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## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL IMPLEMENTING DECISION on the approval of the assessment of the recovery and resilience plan for Poland

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## COUNCIL IMPLEMENTING DECISION

of ...

**on the approval of the assessment of the recovery and resilience plan for Poland**

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<sup>1</sup>, and in particular Article 20 thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> OJ L 57, 18.2.2021, p. 17.

Whereas:

- (1) The crisis caused by the COVID-19 pandemic has had a disruptive impact on the economy of Poland. In 2019, the gross domestic product (GDP) per capita of Poland was 44,3 % of the Union average. The real GDP of Poland declined by 2,2 % in 2020 and increased by 3,6 % cumulatively in 2020 and 2021. Long-standing aspects with an impact on medium-term economic performance include low levels of private investment and innovation, significant labour and skill shortages in the economy, and an unpredictable and burdensome regulatory environment.

- (2) On 9 July 2019 and 20 July 2020, the Council addressed recommendations to Poland in the context of the European Semester. In particular, the Council recommended that Poland take all necessary measures to: effectively address the economic impact of the COVID-19 pandemic, while safeguarding medium-term fiscal sustainability; improve the efficiency of public spending; and improve the resilience, accessibility and effectiveness of the health system. The Council also recommended that Poland take action to: ensure the adequacy of future pension benefits and the sustainability of the pension system; increase labour market participation by improving access to childcare and long-term care; remove remaining obstacles to more permanent types of employment while enhancing flexible and short-time working arrangements; better target social benefits; foster quality education and skills, especially through adult learning; improve digital skills; and further promote the digital transformation. Moreover, the Council recommended that Poland take action to strengthen the innovative capacity of the economy, and to focus investment on the green and digital transition, in particular on digital infrastructure, clean and efficient production and use of energy, and sustainable transport, contributing to a progressive decarbonisation of the economy, taking into account regional disparities. In addition, the Council recommended that Poland take action to secure access to finance and liquidity for companies and to foster the economic recovery by front-loading mature public investment projects and promoting private investment. Finally, the Council recommended that Poland take action to improve the regulatory environment, in particular by strengthening the role of consultations of social partners and public consultations in the legislative process, as well as to enhance the investment climate by safeguarding judicial independence. Having assessed progress in the implementation of those country-specific recommendations at the time of Poland's submission of its recovery and resilience plan (RRP), the Commission finds that the recommendations on effectively addressing the economic impact of the COVID-19 pandemic have been fully implemented.

- (3) On 3 May 2021, Poland submitted its national RRP 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, involving local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders. National ownership of the Member States' RRP underpins their successful implementation and lasting impact at national level and credibility at European level. Pursuant to Article 19 of Regulation (EU) 2021/241, the Commission has assessed the relevance, effectiveness, efficiency and coherence of Poland's RRP, in accordance with the assessment guidelines set out in Annex V to that Regulation.
- (4) The Member States' RRP should pursue the general objectives of the Recovery and Resilience Facility established by Regulation (EU) 2021/241 (the 'Facility') and of the European Union Recovery Instrument set up by Council Regulation (EU) 2020/2094<sup>1</sup> 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.
- (5) The implementation of the Member States' RRP will constitute a coordinated effort involving reforms and investments across the Union. Through their coordinated and simultaneous implementation, and the implementation of cross-border and multi-country projects, such reforms and investments will mutually reinforce each other and generate positive spillovers across the Union. Approximately one third of the impact of the Facility on Member States' growth and job creation will come from spillovers from other Member States.

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<sup>1</sup> 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 433 I, 22.12.2020, p. 23).

Balanced response contributing to the six pillars

- (6) In accordance with Article 19(3), point (a), of and Annex V, criterion 2.1, to Regulation (EU) 2021/241, Poland's RRP 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 that Regulation, taking into account the specific challenges faced by, and the financial allocation for, Poland.
- (7) Poland's RRP envisages a balanced set of reforms and investments addressing both the impact of the COVID-19 pandemic and the key structural challenges faced by Poland. It presents a strategy for promoting a more competitive and resilient economy, supporting economic growth in line with the Union's climate and digital priorities and increasing the quality of life in Poland, in particular through investments in renewable energy sources and energy efficiency, sustainable mobility, healthcare, digital technologies, and research and innovation. Poland's RRP focuses on six key policy areas: green transition, digitalisation, health, competitiveness and innovation, sustainable transport, and the quality of institutions.

- (8) The green transition and digital transformation of the economy are at the core of Poland's policy response. The envisaged green reforms and investments aim to increase renewable energy production, including onshore, photovoltaics and offshore energy, smart grids and renewable and low-carbon hydrogen, and energy efficiency, improving air quality and developing sustainable transport. The digital reforms and investments focus on broadband infrastructure, in particular in rural areas, developing e-services, including in the health care system, enhancing e-competences in education and training, and strengthening national cybersecurity.
- (9) Poland's RRP includes a number of relevant measures to improve the business environment and investment climate in Poland. The envisaged reforms aim to reduce the administrative and regulatory burden on businesses and to improve public finance management, as well as to enhance the role of public consultations in the law-making process, which is expected to improve regulatory quality and stability. Poland's RRP also aims to raise the standard of certain aspects of judicial protection, thereby contributing to improving the investment climate. Smart and sustainable growth is expected to be achieved also through various measures in the area of research and innovation, and by improving the dissemination of innovative solutions through education and training.

- (10) Poland's RRP contributes to addressing a number of challenges in order to enhance territorial and social cohesion, mainly through efforts to modernise and increase access to hospital care, by addressing labour market challenges through improvements in vocational education and training and lifelong learning, and finally through investments in transport. Poland's RRP also includes various measures that are expected to enhance the resilience of the health and social system, for instance through hospital reforms, efforts to address labour market segmentation and long-term care, and investments in social housing. Finally, a significant part of Poland's RRP is dedicated to policies for the next generation, in particular as regards digitalising education and training systems and improving the labour market relevance of skills.

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

- (11) In accordance with Article 19(3), point (b), of and Annex V, criterion 2.2, to Regulation (EU) 2021/241, Poland's RRP is expected to contribute to effectively addressing all or a significant subset of challenges (Rating A) identified in the relevant country-specific recommendations addressed to Poland, including fiscal aspects thereof, or challenges identified in other relevant documents officially adopted by the Commission in the context of the European Semester.



- (12) The recommendations related to the immediate fiscal policy response to the COVID-19 pandemic and the recommendation to achieve the medium-term budgetary objective in 2020 can be considered to fall outside the scope of Poland's RRP as the corresponding budgetary period has ended, but Poland 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 general escape clause of the Stability and Growth Pact.
- (13) Poland's RRP includes an extensive set of mutually reinforcing reforms and investments that contribute to effectively addressing all or a significant subset of the economic and social challenges outlined in the country-specific recommendations addressed to Poland by the Council in the European Semester in 2019 and 2020, in particular concerning investment needs in digitalisation and the green transition, as well as increasing labour market participation and labour market relevance of education and training.
- (14) Significant reforms and investments in the energy sector are expected to support the production and use of renewable energy and alternative fuels, improve energy efficiency and adapt the economy to climate change. The measures contained in Poland's RRP are also expected to contribute to improving the innovative capacity of the Polish economy, moving it up the value chain, and accelerating the green and digital transitions by supporting increased automation, the development and diffusion of environmental technologies and enhanced cooperation between science and industry.

- (15) Measures also respond to the impact and risks from the COVID-19 pandemic in the area of healthcare as well as the pre-existing challenges faced by the Polish healthcare system, in particular by a reform of public hospitals ensuring improvements in accessibility, effectiveness and efficiency of healthcare and long-term care, development of digital health services, and support to the pharmaceutical sector and for specialised medical science research and analysis. Such a reform is likely to strengthen the resilience of the health system, in particular in view of the lessons learnt from the pandemic and the importance of access to supply of medicines.
- (16) Poland's RRP presents a balanced response to recommendations to improve digital skills and promote the digital transformation of companies and public administration, as well as of schools and vocational education. The RRP promotes digital skills for various population groups and aims to establish the governance of digital skills development in Poland. As for the digital transformation of public administration, a series of projects and legislative changes are expected to promote the digitalisation of administrative processes, which in turn is expected to boost the digitalisation of companies. Substantial investments in better integration of Information and Communications Technologies in schools are set to enhance teaching and learning, as well as to support resilience and digital inclusion in education. Poland's RRP also contributes to addressing important challenges to improve the labour market relevance of skills and increase adult learning with targeted measures, in particular through the creation of sectoral skills centres, in close cooperation with economic sectors and accompanied by reforms to embed them in the vocational education and training system. With a focus on digital and green skills, those efforts are expected to contribute to the better matching of education and training with the needs of the modern economy.

- (17) Poland's RRP includes actions that aim to address the challenges of sustainability of transport, with specific measures to improve road safety, decarbonisation of road transport including through the promotion of electromobility and hydrogen-powered transport, sustainable urban mobility, the modal shift towards railways, and intermodal transport. A road safety reform and an investment linked to it aim to promote the enforcement of safety rules and the protection of vulnerable people, thereby improving progress towards Poland's 2030 target of reducing the number of deaths and serious injuries from road accidents by 50 %<sup>1</sup>. The decarbonisation of road transport is expected to be promoted by incentives for zero-emission vehicles and fiscal or financial measures in line with the "polluter pays" principle, and by investments in clean public transport with a focus on sustainable urban mobility. The reforms and investments in railways are focused on TEN-T sections and zero-emission rolling stock equipped with the European Rail Traffic Management System, as well as the promotion of single e-ticketing.
- (18) Poland's RRP also includes measures that aim to address the challenges related to the adequacy of pension benefits and the sustainability of the pension system, as well as challenges linked to labour market participation and segmentation. They are to be addressed by increasing the quality and availability of childcare, by a review and subsequent reform to improve long-term care policies, by tax incentives to prolong careers and increase the effective retirement age, and by a reform to increase social protection under various work contracts.

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<sup>1</sup> Council conclusions of 8<sup>th</sup> June 2017 on road safety - endorsing the Valletta Declaration of March 2017.

- (19) Finally, Poland's RRP is expected to contribute to addressing challenges related to the investment climate, in particular with regard to the Polish judicial system and to decision-making and law-making processes. Reforms aim to improve the legislative process, mainly by enhancing the use of public consultations and impact assessments in the law-making process to ensure more structural involvement of stakeholders and experts in law-making. Furthermore, the RRP aims to strengthen the independence and impartiality of courts. It also aims to remedy the situation of judges affected by the decisions of the Disciplinary Chamber of the Polish Supreme Court in disciplinary cases and judicial immunity cases, with a view to their reinstatement following positive review proceedings by the new Chamber, to be conducted without delay.

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

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

- (21) Simulations by the Commission services show that Poland's RRP, together with the other measures under the European Union Recovery Instrument, has the potential to increase the GDP of Poland by 1,1 % to 1,8 % by 2026, not including the possible positive impact of structural reforms, which can be substantial. Public investments are expected to provide a boost to aggregate demand in the short to medium term, improving the cyclical position of the Polish economy, and thereby contributing to a swift recovery. The focus of investments on digitalisation, sustainable infrastructure and renewable energy projects is particularly beneficial in this respect, supporting the green and digital transition and the long-term sustainability of the economy.
- (22) In the medium to long term, public investments, together with the planned reforms, may be expected to help address the current potential growth challenges and develop the economy's capacity to innovate. That is expected to help Polish companies to move up in global value chains. The implementation of Poland's RRP is therefore expected to raise the quality of potential output and to have a lasting impact on the economic performance of Poland. Most of that long-term effect stems from measures increasing the competitiveness of the Polish economy, enhancing the development and diffusion of innovation, improving the quality of regulation, and supporting businesses, in particular SMEs.

(23) Poland's RRP includes measures that aim to improve the resilience of the labour market, by improving the quality and adequacy of the functioning of labour market institutions, reaching out to and activating older workers or people from disadvantaged groups through upskilling and reskilling programmes, promoting flexible forms of employment, contributing to improving the labour market participation of women through more flexible forms of employment, including remote work, and increasing access to and quality of early childhood education and care. Poland's RRP also envisages incentives for workers to remain active in the labour market after reaching the statutory retirement age. Those actions are in line with the principles of the European Pillar of Social Rights to support inclusive growth. Efforts to improve the labour market relevance of education and training are expected to be carried out through measures boosting human capital development and improving the matching of skills and qualifications required by the labour market, including in the context of new technologies. The digitalisation policy for education is expected to contribute to preparing children and youth for the information society. Dedicated measures relate to strengthening vocational education and training, lifelong learning and supporting schools to prepare for the digital and green transformation, and coordinating regional education and training policies to ensure that all parts of the country adapt to modern labour market needs.

- (24) Poland's RRP includes various interventions to contribute to the implementation of the European Pillar of Social Rights through policies for children and youth. Reforms and investments are expected to improve access to quality childcare for children below the age of three, and to promote the development of vocational education and training, higher education and lifelong learning via the establishment of sectoral skills centres and a better coordination of skills policies. In addition, the RRP focuses on the modernisation of schools, including by setting up science, technology, engineering and mathematics (STEM) laboratories, which is expected to ensure the continuous adaptation to current learning challenges, in particular digitalisation.
- (25) Measures to foster the green and digital transitions are expected to make the Polish economy more innovative and sustainable and be conducive to social resilience by bridging the divide between urban and rural areas. In particular, investments in the development of network infrastructure are expected to cover gaps ('white spots') in broadband access and the development of 5G technology in rural areas. Investments in sustainable urban transport are expected to accelerate the green transition of cities by implementing sustainable urban mobility plans and developing zero-emission public transport in cities and at regional level. Investments in low and zero-emission rolling stock for bus connections in areas with poor transport accessibility are expected to help connect remote regions to centres of economic activity.

Do no significant harm

- (26) In accordance with Article 19(3), point (d), of and Annex V, criterion 2.4, to Regulation (EU) 2021/241, Poland's RRP is expected to ensure that no measure for the implementation of reforms and investment projects included in that RRP 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<sup>1</sup> (the principle of 'do no significant harm').

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<sup>1</sup> 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).



(27) Poland has conducted an assessment of the measures set out in its RRP in accordance with the technical guidance provided in the Commission Notice entitled 'Technical guidance on the application of "do no significant harm" under the Recovery and Resilience Facility Regulation'<sup>1</sup>. Any potential harmful environmental impact of such relevant measures is expected to be addressed through relevant milestones and targets, ensuring that the applicable environmental criteria are met. Investments in gas-fired cogeneration and heat source replacement are expected to meet the greenhouse gas intensity thresholds specified in that technical guidance. Investments in hydrogen technologies are expected to comply with the greenhouse gas emission threshold set out in Commission Delegated Regulation (EU) 2021/2139<sup>2</sup>. Support for the installation of gas-fired boilers is expected to be deployed as part of wider renovation programmes. Road and rail rolling stock is expected to be subject to strict fuel efficiency requirements. Those requirements are reflected in milestones and targets for the respective measures.

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<sup>1</sup> OJ C 58, 18.2.2021, p. 1.

<sup>2</sup> Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives ( OJ L 442, 9.12.2021, p. 1.).

- (28) Particular attention has been paid to measures whose impact on environmental objectives warrants close scrutiny. For measures that involve the support for water management measures in rural areas, Poland is expected to favour climate-change resilient and nature-based solutions. Poland is expected to further ensure that no significant harm to the environment is done by excluding from such support any investment having a significant impact on the status of water bodies or negative effects on nature. This aims in particular to avoid any significant impact on the relevant water bodies that would jeopardise or delay the objective of reaching a good status. It also aims to ensure that protected habitats and species are not negatively impacted by the measures.

Contribution to the green transition, including biodiversity

- (29) In accordance with Article 19(3), point (e), of and Annex V, criterion 2.5, to Regulation (EU) 2021/241, Poland's RRP 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 42,7 % of the RRP's total allocation calculated in accordance with the methodology set out in Annex VI to Regulation (EU) 2021/241. In accordance with Article 17 of that Regulation, the RRP is consistent with the information included in the National Energy and Climate Plan 2021-2030.

- (30) Reforms and investments in renewable energy sources, with the aim in particular of significantly increasing the capacity of onshore wind and photovoltaics, the removal of regulatory barriers to the development of new onshore wind capacity, and the development of offshore wind capacity, hydrogen technologies and alternative fuels are expected to help Poland achieve its 2030 climate and energy objectives in view of its long-term transition to a climate-neutral economy. The energy efficiency measures in Poland's RRP, including an ambitious programme of building renovations, combined with the phasing-out of public support for individual coal heaters, as well as an industry decarbonisation scheme, are also expected to significantly help Poland achieve its climate and energy targets. A comprehensive package of reforms and investments in transport is expected to support electro-mobility, clean public transport of passengers, a modal shift towards zero-emission railways, the intermodal transport of goods and road safety.
- (31) Reforms and investments related to sustainable water management in rural areas are expected to help address the challenges Poland faces with respect to climate adaptation and to the low water retention and water shortages, including drinking water shortages. Such reforms and investments are expected to contribute to increasing biodiversity and the adaptation capacity of rural areas to the effects of climate change, in particular drought. The measures for climate mitigation may also be beneficial to the preservation of biodiversity, as they are expected to rely on solutions restoring biodiversity.

## Contribution to the digital transition

- (32) In accordance with Article 19(3), point (f), of and Annex V, criterion 2.6, to Regulation (EU) 2021/241, Poland's 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 21,3 % of the RRP's total allocation, calculated in accordance with the methodology set out in Annex VII to Regulation (EU) 2021/241.
- (33) Reforms and investments in the public administration, the economy and society envisaged in Poland's RRP are expected to contribute to Poland's digital transformation. Those include improving connectivity, updating laws and infrastructures of the public administration systems, introducing electronic structured invoices and significantly improving the cybersecurity systems in the government and the crucial economic sectors. The digital transformation of the public administration is expected to incentivise the private sector to propel the digital transformation of companies.
- (34) Reforms and investments foreseen in the area of general and vocational education and training, skills and lifelong learning are expected to promote skills relevant for the labour market and facilitate the digital and green transitions, while narrowing the digital divide with more equal access to digital infrastructure, equipment and skills in schools and among the population. They are also expected to contribute to a broader digitalisation of the education system and the development of digital skills of teachers, civil servants, citizens with insufficient digital literacy and disadvantaged groups or people at risk of social exclusion.

## Lasting impact

- (35) In accordance with Article 19(3), point (g), of and Annex V, criterion 2.7, to Regulation (EU) 2021/241, Poland's RRP is expected to have a lasting impact on that country to a large extent (Rating A).
- (36) Poland's RRP is expected to have a lasting impact in many policy areas as well as on public administration and institutions. In particular, an ambitious reform to reduce administrative and regulatory burden, a spatial planning reform, and reforms to improve the quality of law-making by increasing the role of impact assessments and by ensuring better involvement of stakeholders in the policy and law-making process are expected to have a lasting impact on the quality of public administration. Furthermore, reforms that aim to create a regulatory framework for the development of renewable energy sources, in particular onshore and offshore wind farms, are expected to have a lasting impact on the decarbonisation of the Polish economy. Reforms in health care are expected to enhance the effectiveness and efficiency of the health care system and improve access to health services. Reforms on the labour market are expected to increase labour market participation, increase social protection and reduce segmentation. Reforms to improve coordination in the areas of vocational education and training, higher education and lifelong learning are set to have a lasting effect on the labour market relevance of skills and on providing opportunities for workers to adjust to labour market transitions.

- (37) Various investments are set to support and enhance the impact of reforms in Poland's RRP. Sizeable investments in renewable energy, in particular off-shore wind farms with accompanying infrastructure, and in sustainable transport (such as investments in zero-emissions mobility, sustainable urban mobility and railways to promote modal shift) are expected to contribute to the decarbonisation of the Polish economy. Investments in large-scale thermal modernisation and renovation are expected to help improve air quality and alleviate energy poverty, contributing to just transition and ensuring higher living standards. Improving access to broadband internet in rural areas and investments in cybersecurity and digital skills are expected to contribute to the digital transformation. An ambitious anti-smog programme and investments in sustainable transport are expected to allow for achieving better air quality, with a lasting impact on lowering emissions and improving quality of life. Healthcare reforms are supported by investments in hospitals and other care facilities. Investments in sectoral skills centres have the potential to achieve a lasting impact on the labour market relevance of skills provision.
- (38) The lasting impact of Poland's RRP can also be enhanced through synergies between the RRP and other programmes, including those financed by the cohesion policy funds, in particular by addressing in a substantive manner territorial challenges and promoting a balanced development.

#### Monitoring and implementation

- (39) In accordance with Article 19(3), point (h), of and Annex V, criterion 2.8, to Regulation (EU) 2021/241, the arrangements proposed in Poland's RRP are adequate (Rating A) to ensure effective monitoring and implementation of the RRP, including the envisaged timetable, milestones and targets, and the related indicators.

(40) Poland's RRP includes milestones and targets linked to reforms and investments associated with the request for non-repayable support, and to the additional reforms and investments associated with the request for loans. The milestones and targets are clear and realistic, and the proposed indicators are relevant, acceptable and robust. Milestones and targets are also relevant for measures already completed which are eligible under Article 17(2) of Regulation (EU) 2021/241. The satisfactory fulfilment of those milestones and targets over time is required to justify a disbursement request. Poland has a comprehensive implementation system. The Ministry of Funds and Regional Policy, as the central coordinating body for the RRP and its implementation, is responsible for overall coordination, monitoring and reporting and is the single point of contact for the Commission. That body is also responsible for producing the relevant payment requests, management declarations and audit summaries. Audits will be carried out by the National Revenue Administration, and in particular by the Department of Public Funds Audit at the Ministry of Finance and 16 tax administration chambers (regional offices) within Poland. Individual ministries, central government authorities and other entities mandated by the competent ministries will be responsible for the implementation of reforms and investments under the RRP. Poland will use a repository system for the monitoring and control of the RRP and also for collecting, storing and ensuring access to data in accordance with Article 22(2), point (d), of Regulation (EU) 2021/241.

- (41) Member States should ensure that financial support 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 established by Regulation (EU) 2021/240 of the European Parliament and of the Council<sup>1</sup> to assist Member States in the implementation of their RRP.

#### Costing

- (42) In accordance with Article 19(3), point (i), of and Annex V, criterion 2.9, to Regulation (EU) 2021/241, the justification provided in Poland's RRP on the amount of the estimated total costs of the RRP 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.
- (43) Poland has provided cost estimates for all types of measures under its RRP that entail a cost. Overall, the methodology and the assumptions used to reach the cost estimates are clear and understandable, very often based on previous projects financed by the cohesion policy funds. In some cases, details on the methodology and assumptions used to make the cost estimates are limited, hindering a full positive assessment of the cost estimates. Poland has also provided detailed supporting documentation for most types of interventions to underpin the justification and the evidence of the cost estimates. Poland has provided sufficient information and assurance to ensure that the costs of its RRP are not covered by other Union financing. Finally, the estimated total cost of the RRP is in line with the principle of cost-efficiency and is commensurate to the expected national economic and social impact.

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<sup>1</sup> Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).



## Protection of the financial interests of the Union

- (44) In accordance with Article 19(3), point (j), of and Annex V, criterion 2.10, to Regulation (EU) 2021/241, the arrangements proposed in Poland's RRP and the additional measures contained in this Decision 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 line with Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council<sup>1</sup>.

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<sup>1</sup> 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).

(45) In accordance with Article 20(5), point (e), of Regulation (EU) 2021/241, milestones linked to the protection of the financial interests of the Union should be set out in order to ensure compliance with Article 22 of that Regulation. The satisfactory fulfilment of those milestones is expected to guarantee the adequacy of the internal control system, in accordance with Article 19(3), point (j), of Regulation (EU) 2021/241. Taking into account that effective judicial protection is a prerequisite for the functioning of an internal control system, milestones are set out for a reform strengthening the independence and impartiality of courts, a reform to remedy the situation of judges affected by the decisions of the Disciplinary Chamber of the Supreme Court in disciplinary cases and judicial immunity cases, with a view to their reinstatement following positive review proceedings by the new Chamber, to be conducted without delay, and a reform ensuring an effective audit and control of Poland's RRP, including protection of the financial interests of the Union. Taking into account that those milestones should be established also on the basis of Article 20(5), point (e), of Regulation (EU) 2021/241 to ensure the protection of the financial interests of the Union and the establishment of an adequate control system before any payment under the Facility is authorised by the Commission, Poland should fulfil those milestones before the submission of the first payment request and no payment under the Facility may be made before their fulfilment. That requirement is without prejudice to Poland's obligation to comply at all times with its obligations under Union law, in particular Article 19(1) of the Treaty on the European Union (TEU), as interpreted by the Court of Justice of the European Union, which constitutes a key component of the Union *acquis*.

- (46) To strengthen the independence and impartiality of courts and judges established by law in accordance with Article 19 TEU, all disciplinary cases relating to judges should be transferred from the current Disciplinary Chamber of the Polish Supreme Court to another chamber of the same Court meeting the requirements of independence, impartiality and being established by law, as set out in Article 19(1) TEU. This means, *inter alia*, that the personal composition of the new chamber should be significantly different from the composition of the Disciplinary Chamber.

- (47) To ensure that courts and judges are impartial and independent and established by law, in accordance with Article 19 TEU, any judge, on the request of a party to a case or on his or her own motion, should be able to initiate a verification of whether a court meets the requirements of independence, impartiality and being established by law, and such a verification should not be classified as a disciplinary offence. Therefore, when raising such an issue in a concrete case, a judge should neither be submitted to a disciplinary procedure nor have his or her immunity lifted for having assessed compliance with those requirements, including by taking into consideration the circumstances in which the appointment of another judge took place. No provisions of national law should undermine that principle.
- (48) To the same end, the discretionary designation of competent disciplinary courts for cases concerning judges should be circumscribed, based on objective criteria.
- (49) The assessment of the reform of the judiciary is based solely on the description of the measure in Poland's RRP and does not rely on any legislative proposals that are subject to legislative procedures in Poland. Therefore, the satisfactory fulfilment of the milestones of this Decision should be assessed based on the law in force at the time of the submission of the first payment request.

- (50) This Decision, approving the positive assessment of Poland's RRP by the Commission, in particular on the corresponding milestones on the reform of the judiciary, is without prejudice to any ongoing and future infringement proceedings and, more generally, to the obligation of Poland to comply with Union law, in particular the rulings of the Court of Justice of the European Union.
- (51) Poland has indicated that the information system for the European Structural and Investment Funds will be used also for the purposes of the Facility. A specific milestone should ensure that the information system for monitoring the implementation of the RRP is put in place and operational by the time of the first payment request. In accordance with Article 20(5), point (e), of Regulation (EU) 2021/241, Poland should implement that measure in order to comply with Article 22 of that Regulation and confirm the status of its implementation with the first payment request by means of a dedicated audit report. The system should ensure, as a minimum, the following functionalities: (a) the collection of data and the monitoring of the achievement of milestones and targets; and (b) the collection of, storage of and access to the data required by Article 22(2), point (d)(i) to (iii), of Regulation (EU) 2021/241, pursuant to its Article 22(2), point (e). Moreover, the system should provide all the necessary data for the use of the risk scoring and the data mining tool, Arachne, by the Polish authorities for the audits and controls of the RRP.

- (52) The system for the implementation of the RRP in Poland is described in an appropriate way. It is coherently designed and based on robust processes and structures, so that roles and responsibilities of the actors for controls and audits are clear, relevant control functions are appropriately segregated and the independence of actors performing audits is ensured. The central coordinating body for the implementation of Poland's RRP should be the Ministry of Funds and Regional Policy. Individual ministries, central government authorities and other entities mandated by the competent ministries will be responsible for the implementation of reforms and investments under the RRP and audits should be carried out by the national audit body. Management verifications are carried out by the institution responsible for the implementation of each measure.
- (53) Specific measures should be implemented to check compliance with the rules relating to public procurement, and to protect the financial interests of the Union. The National Revenue Administration should carry out audits on an annual basis. However, frequency of audits relies on the frequency of the payment requests, in accordance with the audit strategy. The audits should cover the system established for the reporting on milestones and targets, the information system for monitoring the implementation of the RRP and audits of operations, including the conditions for sound financial management.

#### Coherence of the RRP

- (54) In accordance with Article 19(3), point (k), of and Annex V, criterion 2.11, to Regulation (EU) 2021/241, Poland's RRP includes to a high extent (Rating A) measures for the implementation of reforms and public investment projects that represent coherent actions.

(55) Reforms and investments have been linked to the priority areas identified in Poland's RRP and, on this basis, they have been structured in six complementary components of the RRP. The overarching aim of the RRP is to increase the productivity of the Polish economy due to a higher level of investment, an improved business environment, digital transformation, energy transition and clean smart mobility, and increased labour supply and social capital based on the quality of education and skills. The RRP responds comprehensively to the consequences of the COVID-19 crisis, as well as to a number of structural weaknesses of the Polish economy. In particular, in the area of clean energy production, sustainable transport and digitalisation, reforms and investments show a high degree of synergies and complementarity, for instance through reforms supporting the development of onshore and offshore wind farms and the development of low-carbon hydrogen technologies as well as promoting sustainable urban mobility and road safety. The same applies, to a certain degree, to reforms and investments in labour market and education, which are expected to increase labour market participation and modernise education and training. Some reforms are expected to have a cross-cutting impact on the quality and effectiveness of legislation in all areas, such as reforms in the law-making process. Complementarities with support under the cohesion policy funds are presented in the components of the RRP and summarised within it.

## Equality

- (56) Poland's RRP describes the impact of the COVID-19 crisis and the challenges related to gender equality and equal opportunities for all, in particular as regards labour market needs. The RRP contains specific measures to address those challenges, such as measures that aim to increase the quality and availability of childcare facilities to facilitate the labour market participation of women. Poland notes that a pre-screening of different projects was made on the basis of equality criteria and that certain projects that did not meet accessibility criteria for persons with disabilities or that were otherwise not compliant with equality principles were not included in the RRP. Poland also notes that it is expected to be ensured that the principles of gender equality and equal opportunities for all are to be taken into account at every stage of the management and implementation of the RRP. Finally, the monitoring committee tasked with monitoring the effective implementation of the RRP will in particular include representatives of bodies representing civil society and promoting fundamental rights and non-discrimination.

## Security self-assessment

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



## Cross-border and multi-country projects

- (58) Poland plans a cross-border or multi-country project in the area of digitalisation. Specifically, under the framework of the Important Projects of Common European Interest, it intends to support investments through the Next Generation Cloud Infrastructure and Services project.

## Consultation process

- (59) Poland carried out stakeholder consultations through different platforms before the submission of its RRP. The public consultation of the RRP was launched on 26 February 2021 and lasted until 2 April 2021. In total, 5 275 contributions were made using a dedicated form on the government website. In addition, comments were voiced *inter alia* during three debates organised by the government and five public hearings led by social partners. The RRP was also discussed by the Joint Government and Local Government Commission (*Komisja Wspólna Rządu i Samorządu Terytorialnego*) and the Social Dialogue Council. As a result of the consultations, changes were made to all components of the RRP.
- (60) 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 RRP. Poland commits in a milestone to creating a monitoring committee tasked with supervising the implementation of the measures under the RRP, composed of social partners and other relevant stakeholders.

## Positive assessment

- (61) Following the positive assessment of the Commission concerning Poland's 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 reforms and investment projects necessary for the implementation of the RRP, the relevant milestones, targets and indicators, and the amount made available from the Union for the implementation of the RRP in the form of non-repayable financial and loan support.

## Financial contribution

- (62) The estimated total cost of Poland's RRP is PLN 160 967 579 300, which equals EUR 35 363 500 000 on the basis of the EUR PLN ECB reference rate of 3 May 2021. As the RRP 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 RRP is higher than the maximum financial contribution available for Poland, the financial contribution allocated for Poland's RRP should be equal to the total amount of the financial contribution available for Poland.

- (63) In accordance with Article 11(2) of Regulation (EU) 2021/241, the calculation of the maximum financial contribution for Poland is to be updated by 30 June 2022. As such, in accordance with Article 23(1) of that Regulation, an amount for Poland not exceeding the maximum financial contribution referred to in Article 11(1), point (a), of that Regulation should be made available for a legal commitment by 31 December 2022. Where necessary following the update of the maximum financial contribution, the Council, on a proposal from the Commission, should amend this Decision to include the updated maximum financial contribution, calculated in accordance with Article 11(2) of that Regulation, without undue delay.
- (64) Furthermore, in order to support additional reforms and investments, Poland has requested loan support. The maximum volume of the loan requested by Poland is less than 6,8 % of its 2019 gross national income in current prices. The amount of the estimated total costs of the RRP is higher than the combined financial contribution available for Poland and the requested loan support.
- (65) 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<sup>1</sup>. The support should be paid in instalments once Poland has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of its RRP.

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<sup>1</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

- (66) This Decision should be without prejudice to the outcome of any procedures relating to the award of Union funds under any Union programme other than the Facility 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 on the Functioning of the European Union. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of that Treaty,

HAS ADOPTED THIS DECISION:

*Article 1*

*Approval of the assessment of the RRP*

The assessment of the RRP of Poland 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 and the additional milestones and targets related to the payment of the loan, 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 Poland a financial contribution in the form of non-repayable support amounting to EUR 23 851 681 924<sup>1</sup>. An amount of EUR 20 270 784 381 shall be available to be legally committed by 31 December 2022. If the update provided for in Article 11(2) of Regulation (EU) 2021/241 results in an updated maximum financial contribution for Poland that is equal to or more than EUR 23 851 681 924, a further amount of EUR 3 580 897 543 shall be available to be legally committed from 1 January 2023 until 31 December 2023. If the update provided for in Article 11(2) of Regulation (EU) 2021/241 results in an updated maximum financial contribution for Poland that is less than EUR 23 851 681 924, the difference between the updated maximum financial contribution and the amount of EUR 20 270 784 381 shall be available to be legally committed in accordance with the procedure set out in Article 20(8) of Regulation (EU) 2021/241 from 1 January 2023 until 31 December 2023.

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<sup>1</sup> This amount corresponds to the financial allocation after deduction of Poland'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.

2. The Union financial contribution shall be made available by the Commission to Poland in instalments in accordance with the Annex to this Decision. The instalments may be disbursed by the Commission in one or several tranches. The size of the tranches shall be subject to the availability of funding.
3. The release of instalments in accordance with the agreement provided for in Article 23(1) of Regulation (EU) 2021/241 shall be conditional on available funding and a decision by the Commission, taken in accordance with Article 24 of Regulation (EU) 2021/241, that Poland has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the RRP. In order to be eligible for payment, Poland shall complete the milestones and targets no later than 31 August 2026, subject to the entry into force of the legal commitments referred to in paragraph 1.

### *Article 3*

#### *Loan support*

1. The Union shall make available to Poland a loan amounting to a maximum of EUR 11 506 500 000.
2. The loan support shall be made available by the Commission to Poland in instalments in accordance with the Annex to this Decision. The instalments may be disbursed by the Commission in one or several tranches. The size of the tranches shall be subject to the availability of funding.

3. The release of instalments in accordance with the loan agreement provided for in Article 15(2) of Regulation (EU) 2021/241 shall be conditional on available funding and a decision by the Commission, taken in accordance with Article 24 of Regulation (EU) 2021/241, that Poland has satisfactorily fulfilled the additional milestones and targets covered by the loan and identified in relation to the implementation of the RRP. In order to be eligible for payment, Poland shall complete the additional milestones and targets no later than 31 August 2026.

*Article 4*

*Addressee*

This Decision is addressed to the Republic of Poland.

Done at Brussels,

*For the Council*

*The President*

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