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COMMISSION IMPLEMENTING DECISION

of 5.12.2022

approving the programme “European Funds for Silesia 2021-2027” for support from the European Regional Development Fund, the European Social Fund Plus and the Just Transition Fund under the Investment for jobs and growth goal for the region Silesia in Poland

CCI 2021PL16FFPR012

(ONLY THE POLISH 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) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy¹, and in particular Article 23(4) thereof,

Whereas:

- (1) On 14 March 2022 Poland submitted, through the electronic data exchange system of the Commission, the programme “European Funds for Silesia 2021-2027” for support from the European Regional Development Fund (‘ERDF’), the European Social Fund Plus (‘ESF+’) and the Just Transition Fund (‘JTF’) under the Investment for jobs and growth goal for the region Silesia in Poland.
- (2) The programme was prepared by Poland in cooperation with the partners referred to in Article 8(1) of Regulation (EU) 2021/1060.
- (3) The programme contains all the elements referred to in Article 22(3) of Regulation (EU) 2021/1060 and was prepared in accordance with the model set out in Annex V to Regulation (EU) 2021/1060.
- (4) In accordance with Article 15(2) of Regulation (EU) 2021/1060, the programme sets out Poland’s assessment of the fulfilment of the horizontal enabling conditions and the thematic enabling conditions linked to the selected specific objectives for this programme. In its assessment, Poland concludes on the lack of fulfilment of the horizontal enabling condition on the ‘Effective application and implementation of the Charter of Fundamental Rights’ and of the thematic enabling conditions on ‘Comprehensive transport planning at the appropriate level’, ‘National strategic policy framework for social inclusion and poverty reduction’ and ‘Strategic policy framework for health and long-term care’. In that respect, the conditions in question should be declared as non-fulfilled. In accordance with Article 15(5) of Regulation

¹ OJ L 231, 30.6.2021, p. 159.

(EU) 2021/1060, expenditure related to operations linked to the specific objectives concerned by unfulfilled enabling conditions may be included in payment applications but cannot be reimbursed by the Commission until Poland has informed the Commission of its assessment that it considers the enabling condition fulfilled with a justification of the fulfilment in accordance with Article 15(3) of Regulation (EU) 2021/1060 and, subsequently, the Commission has informed the Member State that it agrees with the fulfilment of the enabling condition pursuant to the first subparagraph of Article 15(4) of that Regulation. Amounts paid as pre-financing for the years 2021 and 2022 are to be cleared from the Commission accounts each year in accordance with Article 90(5) of Regulation (EU) 2021/1060 and may thus be recovered. In addition, pursuant to Article 15(6) of Regulation (EU) 2021/1060, it is recalled that Member States have to ensure that enabling conditions remain fulfilled and respected throughout the programming period.

- (5) In accordance with Article 23 of Regulation (EU) 2021/1060, the Commission assessed the programme and made observations pursuant to paragraph 2 of that Article on 15 June 2022. Poland provided supplementary information between 29 June 2022 and 16 November 2022 and submitted a revised programme on 18 November 2022.
- (6) In accordance with Article 10(1) of Regulation (EU) 2021/1056 of the European Parliament and of the Council², Poland has submitted a territorial just transition plan prepared in accordance with the template set out in Annex II of that Regulation, with the involvement of the relevant partners in accordance with Article 8 of Regulation (EU) 2021/1060 and Article 11(3) of Regulation (EU) 2021/1056.
- (7) Without prejudice to the situation as regards enabling conditions laid out in recital 4, Article 15(3) of Regulation (EU) 2021/1060 requires the Commission to approve the programmes also where not all enabling conditions are fulfilled. The Commission concluded that the programme complies with Regulations (EU) 2021/1060 and (EU) 2021/1056 as well as with Regulations (EU) 2021/1058³ and (EU) 2021/1057⁴ of the European Parliament and of the Council, is consistent with the Partnership Agreement of Poland and takes into account the relevant country-specific recommendations, the relevant challenges identified in the integrated national energy and climate plan and the principles of the European Pillar of Social Rights.
- (8) Pursuant to the first subparagraph of Article 86(1) of Regulation (EU) 2021/1060, this Decision constitutes a financing decision within the meaning of Article 110(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁵. It is nevertheless necessary to specify the elements needed to make the budgetary commitments with respect to the programme in this Decision.

² Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

³ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60).

⁴ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

⁵ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (9) Pursuant to Article 112(1) and (2) of Regulation (EU) 2021/1060, it is necessary to fix for each priority the co-financing rate and the maximum amount of support from the Funds. It is also necessary to specify whether the co-financing rate for the priority applies to total contribution, including public and private contribution, or to public contribution.
- (10) This Decision is without prejudice to the Commission's position regarding compliance of any operation supported under the programme with the State aid rules applicable at the time when the support is granted.
- (11) The programme should therefore be approved,

HAS ADOPTED THIS DECISION:

Article 1

The programme "European Funds for Silesia 2021-2027" for joint support from the ERDF, the ESF+ and the JTF under the Investment for jobs and growth goal for the region Silesia in Poland for the period from 1 January 2021 to 31 December 2027, submitted in its final version on 18 November 2022, is hereby approved.

Article 2

1. The maximum amount of support from the ERDF, the ESF+ and the JTF for the whole programming period and by year, is set out in Annex I.
2. The maximum amount of support for the programme is set at EUR 5 139 119 473, to be financed from the following specific budget lines in accordance with the nomenclature of the General Budget of the European Union for 2022:
05 02 01.01: EUR 2 092 328 592 (ERDF - Less developed regions);
07 02 01.01: EUR 829 921 892 (ESF+ - Less developed regions);
09 03 01: EUR 970 708 601 (JTF – MFF Operational expenditure);
09 03 01: EUR 1 246 160 388 (JTF – NGEU Operational expenditure).
3. The co-financing rate for each priority by Fund is set out in Annex II. The co-financing rate for each priority shall apply to total contribution, including public and private contribution.

Article 3

The enabling conditions are fulfilled with the exception of:

- horizontal enabling condition '3. Effective application and implementation of the Charter of Fundamental Rights';
- thematic enabling condition '3.1. Comprehensive transport planning at the appropriate level';
- thematic enabling condition '4.4. National strategic policy framework for social inclusion and poverty reduction';
- thematic enabling condition '4.6. Strategic policy framework for health and long-term care'.

Article 4

The territorial just transition plan submitted with the programme is herewith approved as part of the programme.

Article 5

This Decision is addressed to the Republic of Poland.

Done at Brussels, 5.12.2022

For the Commission
Elisa FERREIRA
Member of the Commission