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**COMMISSION IMPLEMENTING DECISION**

**of 19.7.2024**

**on the partial suspension of the disbursement of the fourth instalment of the non-repayable support for Spain**

(Only the Spanish text is authentic)

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## on the partial suspension of the disbursement of the fourth instalment of the non-repayable support for Spain

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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<sup>1</sup>, 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 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain<sup>2</sup> (the ‘Council Implementing Decision’) provides that the Union is to release instalments in accordance with the Financing Agreement conditional on 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) On 20 December 2023, Spain submitted a request for payment of the fourth 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 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 that assessment, the operational arrangements concluded between the Commission and Spain<sup>3</sup> in accordance with Article 20(6) of Regulation (EU) 2021/241, were taken into account.
- (4) Section 2(3)(3.4) 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 non-repayable support for an amount of EUR 11 435 531 581.
- (5) As a result of the assessment provided for in Article 24(3) of Regulation (EU) 2021/241, the Commission established that target 201 has not been satisfactorily

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<sup>1</sup> OJ L 57, 18.2.2021, p. 17.

<sup>2</sup> ST 10150 2021; ST 10150 2021 ADD 1 REV 1 as amended by ST 13692 2023; ST 13692 2023; ST 13692 2023\_ADD\_1 and ST 9303 2024; ST 9303 2024 ADD 1.

<sup>3</sup> 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.

fulfilled. In accordance with Article 24(6) of Regulation (EU) 2021/241, the Commission communicated to Spain its assessment on 12 June 2024 and informed Spain that it could present its observations on the Commission's assessment within one month from the date of that communication.

- (6) On 28 June 2024, Spain presented its observations on the Commission's assessment pursuant to Article 24(6), first subparagraph of Regulation (EU) 2021/241.
- (7) On the basis of the justification provided in the request for payment and the observations presented by Spain, the Commission considers that target 201 has not been satisfactorily fulfilled.

Target 201 requires *“At least 30 % of the budget EUR 300 000 000 committed, devoted to SMEs in ‘Agents of Change Programme’. The calls for proposals with terms of reference shall include eligibility criteria that ensure that the selected projects comply with the ‘Do no significant harm’ Technical Guidance (2021/C58/01) through the use of an exclusion list and the requirement of compliance with the relevant EU and national environmental legislation.”* The indicator of the target is *“Budget committed to Agents of Change Program”*.

Spain has not provided any evidence that the required budget has been committed for SMEs in the ‘Agents of Change’ Programme. In particular, Spain has not provided evidence of the adoption of final award resolutions, or of their communication to recipients or equivalent evidence, which would prove that the amount required by the Council Implementing Decision has been committed.

Spain acknowledged in its observations on the Commission's assessment that it had no additional elements to present that could affect the aforementioned Commission's assessment of target 201. Spain stressed that it will continue to take the necessary steps to ensure the satisfactory fulfilment of the target within the next six months. As part of this, the Ministry in charge has already redefined the programme and launched a new call for grants. In view of these observations, the Commission's assessment stands as above.

- (8) Therefore, as target 201 constituting part of Spain's request for payment is not satisfactorily fulfilled, the disbursement of the financial contribution for the fourth instalment of the non-repayable support should be partially suspended, pursuant to Article 24(6) of Regulation (EU) 2021/241.
- (9) 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.<sup>4</sup>
- (10) The unit value for the target was derived by dividing the financial contribution of non-repayable support made available to Spain of EUR 79 854 183 024 by the number of milestones and targets related to the financial contribution of non-repayable support (505). A coefficient of 1 was applied to the target as it does not concern an intermediary milestone and the investment C13.I3: Digitalisation and Innovation accounts for more than 0.1% and less than 10% of the total allocation. No upward adjustment of the corrected unit value was applied to the target as it is not considered by the Commission to be of major importance to justify any of the ratings

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<sup>4</sup> 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

underpinning the positive assessment of the recovery and resilience plan. A proportional reduction to the corrected unit value was not applied to the target as the Commission has identified no progress in terms of budget committed towards the achievement of the target. The resulting payment suspension amounts to EUR 158 127 095.

- (11) 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 target 201.
- (12) 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 should 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 158 127 095 from the fourth instalment of the non-repayable support as laid down in Section 2(3)(3.4) of the Annex to Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain shall be suspended.

*Article 2*

*Addressee*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 19.7.2024

*For the Commission*

*Paolo GENTILONI*

*Member of the Commission*