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Subject: **State aid SA.102468 (2022/N) – Lithuania**
COVID-19: Temporary State Aid to broiler producers facing economic difficulties caused by the COVID-19 pandemic

Excellency,

1. PROCEDURE

- (1) By electronic notification of 1 April 2022, Lithuania notified an aid scheme in the form of limited amounts of aid (*“Temporary State Aid to broiler producers facing economic difficulties caused by the COVID-19 pandemic”*, “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”)¹. By e-mail of 6 April 2022, Lithuania submitted complementary information.
- (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 1/1958², 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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

Mr. Gabrielius LANDSBERGIS
Užsienio Reikalų Ministerija
J. Tumo-Vaižganto g. 2
LT-01108 Vilnius
Lietuvos Respublika

2. DESCRIPTION OF THE MEASURE

- (3) Lithuania 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 outbreak, 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 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, as interpreted by Sections 2 and 3.1 of the Temporary Framework.

2.1. Nature and form of aid

- (6) The measure provides aid in the form of a direct grant.

2.2. National legal basis

- (7) The legal basis of the measure is the draft of the Order of the Minister of Agriculture of the Republic of Lithuania “On the Approval of the Rules for the Administration of Temporary State Aid to broiler producers”.

2.3. Administration of the measure

- (8) The Ministry of Agriculture of the Republic of Lithuania is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 2 000 000.
- (10) Aid may be granted under the measure as from the notification of the Commission’s approval until no later than 30 June 2022.
- (11) The Lithuanian authorities confirmed that the measure is not co-financed by the European Regional Development Fund (ERDF), the European Social Fund (ESF), Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD), the European Maritime and Fisheries Fund (EMFF), the European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

2.5. Beneficiaries

- (12) The final beneficiaries are undertakings of all sizes³ which are broiler⁴ producers. The estimated number of beneficiaries will be around 150. Financial institutions are excluded as eligible final beneficiaries.
- (13) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of 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 ABER on 31 December 2019, provided that they are not, at the moment of granting the aid, subject to collective insolvency proceedings under national law and have not received rescue aid⁶ or restructuring aid⁷.

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to the chicken broiler producers sector, as described in recital (12). Financial institutions are excluded as eligible final beneficiaries. The measure applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

- (15) The aim of the measure is to grant financial assistance to broiler producers for loss of income due to the COVID-19 pandemic, in order to mitigate the consequences of the COVID-19 pandemic.
- (16) The difficulties of the chicken market are caused by an unbalanced demand and difficulties in production and distribution of products due to restrictions introduced in connection with the COVID-19 pandemic. Broiler producers, by limiting their production, are exposed to a loss of financial liquidity. Since the beginning of the COVID-19 pandemic, the possibilities of selling broilers have been limited due to difficulties in the flow of goods, preventing the use of restaurants, eateries and a ban of the number of participants in meetings and occasional parties and guests in hotels. As a result, broilers producers reduced their production and lost income.

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 (“GBER”).

⁴ As defined in Article 1(1), point (a), of Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat (OJ L 157, 17.6.2008, p. 46).

⁵ Article 2(14) of 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 on the Functioning of the European Union (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.

- (17) The amount of the aid will be EUR 0.09 per kg live weight of broiler reared and delivered for slaughter and (or) reared and slaughtered, or EUR 0.22 per broiler reared and delivered for slaughter and (or) reared and slaughtered. The aid will be granted for the period from September to December 2021. The beneficiary should have grown at least 100 broilers per month and delivered them for slaughter or slaughtered them themselves during the period concerned.
- (18) The overall nominal value of direct grants does not exceed EUR 290 000 per undertaking active in the primary production of agricultural products; all figures are gross, that is, before any deduction of tax or other charges.
- (19) Lithuania confirms that aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market. The amount of aid is fixed per kg of live weight broiler or for a live broiler, but not for a broiler carcass that is placed on the market or sold directly to the consumer. Furthermore, the measure concerns only broilers delivered from a primary producer to an undertaking active in the processing of agricultural products, and it does not concern the supply to the market directly or to the consumers.

2.8. Cumulation

- (20) The Lithuanian authorities confirmed that aid granted under the measure may be cumulated with *de minimis* aid⁸ and/or with aid under the GBER or the ABER, provided the provisions and cumulation rules of those Regulations are respected.
- (21) The Lithuanian authorities confirmed 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.
- (22) The Lithuanian authorities confirmed 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.
- (23) The Lithuanian authorities confirmed 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 points 22(a) and 23(a) of that Framework, will be respected.
- (24) Moreover, 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, Lithuania will ensure, by 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

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).

by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 345 000 is not exceeded per undertaking.

2.9. Monitoring and reporting

- (25) The Lithuanian authorities confirmed 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 granted under the measure in the primary agriculture sector on the comprehensive State aid website or Commission’s IT tool within 12 months from the moment of granting⁹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (26) By notifying the measure before putting it into effect, 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 it is administered by the Ministry of Agriculture of the Republic of Lithuania, as shown in recital (8), and is based on the draft of the Order of the Minister of Agriculture of the Republic of Lithuania “On the Approval of the Rules for the Administration of Temporary State Aid to broiler producers”, as shown in recital (7). 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 a direct grant, as shown in recital (6), which they would not have had under normal market conditions.
- (30) The advantage granted by the measure is selective, since it will be awarded only to certain undertakings, in particular to undertakings active in a specific production sector (broilers production), excluding the financial sector, as shown in recital (12).
- (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.

⁹ Referring to information required in Annex III to the ABER.

3.3. Compatibility

- (33) 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.
- (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 granting financial support to farmers in the broilers production sector at a time when the normal functioning of markets continues to be severely disturbed by the COVID-19 outbreak and that outbreak continues to affect the wider economy and leading to severe disturbances of the real economy of Member States, as shown in recital 16.
- (37) 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 measure is important 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 targeted subsector in Lithuania. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (38) 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 a direct grant, as shown in recital (6);
 - the overall nominal value of the aid does not exceed EUR 290 000 per undertaking, all figures must be gross, that is, before any deduction of tax or other charges, as shown in recital (18). The measure therefore complies with points 23(a) of the Temporary Framework;
 - aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (9). The measure therefore complies with point 22(b) of the Temporary Framework;
 - aid can be granted under the measure to undertakings of all sizes, as shown in recital (12). Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019, as shown in recital (13). 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 aid¹⁰ or restructuring aid¹¹, as shown in recital (13). 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, as shown in recital (10). The measure therefore complies with point 22(d) of the Temporary Framework;
 - aid granted to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market, as shown in recital (19). 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, Lithuania will ensure, by 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, as shown in recital 24). The measure therefore complies with point 23bis of the Temporary Framework.
- (39) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected, as shown in 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, as shown in recitals (20) to (22).
- (40) 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.

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.

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