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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending the Implementing Decision of 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria

COUNCIL IMPLEMENTING DECISION

of ...

amending the Implementing Decision of 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria

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 20(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 57, 18.2.2021, p. 17.

Whereas:

- (1) Following the submission of the national recovery and resilience plan ('RRP') by Bulgaria on 15 October 2021, the Commission proposed its positive assessment to the Council. On 4 May 2022, the Council approved the positive assessment by means of an implementing decision ('the Council Implementing Decision of 4 May 2022')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 29 September 2023, Bulgaria submitted a modified national RRP to the Commission. The modified RRP 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 4 May 2022 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 Bulgaria concern 22 measures.

¹ See documents ST 8091/22 INIT and ST 8091/22 ADD 1 at <http://register.consilium.europa.eu>.

- (4) On 14 July 2023, the Council addressed recommendations to Bulgaria in the context of the European Semester. The Council recommended that Bulgaria, inter alia wind down the energy support measures by the end of 2023 and ensure prudent fiscal policy. For the period beyond 2024, the Council recommended that Bulgaria continue to pursue medium-term gradual and sustainable fiscal consolidation, combined with investments and reforms conducive to higher sustainable growth, including under the funding under the Recovery and Resilience Facility established by Regulation (EU) 2021/241 (the ‘Facility’) to support the green and digital transitions. The Council also recommended that Bulgaria ensure an effective governance structure and strengthen its administrative capacity in order to allow for a swift and steady implementation of its RRP as well as the REPowerEU chapter, and that it proceed with the speedy implementation of its cohesion policy programmes. The Council further recommended that Bulgaria reduce its reliance on fossil fuels and accelerate its transition towards clean and renewable energy, increase energy efficiency and decrease energy poverty as well as step up policy efforts aimed at the provision and acquisition of skills and competences needed for the green transition.
- (5) Pursuant to Article 19 of Regulation (EU) 2021/241, the Commission has assessed the relevance, effectiveness, efficiency and coherence of the updated RRP, in accordance with the assessment guidelines set out in Annex V to that Regulation.

Updates based on Article 18(2) of Regulation (EU) 2021/241

- (6) The modified RRP submitted by Bulgaria modifies 14 measures to take into account the updated maximum financial contribution. Bulgaria has explained that because the maximum financial contribution decreased from EUR 6 267 312 124¹ to EUR 5 688 778 600¹ the RRP needs to be modified by removing 6 measures and downscaling 8 measures.
- (7) The modified RRP no longer contains certain measures under component C5 Biodiversity, component C7 Digital connectivity, component C8 Transport connectivity, component C9 Local development and component C10 Business environment as referred to in the Annex to the Council Implementing Decision of 4 May 2022.

¹ This amount corresponds to the financial allocation after deduction of Bulgaria'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.

- (8) These measures concern investment C5.I2 ‘Restoring climate key ecosystems in line with the EU Biodiversity Strategy and the objectives of the European Green Deal’ regarding the restoration of ecosystems and generating more ecosystem goods and services; investment C7.I3 ‘Digital transformation of Bulgarian Posts and delivery of complex administrative services’ regarding the modernisation of selected post offices in remote rural areas as well as the digital transformation of the Bulgarian post and the implementation of pilot systems for telemedicine and deployment of recharging stations for electric vehicles; investment C8.I3 ‘Digitalisation in railways transport and ERTMS’, regarding the deployment of the European Rail Traffic Management System (ERTMS) on the TEN-T core network in Bulgaria; investment C8.I4 ‘Intermodal Terminal in Ruse’ regarding the construction of a new intermodal terminal that integrates different modes of transport and its infrastructure for containers in Ruse; investment C9.I2 ‘Digitalisation for integrated water management, control and efficient use’ regarding the enhancement of the water quantity management by digitalising it and improving the control of water use; and investment C10.I5 ‘Supporting the introduction of mandatory judicial mediation’ regarding the extension of the network of mediation centres and provision of trainings. The description of those measures and their associated milestones and targets are to be removed. The Council Implementing Decision of 4 May 2022 should be amended accordingly.

- (9) Furthermore, the modified RRP changes measures by downscaling them under components C2 Research and innovation, C3 Smart industry, C4 Low carbon economy, C6 Sustainable agriculture, C8 Sustainable transport, C10 Business environment and C12 Healthcare in order to reflect the updated maximum financial contribution. The Council Implementing Decision of 4 May 2022 should be amended accordingly.
- (10) In particular, the following milestones and targets are modified to decrease the level of required implementation compared to the original RRP in order to reflect the decreased allocation: milestone 27, target 28 and target 30 of investment C2.I1 ‘Programme to accelerate economic recovery and transformation through research and innovation’ under component C2 Research and innovation; milestone 53 of investment C3.I2 2.2a ‘Grant scheme for combining renewable electricity sources with local storage’ under component C3 Smart Industry; milestone 68 and target 75 of investment C4.I1 ‘Support for the renovation of building stock’ under component C4 Low-carbon economy; milestones with sequential number 109 and 110 and target 111 of investment C4.I5 ‘Pilot projects for the production of green hydrogen and biogas’ under component C4 Low-carbon economy, milestone 133 and target 134 of investment C6.I1 ‘Fund to promote the technological and ecological transition of agriculture’ under component 6 Sustainable agriculture; milestone 188 and targets 189 and 190 of investment C8.I2 ‘European Train Control System on-board equipment’ under component C8 Sustainable transport; targets 276 and 277 of investment C10.I9 ‘Digitising data in the administration containing paper registries’ under component C10 Business environment; and milestone 329 of investment C12.I1 ‘Modernisation of hospital facilities’ under component C12 Healthcare.

- (11) The following milestones and targets are removed entirely to reflect the decreased allocation: milestone 112 of investment C4.I5 ‘Pilot projects for the production of green hydrogen and biogas’ under component C4 Low-carbon economy; target 129 and 130 of investment C5.I2: ‘Restoring climate key ecosystems in line with the EU Biodiversity Strategy and the objectives of the European Green Deal’ under component C5 Biodiversity; milestones 151, 152 and 154 and targets 153, 155, 156, 157, 158, 159 and 160 of investment C7.I3 ‘Digital transformation of Bulgarian Posts and delivery of complex administrative services’ under component C7 Digital connectivity; milestones 191 and 192 of investment C8.I3 ‘Digitalisation in railways transport and ERTMS’ under component C8 Sustainable transport; milestones 193, 194, 195 and 196 of investment C8.I4 ‘Intermodal Terminal in Ruse’ under component C8 Sustainable transport; milestones 211 and 212 of investment C9.I2 ‘Digitalisation for integrated water management, control and efficient use’ under component C9 Local development; milestone 269 and target 268 of investment C10.I5 ‘Supporting the introduction of mandatory judicial mediation’ under component C10 Business environment; and milestone 331 of investment C12.I1 ‘Modernisation of hospital facilities’ under component C12 Healthcare.

- (12) Furthermore, while measure C2.I1 ‘Programme to accelerate economic recovery and transformation through research and innovation’ under component C2 Research and innovation is downsized overall in the modified RRP, the authorities are able to finance one more higher education institution than originally expected under the measure. Therefore a new milestone 29a was added under the investment.

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

- (13) The amendments to the RRP submitted by Bulgaria because of objective circumstances concern one measure.
- (14) Bulgaria explained that one measure is no longer totally achievable as originally designed because of price increases and unexpected technical difficulties which have led to an increased costing per unit and the need to revise the ambition. Bulgaria has therefore submitted amendments to the RRP in order to change the description of the measure, to amend milestone 122 and target 125, and to remove milestones 123 and 124 of investment C4.I8 ‘National infrastructure for storage of electricity from renewables (RESTORE)’ under component C4 Low carbon economy. On this basis, Bulgaria has requested that the aforementioned milestones and targets be amended and that the aforementioned changes be made. The Council Implementing Decision of 4 May 2022 should be amended accordingly.

- (15) The Commission considers that the reasons put forward by Bulgaria justify the update pursuant to Article 18(2) of Regulation (EU) 2021/241 and the amendment pursuant to Article 21(2) of that Regulation.
- (16) The above changes to Section 1 of the Annex to the Council Implementing Decision of 4 May 2022 should also be reflected in Section 2 of that Annex, which details the amount of each instalment. Following the removal and modification of the milestones and targets described above, the amounts for each instalment should also be modified to take into account the updated maximum financial contribution in accordance with Article 18(2) of Regulation (EU) 2021/241.
- (17) The limited modifications put forward by Bulgaria do not affect the previous positive assessment of the RRP with regard to its relevance, effectiveness, efficiency or coherence.

Corrections of clerical errors

- (18) 10 clerical errors have been identified in the text of the Council Implementing Decision of 4 May 2022, affecting seven milestones and four targets, and 10 measures overall. The Council Implementing Decision of 4 May 2022 should be amended to correct those clerical errors that do not reflect the content of the RRP submitted to the Commission on 15 October 2021, as agreed between the Commission and Bulgaria.

- (19) Those clerical errors relate to the measure description of reform 1 ‘Reform in preschool and school education and lifelong learning’ under component C1 Education and skills, milestone 5 of reform 2 ‘Higher education reform’ under component C1 Education and skills, the measure description and milestone 12, target 13, target 14, target 15 and target 16 of investment 2 ‘Modernisation of educational infrastructures’ under component C1 Education and skills, milestone 50 of investment 2.1e ‘Innovation Pool (Equity Instruments for Innovation)’ under component C3 Smart industry; milestones 68 and 75 of investment 2 ‘Support for the renovation of the building stock’ under Component C4 Low-carbon economy, milestone 187 of investment 2 ‘European Train Control System on-board equipment’ under component C8 Sustainable transport; the measure description and milestone 222 of reform 2 ‘Anti-corruption’, milestone 240 of reform 8 ‘Strengthening the anti-money laundering framework’ under component C10 Business environment, and milestone 316 of reform 1 ‘Upgrading the strategic framework of the healthcare sector’ under component C12 Healthcare. Those corrections do not affect the implementation of the measures concerned.
- (20) Bulgaria has brought to the Commission’s attention that one element of milestone 231 of reform 6 ‘Registry reform to unlock potential of eGovernment’ linked to the definition of information system has been implemented before the eligibility period of the Facility set out in Article 17(2) of Regulation (EU) 2021/241. Therefore, this element should be removed from the Council Implementing Decision of 4 May 2022.

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

- (21) 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 contribute to addressing all or a significant subset of the challenges (rating A) identified in the relevant country-specific recommendations addressed to Bulgaria, including fiscal aspects thereof.
- (22) All reforms under the green transition component are maintained as well as other important investments to support the decarbonisation of the economy such as energy efficiency investments and investments in renewable energy to provide at least 3500 MW of additional renewables capacity (wind and solar) connected to the grid compared to the 2022 levels. Although component 4 (Low carbon economy) has been modified through the downsizing of the investment related to energy storage (RESTORE) and the removal of the biogas element of the biogas and hydrogen pilot project, it remains one of the largest components of the RRP.

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 the reform. The measures supporting climate objectives account for an amount which represents 57,5 % of the RRP's total allocation, calculated in accordance with the methodology set out in Annex VI to Regulation (EU) 2021/241.

- (24) The climate ambition of the modified RRP decreases slightly compared to the original RRP, mainly due to the reduction in the level of required implementation of some measures following the decrease in the maximum financial contribution available to Bulgaria, and stands at 57,5 % of the revised RRP, compared to 58,9 % for the original RRP.
- (25) The amendments made to take into account the update of the maximum financial contribution do not affect the previous positive assessment of the contribution to the green transition. Significant reforms and investments included in the RRP have the potential to contribute to the decarbonisation of the economy by supporting the increased deployment of renewable energy generation and storage, increasing energy efficiency and contributing to sustainable road and rail mobility as well as sustainable agriculture and water resource management.

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 23,1 % of the modified RRP's total allocation calculated in accordance with the methodology set out in Annex VII to Regulation (EU) 2021/241.

- (27) The ambition towards the digital transition of the modified RRP decreases slightly compared to the original RRP , mainly due to the reduction in the level of required implementation of some measures following the decrease in the maximum financial contribution available to Bulgaria, and stands at 23,1 % of the revised RRP, compared to 25,8 % for the original RRP.
- (28) The amendments made to take into account the update of the maximum financial contribution do not affect the previous positive assessment of the contribution to the digital transition. Investments fostering the acquisition of digital skills, the digitalisation of the public sector, businesses and research organisations, and investments in digital connectivity continue to be expected to lastingly increase efficiency in those sectors.

Any other assessment criteria

- (29) The Commission considers that the modifications put forward by Bulgaria do not affect the positive assessment of the RRP set out in the Council Implementing Decision of 4 May 2022 regarding the relevance, effectiveness, efficiency and coherence of the RRP against the assessment criteria laid down in Article 19(3), points (a), (c), (d), (g), (h), (i), (j) and (k), of Regulation (EU) 2021/241.

Positive assessment

- (30) 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 and Annex V to that Regulation, the reforms and investment projects 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 should be set out.

Financial contribution

- (31) The estimated total cost of the modified RRP of Bulgaria is BGN 12 097 344 253, which is equivalent to EUR 6 185 273 901 at the EUR BGN ECB reference rate of 15 October 2021. As the amount of the estimated total costs of the modified RRP is higher than the updated maximum financial contribution available for Bulgaria, the financial contribution calculated in accordance with Article 11 of Regulation (EU) 2021/241 allocated for Bulgaria's modified RRP should be equal to the total amount of the financial contribution available for Bulgaria's modified RRP. This amount is equal to EUR 5 688 778 600.

- (32) The Council Implementing Decision of 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria 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 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria 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 Bulgaria 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 Bulgaria a financial contribution in the form of non-repayable support amounting to EUR 5 688 778 600*. That contribution includes:

(a) an amount of EUR 4 636 043 337, which shall be available to be legally committed by 31 December 2022;

(b) an amount of EUR 1 052 735 263, which shall be available to be legally committed from 1 January 2023 until 31 December 2023.

* This amount corresponds to the financial allocation after deduction of Bulgaria’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 in the Annex to this Decision.

Article 2

This Decision is addressed to the Republic of Bulgaria.

Done at ...,

For the Council

The President
