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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION amending the 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 the 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 of the RRP for Ireland 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 was to be updated by 30 June 2022 in accordance with the methodology provided for 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 submitted an amended RRP to the Commission in accordance with Article 21(1) of Regulation (EU) 2021/241. Following the submission of the modified RRP by Ireland, the Commission has proposed its positive assessment to the Council. The Council approved the positive assessment by means of the Council Implementing Decision of 14 July 2023[2].

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

[2] See document ST 11336/23 at http://register.consilium.europa.eu.

(4) On 14 July 2023, the Council addressed recommendations to Ireland in the context of the European Semester. The Council recommended that Ireland, inter alia, ensure the fiscal sustainability of the state pension system and accelerate investments to speed up the circular economy and in the drinking-water and wastewater infrastructure. Furthermore, the Council recommended that Ireland reduce overall reliance on fossil fuels, focus efforts on improving flexibility in the electricity system and improve energy system integration while streamlining the planning and permitting framework for renewables, storage and grid connectors. The Council also recommended that Ireland implement additional measures that support energy efficiency in buildings, accelerate the installation of public charging points for zero-emission vehicles and focus on skills needed for the green transition.

(5) On 25 October 2023, Ireland submitted a second modified national RRP to the Commission. The modified RRP also takes into account the updated maximum financial contribution in accordance with Article 18(2) of Regulation (EU) 2021/241 and includes 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. The modifications to the RRP submitted by Ireland concern 7 measures.

(6) The summary of the consultations was submitted together with the modified national RRP. Pursuant to Article 19 of Regulation (EU) 2021/241, the Commission assessed the relevance, effectiveness, efficiency and coherence of the modified RRP, in accordance with the assessment guidelines set out in Annex V to that Regulation.

Updates based on Article 18 of Regulation (EU) 2021/241

(7) The modified RRP submitted by Ireland updates two measures to take into account the updated maximum financial contribution. Ireland has explained that, because the maximum financial contribution decreased from EUR 988 966 534 to EUR 914 368 618, two measures under components 1 (Advancing the green transition) and 3 (Social and Economic recovery and job creation) as referred to in the Annex to the Council Implementing Decision of 8 September 2021 need to be removed from the modified RRP.

(8) Those measures concern investment 1.1 (Derisking a Low Cost Residential Retrofit Loan Scheme) under component 1, which is aimed at encouraging private investment in energy efficiency by setting up a low-interest-rate residential retrofit loan scheme based on a loan guarantee to be provided by the state to participating retail banks and other credit institutions, and investment 3.1 (Work Placement Experience Programme) under component 3, concerning the funding to support the return to work of jobseekers who have been unemployed for at least 6 months, by offering work placements and training. The description of the measures and their associated milestones and targets 1, 2, 3, 78 and 79 should therefore be removed from the Council Implementing Decision of 8 September 2021.

Amendments based on Article 21 of Regulation (EU) 2021/241

(9) The amended RRP submitted by Ireland because of objective circumstances affects five measures.

(10) The first amendment concerns investment 1.2 (Accelerate the Decarbonisation of the Enterprise Sector) under component 1 (Advancing the green transition). The investment consists of the decarbonisation of enterprises by incentivising the installation of energy metering and monitoring control systems and increasing the uptake of carbon neutral low or medium temperature heating in the manufacturing industry. Ireland has explained that target 5 under this investment has been modified to implement better alternatives in order to achieve the original ambition of the measure. In particular, a greater quantity of CO_2 emissions can be abated through providing support to fewer but larger-sized projects because smaller projects are likely to have a higher cost per tonne of CO_2 abated. On this basis, Ireland has requested that the target number of companies be modified downwards from 750 to 150, linking it to the lower number of projects receiving increased support, which is better suited to capture the objective of the measure. Furthermore, Ireland has requested that target 6 of the same measure be modified because of the presence of a clerical error that caused a misrepresentation of the abatement potential of the measure in the original RRP. Ireland has provided evidence that, in combination with the aforementioned modification of target 5, justifies a modification of target 6 to a total abatement volume of 40 000 tonnes of CO_2. Due to the same circumstances, Ireland has further requested that the descriptions of both sub-measure 1.2.1 and 1.2.2, as well the descriptions of the milestones and targets 4, 5, 6, 7, and 8, the qualitative indicator for milestones 4 and 7 and the related measure for milestone 7 and target 8 be amended. The Council Implementing Decision of 8 September 2021 should be amended accordingly.

(11) The second amendment concerns investment 1.3 (Public Sector Retrofit Pathfinder Project) under component 1. The objective of the investment is to provide funding for a major upgrade of public office buildings by investing in energy efficiency and modernisation upgrades in order to significantly reduce their carbon footprint and prolong their useful lifespan. Ireland has explained that milestone 10 of the measure is no longer achievable within the given timeframe because of the large number of refugees needing housing solutions as a result of the Russian war of aggression against Ukraine. The Government's efforts to address the impact of the humanitarian crisis diverted administrative resources away from the implementation of milestone 10 into and towards managing the emergency housing and accommodation needs of arriving Ukrainian refugees. As the Office of Public Works' (OPW) was provided the task of arranging and constructing emergency accommodation solutions for Ukrainian refugees, a substantial share of its administrative resources had to be reallocated at short notice towards these efforts. This was an unforeseen circumstance that overrode the regular work of the OPW, thereby causing a delay in the implementation of investment 1.3. On this basis, Ireland has requested that the indicative date of completion of milestone 10 be postponed for the fourth quarter of 2025 and that the milestone description be amended. Due to the same circumstances, Ireland has furthermore requested that the measure description of investment 1.3, the descriptions and qualitative indicators of milestones 9, 10 and 11 and the name of milestone 10 be amended. The Council Implementing Decision of 8 September 2021 should be amended accordingly.

(12) The third amendment concerns investment 1.4 (Enable Future Electrification through Targeted Investment in Cork Commuter Rail) under component 1. Investment 1.4 aims to expand sustainable mobility policy in the region of Cork, reduce car use and increase the uptake of public transport, thus contributing to reducing greenhouse gas emissions.
It encompasses three sub-measures: (a) the creation of an additional through-running line with an additional platform at Kent Station; (b) the double tracking of the current single line between Glounthaune and Midleton; and (c) the re-signalling of the lines. Ireland has explained that the requirements set out in the description of the first sub-measure concerning the construction of a pedestrian footbridge, which foresees the creation of an additional through-running line, with an additional platform at Kent Station, has been modified to implement better alternatives in order to achieve the original ambition of the measure. The extension of an existing platform was recommended as the preferable option by an independent third party following feasibility and design studies. The identification of the expansion of an existing platform as the preferred option was unforeseen as the time of the submission of the original RRP. On this basis, Ireland has requested that the measure name and measure description, as well as the related measure for milestones 14, 15 and 16 and the description of milestone 16, be modified in order to reflect the fact that the station can obtain additional capacity while complying with accessibility requirements, eliminating the need for the construction of a footbridge. Furthermore, due to the same circumstances, Ireland has requested that the measure descriptions of the three sub-investments 1.4.1, 1.4.2, and 1.4.3, as well as the names and the qualitative indicators of milestones 12 and 22, be amended. The Council Implementing Decision of 8 September 2021 should be amended accordingly.

(13) The fourth amendment concerns investment 2.1 (Development of a Shared Government Data Centre) under component 2 (Accelerating and expanding digital reforms and transformation). The investment consists of the developing of a shared Government data centre. Ireland has explained that milestone 54 and target 55 of the measure are no longer achievable within the given timeframe because of the supply chain disruptions caused by the Russian war of aggression against Ukraine, as well as inflation affecting the prices for construction material and rising energy costs. The increase in costs delayed the tendering process due to the need to review the business case for the construction of the data centre, source additional funding and obtain government approval before the contract could be awarded. In addition, Ireland has explained that the requirement of target 55 concerning the migration of the servers and services of four organisations to the new Government data centre is no longer achievable due the above delays, which would leave only one year between the completion of the construction and the end of the Recovery and Resilience Facility. On this basis, Ireland has requested that the completion of milestone 54 and target 55 be postponed to the second quarter of 2025 and the second quarter of 2026 respectively and that target 55 be reduced from four organisations migrating their servers and services to the new Government data centre to two organisations migrating their servers and service. Due to the same circumstances, Ireland has furthermore requested that the description of measure 2.1 as well as the description of target 55 be amended.
The Council Implementing Decision of 8 September 2021 should be amended accordingly.

(14) The fifth amendment concerns investment 3.2 (Solas Recovery Skills Response Programme) under component 3. The investment consists of providing funding to support reskilling and upskilling activities, in order to equip participants with the skills needed for the twin transition as well as in target sectors with employment opportunities. Ireland has explained that targets 82 and 83 of this measure are no longer achievable within the timeframe set in the Council Implementing Decision of 8 September 2021 due to a low unemployment rate as a result of the unexpected resilience of employment after the pandemic crisis. While these developments are very positive for Ireland, they have affected the ability of the further education and training sector to achieve the targets for this measure. In addition, Ireland has explained that the requirement of target 83 regarding at least 20 % female participation under the age of 30 with a level of education attainment of 5 or lower in the Skills to Compete initiative is also no longer achievable due to abovementioned reasons. On this basis, Ireland has requested that the indicated date of completion of targets 82 and 83 be postponed to the fourth quarter of 2024 and that the value and the description of target 83 be amended. Instead of aiming for a 20 % target of women under 30 with a level of educational attainment of 5 or lower in the National Framework of Qualifications enrolled in the Skills to Compete initiative, the target is postponed to the fourth quarter of 2024 and the definition widened to include all women irrespective of age and educational attainment, resulting in a participation share of 50 % of women enrolled in at least one of the skills provision opportunities under the Skills to Compete initiative. Due to the same circumstances, Ireland has furthermore requested that the description of measure 3.2 as well as the names and the descriptions of milestones and targets 80, 81, 82, and 83 and the qualitative indicators of milestones 80 and 81 be amended. The Council Implementing Decision of 8 September 2021 should be amended accordingly.

(15) The Commission considers that the reasons put forward by Ireland justify the update pursuant to Article 18(2) and amendments pursuant to Article 21(2) of Regulation (EU) 2021/241.

(16) The limited modifications put forward by Ireland do not affect the previous positive assessment of the RRP with regard to its relevance, effectiveness, efficiency or coherence.

Corrections of clerical errors

(17) One clerical error has been identified in the text of the Council Implementing Decision of 8 September 2021, affecting three milestones and targets and one measure. The Council Implementing Decision of 8 September 2021 should be amended to correct the clerical error that do not reflect the content of the RRP submitted to the Commission on 28 May 2021, as agreed between the Commission and Ireland.

(18) The clerical error relates to the description of reform 3.6 Aggressive Tax Planning and milestone 96 under component 3. The corrections do not affect the implementation of the measure concerned.

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

(19) In accordance with Article 19(3), point (b), of and Annex V, criterion 2.2, to Regulation (EU) 2021/241, the modified RRP is expected to continue to address all or a significant subset of the challenges identified in the relevant country-specific recommendations addressed to Ireland, including fiscal aspects thereof.

(20) In particular, in spite of the removal of investment 1.1 (Derisking a Low Cost Residential Retrofit Loan Scheme), the updated RRP continues to address challenges concerning the green transition. The updated RRP still contains a very broad range of green measures, which are aimed at promoting energy renovation for public buildings, decarbonising enterprises, promoting sustainable transport, and addressing biodiversity challenges through the rehabilitation of peatlands and improvement of water treatment. In addition, in spite of the removal of investment 3.1 (Work Placement Experience Programme), the updated RRP continues to address challenges concerning supporting employment through active integration support and upskilling through investment 3.2 (Solas Recovery Skills Response Programme).

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

(21) In accordance with Article 19(3), point (c), of and Annex V, criterion 2.3, to Regulation (EU) 2021/241, the modified RRP is expected to continue to have a high impact on strengthening the growth potential, job creation, and economic, social and institutional resilience of Ireland, 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.

(22) In particular, in spite the removal of the measure investment 3.1 (Work Placement Experience Programme) under component 3 (Social and economic recovery and job creation), the updated RRP still contains measures to strengthen social cohesion by supporting employment, particularly through upskilling and reskilling opportunities and investments in education.

Contribution to the green transition, including biodiversity

(23) In accordance with Article 19(3), point (e), of and Annex V, criterion 2.5, to Regulation (EU) 2021/241, the modified RRP contains measures that contribute to a large extent (rating A) to the green transition, including biodiversity, or to addressing the challenges resulting from it. The measures supporting climate objectives account for an amount which represents 42 % of the RRP's total allocation, calculated in accordance with the methodology set out in Annex VI to Regulation (EU) 2021/241.

(24) The ambition towards the green transition of the modified RRP is maintained compared to the original RRP, primarily due to the fact that the overall allocation of the RRP decreases proportionally to the decrease in the contribution towards the climate objectives following the decrease in the maximum financial contribution available to Ireland, and stands at 42 % of the revised RRP, compared to 42 % of the original RRP.

(25) The amendments made to take into account the update of the maximum financial contribution and objective circumstances do not affect the previous positive assessment of the contribution to the green transition, including biodiversity, or to addressing the challenges resulting from it. Significant investments included in the RRP have the potential to contribute to the decarbonisation of the economy by improving energy efficiency in public buildings, decarbonising industries, promoting sustainable railway mobility, restoring biodiversity through the rehabilitation of peatlands, improving water treatment, and facilitating green research and innovation. Ireland included measures providing for the entry into force of the amendments to the climate law and its associated increase in climate targets, and for a significant increase in the carbon tax over the RRP period.

Contribution to the digital transition

(26) In accordance with Article 19(3), point (f), of and Annex V, criterion 2.6, to Regulation (EU) 2021/241, the modified 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 34,2 % of the modified RRP's total allocation, calculated in accordance with the methodology set out in Annex VI to Regulation (EU) 2021/241.

(27) The ambition towards the digital transition of the modified RRP increases slightly compared to the original RRP, primarily due to the fact that the overall allocation of the RRP decreases more than proportionally to the decrease in the contribution towards the digital transition following the decrease in the maximum financial contribution available to Ireland, and stands at 34,2 % of the revised RRP, compared to 32 % of the original RRP.

(28) The amendments made to take into account the update of the maximum financial contribution and objective circumstances do not affect the previous positive assessment of the contribution to the digital transitions or to addressing the challenges resulting from it. Several measures aim at contributing to the digital transition by supporting the digitalisation of enterprises, addressing the risk of the digital divide, including in the education sector, enhancing digital skills, and supporting the development of digital infrastructure and the delivery of digital public services.

Protection of the financial interests of the Union

(29) 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 modified 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 accordance with Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council[1].

(30) The assessment of the original Irish RRP, in accordance with Article 19(3), point (j), of and Annex V, criterion 2.10, to Regulation (EU) 2021/241, considered the arrangements proposed therein to be adequate (rating A) to prevent, detect and correct corruption, fraud and conflicts of interest subject to the timely fulfilment of two milestones 108 and 109. These milestones relate to: (a) repository system for audit and controls; (b) administrative capacity of the Implementing Body and the Audit Body.

[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 433 I, 22.12.2020, p. 1).

(31) Since the original assessment, the Commission had access to information on its actual implementation. This includes the findings of the audit on the protection of the financial interests of the Union performed by the Commission in Ireland.

(32) In light of this information, the Commission considers that the internal control system of the Irish RRP is adequate overall, but it has some deficiencies that must be addressed through a dedicated audit and control milestone. This relates to the need for instructions from the Implementing Body (Department of Public Expenditure and Reform) to the Accountable Departments with the objective of strengthening the framework further to prevent, detect, and correct any serious irregularities such as fraud, conflicts of interest, corruption and double funding.

(33) The internal control system described in the modified Irish RRP is based on robust processes and structures which are in place for the prevention and detection of fraud, corruption, conflicts of interest and double funding. Clearly identified departments and agencies are responsible and accountable for implementing, delivering and reporting on the individual investment and reform commitments within the RRP in line with their areas of competence. The collection and making available of standardised categories of data according to Article 22(2), point (d), of Regulation (EU) 2021/241 by the Recovery and Resilience Facility Information System is adequate. The Implementing Body, which, among its other tasks, is responsible for overseeing implementation of control measures has the necessary administrative capacity to carry out its functions. The European Regional Development Fund Audit Authority has the legal empowerment to exercise its tasks by operating with the direct authority of the Minister of Public Expenditure and Reform and under the general supervision and guidance of the Department of Public Expenditure and Reform Audit Committee.

(34) An additional milestone on audit and control should be introduced. It requires the implementing body (Department of Public Expenditure and Reform) to issue instructions to the accountable departments on ex-ante conflict-of-interest and double-funding checks, fraud risk assessment and on-the-spot verifications. The milestone should be fulfilled at the latest by the time of submission of the second request for payment to the Commission.

Any other assessment criteria

(35) With regard to the assessment criteria set out in Article 19(3), points (a). (d), (g), (i) and (k), of Regulation (EU) 2021/241, the limited modifications of the RRP do not affect the positive assessment of the initial RRP.

Positive assessment

(36) Following the positive assessment of the Commission concerning the modified 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 Annex V to that Regulation, this Decision sets out the reform and investment measures necessary for the implementation of the modified RRP, the relevant milestones, targets and indicators, and the amount made available from the Union for the implementation of the modified RRP in the form of non-repayable financial support.

(37) The estimated total costs of the modified RRP of Ireland is EUR 923 158 300. As the amount of the estimated total costs of the modified RRP is higher than the updated maximum financial contribution available for Ireland, the financial contribution calculated in accordance with Article 11 of Regulation (EU) 2021/241 allocated for Ireland's modified RRP should be equal to the total amount of the financial contribution available for Ireland's modified RRP. This amount is equal to EUR 914 368 618.

(38) 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. For the sake of clarity, the Annex to that Implementing Decision should be replaced entirely,

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 updated 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.

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* 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 replaced by the text set out in the Annex to this Decision.

Article 2

This Decision is addressed to Ireland.

Done at …,

For the Council
The President