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COMMISSION IMPLEMENTING DECISION

of 22.12.2023

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

(Only the Portuguese text is authentic)

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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.

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.

- (2) 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. For the purpose of this assessment, the operational arrangements concluded between the Commission and Portugal³, in accordance with Article 20(6) of Regulation (EU) 2021/241, were taken into account.

¹ OJ L 57, 18.2.2021, p. 17

² 10149/21 + ADD 1 REV 1; 13351/23 + ADD 1 REV 1

³ Recovery and Resilience Facility Operational arrangements between the European Commission and the Portuguese Republic entered into force on 23 November 2023.

- (3) The Commission made a positive preliminary assessment of the satisfactory fulfilment of 37 out of 40 relevant milestones and targets related to the non-repayable support and all 7 relevant milestones and targets related to the loan support and, in accordance with Article 24(4) of Regulation (EU) 2021/241, 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's positive preliminary assessment and considered that Portugal has satisfactorily fulfilled 44 out of 47 milestones and targets associated with the payment request. The Commission has taken the opinion of the Economic and Financial Committee into account for its assessment.
- (4) Section 2(1)(1.3) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the third instalment of the non-repayable support for an amount of EUR 2 010 220 573.
- (5) Section 2(1)(1.4) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the fourth instalments of the non-repayable support for an amount of EUR 937 165 319.
- (6) Section 2(2)(2.3) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the third instalment of the loan support for an amount of EUR 379 431 726.
- (7) Section 2(2)(2.4) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the fourth instalment of the loan support for an amount of EUR 235 337 423.

Milestones and targets related to the third instalment of the non-repayable support:

- (8) Target 1.8 provides for the establishment of 10 new integrated responsibility centres in the hospitals of the national health service. The evidence provided by Portugal demonstrates that the 10 new integrated responsibility centres have been established, as well as the fact that the new integrated responsibility centres address the requirements of the milestone. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (9) Milestone 1.24 provides for the development of awareness-raising and training actions on dementias, aimed at the staff in the field of social and health care, as well as the users of social and health care services. The evidence provided by Portugal demonstrates that the new awareness-raising and training actions on dementias have been deployed and explains the extent to which these support reforms in social and health care services. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (10) Target 1.32 provides for the upgrade of local information technology networks in the National Health Service. The evidence provided by Portugal demonstrates that the upgrade of local information technology networks has been completed and that they are operational. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (11) Target 1.33 provides for implementation of functionalities for telehealth and telemonitoring. The evidence provided by Portugal demonstrates that the implementation of functionalities for telehealth and telemonitoring has been

completed and that they are operational. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (12) Target 2.1 provides for the conclusion of 75 collaborative or funding arrangements to provide social housing between the Housing and Urban Rehabilitation Institute (implementing body) and (mostly) municipalities. The evidence provided by Portugal demonstrates that the programme under which this investment is implemented is established. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (13) Target 2.4 provides for the conclusion of funding agreements to provide 500 temporary or emergency accommodations to vulnerable population groups. The evidence provided by Portugal demonstrates that funding agreements have been concluded to provide at least 500 temporary or emergency accommodations. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (14) Target 3.11 provides for the conclusion of 20 Life Plans for the integration of homeless people. The Life Plans set out, for each person, the interventions planned, their goal, and detail each action. The evidence provided by Portugal demonstrates that 20 Life Plans have been concluded. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (15) Milestone 4.6 provides for the establishment of the 'Saber Fazer' network, which entails the creation of a repository of information and documentation on domestic artisanal production and the identification and mapping of raw materials used in artisanal production. The evidence provided by Portugal demonstrates the establishment of the Saber Fazer network, the creation of a repository of information and documentation on domestic artisanal production and the identification and mapping of raw materials used in artisanal production. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (16) Target 5.5 provides for the conclusion of six contracts with consortia between business and technological/academic institutions, supporting the development of at least 60 products, processes or services. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (17) Target 5.7 provides for the conclusion of four contracts with consortia between business and technological/academic institutions and focused on the green transition supporting the development of at least 40 products, processes or services. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (18) Target 5.9 provides for the selection of 20 'Interface' technological entities to be supported (technology and innovation centres (CTIs) and collaborative laboratories (CoLABs)), and for the conclusion of contracts with these 20 entities, in view of strengthening Portugal's scientific and technological system. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (19) Target 7.1 provides for the installation of additional publicly accessible recharging points for electric vehicles. The evidence provided by Portugal demonstrates that the

number of recharging points as specified in the target are installed, and they are publicly accessible by 31 August 2023, in line with the requirements of the target. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (20) Milestone 7.7 provides for the signature of two contracts for road projects. The evidence provided by Portugal demonstrates that the contracts for the two road projects are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (21) Milestone 8.18 provides for the improvement of the land registry system through the entry into operation of the Land Cover Monitoring System (hereinafter referred to as SMOS), including Light Detection and Ranging coverage, the digital terrain model, crops and vegetation model, crops and vegetation maps, land cover maps and satellite image coverage. The evidence provided by Portugal demonstrates the entry into operation of the SMOS and that its content and objectives are in line with the requirement of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (22) Milestone 12.6 provides for the entry into force of the revised National Strategy for Green Public Procurement. The evidence provided by Portugal demonstrates that the revised strategy has entered into force and that it specifies and makes mandatory ecological criteria in the procurement of services and products, in line with the requirements of the milestone. The evidence provided by Portugal also demonstrates that fiscal incentives for the substitution of non-renewable natural resources with other bio-based resources have been assessed, in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (23) Milestone 15.12 provides for the signature of contracts for the purchase of 145 clean buses used for public transport in the Lisbon and Porto Metropolitan Areas. The evidence provided by Portugal demonstrates that the contracts, including their content and objectives, are in line with the requirement of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (24) Target 16.7 provides for the selection of Test Beds to be installed with the necessary equipment to enable development and testing of pilot products in the National Test Beds Network. The evidence provided by Portugal demonstrates that the number of selected Test Beds and the alignment with Digital Innovation Hubs are in line with the requirement of the target. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (25) Target 17.1 provides for the completion of the design and implementation of new procurement models for the national central public procurement system. The evidence provided by Portugal demonstrates that the design of the framework agreements and contracting manuals was complete, that the framework agreements and contracting manuals were implemented and that their content and objectives are in line with the requirements of the target. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (26) Milestone 17.2 provides for the entry into force of the legislation underpinning the State Accounting Entity. The evidence provided by Portugal demonstrates that the legislation underpinning the State Accounting Entity has entered into force and that its

content and objectives are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (27) Milestone 17.3 provides for the completion and approval of the model for monitoring the budgetary and financial execution of general government. The evidence provided by Portugal demonstrates the completion and approval of the model for monitoring the budgetary and financial execution of general government and that its content and objectives are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (28) Milestone 17.7 provides for the entry into force of the new report detailing the financial situation and performance of state-owned enterprises on a regular and timely basis, incorporating the financial data collected through the new state-owned enterprise sector information system. The evidence provided by Portugal demonstrates the entry into force of the new report detailing the financial situation and performance of state-owned enterprises and that its content and objectives are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (29) Target 19.1 provides for the redesign of five public services to make them available through several channels. These services need to be redesigned according to the ‘once only’ principle and made available in an omnichannel approach. The evidence provided by Portugal demonstrates that the services are completed and operational and that they are recorded in the enhanced Entity and Services Catalogue, and that they are available through several channels (single digital services portal, contact centre, citizen spaces/ citizen shops), following the ‘only once’ principle; and therefore all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (30) Target 19.4 provides for five digital public services made available to citizens and businesses that reuse available data in the iAP platform. The evidence provided by Portugal demonstrates that the services are completed and operational and the digital public services are available to citizens and businesses, reusing the data made available in the iAP catalogue; and therefore all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (31) Target 20.3 provides for the lending of 600 000 laptops to teachers and pupils in primary and secondary public schools. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (32) Target 20.10 provides for the creation of four massive open online courses (hereinafter referred to as MOOCs), which promote the development of digital skills for classroom education and distance learning, including the provision of tutorials and a Digital Competence Procurement Portal (hereinafter referred to as DCP). The evidence provided by Portugal demonstrates that the four MOOCs have been completed, they are available online free of charge and the DCP has also been made available online; and therefore all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (33) Target 20.14 provides for digital equipment (‘kits’) to 5 120 pupils in the 2nd and 3rd cycle of primary and secondary education in the Autonomous Region of Madeira. The

evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (34) Milestone 22.1 provides for the amendments of the financing contracts between the coordinating body (hereinafter referred to as EMRP) and the implementing bodies, requiring the latter to perform a fraud risk assessment. The evidence provided by Portugal demonstrates the introduction of amendments to the financing contracts between EMRP and the implementing bodies, including a legal obligation for the implementing bodies to perform a fraud risk assessment. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (35) Milestone 22.2 provides for the introduction of cross-check procedures on applications for funding within the Recovery and Resilience Facility, to mitigate the risk of double funding. The evidence provided by Portugal demonstrates that the cross-check procedures on applications for funding within the Recovery and Resilience Facility have been introduced, mitigating risks of double funding. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

Milestones and targets related to the fourth instalment of the non-repayable support:

- (36) Milestone 1.1 provides for the entry into force of the legal acts that regulate the creation, organisation and functioning of primary health care centres and their functional units. The evidence provided by Portugal demonstrates that the legal acts that regulate the creation, organisation and functioning of primary health care centres and their functional units were duly published but the relevant provisions will only produce effects on 1 January 2024. For this reason, the Commission considered it a minimal temporal deviation from the requirement of the Council Implementing Decision. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled with a minimal deviation.
- (37) Milestone 1.5 provides for the entry into force of a new mental health law that shall lay down the principles relating to the rights of people with mental illness and regulate compulsory hospitalisation or treatment. The evidence provided by Portugal demonstrates that the new mental health law was published in the official journal of Portugal. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (38) Target 5.39 provides for the conclusion of six additional contracts with consortia between business and technological/academical institutions supporting the development of at least 168 products, processes or services. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (39) Target 5.41 provides for the conclusion of six contracts with consortia between business and technological/academical institutions and focused on the green transition supporting the development of at least 98 products, processes or services. The evidence provided by Portugal demonstrates that all the requirements of the target have been met. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (40) Milestone 6.16 provides for the entry into force of a law regulating platform work. The evidence provided by Portugal demonstrates that the relevant law entered into force and that its content and objectives are in line with the requirements of the milestone.

On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (41) Target 8.10 provides for the delivery of 179 vehicles, machinery and equipment for the Nature and Forest Conservation Institute for the purpose of reinforcing the prevention and combatting of rural fires. The evidence provided by Portugal demonstrates that the vehicles, equipment and machinery have been delivered in compliance with the technical specifications stated in the tender procedure. Portugal demonstrated the compliance with the DNSH principle with a report by the Nature and Forest Conservation Institute confirming that the vehicles and machinery purchased represent the best available technology at the time of fulfilment. For some of the vehicles and machinery, Portugal could not confirm that they comply with the technical specification regarding the specific emission standards set in the tenders. On the other hand, Portugal has submitted evidence that the vehicles and machinery purchased comply with the EU standard for emission (EU Stage V), demonstrating that the vehicles and machinery purchased under these contracts constitute the best available performance in the sector as no zero-emissions alternatives exist. For this reason, the Commission considered it a minimal substantial deviation from the requirement of the Council Implementing Decision. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled with a minimal deviation.
- (42) Milestone 17.22 provides for the entry into force of a legal act modifying the legal framework of selected tax benefits. The evidence provided by Portugal demonstrates that the legal act modifying the legal framework of selected tax benefits has entered into force and that its content and objectives are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (43) Milestone 18.1 provides for the creation of specialised chambers in the administrative and tax superior courts. The evidence provided by Portugal demonstrates that the specialised chambers in the administrative and tax superior courts were created and that its content and objectives are in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (44) Milestone 18.2 provides for the entry into force of a legal regime to encourage in-court and out-of-court settlement. The evidence provided by Portugal demonstrates that the new law that introduces the incentive scheme was duly published in the official journal of Portugal and has entered into force. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

Milestones and targets related to the third instalment of the loan support:

- (45) Target 2.20 provides for the start of construction works for 520 dwellings. The evidence provided by Portugal demonstrates that construction works for the dwellings have started in line with the requirements of the target. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (46) Target 2.25 provides for the launching of public tenders for 7 000 new and renovated places of student accommodation. The evidence provided by Portugal demonstrates that the tenders were launched in line with the requirements of the target. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (47) Milestone 5.24 provides for the entry into force of an act reviewing the legal framework for collective investment undertakings, with a view to regulatory and administrative simplification. The evidence provided by Portugal demonstrates that the act reviewing the legal framework for collective investment undertakings, including regulatory and administrative simplification entered into force. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (48) Milestone 5.25 provides for the entry into force of an act reviewing the Securities Code, with a view to regulatory and administrative simplification. The evidence provided by Portugal demonstrates that the act reviewing the Securities Code, including regulatory and administrative simplification entered into force. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (49) Milestone 7.9 provides for the completion of the environmental impact assessment of one of the road projects of the related investment. The evidence provided by Portugal demonstrates that an environmental impact assessment has been completed for this project, in line with the requirements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

Milestones and targets related to the fourth instalment of the loan support:

- (50) Target 5.44 provides for the conclusion of 16 additional contracts with consortia between business and technological/academic institutions, supporting the development of at least 446 products, processes or services (hereinafter referred to as PPS). 336 of these PPS are required to be digital and align with intervention field 021. The evidence provided by Portugal demonstrates that the competition tenders for the selection of the consortia include the relevant DNSH eligibility criteria and the contracts with the consortia have been concluded, including the list of projects supported, in line with the requirements of the target. The alignment with intervention field 021 was justified for agendas covering over 336 PPS, but not for each of these individual PPS. The Commission considered it a minimal deviation from a substantive requirement of the Council Implementing Decision. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (51) Milestone 7.11 provides for the signature of the construction contracts for 10 of the road projects of the related investment. The evidence provided by Portugal demonstrates that, following a public tender procedure, 10 contracts have been signed, governing the obligations of the parties in relation to the execution of the works, in line with the requirements of the milestone. The evidence provided by Portugal further demonstrates that the conclusions of the environmental impact assessment were integrated into the project and strictly complied with at the stages of construction, operation and decommissioning of the infrastructure, in line with the requirements of the milestone. In line with national legislation, seven of the 10 road projects were not subject to an environmental impact assessment since they are shorter than 10 km. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (52) Furthermore, the Portuguese Republic has also confirmed that previously satisfactorily fulfilled milestones and targets have not been reversed.
- (53) 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 and fourth instalments of the

non-repayable support and the disbursement of the loan for the third and fourth instalments of the loan support should be authorised.

- (54) 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 262 394 044 of the payment should be utilised to clear the pre-financing, of which EUR 27 362 624 to clear the pre-financing for the REPowerEU chapter.
- (55) In accordance with Article 3(3) of the Council Implementing Decision, as specified in the Loan Agreement, the pre-financing of the loan shall be cleared by being proportionally deducted against the payment of the instalments. As Portugal received EUR 350 870 000 of the loan as pre-financing, an amount of EUR 29 565 192 of the payment should be utilised to clear the pre-financing,
- (56) 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.
- (57) 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

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(1)(1.3) 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 1 248 788 019 is authorised.

The disbursement of the fourth instalment of the non-repayable support as laid down in Section 2(1)(1.4) 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 888 111 491 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 262 394 044 shall be utilised to clear the pre-financing of the financial contribution and EUR 1 874 505 466 shall be provided to Portugal by means of payment to the bank account indicated in the Financing Agreement.

Article 2

Authorisation of the disbursement of the loan support

The disbursement of the third instalment of the loan 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 379 431 726 is authorised.

The disbursement of the fourth instalment of the loan 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 235 337 423 is authorised.

In accordance with the Loan Agreement concluded pursuant to Article 15(2) of Regulation (EU) 2021/241 between the Commission and the Portuguese Republic, EUR 29 565 192 shall be utilised to clear the pre-financing of the loan and EUR 585 203 957 shall be provided to Portugal by means of payment to the bank account indicated in the Loan Agreement.

Article 3
Addressee

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 22.12.2023

For the Commission
Paolo GENTILONI
Member of the Commission