EUROPEAN COMMISSION

Brussels, 30.08.2022
C(2022) 6258 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: **State Aid SA.103781 (2022/N) – Lithuania**
TCF: Investment of legal entities in changing or reducing the use of fossil fuels and / or the use of renewable energy resources

Excellency,

1. PROCEDURE

(1) By electronic notification of 19 July 2022, Lithuania notified aid for additional costs due to exceptionally severe increases in natural gas and electricity prices (the "measure") under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the "Temporary Crisis 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 on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 131 I, 24.3.2022, p. 1) and Communication from the Commission on the Amendment to the Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, 20.07.2022 (OJ C 280, 21.7.2022, 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-01511 Vilnius
LIETUVA/LITHUANIA

2. DESCRIPTION OF THE MEASURE

(3) Lithuania considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia (the "current crisis") affect the economy.

(4) According to Lithuania, the price of natural gas has increased steeply over the past year and reached EUR 200/MWh in 2022 August[3], approximately six times the price a year earlier. Lithuania submits that in 2021, the overall consumption of natural gas in Lithuanian industrial enterprises was 6.9 TWh[4], hence for an industry that uses vast amounts of natural gas, the current crisis has meant an extreme increase in production costs. Furthermore, the Lithuanian authorities submit that the wholesale electricity prices have as well increased steeply over the past year and reached EUR 600 EUR/MWh in 2022 August; in 2021 August the price was 65 EUR/MWh[5].

(5) The current crisis has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. Rising energy prices affect virtually every economic activity. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in Lithuania.

(6) Thus, the measure aims at remedying the price increases faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far, for example, by Russia. Further, the measure provides incentives to undertakings to reduce their consumption of fossil fuels and, in particular, of natural gas. Under the measure, undertakings are obliged to invest and implement projects to reduce fossil fuel consumption or convert their processes from the use of fossil fuels to renewable energy sources. This is an important step to mitigate the economic impact of Russian military aggression against Ukraine.

(7) 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

---

3 Online: https://www.getbaltic.com/en/market-data/trading-data/?period=day&graph=trades&area=1&show=price&display=graph.

4 Excluding natural gas used as a raw material for the production of fertilizers, where it is extremely difficult to replace natural gas.

5 Online: https://transparency.entsoe.eu/transmission-domain/r2/dayAheadPrices/show?name=&defaultValue=false&viewType=GRAPH&areaType=BZN&atch=false&dateTime.dateTime=23.08.2022+00:00|CET|DAY&biddingZone.values=CTY|10YLT-1001A0008Q!BZN|10YLT-1001A0008Q&resolution.values=PT15M&resolution.values=PT30M&resolution.values=PT60M&dateTime.timezone=CET_CEST&dateTime.timezone_input=CET+(UTC+1)+/+CEST+(UTC+2).

aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of section 2.4 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(9) The measure provides aid in the form of direct grants for additional costs due to exceptionally severe increases in natural gas and electricity prices under section 2.4 of the Temporary Crisis Framework.

(10) The Lithuanian authorities confirm that all figures expressing aid amounts under the measure used are gross, that is, before any deduction of tax or other charges.

2.2. Legal basis

(11) The legal basis for the measure is the draft Order on the Approval of the Procedure Description for Legal Entities to Invest in Changing or Reducing the Use of Fossil Fuels and (or) Using Renewable Energy Resources[6] (the “national legal basis”), which has been submitted to the Commission. Lithuanian authorities confirm that the aid will be granted only once the authorisation of the European Commission is obtained.

2.3. Administration of the measure

(12) The Ministry of Agriculture is responsible for administering the measure and the Rural Support Service is the granting authority.

2.4. Budget and duration of the measure

(13) The estimated budget of the measure is EUR 90 000 000 to be financed from the national budget. The budget will be allocated first come, first served basis.

(14) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 31 December 2022.

2.5. Beneficiaries

(15) The final beneficiaries of the measure are SMEs and large enterprises[7] active in all sectors of the economy in Lithuania. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.

(16) Lithuanian authorities estimate that there will be between around 101 and 500 beneficiaries under the measure.

---

6 Įsakymas Dėl Juridinių Asmenų Investicijoms Į Iškastinio Kuro Naudojimo Pakeitimą Ar Mažinimą Ir (Ar) Atsinaujinančių Energijos Išteklių Panaudojimą Tvarkos Aprašo Patvirtinimo.

7 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).

(17) Lithuania confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

(18) Lithuania confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations[8]. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

(19) The measure is open to all sectors except the financial sector. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(20) The measure provides aid for additional costs due to exceptionally severe increases in natural gas and electricity prices under Section 2.4 of the Temporary Crisis Framework. The aim of the measure is to alleviate the exceptionally severe increases in the price of natural gas and electricity. In addition, the measure aims to reduce the consumption of fossil fuels and to promote the use of renewable energy sources in Lithuania.

(21) Undertakings are eligible for the aid, if their expenses for fuel, electricity and/or gas make up at least 3 % and more of the applicant's expenses.

(22) The aid will be granted for eligible costs occurred in the period from 1 February 2022 to 31 August 2022 (the "eligible period").

(23) The total amount of aid for the eligible period will not exceed EUR 2 000 000 per undertaking at any given point in time.

(24) The aid intensity will not exceed 30 % of the eligible costs. The eligible costs are calculated based on the increase in natural gas and electricity costs linked to the current crisis. The eligible cost is the product of the number of units of natural gas and electricity procured by the applicant as a final consumer[9] from external suppliers during the eligible period and a certain increase in the price that the applicant pays per unit consumed (measured in EUR/kWh). That price increase shall be calculated as the difference between the unit price paid by the applicant in a given month in the eligible period and the double (200 %) of the unit price

[8] For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

[9] As demonstrated by the beneficiary e.g. based on the respective bill. Only final consumption will be counted, sales and own production are excluded.

paid by the applicant on average for the reference period from 1 January 2021 until 31 December 2021.

(25) The eligible costs are calculated, for each month of the eligible period for which aid is requested, according to the following formula[10]:

$(p(t) — p(ref) * 2) * q(t)$

(26) As required under the Temporary Crisis Framework, from 1 September 2022, the quantity of natural gas and electricity used to calculate the eligible costs cannot exceed 70 % of the beneficiary's consumption for the same period in 2021. That said, under the measure, costs incurred after 31 August 2022 are not eligible at all.

(27) Energy-intensive undertakings[11] may receive aid exceeding the values in recitals (23) and (24) to ensure the continuation of an economic activity, provided that the conditions in recitals (13), (22) and (24) to (25) are respected, that the undertaking incurs operating losses[12], and that the increase in the eligible cost of the undertaking, as defined in recital (24), amounts to at least 50 % of the operating loss in the eligible period[13]:

a) all energy-intensive undertakings may receive aid not exceeding 50 % of the eligible costs and 80 % of the operating losses of the undertaking, up to EUR 25 000 000 per undertaking at any given point in time;

b) energy-intensive undertakings active in any sector or sub-sector listed in Annex I of the Temporary Crisis Framework may receive aid not exceeding 70 % of the eligible costs related to the production of the products in the sectors or sub-sectors listed in that Annex I and not exceeding 80 % of the operating losses of these activities[14]. The overall aid will not exceed EUR 50 000 000 per undertaking at any given point in time.

---

[10] In this formula, p(t) denotes the unit price of natural gas and electricity in EUR/kWh borne by the undertaking during the relevant month of the eligible period; p(ref) denotes the average unit price of natural gas and electricity in EUR/kWh borne by the undertaking during the reference period (i.e. from 1 January 2021 to 31 December 2021); q(t) denotes the amount of natural gas and electricity consumed by the undertaking in the relevant month of the eligible period.

[11] Within the meaning of the first limb of Article 17(1)(a) of the Energy Taxation Directive (Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, OJ L 283, 31.10.2003, p. 51) and on the basis of financial accounting reports for the calendar year 2021 or the latest available annual accounts.

[12] The undertaking is considered to have operating losses when EBITDA (earnings before interest, taxes, depreciation, and amortisation, excluding one off impairments) for the eligible period is negative.

[13] Such operating losses should be demonstrated by the beneficiary on a monthly or quarterly basis, unless otherwise duly justified.

[14] A beneficiary will be considered as active in a sector or subsector listed in Annex I according to the beneficiary's classification in the sectoral national accounts or if one or several of the activities it carries out and which are included in Annex I generated more than 50% of its turnover or production value in the reference period.

(28) Where an undertaking is active in several sectors to which different maximum ceilings apply in accordance to recitals (23) and (27), Lithuania will ensure, by separation of accounts that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 50 million is not exceeded per undertaking.

(29) The aid will be conditional on investments in energy efficiency, investments to reduce or diversify natural gas consumption, or reduction in the consumption of fossil fuels. Specifically, beneficiaries are required to either replace or convert fossil fuel consuming technologies with equivalent technologies using renewable energy sources (“RES”) or to reduce their consumption of fossil fuels by at least 20 % once the equipment becomes operational after the installation.

(30) In particular, the beneficiaries are required to meet one of the following conditions:

(i) conversion of fossil fuel boilers to RES heat pumps (air-water, ground-to-water, water-to-water, air-to-air), class 5 biofuel boilers (to be assessed according to the manufacturer’s specification), high-efficiency biofuel boilers (combusting SM3[15] biofuel feedstock), or solar collector for hot water production (excluding installation of wind and solar power plants for electricity generation);

(ii) reducing the use of fossil fuels by at least 20 % via the use of RES (namely, heat pumps, class 5 biofuel, high-efficiency biofuel boilers, solar collector for hot water production as specified in recital (30)(i);

(iii) replacing fossil fuels used in the manufacturing process by RES and/or electricity;

(iv) installation of biofuel burners and bio-pollen production and combustion plants in fossil fuel boilers;

(v) installation of biofuel cogeneration units, installation of electric generators using hot water or biomass (organic Renkin cycle (ORC) units, biomass gazifiers with internal combustion engines, steam turbines, etc.) to modernise existing boilers in plants and district heating systems;

(vi) installation of heat pumps in plants using natural gas for heat generation;

(vii) installation of heat storage facilities for hot water storage and/or heat storage;

(viii) the acquisition of other technologies, software or equipment directly related to the reduction of fossil fuels by at least 20 % or to the conversions/replacements referred to the conditions above;

(ix) the costs relating to the installation of the equipment, the preparation or the evaluation of the site linked to any of the conditions above.

---

15 SM3 refers to woodchips from logging residues.

(31) The Environmental Projects Management Agency under the Ministry of Environment of the Republic of Lithuania will announce public calls for receiving applications. It is mandatory for undertakings to stop fossil fuel (natural gas) use or reduce fossil fuel consumption by 20 % or more.

(32) In this respect, Lithuanian authorities clarified that the requirements described in recitals (29) and (30) in the form of investments in energy efficiency, investments to reduce or diversify natural gas consumption or reduction in fossil fuel consumption have to be implemented within 24 months as of the granting of aid.

(33) The amount of the aid will be paid out to beneficiaries within 24 months as of the granting of the aid and the last installment of the aid would be paid out upon completion of the implementation of the undertakings' undertaken projects.

(34) Concerning the link between the amount of the aid and the cost of the investment, Lithuanian authorities explained the following:

(i) if the cost of the investment is higher than the amount of the aid calculated based on the eligible costs (recitals (24) and (25)), the amount exceeding the amount of the aid will be borne exclusively by the beneficiaries, and

(ii) if the cost of the investment is lower than the amount of the aid, the amount of the aid will be reduced to the level of the cost of the investment.

(35) There are no advance payments and the aid is granted only after an ex-post verification of the supporting documentation of the beneficiary.

2.8. Cumulation

(36) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[16] or the Block Exemption Regulations[17] provided the provisions and cumulation rules of those Regulations are respected.

---

[16] 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), 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), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

[17] 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 of 26.6.2014, p. 1), Commission Regulation (EC) 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) and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

(37) The Lithuanian 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.

(38) The Lithuanian authorities confirm that aid under the measure may be cumulated with aid under Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak[18] (the "COVID-19 Temporary Framework"). According to Lithuania, there are no measures in force approved under COVID-19 Temporary Framework, where overlap in relation to the same eligible costs would be possible and hence there is no cumulation risk. Nevertheless, the Lithuanian authorities confirm that in case there would be such measures in the future, the aid under the notified measure may be cumulated with those measures approved under COVID-19 Temporary Framework provided the respective cumulation rules are respected.

(39) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis Framework provided the provisions in those specific sections are respected.

(40) Aid under point 52 of the Temporary Crisis Framework may be cumulated with aid under section 2.1 provided the overall cap of EUR 2 million per undertaking is not exceeded. Aid under point 53 of the Temporary Crisis Framework may be cumulated with aid under section 2.1 provided the ceiling laid down in point 53(d) or 53(e), whichever applies, is not exceeded.

2.9. Monitoring and reporting

(41) The Lithuanian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[19]).

---

18 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).

19 Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

(42) By notifying the measure before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU (recitals (11) and (14)).

3.2. Existence of State aid

(43) 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.

(44) The measure is imputable to the State, since it is administered by the Ministry of Agriculture and it is based on an order, i.e. national legal basis (recitals (11) and (12)). It is financed through State resources, since it is financed by public funds through the national budget (recital (13)).

(45) The measure provides direct grants to its beneficiaries (recital (9)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.

(46) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings affected by the current crisis active in all sectors, excluding the financial sector (recitals (15) and (19)).

(47) 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.

(48) Therefore, 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

(49) 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.

(50) 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*".

(51) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to

exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Lithuania. 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 if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.

(52) The measure aims at mitigating the consequences for undertakings of the exceptionally severe increases in the price of natural gas and electricity and help them cope with the steep cost increases as a consequence of the current crisis, while incentivising undertakings to invest into RES and thus achieve an independency from fossil fuels at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the economy of Member States, including in the economy of Lithuania.

(53) The measure is part of a series of measures conceived at national level by Lithuanian authorities to remedy a serious disturbance in their economy. The measure is of a scale which can be reasonably anticipated to produce effects across the entire economy of Lithuania. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*"Aid for additional costs due to exceptionally severe increases in natural gas and electricity prices"*) described in section 2.4 of the Temporary Crisis Framework.

(54) 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 relevant conditions of the Temporary Crisis Framework. In particular:

3.3.1. Compatibility under section 2.4 of the Temporary Crisis Framework

(55) Aid will be granted under the measure no later than 31 December 2022 (recital (14)). The measure therefore complies with point 52(a) of the Temporary Crisis Framework.

(56) The aid takes the form of direct grants (recital (9)); the nominal value of direct grants does not exceed the applicable aid intensity and aid ceilings laid down in point 52(f) and (g) of the Temporary Crisis Framework (recital (57)). All figures used are gross, that is, before any deduction of tax or other charges (recital (10)). The measure therefore complies with point 52(b) of the Temporary Crisis Framework.

(57) The overall aid per undertaking will not exceed 30% of the eligible costs up to a maximum of EUR 2 million at any given point in time (recitals (23) and (24)). The measure therefore complies with points 52(f) and (g) of the Temporary Crisis Framework.

(58) Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (13). The sectoral scope of the measure is designed to be accessible to all sectors, except for the financial sector. Namely credit and financial institutions as final beneficiaries are not eligible for the measure as described in recitals (15) and (19). The Commission considers that it is designed broadly and does not lead to an artificial limitation of potential beneficiaries. The measure therefore complies with point 52(d) of the Temporary Crisis Framework.

(59) The eligible costs are calculated in line with point 52(e) of the Temporary Crisis Framework over 1 February until 31 August 2022 (recitals (22), (24) and (25)). The eligible period will be from 1 February to 31 August 2022, hence the condition that as from 1 September 2022, the quantity of natural gas and electricity used to calculate the eligible costs must not exceed 70 % of the beneficiary's consumption for the same period in 2021, does not apply to the notified measure.

(60) Aid under point 52 of the Temporary Crisis Framework may be cumulated with aid under section 2.1 of the Temporary Crisis Framework provided the maximum aid amount of EUR 2 million is not exceeded (recital (40)). The measure complies with point 52(i) of the Temporary Crisis Framework.

(61) Aid under the measure will be granted to 'energy-intensive business', as defined under the first limb of Article 17(1)(a) of the Energy Taxation Directive[20], *i.e.* where the purchase of energy products (including energy products other than natural gas and electricity) amount to at least 3.0 % of the production value based on financial accounting report for the calendar year 2021 or the latest available annual accounts (recitals (21), (27) and footnote 11). The measure therefore complies with point 53(a) of the Temporary Crisis Framework.

(62) The undertakings eligible for aid under point 53(a) are only those that incur operating losses (recital (27)). Furthermore, the increase in the undertakings' eligible costs as defined in point 52(e) of the Temporary Crisis Framework amounts to at least 50% of operating losses in the eligible period from 1 February to 31 August 2022 (recital (27)). The measure therefore complies with point 53(b) of the Temporary Crisis Framework.

(63) The overall aid does not exceed 50% of the eligible costs as defined in point 52(e) of the Temporary Crisis Framework and amounts to a maximum of 80% of the operating losses of the undertaking (recital (27)). The overall aid amount does not exceed EUR 25 million per undertaking at any given point in time (recital (27)a)). The measure therefore complies with points 53(c) and (d) of the Temporary Crisis Framework

(64) The sectors and subsectors listed in recital (27)b) are covered by Annex I to the Temporary Crisis Framework. The measure foresees increased aid intensities and amounts for energy-intensive undertakings active in those sectors and subsectors. Thus, the overall aid intensity may be increased to a maximum of 70 % of the eligible costs related to the production of the products in those sectors and

[20] Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

subsectors and may amount to a maximum of 80 % of the operating losses of those activities. In addition, for the activities in those sectors and subsectors, the overall aid amount may not exceed EUR 50 million per undertaking at any given point in time. The measure therefore complies with point 53(e) of the Temporary Crisis Framework.

(65) Aid under point 53 of the Temporary Crisis Framework may be cumulated with aid under section 2.1 of the Temporary Crisis Framework provided that the applicable ceilings in point 53(d) or 53(e) of the Temporary Crisis Framework, whichever applies, are not exceeded (recital (40)). The measure therefore complies with point 53(f) of the Temporary Crisis Framework.

3.3.2. Additional condition to stop fossil fuel (namely, natural gas) use or obligation to reduce fossil fuel consumption

(66) Section 1.2 point 19 of the Temporary Crisis Framework refers to the REPowerEU Communication of 8 March 2022[21] as well as to the REPowerEU plan adopted on 18 May (the "REPowerEU Communication"). Namely, "*The REPowerEU Communication provides further guidance and describes new actions to increase the production of green energy, diversify supplies and reduce demand, including preparatory measures for winter 2022-2023. The REPowerEU plan includes measures on reducing the Union's dependency on Russian fossil fuels by accelerating the green transition, investing in energy efficiency and diversifying energy supplies. Accelerating the green transition will reduce emissions, reduce dependency on imported fossil fuels, and protect against price hikes. High energy prices also reflect the scarcity of supplies in the short term, which is feeding through into the general price level. In the short term, temporary support might therefore be needed to help undertakings for which the current crisis situation would have particularly severe short-term consequences.*"

(67) The REPowerEU Communication foresees that in order to achieve Europe's clean energy transition in a timely manner and to avoid energy dependency in the future, it is important to save energy, diversify supplies, quickly substitute fossil fuels by accelerating Europe's clean energy transition and smartly combine investments and reforms.

(68) Point 24 of the Temporary Crisis Framework invites Member States to consider, in a non-discriminatory way, setting requirements related to environmental protection or security of supply for granting aid under section 2.4 of the Temporary Crisis Framework. The Temporary Crisis Framework provides a non-exhaustive list of examples for such potential requirements:

(a) requiring the beneficiary to meet a certain share of energy consumption needs by renewable energies, e.g. via power purchasing agreements or direct investments in energy generation from renewable energies;

[21] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2022) 108 final of 8 March 2022 – REPowerEU: Joint European Action for more affordable, secure and sustainable energy.

(b) requiring investments in energy efficiency, reducing the energy consumption relative to economic output e.g. by reduced consumption for production processes, heating or transportation;

(c) requiring investments to reduce or diversify natural gas consumption, e.g. by electrification measures using renewable energy sources or circular solutions such as the re-use of waste gases;

(d) requiring flexibilisation of investments, to facilitate better adaptations of business processes to price signals on electricity markets.

(69) The Commission notes that Lithuania has added an additional condition to those already listed under section 2.4 of the Temporary Crisis Framework. Namely, undertakings applying for the aid under the measure are obliged to either stop fossil fuel (natural gas) use or reduce their fossil fuel consumption by at least 20 % (recitals (29) and (31)) while investing the aid received under the notified measure in order to enable reductions in fossil fuel consumption (recitals (29) and (30)).

(70) This condition will help Lithuania to accelerate the green transition, will reduce emissions and dependency on imported fossil fuels (natural gas). Furthermore, the said condition will provide a long-run solution to the current price hikes, as decreased dependency on imported fossil fuels will increase the predictability of prices. Hence, the said condition will help to achieve the goals listed in the REPowerEU Communication. The condition is also in line with the invitation under recital 24 of the Temporary Crisis Framework.

(71) In particular:

(a) the requirement to invest in reduced fossil fuel consumption by replacing fossil-fuel consuming installations with installations using renewable fuels or electricity (recital (30) points (i) to (vi)) is directly in line with the measures set out in points 24(a) and (c) of the Temporary Crisis Framework;

(b) the installation of heat storage facilities (recital (30) point (vii)) is directly in line with the measures set out in point 24(d) of the Temporary Crisis Framework; and

(c) other measures directly related to the reduction of fossil fuels by at least 20 % are in line with the measures set out in point 24(c) of the Temporary Crisis Framework.

(72) Furthermore, the said condition referred to in recital (30) allows for any measure that directly results in a reduction of fossil fuel consumption, notably of natural gas consumption, and does not arbitrarily favour certain technologies or certain beneficiaries. It is therefore non-discriminatory.

(73) Therefore, the Commission finds the said condition to be in line also with section 1.2 of the Temporary Crisis Framework and therefore in line with the overall objective of the Temporary Crisis Framework, as well as with the conditions lined out in point 24 of the Temporary Crisis Framework.

3.3.3. *Common provisions on monitoring, cumulation, and relocation for all sections*

(74) The Lithuanian authorities confirm that, pursuant to point 32 of the Temporary Crisis Framework, 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 (7)).

(75) The Lithuanian authorities confirm that, pursuant to point 33 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recitals (17) and (18)).

(76) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (41)). The Lithuanian authorities further confirm that there are no schemes in place under COVID-19 Temporary Framework, where the eligible costs might overlap. Nevertheless, the Lithuanian authorities confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recital (38)).

(77) 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 Crisis 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