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**COMMISSION IMPLEMENTING DECISION**

**of 22.10.2021**

**on the request from the Republic of Estonia for a derogation pursuant to Article 3(4)  
and (5) of Directive 98/70/EC**

(Only the Estonian text is authentic)

# COMMISSION IMPLEMENTING DECISION

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**on the request from the Republic of Estonia for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC**

(Only the Estonian text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC<sup>1</sup>, and in particular Article 3(4) and (5) thereof,

Whereas:

- (1) Commission Decision C(2011)8119<sup>2</sup> of 16 November 2011 on the request from the Republic of Estonia for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC ('the Directive') expired on 31 December 2020.
- (2) By letter to the Commission registered on 24 March 2021, the Republic of Estonia ('Estonia') notified a request for derogation to permit the placing on the market during the summer period of petrol with a maximum vapour pressure of 70 kPa due to its low ambient summer temperatures for the period until 31 December 2030.
- (3) Estonia's request for derogation was assessed in accordance with Directive 98/70/EC and with the general recommendations for assessment set out in the Commission Guidance note on notifications of exemptions from the vapour pressure requirements for petrol pursuant to Article 3(4) and (5) of Directive 98/70/EC relating to the quality of petrol and diesel fuels of 20 July 2009 ('the Guidance note')<sup>3</sup>.
- (4) The Commission found that some essential information was missing in the initial request for derogation, and asked Estonia by letter of 3 May 2021 to complete the request. Estonia submitted additional information by letter of 17 June 2021.
- (5) The Commission found the additionally submitted information sufficient to finalise the assessment.
- (6) The Guidance note provides that the notification by the Member State is assessed considering the forecast quantity of petrol concerned, the share it represents of the Member State's total produced amount, the quantity of petrol exported, the forecast quantity of petrol for which a derogation is sought and – if relevant – the associated

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<sup>1</sup> OJ L 350, 28.12.1998, p. 58.

<sup>2</sup> Commission Decision C(2011)8119 of 16 November 2011 on the request from the Republic of Estonia for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC, as amended by Directive 2009/30/EC.

<sup>3</sup> [https://ec.europa.eu/clima/sites/clima/files/transport/fuel/docs/guidance\\_note\\_vapour\\_pressure\\_en.pdf](https://ec.europa.eu/clima/sites/clima/files/transport/fuel/docs/guidance_note_vapour_pressure_en.pdf).

percentage of bioethanol content of that petrol. In addition, the assessment of notifications is to be conducted in accordance with the following socioeconomic and environmental criteria: any social, financial or economic impact to implementing the regulated vapour pressure of 60 kPa; Compliance with Union legislation on air quality and air pollution encompassing realistic and reliable predictions of their emissions of non-methane volatile organic compounds (NMVOCs), ozone and benzene, including additional measures being considered to outweigh the additional emissions caused by the derogation.

- (7) Estonia provided information on petrol sales, export and import conditions and distribution in Estonia, which the Commission considers sufficient to evaluate the notification. More specifically, Estonia reported data on the domestic petrol consumption from 2016 to 2020 for RON 95 and RON 98, the two types of petrol placed on the Estonian market, and noted a steady decline of the total volumes from about 321 million litres in 2016 to about 276 million litres in 2020<sup>4</sup>. In 2018, Estonia introduced 5% ethanol blend in RON 95 and increased it to 10% to comply with the national requirements that implement Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>5</sup>. Estonia indicated that consumers have been reluctant to buy the E10 petrol and have made a considerable switch in favour of the non-blended RON 98 petrol (the share of using RON 98 increased from 10% in 2016 to about 46% in 2020).
- (8) Estonia provided information of the direct socioeconomic problems on the impact on petrol producers and/or petrol suppliers of not having the derogation. This concerns any social, financial or economic impact of implementing the regulated vapour pressure of 60 kPa.
- (9) Estonia reported of not having any petrol refineries on its territory and of being entirely dependent on imported petrol. Estonia provided data on its petrol imports for the last three years, amounting on average to about 360 million litres.<sup>6</sup> The majority of Estonia's imports in 2020 (similarly as in previous years) come from the neighbouring countries Finland (48.3%) and Lithuania (44.5%) produced at the Finnish Porvoo and Nantal plants, and the Lithuanian Mažeikiai plant. These plants are configured to produce petrol with a vapour pressure of 70 kPa during the summer period. Without derogation, the mentioned refineries would have to implement a separate production cycle specifically for the Estonian market. Estonia indicated that this would complicate the situation as the consumption of petrol in Estonia is small in comparison to other countries in the Baltic Sea region and would therefore be less attractive for the existing refineries to change their production configuration. Estonia further indicated that without the derogation, the Estonian fuel suppliers would be forced to seek for imports from other refineries situated outside the region, leading to higher transport costs and therefore higher fuel prices for consumers. Estonia has estimated that the costs would increase by USD 9 to 12 per tonne of supplied petrol, while the additional costs due to logistical demands would increase this amount to about USD 17 to 20 per tonne.
- (10) Another aspect indicated by Estonia relates to the future petrol supply that is projected to remain at low levels around 302 million litres in 2021 and 2022 due to the impact of

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<sup>4</sup> Much of the decline in 2020 is assigned to the impact of COVID-19 pandemic.

<sup>5</sup> 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 (OJ L 328, 21.12.2018, p. 82).

<sup>6</sup> This figure does not reveal the exact amount of product retained in Estonia since some quantities are used for petrol transit.

the COVID-19 pandemic and then would shrink from about 315 million litres in 2023 to 297 million litres in 2030. Estonia explained that the expected decline will be caused by such factors as fleet renewal, switch to more economic petrol cars and expanded use of electric cars. Estonia concluded that due to its entire reliance on imported petrol, and the application of the derogation in the neighbouring countries, the consequences of not being granted a derogation would complicate the situation both for the fuel suppliers and for the consumers.

- (11) On the basis of the submitted information, the Commission raises no objection against the Estonian request, as concerns the relevant socio-economic criteria.
- (12) Estonia provided information concerning the compliance with the national emissions reduction commitments for NMVOC set out in Directive (EU) 2016/2284 of the European Parliament and of the Council<sup>7</sup> on the reduction of national emissions of certain atmospheric pollutants. More specifically, Estonia informed to have reduced its annual NMVOC emissions excluding agriculture from 31.86 kilotonnes (kt) in 2005 to 22.69 kt in 2019 corresponding to a 28.8% reduction, based on the latest submitted inventory in 2021<sup>8</sup>. Estonia indicated that the main emitting sources in 2019 were industrial processes and product use (45.5%), non-industrial combustion (14%) and road transport (6%).
- (13) Estonia reported to have reduced its NMVOC emissions from road transport (code 1A3b) by 92.3% in 2019 in comparison to 1990, amounting to 1.35 kt or 6% of the total national NMVOC emissions of 22.69 kt. Estonia indicated that this decrease results mainly from the introduction of catalytic conversion of vehicle exhausts and application of carbon canisters on petrol-driven cars for evaporative emissions control, which are the measures stemming from tighter vehicle emission standards, combined with limits on maximum volatility of petrol. Another factor contributing to the NMVOC emission reduction in transport relates to the switch from petrol to diesel cars.
- (14) In relation to different sub-sectors relevant for this application, Estonia reported that the fugitive emissions from the road transport gasoline evaporation (code 1A3bv) amounted to 0.27 kt or 1.2% of the total amount of NMVOC emissions in 2019, while distribution of oil products (code 1B2av) amounted to 0.71 kt or 3.1%, and the emissions from oil refining and storage (code 1B2aiv) amounted to 0.13 kt or 0.6%, based on the 2021 inventory. Estonia concluded that the emissions relevant for this derogation request, make only a small part of the total Estonian NMVOC emissions.
- (15) Estonia supplied information on future projections of its NMVOC emissions (excluding agriculture) under Directive (EU) 2016/2284. The reported data shows that Estonia projects to comply with the targets of that Directive both under the scenario with existing measures (WEM) and the scenario with additional measures (WAM). The Estonian obligation under that Directive is a reduction of 10% by 2020 and of 28% by 2030 compared to the emission level in 2005. Estonia projects to achieve a reduction of 35% and 39% in the WAM scenario for the respective years representing an overachievement of the set commitments.

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<sup>7</sup> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

<sup>8</sup> <https://www.ceip.at/status-of-reporting-and-review-results/2021-submission>.

- (16) The Commission notes that the methodologies for reporting of emissions and emission projections employed by Estonia appear to be consistent with those required under Directive (EU) 2016/2284 and considers that:
- national NMVOC emission reduction commitments under Directive (EU) 2016/2284 for Estonia are already met with existing petrol vapour pressure specifications of 70 kPa;
  - the projections show a continued compliance with the NMVOC emission reduction targets by 2030;
  - the NMVOC emissions relevant for this application correspond to a small amount of 1.1 kt based on the national emission inventories data submitted in 2021. Consequently, maintaining a petrol vapour pressure limit of 70 kPa would have only a limited effect on the Estonian overall achievement of the NMVOC target.
- (17) The Commission therefore sees no grounds for objecting to this part of the notification.
- (18) Concerning the ozone criteria, Estonia provided information as set out under point 4.2.2 of the Guidance note.
- (19) With respect to the ground level ozone, the Union target value of 120 µg/m<sup>3</sup> may not be exceeded by more than 25 days a year as from 2010, under Directive 2008/50/EC of the European Parliament and of the Council<sup>9</sup>. Estonia has submitted information on the results for ozone air quality from 2010 to 2020. The ozone level is measured in 10 monitoring stations in Estonia representing a mixture of city and background monitoring stations. Based on the reported data, the Union target value has been exceeded only once in 2010 when the number of exceedance days amounted to 30 at the city monitoring station Õismäe. Apart from this single occasion, the Union target value has not been exceeded in any of the monitoring stations during the entire reference period and the reported number of exceedance days has been well below 25.
- (20) Estonia further indicated that the information threshold of 180 µg/m<sup>3</sup> and the alert threshold of 240 µg/m<sup>3</sup> of ozone concentration have never been exceeded in any monitoring station in Estonia over the last 10 years. Estonia also noted that background monitoring stations generally show higher ozone values which is explained by the impacts of the transboundary emissions.
- (21) With regard to the future estimates, Estonia reported that the ozone values are predicted to remain at the same level or decrease from 2021 to 2030. Based on the monitored data over the past decade, Estonia indicated that no clear trend with respect to the number of exceedance days of the target value of 120 µg/m<sup>3</sup> can be established. Higher concentrations are usually observed in spring with longer periods of clear sky and bright sunlight that has a significant impact on ozone formation. With regard to the emissions from such ozone precursors as NO<sub>x</sub>, NMVOC and SO<sub>2</sub> monitored under Directive (EU) 2016/2284, Estonia provided information showing decreasing trends over the past decade. Estonia further explained that given the national policy measures in place, these downward trends are predicted to continue from 2021 to 2030, having a possible impact on decreased level of the ozone concentration as well.

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<sup>9</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

- (22) With regard to the national policy planning and measures, Estonia referred to the ‘Estonian National Air Quality programme of 2019’<sup>10</sup> and the ‘National Energy and Climate Plan’<sup>11</sup> striving to control the air pollution and reduce the greenhouse gas emissions in Estonia and thus ensuring a continued full compliance with the European air quality and air pollution obligations.
- (23) Estonia further informed the Commission that, as already established in its derogation request from 2011, the impacts of the petrol vapour specifications of 70 kPa on the ozone concentration levels both in the territory of Estonia and its neighbouring countries are very low and not likely to affect the compliance with the Union requirements.
- (24) The Commission finds that the use of monitoring data is appropriate for identifying any current or historical problems with achieving the ozone target values. The methods employed appear therefore to be suitable. It is established that, apart from one occasion in 2010, there were no more reported exceedances of the ozone related target values during the current use of summer petrol with a vapour pressure up to 70kPa.
- (25) Based on the information provided, the Commission considers that the extension of the derogation to 2030 is expected to have no or minimal impact on the ozone concentrations in Estonia. The Commission finds that it is unlikely that the Union target value for ozone will be exceeded in 2021 and onwards. The Commission finds no reasons to object to the request in this part.
- (26) In order to assess compliance with air quality limit value for benzene, Estonia provided information as set out under point 4.2.3 of the Guidance note.
- (27) Estonia submitted information based on the monitoring results for benzene target values for the years from 2010 to 2020, showing that the limit value of 5 µg/m<sup>3</sup> as specified in Directive 2008/50/EC, has not been exceeded in any area during the reference period. Benzene is being monitored in five different stations from which four stations are located in cities and one in the background area. The submitted data comprise annual averages of benzene concentrations in different measurement stations in Estonia showing that the measured values are well below the set limit value of 5 µg/m<sup>3</sup> and that from 2015 these values are in constant decline. Estonia expects this downward trend to continue in the next decade and to remain fully compliant with the Union target value in the period for which the derogation is requested.
- (28) The Commission finds that Estonia has not shown any existing problems with complying with the benzene limit value. As Estonia is already applying the use of petrol with a maximum vapour pressure exceeding 60 kPa up to 70 kPa and is complying with the limit value, it does not appear likely that any exceedance issues may arise. The Commission raises no objection to this part of the notification.
- (29) In conclusion, the Commission finds that these conditions justify a duration of a derogation limited to 31 December 2030,

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<sup>10</sup> <https://ec.europa.eu/environment/air/reduction/NAPCP.htm>.

<sup>11</sup> [https://ec.europa.eu/energy/topics/energy-strategy/national-energy-climate-plans\\_en](https://ec.europa.eu/energy/topics/energy-strategy/national-energy-climate-plans_en).

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission raises no objection to the request from the Republic of Estonia to permit the placing on the market during the summer period of petrol with a maximum vapour pressure of 70kPa ('derogation') until 31 December 2030.

*Article 2*

The Commission shall revoke this Decision if, based on updated data, the Commission's assessment shows that the derogation will result in a lack of compliance with Union legislation on air quality or air pollution.

*Article 3*

This Decision is addressed to the Republic of Estonia.

Done at Brussels, 22.10.2021

*For the Commission*  
*Frans TIMMERMANS*  
*Executive Vice-President*