



EUROPEAN COMMISSION

Brussels 20.12.2021
C(2021) 9815 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.100766 (2021/N) – Lithuania
Prolongation of biofuel support scheme - SA.59028 (2020/N)**

Excellency,

1. PROCEDURE

- (1) By electronic notification dated 23 November 2021, 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 of the scheme approved by the Commission on 17 December 2020 in Decision SA.59028 (2020/N) (“the 2020 Decision”).¹
- (2) The notification is made in accordance with the simplified notification procedure laid down in Article 4 of the Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.²
- (3) The scheme had been initially approved by Commission Decision of 18 December 2013 (SA.35051 (2012/N))³ under the 2008 Community Guidelines on State Aid for Environmental Protection.⁴ The scheme had then been fully reassessed in light of the 2014-2020 Guidelines on State aid for environmental

¹ OJ C 41/2021, 05.02.2021.

² OJ L 140, 30.4.2004, p. 1.

³ OJ C 120/1, 23.4.2014.

⁴ OJ C 82, 1.4.2008, p. 1.

Mr. Gabrielius Landsbergis
Užsienio Reikalų Ministerija
J. Tumo-Vaižganto g. 2
LT-01511 Vilnius
LIETUVA/LITHUANIA

protection and energy (EEAG)⁵ and prolonged until 31 December 2020 by Commission Decision of 15 December 2017 (SA.48184 (2017/N))⁶ (“the 2017 Decision”). Finally a prolongation until 31 December 2021 of the scheme and the extension of the scope of eligible beneficiaries was approved by the Commission in the 2020 Decision.

- (4) On 6 December 2021, the Lithuanian authorities waived their right under Article 342 TFEU in conjunction with Article 3 of Council Regulation (EEC) No 1/19583 to have the decision adopted in Lithuanian and agreed that the decision be adopted and notified in English.⁷

2. DESCRIPTION OF THE MEASURE

- (5) The objective of the scheme is to increase the production of renewable energy, via the production of sustainable biofuels from biomass.
- (6) The aid takes the form of direct non-reimbursable grants for the production of bioethanol from cereals and for the production of biodiesel from rapeseed. The grants are part of an operating aid scheme compensating the difference between the costs of producing biofuels, including a rate of return of 5 %, and the price of biofuels.
- (7) The present notification concerns a prolongation by 2 years of the existing scheme until 31 December 2023.
- (8) 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 2023.
- (9) 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 31 December 2023, in line with the specific accounting rules in Article 26 of the revised Renewable Energy Directive (“RED II”).⁸
- (10) Moreover, the Lithuanian authorities state 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) The Lithuanian authorities have provided data from the Lithuanian Department of Statistics on the consumption of food-based biofuels in Lithuania in 2011-2020, as well as projections for the years 2021-2023 (see Table 1). The data show that the share of food-based biofuels has not exceeded 7% for the past 10 years and is expected to remain below 7% in 2021, 2022 and 2023.

⁵ OJ C 200, 28.6.2014, p. 1–55.

⁶ OJ C 80/1, 2.3.2018.

⁷ 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).

⁸ OJ L 328, 21.12.2018, p. 82–209.

Table 1: Reported shares of food-based biofuels in Lithuania in 2011-2020 and projections for the years 2021-2023

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
3.80%	4.95%	4.81%	4.33%	4.56%	3.63%	4.29%	4.33%	4.04%	5,50%	5,50%	5,9%	5,9%

Source: Lithuanian authorities

- (12) Information on food-based biofuels is reported annually to Eurostat.
- (13) All the other conditions of the scheme approved by the 2017 Decision and the 2020 Decision will remain unchanged.
- (14) More precisely, in their notification the Lithuanian authorities have committed and confirmed that:
- there are no other changes to the scheme than the described above extension of duration;
 - 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 scheme have been duly submitted in respect of every calendar year in which the scheme applied.
- (15) The full description of the measure to be prolonged can be found in the 2017 Decision and the 2020 Decision.

3. ASSESSMENT OF THE MEASURE

- (16) The scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in the 2017 Decision. The assessment on the existence of aid is not affected by the notified measure. The considerations set out in the 2017 Decision, therefore, continue to apply.
- (17) The notified scheme prolongs the existing aid scheme for two additional years and cannot be separated from the scheme the Commission has already approved. The modification of the scheme was assessed according to Article 107(3)(c) TFEU and in the light of the EEAG, in particular sections 3.2 and 3.3.
- (18) As stated in the Green Deal Communication⁹, "evaluations are underway of the relevant State aid guidelines including the environmental and energy State aid guidelines. The guidelines will be revised by 2021 to reflect the policy objectives of the European Green Deal (...) ". In view of that planning, the Commission prolonged the application of the EEAG until 31 December 2021.¹⁰

⁹ Communication 'The European Green Deal' (Brussels, 11.12.2019, COM(2019) 640 final).

¹⁰ See the Communication from the Commission concerning the prolongation and the amendments of [...] the Guidelines on State Aid for Environmental Protection and Energy 2014-2020 [...] (OJ C 224, 8.7.2020, p. 2-4).

- (19) The Commission notes however that, in the context of the EEAG revision, if an existing approved aid scheme becomes no longer compatible with the internal market, the Commission may adopt a recommendation proposing appropriate measures in line with Article 22 of the Procedural Regulation.¹¹
- (20) Until the adoption of the revised guidelines, the EEAG continue to apply and remain the relevant legal framework for the assessment of the scheme prolongation. In that regard, the Commission takes into account that, when granting aid under the extended duration of the scheme, the Lithuanian authorities committed to comply with the all the requirements and conditions on the basis of which the 2017 Decision and the 2020 decision were adopted.
- (21) Based on the above considerations, the Commission concludes that the proposed prolongation does not affect the assessment of the compatibility of the existing aid scheme with the internal market, as carried out in the 2017 Decision and confirmed in the 2020 Decision.
- (22) As far as food-based biofuels are concerned, Lithuania has demonstrated that their share will not exceed the thresholds set out in Article 26 of RED II and that the sustainability and greenhouse gas emission criteria apply. The conclusions in the 2017 and 2020 Decisions on the compatibility of the support for such biofuels therefore remain valid.
- (23) Considering the above and the commitments notified by the Lithuanian authorities, the Commission maintains the assessment made in its previous Decisions, the 2017 Decision and the 2020 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 TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

¹¹ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9–29.