



AGREEMENT

between the Republic of Moldova, of the one part, and, the European Union, of the other part on the participation of the Republic of Moldova in the Union programme Connecting Europe Facility

The Government of the Republic of Moldova (hereinafter referred to as 'the Republic of Moldova'), on behalf of the Republic of Moldova,

of the one part,

and

the European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union

of the other part,

hereinafter referred to as 'the Parties'

WHEREAS the Protocol I to the Association Agreement[1] between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, on a Framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes[2] stipulates that specific terms and conditions regarding the participation of the Republic of Moldova in each particular programme, in particular the financial contribution payable and the reporting and evaluation procedures, are to be determined in a Memorandum of Understanding between the European Commission and the competent authorities of the Republic of Moldova on the basis of the criteria established by the programmes concerned[3];

WHEREAS the Union programme Connecting Europe Facility was established by Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the

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1 OJ L 260, 30.8.2014, p. 4.

2 OJ L 260, 30.8.2014, p. 619.

3 This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under Article 5 of the Protocol I to the Association Agreement on the general principles for the participation of the Republic of Moldova in Union programmes.

Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014[4];

RECOGNISING the general principles as set out in Regulation (EU) 2021/1153;

ACKNOWLEDGING the objectives of the Connecting Europe Facility to build, develop, modernise and complete the trans-European networks in the transport, energy, and digital sectors and to facilitate cross-border cooperation in the field of renewable energy, taking into account the long-term decarbonisation commitments and the goals of increasing European competitiveness; smart, sustainable and inclusive growth; territorial, social and economic cohesion; and the access to and integration of the internal market, with an emphasis on facilitating the synergies among the transport, energy and digital sectors;

WHEREAS the specific objectives of the Connecting Europe Facility Programme are:

in the transport sector to contribute to the development of the projects of common interest relating to efficient, interconnected and multimodal networks and infrastructure for smart, interoperable, sustainable, inclusive, accessible, safe and secure mobility in accordance with the objectives of Regulation (EU) No 1315/2013[5],

in the energy sector:

to contribute to the development of projects of common interest (and, by extension, projects of mutual interest)[6] relating to further integration of an efficient and competitive internal energy market, interoperability of networks across borders and sectors, facilitating decarbonisation of the economy, promoting energy efficiency and ensuring security of supply; and

to facilitate cross-border cooperation in the area of energy, including renewable energy;

in the digital sector: to contribute to the development of projects of common interest relating to the deployment of and access to safe and secure very high capacity networks, including 5G systems, and to the increased resilience and capacity of digital backbone networks on Union territories by linking them to neighbouring territories, as well as to the digitalisation of transport and energy networks,

HAVE AGREED AS FOLLOWS:

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[4] OJ L 249, 14.07.2021, p. 38.

[5] OJ L 348, 20.12.2013, p.1.

[6] See Article 18(5) of Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013, OJ L 152, 3.6.2022, p. 45: "This Article shall apply mutatis mutandis to projects of mutual interest."

Article 1

Scope of the association

1. The Republic of Moldova shall participate as associated country in and contribute to the transport, energy and digital sectors of the Connecting Europe Facility Programme referred to in Article 3(2)(a)(i), 3(2)(b) and 3(2)(c) of Regulation (EU) 2021/1153, in its most up to date version.

2. Regarding the specific objective in the digital sector referred to in Article 3(2)(c) of Regulation (EU) 2021/1153, the Republic of Moldova shall participate in and contribute to the projects of common interest described in Article 8(4) points (c) and (d) of Regulation (EU) 2021/1153.

Article 2

Terms and conditions of participation in the Connecting Europe Facility Programme

1. The Republic of Moldova shall participate in the Connecting Europe Facility Programme in accordance with the conditions laid down in the Protocol I to the Association Agreement, and under the terms and conditions set forth in this Agreement, in Regulation (EU) 2021/1153, as well as in any other rules pertaining to the implementation of the Connecting Europe Facility Programme, in their most up to date versions.

2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, legal entities established in the Republic of Moldova may participate in actions of the Connecting Europe Facility Programme under conditions equivalent to those applicable to legal entities established in the Union, including respect for EU restrictive measures[7].

3. Representatives of the Republic of Moldova shall have the right to participate as observers in the committee referred to in Article 24 of Regulation (EU) 2021/1153, without voting rights and for points which concern the Republic of Moldova. The committee shall meet without the presence of the representatives of the Republic of Moldova at the time of voting. The Republic of Moldova will be informed of the result.

4. Travel costs and subsistence expenses incurred by representatives and experts of the Republic of Moldova for the purposes of taking part as observers in the work of the committee referred to in Article 24 of Regulation (EU) 2021/1153, or in other meetings related to the implementation of the Connecting Europe Facility Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

5. The Parties shall make every effort, within the framework of the existing provisions, to

[7] The EU restrictive measures are adopted pursuant to the Treaty on the European Union or the Treaty on the Functioning of the European Union.

facilitate the free movement and residence of persons participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

6. The Republic of Moldova shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in the Republic of Moldova or imported into the Republic of Moldova, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in the Republic of Moldova.

7. English shall be used for the procedures related to requests, contracts and reports, as well as for other administrative aspects of the Connecting Europe Facility Programme.

Article 3

Financial contribution

1. Participation of the Republic of Moldova or the Republic of Moldova's legal entities in the Connecting Europe Facility Programme shall be subject to the Republic of Moldova contributing financially to the Programme and the related management, execution and operation costs under the general budget of the Union (hereinafter referred to as the 'Union budget').
2. The financial contribution shall take the form of the sum of:
   a. an operational contribution; and
   b. participation fee.
3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and October.
4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Connecting Europe Facility Programme.
5. The operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of the Republic of Moldova at market prices to the GDP of the Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. Adjustments to this contribution key are laid down in Annex I.
6. The operational contribution shall be calculated applying the contribution key, as adjusted, to the commitment appropriations entered in the Union budget definitively adopted for the applicable year for financing the Connecting Europe Facility Programme.
7. The participation fee shall be 4% of the annual operational contribution as calculated in accordance with paragraphs 5 and 6 and shall be phased in as set out in Annex I. The

participation fee shall not be subject to retrospective adjustments or corrections.

8. The Union shall provide the Republic of Moldova with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the Union budgetary and discharge authorities concerning the Connecting Europe Facility Programme. That information shall be provided having due regard to the Union's and the Republic of Moldova's confidentiality and data protection rules and shall be without prejudice to the information which the Republic of Moldova is entitled to receive under Annex II.
9. All contributions of the Republic of Moldova or payments from the Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Connecting Europe Facility Programme, the participation of the Republic of Moldova in that Programme shall be continuously monitored on a partnership basis involving the Commission and the Republic of Moldova.

2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to Union funding under this Agreement are laid down in Annex II.

Article 5

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2023. It shall remain in force for as long as is necessary for all the projects and actions financed from the Connecting Europe Facility Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. The Union and the Republic of Moldova may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

4. Should the Republic of Moldova notify the Commission acting on behalf of the Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.

5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by the Republic of Moldova in accordance with point II of Annex I.

   Suspension of the application of this Agreement shall be notified by the European Union to the Republic of Moldova by a formal letter of notification which shall take effect 20 days following the receipt of this notification by the Republic of Moldova.

   In case the application of this Agreement is suspended, legal entities established in the Republic of Moldova shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

   The suspension does not affect the legal commitments entered into with the legal entities established in the Republic of Moldova before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

   The European Union shall immediately notify the Republic of Moldova once the entire amount of the financial contribution due has been received by it. The suspension shall be lifted with an immediate effect upon this notification.

   As of the date when the suspension is lifted, legal entities of the Republic of Moldova shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it.

   The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph (4) or is terminated in accordance with paragraph (6), the Parties agree that:

   (a) projects or actions or parts thereof in respect of which legal commitments have been entered into force during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;

   (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The

entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Romanian, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Chișinău, on 9 May 2023

For the REPUBLIC OF MOLDOVA

Lilia Dabija

Minister of Infrastructure and Regional Development

For the EUROPEAN UNION

Adina Vălean

Member of the Commission

ANNEX I: Rules governing the financial contribution of the Republic of Moldova to the Connecting Europe Facility Programme(2021-2027)

ANNEX II: Sound Financial Management

Annex I

Rules governing the financial contribution of the Republic of Moldova to the Connecting Europe Facility Programme (2021-2027)

I. Calculation of the Republic of Moldova's financial contribution

1. The financial contribution of the Republic of Moldova to the Connecting Europe Facility Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Connecting Europe Facility Programme.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:
   - 2023: 1,5%;
   - 2024: 2%;
   - 2025: 2,5%;
   - 2026: 3%;
   - 2027: 4%.

3. In accordance with Article 3(5) of this Agreement, the operational contribution to be paid by the Republic of Moldova for its participation in the Connecting Europe Facility Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

   The adjustment to the contribution key shall be:

   $$\text{Contribution Key Adjusted} = \text{Contribution Key} \times Coefficient$$

   The coefficient used for the above calculation to adjust the contribution key shall be 0.05 for 2023-2027.

II. Payment of the Republic of Moldova's financial contribution

1. The Commission shall communicate to the Republic of Moldova, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of the Republic of Moldova in Connecting Europe Facility Programme;
b. the amount of the participation fee referred to in Article 3(7) of this Agreement.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in September of each financial year, a call for funds to the Republic of Moldova corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of the Republic of Moldova's contribution not later than 30 days after the call for funds is issued.

By derogation, for 2023, the Commission will issue the call for funds in 2024.

3. The Republic of Moldova shall pay its financial contribution under this Agreement in accordance with point II of this Annex. In the absence of payment by the Republic of Moldova by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by the Republic of Moldova on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by three and half percentage points.

In case the delay in the payment of the contribution is such that it may significantly jeopardise the implementation and management of the Connecting Europe Facility Programme, participation of the Republic of Moldova in the Connecting Europe Facility Programme will be suspended by the Commission following the absence of payment 20 working days after a formal letter of reminder, without prejudice to the Union's obligations according to grant agreements and/or contracts already concluded pertaining to the implementation of the indirect actions for which the Republic of Moldova was selected.

Annex II

Sound Financial Management

Protection of financial interests and recovery

Article 1
Reviews and audits

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in the Republic of Moldova and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in the Republic of Moldova. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.

2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.

3. The Republic of Moldova shall not prevent or raise any particular obstacle to the right of entrance in the Republic of Moldova and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.

4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 5(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 5(5), the cessation of provisional application or termination of this Agreement takes effect.

Article 2

Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of the Republic of Moldova. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.

2. The competent Republic of Moldova's authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.

3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in the Republic of Moldova and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in the Republic of Moldova.

4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Republic of Moldova's authority designated by the Republic of Moldova's government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Republic of Moldova's authorities may participate in the on-the-spot checks and inspections.

5. Upon request by the Republic of Moldova's authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Republic of Moldova's authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Republic of Moldova's authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Republic of Moldova's authority any fact or

suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of the Republic of Moldova's criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of the Republic of Moldova participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Republic of Moldova's competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, the Republic of Moldova shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the Republic of Moldova's competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Republic of Moldova's authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3
Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Connecting Europe Facility Programme shall be enforceable in the Republic of Moldova. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of the Republic of Moldova. The government of the Republic of Moldova shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4 of this Annex, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in the Republic of Moldova. Enforcement shall take place in accordance with the Republic of Moldova's law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in the Republic of Moldova in the same manner as European Commission decisions referred to in paragraph 1.

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of the Republic of Moldova shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Article 4

Communication and exchange of information

The European Union institutions and bodies involved in the implementation of Connecting Europe Facility Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in the Republic of Moldova and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in the Republic of Moldova. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.