EUROPEAN
COMMISSION

Brussels, 22.6.2021
COM(2021) 341 final

2021/0167 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

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

{SWD(2021) 163 final}

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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 Facility[1] and in particular Article 20 thereof,

Having regard to the proposal from the European Commission,

Whereas:

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

(2) On 9 July 2019 and on 20 July 2020, the Council addressed recommendations to Germany in the context of the European Semester. In particular, in 2020 the Council recommended to alleviate the immediate consequences of COVID-19, effectively address the pandemic, and mobilise adequate resources for healthcare. More broadly, Germany was advised to increase public and private investment, focusing on investment in the green and digital transition while paying particular attention to areas including transport, a clean, efficient and integrated energy system, digitalisation, education, housing and R&D. The Council also recommended improving the digitalisation of public services and SMEs, reducing the regulatory and administrative burden, and strengthening competition in business services and regulated professions. In addition, the Council invited Germany to shift taxes away from labour, reduce disincentives to work more hours, including the high taxation of labour earnings, in particular for low-wage and second earners, safeguard the long-term sustainability of its pension system, support higher wage growth and to improve the educational

[1] OJ L 57, 18.2.2021, p. 17-75.

outcomes and skills levels of disadvantaged groups. Having assessed progress in the implementation of these country-specific recommendations at the time of submission of the recovery and resilience plan, the Commission finds that the recommendation on taking all necessary measures to effectively address the pandemic, sustain the economy and support the ensuing recovery has been fully implemented.

(3) On 2 June 2021, the Commission published an in-depth review under Article 5 of Regulation (EU) 1176/2011 of the European Parliament and of the Council[2] for Germany[3]. The Commission's analysis led it to conclude that Germany is experiencing macroeconomic imbalances with cross-border relevance, in particular that the current account surplus persists at high levels, reflecting a subdued level of investment relative to savings.

(4) [The Council recommendation on the economic policy of the euro area[4] recommended to euro area Member States to take action, including through their recovery and resilience plans, to, inter alia, ensure a policy stance which supports the recovery and to further improve convergence, resilience and sustainable and inclusive growth. The Council recommendation also recommended to strengthen national institutional frameworks, to ensure macro-financial stability, and to complete EMU and strengthen the international role of the euro.] [If the Council recommendation is not adopted by the time of the CID adoption, please remove the recital].

(5) On 28 April 2021, Germany submitted its national recovery and resilience plan to the Commission, in accordance with Article 18(1) of Regulation (EU) 2021/241. That submission followed a consultation process, conducted in accordance with the national legal framework, of local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders. The national ownership of the recovery and resilience plans is underpinning their successful implementation and lasting impact at national level and credibility at European level. Pursuant to Article 19 of that Regulation, the Commission has assessed the relevance, effectiveness, efficiency and coherence of the recovery and resilience plan, in accordance with the assessment guidelines set out in Annex V to that Regulation.

(6) The recovery and resilience plans should pursue the general objectives of the Recovery and Resilience Facility established by Regulation (EU) 2021/241 and of the EU Recovery Instrument set up by Council Regulation (EU) 2020/2094[5] in order to support the recovery in the aftermath of the COVID-19 crisis. They should promote the Union´s economic, social and territorial cohesion by contributing to the six pillars referred to in Article 3 of Regulation (EU) 2021/241.

(7) The implementation of the Member States' recovery and resilience plans will constitute a coordinated effort of investment and reforms across the Union. Through the coordinated and simultaneous implementation of these reforms and investments

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

[3] SWD(2021) 401 final

[4] Pending final adoption by the Council, after endorsement by the European Council. The text agreed by the Eurogroup on 16 December 2020 is available at: https://data.consilium.europa.eu/doc/document/ST-14356-2020-INIT/en/pdf

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

and the implementation of cross-border projects, these reforms and investments will mutually reinforce each other and generate positive spill-overs across the whole Union. Therefore, about one third of the impact of the Facility on Member States' growth and job creation will come from spill-overs from others Member States.

Balanced response contributing to the six pillars

(8) In accordance with Article 19(3), point (a) and section 2.1 of Annex V to Regulation (EU) 2021/241, the recovery and resilience plan represents to a large extent (Rating A) a comprehensive and adequately balanced response to the economic and social situation, thereby contributing appropriately to all six pillars referred to in Article 3 of Regulation (EU) 2021/241, taking the specific challenges and the financial allocation of the Member State concerned into account.

(9) The recovery and resilience plan provides a comprehensive response to the economic and social situation by following a holistic approach to achieve recovery, while enhancing socio-economic resilience. The 40 measures included in the plan constitute a balanced mix of reforms and investments that cover economic, industrial, digital, environmental, social and healthcare policies.

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

Addressing all or a significant subset of challenges identified in Country Specific Recommendations

(11) In accordance with Article 19(3), point (b) and section 2.2 of Annex V to Regulation (EU) 2021/241, the recovery and resilience plan is expected to contribute to effectively addressing all or a significant subset of challenges (Rating A) identified in the relevant country-specific recommendations, including fiscal aspects thereof and recommendations made pursuant to Article 6 of Regulation (EU) 1176/2011, addressed to Germany, or challenges identified in other relevant documents officially adopted by the Commission in the context of the European Semester.

(12) The plan includes an extensive set of mutually reinforcing reforms and investments that contribute to addressing all or a significant subset of the economic and social challenges outlined in the country-specific recommendations addressed to Germany by the Council in the European Semester in 2019 and in 2020.

(13) The recommendations related to the immediate fiscal policy response to the pandemic can be considered as falling outside the scope of Germany's RRP, notwithstanding the fact that Germany has generally responded adequately and sufficiently to the immediate need to support the economy through fiscal means in 2020 and 2021, in line with the provisions of the General Escape Clause.

(14) The implementation of the plan is expected to address various country-specific recommendations related to increasing investment and reducing administrative burden, as the plan aims to significantly reduce investment bottlenecks and step up investment. In particular, the establishment of a joint working group at the federal and *Länder* levels for efficient and citizen- and business-friendly administration, the support for local authorities through PD – Berater der öffentlichen Hand GmbH ('Partnerschaft Deutschland') in the effective implementation of investment funding and the legal measures to speed up planning and authorisation procedures are expected to enhance public investment and promote private investment. Moreover, investment is expected to increase, reflecting the plan's commitments to support decarbonisation and hydrogen-based solutions with a focus on renewable hydrogen, as well as through measures in sustainable mobility, including in zero-emission vehicles and charging stations, in R&D, and in the digitalisation of the economy, including SMEs, of education, healthcare and the public administration.

(15) The implementation of the plan is also expected to contribute to addressing country-specific recommendations that relate to education, labour market participation, labour taxation and social policy, by enhancing digitalisation of education, supporting students with disadvantages, enhancing provision of childcare, improving transparency of pensions and curbing increases in the tax wedge.

(16) By addressing the aforementioned challenges, the recovery and resilience plan is expected to also contribute to correcting the imbalances[6] that Germany is experiencing, notably with respect to its current account surplus that persists at high levels reflecting a subdued level of investment relative to savings, and has cross-border relevance.

(17) The plan provides a solid basis for further reform and investment efforts in the coming years, to address further structural challenges.

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

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

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[6] These macroeconomic imbalances refer to the recommendations made pursuant to Article 6 of Regulation (EU) No 1176/2011 in 2019 and 2020.

(19) Simulations by the Commission services show that the plan has the potential to increase the GDP of Germany between 0,4% and 0,7% by 2026[7]. The plan is expected to promote smart, sustainable and inclusive growth, with a major contribution from investments that support a successful climate and digital transition, promote innovation, decarbonise the economy, including transport and industry, and digitalise enterprises, the public administration and public services. The measures are expected to lead to a more widespread use of zero-emission vehicles, increased availability of hydrogen-based technologies, a more climate-friendly and energy-efficient housing stock. They are also expected to make it easier for companies, including SMEs, to invest. As education and skills are improved through the measures enhancing teaching methodologies, learning materials and providing specific support, productivity, resilience and inclusion are all expected to benefit.

(20) The recovery and resilience plan addresses social vulnerabilities and promotes social cohesion through a range of measures, also contributing to the implementation of the principles of the European Pillar of Social Rights. Families with children are expected to benefit from measures included in the plan such as bolstering child care by an additional 90 000 places, which is timely considering the gap in available places. Additional teaching support to pupils who have fallen behind because of the pandemic aims to reach one-fourth of all pupils. To support the apprenticeship system, which was negatively impacted by the pandemic, the plan includes financial incentives for companies to retain and hire apprentices, and hence contributes to fulfilling the Youth Guarantee[8]. With the 'Social Guarantee 2021' measure, the plan contributes to preventing a rise in non-wage labour costs, which are at a high level in Germany, by capping social security contributions at 40%. The plan also commits to the development of a digital pension portal that should support citizens in their pension planning, by providing an overview of their individual provisions. The plan also includes measures to improve the operation of the healthcare system that are expected to benefit the whole society.

Do no significant harm

(21) In accordance with Article 19(3), point (d) and section 2.4 of Annex V to Regulation (EU) 2021/241, the recovery and resilience plan is expected to ensure that no measure for the implementation of reforms and investments projects included in the recovery and resilience plan does significant harm to environmental objectives (Rating A) within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council[9] (the principle of 'do no significant harm'). Germany's recovery and resilience plan assesses compliance with the 'do no significant harm' principle. The assessment follows the methodology set out in the Commission's Technical guidance on the application of 'do no significant harm' under the Recovery and Resilience Facility Regulation (2021/C 58/01). It covers the six environmental

7 Such simulations reflect the overall impact of NGEU, which also includes funding for ReactEU, and increased funding for Horizon, InvestEU, JTF, Rural Development and RescEU. Such simulation does not include the possible positive impact of structural reforms, which can be substantial

8 Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee and replacing the Council Recommendation of 22 April 2013 on establishing a Youth Guarantee 2020/C 372/01

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

objectives within the meaning of Article 17 of Regulation (EU) No 2020/852, namely climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems. The environmental impact is assessed at measure-level, that is to say one individual assessment per reform or investment.

Contribution to the green transition including biodiversity

(22) In accordance with Article 19(3), point (e) and section 2.5 of Annex V to Regulation (EU) 2021/241, the recovery and resilience plan contains measures that contribute to a large extent (Rating A) to the green transition, including biodiversity, or to addressing the challenges resulting therefrom. The measures supporting climate objectives account for an amount which represents at least 42% of the plan's total allocation, calculated in accordance with the methodology of Annex VI to Regulation (EU) 2021/241. In accordance with Article 17 of Regulation (EU) 2021/241, the recovery and resilience plan is consistent with the information included in the National Energy and Climate Plan 2030.

(23) The plan has a strong focus on the green transition pillar. To support climate objectives in areas such as energy transition and adaptation to climate change, the plan envisages a broad range of measures that can be grouped in three main areas of actions. Firstly, a number of actions in the plan focus on developing an efficient hydrogen economy in the industry and in the economy at large, with a focus on renewable hydrogen. Secondly, a sizeable effort is also made to accelerate investments in climate-friendly mobility in order to address Germany's challenges relating to sustainable transport. Lastly, the plan contains a series of measures to step up climate-friendly construction and renovation, with a prominent focus on energy efficiency renovation.

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

Contribution to the digital transition

(25) In accordance with Article 19(3) point (f) and section 2.6 of Annex V to Regulation (EU) 2021/241, the recovery and resilience plan contains measures that contribute to a large extent (Rating A) to the digital transition or to addressing the challenges resulting therefrom. The measures supporting digital objectives account for an amount which represents at least 52% of the plan's total allocation, calculated in accordance with the methodology of Annex VII to Regulation (EU) 2021/241.

(26) With a significant share of the total allocation and a prominence of digital aspects across the majority of its components, Germany's recovery and resilience plan puts a

strong emphasis on the digital transition and the challenges resulting therefrom across all sectors.

(27) The digital transformation of public services, including health services, and of businesses, two aspects on which Germany is currently performing below EU average, are addressed in the plan. The plan includes a full component on the modernisation of public administration through accelerated digitalisation and fostered interoperability. Moreover, within a component dedicated to health, two measures aim at accelerating the digital transformation of public health services and hospitals respectively. As far as businesses are concerned, investments supporting the automotive industry's digital and green transition are foreseen.

(28) The plan also includes important measures addressing human capital and investments in advanced digital technologies, with a component on the digitalisation of education and another one which includes contributions to two large-scale European initiatives on microelectronics, and on next generation cloud and edge technologies.

Lasting impact

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

(30) The plan contains reforms of the public administration aiming to advance the digitalisation of government, to reduce administrative burden on citizens and firms and to further speed up the planning and approval of public investment projects. These measures are expected to unwind the public investment backlog and make the business climate more investment friendly in the long run by ensuring the quality of public infrastructure and efficient digital government services and enabling long-lasting productivity enhancing effects.

(31) The plan consists of a set of measures addressing the take-up of carbon-free energy with particular focus on renewable hydrogen, low-emission mobility and housing; digitalisation of government, education, healthcare and businesses; and promoting better access to skills for vulnerable youth. Addressing these challenges should enable a sustainable and inclusive growth. Moreover, the measures are expected to have a lasting beneficial effect on human capital and resource efficiency. Lasting impact of the plan can also be enhanced through synergies between the plan and other programmes, including cohesion policy funds, notably by addressing in a substantive manner territorial challenges and promoting a balanced development

Monitoring and implementation

(32) In accordance with Article 19(3) point (h) and section 2.8 of Annex V to Regulation (EU) 2021/241, the arrangements proposed in the recovery and resilience plan are adequate (Rating A) to ensure effective monitoring and implementation of the recovery and resilience plan, including the envisaged timetable, milestones and targets, and the related indicators.

(33) The coordinating body in the Federal Ministry of Finance and the line Ministries are responsible for the effective implementation of the plan. The various arrangements set up to devise, negotiate and ensure an efficient and regular implementation of the plan are credible in terms of the legal mandate and administrative capacity. The milestones and targets of the plan constitute an appropriate system for monitoring the plan's implementation. Milestones and targets are clear and realistic and the indicators for

those milestones and targets are relevant, acceptable and robust. Milestones and targets are also relevant for measures already completed which are eligible according to Article 17(2) of the Regulation. The satisfactory fulfilment of these milestones and targets over time is required to justify a disbursement request. The verification mechanisms, data collection and responsibilities described by the German authorities appear sufficiently robust to justify the disbursement requests in an adequate manner upon completion of the milestones and targets.

(34) Member States should ensure that financing under the Facility is communicated and acknowledged in line with article 34 of Regulation (EU) 2021/241. Technical support may be requested under the Technical Support Instrument to assist Member States in the implementation of their plan.

Costing

(35) In accordance with Article 19(3) point (i) and section 2.9 of Annex V to Regulation (EU) 2021/241, the justification provided in the plan on the amount of the estimated total costs of the recovery and resilience plan is to a medium extent (Rating B) reasonable and plausible, is in line with the principle of cost efficiency and is commensurate to the expected national economic and social impact.

(36) The cost estimates and supporting document provided show varying degrees of details and depth of calculations. According to the information provided, there are no indications that the reasonability or plausibility of costs would be impaired. However, the level of assurance could have been increased through the provision of more detailed estimations for certain measures. Finally, the estimated total cost of the recovery and resilience plan is in line with the principle of cost-efficiency and is commensurate to the expected national economic and social impact.

Protection of financial interests

(37) In accordance with Article 19(3) point (j) and section 2.10 of Annex V to Regulation (EU) 2021/241, the arrangements proposed in the recovery and resilience plan are adequate (Rating A) to prevent, detect and correct corruption, fraud and conflicts of interests when using the funds provided under that Regulation, and the arrangements are expected to effectively avoid double funding from that Regulation and other Union programmes. This is without prejudice to the application of other instruments and tools to promote and enforce compliance with EU law, including for preventing, detecting and correcting corruption, fraud and conflicts of interests, and for protecting the Union finances in line with Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council.

(38) The internal control system described in the recovery and resilience plan of Germany relies strongly on the existing national processes and structures for auditing, resulting in adequate empowerment and administrative capacity. With the coordinating unit in the Ministry of Finance, the internal control units in every Ministry and the national Court of Auditors, clear actors are identified together with their roles and responsibilities for the performance of the internal control tasks. The actors are independent in their functioning and the segregation of relevant functions is respected, making the control systems robust and adequate.

(39) The national laws and regulations are considered efficient in preventing, detecting and correcting irregularities like fraud, corruption, or conflict of interest when using the funds under the Recovery and Resilience Facility. This applies equally to the

avoidance of double funding from the Recovery and Resilience Facility and other Union programmes. The regulatory framework and implementing public bodies are adequately described and the actors responsible for controls have the legal powers and administrative capacity to exercise their respective roles and tasks. Germany has indicated that an integrated IT-system for the adequate collecting, storing and reporting of data required for the implementation of its recovery and resilience plan will be set up. Germany has started a process to have its IT system audited by the Court of Auditors (*Bundesrechnungshof*) to identify possible weaknesses and to address without delay any recommendations of the audit report, as well as to ensure the complete recording of all data referred to in paragraph (d) of Article 22(2) of Regulation (EU) 2021/241, including by a transitional system. Germany committed to providing access to such data.

Coherence of the plan

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

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

Equality

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

Security self-assessment

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

Cross-border and multi-country projects

(44) A central feature of the German recovery and resilience plan is the inclusion of Important Projects of Common European Interest (‘IPCEI’) planned in the areas of hydrogen (EUR 1 500 000 000), microelectronics (EUR 1 500 000 000), and next generation cloud and edge technologies (EUR 750 000 000). These multi-country projects have been initiated jointly with other countries.

Consultation process

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

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

Positive assessment

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

Financial contribution

(48) The estimated total cost of Germany's recovery and resilience plan is EUR 26 518 833 613[10] which is higher than the maximum financial contribution. As the recovery and resilience plan satisfactorily complies with the criteria for assessment set out in Regulation (EU) 2021/241 and, furthermore, as the amount of the estimated total costs of the recovery and resilience plan is higher than the maximum financial contribution available for Germany, the financial contribution allocated for Germany's recovery and resilience plan should be equal to the total amount of the financial contribution available for Germany, in accordance with Article 11 of that Regulation.

(49) In accordance with Article 11(2) of Regulation (EU) 2021/241, the calculation of the maximum financial contribution for Germany is to be updated by 30 June 2022. As such, in accordance with Article 23(1) of that Regulation, an amount for Germany should be made available now for a legal commitment by 31 December 2022. Where

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

necessary following the updated maximum financial contribution, the Council, on a proposal from the Commission, should amend this Decision to include the updated maximum financial contribution without undue delay.

(50) The support to be provided is to be financed from the borrowing by the Commission on behalf of the Union on the basis of Article 5 of Council Decision (EU, Euratom) 2020/2053[11]. The support should be paid in instalments once Germany has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.

(51) Germany has requested pre-financing of EUR 2 250 000 000. That amount should be made available to Germany subject to the entry into force and in accordance with the Financing Agreement provided for in Article 23(1) of Regulation (EU) 2021/241.

(52) This Decision should be without prejudice to the outcome of any procedures relating to the award of Union funds under any other Union programme than Regulation (EU) 2021/241 or to procedures relating to distortions of the operation of the internal market that may be undertaken, in particular under Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.

HAS ADOPTED THIS DECISION:

Article 1
Approval of the assessment of the recovery and resilience plan

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

Article 2
Financial contribution

1. The Union shall make available to Germany a financial contribution in the form of non-repayable support amounting to EUR 25 613 478 442[12]. An amount of EUR 16 291 323 631 shall be available to be legally committed by 31 December 2022. Subject to the update provided for in Article 11(2) of Regulation (EU) 2021/241 calculating an amount for Germany equal to or more than this amount, a further amount of EUR 9 322 154 811 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. An amount of EUR 2 250 000 000 shall be made available as a pre-financing payment. The pre-

[11] OJ L 424, 15.12.2020, p. 1.

[12] This amount corresponds to the financial allocation after 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.

financing and instalments may be disbursed by the Commission in one or several tranches. The size of the tranches shall be subject to the availability of funding.

3. The pre-financing shall be released subject to the entry into force and in accordance with the Financing Agreement provided for in Article 23(1) of Regulation (EU) 2021/241. Pre-financing shall be cleared by being proportionally deducted against the payment of the instalments.

4. The release of instalments in accordance with the Financing Agreement shall be conditional on available funding and a decision by the Commission, taken in accordance with Article 24 of Regulation (EU) 2021/241, that Germany has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan. Subject to the entry into force of the legal commitments referred to in paragraph 1, to be eligible for payment, milestones and targets shall be completed no later than 31 August 2026.

Article 3
Addressee

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels,

For the Council
The President