Ref. Ares(2023)8852327 - 22/12/2023

ADDENDUM TO THE RECOVERY AND RESILIENCE FACILITY FINANCING AGREEMENT between the Commission and the Kingdom of Spain

This Addendum (the "Addendum") to the Recovery and Resilience Facility Financing Agreement is made by and between

the European Union, represented by the European Commission,

hereinafter referred to as "**the Commission**"

and

the Kingdom of Spain, represented by the **Fourth Vice-President and Minister of Finance and Public Administration**,

hereinafter referred to as "**the Member State**",

hereinafter jointly referred to as the "Parties" and each of them a "Party"

PREAMBLE

Whereas:

(1) The Recovery and Resilience Facility Financing Agreement (the "**Financing Agreement**" or "**Agreement**") between the Commission and the Member State entered into force on 6 August 2021;

(2) Pursuant to Article 11(2) of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility ("RRF Regulation"), the maximum financial contribution for non-repayable financial support of each Member State had to be updated by 30 June 2022 in accordance with the methodology provided therein. On 30 June 2022, the Commission presented the results of that update to the European Parliament and the Council.

(3) The RRF Regulation provides for the inclusion of REPowerEU chapters in recovery and resilience plans in order to provide Member States with financial support with a view to

achieving the milestones and targets of reforms and investments pursuing REPowerEU objectives, as set out in their recovery and resilience plans.

(4) On 6 June 2023, the Member State submitted a modified recovery and resilience plan ("RRP"), including a REPowerEU chapter, to the Commission. The modified RRP also took into account the updated maximum financial contribution in accordance with Article 18(2) of the RRF Regulation. The Council Implementing Decision approving the assessment of the modified RRP entered into force on 19 October 2023. On this basis, there should be an addendum to the Financing Agreement, also taking into account the updated financial contribution, in accordance with Article 1(3) of the Financing Agreement.

Financial Contribution

(5) The Council Implementing Decision establishes a Financial Contribution of EUR 79 854 183 024 for the Member State, with EUR 46 592 869 727 available to be legally committed by 31 December 2022. A further amount of EUR 30 621 037 074 is available to be legally committed as of 1 January 2023 until 31 December 2023.

(6) Furthermore, in line with Article 21a(6) of the RRF Regulation, the Council Implementing Decision allocates EUR 2 582 276 223 of the revenue obtained from the emissions trading system in accordance with Article 10e of Directive 2003/87/EC of the European Parliament and of the Council; and EUR 58 000 000 transferred to the Facility from the Brexit Adjustment Reserve in accordance with Article 21b(2) of the RRF Regulation.

REPowerEU Pre-financing

(7) The Kingdom of Spain has requested the following funding for the implementation of its REPowerEU chapter: EUR 2 576 417 190 in the form of financial contribution calculated in accordance with Article 11, transfer of EUR 58 000 000 from the provisional allocation from the resources of the Brexit Adjustment Reserve, EUR 2 582 276 223 from the revenue from the Emissions Trading System under Directive 2003/87/EC of the European Parliament and of the Council, and EUR 1 700 000 000 in the form of loan.

(8) In accordance with Article 21d of the RRF Regulation, the Council Implementing Decision establishes an amount of EUR 1 043 338 683 equal to 20% of the additional funding that is a Financial Contribution to finance the REPowerEU chapter to be paid as pre-financing to the Member State.

The Parties have agreed as follows:

Article 1 Relationship between the Addendum and the Financing Agreement

This Addendum shall form an integral part of the Financing Agreement. All definitions and clauses of that Financing Agreement shall apply to it, subject to the following under Article 2(3) and (4).

Article 2 Additional Financial Contribution Amount and Pre-Financing

1. Subject to the provisions of the RRF Regulation, the Council Implementing Decision, the Financing Agreement and this Addendum, the Union makes available to the

Member State an Additional Financial Contribution of EUR 33 261 313 297. That Additional Financial Contribution includes an amount of EUR 30 621 037 074, following the update referred to in Article 11(2) of the RRF Regulation; an amount of EUR 2 582 276 223, in accordance with Article 21a(6) of the RRF Regulation; and an amount of EUR 58 000 000, in accordance with Article 21b(2) of the RRF Regulation.

2. In accordance with the second paragraph of Article 2(2) of the Council Implementing Decision and Article 21d of the RRF Regulation, the Commission shall pay an amount of EUR 1 043 338 683 equal to 20% of the additional funding to finance the REPowerEU chapter as pre-financing. That pre-financing may be disbursed by the Commission in up to two payments. The Commission shall pay the first pre-financing payment, to the extent possible and subject to available resources, within two months from the entry into force of this Addendum. The Commission shall pay the second pre-financing payment, to the extent possible and subject to available resources, within 12 months of the entry into force of the Council Implementing Decision approving the assessment of the recovery and resilience plan including a REPowerEU chapter. Each pre-financing payment may be disbursed in one or more tranches.
3. The reference to "paragraph 1" in Article 5(3) of the Financing Agreement shall be construed as referring also to paragraph 2 of this Article.
4. By derogation to the Financing Agreement, Annex II is replaced by Annex A to this Addendum.

Article 3 Entry into force

The Addendum shall enter into force on the date on which the last Party signs it.

Article 4 Governing law and jurisdiction

1. This Addendum and any non-contractual obligations arising out of or in connection with it shall be governed by and shall be construed in accordance with European Union law, supplemented if necessary by Luxembourgish law.
2. The Parties undertake to submit any dispute that may arise relating to the legality, validity, interpretation or performance of this Addendum to the exclusive jurisdiction of the Court of Justice of the European Union in accordance with Article 272 of the TFEU.

Done in Madrid on 13 DIC 2023 and in Brussels on 22/12/2023 . Done in duplicate, both being equally authentic, each of which shall constitute an original instrument.

KINGDOM OF SPAIN

Represented by

- signed -

María Jesús Montero Cuadrado

Fourth Vice-President and Minister

of Finance and Public Administration

EUROPEAN UNION

represented by

EUROPEAN COMMISSION

Represented by

- signed -

Paolo Gentiloni

Commissioner for Economy

ANNEX A

REQUEST FOR PAYMENT

[*on letterhead of the Member State*]

[*date*]

European Commission
Directorate-General for Economic and Financial Affairs
Unit R2
Attn.: Head of Unit
Office: LOI 102 7/25
B-1049 Brussels
Belgium

Subject: **RRF – Request for Payment**

Dear Sir/Madam,

We refer to Regulation (EU) 2021/241, notably Article 24 thereof, and the Financing Agreement dated [insert date] between the European Union, represented by the European Commission (the "**Commission**"), and [insert Member State] and its Addendum dated [insert date]. Terms defined in the Financing Agreement shall have the same meaning herein.

[We confirm that the relevant milestones and targets referred to under the [first/second/third/etc.] instalment for non-repayable support as specified in Section 2: Financial Support of the Annex to Council Implementing Decision (EU) [XXX/XXX] have been satisfactorily fulfilled and we hereby request the disbursement of EUR [the value set out in the Council Implementing Decision].] OR

[We confirm that the following relevant milestones and targets referred to under the [first/second/third/etc.] instalment for non-repayable support as specified in Section 2: Financial Support of the Annex to Council Implementing Decision (EU) [XXX/XXX] have been satisfactorily fulfilled and we hereby request the disbursement of up to EUR [the value as set out in the Council Implementing Decision]:

Milestone [number reference of the milestone]

Target [number reference of the target]

[repeat as necessary]]

We have uploaded the due justification for this payment request to the relevant tool as provided by the Commission. Furthermore, we have declared the total cumulative expenditure disbursed up to that moment for the implementation of each reform and investment of the national recovery and resilience plan assigned a positive climate marker under the methodology in Regulation (EU) 2021/241, as contributing to climate change objectives. We confirm that measures related to previously satisfactorily fulfilled milestones and targets have not been reversed[1].

A duly signed Management Declaration and summary of audits carried out are annexed to this letter.

We request the payment to be made to the account referred to in Article 8(2) of the Financing Agreement.

[Signature]

Annexes

- Management Declaration
- Summary of Audits

Copy to:

- European Central Bank

[1] For the first payment request, please delete this sentence.