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COMMISSION IMPLEMENTING DECISION

of 3.7.2024

on the authorisation of the disbursement of the first instalment of the non-repayable support for Ireland

(Only the English and Irish texts are 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) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility¹, and in particular Article 24(5) thereof,

Whereas:

- (1) According to Article 4(2) of Regulation (EU) 2021/241, the specific objective of the Recovery and Resilience Facility is to provide Member States with financial support with a view to achieving the milestones and targets of reforms and investments as set out in their recovery and resilience plans.

Council Implementing Decision of 8 September 2021 on the approval of the assessment of the recovery and resilience plan for Ireland² (the ‘Council Implementing Decision’) provides that the Union is to release instalments in accordance with the Financing Agreement conditional on a decision by the Commission, taken in accordance with Article 24(5) of Regulation (EU) 2021/241, that Ireland has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.

- (2) On 7 September 2023, Ireland submitted a request for payment, accompanied by a management declaration and a summary of audits. The request concerned the first instalment of the non-repayable support. Pursuant to Article 24(3) of Regulation (EU) 2021/241, the Commission assessed on a preliminary basis whether the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled. For the purpose of this assessment, the operational arrangements concluded between the Commission and Ireland³ in accordance with Article 20(6) of Regulation (EU) 2021/241, were taken into account.
- (3) The Commission made a positive preliminary assessment of the satisfactory fulfilment of all 40 relevant milestones and targets related to the non-repayable support and, in accordance with Article 24(4) of Regulation (EU) 2021/241, provided its findings to the Economic and Financial Committee asking for its opinion on the satisfactory

¹ OJ L 57, 18.2.2021, p. 17.

² ST 11046/21 and ST 11046/21 ADD 1 as amended by ST 15965/23 and ST 15965/23 ADD 1, not yet published.

³ Recovery and Resilience Facility Operational arrangements between the European Commission and Ireland, entered into force on 6 February 2023.

fulfilment of the relevant milestones and targets. In accordance with Article 25(4) of that Regulation, the Commission provided the competent committee of the European Parliament with an overview of its preliminary findings concerning the satisfactory fulfilment of the relevant milestones and targets. The Economic and Financial Committee agreed with the Commission's positive preliminary assessment and considered that Ireland has satisfactorily fulfilled all 40 milestones and targets associated with the payment request. The Commission has taken the opinion of the Economic and Financial Committee into account for its assessment.

- (4) Section 2(1)(1.1) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the first instalment of the non-repayable support for an amount of EUR 323 803 933.
- (5) Milestone 9 provides for the appointment of the main contractors by the Office of Public Works and the commencement of the retrofit works on public sector office buildings. The evidence provided by Ireland demonstrates that the main contractors were appointed both for the retrofit of a public office building in Kilcarn and Tom Johnson House. Furthermore, the evidence provided by Ireland further shows that retrofit works have commenced on the two distinct sites. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (6) Milestone 12 provides for the signature of a framework contract for zero-emission rolling stock using zero-emission propulsion. The evidence provided by Ireland demonstrates that a ten-year framework contract has been signed by Irish rail for zero-emission rolling stock. The framework includes the terms of the contract, the specifications of the fleet to be purchased and the technical specifications of the rolling stock. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (7) Milestone 14 provides for the awarding of the design contract for the Kent station through-running platform. The evidence provided by Ireland demonstrates that the tender by a contractor was accepted by Irish Rail and a letter of acceptance between the two parties was signed. The signed letter of acceptance specifies that this service is for the design of a through-platform at Kent Station. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (8) Milestone 32 provides for the publication of a preliminary study on the rehabilitation of peatlands. The evidence provided by Ireland demonstrates that a preliminary study on the rehabilitation of peatlands has been published on the Bord na Móna website, including environmental objectives, the standards of rehabilitation that shall apply, the list of bogs selected for the rehabilitation efforts and the criteria for their selection. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (9) Milestone 33 provides for the start of rehabilitation works on at least 19 bogs. The evidence provided by Ireland demonstrates that improvements have started on 19 bogs through site inspections and technical assessments provided in a progress report. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (10) Milestone 37 provides for the selection and publication of 10 waste water treatment plants to undergo upgrading efforts. The evidence provided by Ireland demonstrates that a list of 10 selected sites for upgrade has been published by Irish Water (Uisce Éireann) on the Irish water website, and that the selection has been based on an

assessment made by an expert group, detailing a description of the type of upgrade needed. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (11) Milestone 38 provides for the start of the upgrade of at least 10 small waste water treatment plants. The evidence provided by Ireland demonstrates that a work order has been issued to five of the appointed works contractors. For five other sites, the start of the work is proven by the issuance of terms of reference. The Operational Arrangement required for the terms of reference to be approved by the Expenditure Approvals Committee. For five sites, the terms of reference were approved by the Expenditure Approvals Committee (Kilmihil, Ballintra, Ballymoe, Kilmaganny, Cloneygowan) but for the remaining five sites, only the approval of the Technical Expert Group was received (Pettigo, Galbally, Grangemockler, Clonea Power, Millview (Milltownpass)). While this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, this deviation concerns Ireland's internal procedures applying to the formal approval of the terms of reference. In particular, provided that the contracts do not reach the threshold that it would require it to be presented to the Expenditure Approvals Committee, Ireland has indicated that the services described in the terms of reference fall under two separate, wider approval processes: an annual budget approval for the multiannual National Certificate of Authorisation Programme (NCAP) and contract approval for the supplier framework Call Off contracts for the supply of Technical Assurance to the programme. The extract of minutes of Expenditure Approvals Committee meeting of 9 November 2022 shows that the overall Capital Programmes 2023 Wastewater Above Ground Programme Pillar, of which IE indicates that the NCAP is part, was approved. The minutes of the Contract Approvals Committee (CAC) of 8 November 2018 approved the establishment of a framework "Technical Assurance Staff for IW Asset Delivery", under which the Terms of Reference were issued. Furthermore, as evident from Terms of Reference as issued to the appointed consulting engineers for those sites only received approval from the Technical Expert Group, as evident from the email from 1 February 2022 to works contractor Ryan Hanley for the sending of the Technical Services Terms of Reference, these are aligned with the Projects Briefs, signed off by the Expert Group. As of this, this minimal deviation does not affect the progress towards achieving the investment that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (12) Milestone 41 provides for the publication of at least 20 sites selected for monitoring of biological and physico-chemical indicators. The evidence provided by Ireland demonstrates that Irish Water have specified the list of at least 20 sites to monitor and the conditions of the monitoring, including physico-chemical monitoring (such as levels of ammonia and ortho-phosphate) and biological monitoring. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (13) Milestone 43 provides for the entry into force of the Climate Action and Low Carbon Development (Amendment) Bill 2021. The evidence provided by Ireland demonstrates that the legislation has entered into force and that it puts the climate neutrality objective by 2050 on a statutory basis. Furthermore, the evidence demonstrates that the Climate Action and Low Carbon Development (Amendment) Act requires the adoption of the first carbon budget programmes in line with the 51% reduction

objective for 2030, annual updates of the Climate Action Plan as well as the realisation of annual climate reporting related to the implementation of the policies provided for in the Climate Action Plan, and assessment of reductions in the actual greenhouse gas emissions. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (14) Milestone 44 provides for adoption and publication of the first three 5-yearly carbon budgets. The evidence provided by Ireland demonstrates that the first three 5-yearly carbon budgets have been adopted by the Oireachtas and that the carbon budgets are in line with the 51% reduction objective by 2030. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (15) Milestone 45 provides for the adoption and publication of the first annual update of the Climate Action Plan. The evidence provided by Ireland demonstrates that a revised Climate Action Plan has been adopted that defines additional policies and measures necessary to put Ireland on track towards the objective of reducing greenhouse gas emissions by 51% in 2030 (as compared to 2018 levels) and achieving climate neutrality by 2050. Furthermore, the evidence demonstrates that the Climate Action Plan is aligned with the framework of the Climate Action and Low Carbon Development (Amendment) Act 2021 and the broader obligations of Ireland under EU climate and energy legislation. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (16) Milestone 47 provides for the entry into force of the carbon tax rate trajectory legislation. The evidence provided by Ireland demonstrates that legislation has entered into force through the Finance Act that introduces the annual rate increases by EUR 7.5 per year between 2021 and 2025, following a trajectory that will lead to a rate of EUR 100 per tonne of CO₂ emission in 2030. Furthermore, the evidence demonstrates that the legislation sets a long-term carbon price signal out to 2030 on a legislative basis for the first time, and that the legislation includes specific rates for the affected fuels. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (17) Milestone 48 provides for the entry into force of the Budget and Finance Bill which provides the annual carbon tax rate increases by EUR 7,50 per tonne of CO₂ for 2021. The evidence provided by Ireland demonstrates that legislation has entered into force and provides for the 2021 annual increase of EUR 7,50 per tonne of CO₂ emissions for all affected fuels from the dates specified in the Finance Act 2020. The Council Implementing Decision required for the Budget and Finance Bill to have entered into force and provide for the 2021 annual increase of EUR 7,50 per tonne of CO₂ emissions. Instead, the Finance Act 2020 has been adopted, and entered into force on 19 December 2020, as evident from the publication in the Official Journal (Iris Oifigiúil). The Finance Act 2020 establishes the increase of the carbon charge by EUR 7,50 per tonne CO₂ emitted as evident from section 26, 27 and 28. Unlike the Budget announcement, which is essentially a policy statement of the planned tax and spending changes, the Finance Act is an act of parliament. The legal basis for the Finance Act is laid down in Article 17 of the Irish Constitution, which assigns the Dáil Éireann (lower house of parliament) the power to approve taxation and expenditure. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, the relevant legislation has entered into force and provides for the 2021 annual increase of the carbon charge. The Finance Act is the primary legislative vehicle through which the budget measures are implemented into law and provides the legal basis for changes in taxation and other financial matters approved in

the budget. As of this, this minimal deviation does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (18) Milestone 49 provides for the entry into force of the Budget and Finance Bill which provides the annual carbon tax rate increases by EUR 7,50 per tonne of CO₂ for 2022. The evidence provided by Ireland demonstrates that legislation has entered into force and provide for the 2022 annual increase of EUR 7,50 per tonne of CO₂ emissions for all affected fuels from the dates specified in the Finance Act 2020. The Council Implementing Decision required for the Budget and Finance Bill to have entered into force and provide for the 2021 annual increase of EUR 7,50 per tonne of CO₂ emissions. Instead, the Finance Act 2020 has been adopted, and entered into force on 19 December 2020, as evident from the publication in the Official Journal (Iris Oifigiúil). The Finance Act 2020 establishes the increase of the carbon charge by EUR 7,50 per tonne CO₂ emitted as evident from section 26, 27 and 28. Unlike the Budget announcement, which is essentially a policy statement of the planned tax and spending changes, the Finance Act is an act of parliament. The legal basis for the Finance Act is laid down in Article 17 of the Irish Constitution, which assigns the Dáil Éireann (lower house of parliament) the power to approve taxation and expenditure. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, the relevant legislation has entered into force and provides for the 2022 annual increase of the carbon charge. The Finance Act is the primary legislative vehicle through which the budget measures are implemented into law and provides the legal basis for changes in taxation and other financial matters approved in the budget. As of this, this minimal deviation does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (19) Milestone 53 provides for the signing of a contract awarding the building of the shared government data centre. The evidence provided by Ireland demonstrates that the contract awarding the building and all mechanical and electrical components has been signed and that the project is expected to lead to greenhouse gas emission savings. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (20) Milestone 56 provides for the launch of calls for proposals for grant funding under digitalisation schemes. The evidence provided by Ireland demonstrates that initial calls for proposals have been published by Enterprise Agencies. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (21) Target 59 provides that at least 750 primary schools are connected to broadband network. The evidence provided by Ireland, including sign-off sheets and connection certificates by retail service providers, selected by the Commission in a sample, demonstrates that routers for high-speed broadband connectivity have been installed in 917 primary schools. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (22) Milestone 61 provides for the setup of grant funding for ICT infrastructure in primary and post-primary schools in a way that targets learners at risk of educational

disadvantage. The evidence provided by Ireland demonstrates that the funding criteria and mechanisms of the programme have been finalised and communicated to schools through a circular. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (23) Target 62 provides that at least 3 415 primary and post-primary schools are issued funding to be used for ICT infrastructure. The evidence provided by Ireland, including bank statements, financial statements and remittance advices, selected by the Commission in a sample, demonstrates that transfers have been made to 3 923 schools. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (24) Milestone 69 provides for the award of a contract for the procurement of a digital pharmacy system. The evidence provided by Ireland demonstrates that a supplier contract has been signed and this is expected to enable authorities to better monitor the use and costs of medication across hospitals in Ireland. The Council Implementing Decision required the procurement process for ePharmacy to be completed with supplier contracts signed. However, the ePharmacy project was renamed to the 'Hospital Medicines Management System', which appears throughout the tender documents. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, the only difference is attributed to the name of the project. As of this, this minimal deviation does not affect the progress towards achieving the investment that the milestone represents. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (25) Milestone 72 provides for the completion of the design, building and configuration of the integrated financial management system within the health system. The evidence provided by Ireland demonstrates that the contractor completed the design, building and configuration of the integrated financial management system, as also accepted by the competent authority. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (26) Milestone 74 provides for the publication of the new Digital Strategy for schools, outlining the policy of the Department of Education to embed the use of digital technologies in teaching, learning and assessment in the Irish school system. The evidence provided by Ireland demonstrates that the Digital Strategy for schools, containing the required elements, has been published by the Department of Education. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (27) Milestone 76 provides for the publication of a 10 Year Adult Literacy, Numeracy and Digital Literacy Strategy to help individuals build their digital literacy. The evidence provided by Ireland demonstrates that the 10 Year Adult Literacy, Numeracy and Digital Literacy Strategy, setting the targets for basic digital literacy acquisition, has been published. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (28) Target 77 provides for the provision of at least 20 000 laptops to disadvantaged students at further and higher education institutions. The evidence provided by Ireland, including loan agreement forms for laptops selected by the Commission in a sample, demonstrates that at least 21 436 laptops have been provided to disadvantaged students at further and higher education. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (29) Milestone 80 provides for the development of skill provision opportunities under the ‘Skills to Compete’ programme. The evidence provided by Ireland demonstrates that skill provision opportunities in the areas of (i) digital skills, (ii) employability (transversal) skills and (iii) specific sector skills have been made available for booking for learners. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (30) Milestone 81 provides for development of green skills provision and modules opportunities. The evidence provided by Ireland demonstrates that green skills modules and provision opportunities have been made available for booking and that they cover specific skills areas in near zero emission building and retrofit and a suite of green skills for upskilling and re-skilling. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (31) Milestone 84 provides for project grants to be awarded under the Education and Training Reforms programme. The evidence provided by Ireland demonstrates that all grant agreements under the Education and Training Reforms programme have been signed by successful applicants. The Council Implementing Decision required the details and timelines of the project to be included in the grant agreements, however Ireland has specified these only in the consolidated proposal submission, not in the consolidated grant agreements. The consolidated grant agreement contains the organisational details of the project, as well as the categories, the consolidated proposal submission contains the specific project details. The details and timelines of the individual projects (called “work packages” in the documentation) are set out in Tables 1 and 2 of Appendix 1 of the consolidated proposal submission document. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, the consolidated grant agreement is based on, and directly linked to the consolidated proposal submission as outlined in section 1.8 of the consolidated grant agreement. Therefore, the two documents when read in conjunction demonstrate compliance with this requirement for details of the project, and this therefore does not change the nature of the measure and does not affect the progress towards the achievement of the reform or investment that the milestone. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (32) Milestone 88 provides for the publication of a programme for the implementation of the SME Test and communication to all Government departments. The evidence provided by Ireland demonstrates that programme of actions for the implementation of the SME Test has been published and that a communication has been issued to all Government departments, which requested that the SME Test be fully applied on all relevant legislation. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (33) Milestone 89 provides for the implementation of all identified actions in the programme of actions referred to in milestone 88. The Council Implementing Decision required the establishment of a reporting framework that shall allow for the monitoring of the application of the SME Test across Government. The Department of Enterprise has established an informal reporting framework as evidenced by the email dated 24 May 2022 outlining that members of the network will be asked for periodic updates on their application of the SME Test. A further email dated 18 October 2022 requires a second round of reporting from the network. Whilst the absence of a more formal reporting framework constitutes a minimal substantive deviation from the requirement

of the Council Implementing Decision, there is a clear indication that a reporting framework applies, although informal in nature. In addition, a spot check of the Department of Enterprise website carried out on 22 February 2024 shows a list of departments that applied the SME test to specified legislation in 2022, 2023, and 2024. This demonstrates that there is reporting happening, and this reporting will allow for the monitoring of the application of the SME test across Government. As a result of this, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (34) Target 91 provides that at least 120 inspections of Trust or Company Service Providers have been conducted by a reinforced staff at the Anti-Money Laundering Compliance Unit in the Department of Justice. The evidence provided by Ireland, including inspection reports selected by the Commission in a sample, demonstrates that 120 inspections of Trust or Company Service Providers were carried out in 2021. The Council Implementing Decision required that the Anti-Money Laundering Compliance Unit recruit at least two additional staff in 2021, including at least one with specialist skills in forensic accounting. The document on additional staff recruited shows that the Anti-Money Laundering Compliance Unit recruited two additional staff, with one new staff member starting on 1 November 2021 and the second new staff member – who has diplomas certifying specialist skills in forensic accounting - starting on 3 May 2022. The document on additional staff recruited explains that, in 2021, the Anti-Money Laundering Compliance Unit offered the position to three individuals, all of whom declined. The role was then advertised in February 2022 on the civil service mobility transfer programme, which resulted in the recruitment of a candidate. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the deviation is acceptable as the Anti-Money Laundering Compliance Unit recruited the additional staff member with a minimal delay after the three candidates declined the offer in 2021. In addition, the Anti-Money Laundering Compliance Unit has been able to sustain an increasing trend in the number of Trust or Company Service Provider inspections - from 85 in 2019 (as reported on page 6 of the Anti-Money Laundering Compliance Unit Annual Report 2019) and 62 in 2020 (as reported on page 8 of the Anti-Money Laundering Compliance Unit Annual Report 2020), to 138 in 2021 (as reported on page 11 of the Anti-Money Laundering Compliance Unit Annual Report 2021). As of this, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled.

In addition, the Council Implementing Decision required the risk rating to inform the level of future inspection. Ireland supplied an internal note on risk-based inspection scheduling, which outlines that Trust or Company Service Providers deemed higher risk will be inspected annually, others will be inspected every two years, and complex entities with no compliance issues and robust controls in place will be inspected every three years. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision as there is no legally binding obligation for the Anti-Money Laundering Compliance Unit to follow these scheduling indications, the deviation is acceptable as a risk-based supervision is effectively in place, while leaving to the AMLCU the flexibility to further improve its processes. As of this, this minimal

deviation does not affect the progress towards achieving the reform that the target represents. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (35) Milestone 92 provides for a review of the regulatory enforcement toolkit under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. The evidence provided by Ireland demonstrates a review on the feasibility of amending legislation to expand the regulatory toolkit to include an administrative financial sanctions regime has been carried out, with a report having been submitted to parliament. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (36) Milestone 93 provides for an anti-money laundering / counter financing of terrorism sectoral risk assessment of Trust or Company Service Providers. The evidence provided by Ireland demonstrates a sectoral risk assessment has been carried out and published by the Anti-Money Laundering Steering Committee. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (37) Milestone 95 provides for the entry into force of legislation amending capital allowances on intangible assets, to provide that all assets acquired from October 2020 are fully within the scope of balancing charge rules. The evidence provided by Ireland demonstrates a provision in the legislation indicating the entry into force of the legislation. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (38) Milestone 96 provides for a change in Ireland's corporate tax residence rules to prevent Irish incorporated companies from being stateless for tax purposes and to shut down structures that were designed to exploit gaps in US anti-avoidance rules, and for the enhancing of controlled foreign companies rules to apply to the EU list of non-cooperative jurisdictions. The evidence provided by Ireland demonstrates the implementation of preventative measures to limit opportunities for aggressive tax planning and in particular double non-taxation by means of outbound payment. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (39) Milestone 97 provides for economic analysis on outbound payment flows and recent reforms and publication of public consultation summary on measures applying to outbound payments. The evidence provided by Ireland demonstrates the publication of an economic analysis by an independent external contractor on payment flows, as well as the taking place and publication of a stakeholder public consultation relating to the possibility of introducing measures applying to outbound payments. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (40) Milestone 99 provides for a report with the aim to simplify and harmonise the supplementary pension landscape. The evidence provided by Ireland demonstrates the publication of a report by the Interdepartmental Pensions Reform and Taxation Group, which presents a number of recommendations on how to advance the goal of simplifying and harmonising the supplementary pension landscape. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (41) Milestone 101 provides for the entry into operation of the Land Development Agency as a commercial state agency. The evidence provided by Ireland demonstrates the

Land Development Agency is in operation with the purpose to increase the supply of housing in the State, in particular affordable and social housing. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (42) Milestone 105 provides for the entry into operation of the Sláintecare Consultant Contract. The evidence provided by Ireland demonstrates the Sláintecare Consultant Contract is only in operation as of 8 March 2023. The Council Implementing Decision required that the Sláintecare Consultant Contract have no provision for any onsite private practice. Section 24.10 contains a prohibition of private practice in public hospitals, unless this is expressly permitted by the employer and the employer is satisfied that such an exception is compatible with a range of objective grounds. In particular, a situation in which such an exception can be granted is outlined in Section 8 of Appendix 9, which relates to the transition of existing consultants to the Sláintecare Consultant Contract. A transition period is outlined in Sections 10 a-d and 11 a-b of Appendix 9, which specify that those who switch to the Sláintecare Consultant Contract by 31 December 2023 will need to cease private practice onsite by 31 December 2025, while those who switch to the Sláintecare Consultant Contract after 31 December 2023 will have only six months to cease private practice onsite. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the delay between the entry into operation of the Sláintecare Consultant Contract and the actual application of the provisions for all consultants with the Sláintecare Consultant Contract is considered both limited and proportional, notably as it concerns only transitional arrangements that are limited in duration. As existing consultants may remain on their existing contract and may find it difficult to immediately cease all onsite private practice, temporary transitional arrangements are likely to help attract existing consultants to the Sláintecare Consultant Contract. Allowing for a transitional arrangement of limited duration is thus a pragmatic feature of the contract that does not threaten the nature of this ‘public only’ contract that aims at a phased elimination of private care from public hospitals - a key objective of the Sláintecare Consultant Contract, as stated on page 1 of the Health Service Executive HR circular 008/2023 from 3 March 2023. Moreover, certainty on the entry into operation of the Sláintecare Consultant Contract is provided by this Health Service Executive HR circular 008/2023 from 3 March 2023, which specifies that, from 8 March 2023, the Sláintecare Consultant Contract is the only contract of employment that may be offered to new consultants, consultants who wish to transition from existing contracts, or consultants changing employers. As of this, this minimal substantive deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled.

In addition, the Council Implementing Decision further required that the Sláintecare Consultant Contract have no provision for any offsite private practice. Section 24 does set out the freedom for consultants to engage in private practice outside the scope of the contract – provided that the employer is satisfied that such an exception is compatible with a range of objective grounds. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the deviation is required in order to comply with EU law. In particular, Directive 2019/1152 of 20 June 2019 on transparent and predictable working conditions in the European Union limits the circumstances in which an employer can restrict an

employee from engaging in work. Article 9(1) on parallel employment stipulates that “Member States shall ensure that an employer neither prohibits a worker from taking up employment with other employers, outside the work schedule established with that employer, nor subjects a worker to adverse treatment for doing so”. In addition, Article 9(2) on parallel employment stipulates: “Member States may lay down conditions for the use of incompatibility restrictions by employers, on the basis of objective grounds, such as health and safety, the protection of business confidentiality, the integrity of the public service or the avoidance of conflicts of interests.” In line with the Sláintecare Consultant Contract being a ‘public only’ contract of employment, the provisions in Section 24 of the Sláintecare Consultant Contract sets clear limits on the provision of offsite private practice, which can only be allowed if and when the employee requests and the employer grants permission on the basis of objective grounds. Permission is not required in a limited set of circumstances, such as charitable work or unpaid work, as long as such activities are completed outside of the employee’s work schedule and do not impede the employee’s discharge of duties (section 24.14 of the Sláintecare Consultant Contract). Since the provisions in Section 24 are sufficiently limited and well defined, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled.

Finally, the Council Implementing Decision required the Sláintecare Consultant Contract to be applicable to all contracts issued after 30 September 2021 at the latest. With a delay, the Sláintecare Consultant Contract became applicable to all contracts issued on or after 8 March 2023. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision. The delay has resulted consultants not being offered the Sláintecare Consultant Contract between 1 October 2021 and 7 March 2023. The delay was due to the Department of Health and Health Service Executives being engaged in protracted negotiations on the Sláintecare Consultant Contract with consultants’ representative bodies. As existing consultants may remain on their existing contract, the agreement of these representative bodies was pursued to incentivise a high take-up of the Sláintecare Consultant Contract among existing consultants. A press release by the Minister for Health from 7 December 2022 announcing the end of talks on the Sláintecare Consultant Contract, explains that a second round of negotiations was concluded in December 2022, that the Government has approved the Sláintecare Consultant Contract, and that representative bodies will consider the proposals through their respective processes. The Sláintecare Consultant Contract entered into operation shortly after these final steps in the negotiation, as attested to by the above-mentioned supporting evidence. Given this context, the delay is acceptable in that it can be expected to lead to a higher take-up of the Sláintecare Consultant Contract among existing consultants. As of this, this minimal substantive deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents or progress in achieving the other milestone of this reform. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled.

- (43) Milestone 108 provides for the establishment of a repository system for audit and controls, which should allow recording, storing and making available all relevant data related to the implementation of the recovery and resilience plan. The evidence provided by Ireland demonstrates that the repository system for audit and controls is in place and operational, as well as that it includes the functionalities required under the

Council Implementing Decision. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (44) Milestone 109 provides for ensuring the administrative capacity of the implementing body, as well as the administrative capacity for the audit body, by means of a workload analysis. The evidence provided by Ireland demonstrates that the administrative capacity of the implementing body and the audit body has been ensured. The Council Implementing Decision required for the Audit Body and the Implementing Body both a workload analysis carried out providing information on the administrative capacity needs and the main bottlenecks; and a report or a decision in accordance with the Further Specification of the Operational Arrangements confirming the commitment of resources for the Audit Body. Concerning the Audit Body, the Member State developed only a workload analysis that also contains the report confirming the commitment of resources for the Audit Body - ‘Workload Analysis IAB (Irish Audit Authority) of 6 December 2023’. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the deviation is acceptable due to the capacity of the workload analysis to offer a comprehensive overview of the resources engaged in the audit activities of the RRF projects. It stands as a robust representation, effectively delineating the intricate facets of the audit process and the personnel needed for the first payment request and the future payment requests foreseen in the Irish RRP. As of this, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the milestone represents. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (45) Following the fully positive assessment concerning Ireland’s payment request, in accordance with Article 24(5) of Regulation (EU) 2021/241, the disbursement of the financial contribution for the first instalment of the non-repayable support should be authorised.
- (46) This Decision should be without prejudice 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 on the Functioning of the European Union. It does not override the requirement for Member States to implement the measures in accordance with Union and national law and, in particular, to notify instances of potential State aid to the Commission under Article 108 of the Treaty on the Functioning of the European Union.
- (47) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 35(1) of Regulation (EU) 2021/241,

HAS ADOPTED THIS DECISION:

Article 1

Authorisation of the disbursement of the non-repayable support

The disbursement of the first instalment of the non-repayable support as laid down in Section 2(1)(1.1) of the Annex to the Council Implementing Decision of 8 September 2021 on the approval of the assessment of the recovery and resilience plan for Ireland for an amount of EUR 323 803 933 is authorised.

Article 2
Addressee

This Decision is addressed to Ireland.

Done at Brussels, 3.7.2024

For the Commission
Paolo GENTILONI
Member of the Commission

