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Subject: **SA.105828 (2023/EV) – Poland**
Evaluation plan for the block exempted scheme by the Polish Agency for Enterprise Development under the European Funds for the Modern Economy programme 2021-2027

Excellency,

1. PROCEDURE

(1) By electronic notification of 5 January 2023, Poland submitted a summary information sheet, registered by the Commission under SA.105827, pursuant to Article 11(a) of the Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty[1] (hereinafter: "GBER") on the scheme by the Polish Agency for Enterprise Development under the European Funds for the Modern Economy programme 2021-2027 (hereinafter: "scheme").

(2) The aid scheme was put into effect on 7 December 2022 with reference to the following categories of aid provided in the GBER: regional aid - investment aid (Article 14), aid for consultancy in favour of SMEs (Article 18), aid to SMEs for participation in fairs (Article 19), aid for start-ups (Article 22), industrial research (Article 25(2)(b)), experimental development (Article 25(2)(c)), feasibility studies (Article 25(2)(d)), aid for innovation clusters (Article 27), innovation aid for SMEs (Article 28), training aid (Article 31), investment aid enabling undertakings to go beyond Union standards for environmental protection or increase the level of environmental protection in the absence of Union standards (Article 36), aid for early adaptation to future Union standards for SMEs (Article 37), environmental investment aid for energy efficiency measures (Article 38), investment aid for high-efficiency cogeneration (Article 40), investment aid for

[1] OJ L 187, 26.6.2014, p. 1.

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the promotion of energy from renewable energy sources (Article 41), investment aid for energy efficient district heating and cooling (Article 46), and investment aid for waste recycling and re-utilisation (Article 47).

(3) The aid scheme has an annual budget of PLN 2 382 780399 (approximately EUR 518 million) and was therefore considered a large scheme in the meaning of Article 1(2)(a) of the GBER because its average annual budget exceeds EUR 150 million. Therefore, in order to comply with its obligations under the GBER, Poland notified on 5 January 2023 an evaluation plan. The evaluation plan was registered by the Commission as SA.105828 (2023/EV).

(4) The duration of the scheme is at present limited to 30 June 2024, which coincides with the remaining period of validity of the GBER currently in force, including the transition period of six months as referred to in Article 58 (5) of the GBER, and with the remaining period of validity of the *de minimis* regulation[2], including the transition period of six months as referred to in Article 7 (4) of the *de minimis* regulation.

(5) The Commission requested additional information from Poland on 5 and 28 April 2023. Poland provided the reply to the Commission on 14 April 2023 and 5 May 2023.

(6) By letter of 14 April 2023, the Polish authorities agreed exceptionally to waive the rights deriving from Article 342 TFEU in conjunction with Article 3 of the Council Regulation 1/58 and to have the planned decision adopted and notified pursuant to Article 297 TFEU in English, owing to the urgency of the case.

2. DETAILED DESCRIPTION OF THE KEY ELEMENTS OF THE NOTIFIED EVALUATION PLAN

(7) As required by Article (2)(16) of the GBER and in line with best practices established in the Commission Staff Working Document on Common methodology for State aid evaluation[3] (hereinafter: "Staff Working Document"), the evaluation plan contains the description of the following main elements: (i) the objectives of the aid scheme to be evaluated, (ii) the evaluation questions, (iii) the result indicators, (iv) the envisaged methodology to conduct the evaluation, (v) the data collection requirements, (vi) the proposed timing of the evaluation including the date for submission of the final evaluation report, (vii) the approach for the selection of the independent body conducting the evaluation, and (viii) the modalities for ensuring the publicity of the evaluation.

2.1. Objectives of the aid scheme to be evaluated

(8) The aid scheme concerns financial aid granted by the Polish Agency for Enterprise Development (hereinafter: "PARP") under the European Funds for the Modern Economy (hereinafter: "FENG") programme 2021-2027 within the framework of the cohesion policy of the European Union in Poland.

[2] OJ L 352, 24.12.2013, p. 1.

[3] Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

(9) The aid scheme covers selected support instruments planned in the FENG in Priority 1. ("Support for entrepreneurs") and Priority 2. ("Innovation-friendly environment").

(10) The aid scheme is aimed to address the following three challenges: (1) economic development, innovation and research and development, (2) implementation of the European Green Deal in Poland (green transition) and (3) the 4.0 economy (digital transition). As explained by the Polish authorities its primary objective is research, development and innovation.

(11) The beneficiaries of this scheme are small, medium-sized enterprises (hereinafter: "SMEs") as well as large enterprises in all sectors eligible to receive aid.

(12) The scheme provides support in the form of direct grants and interest rate subsidies.

(13) The planned annual average budget of the aid scheme concerned is 2 382 780399 PLN, i.e.: around EUR 518 million.

(14) Poland submits that the evaluation plan will cover the whole duration of the scheme, which it envisages to end on 30 June 2027. It is the responsibility of Poland to ensure that the scheme continues to comply with the provisions of the GBER applicable to the scheme after 30 June 2024. To that effect, Poland commits to amend the scheme and publish a new information sheet, if necessary. Similarly, in that case, Poland commits to amend the evaluation plan accordingly and re-submit it to the Commission.

2.2. Evaluation questions and result indicators

(15) The notified evaluation plan explains the issues to be addressed by the evaluation.

(16) The evaluation questions address both the incentive effect of the aid on the beneficiaries and the scheme's indirect effects (in terms of both positive and negative externalities). The result indicators are linked to the evaluation questions and to the objectives of the scheme.

(17) The direct effects of the aid on the beneficiaries will be addressed by the evaluation questions on: (1) a significant impact on the scope of the activities undertaken by the aid beneficiaries, including an increase in the scale of SMEs activity (inputs/costs/results) indicating the economic capacity to implement R&D&I projects, (2) an impact on the innovativeness of the beneficiaries, including: (i) increase in the scale of innovative activity of SMEs (innovative activity, results from innovative activity), (ii) directing the innovative activity of SMEs towards eco-innovations and digital innovations; (3) effects on the situation of the beneficiaries in terms of whether or not their competitive position changed, including the ability of SMEs to compete with innovation in Poland and abroad; (4) the extent to which the expected effects of the aid have been achieved, including whether there was an increase and/or a significant increase in net direct impact ratios, and (5) how varied were the effects of the aid provided (e.g. depending on the size of the enterprise, location or sector of activity).

(18) With regard to the evaluation questions on the direct effects, the following result indicators will be used, among others: (1) expenditure (e.g. total, from own resources and from loans, for fixed assets, including machinery and technical

equipment), (2) operating costs (e.g. total, wages, foreign services, use of materials and energy) (3) innovation (e.g. companies incurring R&D expenditure on internal, external R&D; value of completed development), and (4) revenue from sales of products (e.g. total/from export; total/from exporting product innovation, share of export sales revenue in total revenue).

(19) The evaluation will also address and examine the indirect effects of the aid scheme. The questions regarding indirect effects will assess whether the aid has led to, among others: (1) stimulation of the growth of innovativeness of the Polish economy, (2) green and/or digital transformation of the Polish economy, (3) spill-over effect on the activities of other companies, sectors or geographical regions (optional), and (4) a negative impact on competition by favouring predominantly a single sector in a multi-sectoral scheme or incumbents.

(20) With regard to the evaluation questions on the indirect effects, the following result indicators will be used, among others: (1) innovative enterprises, in services/industry, (2) private R&D expenditures in total, per innovative company, in knowledge-based sectors (high tech) as well as added value and labour productivity in Poland, (3) indirect beneficiaries benefiting from an economic advantage as a result of the investment carried out by the beneficiaries (e.g. foreign, national, regional providers/subcontractors from different sectors) (optional), (4) macro-economic gains, (5) macro-environmental profits including on emissions and energy intensity, (6) shares of individual sectors in the total amount of aid granted, (7) level of concentration of marketed production, and (8) beneficiary ratio of incumbents to new undertakings.

(21) Finally, the evaluation will assess the appropriateness and proportionality of the aid, though, among others, verifying whether: (1) the most effective form of intervention has been chosen, (2) other forms of aid could have been more appropriate to achieve the objectives of the intervention, (3) the aid was proportionate to the problem or need (challenges) addressed, and (4) the same effects could have been achieved with less aid or other aid. This assessment will be carried out mainly on the basis of the expert analysis.

2.3. Envisaged methodology to conduct the evaluation

(22) To assess the direct effects of the aid, Poland selected the evaluation methodologies from a group of quasi-experimental techniques belonging to the counterfactual evaluation methods. In particular, they propose to use the method of "*Matching – Difference-in-Differences*" (hereafter: "M-DID"), as described in the Commission Staff Working Document on Common methodology for State aid evaluation[4].

(23) The *Difference-in-Differences* strategy, exploiting the longitudinal nature of the data available, is considered more robust to the presence of unobservable differences between firms benefitting from aid under the evaluated aid scheme, and firms belonging to a control group, provided that these differences remain constant over time (parallel trend assumption).

[4] See footnote 3.

(24) A control group will be built by identifying the companies that have not received investment aid under the scheme. In order to correctly apply the above-mentioned methodology, the two samples (beneficiary and non-beneficiary enterprises) must be as similar as possible in terms of observable characteristics (i.e., variables that can be found in the database). To this end a pool of so-called ineffective applicants, i.e., entities that planned similar investments to beneficiaries at the same time/are similar to beneficiaries in terms of self-selection to the scheme will be chosen.

(25) Given the potential limits of the data and of the methods, the Polish authorities will also use theory-based counterfactual impact evaluation ("TBIE"), which would be useful to identify the existence of a causal link between the intervention and the changes in the outcomes of interest (rather than the size of an effect).

2.4. Data collection requirements

(26) For the purposes of the evaluation, the Polish authorities will rely, among others on the following data collections: (1) the database by Central Statistical Office, (2) administrative and registration data from the National Court Register, (3) the central register of state aid granted in Poland kept the Office of Competition and Consumer Protection, (4) from central monitoring systems for beneficiaries of European funds in Poland under the perspectives 2007-2013, 2014-2020 and 2021-2027, and (5) LSI database by PARP which supports the application and project selection processes and collects a set of data from this process.

(27) The data collection frequency will depend on the type of data and its availability.

(28) As explained by the Polish authorities, the data collected will enable to gather information regarding both the aid beneficiaries and the control group.

2.5. Proposed timing of the evaluation, including the date of submission of final evaluation report

(29) According to the Polish authorities, at this stage, the foreseen indicative timeline for the evaluation is composed among others, of the following phases:

-As of July 2023: Preparatory phase: Operationalisation of the substance and methodology of studies and data collection for the evaluation of interventions

- 2026: Preparation of the evaluation report

-No later than 31 December 2026: Submission of the final report on the evaluation to the Commission

-July 2027: December 2030: Post-evaluation phase.

(30) As specified in the indicative timeline above, the Polish authorities committed to submitting the final evaluation report to the Commission by 31 December 2026. Moreover, the Polish authorities committed to conduct the evaluation according to the plan submitted to the Commission and to inform the Commission of any element that might seriously compromise the implementation of the plan.

(31) In case additional schemes of similar scope would be implemented in Poland, the present evaluation plan could be substituted by an overall evaluation covering

several State aid schemes. This option would be considered for reasons of efficiency and implemented only if the timeline for the deployment of the additional State aid schemes were compatible with the current scheme and if the modified evaluation would not generate additional administrative burden. In this case, the key elements of the evaluation plan will be maintained while the evaluation calendar will be updated. The planned evaluation reports would then provide an overall analysis of the impact of the funding programmes under investigation.

2.6. Selection of an independent body to conduct the evaluation

(32) The Polish authorities explained that the evaluator has not been selected yet at the time of the notification of the evaluation plan.

(33) However, the evaluator will be selected in line with the competitive procedure in accordance with the applicable Public Procurement Law and based on conditions and criteria ensuring that it has the relevant and proven expertise, experience, and knowledge to conduct the evaluation.

(34) The Polish authorities confirmed that the evaluator will be independent and that the evaluation process is carried out in an objective manner and independently of the organisational units responsible for programming and implementing interventions in the institution concerned. For example: the PARP will in no way interfere with the evaluations, conclusions and recommendations drawn up by independent evaluator.

2.7. Modalities for ensuring the publicity of the evaluation

(35) The evaluation plan and the final evaluation report will be published online on the PARP website: www.parp.gov.pl and on the Polish Minister of Funds and Regional Policy: www.ewaluacja.gov.pl / www.funduszeeuropejskie.gov.pl or equivalent.

(36) The evaluation results will be used by the granting authority and other bodies for the design of subsequent schemes pursuing a similar objective. Data collected during the evaluation will be made accessible for further studies.

(37) As explained by the Polish authorities, personal and/or confidential data will be dealt with according to the relevant regulations.

3. ASSESSMENT OF THE EVALUATION PLAN

(38) The correct application of the GBER is the responsibility of the Member State. The present decision on the evaluation plan does not assess whether the aid scheme to be evaluated was put into effect by the Member State in full respect of all applicable provisions of the GBER. It does therefore neither create legitimate expectations, nor prejudge the position the Commission might take regarding the conformity of the aid scheme with the GBER when monitoring it or assessing complaints against individual aid granted under it.

(39) Pursuant to Article 1(2)(a) GBER, certain aid schemes[5] within the meaning of Article 2(15) GBER, with an average annual State aid budget exceeding EUR 150 million, are subject to evaluation. The Commission notes that the planned annual average budget of the aid scheme concerned (i.e.: EUR 518 million for GBER State aid million) exceeds the threshold of EUR 150 million laid down in Article 1(2)(a) of the GBER (recital (13)). Articles 14, 18, 19, 22, 25(2)(b))-(d), 27-28, 31, 36-38, 40-41, 46 and 47 of the GBER constitute the legal basis for the aid scheme to benefit from the exemption from notification provided for in Article 108(3) of the TFEU (recital (2)). However, in the absence of a positive Commission decision on the notifiable evaluation plan, pursuant to Article 1(2)(a) GBER, the exemption expires six months after the entry into force of the measure and may continue to apply for a longer period only if the Commission decides to authorise this explicitly by the present decision.

(40) As the Commission explained in recital 8 of the GBER, the evaluation of large schemes is required "*in view of the greater potential impact of large schemes on trade and competition*". The required evaluation should "*aim at verifying whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, as well as the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade*". State aid evaluation should in particular allow the direct incentive effect of the aid on the beneficiary to be assessed (i.e., whether the aid has caused the beneficiary to take a different course of action, and how significant the impact of the aid has been). It should also provide an indication of the general positive and negative effects of the aid scheme on the attainment of the desired policy objective and on competition and trade and it could examine the proportionality and appropriateness of the chosen aid instrument.[6]

(41) In the light of these considerations, Article 2(16) of the GBER defines "*evaluation plan*" as "*a document containing at least the following minimum elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation*".[7]

(42) The Commission considers that, as described in section 2 of this decision, the notified evaluation plan contains these minimum elements.

(43) The evaluation plan gives a concise description of the key objectives of the scheme concerned and provides sufficient information to understand the underlying "*intervention logic*". The scope of the evaluation is defined in an appropriate way (recitals (8) to (14)).

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5 Schemes under Sections 1 (with the exception of Article 15), 2, (with the exception of Articles 19c and 19d), 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of this Regulation (Article 1(2)(a) GBER).

6 See Staff Working Document referred to in footnote 3 above.

7 Further guidance is given in the Staff Working Document referred to in footnote 3 above.

(44) The evaluation questions are designed in a way as to assess the direct effects of the scheme on the beneficiaries compared to non-beneficiaries, in order to measure the incentive effect of the scheme (recital (17)). The evaluation questions addressing indirect effects are linked to the specificities of the aid scheme, both in terms of objectives and aid instruments (recital (19)). The Commission notes that the evaluation plan also includes evaluation questions aimed at measuring the appropriateness and proportionality of the aid (recital (21)).

(45) The evaluation plan identifies and justifies result indicators that integrate the evaluation questions for the aid scheme concerned (recitals (18) and (20)) and explains the data collection requirements and availabilities necessary in this context (recitals (26) to (28)). The data sources to be used for the evaluation are described clearly and in detail (recitals ((26)) to (28)).

(46) The evaluation plan sets out and explains the main methods that will be used in order to identify the effects of the scheme and discusses why these methods are likely to be appropriate for the scheme in question. The proposed evaluation methodology sufficiently allows identifying the causal impact of the scheme (recitals (22) to ((25)).

(47) The proposed timeline of the evaluation is reasonable in view of the characteristics of the scheme concerned (recital (29)).

(48) The procedure and selection criteria for the selection of the evaluation body are appropriate to meet the independence and skills criteria (recitals (32) to ((34)).

(49) The proposed modalities for the publication of the evaluation results are appropriate and ensure transparency. In particular, the Commission takes note of the commitment of the Polish authorities to make publicly available the evaluation plan and the final evaluation report (recitals (35)).

(50) In view of the above, the Commission considers that the evaluation plan meets all requirements laid down in the GBER, is established in line with the common methodology proposed in the Staff Working Document and is suitable given the specificities of the large aid scheme to be evaluated.

(51) The Commission takes note of the commitment made by the Polish authorities to conduct the evaluation according to the plan described in the present decision and to inform the Commission of any element that might seriously compromise the implementation of the plan (recital ((30)). The Commission also takes note of the commitment by the Polish authorities to fulfil the obligation to submit the final evaluation report by 31 December 2026 (recital ((30)).

(52) The Commission takes note of the commitment made by the Polish authorities to take into account the evaluation results for the design of any subsequent aid measure with a similar objective (recital (36)). The Commission reminds that the application of the exempted scheme has to be suspended if the final evaluation report is not submitted in good time and sufficient quality.

(53) Therefore, pursuant to Article 1(2)(a) of the GBER, the Commission decides that the GBER shall continue to apply to the aid scheme for which the evaluation plan was submitted, for a period exceeding the initial six months after the scheme at

hand was applied for the first time, until the end of the validity of the current GBER[8] and as from the date of the notification of this decision to Poland.

(54) The Commission reminds that alterations to the evaluated scheme, other than modifications which cannot affect the compatibility of the scheme under the GBER or cannot significantly affect the content of the approved evaluation plan, are, pursuant to Article 1(2)(b) of the GBER, excluded from the scope of the GBER, and must therefore be notified to the Commission.

4. CONCLUSION

The Commission has accordingly decided:

- that the exemption of the aid scheme for which the evaluation plan was submitted shall continue to apply beyond the initial six-months period until six months after the final date of applicability of Commission Regulation 651/2014 of 17 June 2014, as amended, as laid down in its Article 59, that is, until 30 June 2024.

- to publish this decision on the Internet site of the Commission.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Your request should be sent electronically to the following address:
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State Aid Greffe
B-1049 Brussels
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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

[8] Including the adjustment period of six months set out in Article 58(5) GBER.