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**Subject: State Aid SA.107876 (2023/EV) – RRF and EFDD – Poland
Evaluation plan for the deployment of broadband infrastructure in
Poland**

Excellency,

1. PROCEDURE

- (1) By electronic notifications of 11 January 2023 and 23 March 2023, Poland submitted summary information sheets 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 (hereinafter ‘GBER’) ⁽¹⁾ on the measure ‘Development of broadband infrastructure in Poland’ (the ‘measure’). The measure covers two aid schemes, registered under SA.107875 and SA.107876 and financed, respectively, under the National Recovery and Resilience Plan provided that the conditions for access to this fund are met (the ‘RRP scheme’) ⁽²⁾ and the European funds for digital

⁽¹⁾ Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Article 107 and 108 of the Treaty, in its amended version of Commission Regulation (EU) 2023/4278 of 23 June 2023, OJ L 270, 29.7.2021, p. 39-75.

⁽²⁾ Council implementing decision of 14 June 2022 on the approval of the assessment of the ‘Recovery and resilience Plan for Poland’, (9728/22), Annex to the Council implementing decision on the approval of the assessment of the recover and resilience plan for Poland, of 13 June 2022. More information available under: https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/recovery-and-resilience-plan-poland_en.

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development Programme 2021-2027 (the ‘EFDD scheme’)⁽³⁾. The submissions were registered as SA.105899 (2023/N) and SA. 106838 (2023/N).

- (2) The measure has a total budget of EUR 2 billion⁽⁴⁾. Given that the average annual State aid budget of the measure exceeds EUR 150 million, it constitutes a large measure within the meaning of Article 1(2)(a) of the GBER. 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 after having assessed the evaluation plan of the scheme notified by the Member State concerned. To obtain that prolongation, Poland notified an evaluation plan on 11 January 2023, which was subsequently modified on 23 March 2023. The evaluation plan was registered by the Commission under SA.107876 (2023/EV).
- (3) Following a meeting of 2 February 2023, Poland provided the requested information by letter of 3 March 2023. On 14 April 2023 the Commission asked for supplementary information. Consequently, Poland submitted, on 11 May 2023, its revised evaluation plan to the Commission and on 19 June 2023 provided additional information.
- (4) The national legal basis establishes the duration of the measure until 31 December 2026.
- (5) The RRF measure was put in place on 14 December 2022 and the EFDD measure on 21 March 2023. As the scheme was put in place under the previous version of the GBER, 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 1 July 2023. To that effect, Poland commits to amend the aid scheme and publish a new information sheet, if necessary. With respect to the requirements of Article 1(2)(a) of the GBER, Poland confirms that no aid has already been granted, nor will be under the measure before the notification of the present Commission’s decision approving the evaluation plan for the measure.
- (6) By letter dated 4 July 2023, Poland agreed to waive the rights conferred upon it by Article 342 TFEU and Article 3 of the Regulation (EC) No 1/1958⁽⁵⁾ and to have the present decision adopted in English language.

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

⁽³⁾ Commission implementing decision of 18.11.2022 approving the programme ‘European Funds for Digital Development 2021-2027’ for the support from the European Regional Development Fund under the Investment goal for jobs and growth in Poland (C(2022) 8210 final).

⁽⁴⁾ The budget of the RRP scheme is EUR 1.2 billion and the budget of the EFDD aid scheme is approximately EUR 0.8 billion.

⁽⁵⁾ Regulation No 1 determining the language to be used by the European Economic Community (OJ 17, 6.10.1958, p. 358).

methodology of State aid evaluation ⁽⁶⁾ ('Staff Working Document'), the notified evaluation plan contains the description of the following main elements: the objectives of the two aid schemes 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.

2.1. Objectives of the aid schemes to be evaluated

- (8) Conditions and procedures for granting aid are specified in the Regulation of the Minister for Digitalisation of 7 December 2022 on the granting of aid for broadband infrastructure development under the National Recovery and Resilience Plan⁽⁷⁾ and in the Regulation of the Minister for Digital Affairs of 16 February 2023 on the granting of aid for broadband infrastructure development under the European Funds for Digital Development programme 2021-2027.⁽⁸⁾
- (9) The aid will take the form of non-repayable support (grants).
- (10) Poland has informed that the measure has the objective to support the deployment of performant broadband networks in areas where there is no network providing at least 100 Mbps download speeds under peak time conditions present or credible planned to be deployed within relevant time horizon. As a result of the support provided based on both aid schemes, at least 1764000 households should benefit from ultrafast or very-high-capacity Internet access.
- (11) Eligible costs under both aid schemes will be those covered by Article 52(2) of the GBER, i.e. costs for the construction, management and operation of a fixed broadband network.
- (12) Poland has informed that aid beneficiaries will be selected on the basis of open, transparent and non-discriminatory competitive selection processes taking into account formal criteria and merit-based criteria and respecting the principle of technology neutrality.

2.2. Evaluation questions and result indicators

- (13) The evaluation plan describes the result indicators that will be used to assess the degree of achievement of both aid scheme's objectives, and which are matched with the evaluation questions, as well as the methodology applied to identify the impact of the aid schemes.
- (14) The evaluation questions address both the incentive effect of the aid schemes on the beneficiaries and the scheme's indirect effects (in terms of both positive and

⁽⁶⁾ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

⁽⁷⁾ <https://dziennikustaw.gov.pl/DU/2022/2604>

⁽⁸⁾ <https://dziennikustaw.gov.pl/D2023000040501.pdf>

negative externalities). The result indicators are linked to the evaluation questions and to the objectives of the schemes.

- (15) For both aid schemes, the evaluation questions address the outputs, direct effects, proportionality, appropriateness and cover a selection of indirect impacts, including potential effects on competition. The result indicators are linked to the evaluation questions and to the objectives of both aid schemes.
- (16) Several questions in the evaluation plan for the two aid schemes notified by Poland address for both aid schemes outputs and direct effects, notably in terms of number and categories of beneficiaries, total value of the implemented projects, households' and population's coverage, number of access points, length of the broadband network.
- (17) The evaluation plan will address the (positive and negative) indirect impacts of the measure. For example, they will assess the existence of spillover effects, the impact of the socio-economic situation of the supported regions, or the number of jobs created by the beneficiaries.
- (18) Proportionality of the aid will be examined considering the deployment costs under both aid schemes compared to non-assisted projects in Poland.
- (19) Proportionality and appropriateness of the measure are assessed by checking whether its objectives were achievable with a lower aid intensity.
- (20) Appropriateness of the mechanisms implemented under the aid schemes to ensure proportionality and incentive effect of the aid granted to beneficiaries will be assessed in the evaluation plan by comparing them with mechanisms used in similar schemes in Poland.

2.3. Envisaged methodology to conduct the evaluation

- (21) Theory-based impact evaluation (TBE) and Counterfactual Impact Evaluation (CIE) methods will be used in a complementary way.
- (22) CIE methods will be used to assess, among others, the direct impact on aid beneficiaries, indirect impacts, including *spillover* effects, and the impact of interventions on retail services. These methods will also be applied in the proportionality test of the aid, including with another aid option (inter alia, comparing the RRF aid scheme with the [EFDD](#) aid scheme). In particular, the evaluation will rely on methodologies such as Difference in difference (DiD) and Propensity Score Matching (PSM). DiD method is used to compare the situation of beneficiaries before and after the aid. This methodology measures the net impact of the intervention on beneficiaries by comparing the difference in the values of the different variables for aid beneficiaries and non-beneficiaries, taking into account the differences in these variables before granting the aid. PSM is used to create the control group by matching beneficiaries to control units in terms of probability of participation in the programme on the basis of a broad set of available characteristics including the enterprises' size and the area of the investments, which should be as close and similar as possible to those where aid beneficiaries' projects will be carried out.

2.4. Data collection requirements

- (23) Data necessary for the evaluation will be collected on a continuous basis from beneficiaries and non-beneficiaries of the aid (both companies and individual end users).
- (24) Most of the relevant result indicators will be collected in two IT systems, the Central ICT System (CST2021) and the Information System for Monitoring Research and Analysis (SIMBA).

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

- (25) In the first quarter of 2024, the independent body conducting the evaluation will be selected.
- (26) Poland has committed to complete the evaluation according to the following timeline:
 - (a) Fourth quarter 2024 – preliminary report on the implementation of the aid schemes at hand, assessing the possibility of using the proposed methods and data.
 - (b) Second quarter 2026 - final evaluation report assessing the effectiveness of the aid schemes at hand until 2024.
 - (c) Second quarter 2029 – additional evaluation report assessing the overall effectiveness of the aid schemes at hand.
- (27) The interim report will focus on the analysis of the compatibility of the calls for tender with the relevant principles of EU law as well as with the measure as notified. Moreover, this report will contain a first assessment of the impact of the measure, based on the date that will be available at that time.
- (28) The final evaluation reports will focus on the assessment of the direct and indirect impacts of the measure in the medium term.
- (29) Poland has committed to continue the evaluation beyond the duration of the measure and to submit an additional evaluation report, which assess the overall effectiveness of the measure.

2.6. Independent body selection to conduct the evaluation, or criteria for its selection

- (30) Poland has committed for the evaluation to be carried out by a private body, independent from the public administration, to be selected in accordance with Public Procurement rules. Telecommunication enterprises shall be excluded from the procedure. The selection will take into account criteria such as the proven experience of the body in conducting evaluations, suggested research tools for attaining the objectives of the evaluation, human resources necessary for the evaluation and costs of the evaluation.

2.7. Modalities for ensuring the publicity of the evaluation

- (31) Poland has confirmed that the evaluation plan and the final evaluation report scheme will be published online (not later than within four months from their approval) on the official website of the Polish government (gov.pl), where both operators and end-users will have easy and unrestricted access to all relevant acts and information regarding the measure and its implementation.
- (32) In-depth interviews and workshops with relevant stakeholders (public bodies involved in the implementation of the measure) will be organised and the discussions will be taken into account by the body conducting the evaluation.
- (33) Aggregated and anonymised data used for conducting the evaluation will be published alongside the final evaluation report.
- (34) Results of the evaluation will be taken into account for planning potential subsequent schemes or other national and local programmes.

3. ASSESSMENT OF THE EVALUATION PLAN

- (35) 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 measure 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 does it prejudge the position the Commission might take regarding the conformity of the aid measure with the GBER when monitoring it or assessing complaints against individual aid granted under it.
- (36) Pursuant to Article 1(2)(a) GBER, certain aid schemes⁽⁹⁾ in the meaning of Article 2(15) GBER, if their average annual State aid budget exceeds EUR 150 million, should be made subject to evaluation. The Commission notes that the annual average budget of the two aid schemes covered by the present measure exceeds EUR 150 million as set in Article 1(2)(a) GBER (i.e. the RRP aid scheme amounts to approximately EUR 1.2 billion and the EFDD aid scheme amounts to approximately EUR 0.8 billion). Chapter I and section 10 of Chapter III of the GBER constitute the legal basis for the aid scheme to benefit from the exemption from notification provided for in Article 108(3) TFEU. However, in the absence of a positive Commission decision on the notifiable evaluation plan, pursuant to the provision in Article 1(2)(b) GBER, the exemption expires six months after the entry into force of the measure, and may continue to apply for a longer period on the basis of a Commission decision.
- (37) 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*

⁽⁹⁾ 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 (Article 1(2)(a) 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 (Article 2(15) GBER).

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 could examine the proportionality and appropriateness of the chosen aid instruments. ⁽¹⁰⁾

- (38) In the light of these considerations, Article 2(16) of the GBER defines as evaluation plan *'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'*.
- (39) The Commission considers that, as described in section 2 of this decision, the notified evaluation plan contains these minimum elements outlined in Article 2(16) of the GBER.
- (40) The evaluation plan gives a concise description of the key objectives of the schemes concerned and provides sufficient information to understand the underlying "intervention logic". The scope of the evaluation is defined in an appropriate way. The Commission notes that the evaluation plan also describes possible constraints and risks that might affect both scheme's objectives and hence the expected effects.
- (41) The evaluation questions are designed in a way as to assess the outputs and direct effects on the beneficiaries compared to non-beneficiaries, in order to measure the incentive effect of the scheme (see recital (14) above). The evaluation questions also assess proportionality and appropriateness. The evaluation questions addressing indirect effects are linked to the specificities of the aid scheme, both in terms of objectives and aid instruments (see recital (17) above).
- (42) The evaluation plan identifies and justifies result indicators that integrate the evaluation questions for the two aid schemes concerned (see recitals (13) to (20) above, and explains the data collection requirements and availabilities necessary in this context (see recitals (23) to (24) above). The data sources to be used for the evaluation are clearly described and in detail. The Commission notes that the evaluation body will be able to take advantage of several different databases, gathering a more complete set of information.
- (43) The evaluation plan sets out and explains the main methods that will be used in order to identify the impacts of the aid schemes, and discusses why these methods

⁽¹⁰⁾ See the Staff Working Document cited in footnote 6 above (footnote 3, section 2, second paragraph).

are likely to be appropriate for both aid schemes concerned. The proposed evaluation methodology sufficiently allows the identification of the likely causal impact of the scheme itself (see recitals (21) and (22) above).

- (44) The proposed timing of the evaluation is reasonable in view of the characteristics of both aid schemes and the relevant implementation periods for projects supported under the aid measure (see recitals (4) and (5) above).
- (45) The proposed criteria for the selection of the evaluation body on the basis of an open tender meet the independence and skills criteria (see recital (30) above).
- (46) The proposed modalities for the publication of the evaluation results are appropriate and ensure transparency. In particular, the Commission takes note of the commitment to discuss the evaluation's findings with relevant stakeholders and for the results of the evaluation to be taken into account for planning potential subsequent schemes (see recital (31) above).
- (47) 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 aid measure to be evaluated.
- (48) The Commission notes the commitment made by Poland to conduct the evaluation according to the evaluation plan summarised in the present decision. The Commission also notes the commitment by Poland to fulfil the obligation to submit the final evaluation report for both aid schemes at the latest by 31 May 2026 and the additional evaluation report at the latest by 31 June 2029 (see recital (26)).
- (49) Poland is invited to inform the Commission without delay of any element that might seriously compromise the implementation of the evaluation plan in order to identify and implement possible solutions.
- (50) The Commission notes the commitment made by Poland to take into account the evaluation results for the design of any subsequent aid measure with a similar objective (see recital (34) above).
- (51) The Commission reminds that alterations to the evaluated aid measure, 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.
- (52) Moreover, the Commission notes that the measure must be suspended if the final evaluation report is not submitted in good time or is not 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 measure 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 GBER, and as from the date of the notification of this decision to Poland.

4. CONCLUSION

- (54) After having assessed the evaluation plan notified by Poland, the Commission has accordingly decided that Regulation (EU) No 651/2014, as amended, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the TFEU will continue to apply to the measure until 31 December 2026.
- (55) This decision will be published.

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

