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COMMISSION IMPLEMENTING DECISION

of 6.5.2024

**amending Commission Implementing Decision on the authorisation of the disbursement
of the first instalment of the non-repayable support for Lithuania of 28 April 2023**

(Only the Lithuanian 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.
- (2) Council Implementing Decision of 28 July 2021 on the approval of the assessment of the recovery and resilience plan for Lithuania² (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 Lithuania has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.
- (3) On 30 November 2022, Lithuania submitted a request for payment, accompanied by a management declaration and a summary of audits. The request concerned the first instalment of the non-repayable 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 31 out of 33 relevant milestones related to the non-repayable support. On that basis, the Commission by means of its Implementing Decision on the authorisation of the disbursement of the first instalment of the non-repayable support for Lithuania of 28 April 2023 authorised the disbursement of EUR 623 342 456 of non-repayable support.
- (5) Following the procedure provided for by Article 24(6) of Regulation 2021/241, the Commission established that milestone 142, “*Delivery of the proposals made on the*

¹ OJ L 57, 18.2.2021, p. 17.

² ST 10477 2021 INIT and ST 10477 2021 ADD 1, by ST 14637 2023 INIT; ST 14637 2023 ADD 1.

basis of an in-depth analysis for the withdrawal of tax exemptions and special tax regimes to the Parliament”, and milestone 144 *“Delivery of the proposals to expand environmental taxes and taxation of other sources less detrimental to economic growth on the basis of an in-depth analysis to the parliament”* had not been satisfactorily fulfilled. On that basis, the Commission by means of the Implementing Decision on the partial suspension of the disbursement of the first instalment of the non-repayable support for Lithuania of 28 April 2023 suspended EUR 26 201 251 from the disbursement of the first 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 27 October 2023, Lithuania presented additional justification related to milestone 142, *“Delivery of the proposals made on the basis of an in-depth analysis for the withdrawal of tax exemptions and special tax regimes to the Parliament”*, and milestone 144 *“Delivery of the proposals to expand environmental taxes and taxation of other sources less detrimental to economic growth on the basis of an in-depth analysis to the parliament”*.
- (7) On the basis of the additional justification provided, the Commission made a positive preliminary assessment of the satisfactory fulfilment of milestone 144, *“Delivery of the proposals to expand environmental taxes and taxation of other sources less detrimental to economic growth on the basis of an in-depth analysis to the parliament”*.
- (8) Milestone 144 requires that, based on a study analysing options to expand environmental taxes and taxation of other sources less detrimental to economic growth, draft amendments to the relevant tax laws shall be prepared and submitted to the parliament. Lithuania provided copies of draft laws in the areas of real estate tax, environmental taxes, excise duties on energy products and other taxes less detrimental to economic growth, and corresponding analytical work, notably in form of explanatory notes accompanying the draft amendments to the relevant tax laws. Specifically, Lithuania provided a copy of draft Law No. XIVP-1185 that amends the Law on Excise Duties, increasing the standard excise rate for gas oils and introducing a CO2 tax component for energy products. Lithuania also provided a copy of draft Law No. XIVP-2932 that revises the Law on Immovable Property Tax, proposing a broadened tax base. Additionally, Lithuania provided a copy of draft Law No. XIV-876 and draft Law No. XIV-799 amending the Law on Pollution Tax and the Law on Lotteries and Gambling Tax, respectively. Together, these proposals lead to an increased role of taxes that do not hamper economic growth in the tax structure. Thus, the evidence provided demonstrates that the content and objectives of the amendments to the aforementioned laws 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.
- (9) On the basis of the additional justification provided, the Commission assessed the progress made towards achieving the satisfactory fulfilment of milestone 142,

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.

“Delivery of the proposals made on the basis of an in-depth analysis for the withdrawal of tax exemptions and special tax regimes to the Parliament”.

- (10) Milestone 142 requires that, based on the publication of the cost-benefit analysis of existing tax exemptions and special tax regimes that are not effective and (or) no longer reflect state priorities, draft amendments to the relevant tax laws shall be drafted and submitted to the parliament. The evidence provided by Lithuania demonstrates that several tax exemptions, notably those pertaining to excise duties and corporate income tax, have been proposed to be abolished, while several tax exemptions and special tax regimes pertaining to personal income tax and excise duties have been proposed to be materially reduced in scope, also an analysis of tax exemptions in Lithuania was provided, despite being limited in scope and on substance. On the basis of the due justification provided and taking into account the additional observations submitted by Lithuania on 19 February 2024, the Commission does not consider that milestone 142 should be considered as satisfactorily fulfilled. Nonetheless, in accordance with the methodology for the determination of payment suspension under the Recovery and Resilience Facility Regulation, the further progress made towards achieving the policy objective of the milestone should be reflected in a revision to the amount that was subject to suspension.
- (11) In accordance with Article 24(4) of Regulation (EU) 2021/241, the Commission provided its findings on milestone 144 to the Economic and Financial Committee asking for its opinion on its satisfactory fulfilment. 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 milestone. The Committee agreed with the Commission positive preliminary assessment and provided an opinion that Lithuania had satisfactorily fulfilled milestone 144 associated with the first payment request. 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 payment request of the Republic of Lithuania, in accordance with Article 24(5) of Regulation (EU) 2021/241, the disbursement of the financial contribution for the first instalment of the non-repayable support, for an additional amount of EUR 17 467 501 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 Lithuania received EUR 328 831 293 of the financial contribution as pre-financing, an amount of EUR 83 619 832 of the payment of the first instalment should be utilised to clear the pre-financing, of which EUR 414 051 to clear the pre-financing for the REPowerEU chapter. Given that EUR 81 034 519 was utilised to clear pre-financing from the payment to Lithuania authorised by Implementing Decision of 28 April 2023 on the authorisation of the disbursement of the first instalment of the non-repayable support for Lithuania, an additional EUR 2 585 313 should be utilised to clear the pre-financing, of which EUR 414 051 to clear the pre-financing for the REPowerEU chapter.
- (14) As a result, an additional net payment to be provided to Lithuania should amount to EUR 14 882 188.
- (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 on the authorisation of the disbursement of the first instalment of the non-repayable support for Lithuania of 28 April 2023 on the authorisation of the disbursement of the first instalment of the non-repayable support for Lithuania 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 of 28 April 2023 on the authorisation of the disbursement of the first instalment of the non-repayable support for Lithuania 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 first instalment of the non-repayable support as laid down in Section 2(1)(1.1) of the Annex to the Council Implementing Decision of 20 July 2021 on the approval of the assessment of the recovery and resilience plan for Lithuania for an amount of EUR 640 809 957 is authorised.

In accordance with the Financing Agreement concluded pursuant to Article 23(1) of Regulation (EU) 2021/241 between the Commission and the Republic of Lithuania, EUR 83 619 832 shall be utilised to clear the pre-financing of the financial contribution. EUR 557 190 125 shall be provided to Lithuania by means of payment to the bank account indicated in the Financing Agreement.”

Article 2

Addressee

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 6.5.2024

For the Commission

Paolo GENTILONI

Member of the Commission