Amendamente
la Acordul de constituire a Băncii Europene pentru Reconstrucție și Dezvoltare

(*Rezoluțiile BERD nr. 259, nr. 260 din 18 mai 2023 și nr. 265 din 15 decembrie 2023*)

COPIE CERTIFICATĂ

TEXT ÎN LIMBA ENGLEZĂ

RESOLUTION NO.259

AMENDMENT TO ARTICLE 1 OF THE AGREEMENT ESTABLISHING THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT TO ENABLE A LIMITED AND INCREMENTAL EXPANSION OF THE GEOGRAPHIC SCOPE OF THE BANK'S OPERATIONS TO SUB-SAHARAN AFRICA AND IRAQ

THE BOARD OF GOVERNORS,

Recalling Resolution No.248, by which the Board of Governors approved, in principle, a limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq;

Emphasising the importance of sub-Saharan Africa and Iraq to achieving the international community's geopolitical and development priorities, the growing links between many countries in sub-Saharan Africa and Iraq and current EBRD countries of operations, and the relevance and applicability of the Bank's mandate, business model, private sector focus and competencies in sub-Saharan Africa and Iraq;

Stressing that the most urgent priority of the Bank remains to support Ukraine and other countries of operations affected by the war on Ukraine;

Recognising that the war on Ukraine has reinforced the parallel relevance of continuing to address shareholder objectives in sub-Saharan Africa and Iraq;

Underlying that any possible limited and incremental expansion to new countries of operations must not: impair the Bank's ability to support its current countries of operations, compromise the Bank's triple-A rating, lead to a request for additional capital contributions, or deviate from the Bank's mandate to support transition and its operating principles of additionality and sound banking;

Emphasising the importance of complementarity and collaboration amongst development partners already active in sub-Saharan Africa and Iraq; and

Having considered the Report of the Board of Directors to the Board of Governors "*Amendment to Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development in order to enable the limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq*" and being in agreement with its conclusions, amongst others, that:

(i) The analysis of the capital and financial implications reconfirms that a limited and incremental expansion to Sub-Saharan Africa and Iraq will not in itself impair the Bank's ability to support its existing countries of operations, compromise the Bank's triple-A credit rating, or lead to a request for additional capital contributions;

(ii) Such limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq should be enabled through an amendment of Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development ('the Agreement'); and

(iii) The implementation of the expansion must be carried out in a way that will not dilute the focus of the Bank in supporting Ukraine and other countries of operations affected by the war on Ukraine.

RESOLVES THAT:

1. Article 1 of the Agreement shall be amended to read as follows:

"In contributing to economic progress and reconstruction, the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics. Subject to the same conditions, the purpose of the Bank may also be carried out in (i) Mongolia; (ii) member countries of the Southern and Eastern Mediterranean; and (iii) a limited number of member countries of sub-Saharan Africa; in each case under (ii) and (iii) as determined by the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Accordingly, any reference in this Agreement and its annexes to "Central and Eastern European countries", "countries from Central and Eastern Europe", "recipient country (or countries)" or "recipient member country (or countries)" shall refer to Mongolia and each of such countries of the Southern and Eastern Mediterranean and sub-Saharan Africa as well."

a. The term "sub-Saharan Africa" as set out under Article 1 of the Agreement shall be understood to mean the sub-Saharan Africa region as defined by the World Bank Group.

b. The limitation on the number of member countries of sub-Saharan Africa in which the Bank may carry out its purpose as set out under Article 1 of the Agreement shall be understood so as to enable a limited and incremental expansion of the geographic scope of the Bank's operations, in accordance with the measures and mechanisms set out in the report of Board of Directors *"Amendment of the Agreement Establishing the European Bank for Reconstruction and Development in order to enable the limited and incremental expansion of the geographic scope of the Bank's operations to sub- Saharan Africa and Iraq"*. In this context, an affirmative vote of not less than three- fourths of the Governors, representing not less than four-fifths of the total voting power of the members shall be required to approve any further increment to the expansion.

c. Iraq shall be incorporated into the Southern and Eastern Mediterranean region for the purposes of the Agreement, and consequently the term "Southern and Eastern Mediterranean" as set out under Article 1 of the Agreement shall be understood to mean the region consisting of the countries that have a shoreline on the Mediterranean as well as Jordan and Iraq, which are closely integrated into this region.

2. Members of the Bank shall be asked whether they accept the said amendment by (a) executing and depositing with the Bank an instrument stating that such member has accepted the said amendment in accordance with its law and (b) furnishing evidence, in form and substance satisfactory to the Bank, that the amendment has been accepted and the instrument of acceptance has been executed and deposited in accordance with the law of that member.

3. The said amendment shall enter into force three (3) months after the date on which the Bank has formally confirmed to its members that the requirements for accepting the said amendment, as provided for in Article 56 of the Agreement, have been met.

(Adopted 18 May 2023)

RESOLUTION NO.260

AMENDMENT TO ARTICLE 12.1 OF THE AGREEMENT ESTABLISHING THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT TO REMOVE THE STATUTORY CAPITAL LIMITATION ON ORDINARY OPERATIONS

THE BOARD OF GOVERNORS,

Recognising the essential role of Multilateral Development Banks (MDBs) in addressing multiple pressing global challenges;

Noting the significant changes in capital management practices in the financial sector since the Agreement entered into force on 28 March 1991;

Wishing to enable the optimal use of the Bank's capital capacity to support the Bank in achieving the maximum potential impact in its recipient countries;

Welcoming the wide ranging recommendations of the G20 Independent Review of Capital Adequacy Frameworks and the careful consideration accorded to them by the Bank, including specifically the recommendation to modernise MDBs' approach to managing capital adequacy by relocating specific leverage limits from MDB statutes to MDB capital adequacy frameworks, in a coordinated manner among MDBs;

Having considered and being in agreement with the report of the Board of Directors *"Amendment of the Article 12.1 to the Agreement Establishing the European Bank for Reconstruction and Development in order to remove the statutory capital limitation on ordinary operations"* and its recommendation to approve an amendment of Article 12.1 of the Agreement to remove the statutory capital limitation on ordinary operations; and

On the understanding that the Board of Directors will maintain an appropriate nominal leverage limit on operations, set against relevant capital metrics, within the Bank's capital adequacy framework, as part of its responsibility to protect the financial soundness and sustainability of the Bank.

RESOLVES THAT:

1. Article 12.1 of the Agreement shall be amended by deleting its existing text and introducing a new text as follows:

   "*1. The Board of Directors shall establish and maintain appropriate limits with respect to capital adequacy metrics, in order to protect the financial soundness and sustainability of the Bank.*"

2. Members of the Bank shall be asked whether they accept the said amendment by (a) executing and depositing with the Bank an instrument stating that such member has accepted the said amendment in accordance with its law and (b) furnishing evidence, in form and substance satisfactory to the Bank, that the amendment has been accepted and the instrument of acceptance has been executed and deposited in accordance with the law of that member.

3. The said amendment shall enter into force three (3) months after the date on which the Bank has formally confirmed to its members that the requirements for accepting the said amendment, as provided for in Article 56 of the Agreement, have been met.

(Adopted 18 May 2023)

RESOLUTION NO. 265

INCREASE IN AUTHORISED CAPITAL STOCK AND SUBSCRIPTIONS THERETO

THE BOARD OF GOVERNORS:

Reaffirming the commitment of shareholders to support Ukraine in response to the military invasion by the Russian Federation;

Recalling Resolution No. 258 '*EBRD's Support for Resilience and Reconstruction in Ukraine: The Way Forward*' calling on the Board of Directors to submit a concrete proposal on the scope of the Bank's support for Ukraine and a potential paid-in capital increase;

Having carefully considered the Report of the Board of Directors '*Proposal for a Paid-in Capital Increase*' (the 'Report');

Endorsing the scope envisaged for the Bank in collaboration with other partners of Ukraine and as part of a well-coordinated international effort to support Ukraine, maintaining and applying the Bank's unique mandate and business model;

Stressing the importance of the Bank's role in continuing to support all of its countries of operations in addressing the most pressing transition challenges, aligned with the Bank's strategic direction;

Being in agreement that a paid-in increase to the Bank's authorised capital stock is required to enable it to play its role in Ukraine while continuing to fully support all of its countries of operations;

Welcoming and endorsing the Bank's specific ambitions for its work in Ukraine, as well as the short- and long-term commitments for the Bank's continuing evolution, as elaborated in the Report; and

Noting the Bank's commitment to the efficient use of its capital resources and the continuing implementation of the G20 Capital Adequacy Framework review recommendations, as elaborated in the Report.

HEREBY RESOLVES THAT:

1. Increase in Authorised Capital Stock

The authorised capital stock of the Bank shall, effective on 31 December 2024 (the "Effective Date"), be increased by 400,000 paid-in shares, each share having a par value of EUR 10,000.

2. Subscriptions

(a) In accordance with Article 5.3 of the Agreement Establishing the Bank (the 'Agreement'), each member as at the date this Resolution is adopted shall be entitled to subscribe, at par, to a proportion of the increase in stock equivalent to the proportion which its stock subscribed bears to the total subscribed capital stock held by the Bank immediately prior to the date this Resolution is adopted rounded downwards to the nearest share. Each such subscription shall be on the terms and conditions set forth in this Resolution.

(b) On or before 30 June 2025, or such subsequent date not later than 31 December 2025 as the Board of Directors may determine on or before 30 June 2025, each member wishing to subscribe pursuant to this Resolution shall deposit with the Bank the following documents in a form acceptable to the Bank:

(i) an instrument of subscription whereby the member subscribes to the number of paid-in shares specified in such instrument;

(ii) a representation that the member has duly taken all legislative and other internal action necessary to enable it to make such subscription; and

(iii) an undertaking that the member will furnish such information as the Bank may request concerning such action.

(c) Each instrument of subscription shall become effective and the subscription thereunder shall be deemed to have been made on the Effective Date, or on the date on which the Bank notifies the subscribing member that the documents deposited by such member pursuant to paragraph (b) above are satisfactory to the Bank, whichever is the later.

(d) The shares authorised by this Resolution which shall not have been subscribed to in accordance with this Resolution by the time that the deadline for subscription has expired shall be retained by the Bank and reserved for initial subscriptions by new members and for special increases in the subscriptions of individual members, as may be determined by the Board of Governors pursuant to Articles 5.2 and 5.4 of the Agreement.

(e) On 1 May 2033, any shares subscribed to pursuant to this Resolution that have not been paid for, notwithstanding the application of the payment terms below, shall automatically be surrendered to the Bank at no consideration, with the shareholding of the relevant member(s) reduced accordingly. Any such surrendered shares shall also be retained by the Bank and reserved for initial subscriptions by new members and for special increases in the subscriptions of individual members, as may be determined by the Board of Governors pursuant to Articles 5.2 and 5.4 of the Agreement.

3. Payment Terms

(a) Payment for the paid-in shares subscribed pursuant to this Resolution shall be made in five equal annual instalments. The first instalment shall be paid by each member by the later of (i) 30 April 2025; or (ii) 60 days after its instrument of subscription has become effective. The remaining four instalments shall be paid by 30 April 2026; 30 April 2027; 30 April 2028 and 30 April 2029, respectively. A member may, after consultation with the Bank, make payments on terms more favourable to the Bank than those stipulated in the foregoing provisions of this paragraph. A member may satisfy all or part of its payment obligations in non-negotiable, non-interest-bearing promissory notes, encashable by the Bank at par value upon demand on a schedule aligned with the foregoing instalment due dates.

(b) All payment obligations of a member in respect of subscription to shares in accordance with this Resolution shall be settled in Euro (EUR), in United States Dollars (USD) or in Japanese Yen (JPY), in the latter two cases on the basis of the average exchange rate of the relevant currency in terms of Euro for the period from 1 July 2023 to 30 September 2023, inclusive, quoted by the European Central Bank, specifically 1 EUR : 1.0844 USD and 1 EUR : 157.25 JPY. Members wishing to settle their payment obligations in United States Dollars or in Japanese Yen shall make an irrevocable election to such effect as part of their instrument of subscription, applicable to all payments.

(Adopted 15 December 2023)

Prin prezenta, confirm că textul alăturat este copia autentică a copiei certificate a Amendamentelor la Acordul de constituire a Băncii Europene pentru Reconstrucție și Dezvoltare (*Rezoluțiile BERD nr. 259, nr. 260 din 18 mai 2023 și nr. 265 din 15 decembrie 2023*), originalul căruia este depozitat la Arhiva Tratatelor a Ministerului Afacerilor Externe.

Anatol CEBUC
Șef al Direcției Drept Internațional
a Ministerului Afacerilor Externe