



EUROPEAN COMMISSION

Brussels, 20.5.2020
C(2020) 3449 final

SENSITIVE* : *COMP Operations*

Subject: State Aid SA.57342 (2020/N) – Lithuania
COVID-19: Program to fund new cultural products and services

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 May 2020, Lithuania notified aid in the form of direct grants (“Creation of new products and/or services by cultural and art organisations funded by the funds of the Culture Support Foundation”, hereinafter referred to as “the measure”) under Article 107(3)(b) of the Treaty on the Functioning of the European Union as interpreted by the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹
- (2) The Lithuanian authorities confirm that the notification does not contain confidential information.
- (3) 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.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020, OJ C 112I, 4.4.2020, p. 1-9, and by Communication from the Commission C(2020) 3156 final of 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

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

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2. DESCRIPTION OF THE MEASURE

- (4) Lithuania considers that the COVID-19 outbreak is affecting the real economy. The measure forms part of an overall package of measures aiming 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 outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (5) On 16 March 2020, Lithuania decided to suspend all educational, cultural, sports and leisure activities in the country due to the COVID-19 outbreak. In addition, Lithuania introduced travel bans to a number of countries.
- (6) Due to the measures taken by the Lithuanian authorities, nearly all cultural activities and venues closed since 16 March 2020 (museums, galleries, libraries, concert halls, theatres, cultural centres, etc.). The inability to sell tickets and provide other services has created a liquidity shortage. Lithuania estimates that this situation will have an impact of 30% or more of the annual revenues of each cultural institution or organisation. Lithuania therefore considers that there is a need to assist the cultural sector particularly impacted by the restrictions of cultural activities and social distancing policies.
- (7) The objective of the measure is to ensure the continuation of activities of cultural and art institutions and organisations, the creation of digital cultural products and/or services as well as the creation of new cultural products and/or services, which would be developed considering physical restrictions and changed possibilities for the public to make use of cultural and art products during the quarantine and in the following period.
- (8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (9) The measure consists in direct grants for the creation of new products and/or services by cultural and art institutions and organisations in the period between 19 March 2020 and 31 December 2020.
- (10) The Lithuanian authorities considered that given the size of cultural institutions and organizations in Lithuania and the general economic situation, State aid in the form of direct grants is most appropriate.

2.2. Legal basis

- (11) The legal basis for the measure is Order No IV-904 of 25 August 2017 of the Minister of Culture of the Republic of Lithuania “On the Approval of the Guidelines for the Submission of Projects Funded by the Culture Support Foundation” (“Order No IV-904”), as well as the Order to amend Order No IV-904, a draft of which was joined to the notification. The Lithuanian authorities confirmed that the measure will enter into force only after the Commission has authorised the aid.

2.3. Administration of the measure

- (12) The granting authority is the Ministry of Culture of the Republic of Lithuania. The Lithuanian Council for Culture is the authority responsible for managing the measure.

2.4. Budget and duration of the measure

- (13) The estimated budget of the measure is EUR 10 million.
- (14) Aid may be granted under the measure as from the formal adoption of the national legal basis by the Lithuanian authorities until no later than 31 December 2020, and only after the Commission has authorised the measure (see recital (11)).
- (15) The Lithuanian authorities confirmed that the maximum overall aid amount(s) per undertaking (gross, i.e. before any tax deduction or other charge) of EUR 800 000 set out at point 22(a) of the Temporary Framework is respected.
- (16) The Lithuanian authorities confirmed that the measure will not be co-financed by the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII).

2.5. Beneficiaries

- (17) The Lithuanian authorities indicated that the final beneficiaries of the measure will be micro, small and medium-sized companies active in the cultural sector in Lithuania.
- (18) The number of beneficiaries is estimated between 101 and 500 undertakings.
- (19) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)³ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (20) The measure is open to companies active in the cultural sector.
- (21) The measure applies to the whole territory of Lithuania.

³ As defined in Article 2(18) of 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[, Article 2(14) 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 of 1.7.2014, p.1, and Article 3(5) of 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, OJ L 369 of 24 December 2014, p. 37.]

2.7. Basic elements of the measure

- (22) The Lithuanian authorities explained that the measure aims at supporting the provision of new products and/or services by cultural and art institutions and organisations.
- (23) The Lithuanian authorities explained that the activities supported under the measure will be the following:
- a) the adaptation of cultural products and/or services to the digital environment;
 - b) the development of new cultural products and/or services adapted to changed consumption habits of culture during the quarantine and in the following period;
 - c) activities ensuring the employment of artists; and
 - d) activities ensuring cooperation with other organisations in order to increase the employment of artists.
- (24) The period of project implementation includes activities from 19 March 2020 to 31 December 2020. Cultural and art institutions and organisations must submit an application for the direct grants within two weeks of the entry into force of the Order implementing the measure (see recital (11) above). The beneficiaries will first be selected on the basis of administrative compliance and then assessed by a panel of experts on the basis of objective criteria (see recitals (25) and (26) below). The expert evaluation is organised under the Regulation on Expert Work approved by the Order of the Chairperson of the Lithuanian Council for Culture.
- (25) Each project or activity will be subject to evaluation and scores will be assigned depending on priorities and other criteria. The evaluation of the priorities will concern (i) projects which actively involve artists and/or cultural professionals in the project activities (score 0–5), and (ii) projects which are implemented in cooperation with other cultural and/or art organisations (score 0–5).
- (26) The evaluation of the other criteria will concern the following:
- cultural and artistic value of the activities (score 0–30);
 - project availability and dissemination in the event of changed possibilities for the public to make use of cultural and art products during the quarantine and in the following period (score 0–40);
 - project management (team, competencies, schedule of activities) (score 0–10);
 - relevance and reasonability of the project budget (score 0–10).
- (27) The decision regarding the allocation of funds for the project shall be adopted by the meeting of the members of the Lithuanian Council for Culture no later than 80 working days after the deadline for the submission of applications.
- (28) The Lithuanian authorities added that each cultural institution or organisation may only submit one application to the programme. In addition, when the project is

implemented by more than one undertaking, the application for the same project can only be submitted by undertaking. When submitting such project, a copy of the cooperation agreement or a letter of cooperation intent must be submitted and clearly define the commitments and inputs of the respective partners.

- (29) Aid intensity is set up to 100 % of the funding necessary for the implementation of the project or activity.

2.8. Cumulation

- (30) The Lithuanian authorities explained that aid granted under the measure will not be cumulated with aid under the *de minimis* Regulations⁴ or the General Block Exemption Regulation⁵.
- (31) The Lithuanian authorities also confirmed that aid granted under the measure will not be cumulated with aid granted under other sections of the Temporary Framework.
- (32) The Lithuanian authorities confirmed that if the beneficiary receives aid under another scheme approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking of EUR 800 000, as set out in point 22(a) of the Temporary Framework shall be respected.

2.9. Monitoring and reporting

- (33) The Lithuanian 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 granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting⁶).

⁴ 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 of 26.4.2012, p. 8).

⁵ 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.

⁶ Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (34) 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

- (35) 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.
- (36) The measure is imputable to the State, since it is granted by the Ministry of Culture of the Republic of Lithuania and managed by the Lithuanian Council for Culture and it is based on the Order to amend Order No IV-904 (see recital (11)). It is financed through State resources, since it is financed by direct grants from the State budget (see recital (12)).
- (37) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (9)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (38) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the cultural sector (recitals (9), (17) and (18)).
- (39) 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.
- (40) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (41) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (42) 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*”.
- (43) 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”.

- (44) The measure aims at facilitating the access of cultural institutions and organisations to liquidity at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (45) 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 importance of the measures to preserve economic continuity is widely accepted by economic commentators and the measures are of a scale, which can reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of Section 3.1 of the Temporary Framework.
- (46) 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 grants (see recital (9) above).
 - The total nominal value of the direct grants shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (see recital (15) above). The measure therefore complies with point 22(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 (13) above. The measure therefore complies with point 22(b) of the Temporary Framework;
 - Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (see recital (19) above). The measure therefore complies with point 22(c) of the Temporary Framework;
- (47) Aid will be granted under the measure no later than 31 December 2020 (see recital (14) above). The measure therefore complies with point 22(d) of the Temporary Framework.
- (48) The Lithuanian authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (33) above).
- (49) The Lithuanian authorities confirmed that aid granted under the measure will not be cumulated with aid granted under other sections of the Temporary Framework (see recital (31) above). The Lithuanian authorities also confirmed that if the beneficiary receives aid under another scheme approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking of EUR 800 000, as set out in point 22(a) of the Temporary Framework shall be respected (see recital (32) above).

- (50) 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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

