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

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In order to contain the spread of COVID-19, which on 11 March 2020 was declared a pandemic by the World Health Organization, Member States have adopted a set of unprecedented measures.

(2) The unprecedented measures taken in response to the exceptional situation caused by COVID-19, which is beyond the control of Member States, have caused significant disturbances to economic activity which are reflected in a steep decline in gross domestic product and a significant impact on employment, social conditions, poverty and inequalities. In particular, those measures have disrupted supply chains and production and caused absences from the workplace. In addition, the provision of many services has become very difficult or impossible. At the same time, consumer demand has dropped. Many businesses are experiencing liquidity shortages, and their solvency is at risk, while the financial markets are very volatile. Key sectors like travel and tourism are particularly hard hit. More broadly, those measures have already led or will lead to severe deterioration of the financial situation of many businesses in the Union.

(3) The crisis caused by COVID-19 has spread quickly in the Union and in third countries. A sharp contraction of growth in the Union is foreseen for 2020. Recovery risks being very uneven in different Member States, increasing the divergence between national economies. The different fiscal abilities of Member States to provide financial support where it is needed most for recovery and the divergence between Member States' measures endanger the single market as well as social and territorial cohesion.

(4) A comprehensive set of measures is needed for economic recovery. That set of measures requires substantial amounts of public and private investment to set the Union firmly on the path towards a sustainable and resilient recovery, create high-quality jobs, support social inclusion and repair the immediate damage brought by the COVID-19 crisis, whilst supporting the Union's green and digital priorities.

(5) The exceptional situation caused by COVID-19, which is beyond the control of Member States, calls for a coherent and unified approach at Union level. In order to prevent further deterioration of the economy, employment and social cohesion and to boost a sustainable and resilient recovery of economic activity, an exceptional and coordinated programme of economic and social support should be put in place, in a spirit of solidarity between Member States, in particular for those Member States that have been particularly hard hit.

(6) As this Regulation is an exceptional response to temporary but extreme circumstances, the support provided under it should only be made available for the purposes of addressing the adverse economic consequences of the COVID-19 crisis or the immediate funding needs to avoid a re-emergence of the COVID-19 crisis.

(7) The support under the instrument established by this Regulation (the 'Instrument') should in particular focus on measures to restore labour markets and social protection as well as health care systems, to reinvigorate potential for sustainable growth and employment in order to strengthen cohesion among Member States and support their transition towards a green and digital economy, to provide support to businesses affected by the impact of the COVID-19 crisis, in particular small and medium-sized enterprises, as well as support for investment in activities that are essential for strengthening sustainable growth in the Union including direct financial investment in enterprises, measures for research and innovation in response to the COVID-19 crisis, for capacity building at Union level to enhance future crisis preparedness, for maintaining efforts to ensure a just transition to a climate-neutral economy, and support for agriculture and development in rural areas in addressing the impact of the COVID-19 crisis.

(8) To ensure a sustainable and resilient recovery throughout the Union and facilitate the implementation of economic support, the established mechanisms of spending through Union programmes under the multiannual financial framework are to be used. Support under those programmes is to be provided in the form of non-repayable support, loans, and provisioning for budgetary guarantees. The allocation of financial resources should reflect the extent to which those programmes are capable of contributing to the objectives of the Instrument. Contributions to those programmes under the Instrument should be subject to strict compliance with the objectives of the Instrument, which are linked to supporting recovery in the aftermath of the COVID-19 crisis.

(9) In view of the nature of the measures to be financed, one part of the amounts available under the Instrument should be used for loans to Member States, whereas the other part of the amounts should constitute external assigned revenue for the purpose of Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(1)] (the 'Financial Regulation') and should be used for non-repayable support, support through financial instruments or provisioning for budgetary guarantees and related expenditure by the Union. To that effect, as part of the necessary measures under this Regulation, it is appropriate to enable Article 21(5) of the Financial Regulation to comprise the assigning under this Regulation, as a basic act, of a part of the revenue provided for under the exceptional and temporary empowerment provided for in the

Council Decision on the system of own resources of the European Union and repealing Council Decision 2014/335/EU, Euratom[(2)] (the 'Own Resources Decision').

(10) While point (c) of Article 12(4) and Article 14(3) of the Financial Regulation apply to commitment and payment appropriations made available in relation to the external assigned revenue under this Regulation, in view of the time limits set for the different types of support, commitment appropriations resulting from that external assigned revenue should not be automatically carried over beyond the respective end dates, except for commitment appropriations necessary for technical and administrative assistance for implementation of the measures set out in the Instrument.

(11) Commitment appropriations for non-repayable support should be made available automatically up to the authorised amount. Liquidity should be managed effectively, so that funds are raised only when legal commitments need to be honoured through corresponding payment appropriations.

(12) Given the importance of using the amounts during the first years of the implementation of the Instrument, it is appropriate to review the progress achieved in the implementation of the Instrument and the use of the support allocated in accordance with this Regulation. To that effect, the Commission should prepare a report by 31 October 2022.

(13) Article 135(2) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(3)] (the 'Withdrawal Agreement') provides that amendments to Decision 2014/335/EU, Euratom that are adopted on or after the date of entry into force of the Withdrawal Agreement are not to apply to the United Kingdom insofar as those amendments have an impact on the United Kingdom's financial obligations. The support under this Regulation and the corresponding increase of the own resources ceiling of the Union would have an impact on the United Kingdom's financial obligations. Article 143(1) of the Withdrawal Agreement limits the liability of the United Kingdom for its share of the contingent financial liabilities of the Union to those contingent financial liabilities of the Union arising from financial operations taken by the Union before the date of entry into force of the Withdrawal Agreement. Any contingent financial liability of the Union arising from support under this Regulation would be subsequent to the date of entry into force of the Withdrawal Agreement. Therefore, this Regulation should not apply to and in the United Kingdom,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 In order to support the recovery in the aftermath of the COVID-19 crisis, this Regulation establishes the European Union Recovery Instrument (the 'Instrument').

2 Support under the Instrument shall in particular finance the following measures to tackle the adverse economic consequences of the COVID-19 crisis or the immediate funding needs to avoid a re-emergence of that crisis:

- a measures to restore employment and job creation;
- b measures in the form of reforms and investments to reinvigorate the potential for sustainable growth and employment in order to strengthen cohesion among Member States and increase their resilience;
- c measures for businesses affected by the economic impact of the COVID-19 crisis, in particular measures that benefit small and medium-sized enterprises as well as support for investment in activities that are essential for strengthening sustainable growth in the Union, including direct financial investment in enterprises;
- d measures for research and innovation in response to the COVID-19 crisis;
- e measures for increasing the level of the Union's crisis preparedness and enabling a quick and effective Union response in the event of major emergencies, including measures such as stockpiling of essential supplies and medical equipment and acquiring the necessary infrastructures for rapid crisis response;
- f measures to ensure that a just transition to a climate-neutral economy will not be undermined by the COVID-19 crisis;
- g measures to address the impact of the COVID-19 crisis on agriculture and rural development.

3 The measures referred to in paragraph 2 shall be carried out under specific Union programmes and in accordance with the relevant Union acts laying down rules for those programmes whilst fully respecting the objectives of the Instrument. Those measures shall include technical and administrative assistance for their implementation.

Article 2

Financing of the Instrument and allocation of funds

1 The Instrument shall be financed up to an amount of EUR 750 000 million in 2018 prices on the basis of the empowerment provided for in Article 5 of the Own Resources Decision.

For the purposes of implementation under the specific Union programmes, the amount referred to in the first subparagraph shall be adjusted on the basis of a fixed deflator of 2 % per year. For commitment appropriations that deflator shall apply to the annual instalments.

2 The amount referred to in paragraph 1 shall be allocated as follows:

- a support of up to EUR 384 400 million in 2018 prices in the form of non-repayable support and repayable support through financial instruments shall be allocated as follows:

  (i) up to EUR 47 500 million in 2018 prices for structural and cohesion programmes of the multiannual financial framework 2014-2020 as reinforced until 2022, including support through financial instruments;

  (ii) up to EUR 312 500 million in 2018 prices for a programme financing recovery and economic and social resilience via support to reforms and investments;

  (iii) up to EUR 1 900 million in 2018 prices for programmes related to civil protection;

(iv) up to EUR 5 000 million in 2018 prices for programmes related to research and innovation, including support through financial instruments;

(v) up to EUR 10 000 million in 2018 prices for programmes supporting territories in their transition towards a climate-neutral economy;

(vi) up to EUR 7 500 million in 2018 prices for development in rural areas;

b up to EUR 360 000 million in 2018 prices in loans to Member States for a programme financing recovery and economic and social resilience via support to reforms and investments;

c up to EUR 5 600 million in 2018 prices for provisioning for budgetary guarantees and related expenditure for programmes aiming at supporting investment operations in the field of Union internal policies.

Article 3

Rules for budgetary implementation

1 For the purpose of Article 21(5) of the Financial Regulation, EUR 384 400 million in 2018 prices, of the amount referred to in Article 2(1) of this Regulation, shall constitute external assigned revenue to the Union programmes referred to in point (a) of Article 2(2) of this Regulation and EUR 5 600 million in 2018 prices of that amount shall constitute external assigned revenue to the Union programmes referred to in point (c) of Article 2(2) of this Regulation.

2 EUR 360 000 million in 2018 prices, of the amount referred to in Article 2(1), shall be used for loans to Member States under the Union programmes referred to in point (b) of Article 2(2).

3 Commitment appropriations covering support to the Union programmes referred to in points (a) and (c) of Article 2(2) shall be made available automatically up to the respective amounts referred to in those points as of the date of entry into force of the Own Resources Decision which provides for the empowerment referred to in Article 2(1) of this Regulation.

4 Legal commitments giving rise to expenditure for support as referred to in point (a) of Article 2(2), and, where appropriate, in point (c) of Article 2(2), shall be entered into by the Commission or by its executive agencies by 31 December 2023. Legal commitments of at least 60 % of the amount referred to in point (a) of Article 2(2) shall be entered into by 31 December 2022.

5 Decisions on the granting of the loans referred to in point (b) of Article 2(2) shall be adopted by 31 December 2023.

6 The Union's budgetary guarantees up to an amount which, in accordance with the relevant provisioning rate set out in the respective basic acts, corresponds to the provisioning for budgetary guarantees referred to in point (c) of Article 2(2), depending on the risk profiles of the supported financing and investment operations, shall be granted only for supporting operations which have been approved by the counterparts by 31 December 2023. The respective budgetary guarantee agreements shall contain provisions requiring that financial operations corresponding to at least 60 % of the amount of those budgetary guarantees are approved by the counterparts by 31 December 2022. Where provisioning for budgetary guarantees is used for non-repayable support related to the financing and investment operations referred to in point (c) of Article 2(2), the related legal commitments shall be entered into by the Commission by 31 December 2023.

7 Paragraphs 4 to 6 of this Article shall not apply to technical and administrative assistance referred to in Article 1(3).

8 Costs from technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems for the purposes of this Regulation, shall be financed from the Union budget.

9 Payments related to the legal commitments entered into, decisions adopted and the provisions regarding financial operations approved in accordance with paragraphs 4 to 6 of this Article shall be made by 31 December 2026, with the exception of technical and administrative assistance referred to in Article 1(3) and of cases where, exceptionally, although the legal commitment has been entered into, the decision has been adopted or the operation has been approved, on terms compliant with the deadline applicable under this paragraph, payments after 2026 are necessary for the Union to be able to honour its obligations towards third parties, including as a result of a definitive judgment against the Union.

Article 4

Reporting

By 31 October 2022, the Commission shall submit to the Council a report on the progress achieved in the implementation of the Instrument and the use of the funds allocated in accordance with Article 2(2).

Article 5

Applicability

1 This Regulation shall not be applicable to or in the United Kingdom.

2 References to 'Member States' in this Regulation shall not be understood to include the United Kingdom.

Article 6

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 2020.

For the Council

The President

M. ROTH

(**1**) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(**2**) Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

(**3**) OJ L 29, 31.1.2020, p. 7.

Changes to legislation:
There are currently no known outstanding effects for the Council Regulation (EU) 2020/2094.