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2023/0011 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Council Implementing Decision (ST 10158/21; ST 10158/21 ADD 1) on the approval of the assessment of the recovery and resilience plan for Germany

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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 21(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Following the submission of the national recovery and resilience plan ('RRP') by Germany on 28 April 2021, the Commission has proposed its positive assessment to the Council. The Council has approved the positive assessment by means of the Council Implementing Decision of 13 July 2021².
- (2) Pursuant to Article 11(2) of Regulation (EU) 2021/241, the maximum financial contribution for non-repayable financial support of each Member State should be updated by 30 June 2022 in accordance with the methodology provided therein. On 30 June 2022, the Commission presented the results of that update to the European Parliament and the Council.
- (3) On 9 December 2022, Germany made a reasoned request to the Commission to amend the Council Implementing Decision in accordance with Article 21(1) of Regulation (EU) 2021/241 considering the RRP to be partially no longer achievable due to objective circumstances. On this basis, Germany has submitted an amended RRP.
- (4) The amended RRP submitted by Germany affects two measures. First, investment 2.2.4 Promoting the digitalisation of railways by replacing conventional interlocking/fast-track programmes to speed up the roll-out of 'Digital Rail Germany' (SLP) under Component 2.2 Digitalisation of the Economy and target with sequential number 72. Second, investment 5.1.3 Special programme to accelerate research and development of urgently needed vaccines against SARS-CoV-2 under Component 5.1 Strengthening of a Pandemic-resilient healthcare system and targets with sequential numbers 105 and 106.

¹ OJ L 57, 18.2.2021, p. 17. .

² ST 10158/21; ST 10158/21 ADD 1, not yet published.

- (5) Investment 2.2.4 consists of funding seven pilot projects, aiming at developing solutions to replace old railway signal boxes and level crossing protection systems by security systems of the latest digital generation. The amended RRP submitted by Germany changes the envisaged implementation timeline for one of the seven projects, SLP Ansbach, because of objective circumstances. Germany has explained that exceptional delays which occurred during the construction have made the target with sequential number 72 no longer fully achievable in the envisaged timeline. Such delays relate to the finding of hidden contaminations in the ground, followed by the finding of bombs and ammunition resulting in the need to change construction technology, and finally the extremely high summer temperatures in 2022, which hindered works close to and beneath the tracks. On this basis, Germany has requested to remove the SLP Ansbach project from the target with the sequential number 72 expected to be completed in the fourth quarter of 2021 and put forward a new target 72A, expected to be completed by the first quarter of 2023, for implementing that project.
- (6) The objectives of investment 5.1.3 are to support the research and development of vaccines against SARS-CoV-2 in order to reduce the severity and duration of the pandemic. The investment consists of financial support to German vaccine producers to increase their development and production capacity, and to increase patient numbers for clinical trial phases. The amended RRP submitted by Germany modifies the targets related to the implementation of the measure because of objective circumstances. Germany has clarified that one out of three vaccine producers participating under the special support programme had been successful in both research and roll-out of the vaccine, whereas the two other participants did not submit an application for approval of their respective vaccine to the European Medicines Agency. This made target with sequential number 105 no longer achievable totally. Moreover, Germany has explained that while three companies had received funding under the programme, one vaccine producer withdrew from the approval process to the European Medicines Agency and another incurred important delays in the achievement of prior defined milestones linked to the stages of vaccine development (such as the approval of a specific clinical trials phase or the authorisation of the vaccine) and did not file for approval either. Germany also stated that the programme's disbursement of more than EUR 591 281 160 is not achievable, making target with sequential number 106 no longer fully achievable. On this basis, Germany has requested to delete the target with sequential number 105, which required a second participant under the special research programme to submit an application for approval of a vaccine against SARS-CoV-2 to the European Medicines Agency. Germany has also requested to modify the target with sequential number 106 by revising downwards the total amount allocated to the measure from EUR 750 000 000 to EUR 591 000 000, and also revising down the related disbursement target. This amount of EUR 591 000 000 is taken into account as the overall estimated cost of the measure. The reduced total estimated cost of the RRP should be taken into account to determine the financial contribution, in accordance with Article 20(4) of Regulation (EU) 2021/241.
- (7) The Commission considers that the reasons put forward by Germany justify an amendment pursuant to Article 21(2) of Regulation (EU) 2021/241. Pursuant to Article 19 of Regulation (EU) 2021/241, the Commission has assessed the relevance, effectiveness, efficiency and coherence of the amended RRP, in accordance with the assessment guidelines set out in Annex V to that Regulation.

- (8) The very limited modification put forward by Germany does not affect the relevance, effectiveness, efficiency and coherence of the RRP.
- (9) The assessment criteria, notably those laid down in Article 19(3), points (a), (b) (c), (d), (e), (f), (g), (h), (i), (j) and (k) of Regulation (EU) 2021/241, are still complied with, given the targeted nature of the modifications put forward by Germany, relating only to the partial modification of two measures. Beyond this targeted amendment, Germany has confirmed in writing to the Commission that it intends to request a comprehensive update of the Council Implementing Decision in accordance with Article 18(2) of Regulation (EU) 2021/241 in spring 2023, addressing all or a significant subset of challenges identified in the relevant country-specific recommendations, and commensurate to the maximum financial contribution for non-repayable financial support available to Germany under Regulation (EU) 2021/241 as of 30 June 2022.
- (10) Following the positive assessment of the Commission concerning Germany's amended RRP 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 amendments to the reforms and investment projects necessary to take account of the amended RRP.
- (11) The estimated total costs of the amended RRP of Germany is EUR 26 360 114 773.³ As the amended RRP satisfactorily complies with the criteria for assessment set out in Regulation (EU) 2021/241 and, furthermore, as this amount of the estimated total costs of the amended RRP is lower than the maximum financial contribution available for Germany, the financial contribution allocated for Germany's amended RRP should be equal to the total estimated cost of the plan.
- (12) Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Germany should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Germany is amended as follows:

- (1) Article 1 is replaced by the following:

The assessment of the amended 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.

- (2) In Article 2, paragraphs 1 and 2 are replaced by the following:

³ Germany submitted two cost estimates. The amended RRP's gross value of EUR 27 790 882 000 includes VAT for some measures, while a net value of at least EUR 26 359 833 613 excludes VAT.

1. The Union shall make available to Germany a financial contribution in the form of non-repayable support amounting to EUR 26 359 833 613 ¹². An amount of EUR 16 291 323 631 shall be available to be legally committed by 31 December 2022. A further amount of EUR 10 068 509 982 shall be available to be legally committed from 1 January 2023 until 31 December 2023.
2. The Union financial contribution shall be made available by the Commission to Germany in instalments in accordance with the Annex to this Decision. The 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 Annex is amended as follows:

(a) Section 1: Reforms and Investments under the Recovery and Resilience Plan is amended as follows:

(i) in point 1. Description of reforms and investments; E. Component 2.2: Digitalisation of the Economy; E.1. Description of the reforms and investments for non-repayable financial support; 2.2.4 Investment: Promoting the digitalisation of rail by replacing conventional interlocking/fast-track programmes to speed up the roll-out of the ‘Digital Rail Germany’ (SLP), paragraph 4 is replaced by the following: “The implementation of the investment shall be completed by 31 March 2023.”

(ii) in point 1. Description of reforms and investments; E. Component 2.2: Digitalisation of the Economy; E.2. Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, row 72 is replaced by the following:

72	2.2.4 Promoting the digitalisation of railways by replacing conventional interlocking/fast-track programmes to speed up the roll-out of the ‘Digital Rail Germany’	Target	Successful completion of pilot projects	-	Number of pilot projects completed	0	6	Q4	2021	Six pilot projects of the programme, aiming at developing solutions to replace old signal boxes and level crossing protection systems by security systems of the latest digital generation have been completed successfully, with validation in operational conditions for
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¹² This amount corresponds to the financial allocation without deduction of Germany’s proportional share of the expenses of Article 6(2) of Regulation (EU) 2021/241, calculated in accordance with the methodology of Article 11 of that Regulation.

											at least three of them, and validation in laboratory conditions for the others.
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(iii) in point 1. Description of reforms and investments; E. Component 2.2: Digitalisation of the Economy; E.2. Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, following row 72, the following new row 72A is inserted:

72A	2.2.4 Promoting the digitalisation of railways by replacing conventional interlocking/fast-track programmes to speed up the roll-out of 'Digital Rail Germany'	Target	Successful completion of final pilot project	-	Number of pilot projects completed	6	7	Q1	2023	The final pilot project of the programme has been completed successfully with validation in operational conditions.
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(iv) in point 1. Description of reforms and investments; H. Component 5.1 Strengthening of a Pandemic-resilient healthcare system; H.2 Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, row 105 is deleted.

(v) in point 1. Description of reforms and investments; H. Component 5.1 Strengthening of a Pandemic-resilient healthcare system; H.2 Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, row 106 is replaced by the following:

106	5.1.3 Special programme to accelerate research and development of urgently needed vaccines against SARS-CoV-2	Target	Disbursement of at least EUR 561 450 000 to vaccine research supported by	-	EUR million	0	561,45	Q3	2022	Of the EUR 591 000 000 allocated to the measure, at least EUR 561 450 000 (95% of the total funding) have been disbursed to the beneficiaries for vaccine research.
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			this special programme							
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(vi) in point 2, Estimated total cost of the recovery and resilience plan, the subparagraph “The estimated total cost of the recovery and resilience plan of Germany is EUR 26 518 833 613 ¹⁷, which is higher than the maximum financial contribution. “is replaced by the following: “The estimated total cost of Germany’s recovery and resilience plan is EUR 26 359 833 613.

(b) in Section 2: Financial Support is amended as follows:

(i) in point 1. Financial contribution, 1.1 First Instalment (non-repayable support), row 105 is deleted.

(ii) in point 1. Financial contribution, 1.1 First Instalment (non-repayable support), the Instalment amount of “EUR 4 500 328 548” in the final row and column is replaced by “EUR 4 344 763 676”;

(iii) in point 1. Financial contribution, 1.2 Second Instalment (non-repayable support), the following new row is inserted after row 63:

72A	2.2.4 Promoting the digitalisation of railways by replacing conventional interlocking/fast-track programmes to speed up the roll-out of ‘Digital Rail Germany’	Target	Successful completion of final project
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(iv) in point 1. Financial contribution, 1.2 Second Instalment (non-repayable support), row 106 is replaced by the following:

106	5.1.3 Special programme to accelerate research and development of urgently needed vaccines against SARS-CoV-2	Target	Disbursement of at least EUR 561 450 000 to vaccine research supported by this special programme
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(v) in point 1. Financial contribution, 1.2 Second Instalment (non-repayable support), the Instalment amount of “EUR 7 284 486 130” in the final row and column is replaced by “EUR 7 531 239 794”;

(vi) in point 1. Financial contribution, 1.3 Third Instalment (non-repayable support), the instalment Amount of “EUR 6 639 217 950” in the final row and column is replaced by “EUR 6 857 606 743”;

(vii) in point 1. Financial contribution, 1.4 Fourth Instalment (non-repayable support), the instalment Amount of “EUR 3 480 124 348” in the final row and column is replaced by “EUR 3 698 513 141”;

¹⁷ Germany submitted two cost estimates. The amended RRP’s gross value of EUR 27 790 882 000 includes VAT for some measures, while a net value of at least EUR 26 359 833 613 excludes VAT.

(viii) in point 1. Financial contribution, 1.5 Fifth Instalment (non-repayable support), the instalment Amount of “EUR 3 709 321 467” in the final row and column is replaced by “EUR 3 927 710 259”.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels,

*For the Council
The President*