COMMISSION IMPLEMENTING DECISION (EU) 2022/1656

of 26 September 2022

on recognition of the Austrian agricultural certification scheme (AACS) for demonstrating compliance with the requirements set in Directive (EU) 2018/2001 of the European Parliament and of the Council for biofuels, bioliquids, biomass fuels, renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources ([1]), and in particular Article 30(6) thereof,

Whereas:

(1) Directive (EU) 2018/2001 establishes requirements for biofuels, bioliquids, biomass fuels, renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels, in order to ensure that they can be counted towards the targets set in that Directive only if they have been sustainably produced and save significant greenhouse gas emissions in comparison to fossil fuels. Article 29 of Directive (EU) 2018/2001 lays down sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids, and biomass fuels, and Article 26 of that Directive and Commission Delegated Regulation (EU) 2019/807 ([2]) establish the criteria for determining:

— which feedstock for biofuels, bioliquids or biomass fuels has high indirect land-use change risk, and

— which high indirect land-use change-risk biofuels, bioliquids or biomass fuels that meet certain conditions can be certified as having low indirect land-use change risk.

(2) Directive (EU) 2018/2001 also provides for rules on how to calculate the contribution from renewable electricity to the transport targets, both when the electricity is directly used to power electric vehicles and when it is used to produce renewable liquid and gaseous fuels of non-biological origin that are used in transport.

(3) In order to check that compliance with the rules established for biofuels, bioliquids, biomass fuels, renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels is ensured, Member States may use voluntary schemes or national certification schemes. Both national and voluntary certification schemes have played an important role in providing evidence of compliance with the sustainability and greenhouse gas emissions saving criteria for biofuels and bioliquids under Directive 2009/28/EC of the European Parliament and of the Council ([3]). Under Directive (EU) 2018/2001, the role of voluntary and national certification schemes has been expanded. First, they can now serve to certify compliance of all fuels produced from biomass, including gaseous and solid fuels, with the sustainability criteria set in Directive (EU) 2018/2001, and provide accurate data on their greenhouse gas

([1]) OJ L 328, 21.12.2018, p. 82.

([2]) Commission Delegated Regulation (EU) 2019/807 of 13 March 2019 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed and the certification of low indirect land-use change-risk biofuels, bioliquids and biomass fuels (OJ L 133, 21.5.2019, p. 1).

([3]) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

emissions saving. Second, they can serve to certify compliance of renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels with their greenhouse gas emissions saving criteria. Third, they can serve to prove compliance with the rules established by Article 27(3) of Directive (EU) 2018/2001 for calculating renewable electricity in transport. Fourth, they can serve to prove that economic operators enter accurate information in Union or national database on renewable fuels and recycled carbon fuels used in transport in accordance with Article 28(4) of Directive (EU) 2018/2001. Fifth, they can be used to certify biofuels, bioliquids and biomass fuels with low indirect land-use change-risk.

(4) Where an economic operator provides proof or data on compliance with the sustainability and greenhouse gas emissions saving criteria, obtained in accordance with a national or voluntary scheme recognised by the Commission, to the extent covered by the recognition decision, a Member State is not to require that economic operator to provide further evidence as an additional proof for such compliance. Therefore, the positive assessment and formal recognition by the Commission of a national or voluntary certification scheme ensures the mandatory acceptance of their compliance statements by all Members States.

(5) Austria first submitted a request for recognition under Article 30(6) of Directive (EU) 2018/2001 for the Austrian agricultural certification scheme (AACS) to the Commission on 14 July 2021. That request led to an assessment of the scheme by the Commission, in which some issues requiring modification were identified. The modified scheme resubmitted by Austria on 7 March 2022 correctly addressed those issues. The scheme covers agricultural feedstocks and vegetable oils (including residues) from farm up to initial processing.

(6) In assessing the AACS, the Commission found that it adequately covers the sustainability criteria laid down in Article 29(3) to (5) of Directive (EU) 2018/2001, while it also contains accurate data on greenhouse gas emission savings for the purpose of Article 29(10) of Directive (EU) 2018/2001 and applies a mass balance methodology in accordance with the requirements of Article 30(1) and (2) of Directive (EU) 2018/2001.

(7) The assessment of the AACS concludes that the scheme meets adequate standards of reliability, transparency and independent auditing and complies with the methodological requirements set out in Annex V to Directive (EU) 2018/2001.

(8) The recognised scheme should be made available in the section devoted to voluntary schemes on the Commission's Europa website.

(9) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Sustainability of Biofuels, Bioliquids and Biomass fuels,

HAS ADOPTED THIS DECISION:

Article 1

The Austrian agricultural certification scheme ('the scheme'), submitted for recognition to the Commission on 7 March 2022, demonstrates the following, for the fuels audited under the scheme:

(a) compliance of the consignments of biofuels, bioliquids and biomass fuels with the sustainability criteria laid down in Article 29(2) to (5) and (10) of Directive (EU) 2018/2001;

(b) economic operators' compliance with the obligation to enter accurate information into the Union or national database on renewable fuels and recycled carbon fuels used in transport in accordance with Article 28(4) of Directive (EU) 2018/2001.

The scheme also contains accurate data on greenhouse gas emission savings for the purpose of Article 29(10) of Directive (EU) 2018/2001 in that it ensures that all relevant information from economic operators upstream in the chain of custody is transferred to economic operators downstream in the chain of custody.

Article 2

This Decision shall be valid for a period of 5 years from the day of its entry into force.

Where the content of the scheme, as submitted for recognition to the Commission on 7 March 2022, change in a way that might affect the grounds of this Decision, such changes shall be notified to the Commission without delay.

The Commission shall assess the notified changes with a view to establishing whether the scheme still adequately covers assurance to the sustainability criteria for which it is recognised.

Article 3

The Commission may repeal this Decision in certain circumstance, including:

(a) if it has been clearly demonstrated that the scheme has not implemented elements considered to be important for this Decision or has stopped implementing them in a way that constitutes a severe and structural breach;

(b) if the scheme fails to submit annual reports to the Commission, as required by Article 30(5) of Directive (EU) 2018/2001; or

(c) if the scheme fails to meet independent auditing standards or other requirements specified in implementing acts referred to in Article 30(8) of Directive (EU) 2018/2001 or fails to implement improvements to other elements of the scheme considered to be important for continued recognition.

Article 4

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 September 2022.

For the Commission
The President
Ursula VON DER LEYEN