lithuanian authorities, the current infrastructure and facilities at Palanga airport have the capacity to accommodate up to 300,000 passengers per annum.

⁴ Flow of other (e.g. non-regular, military, etc.) flights operated at Palanga airport.

⁵ EUROCONTROL stat for 2020, Forecast for Europe 2020-2024, 4 November 2020. Online: <https://www.eurocontrol.int/publication/eurocontrol-five-year-forecast-2020-2024>.

- (11) The nearest airport to Palanga airport is Liepaja International Airport (“Liepaja airport”) in Latvia, located 75 kilometres or one hour by car. According to Lithuania, in 2019, Liepaja airport had 14,000 passengers and operated only domestic flights to Riga airport⁶.
- (12) Apart from Liepaja airport, other nearby airports are Riga airport (220 kilometres or 4 hours by car), Kaunas airport (250 kilometres or 2 hours 35 minutes by car) and Vilnius airport (336 kilometres or 3 hours 10 minutes by car) (see Table 2).

Table 2: Distance/travel time between Palanga airport and closest surrounding airports

Airport	Distance from Palanga airport by land	Travel time from Palanga airport by car
Liepaja	75 km	1 h
Kaunas	250 km	2 h 35 min
Vilnius	336 km	3 h 10 min
Riga	220 km	4h

- (13) According to the Lithuanian authorities, there are currently no high-speed rail links connecting the Baltic State that could respond to the expected increased demand for international travel. As regards the construction of Rail Baltica⁷, the route Tallinn-Riga-Kaunas, as well as the connection with Warsaw, are planned to be finished in 2025. However, the closest two Rail Baltica railway stations to Palanga airport are the Kaunas railway station, which is 249 kilometres away, and the Panevėžys railway station, which is 227 kilometers away. Therefore, according to Lithuania, the future high-speed rail link will only marginally address the connectivity needs of the region around Palanga airport, as the distance from the closest railway stations will be well over 100 kilometres.

2.2. The legal basis

- (14) The legal basis of the notified measure will be an agreement between the State and LOU (“Implementing Agreement”), which will be adopted after notification by the Commission of its approval of the notified measure. Lithuania has submitted a draft of the Implementing Agreement to the Commission.

⁶ Furthermore, according to publicly available information, there are currently no commercial passenger flights served at Liepaja airport due to the COVID-19 pandemic. See online: <https://liepaja-airport.lv/en/services/services/scheduled-flights/>.

⁷ Rail Baltica is a greenfield rail transport infrastructure project seeking to integrate the Baltic States in the European rail network. The project includes five Member States – Poland, Lithuania, Latvia, Estonia and indirectly also Finland. It will connect Helsinki, Tallinn, Pärnu, Riga, Panevėžys, Kaunas, Vilnius and Warsaw.

2.3. Overview of the measure and its financing

2.3.1. Reconstruction of Palanga airport runway, taxiway and southern and northern aircraft aprons and renovation of engineering systems

- (15) According to Lithuania, in 2019, LOU commissioned an analysis of the runway, taxiway as well as southern and northern apron of Palanga airport. Based on that analysis, all those infrastructures were deemed to be in a condition to remain compliant with safety regulations for only less than a year. The pavement has sustained damage due to changes in temperature, stress and deformations, increasing the safety risks for its users. Moreover, the engineering systems are in poor condition.
- (16) Therefore, according to Lithuania, reconstruction of the infrastructure of Palanga airport is necessary to ensure the safe operation of the airport and compliance with applicable environmental and safety rules and avoid flight restrictions or interruptions. Lithuania adds that without the planned investment, there would be more operational and safety issues. Consequently, Palanga airport would risk a significant drop in traffic and revenue and may need to be closed down.
- (17) The reconstruction measures will cover the renovation of runway, taxiway and apron surfaces that are currently damaged due to temperature, repetitive and fatigue cracks, permanent deformations (unevenness) and loss of slip resistance. In addition, the reconstruction measures will also include the renovation of the engineering systems (i.e. lighting system, apron lighting, and surface water collection systems).
- (18) According to Lithuania, the planned investment project at Palanga airport will facilitate regional development, as the airport serves as a catalyst for the economic growth of the region.

2.3.2. Budget, financing, eligible investment costs and the funding gap

- (19) The notified measure amounts to EUR 15.7 million. According to Lithuania, LOU considered funding sources other than State resources. However, as the financing will be dedicated to the development of State-owned infrastructure, a fully private funding was not feasible. Therefore, Lithuania is planning to finance EUR 10.25 million (i.e. 65%) through State aid in form of a direct grant. The remaining EUR 5.45 million (i.e. 35%) will be financed through a loan from a commercial bank. The Lithuanian authorities explain that in order to obtain the loan that serves to partially finance the project, [...].(*)
- (20) The total costs of the planned investment amount to EUR 15.7 million and are detailed in Table 3:

Table 3: Costs of the planned investment 2021 – 2031

TYPES OF COSTS	Amount, EUR
DESIGNING	512,000

* Confidential Information

WORKS	15,188,000
<i>Runway</i>	<i>6,652,997</i>
<i>Taxi way</i>	<i>210,956</i>
<i>Apron</i>	<i>2,933,247</i>
<i>Engineering networks</i>	<i>4,699,800</i>
<i>Runway Safety Shoulder</i>	<i>691,000</i>
Total	15,700,000

- (21) According to the Lithuanian authorities, the planned support will not exceed the funding gap of the investment. Lithuania estimates the average economic lifetime of the planned investments to be 11 years and used an 8.72% weighted average cost of capital of Palanga airport as discount rate⁹. On the basis of those assumptions, the difference between the positive and negative cash flows over the lifetime of the investment in net present value is EUR 15.8 million. Hence, the project presents a funding gap of EUR 15.8 million, as illustrated in Table 4.

Table 4: Capital cost funding gap in million EUR¹⁰

Economic indicator	EUR
Operational cash-flows	6.47
Changes in working capital	(0.24)
Capital expenditures	(20.69)
Incremental cash flows	(14.46)
Funding gap	(15.80)
Nominal investment grant	11.78
Investment grant (NPV)	10.83
Funding gap with investment grant (NPV)	(4.94)

- (22) According to Lithuania, all works related to the project will be tendered out in an open and non-discriminatory procedure.

⁹ The Lithuanian authorities explain in detail the methodology to determine the weighted average cost of capital of Palanga airport and have based it on a number of clearly outlined elements namely: the unlevered beta (based on air transport industry average), tax rate (based on the tax rate in Lithuania), debt to equity ratio, risk-free rate (based on 5-year median of harmonized long-term interest rates for Lithuania), equity market risk premium (based on a global analysis of country equity market risk premiums), a size premium (based on usual valuation practice and market standard reference „Duff & Phelps Valuation Handbook“), unsystematic risk premium (based on usual valuation practice and market standard reference „Duff & Phelps Valuation Handbook“), credit risk mark-up (set based on expert opinion based on experience of similar projects).

¹⁰ Taking into account minor rounding.

2.3.3. *Monitoring, claw-back and transparency*

- (23) According to Lithuania, the Ministry of Transport and Communications will control the correct implementation of the project in line with the conditions of the Implementing Act (including the justification of costs).
- (24) The Lithuanian authorities commit to monitor the use of the grant by LOU over the relevant period and to further ensure that the grant is limited to the minimum necessary through a claw-back mechanism. Any undue payment of the grant will be recovered with interest.
- (25) The Lithuanian authorities commit to comply with the rules on transparency¹¹, in particular to publish the full text of the individual grant decision and its implementing provisions, the identity of the granting authority, the identity of the beneficiary, the form and amount of support etc. Moreover, the Lithuanian authorities commit to keep that information available to the interested public for at least 10 years without restrictions.

2.3.4. *Cumulation*

- (26) Lithuania confirms that the grant cannot be cumulated with any other aid from local, regional, national or Union sources to cover the same eligible costs.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) TFEU

- (27) By virtue of Article 107(1) TFEU "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*"
- (28) The criteria laid down in Article 107(1) TFEU are cumulative. Therefore, in order to determine whether the notified measures constitute State aid within the meaning of Article 107(1) TFEU, all of the following conditions need to be fulfilled. The financial support must:
 - be granted by the State or through State resources;
 - favour certain undertakings or the production of certain goods;
 - distort or threaten to distort competition; and
 - affect trade between Member States.
- (29) In the following sections the Commission assesses whether the measure meets those cumulative criteria and thus constitutes aid in the meaning of Article 107(1) TFEU.

¹¹ Cf. section 8.2 of the Communication from the Commission - Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p. 3.

3.1.1. Notions of undertaking and economic activity

- (30) According to settled case law, the Commission must first establish whether the operator of Palanga airport, LOU, is an undertaking within the meaning of Article 107(1) TFEU and whether the measure will benefit economic activities. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed.¹² Any activity consisting in offering goods and services on a given market is an economic activity.¹³

3.1.1.1. Undertaking

- (31) It is settled case law that the operation of an airport, including the provision of airport services to airlines and to the various service providers within airports, is an economic activity.¹⁴ The Court of Justice has confirmed that the operation of an airport for commercial purposes and the construction of airport infrastructure constitute an economic activity.¹⁵ Once an airport operator engages in economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking for the purposes of Article 107(1) TFEU.¹⁶
- (32) The Commission notes that the infrastructure and equipment of Palanga airport are operated by LOU, the direct beneficiary of the public funding examined in this decision. LOU charges airlines, as well as general aviation, fees for the use of the airport infrastructure, and thus exploits Palanga airport commercially. It follows that the entity operating Palanga airport (i.e. LOU) constitutes an undertaking for the purposes of Article 107(1) TFEU.

¹² Judgment of the Court of Justice of 18 June 1998, *Commission v Italy*, C-35/96, EU:C:1998:303, paragraph 36; judgment of the Court of Justice of 23 April 1991, *Höfner and Elser*, C-41/90, EU:C:1991:161, paragraph 21; judgment of the Court of Justice of 16 November 1995, *FFSA and others*, C-244/94, EU:C:1995:392, paragraph 14; judgment of the Court of Justice of 11 December 1997, *Job Centre*, C-55/96, EU:C:1997:603, paragraph 21.

¹³ Judgment of the Court of Justice of 16 June 1987, *Commission v Italy*, 118/85, EU:C:1987:283, paragraph 7; judgment of the Court of Justice of 18 June 1998, *Commission v Italy*, C-35/96, EU:C:1998:303, paragraph 36.

¹⁴ Judgment of the Court of First Instance of 12 December 2000, *Aéroports de Paris v Commission*, T-128/98, EU:T:2000:290, confirmed by the judgment of the Court of Justice of 24 October 2002, *Aéroports de Paris v Commission*, C-82/01 P, EU:C:2002:617.

¹⁵ Judgment of the Court of Justice of 19 December 2012, *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, C-288/11, EU:C:2012:821; see also judgment of the Court of Justice of 24 October 2002, *Aéroports de Paris v Commission*, C-82/01, EU:C:2002:617, and judgment of the Court of First Instance of 17 December 2008, *Ryanair v Commission*, T-196/04, EU:T:2008:585.

¹⁶ Judgment of the Court of Justice of 17 February 1993, *Poucet and Pistre*, Joined Cases C-159/91 and C-160/91, EU:C:1993:63.

3.1.1.2. Economic activity

- (33) While LOU constitutes an undertaking for the purposes of Article 107(1) TFEU, not all the activities of an airport operator are necessarily of an economic nature.¹⁷
- (34) As explained in point 35 of the Aviation Guidelines, activities that normally fall under State responsibility in the exercise of its official powers as public authority are not of an economic nature and do not fall within the scope of the rules on State aid.
- (35) According to Lithuania, the planned investment project at Palanga airport concerns the reconstruction of runway, taxiway, aprons and engineering systems, all of which relate to activities of an economic nature (i.e. the provision of airport services to airlines) and therefore the investment project does not fall within the public remit.
- (36) The Commission therefore considers that the entirety of the support is granted for investments relating to economic activities.

3.1.2. Use of State resources and imputability to the State

- (37) The legal basis of the measure is an Implementing Agreement signed by the State and LOU. The grant is financed from the general budget of the State. The funding thus involves State resources and is imputable to the State.

3.1.3. Economic advantage

- (38) The aid reduces the investment costs that the operator of Palanga airport would normally have to bear in the absence of aid, while other businesses normally have to bear the full cost of their investment projects. The public funding, therefore, confers an economic advantage on LOU, the operator of Palanga airport.

3.1.4. Selectivity

- (39) Article 107(1) TFEU requires that a measure, in order to be defined as State aid, favours "*certain undertakings or the production of certain goods*". The Commission notes that the notified measure reduces the investment costs of a specific undertaking. Thus it is a selective measure within the meaning of Article 107(1) TFEU.

3.1.5. Distortion of competition and effect on trade

- (40) According to settled case law¹⁸, a measure may distort competition if it favours an undertaking that competes with other undertakings on markets open to competition.

¹⁷ Judgment of the Court of Justice of 19 January 1994, *SAT Fluggesellschaft v Eurocontrol*, Case C-364/92, EU:C:1994:7.

¹⁸ Judgment of the Court of First Instance of 30 April 1998, *Het Vlaamse Gewest v Commission*, T-214/95, EU:T:1998:77.

- (41) An airport operator that receives public funding obtains an economic advantage, which strengthens its position compared to its competitors on the market of providers of airport services.
- (42) Palanga airport competes with other airports in Lithuania and Latvia. Public financing for the airport will enable that airport to continue operating and will strengthen the airport's position with other airports. Hence, the notified measure is liable to have an effect on competition and trade.

3.1.6. Conclusion on the existence of State aid

- (43) The Commission concludes that the public funding for the planned investments at Palanga airport constitutes State aid within the meaning of Article 107(1) TFEU.

3.1.7. Lawfulness of the aid

- (44) Under the standstill clause of Article 108(3) TFEU and Article 3 of Council Regulation No 2015/1589,¹⁹ a new aid measure must not be put into effect before the notification of the Commission decision authorising that measure.
- (45) The Commission notes that Lithuania has respected the standstill obligation laid down in Article 108(3) TFEU by not adopting the legal basis of the measure, i.e. the Implementing Agreement, prior to the Commission decision approving it.

3.2. Compatibility of the aid

- (46) Article 107(3)(c) TFEU provides that "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*", may be considered to be compatible with the internal market.
- (47) With the notified aid, the Lithuanian authorities intend to provide support to Palanga airport for investments in infrastructure. By means of that investment, the aid will facilitate the development of certain economic activities, namely those carried out by the airport, as well as the development of certain economic areas, namely the region around the Palanga city and the port city of Klaipeda.
- (48) Point 79 of the Aviation Guidelines sets out cumulative common principles with which a State aid measure must comply in order to be compatible with the internal market:
- (a) contribution to a well-defined objective of common interest;
 - (b) need for State intervention;
 - (c) appropriateness of the aid measure;
 - (d) incentive effect;
 - (e) proportionality of the aid (aid limited to the minimum);

¹⁹ Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 TFEU, OJ L 248, 24.9.2015, p. 9.

- (f) avoidance of undue negative effects on competition and trade between Member States; and
 - (g) transparency of aid.
- (49) Investment aid granted to airports is compatible with the internal market under Article 107(3)(c) TFEU provided that those cumulative conditions are fulfilled as set out in points 84 to 108 of the Aviation Guidelines. The aid measure must comply also with the transparency criteria set out in points 162 and 163 of the Aviation Guidelines as amended by the Transparency Communication²⁰.

3.2.1. Development and contribution to the regional economy and avoidance of duplication of unprofitable airports

- (50) Under point 84 of the Aviation Guidelines, investment aid to airports may be considered to contribute to the achievement of an objective of common interest²¹ if: (a) it increases the mobility of Union citizens and the connectivity of the regions by establishing access points for intra-Union flights; or (b) it combats air traffic congestion at major Union hub airports; or (c) it facilitates regional development.
- (51) Palanga airport plays an important role for the connectivity of the region around the Palanga city, which does not benefit from any high speed rail connections or any other airport serving flights outside Lithuania.
- (52) As described in recitals (5) and (6), Palanga airport serves not only tourists, but also business passengers, and it connects not only the Palanga city but also the port city of Klaipeda with various destinations in Scandinavia (such as Copenhagen, Oslo and Bergen) as well as the London and Dublin airports. Although short-term passenger flow recovery and growth is uncertain, Palanga airport is important to provide the Palanga city and the port city of Klaipeda with air transportation.
- (53) More generally, Palanga airport plays an important role in the Lithuanian transportation system and in the Lithuanian economy given that it connects Lithuania with ten destinations within Europe via seven different airlines. It thus plays an important role in promoting intra-Union connectivity.
- (54) As explained in recital (18), the project aims at ensuring that the airport's infrastructure complies with applicable norms and safety requirements and at avoiding flight restrictions or interruptions due to the failure of the crumbling pavement and/or the system of signal lights. By avoiding such flight restrictions

²⁰ Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2015-2020, on State aid for films and other audio-visual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C 198, 27.6.2014, p. 30.

²¹ According to settled case law, the Commission may declare State aid compatible only if it is necessary for achieving a legitimate objective (see judgment of the Court of Justice of 17 September 1980, *Philip Morris*, 730/79, EU:C:1980:209, paragraph 17; judgment of the Court of 15 April 2008, *Nuova Agricast*, C-390/06, EU:C:2008:224, paragraph 68; and judgment of the Court of First Instance of 14 January 2009, *Kronoply*, T-162/06, EU:T:2009:2, paragraph 65).

and interruptions, the aid to Palanga airport will promote connectivity and contribute to the development of the regional economy.

- (55) Therefore, the Commission considers that the planned aid increases the mobility of Union citizens, improves connectivity and contributes to regional development in line with point 84 of the Aviation Guidelines.
- (56) Under Point 85 of the Aviation Guidelines, in case of investment projects primarily aimed at creating new airport capacity, the Commission must assess whether the investment has satisfactory medium-term prospects for use and does not diminish the medium-term prospects for use of an existing infrastructure in the catchment area. In the case at hand, the planned investment does not aim at creating any new airport capacity. It just aims at renovating and improving the safety of the existing airport infrastructure.
- (57) In addition, according to point 86 of the Aviation Guidelines, when the airport is located in the catchment area of an existing airport which is not operating at near or full capacity, the medium-term prospects for use of the airport infrastructure must be demonstrated based on sound forecasts in an *ex ante* business plan and must identify the likely effect of the investment on the use of existing infrastructure.
- (58) The catchment area is defined in point 25(12) of the Aviation Guidelines as “*a geographic market boundary that is normally set at around 100 kilometres or around 60 minutes travelling time by car, bus, train or high-speed train; however, the catchment area of a given airport may be different and needs to take into account the specificities of each particular airport. The size and shape of the catchment area varies from airport to airport, and depends on various characteristics of the airport, including its business model, location and the destinations it serves.*”
- (59) As noted in recital (11), Liepaja airport in Latvia, is located within 75 km or one hour by car from Palanga airport. However, Palanga and Liepaja airports have different profiles and serve different destinations Palanga airport is a medium sized airport serving various destinations outside Lithuania, whereas Liepaja airport is a small-scale local airport serving only domestic flights to Riga airport. More precisely, in 2019, Liepaja airport served 14,000 passengers and operated only flights to Riga airport and no flights to Lithuania, while Palanga airport served 338,309 passengers and operated only international flights (see Table 1). As a result, the business models of the two airports are quite distinct and overlap to a very limited degree.
- (60) As regards the destinations served by the two airports, the Commission notes that 80.2% of the flights operated at Palanga airport were flights to destinations not

served by Liepaja airport²². Therefore, the overlap between the two airports in terms of destinations served is again quite limited²³.

- (61) In conclusion, the Commission considers that Palanga airport and Liepaja airport are not located in the same catchment area within the meaning of point 25(12) of the Aviation Guidelines, taking into account the different characteristics of the two airports and in particular their size, profile and the different destinations they serve.
- (62) Apart from Liepaja airport, other nearby airports are Riga airport (220 kilometres or 4 hours by car), Kaunas airport (250 kilometres or 2 hours 35 minutes by car) and Vilnius airport (336 kilometres or 3 hours 10 minutes by car) (see Table 2). However, given the distance of those airports from Palanga (both in terms of kilometres and in terms of travel time) they cannot be considered as offering an alternative to Palanga airport. Moreover, those three Lithuanian airports also have different business profiles in terms of destinations covered, airlines and passenger groups served. Vilnius airport is the main capital gateway for business and tourist travel from and to the country. Kaunas airport is focused on facilitating travel at low cost of Lithuanian nationals working or living abroad. Palanga airport provides access to the Scandinavian region using premium Scandinavian airlines for tourists and for business to and around the port city of Klaipeda. Therefore, those airports are not in the same catchment area as Palanga airport within the meaning of point 25(12) of the Aviation Guidelines.
- (63) Finally, the Commission notes that the purpose of the supported investment in Palanga airport is not to increase the maximum annual passenger capacity, but to refurbish the infrastructure and supportive engineer systems that are currently at the end of their life cycle (see Table 3 and Table 4). Therefore, the investment will not lead to the creation of any unused capacity.
- (64) In conclusion, the modernisation of the airport infrastructure at Palanga airport meets clearly defined objectives of common interest.

3.2.2. *Need for State intervention*

- (65) Pursuant to point 87 of the Aviation Guidelines, in order to assess whether State aid is effective in achieving an objective of common interest, it is necessary to identify the problem to be addressed. State aid should be targeted towards situations where such aid can bring about a material improvement that the market itself cannot deliver.
- (66) Pursuant to point 89(b) of the Aviation Guidelines, airports with annual passenger traffic of between 200,000 and 1 million are usually not able to cover their capital costs to a large extent. The Commission takes note that, with an average annual

²² Both Palanga airport and Liepaja airport operate flights to Riga. In 2020, 18.8% of the flights operated at Palanga airport were flights between Palanga and Riga (see Table 1).

²³ Moreover, while Palanga airport is likely to remain operational for less than a year without the planned investment project (see recital (15)), Liepaja airport would probably be unable to serve the additional passenger traffic resulting from cessation of activity at Palanga airport, given its small size.

passenger traffic of approximately 230,000 passengers in 2019 and 2020 (see recital (7)), Palanga airport is within that range²⁴.

- (67) The Lithuanian authorities explained that LOU cannot finance the planned investments without public funding, because the investments concern State-owned infrastructure (see recital (19)). LOU will partly (i.e. 35%) finance those investments through a loan amounting to EUR 5.45 million. But in order to obtain that loan, [...]. Consequently, the aid is necessary to enable LOU to implement these investments.
- (68) The Commission takes note of the financial analysis, submitted by Lithuania, which confirms that the project's revenues will not be sufficient to cover its costs (see Table 4). The investment amount itself will cost EUR 15.7 million. The funding gap is calculated as the net present value of the incremental cash flows which represent the difference between the capital needs of the project and the net revenues of that project²⁵. As the funding gap for the investment is estimated at EUR 15.8 million, Palanga airport would not be able to carry out the investments on its own (see recitals (20) to (22)).
- (69) This is in line with points 88 and 89 of the Aviation Guidelines, according to which, smaller airports may have difficulties to finance their investments without public funding. The Commission therefore concludes that there is a need for State intervention.

3.2.3. *Appropriateness of the measure*

- (70) Pursuant to point 90 of the Aviation Guidelines, Member States must demonstrate that the aid measure is an appropriate policy instrument to achieve the intended objective or resolve the problems intended to be addressed by the aid. An aid measure will not be considered compatible with the internal market if other less distortive policy instruments or aid instruments allow the same objective to be reached.
- (71) As noted in recital (19), according to Lithuania, a fully private funding of the planned investment was not feasible. Palanga airport's *ex ante* business plan shows a funding gap calculated for the economic lifespan of the investment (see Table 4 and recital (21)). The Commission further notes that in order to obtain the loan that serves to partially serve the project, [...].
- (72) Therefore, covering the funding gap with aid is an appropriate manner to finance the planned investment.

3.2.4. *Incentive effect*

- (73) Point 93 of the Aviation Guidelines requires that works on an individual investment must not have started before an application for aid has been submitted to the granting authority

²⁴ The annual passenger traffic at Palanga airport was 316,633 in 2018 and was 297,197 in 2017.

²⁵ The incremental cash flows are calculated as follows: capex + working capital + operational cash flows.

- (74) As described in recital (22), works on the project have not yet started. Hence, the condition set by point 93 of the Aviation Guidelines is met.
- (75) Point 94 of the Aviation Guidelines requires the Commission to verify that the project is not economically attractive in its own right and that the investment would not have been undertaken or would not have been undertaken to the same extent without any State aid. Point 95 of the Aviation Guidelines requires that the incentive effect is identified through a counterfactual analysis, comparing the levels of intended activity with aid and without aid.
- (76) The Commission notes that the financial analysis presented by the Lithuanian authorities (see recital (21)) shows a funding gap for the planned investment of EUR 15.8 million. As the revenues generated by the project do not cover the expenses incurred, the Commission considers that the project would not be economically attractive in its own right.
- (77) The counterfactual scenario Lithuania has used for the funding gap calculation is based on the assumption of the termination of the airport operations at Palanga airport in the absence of the investment. Thus, the cash flows of the counterfactual scenario are assumed to be zero, as Palanga airport would be closed down. In addition the level of the intended activity without the aid would be zero, whereas the level of the intended activity with the aid would remain stable.
- (78) The Commission concludes that the investment project is not economically attractive in its own right and the State aid has an incentive effect.

3.2.5. *Proportionality of the aid amount (aid limited to the minimum) and claw-back*

- (79) State aid is deemed to be proportionate if its amount is limited to the minimum needed to induce the additional investment or activity.
- (80) Point 97 of the Aviation Guidelines states that the maximum permissible amount of State aid is expressed as a percentage of the eligible costs (the maximum aid intensity). The eligible costs are the costs relating to the investments in airport infrastructure, including planning costs, ground handling infrastructure (such as baggage belt etc.) and airport equipment. Investment costs relating to non-aeronautical activities (including car parks, hotels, restaurants and offices) are not eligible.
- (81) The Commission notes that the notified aid will finance exclusively investment costs that are eligible under the Aviation Guidelines (see recital (19) and Table 3).
- (82) According to point 101 of the Aviation Guidelines, the maximum permissible aid intensity for airports with below 1 million passengers per annum is 75%. The costs of the planned investment amount to EUR 15.7 million, while the aid amounts to EUR 10.25 million, which corresponds to an aid intensity of 65%. The maximum aid intensity is therefore respected. According to point 99 of the Aviation Guidelines, in cases where no specific counterfactual is known, in order to be proportionate, the amount of the aid should not exceed the capital cost funding gap of the investment project. That gap is determined on the basis of an *ex ante* business plan as the net present value of the difference between the

positive and negative cash flows (including investment costs) over the lifetime of the investment. For investment aid the business plan should cover the period of the economic utilisation of the asset.

- (83) In the case at hand, no alternative project is known that would have been undertaken without the aid. A no-aid scenario assuming minimum investments in airport infrastructure (see recital (77)) has not been considered by the Lithuanian authorities, as it would not meet the connectivity and safety concerns.
- (84) The calculation of the funding gap takes into consideration all relevant revenues and costs for the reconstruction of the relevant parts of Palanga airport. The calculation covers the period of 11 years, which corresponds to the economic lifetime of the supported investments.
- (85) The funding gap of EUR 15.8 million corresponds to the difference between the relevant costs and revenues, discounted with the weighted average cost of capital. The aid amount of EUR 10.25 million does not exceed the capital cost funding gap of the project of EUR 15.8 million (see recitals (19) and (21)). The aid amount also does not exceed the 75% aid intensity under point 101 of the Aviation Guidelines.
- (86) Therefore, considering that the aid does not exceed the capital cost funding gap, or the maximum permissible aid intensity, the Commission concludes that the investment aid is proportional.
- (87) The Commission also notes that the Lithuanian authorities commit to monitor the use of the investment aid, that they will ensure that the aid is limited to the minimum necessary, and that they will put in place to this effect a claw-back mechanism (see recital (24)).

3.2.6. Avoidance of undue negative effects on competition and trade

- (88) The negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive.
- (89) According to point 106 of the Aviation Guidelines in particular, the duplication of unprofitable airports or the creation of additional unused capacity in the catchment area of existing infrastructure might have distortive effects.
- (90) The Commission notes that considering the various characteristics of the airport, including its business model, location and the destinations it serves, there are no airports in the same catchment area as Palanga airport (see recitals (11) and (12)) for the purposes of the Aviation Guidelines.
- (91) The Commission further notes that the objective of the project is to reconstruct the airport runway, taxiway and southern and northern aprons and renovate the engineering systems in order to assure the compliance with safety measures and to avoid the closure of Palanga airport (see recitals (15) to (17)). The project will not create any additional capacity, but merely assure the safe operation of the existing facilities.

- (92) In addition, as set out in recital (13), the increasing need for international transportation cannot be absorbed by rail, as Palanga airport is well more than 100 km away from the planned high-speed rail link Rail Baltica.
- (93) For those reasons, the Commission considers that the investment project will not lead to the duplication of unprofitable airports or create additional unused capacity.
- (94) According to point 108 of the Aviation Guidelines, in order to further limit any distortions, the airport, including any investment for which aid is granted, must be open to all potential users and must not be dedicated to one specific user. The Commission takes note that the Lithuanian authorities have confirmed that the airport is and will continue to be open to all potential users (see recital (6)).
- (95) On the basis of this, the Commission concludes that the investment aid to Palanga airport has no undue negative effects on competition and trade.

3.2.7. *Transparency of aid*

- (96) The Commission takes note that the Lithuanian authorities committed to respect the transparency obligations as set out in section 8.2 of the Aviation Guidelines, as amended by the Transparency Communication (see recital (25)). Notably, Lithuania will ensure the publication of the following information on its State aid website: full text of the aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority; the identity of the aid beneficiary; the form and amount of aid granted; the date of granting; the size of undertaking and its location and the principal economic sector in which the beneficiary has its activities.
- (97) Based on this information, the Commission concludes that the aid respects the transparency obligations.

3.2.8. *Cumulation of aid*

- (98) Pursuant to point 159 of the Aviation Guidelines, aid authorised under the Aviation Guidelines may not be combined with other State aid, *de minimis* aid or other forms of Union financing, if the cumulation results in higher aid intensity than the one laid down therein.
- (99) The Commission notes that the Lithuanian authorities confirmed that the investment aid granted under the Aviation Guidelines will not be cumulated with other aid (recital (26)).
- (100) The Commission therefore concludes that the conditions on the cumulation of aid under the Aviation Guidelines are met.

3.2.9. *Conclusion on the compatibility of aid*

- (101) In light of the foregoing, the Commission considers that the investment aid to Palanga airport fulfils the compatibility conditions set out in the Aviation Guidelines.

(102) The investment aid is thus compatible with the internal market under Article 107(3)(c) TFEU.

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)(c) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

