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**Subject: State Aid SA.100636 (2021/N) – Estonia  
COVID-19: Exceptional support to dairy and pigmeat producers due  
to the COVID-19 outbreak**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 11 November 2021 Estonia notified aid in the form of limited amounts of aid (Exceptional support to dairy and pigmeat producers due to the COVID-19 outbreak, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).<sup>1</sup>
- (2) Estonia 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<sup>2</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> 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), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

<sup>2</sup> 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) Estonia considers that the COVID-19 pandemic affects the real economy. 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) The Estonian authorities explained that prices in the livestock sector have not returned steadily to pre-pandemic levels and the increase will be slower than that of the input prices. In addition, significant increases in energy prices will further reduce corporate revenues. The main agricultural sectors where profitability is turning negative are those of dairy and pig meat production sectors.
- (5) Estonia 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.
- (6) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

### **2.1. The nature and form of aid**

- (7) The measure provides aid in the form of direct grants.

### **2.2. Legal basis**

- (8) The legal basis for the measure is the Rural Development and Agricultural Market Regulation Act of 19 of June 2008 and its implementing provisions “*Draft of the Regulation of the Minister of Rural Affairs “Exceptional support to dairy and pigmeat producers due to the COVID-19 outbreak”*”.

### **2.3. Administration of the measure**

- (9) The Agricultural Registers and Information Board (ARIB) is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (10) The estimated budget of the measure is EUR 5 500 000.
- (11) The Estonian authorities confirm that the measure is not co-financed.
- (12) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 30 of June 2022.

## **2.5. Beneficiaries**

- (13) The final beneficiaries of the measure are undertakings of all sizes of the sectors concerned and active in Estonia. Financial institutions are excluded as eligible final beneficiaries (recital (16)).
- (14) Aid may not be granted under the measure to medium<sup>3</sup> and large enterprises that were already in difficulty within the meaning of the Agriculture Block Exemption Regulation (“ABER”)<sup>4</sup> on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the 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<sup>5</sup> or restructuring aid.<sup>6</sup>
- (15) The estimated number of the beneficiaries is 1.100.

## **2.6. Sectoral and regional scope of the measure**

- (16) The measure is open to undertakings active in the primary production of agricultural products in the dairy and pigmeat production sectors. It applies to the whole territory of Estonia. The Estonian authorities confirm that the measure is not open to credit and financial institutions.

## **2.7. Basic elements of the measure**

- (17) The aid will be granted to:
- (a) a dairy farmer who kept at least one dairy cow according to the farm animal register as of 30 September 2021, or
  - (b) a pigmeat producer who kept, as of 30 September 2021, a pig which, according to the register of farm animals, had been registered by 27 October at the latest; and who
    - according to the Tax and Customs Board (TCB), paid labour costs in 2020 and;
    - has not received compensation from the Estonian Unemployment Insurance Fund for the same eligible expenditure.
- (18) The ARIB defines the unit rate of aid in the dairy cows’ sector by taking into account:
- (a) the funds allocated;

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<sup>3</sup> As defined on annex I 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).

<sup>4</sup> As defined in Article 2(14) of Commission Regulation (EU) No 702/2014.

<sup>5</sup> 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.

<sup>6</sup> 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 number of all eligible cows of dairy breeds; and
  - (c) that maximum amount of State aid per applicant may not exceed the maximum aid ceiling set out in point 23(a) of the Temporary Framework.
- (19) The ARIB defines the amount of aid in the pig farming sector as compensation for labour costs. The ARIB takes into account:
  - (a) the financial resources allocated;
  - (b) the proportion of the labour costs of each eligible applicant of the total labour costs of all eligible applicants; and
  - (c) that maximum amount of State aid per applicant may not exceed the maximum aid ceiling set out in point 23(a) of the Temporary Framework; and
  - (d) that the aid shall be up to 70 % of the applicant's labour costs and shall not exceed the applicant's sales revenue from pig farming in 2020. If the annual report and the income tax return form do not reveal revenue from pig farming, then the amount of aid shall not exceed the agricultural sales revenue.
- (20) The Estonian authorities confirmed that the overall nominal value of direct grant does not exceed EUR 290 000 per undertaking active in the primary production of agricultural products. Further, the Estonian authorities confirm that the unit rates as defined by the ARIB will not lead to an overcompensation aid per animal level.
- (21) The Estonian authorities confirmed that where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22 (a) and 23 (a) of the Temporary Framework, it will be ensured, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking, and that, where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 345 000 is not exceeded per undertaking.
- (22) The Estonian authorities confirmed that the aid granted will not be fixed on the basis of the price or quantity of products put on the market. Further, aid in the pig farming sector is based on the labour costs (recital (19)). Aid in the dairy cows' sector is based on the number of cows in the farm animal register as of 30 September 2021, regardless of the price or quantity of products put on the market.
- (23) The applicant shall submit an application to the ARIB. The ARIB verifies the compliance of the application with the eligibility criteria. Where the verification leads to a positive granting decision, the ARIB will take its decision within such a period that the aid can be transferred to the beneficiary's current account no later than 31 January 2022, but not before the European Commission has notified Estonia of its authorisation of the present State aid scheme.

## **2.8. Cumulation**

- (24) The Estonian authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulation<sup>7</sup> or the ABER provided the provisions and cumulation rules of those Regulations are respected<sup>8</sup>.
- (25) The Estonian authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (26) The Estonian 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.
- (27) The Estonian 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(s) 22(a) and 23(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before granting of new aid shall not be taken into account in determining whether the relevant ceiling is exceeded.

## **2.9. Monitoring and reporting**

- (28) The Estonian 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 10 000 in the primary agriculture sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>9</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

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

### **3.2. Existence of State aid**

- (30) 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.

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<sup>7</sup> 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).

<sup>8</sup> The Estonian authorities have explained that in the case of cumulation with *de minimis* aid, the maximum amount per beneficiary will be EUR 25 000.

<sup>9</sup> Referring to information required in Annex III to Commission Regulation (EU) No 702/2014.

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.

- (31) The measure is imputable to the State, since it is administered by the ARIB and it is based on the 19 of June 2008 Rural Development and Agricultural Market Regulation Act and in particular its draft implementing provision; the Regulation of the Minister of Rural Affairs "*Exceptional support to dairy and pigmeat producers due to the COVID-19 outbreak*". It is financed through State resources, since it is financed by public funds.
- (32) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings active in the primary production of agricultural products in the dairy cow and pig sectors.
- (34) 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.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Estonian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (36) 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.
- (37) 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*".
- (38) 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*".
- (39) The measure aims at facilitating the access of undertakings to external finance at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (40) The measure is one of a series of measures conceived at national level by the Estonian authorities to remedy a serious disturbance in their economy. The

importance of the measure to preserve employment economic continuity and recovery in milk and pig meat production. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of limited amount of aid”) described in section 3.1 of the Temporary Framework.

- (41) 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:
- The aid takes the form of direct grant (recital (7)).
  - The overall nominal value of direct grant does not exceed EUR 290 000 per undertaking active in the primary production of agricultural products (recital (20)). The measure therefore complies with point 23(a) of the Temporary Framework.
  - The aid level per animal remains proportionate to remedy disturbance due to the COVID-19 pandemic (recital (20)).
  - 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.
  - Aid may not be granted under the measure to medium<sup>10</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (14))<sup>11</sup>. 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 aid<sup>12</sup> or restructuring aid<sup>13</sup> (recital (14)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
  - Aid will be granted under the measure no later than 30 June 2022 (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework.
  - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recitals (22)). The measure therefore complies with point 23(b) of the Temporary Framework.
  - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, the Estonian authorities will ensure, by

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<sup>10</sup> As defined in Article 2(14) of Commission Regulation (EU) No 702/2014.

<sup>11</sup> As defined in Annex I to Commission Regulation (EU) No 702/2014.

<sup>12</sup> 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.

<sup>13</sup> 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.

appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 345 000 is not exceeded per undertaking (recital (21)). The measure therefore complies with point 23bis of the Temporary Framework.

- (42) The Estonian 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 (5)).
- (43) The Estonian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). The Estonian 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 and the cumulation rules of the relevant Regulations are respected (recitals (24) to (27)).
- (44) 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