EUROPEAN
COMMISSION

Brussels, 7.7.2025
C(2025) 4643 final

COMMISSION IMPLEMENTING DECISION

of 7.7.2025

on the suspension of the subsequent disbursement(s) of the non-repayable support for Spain

(Only the Spanish 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 Facility[1], and in particular Article 24(6) 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 15 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain[2] (the 'Council Implementing Decision') provides that the Union is to release instalments in accordance with the Financing Agreement and the Loan Agreement conditional on, *inter alia*, a decision by the Commission, taken in accordance with Article 24(5) of Regulation (EU) 2021/241, that Spain has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.

(3) Section 2(3) (3.1) of the Annex to the Council Implementing Decision of 15 July 2021[3] provides the relevant milestones and targets that are to be satisfactorily fulfilled for the first instalment of the non-repayable support for an amount of EUR 11 494 252 874.

(4) On 11 November 2021, Spain submitted a request for payment of the first instalment of the non-repayable support accompanied by a management declaration and a summary of audits. Pursuant to Article 24(3) of Regulation (EU) 2021/241, the Commission assessed whether the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled. For the purpose of that assessment, the operational arrangements concluded between the Commission and Spain[4] in accordance with Article 20(6) of Regulation (EU) 2021/241, were taken into

[1] OJ L 57, 18.2.2021, p. 17.

[2] ST 10150 2021; ST 10150 2021 ADD 1 REV 2 as amended by ST 13695 2023; ST 13695 2023 ADD 1 REV 1; ST 9303 2024; ST 9303 2024 ADD 1; ST 17099 2024; ST 17099 ADD 1; ST 8053/25 INIT; ST 8053/25 ADD 1, and ST 9583/25 + ADD 1 + ADD 1 COR 1, 10408/25.

[3] Ibid.

[4] Recovery and Resilience Facility Operational arrangements between the European Commission and Spain, entered into force on 9 November 2021, and were amended on 24 May 2024, 24 April 2025 and 20 June 2025.

account. In accordance with Article 24(5) of Regulation (EU) 2021/241, the Commission adopted the Commission Implementing Decision of 22 December 2021 on the authorisation of the disbursement of the first instalment of the non-repayable support for Spain. This Decision concluded that milestone 144 (Entry into force of legislative act to reduce temporary employment in public administrations) had been satisfactorily fulfilled.

(5) The Court of Justice issued Judgement of 22 February 2024, in Joined Cases C-59/22, C-110/22 and C-159/22 (ECLI:EU:C:2024:149) and Judgement of 13 June 2024, in Joined Cases C-331/22 and C-332/22 (ECLI:EU:C:2024:496).

(6) In accordance with Article 6(4) of the Financing Agreement and the Commission's methodology for reversal of milestones and targets under the Recovery and Resilience Facility,[5] on 14 October 2024, the Commission requested Spain supplementary information to determine whether a reversal by the Member State had occurred, taking into consideration the aforementioned judgements of 22 February 2024 and 13 June 2024.

(7) On 19 December 2024, the Commission communicated its assessment to Spain concerning the reversal of milestone 144, granting Spain one month to submit any observations. In this letter, the Commission informed Spain that, in line with Article 24(3) of Regulation (EU) 2021/241, in case the Commission considers that a measure related to a previously satisfactorily fulfilled milestone or target has been reversed by the Member State, no further milestone or target will be considered as satisfactorily fulfilled, until the reversal is addressed. More specifically, in accordance with the Commission's methodology for reversal of milestones and targets under the Recovery and Resilience Facility, in case that the Member State does not take action to ensure that the milestone or target is again considered as satisfactory fulfilled, the Commission is to address the reversal by suspending the payment of funds from the subsequent payment requests, thereby putting the Union budget in the same position as if that milestone or target had never been considered as satisfactory fulfilled.

(8) On 30 January 2025 and 21 March 2025, Spain presented its observations on the Commission's assessment pursuant to Article 24(6), first subparagraph of Regulation (EU) 2021/241. Spain stressed that it will continue to take the necessary steps to ensure the satisfactory fulfilment of the milestone within the next six months.

(9) On the basis of the observations presented by Spain, the Commission still considers that milestone 144 has been reversed by Spain and is no longer satisfactorily fulfilled.

(10) Reform 1 in Component 11 is entitled 'Reform for the modernisation and digitalisation of the administration' and requires that "*[t]his measure shall be articulated into multiple lines of action to address weaknesses in employment policies of the public administrations, strengthen cooperation and coordination among different levels of government, and improve how the central government implements public policies. With respect to employment policies, the objective is to reduce the rate of temporary employees in public administrations and strengthen public employment capacities by moving towards a competence-based human resources model, including for recruitment purposes. The second line of action is to further develop ex-ante policy evaluation and increase transparency and citizens' participation in public policy*

[5] Annex 2 to the Report from the Commission to the European Parliament and the Council on the implementation of the Recovery and Resilience Facility: Moving Forward, COM(2023) 545 final, adopted on 19 September 2023.

making, including a new law on transparency and integrity in the activities of interest groups. Finally, the reform shall reinforce existing instruments for cooperation among different levels of governments in Spain. This shall reinforce the role of sectoral conferences, the existing bodies for cooperation with regions, by clarifying when they may reach agreements of mandatory compliance. The reform shall also reinforce the Conference of Presidents (where the Prime Minister and Presidents of the Autonomous Communities meet at the highest level). The reform also concerns instruments by which cooperation between the public administrations is possible, it shall establish digital inter-administrative interconnection and interoperability between the central and regional government IT platforms. The reform shall also update the National Security Framework. The implementation of this measure shall be completed by 31 December 2024."

(11) Milestone 144 of the Council Implementing Decision, which pertains to Reform 1 of Component 11, requires the "[e]ntry into force of a Legislative Act stipulating measures to reduce temporary employment in public employment and effective provisions to prevent and penalise abuses, including the obligation to publish all calls for stabilisation procedures of temporary staff by 31 December 2022. This Legislative Act shall be applicable to State, regional and local public administrations." The fulfilment of the milestone is subject to the "[p]rovision in the legislative act indicating the entry into force of the act."

(12) At the time of the first payment request submitted on 11 November 2021, Spain provided a copy of Royal Decree-law 14/2021, of 6 July 2021, on urgent measures to reduce temporary employment in public employment, which had entered into force on 8 July 2021, and a summary document justifying how the milestone had been satisfactory fulfilled. In that summary document, Spain explained that Royal Decree-law 14/2021 "*set out the measures providing, in line with the case-law of the Court of Justice of the European Union, for effective, proportionate and dissuasive penalties*." Among others, it referred to a liability system of the public administrations in charge of personnel management and a compensation scheme for temporary staff in the event of non-compliance with the maximum retention periods. These explanations of Spain were taken into consideration by the Commission when assessing the wording of Article 1 of Royal Decree-law 14/2021 introducing a new seventeenth additional provision to Royal Legislative Decree No 5/2015, of 30 October, approving the recast text of the Law on the Basic Statute applicable to Public Employees (so-called 'EBEP'), which provides for a combination of financial penalties and liabilities to penalise abuses.

(13) In the positive preliminary assessment of the satisfactory fulfilment of milestones related to the first payment request submitted by Spain on 11 November 2021, transmitted to the Economic and Financial Committee by the Commission, the Commission assessed that, inter alia, "*Article 1 of Royal Decree Law amends the Royal Legislative Decree 5/2015 on the Law on the Basic Statute of Public Employees (EBEP) to introduce measures to effectively prevent and penalise abuse in the use of fixed-term relationships by the public administrations. In particular, Article 1 of Royal Decree Law 14/2021 introduces the new provision "Disposicion Adicional Decimoseptima" to the EBEP to provide the following combination of financial penalties and liabilities to penalise abuses: - Financial penalties: Introduction of a compensation of 20 days per year worked, with a maximum of 12 months of total compensation (this is equivalent to a total relationship duration of 18-years), for those employees in the public administration whose fixed-term relationship has been*

extended in breach of the maximum retention periods defined in the Royal Decree Law. This compensation would only apply if the fixed-term relationship is terminated infringing the deadlines now set in the national law, provided that the worker is not subject to a fair disciplinary dismissal or voluntary resignation. This provision will compensate fixed-term employees whose relationship has been unduly extended with an equivalent severance payment as the one received by workers in the private sector in case of 'objective dismissal'. - Liabilities for those breaching the law: "Disposicion Adicional Decimoseptima" establishes that any irregular action, in breach of the maximum retentions periods, will give rise to liabilities in accordance with the legislation in force in each public administration."

(14) The Commission Implementing Decision of 22 December 2021 on the authorisation of the disbursement of the first instalment of the non-repayable support for Spain furthermore states "*[a] copy of the legislative act and other evidence was provided by the Spanish authorities that demonstrated that Royal Decree Law 14/2021 of 6 July 2021 on urgent measures to reduce temporary employment in public employment entered into force and 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 without prejudice to the infringement procedure INFR(2014)4334*."

(15) Subsequent to this positive assessment by the Commission, the Court of Justice issued the aforementioned judgements of 22 February 2024 and 13 June 2024, relating inter alia to the interpretation of Clause 5 of the 'Framework Agreement,' which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

(16) In the above-mentioned judgements, the Court of Justice concluded that the payment of a capped end-of-contract compensation, independent of any consideration relating to the lawful or abusive nature of the use of non-permanent contracts, is not a sufficiently effective and deterrent measure to ensure that the measures taken pursuant to Clause 5 of the 'Framework Agreement' are fully effective (Judgement of 22 February 2024, paragraph 108; and Judgement of 13 June 2024, paragraph 91). In its Judgement of 22 February 2024, the Court of Justice also noted that the wording of the 17th Additional Provision of the Basic Statute of Public Employees ('EBEP'), as introduced by Article 1 of Royal Decree-law 14/2021, on liability of the public administration is ambiguous and abstract and, in turn, is not an effective and deterrent measure in order to ensure that the measures taken pursuant to Clause 5 of the 'Framework Agreement' are fully effective (Judgement of 22 February 2024, paragraphs 113 and 114).

(17) In its observations, Spain stated that it is actively working towards adopting effective provisions to penalise the abusive use of temporary contracts in the public sector, in line with the interpretation provided by the Court of Justice of Clause 5 of the 'Framework Agreement' in the two judgements mentioned above. However, no provision has entered into force so far.

(18) On the basis of the information provided, the Commission concludes that Spain has failed to take swift action to adopt new legislation containing effective measures to penalise the abusive use of fixed-term contracts in the public sector, in line with the interpretation given by the Court of Justice of Clause 5 of the 'Framework Agreement' in the aforementioned judgements.

(19) Furthermore, considering that the Court interpreted Clause 5 of the Framework Agreement as precluding measures such as those in Royal Decree-law 14/2021, of 6 July 2021, those measures cannot be considered as effective measures to penalise the abusive use of fixed-term contracts in line with milestone 144. Therefore, the Commission considers that those measures are not in line with Union law and cannot be taken into account for the fulfilment of milestone 144. In particular, there is a substantive link between the failure to comply with EU law and milestone 144 in the sense that the failure pertains to measures whose adoption is explicitly envisaged to address a requirement laid out in the Council Implementing Decision.

(20) Against this backdrop, the Commission considers that no effective measures are in place to penalise abuses, contrary to the requirement of milestone 144 for "*effective provisions to prevent and penalise abuses"* to enter into force. In addition, it is noted that the absence of effective measures to penalise abuses goes against the reform's objective as required by the Council Implementing Decision stating that "*[t]his measure shall be articulated into multiple lines of action to address weaknesses in employment policies of the public administrations [...]*." As such, milestone 144 can no longer be considered satisfactorily fulfilled. The Commission furthermore considers that the failure to take swift action to adopt measures in line with the interpretation given by the Court of Justice on Clause 5 of the 'Framework Agreement' is an act imputable to Spain. Given this, and in accordance with the Commission's methodology for reversal of milestones and targets under the Recovery and Resilience Facility, the Commission considers that milestone 144 has been reversed by Spain and is no longer considered as satisfactory fulfilled.

(21) In line with Article 24(3) of Regulation (EU) 2021/241, in case the Commission considers that a measure related to a previously satisfactorily fulfilled milestone or target has been reversed by the Member State, no further milestone or target will be considered as satisfactorily fulfilled, until the reversal is addressed.

(22) On 20 December 2024, Spain submitted a request for payment, each accompanied by the corresponding management declaration and a summary of audits. The request concerned the fifth instalment of the non-repayable support, the first and second instalments of the loan support and target 201 (Budget committed to Agents of Change Program), which the Commission had previously deemed as not satisfactorily fulfilled in its decision of 19 July 2024 on the partial suspension of the disbursement of the fourth instalment of the non-repayable support for Spain.[6] The suspended amount will affect the payment requests submitted on 20 December 2024 and, where relevant, the remaining payment requests.

(23) Pursuant to Article 24(6) of Regulation (EU) 2021/241, the Commission has 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 2023.[7]

1) Milestone 144: Entry into force of legislative act to reduce temporary employment in public administrations.

[6] Commission Implementing Decision on the partial suspension of the disbursement of the fourth instalment of the non-repayable support for Spain, (C(2024) 5185 final), adopted on 19 July 2024.

[7] 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.

i. the unit value for the milestone was derived by dividing the financial contribution made available to Spain in the Council Implementing Decision in force at the time the disbursement of the first instalment was authorised (EUR 69 512 589 611) by the number of milestones and targets in that Decision related to the financial contribution (416);

ii. a coefficient of 5 was applied to the milestone as it concerns the entry into force of a reform.

iii. an upward adjustment of the corrected unit value (i.e., the unit value resulting from the application of the coefficient) was applied to the milestone (a factor of 3) as the reform is considered by the Commission of particular importance to justify the rating for addressing all or a significant subset of challenges identified in the relevant country-specific recommendations, including fiscal aspects thereof and recommendations made pursuant to Article 6 of Regulation (EU) No 1176/2011 where appropriate, addressed to the Member State concerned, or challenges identified in other relevant documents officially adopted by the Commission in the context of the European Semester. Specifically, the description of Component 11 in the Council Implementing Decision Annex specifies that the measures therein "*contribute to addressing Country Specific Recommendation 2019.2 to safeguard fostering the transition to open-ended contracts.*" Moreover, the importance of this milestone for the assessment of the criterion on country-specific recommendations is demonstrated in Recital 15 of the Council Implementing Decision of 15 July 2021, which provides that: *"[t]he RRP includes legislative reforms to reduce the use of temporary contracts in the private and public sectors, including by simplifying the menu of contracts and generalising the use of open-ended contracts."* Based on this measure, the Commission was able to conclude in Recital 12 of the proposal for a Council Implementing Decision that the recovery and resilience plan is expected to effectively address "*all or a significant subset of challenges (Rating A) identified in the relevant country-specific recommendations addressed to Spain, including fiscal aspects thereof*". Finally, in the Staff Working Document of 16 June 2021[8] (page 46 and 59), it is specified that the Commission assessed that the measure in question is of relevance to contribute significantly to reducing the high share of temporary contracts, including in the public sector.

iv. a downward adjustment of the corrected unit value was applied to the milestone (a factor of 0.25) as some of the measures included in the reform contribute to meeting some of the dimensions laid out in the Council Implementing Decision, namely stipulating measures at central, regional and local level to reduce temporary public employment and effective provisions to prevent abuses. In considering this downward adjustment, the Commission assessed the substantive progress towards the achievement of the overall objective of the reform. The Commission considers that the adoption of measures at central, regional and local level to reduce temporary employment in public employment and of effective provisions to prevent abuses, contributes to a large extent in reducing the rate of temporary employees in public administrations and strengthening public employment capacities.

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[8] SWD(2021) 147 final. Commission Staff Working Document. Analysis of the recovery and resilience plan of Spain of 16 June 2021 (source: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021SC0147&qid=1624628827022).

(24) The application of the methodology for the determination of payment suspension under the Recovery and Resilience Facility Regulation as above leads to an amount of EUR 626 615 891 that should be suspended.

(25) Therefore, as milestone 144 constituting part of Spain's first instalment of non-repayable support has been reversed and is no longer considered as satisfactory fulfilled, the payment of that amount is to be suspended from the subsequent disbursements related to non-repayable support pursuant to Article 24(6) of Regulation (EU) 2021/241.

(26) Pursuant to Article 24(6), second subparagraph of Regulation (EU) 2021/241 the suspension should only be lifted where Spain has taken the necessary measures to ensure a satisfactory fulfilment of milestone 144.

(27) Pursuant to Article 24(8) of Regulation (EU) 2021/241, where Spain does not take the necessary measures within a period of six months from the adoption of this Decision, the Commission will reduce the amount of the non-repayable support proportionately after having given the Member State concerned the possibility to present its observations within two months from the communication of its conclusions,

HAS ADOPTED THIS DECISION:

Article 1
Suspension of the payment of the non-repayable support

The payment of EUR 626 615 891 shall be suspended from the subsequent disbursement(s) of the non-repayable support as laid down in Section 2(3) of the Annex to Council Implementing Decision of 15 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain until it is necessary for the suspension of the full amount.

Article 2
Addressee

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 7.7.2025

For the Commission
Valdis DOMBROVSKIS
Member of the Commission