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**Subject: State Aid SA.104717 (2022/N) – Lithuania**  
**TCF: “Subsidies to Enterprises Operating in Highly Affected Sectors to Mitigate the Effects of Energy Price Increase”**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 31 October 2022, Lithuania notified a measure in the form of limited amounts of aid (“*Subsidies to Enterprises Operating in Highly Affected Sectors to Mitigate the Effects of Energy Price Increase*”, 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”)<sup>1</sup>.
- (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<sup>2</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> 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), as amended by Commission Communication C/2022/5342 (OJ C 280, 21.7.2022, p. 1) and by Commission Communication C/2022/7945 (OJ C 426, 9.11.2022, 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) 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 by Russia ('the current crisis') so far affects the real economy. The current crisis 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.
- (4) The impact of the current crisis on the Lithuanian economy is manifold and has caused a serious disturbance. The inflation rate amounted to 22.5% in September 2022. Moreover, the massive increase in energy prices (+ 73% in September 2022 compared to September 2021)<sup>3</sup> imposes a high burden on Lithuanian undertakings, in particular to those active in the energy-intensive industries. Companies are forced to reduce production volumes, shorten working hours, cut investments or even stop activities. In general, the current crisis bears a high risk of Lithuanian undertakings losing competitiveness and may endanger the labour market.
- (5) To address this situation, Lithuania plans to introduce a scheme in the form of limited amounts of aid for undertakings active in some sectors highly affected by the current crisis. The measure thereby aims to mitigate the burden those enterprises are bearing amid the rapid rise of energy costs.
- (6) 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.
- (7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 1 and 2.1 of the Temporary Crisis Framework.

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

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

### **2.2. Legal basis**

- (9) The legal basis for the measure is the draft resolution of the Government of the Republic of Lithuania "On the Approval of the Description of the Procedure for the Allocation of Funds and Administration of the Measure "Subsidies to Enterprises Operating in Highly Affected Sectors to Mitigate the Effects of Energy Price Increase". The draft resolution will be adopted only once the Commission decision approving the measure is notified to Lithuania.

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<sup>3</sup> <https://www.lb.lt/lt/naujienos/duomenu-komentaras-2022-m-rugsejo-men-infliacija>.

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

- (10) The State Tax Inspectorate (STI) and the Ministry of Economy and Innovation of Republic of Lithuania are responsible for administering the measure.

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

- (11) The estimated budget of the measure is EUR 30 million, financed by the State budget of Lithuania.
- (12) 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**

- (13) The final beneficiaries of the measure are undertakings as defined in paragraph 17 of the national legal basis (recital (9)), active in Lithuania in highly affected sectors (recital (16)) and affected by the crisis. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (14) 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.
- (15) 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<sup>4</sup>. 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**

- (16) The measure is open to undertakings in the following sectors:

Mining of metal ores (NACE Rev. 2 07), Manufacture of textiles (NACE Rev. 2 13), Manufacture of wearing apparel (NACE Rev. 2 14), Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials (NACE Rev. 2 16), Manufacture of paper and paper products (NACE Rev. 2 17), Manufacture of coke and refined petroleum products (NACE Rev. 2 19)<sup>5</sup>, Manufacture of chemicals and chemical products (NACE

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<sup>4</sup> 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).

<sup>5</sup> Under this category "Manufacture of coke and refined petroleum products" (NACE Rev. 2 19): only undertakings active in subclass 19.20.20 "Manufacture of greases and other oils" and in subclass 19.20.30 "Manufacture of paraffin wax and petroleum jelly" (according to the Classification of Types of Economic Activities of the Lithuanian Statistics Department) are eligible.

Rev. 2 20), Manufacture of other non-metallic mineral products (NACE Rev. 2 23), Production of basic metals (NACE Rev. 2 24).

- (17) The measure does not apply to undertakings active in the primary production, processing and marketing of agricultural products, fishery, aquaculture or in the financial sector.
- (18) The measure applies to the whole territory of Lithuania.

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

- (19) The aim of the notified measure is to grant limited amounts of aid to undertakings operating in highly affected sectors listed in recital (16), and thereby mitigate the effects of inflation and the massive increase in energy prices resulting from the current crisis.
- (20) Undertakings active in one of these sectors and affected by the crisis (recital (13)) will be able to apply for a limited amount of aid. Within the eligible sectors, the measure is open to all types of enterprises (large enterprises and small and medium-sized enterprises (SMEs)<sup>6</sup>). The estimated number of beneficiaries is around 1000.
- (21) The aid amount is calculated based on a percentage of the declared personal income tax or corporate tax, up to a maximum aid amount per undertaking of EUR 500 000, gross. The minimum aid amount per undertaking is EUR 500.
- (22) Application for grants must be submitted before the 22 November 2022 through an online application form to the STI.

### **2.8. Cumulation**

- (23) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>7</sup> or the General Block Exemption Regulation<sup>8</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (24) 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.

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<sup>6</sup> 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).

<sup>7</sup> 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 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).

<sup>8</sup> 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).

- (25) The Lithuanian 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 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in out in point 55(a) of that framework, will be respected. Aid granted under the measure and other measures approved by the Commission under section 2.1 of the Temporary Crisis Framework which has been reimbursed before granting new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

## **2.9. Monitoring and reporting**

- (26) 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 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**

- (27) 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**

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by the State Tax Inspectorate (STI) and the Ministry of Economy and Innovation of the Republic of Lithuania (recital (10)) and it is based on a draft resolution of government of the Republic of Lithuania (recital (9)). It is financed through State resources, since it is financed by public funds (recital (11)).
- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus confers an advantage on those beneficiaries which they would not have had otherwise under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to undertakings active in certain sectors laid down in recital (16), excluding the

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<sup>9</sup> 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.

primary production of agricultural products, fishery, aquaculture and financial sectors (recital (17)).

- (32) 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.
- (33) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Lithuanian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (34) 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.
- (35) 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*”.
- (36) 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 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. 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.
- (37) The measure aims at granting limited amounts of aid to undertakings active in heavily affected sectors (recital (16)), 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 real economy of Member States, including in the economy of Lithuania.
- (38) The measure is conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to compensate undertakings active in heavily affected sectors for the severe increase in electricity prices is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 2.1 of the Temporary Crisis Framework.

- (39) 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:
- The aid takes the form of direct grants (recital (8)).
  - The overall nominal value of per undertaking will not exceed EUR 500 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (21)). The measure therefore complies with point 55(a) of the Temporary Crisis Framework.
  - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (11). The measure therefore complies with point 55(b) of the Temporary Crisis Framework.
  - Aid will be granted under the measure no later than 31 December 2022 (recital (12)). The measure therefore complies with point 55(c) of the Temporary Crisis Framework.
  - Aid will be granted only to undertakings affected by the crisis (recital (13)). The measure therefore complies with point 55(d) of the Temporary Crisis Framework.
- (40) The Lithuanian authorities confirm that, pursuant to point 46 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 (6)).
- (41) The Lithuanian authorities confirm that, pursuant to point 47 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 (recital (14)).
- (42) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (26)).
- (43) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary 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

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