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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION on the approval of the assessment of the recovery and resilience plan for Germany

COUNCIL IMPLEMENTING DECISION (EU) 2021/...

of ...

on the approval of the assessment of the recovery and resilience plan for Germany

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility¹, and in particular Article 20 thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 57, 18.2.2021, p. 17.

Whereas:

- (1) The COVID-19 outbreak has had a disruptive impact on the economy of Germany, adding to challenges that existed before the pandemic. In 2019, the gross domestic product (GDP) per capita of Germany was 133 % of the Union average. According to the Commission's spring 2021 forecast, the real GDP of Germany declined by 4,9 % in 2020 and is expected to decline by 1,7 % cumulatively in 2020 and 2021. While the economy is recovering relatively quickly, long-standing aspects with an impact on medium-term economic performance include in particular a savings-investment imbalance, with private and public investment lagging behind investment needs, and a suboptimal use of the labour market potential of inactive or under-represented groups.

- (2) On 9 July 2019 and on 20 July 2020, the Council addressed recommendations to Germany in the context of the European Semester. In particular, in 2020 the Council recommended Germany to alleviate the immediate consequences of COVID-19, to effectively address the pandemic, and to mobilise adequate resources for healthcare. More broadly, Germany was advised to increase public and private investment, focusing on investment in the green and digital transition, while paying particular attention to, inter alia, transport, a clean, efficient and integrated energy system, digitalisation, education, housing and research and development (R&D). The Council also recommended Germany to improve the digitalisation of public services and small and medium-sized enterprises ('SMEs'), to reduce the regulatory and administrative burden and to strengthen competition in business services and regulated professions. In addition, the Council invited Germany to shift taxes away from labour, to reduce disincentives to work more hours, including the high taxation of labour earnings, in particular for low-wage and second earners, to safeguard the long-term sustainability of its pension system, to support higher wage growth and to improve the educational outcomes and skills levels of disadvantaged groups. Having assessed progress in the implementation of these country-specific recommendations at the time of submission of the recovery and resilience plan ('RRP'), the Commission finds that the recommendation on taking all measures necessary to effectively address the pandemic, sustain the economy and support the ensuing recovery has been fully implemented.

- (3) On 2 June 2021, the Commission published an in-depth review under Article 5 of Regulation (EU) No 1176/2011 of the European Parliament and of the Council¹ for Germany. The Commission's analysis led it to conclude that Germany is experiencing macroeconomic imbalances with cross-border relevance and in particular that the current account surplus persists at high levels, reflecting a subdued level of investment relative to savings.
- (4) The Council Recommendation on the economic policy of the euro area recommended euro-area Member States to take action, including through their RRPs, to, inter alia, ensure a policy stance which supports the recovery and to further improve convergence, resilience and sustainable and inclusive growth. The Council Recommendation also recommended euro-area Member States to strengthen national institutional frameworks, to ensure macro-financial stability, to complete the economic and monetary union and to strengthen the international role of the euro.

¹ Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

- (5) On 28 April 2021, Germany submitted its national RRP to the Commission, in accordance with Article 18(1) of Regulation (EU) 2021/241. That submission followed a consultation process, conducted in accordance with the national legal framework, involving local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders. National ownership of the RRP underpins their successful implementation and lasting impact at national level and credibility at European level. Pursuant to Article 19 of Regulation (EU) 2021/241, the Commission has assessed the relevance, effectiveness, efficiency and coherence of the RRP, in accordance with the assessment guidelines set out in Annex V to that Regulation.
- (6) The RRP should pursue the general objectives of the Recovery and Resilience Facility established by Regulation (EU) 2021/241 (the ‘Facility’) and of the European Union Recovery Instrument set up by Council Regulation (EU) 2020/2094¹ in order to support the recovery in the aftermath of the COVID-19 crisis. They should promote the Union’s economic, social and territorial cohesion by contributing to the six pillars referred to in Article 3 of Regulation (EU) 2021/241.

¹ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433I , 22.12.2020, p. 23).

- (7) The implementation of the Member States' RRPs will constitute a coordinated effort involving reforms and investments across the Union. Through the coordinated and simultaneous implementation and the implementation of cross-border and multi-country projects, such reforms and investments will mutually reinforce each other and generate positive spillovers across the Union. Therefore, about one third of the impact of the Facility on Member States' growth and job creation will come from spillovers from other Member States.

Balanced response contributing to the six pillars

- (8) In accordance with Article 19(3), point (a), of and Annex V, criterion 2.1, to Regulation (EU) 2021/241, the RRP represents to a large extent (Rating A) a comprehensive and adequately balanced response to the economic and social situation, thereby contributing appropriately to all of the six pillars referred to in Article 3 of that Regulation, taking into account the specific challenges faced by and the financial allocation for the Member State concerned.
- (9) The RRP provides a comprehensive response to the economic and social situation by following a holistic approach to achieve recovery, while enhancing socio-economic resilience. The 40 measures included in the RRP constitute a balanced mix of reforms and investments that cover economic, industrial, digital, environmental, social and healthcare policies.

- (10) The RRP is appropriately balanced in addressing all six pillars referred to in Article 3 of Regulation (EU) 2021/241. There is a strong focus on the green transition, with measures related to climate protection reaching at least 42 % of the allocation, including key measures on mobility and housing. The RRP shows an even stronger digital ambition, reaching at least 52 % of the allocation, ranging through industry, education, social policy, healthcare and public administration. Reforms and investments address administrative bottlenecks to facilitate investments and foster smart, sustainable and inclusive growth, while also benefitting SMEs. Social cohesion is promoted through various measures to modernise the public administration and to support disadvantaged groups, to cap social security contributions, and to strengthen education and skills, in particular by supporting the digitalisation of education. The RRP has a strong focus on promoting investments and tackling investment bottlenecks, which is expected to help local authorities address infrastructure challenges and thus to contribute to territorial cohesion. Public administration reforms and investments to strengthen the healthcare system contribute to increased resilience, as do measures to digitalise and modernise public services and to reduce barriers to investment. Various skills-related measures benefit the next generation.

Addressing all or a significant subset of challenges identified in country-specific recommendations

- (11) In accordance with Article 19(3), point (b), of and Annex V, criterion 2.2, to Regulation (EU) 2021/241, the RRP is expected to contribute to effectively addressing all or a significant subset of challenges (Rating A) identified in the relevant country-specific recommendations addressed to Germany, including fiscal aspects thereof and recommendations made pursuant to Article 6 of Regulation (EU) No 1176/2011, or challenges identified in other relevant documents officially adopted by the Commission in the context of the European Semester.
- (12) The RRP includes an extensive set of mutually reinforcing reforms and investments that contribute to addressing all or a significant subset of the economic and social challenges outlined in the country-specific recommendations addressed to Germany by the Council in the European Semester in 2019 and in 2020.
- (13) The recommendations related to the immediate fiscal policy response to the pandemic can be considered to fall outside the scope of Germany's RRP, notwithstanding the fact that Germany has generally responded adequately and sufficiently to the immediate need to support the economy through fiscal means in 2020 and 2021, in line with the general escape clause of the Stability and Growth Pact.

- (14) The implementation of the RRP is expected to address various country-specific recommendations related to increasing investment and reducing administrative burden, as the RRP aims to significantly reduce investment bottlenecks and step up investment. In particular, the establishment of a joint working group at the federal and *Länder* levels for efficient and citizen- and business-friendly administration, the support for local authorities through PD – Berater der öffentlichen Hand GmbH (‘Partnerschaft Deutschland’) in the effective implementation of investment funding and the legal measures to speed up planning and authorisation procedures are expected to enhance public investment and promote private investment. Moreover, investment is expected to increase, reflecting the RRP’s commitments to support decarbonisation and hydrogen-based solutions with a focus on renewable hydrogen, as well as through measures in sustainable mobility, including in zero-emission vehicles and charging stations, in R&D, and in the digitalisation of the economy, including SMEs, of education, healthcare and the public administration.
- (15) The implementation of the RRP is also expected to contribute to addressing country-specific recommendations that relate to education, labour market participation, labour taxation and social policy, by enhancing digitalisation of education, supporting students with disadvantages, enhancing provision of childcare, improving transparency of pensions and curbing increases in the tax wedge.

- (16) By addressing the aforementioned challenges, the RRP is also expected to contribute to correcting the imbalances that Germany is experiencing, which were identified in recommendations made pursuant to Article 6 of Regulation (EU) No 1176/2011 in 2019 and 2020. It is expected to contribute to correcting, in particular, imbalances with regard to its current account surplus, which persists at high levels, reflecting a subdued level of investment relative to savings, and which has cross-border relevance.
- (17) The RRP provides a solid basis for further reform and investment efforts in the coming years, to address further structural challenges.

Contribution to growth potential, job creation and economic, social and institutional resilience

- (18) In accordance with Article 19(3), point (c), of and Annex V, criterion 2.3, to Regulation (EU) 2021/241, the RRP is expected to have a high impact (Rating A) on strengthening the growth potential, job creation, and economic, social and institutional resilience of Germany, contributing to the implementation of the European Pillar of Social Rights, including through the promotion of policies for children and youth, and on mitigating the economic and social impact of the COVID-19 crisis, thereby enhancing the economic, social and territorial cohesion and convergence within the Union.

- (19) Simulations by the Commission services show that the RRP, together with the rest of measures of the European Union Recovery Instrument, has the potential to increase the GDP of Germany between 0,4 % and 0,7 % by 2026, not including the possible positive impact of structural reforms, which can be substantial. The RRP is expected to promote smart, sustainable and inclusive growth, with a major contribution from investments that support a successful climate and digital transition, promote innovation, decarbonise the economy, including transport and industry, and digitalise enterprises, the public administration and public services. The measures are expected to lead to a more widespread use of zero-emission vehicles, increased availability of hydrogen-based technologies as well as a more climate-friendly and energy-efficient housing stock. They are also expected to make it easier for companies, including SMEs, to invest. As education and skills are improved through measures enhancing teaching methodologies, learning materials and the provision of specific support, productivity, resilience and inclusion are all expected to benefit.

(20) The RRP addresses social vulnerabilities and promotes social cohesion through a range of measures, also contributing to the implementation of the principles of the European Pillar of Social Rights. Families with children are expected to benefit from measures included in the RRP such as bolstering child care by an additional 90 000 places, which is timely considering the gap in available places. Additional teaching support to pupils who have fallen behind because of the pandemic aims to reach one-fourth of all pupils. To support the apprenticeship system, which was negatively impacted by the pandemic, the RRP includes financial incentives for companies to retain and hire apprentices, and hence contributes to fulfilling the Youth Guarantee¹. With the ‘Social Guarantee 2021’ measure, the RRP contributes to preventing a rise in non-wage labour costs, which are at a high level in Germany, by capping social security contributions at 40 %. The RRP also commits to the development of a digital pension portal that should support citizens in their pension planning, by providing an overview of their individual entitlements. The RRP also includes measures to improve the operation of the healthcare system that are expected to benefit the whole society.

¹ Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee and replacing the Council Recommendation of 22 April 2013 on establishing a Youth Guarantee (OJ C 372, 4.11.2020, p. 1).

Do no significant harm

- (21) In accordance with Article 19(3), point (d), of and Annex V, criterion 2.4, to Regulation (EU) 2021/241, the RRP is expected to ensure that no measure for the implementation of reforms and investments projects included in the RRP does significant harm to environmental objectives (Rating A) within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council¹ (the principle of ‘do no significant harm’). Germany’s RRP assesses compliance with the ‘do no significant harm’ principle. The assessment follows the methodology set out in the technical guidance provided in the Commission Notice entitled ‘Technical guidance on the application of “do no significant harm” under the Recovery and Resilience Facility Regulation’². It covers the six environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852, namely climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems. The environmental impact is assessed at measure level, i.e. one individual assessment per reform or investment.

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

² OJ C 58, 18.2.2021, p. 1.

Contribution to the green transition, including biodiversity

- (22) In accordance with Article 19(3), point (e), of and Annex V, criterion 2.5, to Regulation (EU) 2021/241, the RRP contains measures that contribute to a large extent (Rating A) to the green transition, including biodiversity, or to addressing the challenges resulting therefrom. The measures supporting climate objectives account for an amount which represents at least 42 % of the RRP's total allocation, calculated in accordance with the methodology set out in Annex VI to Regulation (EU) 2021/241. In accordance with Article 17 of that Regulation, the RRP is consistent with the information included in the National Energy and Climate Plan 2030.
- (23) The RRP has a strong focus on the green transition pillar. To support climate objectives in areas such as energy transition and adaptation to climate change, the RRP envisages a broad range of measures that can be grouped in three main areas of actions. Firstly, a number of actions in the RRP focus on developing an efficient hydrogen economy in the industry and in the economy at large, with a focus on renewable hydrogen. Secondly, a sizeable effort is also made to accelerate investments in climate-friendly mobility in order to address Germany's challenges relating to sustainable transport. Lastly, the RRP contains a series of measures to step up climate-friendly construction and renovation, with a prominent focus on renovation aimed at energy efficiency.

- (24) These measures contribute directly to the green transition, in particular climate change mitigation. Moreover, they indirectly contribute to the other objectives of the green transition, in particular by promoting circularity, and reducing air pollutant emissions, and are aligned with the German National Energy and Climate Plan for 2021-2030 and the German Climate Action Plan 2050. The RRP contains no measures having biodiversity as their objective, but by contributing to climate change mitigation, these measures may also be beneficial to the preservation of biodiversity, as climate change is one of the major threats to biodiversity. Germany has carried out a systematic do-no-significant-harm assessment indicating that none of the proposed measures cause harm to biodiversity.

Contribution to the digital transition

- (25) In accordance with Article 19(3), point (f), of and Annex V, criterion 2.6, to Regulation (EU) 2021/241, the RRP contains measures that contribute to a large extent (Rating A) to the digital transition or to addressing the challenges resulting from it. The measures supporting digital objectives account for an amount which represents at least 52 % of the RRP's total allocation, calculated in accordance with the methodology set out in Annex VII to Regulation (EU) 2021/241.
- (26) With a significant share of the total allocation contributing to the digital transition and a prominence of digital aspects across the majority of its components, Germany's RRP puts a strong emphasis on the digital transition and the challenges resulting from it across all sectors.

- (27) The digital transformation of public services, including health services, and of businesses, two aspects on which Germany is currently performing below EU average, are addressed in the RRP. The RRP includes a full component on the modernisation of public administration through accelerated digitalisation and fostered interoperability. Moreover, within a component dedicated to health, two measures aim to accelerate the digital transformation of public health services and hospitals respectively. As far as businesses are concerned, investments supporting the automotive industry's digital and green transition are planned.
- (28) The RRP also includes important measures addressing human capital and investments in advanced digital technologies, with a component on the digitalisation of education and another one which includes contributions to two large-scale European initiatives on microelectronics, and on next-generation cloud and edge technologies.

Lasting impact

- (29) In accordance with Article 19(3), point (g), of and Annex V, criterion 2.7, to Regulation (EU) 2021/241, the RRP is expected to have a lasting impact on Germany to a large extent (Rating A).

- (30) The RRP contains reforms of the public administration aiming to advance the digitalisation of government, to reduce administrative burden on citizens and firms and to further speed up the planning and approval of public investment projects. These measures are expected to unwind the public investment backlog and make the business climate more investment-friendly in the long term by ensuring the quality of public infrastructure and efficient digital government services and enabling long-lasting effects enhancing productivity.
- (31) The RRP consists of a set of measures addressing the take-up of carbon-free energy with a particular focus on renewable hydrogen, low-emission mobility and housing; digitalisation of government, education, healthcare and businesses; and promoting better access to skills for vulnerable youth. Addressing these challenges should enable a sustainable and inclusive growth. Moreover, the measures are expected to have a lasting beneficial effect on human capital and resource efficiency. The lasting impact of the RRP can also be enhanced through synergies between the RRP and other programmes, including cohesion policy funds, in particular by addressing in a substantive manner territorial challenges and promoting a balanced development.

Monitoring and implementation

- (32) In accordance with Article 19(3), point (h), of and Annex V, criterion 2.8, to Regulation (EU) 2021/241, the arrangements proposed in the RRP are adequate (Rating A) to ensure effective monitoring and implementation of the RRP, including the envisaged timetable, milestones and targets, and the related indicators.
- (33) The coordinating body in the Federal Ministry of Finance and the line ministries are responsible for the effective implementation of the RRP. The various arrangements set up to devise, negotiate and ensure the efficient and regular implementation of the RRP are credible in terms of the legal mandate and administrative capacity. The milestones and targets of Germany's RRP constitute an appropriate system for monitoring the RRP's implementation. Milestones and targets are clear and realistic and the indicators for those milestones and targets are relevant, acceptable and robust. Milestones and targets are also relevant for measures already completed which are eligible under Article 17(2) of Regulation (EU) 2021/241. The satisfactory fulfilment of these milestones and targets over time is required to justify a disbursement request. The verification mechanisms, data collection and responsibilities described by the German authorities appear sufficiently robust to justify the disbursement requests in an adequate manner upon completion of the milestones and targets.

- (34) Member States should ensure that financial support under the Facility is communicated and acknowledged in line with Article 34 of Regulation (EU) 2021/241. Technical support may be requested under the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council¹ to assist Member States in the implementation of their RRP.

Costing

- (35) In accordance with Article 19(3), point (i), of and Annex V, criterion 2.9, to Regulation (EU) 2021/241, the justification provided in the RRP on the amount of the estimated total costs of the RRP is to a medium extent (Rating B) reasonable and plausible, is in line with the principle of cost efficiency and is commensurate to the expected national economic and social impact.
- (36) The cost estimates and the supporting document provided show varying degrees of details and depth of calculations. According to the information provided, there are no indications that the reasonability or plausibility of costs would be impaired. However, the level of assurance could have been increased through the provision of more detailed estimations for certain measures. Finally, the estimated total cost of the RRP is in line with the principle of cost-efficiency and is commensurate to the expected national economic and social impact.

¹ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

Protection of the financial interests of the Union

- (37) In accordance with Article 19(3), point (j), of and Annex V, criterion 2.10, to Regulation (EU) 2021/241, the arrangements proposed in the RRP are adequate (Rating A) to prevent, detect and correct corruption, fraud and conflicts of interest when using the funds provided under that Regulation, and the arrangements are expected to effectively avoid double funding under that Regulation and other Union programmes. This is without prejudice to the application of other instruments and tools to promote and enforce compliance with Union law, including for preventing, detecting and correcting corruption, fraud and conflicts of interest, and for protecting the Union budget in line with Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council¹.
- (38) The internal control system described in the RRP of Germany relies strongly on the existing national processes and structures for auditing, resulting in adequate empowerment and administrative capacity. With the coordinating unit in the Ministry of Finance, the internal control units in every ministry and the national Court of Auditors, clear actors are identified together with their roles and responsibilities for the performance of the internal control tasks. The actors are independent in their functioning and the segregation of relevant functions is respected, making the control systems robust and adequate.

¹ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433I, 22.12.2020, p. 1).

- (39) The national laws and regulations are considered efficient in preventing, detecting and correcting irregularities such as fraud, corruption and conflicts of interest when using the funds under the Facility. This applies equally to the avoidance of double funding from the Facility and other Union programmes. The regulatory framework and implementing public bodies are adequately described and the actors responsible for controls have the legal powers and administrative capacity to exercise their respective roles and tasks. Germany has indicated that an integrated IT system will be set up for the adequate collection, storage and reporting of data required for the implementation of its RRP. Germany has started a process to have its IT system audited by the Court of Auditors (*Bundesrechnungshof*) to identify possible weaknesses and to address without delay any recommendations of the audit report, as well as to ensure the complete recording of all data referred to in Article 22(2), point (d), of Regulation (EU) 2021/241, including by a transitional system. Germany has committed to providing access to such data.

Coherence of the RRP

- (40) In accordance with Article 19(3), point (k), of and Annex V, criterion 2.11, to Regulation (EU) 2021/241, the RRP includes to a high extent (Rating A) measures for the implementation of reforms and public investment projects that represent coherent actions.

- (41) The German RRP has a coherent narrative with a clear strategic focus on the green and digital transition. Within each component, the reforms and investments are targeted to achieve coherent objectives and their expected results reinforce each other. The planned actions in the different components are also coherent and complementary, with structural reforms accompanying planned investments in order to reinforce their impact. There is also consistency and intrinsic complementarity among the measures from different components. In order to promote greater consistency among instruments, and in particular with the European cohesion policy funds, a balanced territorial allocation of resources is encouraged.

Equality

- (42) Gender equality issues and equal opportunities for all are addressed in the RRP across multiple components. Particularly relevant measures include improving availability of quality early-childhood education and care that promotes both gender equality and reduction of socio-economic disadvantages. Support for apprenticeships and help for students with learning disadvantages related to COVID-19 is expected to over-proportionally benefit young people from vulnerable backgrounds, including with migration backgrounds.

Security self-assessment

- (43) A security self-assessment has not been provided as it has not been considered appropriate by Germany, in accordance with Article 18(4), point (g), of Regulation (EU) 2021/241.

Cross-border and multi-country projects

- (44) A central feature of the German RRP is the inclusion of important projects of common European interest planned in the areas of hydrogen (EUR 1 500 000 000), microelectronics (EUR 1 500 000 000), and next-generation cloud and edge technologies (EUR 750 000 000). Those multi-country projects have been initiated jointly with other countries.

Consultation process

- (45) Based on the summary of the consultation process provided by Germany, relevant stakeholders have been consulted in the preparation phase of the RRP and their opinions have been duly considered. Within the scope of their responsibilities, the *Länder* have been involved at an early stage and in numerous steps in the elaboration of the RRP. Their positions, in particular regarding the governance structure during the implementation phase, are reflected in the RRP. The Federal Parliament has been regularly informed about the content of the RRP. The views of the social partners and of environmental organisations are particularly reflected in the selection of the measures in the RRP. Following the consultation, part of the initially planned reforms and investments have been adapted or removed from the RRP. Social stakeholders, industry and business representatives, civil society and the National Productivity Board have also been consulted. For the cross-border and multi-country projects in the RRP, Germany worked closely with other Member States participating in those projects.

- (46) An ongoing process of coordination with the *Länder*, including the municipalities, is expected to take place also during the implementation phase of the RRP. At the request of the *Länder*, the governance structure provides for regular coordination meetings between the *Länder* and the federal line ministries responsible for reforms and investments that directly affect the responsibilities of the *Länder* in a federal context. The *Länder* should also be involved closely and in a timely manner in the reporting on the implementation progress. To ensure ownership by the relevant actors, it is crucial to involve all local authorities and stakeholders concerned, including social partners, throughout the implementation of the investments and reforms included in the RRP.

Positive assessment

- (47) Following the positive assessment of the Commission concerning the RRP of Germany with the finding that the RRP satisfactorily complies with the criteria for assessment set out in Regulation (EU) 2021/241, in accordance with Article 20(2) of and Annex V to that Regulation, this Decision should set out the reforms and investment projects necessary for the implementation of the RRP, the relevant milestones, targets and indicators, and the amount made available from the Union for the implementation of the RRP in the form of non-repayable financial support.

Financial contribution

- (48) The estimated total cost of Germany's RRP is EUR 26 518 833 613¹ which is higher than the maximum financial contribution. As the RRP satisfactorily complies with the criteria for assessment set out in Regulation (EU) 2021/241 and, furthermore, as the amount of the estimated total costs of the RRP is higher than the maximum financial contribution available for Germany, the financial contribution allocated for Germany's RRP should be equal to the total amount of the financial contribution available for Germany, in accordance with Article 11 of that Regulation.
- (49) In accordance with Article 11(2) of Regulation (EU) 2021/241, the calculation of the maximum financial contribution for Germany is to be updated by 30 June 2022. As such, in accordance with Article 23(1) of that Regulation, an amount for Germany not exceeding the maximum financial contribution referred to in Article 11(1), point (a), of that Regulation should be made available for a legal commitment by 31 December 2022. Where necessary following the update of the maximum financial contribution, the Council, on a proposal from the Commission, should amend this Decision to include the updated maximum financial contribution, calculated in accordance with Article 11(2) of that Regulation, without undue delay.

¹ Germany submitted two cost estimates. The plan's gross value of EUR 27 949 882 000 includes VAT for some measures, while a net value of at least EUR 26 518 833 613 excludes VAT.

- (50) The support to be provided is to be financed from the borrowing by the Commission on behalf of the Union on the basis of Article 5 of Council Decision (EU, Euratom) 2020/2053¹. The support should be paid in instalments once Germany has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the RRP.
- (51) Germany has requested pre-financing of EUR 2 250 000 000. That amount should be made available to Germany subject to the entry into force of, and in accordance with, the agreement provided for in Article 23(1) of Regulation (EU) 2021/241 (the ‘financing agreement’).
- (52) This Decision should be without prejudice to the outcome of any procedures relating to the award of Union funds under any Union programme other than the Facility or to procedures relating to distortions of the operation of the internal market that may be undertaken, in particular under Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty,

HAS ADOPTED THIS DECISION:

¹ Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

Article 1

Approval of the assessment of the RRP

The assessment of the RRP of Germany on the basis of the criteria provided for in Article 19(3) of Regulation (EU) 2021/241 is approved. The reforms and investment projects under the RRP, the arrangements and timetable for the monitoring and implementation of the RRP, including the relevant milestones and targets, the relevant indicators relating to the fulfilment of the envisaged milestones and targets, and the arrangements for providing full access by the Commission to the underlying relevant data are set out in the Annex to this Decision.

Article 2
Financial contribution

1. The Union shall make available to Germany a financial contribution in the form of non-repayable support amounting to EUR 25 613 478 442¹. An amount of EUR 16 291 323 631 shall be available to be legally committed by 31 December 2022. If the update provided for in Article 11(2) of Regulation (EU) 2021/241 results in an updated maximum financial contribution for Germany that is equal to or more than EUR 25 613 478 442, a further amount of EUR 9 322 154 811 shall be available to be legally committed from 1 January 2023 until 31 December 2023. If the update provided for in Article 11(2) of Regulation (EU) 2021/241 results in an updated maximum financial contribution for Germany that is less than EUR 25 613 478 442, the difference between the updated maximum financial contribution and the amount of EUR 16 291 323 631 shall be available to be legally committed in accordance with the procedure set out in Article 20(8) of Regulation (EU) 2021/241 from 1 January 2023 until 31 December 2023.

¹ This amount corresponds to the financial allocation after deduction of Germany's proportional share of the expenses referred to in Article 6(2) of Regulation (EU) 2021/241, calculated in accordance with the methodology set out in Article 11 of that Regulation.

2. The Union financial contribution shall be made available by the Commission to Germany in instalments in accordance with the Annex to this Decision. An amount of EUR 2 250 000 000 shall be made available as a pre-financing payment. The pre-financing and instalments may be disbursed by the Commission in one or several tranches. The size of the tranches shall be subject to the availability of funding.
3. The pre-financing shall be released subject to the entry into force of, and in accordance with, the financing agreement. Pre-financing shall be cleared by being proportionally deducted against the payment of the instalments.
4. The release of instalments in accordance with the financing agreement shall be conditional on available funding and a decision by the Commission, taken in accordance with Article 24 of Regulation (EU) 2021/241, that Germany has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the RRP. In order to be eligible for payment, Germany shall complete the milestones and targets no later than 31 August 2026, subject to the entry into force of the legal commitments referred to in paragraph 1.

Article 3
Addressee

This Decision is addressed to the Federal Republic of Germany.

Done at ...,

For the Council
The President
