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COMMISSION IMPLEMENTING DECISION

of 26.7.2024

amending Commission Implementing Decision (C2023) 9290 of 22.12.2023 on the authorisation of the disbursement of the third and fourth instalment of the non-repayable support and the third and fourth instalment of the loan support for Portugal

(Only the Portuguese text is authentic)

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amending Commission Implementing Decision (C2023) 9290 of 22.12.2023 on the authorisation of the disbursement of the third and fourth instalment of the non-repayable support and the third and fourth instalment of the loan support for Portugal

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility¹, and in particular Article 24(5) thereof,

Whereas:

- (1) According to Article 4(2) of Regulation (EU) 2021/241, the specific objective of the Recovery and Resilience Facility is to provide Member States with financial support with a view to achieving the milestones and targets of reforms and investments as set out in their recovery and resilience plans.
- (2) Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Portugal² (the ‘Council Implementing Decision’) provides that the Union is to release instalments in accordance with the Financing Agreement and the Loan Agreement conditional on a decision by the Commission, taken in accordance with Article 24(5) of Regulation (EU) 2021/241, that Portugal has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.
- (3) On 4 October 2023, Portugal submitted a request for payment, accompanied by a management declaration and a summary of audits. The request concerned the third and fourth instalments of the non-repayable support and the third instalment of the loan support. On 19 October 2023, Portugal submitted a request for payment, accompanied by a management declaration and a summary of audits. The request concerned the fourth instalment of the loan support. Pursuant to Article 24(3) of Regulation (EU) 2021/241, the Commission assessed on a preliminary basis whether the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled.
- (4) The Commission made a positive preliminary assessment of the satisfactory fulfilment of 37 out of 40 milestones and targets related to the non-repayable support and all 7 relevant milestones and targets related to the loan support. On that basis, the Commission by means of Implementing Decision (C2023) 9290 of 22 December 2023

¹ OJ L 57, 18.2.2021, p. 17.

² 10149/21 + ADD 1 REV 1; 13351/23 + ADD 1 REV 1, not yet published.

authorised the disbursement of EUR 2 136 899 510 of non-repayable support and EUR 614 769 149 of loan support.

- (5) Following the procedure provided for by Article 24(6) of Regulation 2021/241, the Commission established that target 1.3 - Completion of the process of decentralisation of responsibilities in the field of health in municipalities, milestone 1.12 - Entry into force of the new full dedication work regime in the National Health Service, and milestone 6.15 - Entry into force of the law on regulated professions had not been satisfactorily fulfilled. On that basis, the Commission by means of Implementing Decision (C2023) 9289 of 22 December 2023 suspended EUR 761 432 554 from the disbursement of the third instalment of the non-repayable support and EUR 49 053 828 of the fourth instalment of the non-repayable support. Pursuant to Article 24(6) of Regulation (EU) 2021/241, the Commission determined the suspended amount by applying the methodology for the determination of payment suspension under the Recovery and Resilience Facility Regulation explained in its Communication of 21 February 2023³.
- (6) On 11 June 2024, Portugal presented additional justification related to target 1.3 - Completion of the process of decentralisation of responsibilities in the field of health in municipalities, milestone 1.12 - Entry into force of the new full dedication work regime in the National Health Service, and milestone 6.15 - Entry into force of the law on regulated professions.
- (7) On the basis of the additional justification provided, the Commission made a positive preliminary assessment of the satisfactory fulfilment of target 1.3 - Completion of the process of decentralisation of responsibilities in the field of health in municipalities, milestone 1.12 - Entry into force of the new full dedication work regime in the National Health Service, and milestone 6.15 - Entry into force of the law on regulated professions.
- (8) Target 1.3 requires the completion of the decentralisation of responsibilities in the field of health, by the conclusion of 201 transfer notices (one per municipality). Portugal provided evidence that 191 transfer notices were concluded and entered into force. Whilst this constitutes a minimal numerical deviation of 5% from the requirement of the Council Implementing Decision, the overall objective of this target is considered met notwithstanding this minor deviation. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (9) Milestone 1.12 requires the entry into force of the full dedication work regime in the national health service. All necessary legal acts to establish the full dedication work regime entered into force. The full dedication work regime is applicable to the multi-professional teams of the family health care units in primary care; to the multidisciplinary teams of the Integrated Responsibility Centres (IRCs) in the hospital care; and to medical doctors in the area of public health. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (10) Milestone 6.15 requires the elimination of access and exercise restrictions regarding self-regulated professions. Portugal revised the legal regime of these professions, including the framework laws of professional public associations and of business firms

³ Communication from the Commission to the European Parliament and the Council of 21 February 2023 'Recovery and Resilience Facility: two years on A unique instrument at the heart of the EU's green and digital transformation' COM (2023) 99 final.

providing services regulated by these public associations, as well as the statutes of each professional public association. In particular, Portugal (i) separated the regulation and representation functions of professional public associations; ii) reduced the list of reserved activities; iii) ended restrictions to ownership and management of business services firms; and iv) allowed the creation of multidisciplinary business services. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (11) In accordance with Article 24(4) of Regulation (EU) 2021/241, the Commission provided its findings to the Economic and Financial Committee asking for its opinion on the satisfactory fulfilment of the relevant milestones and targets. In accordance with Article 25(4) of that Regulation, the Commission provided the competent committee of the European Parliament with an overview of its preliminary findings concerning the satisfactory fulfilment of the relevant milestones and targets. The Economic and Financial Committee agreed with the Commission on the positive preliminary assessment and was of the opinion that Portugal has satisfactorily fulfilled the target associated with the payment requests. The Commission has taken the opinion of the Economic and Financial Committee into account for its assessment.
- (12) Following the partially positive assessment concerning the Portuguese Republic's payment request, in accordance with Article 24(5) of Regulation (EU) 2021/241, the disbursement of the financial contribution for the third instalment of the non-repayable support, for an additional amount of EUR 761 432 554, and the disbursement of the financial contribution for the fourth instalment of the non-repayable support, for an additional amount of EUR 49 053 828, should be authorised.
- (13) In accordance with Article 2(3) of the Council Implementing Decision, as specified in the Financing Agreement, the pre-financing of the financial contribution shall be cleared by being proportionally deducted against the payment of the instalments. As Portugal received EUR 1 979 028 257 of the financial contribution as pre-financing, an amount of EUR 352 393 118 of the payment of the third and fourth instalments should be utilised to clear the pre-financing, of which EUR 36 747 787 to clear the pre-financing for the REPowerEU chapter. Given that EUR 262 394 044 was utilised to clear the pre-financing from the payment to Portugal authorised by Implementing Decision (C2023) 9290 of 22 December 2023, an additional EUR 89 999 074 should be utilised to clear the pre-financing, of which EUR 9 385 163 to clear the pre-financing for the REPowerEU chapter. This additional amount includes a correction of EUR 6 903 684 for the excessively cleared amount by Implementing Decision (C2023) 9290
- (14) As a result, an additional net payment to be provided to Portugal should amount to EUR 720 487 308.
- (15) This Decision should be without prejudice to procedures relating to distortions of the operation of the internal market that may be undertaken, in particular under Articles 107 and 108 of the Treaty on the Functioning of the European Union. It does not override the requirement for Member States to implement the measures in accordance with Union and national law and, in particular, to notify instances of potential State aid to the Commission under Article 108 of the Treaty on the Functioning of the European Union.
- (16) Commission Implementing Decision (C2023) 9290 of 22 December 2023 on the authorisation of the disbursement of the third and fourth instalments of the non-

repayable support and the third and fourth instalments of the loan support for Portugal should therefore be amended accordingly.

- (17) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 35(1) of Regulation (EU) 2021/241,

HAS ADOPTED THIS DECISION:

Article 1

Commission Implementing Decision (C2023) 9290 of 22 December 2023 on the authorisation of the disbursement of the third and fourth instalments of the non-repayable support and the third and fourth instalments of the loan support for Portugal is amended as follows:

- (1) Article 1 is replaced by the following:

Article 1

Authorisation of the disbursement of the non-repayable support

The disbursement of the third instalment of the non-repayable support as laid down in Section 2(2)(2.3) of the Annex to the Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Portugal for an amount of EUR 2 010 220 573 is authorised.

The disbursement of the fourth instalment of the non-repayable support as laid down in Section 2(2)(2.4) of the Annex to the Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Portugal for an amount of EUR 937 165 319 is authorised.

In accordance with the Financing Agreement concluded pursuant to Article 23(1) of Regulation (EU) 2021/241 between the Commission and the Portuguese Republic, EUR 352 393 118 shall be utilised to clear the pre-financing of the financial contribution. EUR 2 594 992 774 shall be provided to Portugal by means of payment to the bank account indicated in the Financing Agreement.

Article 2

Addressee

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 26.7.2024

For the Commission

Paolo GENTILONI

Member of the Commission