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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement between the European Union, Iceland, the Principality of Liechtenstein and the Kingdom of Norway on an EEA Financial Mechanism for the period May 2021–April 2028

AGREEMENT
BETWEEN THE EUROPEAN UNION, ICELAND,
THE PRINCIPALITY OF LIECHTENSTEIN
AND THE KINGDOM OF NORWAY
ON AN EEA FINANCIAL MECHANISM
FOR THE PERIOD MAY 2021–APRIL 2028

THE EUROPEAN UNION,

ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

WHEREAS the Parties to the Agreement on the European Economic Area ("EEA Agreement") agreed on the need to reduce the economic and social disparities between their regions with a view to promoting a continuous and balanced strengthening of trade and economic relations between them,

WHEREAS, in order to contribute to that objective, the EFTA States have established a Financial Mechanism in the context of the European Economic Area,

WHEREAS the provisions governing the EEA Financial Mechanism for the period 2004–2009 have been set out in Protocol 38a and the Addendum to Protocol 38a to the EEA Agreement,

WHEREAS the provisions governing the EEA Financial Mechanism for the period 2009–2014 have been set out in Protocol 38b and the Addendum to Protocol 38b to the EEA Agreement,

WHEREAS the provisions governing the EEA Financial Mechanism for the period 2014–2021 have been set out in Protocol 38c to the EEA Agreement,

WHEREAS the need to alleviate economic and social disparities within the European Economic Area persists, and therefore a new mechanism for the financial contributions of the EEA EFTA States should be established for the period May 2021–April 2028,

HAVE DECIDED TO CONCLUDE THE FOLLOWING AGREEMENT:

ARTICLE 1

Article 117 of the EEA Agreement shall be replaced by the following:

"ARTICLE 117

Provisions governing the Financial Mechanisms are set out in Protocol 38, Protocol 38a, the Addendum to Protocol 38a, Protocol 38b, the Addendum to Protocol 38b, Protocol 38c and Protocol 38d."

ARTICLE 2

A new Protocol 38d shall be inserted after Protocol 38c to the EEA Agreement. The text of Protocol 38d is set out in the Annex to this Agreement.

ARTICLE 3

This Agreement shall be ratified or approved by the Parties in accordance with their own procedures. The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union.

It shall enter into force on the first day of the second month after the last instrument of ratification or approval has been deposited.

Pending the completion of the procedures referred to in paragraphs 1 and 2, this Agreement shall be applied on a provisional basis as from the first day of the first month following the deposit of the last notification to this effect.

ARTICLE 4

This Agreement, drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Irish, Italian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish, Icelandic and Norwegian languages, the text in each of these languages being equally authentic, shall be deposited with the General Secretariat of the Council of the European Union, which will remit a certified copy to each of the Parties to this Agreement.

Done at Brussels, this ...day of ...2024.

For the European Union

For Iceland

For the Principality of Liechtenstein

For the Kingdom of Norway

PROTOCOL 38d
on the EEA Financial Mechanism (2021–2028)

ARTICLE 1

(1) Objectives

Iceland, Liechtenstein and Norway ("the EFTA States") shall contribute to the reduction of economic and social disparities in the European Economic Area and to the strengthening of their relations with the Beneficiary States, through financial contributions within the thematic priorities listed in Article 3¹.

(2) Common values and principles

The EEA Financial Mechanism (2021–2028) is based on the common values and principles of respect for human dignity, freedom, democracy, equality, the rule of law and the respect for human rights including the rights of persons belonging to minorities.

All programmes and activities funded by the EEA Financial Mechanism shall be consistent with respect for these values and principles and abstain from supporting operations that may fail to do so. Their implementation shall comply with the fundamental rights and obligations enshrined in relevant instruments and standards.

¹ In this Protocol, references to articles are, unless otherwise specified, to be understood as references to articles in this Protocol.

ARTICLE 2

Commitments

The amount of the financial contribution provided for in Article 1 shall be EUR 1 705 000 000. An additional financial contribution of EUR 100 000 000 shall also be made available for projects related to challenges experienced as a result of the invasion of Ukraine. These contributions shall be made available for commitment in annual tranches of EUR 257 860 000 over the period running from 1 May 2021 to 30 April 2028 inclusive.

The total amount shall consist of country specific allocations as specified in Article 6 together with the funds specified in Article 7.

ARTICLE 3

(1) Thematic priorities

The country specific allocations shall be made available to promote the following overall thematic priorities:

- (a) European green transition;
- (b) Democracy, rule of law and human rights;
- (c) Social inclusion and resilience.

Within these thematic priorities, programme areas are set out in the Annex to this Protocol. The content of those programme areas will be determined after consultation with the Beneficiary States.

(2) Needs of Beneficiary States

The programme areas shall be chosen, concentrated and adapted, to respond to the different needs in each Beneficiary State, taking into account its size and the amount of the contribution. To this end, the procedure to be followed is set out in Article 9, paragraph 5.

ARTICLE 4

(1) Memoranda of Understanding

In order to achieve concentration and to ensure efficient implementation, in line with the overall objectives referred to in Article 1, and taking into account EU policies and country specific recommendations, as well as Partnership Agreements concluded between the Member States and the European Commission, the EFTA States shall negotiate with each Beneficiary State a Memorandum of Understanding in accordance with Article 9 paragraph 5.

(2) Consultations with the European Commission

Consultations with the European Commission shall take place at strategic level and shall be held during the negotiations of the Memoranda of Understanding with a view to promoting complementarity and synergies with EU cohesion policy.

ARTICLE 5

(1) Co-financing

With respect to programmes under country specific allocations for which the Beneficiary States shall have implementation responsibility, the EFTA contribution shall not exceed 85 % of programme cost, unless otherwise decided by the EFTA States.

(2) State aid

The applicable rules on State aid shall be complied with.

(3) Liability

The responsibility of the EFTA States for the projects is limited to providing funds according to the agreed plan. Accordingly, the EFTA States will not assume any liability to third parties.

ARTICLE 6

Country specific allocations

The country specific allocations shall be made available to the following Beneficiary States: Bulgaria, Czech Republic, Estonia, Greece, Croatia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Portugal, Romania, Slovenia and Slovakia, in accordance with the following distribution:

Beneficiary State	Funds (EUR)
Bulgaria	132 807 931
Croatia	68 018 840
Cyprus	9 014 276
Czech Republic	115 163 505
Estonia	36 750 087
Greece	159 320 451
Hungary	129 868 485
Latvia	56 013 268
Lithuania	60 274 987
Malta	5 710 418
Poland	472 614 415
Portugal	126 276 741
Romania	304 642 069
Slovakia	66 843 694
Slovenia	25 580 833

The amounts presented include the country specific allocations to be made available to each Beneficiary State in accordance with Article 9, paragraph 5, and the share of the fund for civil society referred to in Article 7 that shall benefit each Beneficiary State.

ARTICLE 7

Within the EEA Financial Mechanism, two funds shall be made available. They shall contribute to achieving the objectives of the EEA Financial Mechanism (2021–2028) as defined in Article 1, and to the thematic priorities referred to in Article 3. The EFTA States can participate as partners in the funds.

(1) Fund for civil society

10 % of the total amount shall be set aside for a fund for civil society. The distribution key for the Beneficiary States is set out in Article 6.

5 % of the fund shall be allocated to transnational initiatives.

(2) Fund for capacity building and cooperation with international organisations and institutions

2 % of the total amount shall be set aside for a fund for capacity building and cooperation with international organisations and institutions inter alia the Council of Europe, OECD and the European Union Agency for Fundamental Rights (FRA). This fund will promote the thematic priorities in the Beneficiary States.

ARTICLE 8

(1) Coordination with the Norwegian Financial Mechanism

The financial contribution provided for in this Protocol shall be closely coordinated with the bilateral contribution from Norway provided for by the Norwegian Financial Mechanism. In particular, the EFTA States shall ensure that the procedures and implementation modalities are essentially the same for both financial mechanisms.

(2) Coordination with EU cohesion policy

Any relevant changes in the EU cohesion policy shall be taken into account, as appropriate.

ARTICLE 9

The following shall apply to the implementation of the EEA Financial Mechanism:

(1) Cooperation

The objectives of the EEA Financial Mechanism referred to in Article 1 shall be pursued in a framework of close co-operation between the Beneficiary States and the EFTA States, respecting the values and principles and complying with the rights and obligations referred to in Article 1 paragraph 2.

(2) Implementation principles

The highest degree of transparency, accountability and cost efficiency shall be applied in all implementation phases, together with respect for principles of good governance, partnership and multi-level governance, sustainable development, gender equality and non-discrimination.

(3) Management of the funds

The EFTA States shall operate and be responsible for the implementation, including management and control, of the two funds set out in Article 7.

(4) Financial Mechanism Committee

The EFTA States shall establish a committee for the overall management of the EEA Financial Mechanism. Further provisions for the implementation of the EEA Financial Mechanism, including simplification measures aimed at securing efficiency and effectiveness in implementation, will be issued by the EFTA States after consultations with the Beneficiary States which may be assisted by the European Commission. The EFTA States shall endeavour to issue these provisions before the signing of the Memoranda of Understanding.

(5) Negotiations of Memoranda of Understanding

The EFTA States shall negotiate with each Beneficiary State a Memorandum of Understanding concerning the respective country specific allocation, excluding the funds referred to in Article 7 and in paragraph 3 of this Article. The Memorandum of Understanding shall set out the programmes, the distribution of funds between programme areas, the structures for management and control and applicable conditions.

(6) Implementation

- (a) On the basis of the Memoranda of Understanding, the Beneficiary States shall submit proposals for specific programmes to the EFTA States which shall appraise and approve the proposals and conclude grant agreements, with relevant conditions, risk assessment and mitigation, with the Beneficiary States for each programme.
- (b) The implementation of the agreed programmes shall be the responsibility of the Beneficiary States, which shall provide for an appropriate management and control system in order to ensure sound implementation and management.
- (c) The EFTA States may carry out controls according to their internal requirements. The Beneficiary States shall provide all necessary assistance, information and documentation to this effect.
- (d) To ensure compliance with obligations, the EFTA States may, following an assessment, after having heard the Beneficiary State, take appropriate and proportionate measures, including the suspension of payments and the recovery of funds.
- (e) Partnerships shall, where appropriate, be applied in the preparation, implementation, monitoring and evaluation of the financial contribution in order to ensure broad participation. Partners may include, inter alia, local, regional and national levels, as well as the private sector, civil society and social partners in the Beneficiary States and the EFTA States.
- (f) Any project under the programmes in the Beneficiary States may be implemented in cooperation between, inter alia, entities based in the Beneficiary States and in the EFTA States, in accordance with the applicable rules on public procurement.

(7) Management costs

The management costs of the EFTA States shall be covered by the total amount referred to in Article 2, and shall be specified in the provisions for the implementation referred to in paragraph 4 of this Article. Management costs for the Funds referred to in Article 7 will be covered by the amount allocated to the Funds.

(8) Reporting

The EFTA States shall report on their contribution to the objectives of the EEA Financial Mechanism.

ARTICLE 10

Review

At the end of the period as defined in Article 2 and without prejudice to the rights and obligations under the EEA Agreement, the Contracting Parties shall, in the light of Article 115 of the EEA Agreement, review the need to address economic and social disparities within the European Economic Area.

ANNEX TO PROTOCOL 38d

Green transition

Green business and innovation

Research and innovation

Education, training and youth employment

Culture

Local development, good governance and inclusion

Roma inclusion and empowerment

Public health

Disaster prevention and preparedness

Justice sector including domestic and gender-based violence, access to justice, correctional services, serious and organised crime

Asylum, migration and integration

Institutional cooperation and capacity building

Beneficiary states will also benefit from projects funded by:

Fund for civil society

Fund for capacity building and cooperation with international partner organisations and institutions

Gender equality and digitalisation will be mainstreamed and form part of all relevant programme areas.
