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Subject: State Aid SA.106534 (2023/EV) - Poland
Evaluation plan for the block exempted aid scheme by the National
Centre for Research and Development under the programme
‘European Funds for Modern Economy 2021-2027’

Excellency,

1. PROCEDURE

- (1) By electronic notification of 24 February 2023, Poland submitted a summary information sheet 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⁾ (‘GBER’) on the aid scheme by the National Centre for Research and Development (‘the aid scheme’), registered by the Commission under SA.106534 within the programme ‘European Funds for the Modern Economy 2021-2027’.
- (2) Pursuant to Article 1(2)(a) of the GBER, the GBER does not apply to aid schemes with an average annual budget exceeding EUR 150 million from six months after their entry into force. However, the Commission may decide that the GBER shall continue to apply for a longer period to such aid schemes following the assessment of an evaluation plan of the aid scheme to be notified by the Member State concerned.

⁽¹⁾ OJ L 187, 26.6.2014, p. 1.

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- (3) As submitted by the Polish authorities, the aid scheme has an annual budget of approximately EUR 1 300 million and was therefore considered a large scheme in the meaning of Article 1(2)(a) of the GBER. In order to obtain the prolongation of the application of the GBER beyond the period set out in Article 1(2)(a) of the GBER, on 24 February 2023, Poland notified an evaluation plan for the aid scheme, which has been registered by the Commission under SA.106534.EV (2023/EV) (the ‘evaluation plan’).
- (4) The aid scheme entered into force on 28 January 2023. Funding is provided on the basis of the State aid provisions for regional investment aid (Article 14), aid for consultancy in favour of small and medium-sized enterprises (‘SMEs’) (Article 18), aid to SMEs for participation in fairs (Article 19), aid for start-ups (Article 22), SME aid - aid for scouting costs (Article 24), aid for research and development projects (Article 25(2)(b)-(d)), aid for projects awarded a Seal of Excellence quality label (Article 25a), 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 (Article 37), investment aid for energy efficiency measures (Article 38), investment aid for high-efficiency cogeneration (Article 40), investment aid for the promotion of energy from renewable 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).
- (5) The duration of the aid 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.
- (6) The object of the present decision is to assess the evaluation plan and decide whether to prolong the period of application of the GBER to the aid scheme.
- (7) A meeting between the Polish authorities and Commission services took place on 23 March 2023, following which Poland submitted a revised version of the evaluation plan on 24 April 2023. The Commission services sent further questions to Poland on 7 June 2023, to which Poland replied on 14 June 2023.
- (8) The Polish authorities exceptionally agreed to waive the rights deriving from Article 342 of the Treaty on the Functioning of the European Union (‘TFEU’), in conjunction with Article 3 of the Council Regulation 1/1958 ⁽³⁾ and to have this decision adopted and notified in English.

⁽²⁾ OJ L 352, 24.12.2013, p. 1.

⁽³⁾ EEC Council: Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

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

- (9) 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⁽⁴⁾ (hereinafter: ‘Staff Working Document’), Poland presented in the evaluation plan 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 timeline of the evaluation including the date for submission of the final evaluation report, (vii) details on the 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

- (10) The aid scheme is an instrument of regional economic policy in Poland. It is managed by the Minister of Funds and Regional Policy. The aid scheme provides the legal basis allowing the National Centre for Research and Development (‘NCBR’) to grant State aid under the programme ‘European Funds for the Modern Economy 2021-2027’ (the ‘FENG programme’) within the framework of the cohesion policy of the European Union in Poland.
- (11) The aid scheme covers FENG programme priority 1 (‘Support for entrepreneurs’), priority 2 (‘Innovation-friendly environment’) and priority 3 (‘Greening of enterprises’).

FENG priority and action	Specific objective	Estimated budget in EUR
Priority FENG 01 – Support to entrepreneurs		
Action FENG.01.01 SMART Path	Development and strengthening research and innovation capacities and uptake of advanced technologies	2 460.3 million
Priority FENG.02 Innovation-friendly environment		
Action FENG.02.08 BRIdge Up	Development and strengthening research and innovation capacities and uptake of advanced technologies	125 million
Action FENG.02.09 Seal of Excellence		42.8 million
Action FENG.02.10 IPCEI		168.3 million
Action FENG.02.11 Joint Research Undertakings		34.8 million
Action FENG.02.13 Innovative Public Procurement		133.5 million

⁽⁴⁾ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

Action FENG.02.20 INNOSTART		20.9 million
Action 2.23 FENG Co-financing of Artificial Intelligence Test and Technological Experimentation Centres	Reaping the benefits of digitalisation for citizens, businesses, research organisations and public institutions	25 million
Priority FENG.03 Greening of businesses		
Action FENG.03.03 IPCEI hydrogen	Development of smart energy systems and grids and energy storage systems outside the Trans-European Energy Network (TEN-E)	166.7 million

Table 1 FENG Priorities and actions covered by the aid scheme

- (12) As explained by the Polish authorities, the main objectives of the aid scheme are (i) increasing business innovation, in particular by improving the commercialisation of research results, (ii) increasing research and development expenditure of enterprises, (iii) increasing revenues generated by the sale of advanced products and services; (iv) improved cooperation between enterprises and research organisations and (v) better skills.
- (13) The Polish authorities explained that (i) the prevailing part of the aid scheme's budget is allocated to its RDI component, (ii) all beneficiaries receiving aid under the biggest action of the aid scheme (FENG.01.01 SMART Path) are required to carry out RDI activities and (iii) that other parts of the scheme are complementary to its main RDI component.
- (14) The beneficiaries of the aid scheme are (i) enterprises including consortia of enterprises and consortia of enterprises with research organisations or non-governmental organisations, (ii) research organisations, (iii) universities and other institutions of higher education, (iv) non-governmental organisations. As explained by Poland, the aid scheme targets mainly large enterprises.
- (15) The aid scheme covers the whole territory of Poland and all the sectors of activity. The aid scheme provides support in the form of grants.
- (16) 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 aid scheme after 30 June 2024. To that effect, Poland commits to amend the aid 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.
- (17) The FENG programme includes three independent aid schemes. The three aid schemes have a similar scope and a common general objective under the FENG programme, namely to 'boost the innovativeness of the Polish economy'. One is implemented by Bank Gospodarstwa Krajowego ('BGK') ⁽⁵⁾, one is implemented

⁽⁵⁾ SA.105611

by the Polish Agency for Enterprise Development ('PARP')⁽⁶⁾ and one by the NCBR. For each of those schemes, Poland has submitted a separate evaluation plan to the Commission. The evaluation plans for the schemes implemented by BGK and PARP are not covered by this decision. This decision only concerns the evaluation plan for the aid scheme which is implemented by NCBR.

2.2. Evaluation questions and result indicators

- (18) The evaluation plan identifies the issues to be addressed by the evaluation.
- (19) The evaluation questions address the direct impact of the aid on the beneficiaries, the indirect effects of the implementation of the aid scheme (in terms of both positive and negative effects) and the proportionality and appropriateness of the aid. The result indicators are linked to the evaluation questions and to the objectives of the aid scheme.
- (20) The direct effects of the aid on the beneficiaries will be addressed by evaluation questions, among others, (1) on the impact of the aid on the R&D investments of the beneficiaries; (2) on the scope, number and budget of R&D activities of the beneficiaries including crowding out private investments; (3) on the commercialisation of R&D results, on the increase in RDI personnel and on the economic performance of the beneficiaries; (4) on whether there is an increase of RDI expenditure transferred from/to the higher education sector.
- (21) With regard to the evaluation questions on the direct effects, among others, the following result indicators will be used: (1) change in total R&D expenditure before and after the aid, (2) number of R&D activities carried out under the aid scheme, (3) number of R&D carried out by the beneficiary including R&D financed by own resources, (4) share of projects with R&D implemented, (6) number of patents, (5) change in share of enterprises filling patents, (7) investment in equipment and patents for R&D activities, (8) change in the number of research staff in the beneficiaries, (9) revenues from new or upgraded products, (10) share of RDI investments by sector.
- (22) The indirect effects of the aid will be addressed by evaluation questions, among others, (1) on the diffusion of knowledge and innovation in the economy; (2) on the cooperation between enterprises and research organisations; (3) on the effects of the aid on the macro-economic indicators related to R&D and (4) on the potential negative effects of the aid scheme on competition by favouring predominantly a single sector in a multi-sectoral scheme, or incumbents.
- (23) With regard to the evaluation questions on the indirect effects, among others, the following result indicators will be used: (1) cooperation with research organisations before the aid and during the aided project, (2) number of research organisations the aided project had cooperated, (3) number of enterprises that obtained rights to a technology or licence resulting from an aided project, (4) total R&D expenditure of enterprises, (5) share of project expenditure in total R&D expenditure of enterprises, (6) enterprises benefiting from aid, broken down by duration of activities and by sector.

⁽⁶⁾ SA.105828

- (24) Finally, the evaluation will assess the appropriateness and proportionality of the aid by verifying, among others, whether (1) the scheme used the most effective rules and delivery mechanisms, (2) other aid delivery mechanisms and modalities or types of support are more appropriate to achieve the same objective, (3) are the assumptions for the aid scheme still valid, (4) was the aid proportionate, (5) was it possible to achieve the same results with less aid or with other forms of aid (loans instead of grants). The related indicators are the following: (1) revenue from the sale of new or improved products/services or income from the implemented R&D, (2) difference between total expenditure on projects and revenues from sales of new or improved products/services.
- (25) Poland submitted that the assessment of the appropriateness and proportionality of the aid will be carried out mainly based on the desk research.

2.3. Envisaged methodology to conduct the evaluation

- (26) To assess the direct effects of the aid, the Polish authorities selected the following evaluation methodologies:
- a) Counterfactual impact evaluation for FENG programme action 01.01 SMART Path⁽⁷⁾. Poland explained that, by comparing aid beneficiaries with comparable companies (“control group”) that did not receive aid, the counterfactual analysis is intended to determine the net effect of the intervention i.e. the difference between the hypothetical situation in which beneficiaries would find themselves in the absence of the aid. The evaluation will use (i) propensity score matching technique which compares aid beneficiaries with entities that not received aid on, inter alia: employment, revenues and R&D activities and (ii) difference-in-differences method, which compares the situation of beneficiaries before and after the aid and measures the net impact of the intervention on beneficiaries by comparing the difference in the values of the relevant variables for aid beneficiaries and non-beneficiaries, taking into account the differences in these variables before granting the aid;
 - b) Theory-based evaluation. Poland explained that this method is used to identify the existence of a causal link between the intervention and the changes in the outcomes. Theory based evaluation will be applied for the evaluation of FENG programme actions referred to in recital (11), except for action 01.01 SMART Path. As submitted by Poland, the theory-based methodology will measure the effectiveness of the intervention and assess the extent to which the overall objective of the aid scheme has been achieved. The evaluation will be based on quantitative and qualitative (i.e. desk research and case studies) analyses.

⁽⁷⁾ Polish authorities explained that only this action has sufficient budget size and number of beneficiaries allowing to use counterfactual impact evaluation.

2.4. Data collection and sources

- (27) Data collection will take place throughout the aid scheme's implementation period. For the purposes of the evaluation, the Polish authorities will rely mainly on the following data collections: (1) data on applicants and on beneficiaries stored in the central IT system of European funds in Poland as well as in the local NCBR IT system (2) data from the database of the Central Statistical Office, (3) data from the SHRIMP database on the use of support under aid schemes of the Office of Competition and Consumer Protection and (4) the National Court Register data.
- (28) The data collection frequency will depend on the type of data and its availability.
- (29) 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 the reports

- (30) According to the Polish authorities, the indicative timeline for the evaluation is the following: (i) as of 2023: collection of data; (ii) 2025-2026: selection of the evaluator, (iii) 2026: preparation of the final evaluation report and transmission of the final evaluation report to the Commission.
- (31) The Polish authorities confirmed that the final evaluation report will be submitted 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.
- (32) 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 aid schemes. This option would be considered for reasons of efficiency and implemented only if the timeline for the deployment of the additional 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 schemes under investigation.

2.6. Body conducting the evaluation

- (33) The Polish authorities explained that the evaluation will be coordinated by a dedicated unit at NCBR and that the evaluator will be selected in line with the applicable Public Procurement Law and based on conditions and criteria ensuring that the evaluator has the relevant and proven expertise, experience, and knowledge to conduct the evaluation.
- (34) The Polish authorities confirmed that the evaluator will be independent from the granting authority and that the evaluation process will be carried out in an objective manner and independently of the organisational units responsible for programming and implementing interventions in the institution concerned.

2.7. Publicity of the evaluation

- (35) Poland explained that the evaluation plan and the final evaluation report will be published online on the NCBR website⁽⁸⁾ and on the website of the Polish National Unit of Evaluation⁽⁹⁾ that is accessible, without restrictions, to the general public.
- (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 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 Poland 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) Only aid schemes (within the meaning of Article 2(15) GBER⁽¹⁰⁾) falling under the provisions of Article 1(2)(a) GBER⁽¹¹⁾ are subject to evaluation. The Commission notes that the planned annual average budget of the aid scheme concerned (i.e. EUR 1 300 million) exceeds the threshold of EUR 150 million laid down in Article 1(2)(a) of the GBER (recital (2)). Articles 14, 18, 19, 22, 24, 25(a), 25(2)(b)-(d), 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 (4)). However, in the absence of a positive Commission decision on the evaluation plan, pursuant to Article 1(2)(a) of the 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.

⁽⁸⁾ <https://www.gov.pl/web/ncbr/ewaluacje>

⁽⁹⁾ <https://www.ewaluacja.gov.pl/strony/badania-i-analizy/wyniki-badan-ewaluacyjnych/badania-ewaluacyjne/#/domyslne=1>

⁽¹⁰⁾ Under Article 2(15) GBER, ‘aid scheme’ means ‘any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount’.

⁽¹¹⁾ Under Article 1(2)(a) GBER, ‘schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of this Regulation and aid implemented in the form of financial products under Section 16 of that Chapter, if the average annual State aid budget per Member State exceeds EUR 150 million, from six months after their entry into force [...]’.

- (40) As the Commission explained in recital 8 of the GBER, the evaluation of large aid 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 to assess the direct incentive effect of the aid on the beneficiary (i.e., whether the aid incentivised 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. ⁽¹²⁾
- (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*’. ⁽¹³⁾
- (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 aid scheme concerned (recitals (10) to (13)) and provides sufficient information to understand the underlying ‘intervention logic’ (recitals (10) to (17)). Thus, the scope of the evaluation is defined in an appropriate way.
- (44) The evaluation questions are designed in a way as to assess the direct effects of the aid scheme on the beneficiaries compared to non-beneficiaries, to measure the incentive effect of the aid scheme (recital (20)). The evaluation questions addressing indirect effects are linked to the specificities of the aid scheme, seeking to identify any unwarranted effects that the aid scheme may have (recital (22)). The Commission notes that the evaluation plan also includes evaluation questions aimed at measuring the appropriateness and proportionality of the aid (recital (24)).
- (45) The evaluation plan identifies and justifies result indicators that integrate the evaluation questions for the scheme (recitals (23) and (23) and explains the data collection requirements and availability of the data necessary in this context, as well as the data sources to be used for the evaluation (recitals (27) to (29)).

⁽¹²⁾ See Staff Working Document referred to in footnote 5 above.

⁽¹³⁾ Further guidance is given in the Staff Working Document referred to in footnote 5 above.

- (46) The evaluation plan sets out and explains the main methods that will be used to identify the effects of the aid scheme and explains why these methods are likely to be appropriate for the aid scheme. The Commission expects that the proposed evaluation methodology will allow identifying the causal impact of the aid scheme (recital (26)).
- (47) The proposed timeline of the evaluation is reasonable in view of the characteristics of the aid scheme (recital (30)).
- (48) The procedure and selection criteria for the selection of the evaluation body are appropriate to meet the independence and skills criteria (recitals (33) and (34)). The Commission takes note of the Polish authorities' commitment to ensure that the evaluators' independence and experience will be properly assessed in the context of the selection procedure.
- (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 disseminate and make publicly available the evaluation plan and the final evaluation report (recital (35)).
- (50) 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 (34)).
- (51) 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.
- (52) The Commission takes note of the commitment of 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 (31)). The Commission also notes that Polish authorities will submit the final evaluation report by 31 December 2026 (recital (31)).
- (53) The Commission reminds that the application of the exempted aid scheme has to be suspended if the final evaluation report is not submitted in good time or in adequate quality.
- (54) Therefore, pursuant to Article 1(2)(a) of the GBER, the Commission decides that the GBER may 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, and as from the date of the notification of this decision to Poland.
- (55) The Commission reminds Poland that alterations to this aid scheme, other than modifications which cannot affect the compatibility of the aid scheme under the GBER or cannot significantly affect the content of the 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

(56) 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, as amended, as laid down in its Article 58(4) and 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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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President