Council of the
European Union

Brussels, 11 July 2023
(OR. en)

11336/23

Interinstitutional File:
2023/0216 (NLE)

ECOFIN 709
FIN 733
UEM 222

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending Implementing Decision of 8 September 2021 on the approval of the assessment of the recovery and resilience plan for Ireland

COUNCIL IMPLEMENTING DECISION

of …

amending Implementing Decision of 8 September 2021
on the approval of the assessment of the recovery and resilience plan for Ireland

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 Facility[1], and in particular Article 20(1) thereof,

Having regard to the proposal from the European Commission,

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[1] OJ L 57, 18.2.2021, p. 17.

Whereas:

(1) Following the submission of the national recovery and resilience plan ('RRP') by Ireland on 28 May 2021, the Commission proposed its positive assessment to the Council. On 8 September 2021, the Council approved the positive assessment by means of an implementing decision ('the Council Implementing Decision of 8 September 2021')[1].

(2) Pursuant to Article 11(2) of Regulation (EU) 2021/241, the maximum financial contribution for non-repayable financial support of each Member State is to 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 to the Council.

(3) On 22 May 2023, Ireland made a reasoned request to the Commission to make a proposal to amend the Council Implementing Decision of 8 September 2021 in accordance with Article 21(1) of Regulation (EU) 2021/241 on the grounds that the RRP is partially no longer achievable because of objective circumstances. On that basis, Ireland has submitted an amended RRP.

(4) The amendments to the RRP submitted by Ireland concern two measures. Ireland has explained that those two measures are no longer totally achievable in the given implementation timeline.

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[1] See documents ST 11046/21 INIT and ST 11046/21 ADD 1 at http://register.consilium.europa.eu.

(5) The first amendment concerns measure 1.1 (Derisking a Low cost Residential Retrofit Loan Scheme) under component 1 (Advancing the green transition), as set out in the Annex to the Council Implementing Decision of 8 September 2021, which concerns a loan guarantee scheme that aims to encourage private investment in energy efficiency. Ireland has explained that milestones 1 and 2 of that measure are no longer achievable in the given implementation timeline because of unforeseeable challenges related to their implementation. The unforeseeable challenges concern the increased technical requirements for the implementation of the measure, which were highlighted during the due diligence procedure carried out by the European Investment Bank, and which necessitated the involvement of an additional counter-guarantor, namely the European Investment Fund, as a complement to the European Investment Bank. The new required architecture of the loan guarantee scheme cannot be initiated within the initially planned implementation timeline. Ireland has therefore requested that the implementation timeline for the aforementioned milestones be extended from Q1 2022 and Q2 2022, respectively, to Q3 2023 for milestones 1 and 2.Due to those objective circumstances, the Council Implementing Decision of 8 September 2021 should be amended accordingly.

(6) The second amendment concerns measure 3.8 (Increasing the provision of social and affordable housing) under component 3 (Social and economic recovery and job creation), which concerns the entry into operation of the Land Development Agency as a commercial State agency and the entry into force of an Affordable Housing Act. The measure requires that housing units be delivered under the different schemes established by the reform. Ireland has explained that targets 102 and 103 of that measure are no longer achievable in the given implementation timeline because of the implications of Russia's war of aggression against Ukraine and lingering uncertainty over the Protocol on Ireland / Northern Ireland. Those circumstances resulted in inflation in the price of construction materials, rising energy costs and supply-chain challenges that delayed many projects, with the weighted costs of construction materials increasing by 8,5 % in 2021 and 17,5 % in 2022 (compared to an average annual growth of 1,2 % in the years between 2016 and 2020). Projects were delayed due to the contractors being unable to meet the contracted price, while the number of bids for public tenders fell due to the perceived risk involved and general concerns relating to future material and energy prices. Ireland has therefore requested that the implementation timeline for the aforementioned targets be extended from Q1 2022 to Q3 2023. Due to those objective circumstances, the Council Implementing Decision of 8 September 2021 should be amended accordingly.

(7) The third amendment also concerns measure 3.8 under component 3. Ireland has explained that target 104 is no longer achievable in the given implementation timeline because of the identification of a manifestly better approach during the pre-launch stakeholder engagement that took place following the submission of the RRP. With no precedent for this type of equity support scheme, the original RRP had presupposed significant uniformity across the three financial institutions participating in the scheme (in relation to IT systems, approval processes, legal instruments, etc). However, the stakeholder engagement identified significant variance in the underlying IT systems, administrative mortgage approval processes, and legal instruments to recognise the shared equity portion of new homes purchased through such schemes. This highlighted the need to establish a working group, which ultimately allowed for the harmonisation of standard procedures and documentation for property conveyancing between the financial institutions participating in the scheme. Developing and implementing that standardisation delayed the launch of the scheme, but had clear advantages: (a) it ensured greater consistency and certainty for scheme applicants, (b) it created a standardised property conveyancing process, (c) it resulted in lower legal fees for home purchasers across the scheme, and (d) it guaranteed a uniform treatment of the shared equity debt and mortgage debt for the scheme in cases of damage to property, default of repayments, and subsequent sales of the home. Ireland has therefore requested that the implementation timeline for the aforementioned target be extended from Q1 2022 to Q3 2023. Due to the above objective circumstances, the Council Implementing Decision of 8 September 2021 should be amended accordingly.

(8) The Commission considers that the reasons put forward by Ireland justify amendments pursuant to Article 21(2) of Regulation (EU) 2021/241.

(9) The Commission considers that the amendments put forward by Ireland do not affect the positive assessment of the RRP set out in the Council Implementing Decision of 8 September 2021 regarding the relevance, effectiveness, efficiency and coherence of the RRP against the assessment criteria laid down in Article 19(3), points (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k), of Regulation (EU) 2021/241.

(10) Following the positive assessment of the Commission concerning the 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 cost of the amended RRP is EUR 989 938 300. As the amount of the estimated total costs of the amended RRP is higher than the updated maximum financial contribution available for Ireland, the financial contribution allocated to Ireland's amended RRP should be equal to the total amount of the updated maximum financial contribution available for Ireland.

(12) The Council Implementing Decision of 8 September 2021 on the approval of the assessment of the recovery and resilience plan for Ireland should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The Council Implementing Decision of 8 September 2021 on the approval of the assessment of the recovery and resilience plan for Ireland is amended as follows:

(1) Article 1 is replaced by the following:

'*Article 1*
Approval of the assessment of the RRP

The assessment of the amended RRP of Ireland 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, paragraph 1 is replaced by the following:

'1. The Union shall make available to Ireland a financial contribution in the form of non-repayable support amounting to EUR 914 368 618[*]. An amount of EUR 914 368 618 shall be available to be legally committed by 31 December 2022.

* This amount corresponds to the financial allocation after deduction of Ireland'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.';

(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; A. Component 1: Advancing the green transition; A.2. Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, rows 1 and 2 are replaced by the following:

‘1	1.1 Derisking a Low cost Residential Retrofit Loan Scheme	Milestone	Establishment of the financial instrument: signature of contractual agreement between the relevant ministries and the SBCI and concluding the related investment strategy/policy	Signing of the agreement and publication of the related investment strategy/policy to ensure at least a medium-depth retrofit for at least 75 % of disbursed loans	-	-	-	Q3	2023	The relevant ministries shall conclude an agreement with Strategic Banking Corporation of Ireland, and the financial instrument shall be established, including the related investment strategy/policy, specifying that at least 75 % of loans under the loan guarantee scheme shall be disbursed for financing retrofit works. The agreement and the investment strategy/policy shall be in line with Commission’s Guidance Note of 22 January 2021 related to financial instruments, ensuring compliance *inter alia* with DNSH at the level of all downstream investments supported by the guarantee scheme. The agreement shall ensure that on average, these retrofit works shall achieve at least a medium-depth level renovation as defined in Commission Recommendation on Building Renovation (EU) 2019/786.

										The loans granted under the scheme shall not do significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852, taking into account the description of the measure and the mitigating steps set out in the recovery and resilience plan in accordance with the DNSH Technical Guidance (2021/C58/01). In particular, the measure shall comply with relevant EU and national environmental legislation, and shall require the economic operators carrying out the construction works to ensure that at least 70 % (by weight) of the non-hazardous construction and demolition waste (excluding naturally occurring material referred to in category 17 05 04 in the European List of Waste established by Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (notified under document number C(2000) 1147)) generated on the construction site shall be prepared for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, in accordance with the waste hierarchy and the EU Construction and Demolition Waste Management Protocol.

2	1.1 Derisking a Low cost Residential Retrofit Loan Scheme	Milestone	First loan guarantee contract signed	The first participating credit institution signs the guarantee agreement under the scheme	-	-	-	Q3	202 3	The contractual agreement to avail of the guarantee facility under the scheme shall have been signed by at least one participating credit institution and the guarantors.’

(ii) in point 1. Description of reforms and investments; C. Component 3: Social and economic recovery and job creation; C.1. Description of the reforms and investments for non-repayable financial support; Reform: 3.8 Increasing the provision of social and affordable housing, paragraph 4 is replaced by the following: ‘The reform shall be completed by 30 September 2023.’;

(iii) in point 1. Description of reforms and investments; C. Component 3: Social and economic recovery and job creation; C.2. Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support, rows 102, 103 and 104 are replaced by the following:

‘102	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes made available for sale through the new Affordable Purchase scheme for homes on public lands	-	Number	0	100	Q3	2023	At least 100 homes shall have been made available for sale through the Affordable Purchase Scheme for homes on public lands. Eligibility shall have been assessed on the First Time Buyer income capacity and incapacity to afford the homes at open market values, and prioritised by, inter alia, their time living in the local authority area, and home size compared to the family size. Homes shall have been considered available for sale when construction has been completed and applications from eligible applicants have been accepted. Compliance with relevant EU and national environmental legislation, and with the DNSH requirements set out in milestone 101 shall have been ensured.

103	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes delivered under the cost rental scheme	-	Number	0	450	Q3	2023	At least 450 homes shall have been completed and tenanted to middle income earners in urban centres with a reduction of at least 25 % on open market values, as defined by a professional property valuer. Eligibility shall have been defined by the Minister in Regulations with reference to Statistical data on incomes. The scheme shall apply to homes in Dublin, Cork, Galway, Limerick, Waterford and the Greater Dublin area. Compliance with relevant EU and national environmental legislation, and with the DNSH requirements set out in milestone 101 shall have been ensured.
104	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes made available for sale to purchasers who avail of the equity support scheme	-	Number	0	100	Q3	2023	At least 100 homes shall have been made available for sale to purchasers who avail of the equity support scheme. Subject to a measurable affordable need, purchasers shall avail of equity support of up to 30 % of open market values. Compliance with relevant EU and national environmental legislation, and with the DNSH requirements set out in milestone 101 shall have been ensured.’;

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

(i) in point 1. Financial contribution; 1.1. First Instalment (non-repayable support), rows 1, 102, 103, 104 and 2 are deleted;

(ii) in point 1. Financial contribution; 1.1. First Instalment (non-repayable support), the Instalment amount of 'EUR 395 586 614' in the final row and column is replaced by 'EUR 323 803 933';

(iii) in point 1. Financial contribution; 1.2. Second Instalment (non-repayable support), the following rows are inserted after row 94:

'1	1.1 Derisking a Low cost Residential Retrofit Loan Scheme	Milestone	Establishment of the financial instrument: signature of contractual agreement between the relevant ministries and the SBCI and concluding the related investment strategy/policy
2	1.1 Derisking a Low cost Residential Retrofit Loan Scheme	Milestone	First loan guarantee contract signed
102	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes made available for sale through the new Affordable Purchase scheme for homes on public lands
103	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes delivered under the cost rental scheme
104	3.8 Increasing The Provision Of Social And Affordable Housing	Target	Homes made available for sale to purchasers who avail of the equity support scheme';

(iv) in point 1. Financial contribution; 1.2. Second Instalment (non-repayable support), the Instalment amount of ‘EUR 197 793 307’ in the final row and column is replaced by ‘EUR 224 817 238’;

(v) in point 1. Financial contribution; 1.3. Third Instalment (non-repayable support), the Instalment amount of ‘EUR 197 793 307’ in the final row and column is replaced by ‘EUR 182 873 724’;

(vi) in point 1. Financial contribution; 1.4. Fourth Instalment (non-repayable support), the Instalment amount of ‘EUR 148 344 980’ in the final row and column is replaced by ‘EUR 137 155 293’;

(vii) in point 1. Financial contribution; 1.5. Fifth Instalment (non-repayable support), the Instalment amount of ‘EUR 49 448 326’ in the final row and column is replaced by ‘EUR 45 718 429’.

Article 2

This Decision is addressed to Ireland.

Done at Brussels,

For the Council

The President