



Brussels, 17.12.2020  
C(2020) 8926 final

PUBLIC VERSION

This document is made available for information purposes only.

**Subject: State Aid SA.59028 (2020/N) – Lithuania  
Modification to SA.48184**

Excellency,

**1. PROCEDURE**

(1) By electronic notification dated 30 September 2020, the Lithuanian authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), a prolongation and an extension of the scope of the eligible beneficiaries of the following scheme previously approved by the Commission under the Guidelines on State Aid for Environmental Protection and Energy 2014-2020<sup>1</sup> (“**EEAG**”):

- SA.48184 (2017/N) – Prolongation of biofuel support scheme.

(2) The notified measure constitutes the prolongation and the extension of the scope of the eligible beneficiaries of the aid scheme detailed in recital (1) that was approved by the Commission in the decision of 15 December 2017 (SA.48184 (2017/N)<sup>2</sup>) (“**the initial authorising decision**”). The scheme had been initially approved by decision of 18 December 2013 (SA.35051 (2012/N)<sup>3</sup>) under the previous Environmental aid guidelines<sup>4</sup> (“**EAG**”), and had been fully reassessed in light of the EEAG and prolonged until 31 December 2020 by the initial authorising decision.

---

<sup>1</sup> OJ C 200, 28.6.2014, p. 1–55.

<sup>2</sup> OJ C 80/1, 2.3.2018.

<sup>3</sup> OJ C 120/1, 23.4.2014.

<sup>4</sup> 2008 Community Guidelines on State Aid for Environmental Protection, OJ C 82, 1.4.2008, p. 1.

Mr. Linas LINKEVIČIUS  
Lietuvos Respublikos užsienio reikalų ministras  
J.Tumo-Vaižganto Str. 2  
01108 Vilnius  
Lithuania

- (3) Following the prolongation of the EEAG by one year<sup>5</sup> (until 31 December 2021) adopted by the Commission on 2 July 2020, the Lithuanian authorities notified the extension of the duration of the scheme by one year and the extension of the scope of eligible beneficiaries of the aid scheme to undertakings not in difficulty on 31 December 2019 which became in difficulty between 1 January 2020 and 30 June 2021.
- (4) The Lithuanian authorities have confirmed that the notification does not contain any confidential information.
- (5) On 30 October 2020, the Lithuanian authorities waived its right under Article 342 TFEU in conjunction with Article 3 of Council Regulation (EEC) No 1/1958<sup>6</sup> to have the decision adopted in Lithuanian and agreed to have the decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURE**

- (6) On 2 July 2020, the Commission adopted a Communication<sup>7</sup> prolonging the validity of certain State aid rules, including the EEAG, which would otherwise expire at the end of 2020.
- (7) Having regard to the economic and financial consequences that the COVID-19 outbreak may have on undertakings, Article 6 of the Communication also extends the scope of potential beneficiaries under some of these State aid rules to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty after 31 December 2019 and until 30 June 2021.
- (8) Following the prolongation of the EEAG, the current measure notified by the Lithuanian authorities is limited to the extension of the duration by one year, the extension of the scope of eligible beneficiaries of the initial authorising decision to undertakings not in difficulty on 31 December 2019 which became in difficulty between 1 January 2020 and 30 June 2021, and the modification of the commitment in recital (44) of the initial authorising decision to terminate by the end of 2020 support granted under this scheme to food-based biofuels.
- (9) The Lithuanian authorities have expressed their intention to continue the support to food-based biofuels during the prolongation of the scheme, i.e. until 31 December 2021. According to the Lithuanian authorities, the share of food-based biofuels of the total energy consumption in the Lithuanian road and railway sectors will not exceed 7% in the period up to the 31 December 2021, in line with the specific accounting rules in Article 26 of the revised Renewable Energy

---

<sup>5</sup> Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission - Framework for State aid for research and development and innovation and Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance. (OJ C 224, 8.7.2020, p. 2-4).

<sup>6</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 017, 6.10.1958, p. 385).

<sup>7</sup> See footnote 5.

Directive<sup>8</sup> (“**RED II**”). This share has remained relatively stable for the past years and has not exceeded 7%. Information on food-based biofuels is reported annually to Eurostat.

- (10) Moreover, Lithuanian authorities note that Lithuanian legislation does not provide the possibility of mixing more than 7% of biofuels (calculated in terms of energy value), as that would violate the requirements of EU fuel standards and Lithuanian legislation.
- (11) Lithuanian authorities have provide data from the Lithuanian Department of Statistics on the consumption of food-based biofuels in Lithuania in 2009-2019 (see Table 1). Preliminary estimates for the share of biofuels in 2020 should be between 4% and 4.5%.

**Table 1: Reported shares on the consumption of food-based biofuels on the total consumption of biofuels in Lithuania in 2009-2019**

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
4.45%	3.77%	3.80%	4.95%	4.81%	4.33%	4.56%	3.63%	4.29%	4.33%	4.04%

*Source: Lithuanian authorities.*

- (12) All the other conditions of the measure approved by the initial authorising decision will remain unchanged.
- (13) More precisely, in their notification the Lithuanian authorities have committed and confirmed that:
- there are no other changes to the aid scheme than the described above extension of the duration and the extension of the scope of eligible beneficiaries;
  - the granting of aid during the extended duration of the scheme will comply with all the basic requirements, common assessment principles and specific conditions on the basis of which the scheme was originally authorised;
  - the annual reports for the aid scheme have been duly submitted in respect of every calendar year in which the scheme applied.
- (14) The full description of the measure to be modified can be found in the initial authorising decision approving the scheme.

### 3. ASSESSMENT

- (15) The scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU") for the reasons set out the initial authorising decision. The assessment on the existence of aid in the initial authorising decision is not affected by the notified measure. The considerations set out in the initial authorising decision, therefore, continue to apply.

---

<sup>8</sup> OJ L 328, 21.12.2018, p. 82–209.

- (16) Similarly, the notified measure does not alter the Commission's conclusion on the compatibility of the original scheme, as the present notification does not lead to any modification of the scheme, with the exception of the prolongation of the duration of the measure by one year, the extension of the scope of eligible beneficiaries and the modification in the previous commitment to terminate by the end of 2020 support granted under this scheme to food-based biofuels.
- (17) As regards the extension of the duration of support schemes, the Commission adopted a Communication extending the validity of certain State aid rules, including the EEAG, to ensure predictability and legal certainty, while preparing for a future update of those rules<sup>9</sup>.
- (18) As regards the extension of the scope of the eligible beneficiaries of the decision to undertakings which were not in difficulty on 31 December 2019, and which became undertakings in difficulty between 1 January 2020 and 30 June 2021, this temporary adjustment is necessary due to the economic and financial consequences caused by the COVID-19 outbreak on undertakings<sup>10</sup>. The latter may temporarily show signs of firms in difficulty, although they do not necessarily suffer from structural problems of viability.
- (19) As regards the modification in the previous commitment to terminate support granted under this scheme to food-based biofuels by the end of 2020, point 113 of the EEAG provides for that operating aid to food-based biofuels can be granted until 2020, but only to plants that started operation before 31 December 2013 and only until the plant is fully depreciated.
- (20) The limitation of the support until 2020 is justified by the initial duration of the guidelines. However, following the prolongation of the EEAG<sup>11</sup>, the guidelines would continue to apply until 31 December 2021. Points 113 and 121 of the EEAG should therefore be interpreted as allowing operating aid to be granted until the revision of the guidelines, namely by the end of 2021. Since the validity of the guidelines has been prolonged by one additional year, it remains possible for food-based biofuels to receive support, as long as the production plants are not fully depreciated.
- (21) This interpretation is consistent with Article 26 of RED II. According to this provision, it is possible for Member States to count food-based biofuels for the targets of renewable energy in transport, provided that certain conditions are met. More specifically, the share of biofuels and bioliquids, as well as of biomass fuels consumed in transport, where produced from food and feed crops, should not be more than one percentage point higher than the share of such fuels in the final consumption of energy in the road and rail transport sectors in 2020 in a given Member State. Furthermore, this share cannot exceed 7% of the final consumption of energy in the road and rail transport sectors in that Member State. Based on the historical figures submitted by the Lithuanian authorities (see Table 1), it is not expected that this threshold will be exceeded for the year 2021.
- (22) Moreover, in order for biofuels to benefit from the support, the beneficiaries are required to verify that the biofuels fulfil the EU sustainability criteria and that the biofuels are not food-based or, failing this, that they were produced in plants that

---

<sup>9</sup> See recital (6).

<sup>10</sup> See recital (7).

<sup>11</sup> See recital (6).

started operation before 31 December 2013 and that are not fully depreciated (see recital (44) of the initial authorising decision). This remains applicable for the prolongation of the scheme.

- (23) On this basis, it can be concluded that the one-year prolongation of the measure is complaint with points 113 and 121 of the EEAG.
- (24) Finally, the provisions of the EEAG which were relevant for the assessment of the scheme in the initial authorising decision, remain unchanged.
- (25) Considering the above and the commitments<sup>12</sup> notified by the Lithuanian authorities, the Commission maintains the assessment made in the initial authorising decision and finds that the notified modifications are compatible with the internal market pursuant to Article 107(3)(c) TFEU.

#### **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)(c) 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

---

<sup>12</sup> See recital (13).