



20.12.2022

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2021/241 as regards REPowerEU chapters in recovery and resilience plans and amending Regulation (EU) 2021/1060, Regulation (EU) 2021/2115, Directive 2003/87/EC and Decision (EU) 2015/1814 (COM(2022)0231 – C9-0183/2022 – 2022/0164(COD))

The interinstitutional negotiations on the aforementioned proposal for a regulation have led to a compromise. In accordance with Rule 74(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Joint Committee on Budgets and Committee on Economic and Monetary Affairs for decision by way of a single vote.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 2021/241 as regards REPowerEU chapters in recovery and resilience plans and amending Regulations (EU) No 1303/2013, (EU) 2021/1060 and (EU) 2021/1755 and Directive 2003/87/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 175, third paragraph, Article 177, first paragraph, Article 192(1), Article 194(2) and Article 322(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Having regard to the opinion of the Court of Auditors,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Since the adoption of Regulation (EU) 2021/241 of the European Parliament and of the Council³ establishing the Recovery and Resilience Facility, unprecedented geopolitical events triggered by Russia's unprovoked and illegal military invasion of Ukraine and their direct and indirect aggravation of the COVID-19 consequences have considerably affected the Union's society and economy, its people and its economic, social and territorial cohesion. In particular, it has become clearer than ever that the Union's energy security and energy independence are indispensable for a successful, sustainable and inclusive recovery from the COVID-19 crisis, as they are also a major factor contributing to the resilience of the European economy.
- (2) Due to the direct links between a sustainable recovery, building the Union's resilience and the Union's energy security, reducing its dependence on fossil fuels, in particular from Russia, and the Union's role for a just and inclusive transition, the Recovery and Resilience Facility is a well-suited instrument to contribute to the Union's response to these newly emerging challenges, in light of the Union climate and environmental

¹ OJ C , , p. .

² OJ C , , p. .

³ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57 18.2.2021, p. 17).

legislation¹ and of the Union's international commitments, in particular under the Paris Agreement.

- (3) The Versailles Declaration of 10-11 March 2022 of the Heads of States and Governments invited the Commission to propose by the end of May a REPowerEU plan to phase out the dependency on Russian fossil fuel imports, which was subsequently reiterated in the European Council Conclusions of 24-25 March 2022. This should be done well before 2030 in a way that is consistent with the EU's Green Deal and the climate objectives for 2030 and 2050 enshrined in the European Climate Law.
- (3a) Regulation (EU) 2021/241 should therefore be amended to enhance its ability to support reforms and investments dedicated to diversifying energy supplies, in particular fossil fuels, as well as to increase the resilience, security and sustainability of the Union energy system, thereby contributing to energy affordability and strengthening the strategic autonomy of the Union alongside an open economy. To achieve these objectives, the Union has to increase the energy efficiency, reliability and resilience of transmission and distribution networks, promote system flexibility, minimise congestions, including by means of increased grid and electricity storage capacity, digitalisation, ensure resilient supply chains, cybersecurity and the protection and climate adaptation of all infrastructure, while reducing strategic energy dependencies.
- (4) To maximise complementarity, consistency and coherence of policies and actions taken by the Union and Member States to foster independence, security and sustainability of the Union's energy supply, these energy-related reforms and investments should be established through a dedicated 'REPowerEU chapter' of the recovery and resilience plans.
- (4a) The effective transition towards green energy and a rapid reduction in dependency on fossil fuel energy in an inclusive way call for measures to boost energy efficiency and savings in buildings and related critical energy infrastructure and to decarbonise industries faster. It is imperative to swiftly increase investment in energy efficiency measures, such as the uptake of sustainable and efficient heating and cooling solutions, which present an effective way to address some of the most pressing challenges of energy supply and energy cost. Therefore, support should also be given to reforms and investments increasing energy efficiency, decarbonising industry, including by the use of low-carbon fuels, such as low-carbon hydrogen, the uptake of renewable hydrogen and other renewable fuels of non-biological origin, and energy savings of the Member States' economies in line with the EU energy and climate targets and legal framework. The Commission should particularly encourage Member States to include in their REPowerEU Chapter measures supporting the decarbonisation of industry.

¹ ***Council Directive 92/43/EEC, Directive 2009/147/EC, Directive 2000/60/EC, Regulation (EC) No 1367/2006, Regulation (EU) 2021/1767 and Proposal for a Regulation of the European Parliament and of the Council on nature restoration (COM(2022) 304 final).***

- (4b) The phasing out of dependency on Russian fossil fuel imports should lead to a reduction in the overall energy dependency of the Union. The REPowerEU chapters of the recovery and resilience plans should contribute to increasing and strengthening the strategic autonomy of the Union, without excessively increasing its dependency on imports of raw materials from third countries.
- (4c) In the preparation of the recovery and resilience plans as well as of the REPowerEU chapters, Member States should coordinate their economic policies in such a way as to attain the objectives on economic, social and territorial cohesion set out in Article 174 TFEU, aiming to reduce disparities between the levels of development of the various regions and the backwardness of the least favoured regions, paying particular attention to remote, peripheral and isolated areas and islands, which already experience additional constraints.
- (5) To maximise the scope of the Union's response, all Member States submitting a recovery and resilience plan after the entry into force of this Regulation that requests the use of additional funding under Article 14, Article 21a and Article 21b should be required to include a REPowerEU chapter in their plan. In accordance with Article 18 (3), and to ensure proper preparation of the REPowerEU chapters, Member States may submit a draft REPowerEU chapter before the submission of a modified recovery and resilience plan. Unnecessary administrative burden should be avoided.
- (6) The REPowerEU chapter should include new reforms and investments contributing to the REPowerEU aims and tackling the crisis effect caused by recent geopolitical events, meaning those reforms and investments starting from 1 February 2022. However, measures already included in the adopted Council Implementing Decisions and contributing to the REPowerEU objectives can be included in the REPowerEU chapter, if, following the update of the maximum financial contribution, the Member State concerned is subject to a decrease of its maximum financial contribution and up to an amount of estimated costs equal to the decrease of the maximum financial contribution.
- (6a) The scaled-up part of measures included in the already adopted Council Implementing Decision may be included in the REPowerEU chapter together with the corresponding milestones and targets. Such scale-up should introduce a substantive improvement in the level of ambition of the measure, as reflected in the design or level of the corresponding milestones and targets, while building on the measures included in the already adopted Council Implementing Decision.
- (6b) Member States should submit the REPowerEU chapter in the form of an addendum to their recovery and resilience plans. Furthermore, that chapter should contain an explanation of how the measures included therein are coherent with the efforts of the Member State concerned to achieve the REPowerEU objectives, taking into account the measures in the already adopted Council Implementing Decisions, as well as an explanation of the overall contribution of measures in the already adopted Council Implementing Decisions and other national and EU-funded complementary or accompanying measures to the REPowerEU objectives.

- (6c) REPowerEU chapters should inter alia contribute to increasing the share of sustainable and renewable energies in the energy mix and to addressing energy infrastructure bottlenecks. As regards natural gas infrastructure, the investments and reforms of the REPowerEU chapters to diversify supply away from Russia should build on the needs currently identified through the assessment conducted and agreed by the European Network of Transmission System Operators for Gas (ENTSO), established in the spirit of solidarity as regards security of supply and take into account strategic energy security needs of the Member State concerned and the reinforced preparedness measures, including energy storage, taken to adapt to new geopolitical threats, without undermining the long-term contribution to the green transition.
- (7) An appropriate assessment criterion should be added to serve as a basis for the Commission to assess reforms and investments included in the REPowerEU chapters and to ensure that reforms and investments are fit for achieving the specific REPowerEU-related objectives. An A rating should be required under this new assessment criterion for the relevant recovery and resilience plan to be positively assessed by the Commission.
- (8) Investments in infrastructure and technologies alone are not sufficient to ensure a reduction of dependency from fossil fuels in view of existing labour and skill shortages. In this context, resources can also be dedicated to the reskilling and upskilling of people, to further equip the workforce with green skills as well as to the research and the development of innovative solutions linked to the green transition. Member States are encouraged to further invest in upskilling and reskilling especially for green and related digital skills and technologies to ensure that no one will be left behind throughout the green transition. Where a Member State includes in its REPowerEU chapter measures related to reskilling and upskilling of people, the Commission will consider whether such measures significantly contribute to supporting a requalification of the workforce towards green skills and related digital skills.

- (8a) In light of the economic and social impact of the current energy crisis, where persistently high and volatile energy prices are aggravating the impact of the COVID-19 crisis by further increasing the financial burden for consumers, in particular for the most vulnerable ones, households with low income, and vulnerable companies including micro-, small and medium enterprises, and in recognition of the principles of the European Pillar of Social Rights, the REPowerEU chapters can also include measures to help structurally address situations of energy poverty, through long-lasting investments and reforms. Reforms and investments aimed at tackling energy poverty should provide a higher level of financial support to energy efficiency schemes, including via dedicated financial instruments, clean energy policies and schemes to reduce energy demand for those households and companies including micro-, small and medium enterprises facing severe difficulties due to high energy bills.
- (8b) Energy demand-reduction measures taken by Member States should incentivise investments in energy savings.
- (9) The application of this regime should be without prejudice to all other legal requirements under Regulation (EU) 2021/241 unless this Regulation provides otherwise.
- (10) The recovery and resilience plan, including the REPowerEU chapter, should contribute to effectively addressing all or a significant subset of the challenges identified in the relevant country-specific recommendations, including the country-specific recommendations to be adopted under the 2022 Semester cycle which refer inter alia to the energy challenges that Member States are facing.
- (11) An effective transition towards green energy and a reduction of energy dependency involves significant digital investments. In light of Regulation (EU) 2021/241, Member States should provide an explanation of how the measures in the recovery and resilience plan, including those in the REPowerEU chapter, are expected to contribute to the digital transition or the challenges resulting therefrom and whether they account for an amount contributing to the digital target based on the methodology for digital tagging. However, given the unprecedented urgency and importance of energy challenges faced by the Union, reforms and investments included in the REPowerEU chapter should not be taken into account when calculating the plan's total allocation for the purpose of applying the digital target requirement set by Regulation (EU) 2021/241. Nonetheless, Member States should endeavour to include, to the maximum extent possible, in the REPowerEU chapter measures that contribute to the digital target on the basis of the methodology for digital tagging.

- (11a) Lengthy administrative procedures are one of the main obstacles to the deployment of renewable energy sources. These barriers include the complexity of the applicable rules for site selection and administrative authorisations for projects, the complexity and duration of the assessment of the environmental impacts of the projects, grid connection issues, or staffing constraints of the permit-granting authorities or grid operators. Further simplification and speeding up of the administrative permit-granting processes for renewables and related power grid infrastructure is necessary to ensure that the Union achieves its energy and climate targets. Recommendations were made to Member States in the context of the 2022 European Semester to accelerate the deployment of renewable energy. As announced in the REPowerEU Communication, the Commission has proposed to amend the Renewable Energy Directive aiming to establish a faster permitting process for renewables. In addition, Council Regulation .../...¹ laying down a framework to accelerate the deployment of renewable energy has introduced temporary emergency rules.
- (12) Pursuant to Article 18(4), point (q), of Regulation (EU) 2021/241, the Member States should also provide a summary of the consultation process, conducted in accordance to the national legal framework, of local and regional authorities, social partners and other relevant stakeholders concerned with the implementation of the recovery and resilience plan. This consultation should be complemented to address the potential reforms and investments to be included in the REPowerEU chapter. Such complementary consultation should allow stakeholders sufficient time to react while ensuring a speedy finalisation of the REPowerEU chapter by the Member State. The updated summary should note the stakeholders consulted, explain the outcome of the complementary consultation and outline how the input received from the stakeholders concerned was reflected in REPowerEU chapters.

¹ Council Regulation (EU) .../... of ... laying down a framework to accelerate the deployment of renewable energy (JO L ..., p. ...) [ST 14787/22].

- (13) The application of the ‘do no significant harm’ principle is essential to ensure that the investments and reforms undertaken as part of the recovery from the pandemic are implemented in a sustainable manner. It should continue to apply to the reforms and investments supported by the Facility, with one targeted exemption to safeguard the EU’ immediate energy security concerns. Considering the objective of diversifying energy supplies away from Russian suppliers, the reforms and investments set out in those REPowerEU chapters which are necessary to improve energy infrastructure and facilities to meet immediate security of supply needs for gas should be eligible for financial support under the Facility even if they do not comply with the principle of ‘do no significant harm’. As a rule, oil infrastructure and facilities are excluded from the REPowerEU chapter. By derogation, oil infrastructure and facilities necessary to meet immediate security of supply needs may be included in the REPowerEU chapter of a Member State that has been subject to the exceptional temporary derogation in Article 3m(4) of Regulation (EU) No 833/2014 by the entry into force of this Regulation, due to its specific dependence on crude oil and geographical situation. The Commission should assess whether measures expected to address immediate security of energy supply needs are eligible for the derogation from the ‘do no significant harm’ principle. For the purpose of this assessment, the Commission should consider, among other conditions, the risks of lock-in effects and the unavailability of cleaner, technologically and economically feasible alternatives that could be deployed within a comparable timeline. Such assessment should be proportionate, taking into account the urgency of the REPowerEU objectives. In case of doubts, the Commission may request Member States to provide relevant information to support the assessment. The evaluation of cleaner alternatives should stay within reasonable limits.
- (13a) All measures in the recovery and resilience plans should be undertaken in compliance with the applicable EU and national environmental acquis, in particular relating to environmental impact assessment and nature protection. For measures benefitting from the derogation from the ‘do no significant harm’ principle, Member States should undertake satisfactory efforts to limit the potential harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852, where feasible, and to mitigate the harm inter alia, through other measures, including measures in the REPowerEU chapter.
- (13b) The REPowerEU chapters should be consistent with the National Energy and Climate Plans of that Member State and with the Union climate targets set out in Regulation (EU) 2021/1119.

(13c) Reflecting the European Green Deal as Europe’s sustainable growth strategy and the importance of tackling climate change in line with the Union’s commitments to implement the Paris Agreement and the UN Sustainable Development Goals, the Facility is to contribute to the mainstreaming of climate action and environmental sustainability and to the achievement of an overall target of 30 % of Union budget expenditure supporting climate objectives. To that end, the measures supported by the Facility and included in recovery and resilience plans of the individual Member States should contribute to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, and should account for an amount that represents at least 37 % of the recovery and resilience plan’s total allocation and for at least 37 % of the total estimated costs of the measures included in the REPowerEU chapter based on the methodology for climate tracking set out in an annex to this Regulation. That methodology should be used accordingly for measures that cannot be directly assigned to an intervention field listed in the annex to this Regulation. If the Member State concerned and the Commission agree, it should be possible to increase the coefficients for support for the climate objectives to 40 % or 100 % for individual investments, as explained in the recovery and resilience plan, to take account of accompanying reform measures that credibly increase their impact on the climate objectives. To that end, it should be possible to increase the coefficients for support for the climate objectives up to a total amount of 3 % of the allocation of the recovery and resilience plan for individual investments. The Facility should support activities that fully respect the climate and environmental standards and priorities of the Union and the principle of ‘do no significant harm’ within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council (9) (the principle of ‘do no significant harm’).

- (13d) Member States should, where relevant, include in REPowerEU chapters measures having a cross-border or multi-country dimension or effect, as identified in the Commission's most recent needs assessment, contributing, among other things, to creating European added value. It should also be recognised that measures carried out in one single Member State could have spill-over effects on other Member States. The Commission should facilitate the co-operation among Member States as early as possible with a view to developing measures having a cross-border or multi-country dimension or effect to be included in the REPowerEU chapters. Member States should strive for these measures to account for an amount that represents at least 30 % of the estimated costs of the measures included in the REPowerEU chapter. In addition to measures having a cross border or multi-country dimension, measures at national level that could be considered as having a cross-border or multi-country dimension or effect may be those that contribute to securing energy supply in the Union as a whole, in line with the REPowerEU objectives, in particular as regards addressing existing bottlenecks in terms of energy transmission, distribution and storage, as identified in the Commission most recent needs assessment, thereby increasing the potential for cross-border flows between Member States. Measures reducing dependency on fossil fuels and reducing energy demand should also be considered as having a positive cross-border effect as they further free up capacity or supply for other Member States.
- (14) Further incentives should be provided for Member States to request loans to ensure the uptake of the available funds by Member States while complying with the principles of equal treatment, solidarity, proportionality and transparency. To this end, Member States should communicate as clearly as possible to the Commission their intention to submit or not a loan request 30 days after the entry into force of this Regulation. The Commission will present to the Parliament and the Council, simultaneously, on equal terms and without undue delay an overview of the intentions expressed by the Member States and the proposed way forward for the distribution of the available resources. This should by no means prejudice the ability of Member States to request loan support until 31 August 2023 in conformity with Article 14 of Regulation (EU) 2021/241, including in the case of requests above 6.8 % GNI where the relevant conditions apply, and of the signature by the Commission of the corresponding loan agreement after the adoption of the Council Implementing Decision.
- (14a) Member States are encouraged to submit the REPowerEU chapters as soon as possible and preferably within [two months of the entry into force of this amending Regulation]. In line with Article 19(1) of Regulation (EU) 2021/241, the Commission shall assess the modified recovery and resilience plans submitted by the Member State within two months and make a proposal for a Council Implementing Decision. Given the urgency of the challenges that the Member States are facing, the Commission should strive to conclude the assessment of the modified recovery and resilience plans without undue delay and as soon as possible.
- (15) In addition, to incentivise a high level of ambition for reforms and investments to be

included in the REPowerEU chapter, new dedicated funding sources should be provided.

- (15a) Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices introduces a temporary solidarity contribution for Union companies and permanent establishments with activities in the crude petroleum, natural gas, coal and refinery sectors applicable in all Member States. Member States are invited to use a proportion of the proceeds generated by this temporary contribution, to foster synergies and complementarities with the reforms and investments in their REPowerEU chapters in a coherent manner, for funding of measures being implemented at the national level in accordance with the REPowerEU objectives.
- (16) The current economical and geopolitical situation requires the Union to mobilise available resources to rapidly diversify the Union's energy supply and reduce dependence on fossil fuels before 2030. In this context Directive 2003/87/EC of the European Parliament and of the Council should allow for an exceptional monetisation of a portion of allowances from the Innovation Fund and of allowances allocated to Member States, except allowances distributed for the purposes of solidarity, growth and interconnections, for auctioning and to direct revenues towards reforms and investments contributing to REPowerEU objectives, in the Recovery and Resilience Facility framework. The auctioning of Member State and Innovation Fund allowances should also be frontloaded. A portion of allowances in the market stability reserve, that would otherwise be invalidated, should be used to replenish the Innovation Fund.
- (16a) In the context of the EU emergency intervention to address high energy prices, resulting from the impact of the military aggression against Ukraine, targeted exceptional temporary measures under the 2014-2020 cohesion policy framework, through a flexible use of ERDF, ESF, and Cohesion Fund resources, should help SMEs particularly affected by energy price increases as well as vulnerable households cover their energy costs, as from 1 February 2022. Such support is fully in line with REPowerEU objectives.

- (16b) In particular, the ERDF should exceptionally be used to provide working capital support to SMEs particularly affected by energy price increases. When providing support to SMEs particularly affected by energy price increases, it should be ensured that support provided is proportionate and respects applicable State aid rules. Moreover, the ESF should exceptionally be used to provide support to vulnerable households, as defined in national rules, to help them meet their energy consumption costs even in the absence of measures increasing the employability of the people supported (active measures). This is an exceptional measure strictly necessary to address the energy crisis resulting from the impact of the military aggression in 2022. It ensures that people supported have access to essential services and the necessary health conditions to participate in the labour market. Support may be provided by the three Funds interchangeably. Furthermore, in addition to the ESF, the ERDF and the Cohesion Fund should also have the possibility to support job retention measures through short-time work and equivalent schemes, including support to the self-employed. Such schemes aim to protect employees and the self-employed against the risk of unemployment. The resources allocated to such schemes are to be used exclusively to support workers and self-employed. Union support to such short time work and equivalent schemes should be limited in time. It should also be possible to use REACT-EU resources set out in Article 92a of Regulation (EU) No 1303/2013 for the aforementioned three types of support in order to reinforce Member States' continued efforts towards the resilient recovery of the economy following the COVID-19 crisis.
- (16c) Specific programming arrangements should allow resources to be exclusively programmed within dedicated priority axes and contribute to specific investment priorities. In order to offer significant support to Member States in their efforts to contain the fall-out of the energy crisis, Member States should exceptionally benefit from a co-financing rate of 100 % to be applied to the dedicated priority axes of operational programmes providing exclusively such support until the end of the 2014-2020 programming period. Those limited and targeted measures should complement the structural interventions in the cohesion policy supporting the production of clean energy and promotion of energy efficiency. In order to take account of EU budgetary constraints, payments by the Commission to such operations under the dedicated priorities should be capped to EUR 5 billion in 2023.

- (17) In order to provide Member States and regions with sufficient flexibility in addressing the newly emerging challenges, Regulation (EU) 2021/1060 of the European Parliament and of the Council¹ should be amended to provide Member States with the possibility to request up to 7.5 % of resources under the ERDF, the ESF+ and the Cohesion Fund to contribute to the REPowerEU objectives. Funds may provide support to REPowerEU objectives where such support falls within the scope of the Fund concerned, contributes to its specific objectives and complies with the rules set out in Regulation (EU) 2021/1060 and the Fund-specific Regulations, including the “do no significant harm” principle.
- (18) (deleted)
- (18a) Regulation (EU) 2021/1755 of the European Parliament and of the Council² should also be amended to allow for the possibility, at the request of the Member State concerned, to transfer all or part of its provisional allocation from the resources of the Brexit Adjustment Reserve to the Recovery and Resilience Facility. The Covid-19 crisis, aggravated by the threat to the Union’s energy security, has exacerbated the negative repercussions of the withdrawal of the United Kingdom from the Union in Member States, including their regions and local communities, and sectors, in particular in those that are most adversely affected by the withdrawal. The measures to be funded under the Brexit Adjustment Reserve and the reforms and investments to be funded under the Recovery and Resilience Facility may serve similar purposes and have similar content. Both the Reserve and the Facility aim ultimately at mitigating the negative impacts on economic, social and territorial cohesion. In this context, whilst reforms and investments under the Facility must primarily aim at addressing the economic consequences of the pandemic, they may also contribute at countering unforeseen and adverse consequences in Member States and sectors that are worst affected by Brexit. Finally, commitments and payment appropriations under both the Reserve and the Facility are entered over and above the ceilings of the multiannual financial framework (MFF). Under this scenario, and bearing in mind the global energy market disruption caused by the more recent geopolitical developments, it is appropriate to provide flexibility to Member States by allowing transfers from the Reserve to the Facility, which permit to cater for the objectives of both and ultimately bring about economic, social and territorial cohesion.
- (19) Disbursements under REPowerEU shall be made following the rules of the Recovery and Resilience Facility until the end of 2026.

¹ ***Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).***

² Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 establishing the Brexit Adjustment Reserve (OJ L 357, 8.10.2021, p. 1).

- (20) A request for a dedicated funding for REPowerEU measures, including allocation from auctioning of ETS allowances, transfers from the Funds governed by Article 26 of Regulation (EU) 2021/1060 and by Article 3a of this Regulation, submitted in a plan, should be justified by a higher financial need linked to reforms and investments included in the REPowerEU chapter.
- (20a) To ensure that the financial support is frontloaded to better respond to the current energy crisis, upon request of a Member State to be submitted together with the REPowerEU chapter in a modified recovery and resilience plan, an amount of the additional funding required to finance measures of its REPowerEU chapter can be paid in the form of two pre-financing payments. The Commission should make, to the extent possible, the first pre-financing payment within two months after the adoption by the Commission of the legal commitment referred to in Article 23 of Regulation (EU) 2021/241, and the second pre-financing payment within twelve months of the entry into force of the Council Implementing Decision approving the assessment of the recovery and resilience plan including a REPowerEU chapter, subject to available resources.
- (20b) In order to comply with the multiannual financial framework payment ceilings, a capping should be established for payments corresponding to the pre-financing for amounts transferred under the provisions of Regulation (EU) 2021/1060.
- (20c) Payments corresponding to pre-financing should be made subject to available resources, in particular the availability of funds from the NextGenerationEU account, funds approved in the annual EU budget, the revenues under article 21a, and the effective prior transfer of resources under shared management programmes, if requested.
- (21) The Commission should monitor the implementation of reforms and investments outlined in the REPowerEU chapter and their contribution to the REPowerEU objectives, as established in Regulation (EU) 2021/241.
- (22) Recent geopolitical events have considerably affected prices of energy, food and construction materials and have also caused shortages in the global supply chains, resulted in increased inflation and generated new challenges, including risk of energy poverty and higher cost of living, which may require a response to these challenges. These developments may have a direct impact on the capacity to implement measures included in the recovery and resilience plans. To the extent that Member States can demonstrate that such developments make a specific milestone or target, either totally or partially, no longer achievable, such situations may be invoked as objective circumstances under Article 21. Moreover, to the extent Member States can demonstrate that the achievement of a specific milestone or target conflicts with the achievement of the REPowerEU objectives, such situations may also be invoked as objective circumstances under Article 21. In addition, no request for amendments should undermine the overall implementation of the recovery and resilience plans, including investment and reform efforts of the Member States.

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) 2021/241

Regulation (EU) 2021/241 is amended as follows:

(1) In Article 4, paragraph 1 is replaced by the following:

‘1. In line with the six pillars referred in Article 3 of this Regulation, the coherence and synergies they generate, and in the context of the COVID-19 crisis, the general objective of the Facility shall be to promote the Union’s economic, social and territorial cohesion by improving the resilience, crisis preparedness, adjustment capacity and growth potential of the Member States, by mitigating the social and economic impact of that crisis, in particular on women, by contributing to the implementation of the European Pillar of Social Rights, by supporting the green transition, by contributing to the achievement of the Union’s 2030 climate targets set out in point (11) of Article 2 of Regulation (EU) 2018/1999, by complying with the objective of EU climate neutrality by 2050 and of the digital transition, and by increasing the resilience, security and sustainability of the Union energy system through the needed decrease of dependence on fossil fuels and diversification of energy supplies at Union level, including by increasing the uptake of renewables, energy efficiency, energy storage capacity, (‘REPowerEU objectives’) thereby contributing to the upward economic and social convergence, restoring and promoting sustainable growth and the integration of the economies of the Union, fostering high quality employment creation, and contributing to the strategic autonomy of the Union alongside an open economy and generating European added value.’;

(1a) In Article 5, the following paragraph is added:

‘3. The ‘do no significant harm’ principle shall also apply to the measures included in the REPowerEU chapters, unless this Regulation states otherwise.’;

(2) Article 14 is amended as follows:

(a) in paragraph 3, the following point is inserted:

‘(ba) where applicable, the reforms and investments in line with Article 21c’;

(b) paragraph 4 is replaced by the following:

‘4. The loan support to the recovery and resilience plan of the Member State concerned shall not be higher than the difference between the total costs of the recovery and resilience plan, as revised where relevant, and the maximum financial contribution referred to in Article 11, including, where relevant, the revenue referred to in Article 21a as well as, where relevant, resources transferred from shared management.’;

(c) paragraph 6 is replaced by the following:

‘6. By derogation from paragraph 5, subject to the availability of resources, in exceptional circumstances the amount of the loan support may be increased, considering the needs of the requesting Member State, as well as requests for loan support already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency. To facilitate the application of these principles, Member States shall communicate to the Commission within 30 days after [the entry into force of this amending Regulation], whether or not they intend to request loan support. This shall not prejudice the ability of Member States to request loan support until 31 August 2023, including in the case of requests above 6.8 % GNI where the relevant conditions apply, and of the signature by the Commission of the corresponding loan agreement after the adoption of the CID. The Commission shall present to the Council and the Parliament, simultaneously, on equal terms and without undue delay an overview of the intentions expressed by the Member States and the proposed way forward for the distribution of the available resources.’;

(2a) In Article 17, paragraph 2 is replaced by the following:

‘2. Measures started from 1 February 2020 onwards shall be eligible provided that they comply with the requirements set out in this Regulation, with the exception of the new measures included in the REPowerEU chapters, which may only start as from 1 February 2022.’;

(3) Article 18(4) is amended as follows:

(a) the following point is inserted:

‘(ca) an explanation of how the REPowerEU chapter contributes to addressing energy poverty, including, where relevant, giving adequate priority to the needs of those affected by energy poverty as well as to the reduction of vulnerabilities during the coming winter seasons.’;

(b) point (e) is replaced by the following:

‘(e) a qualitative explanation of how the measures in the recovery and resilience plan are expected to contribute to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, and whether they account for an amount that represents at least 37 % of the recovery and resilience plan’s total allocation and whether such measures included in the REPowerEU chapter account for at least 37 % of the total estimated costs of measures included in the REPowerEU chapter, based on the methodology for climate tracking set out in Annex VI; that methodology shall be used accordingly for measures that cannot be directly assigned to an intervention field listed in Annex VI; the coefficients for support for the climate objectives may be increased up to a total amount of 3 % of the allocation of the recovery and resilience plan for individual investments to take account of accompanying reform measures that credibly increase their impact on the climate objectives as explained in the recovery and resilience plan;’;

(c) point (h) is replaced by the following:

‘(h) an indication of whether the measures included in the recovery and resilience plan comprise cross-border or multi-country projects. For the REPowerEU chapters, Member States shall explain how the relevant measures, including, inter alia, those measures addressing challenges identified in the Commission’s most recent needs assessment, have a cross-border or multi-country dimension or effect and indication whether the total costs of these measures account for an amount that represents at least 30 % of the estimated costs of the REPowerEU chapter.’;

(d) point (q) is replaced by the following:

‘(q) for the preparation and, where available, for the implementation of the recovery and resilience plan, a summary of the consultation process, conducted in accordance with the national legal framework, of local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders, and how the input of the stakeholders is reflected in the recovery and resilience plan; the summary of the consultation process shall be complemented to reflect the inclusion of a REPowerEU chapter, which shall describe the outcome of the consultation process and outline how the input received was reflected in the final design of the REPowerEU chapter;’;

(4) In Article 19(3), the following points are inserted:

‘(da) whether the reforms and investments referred to in Article 21c effectively contribute towards energy security, the diversification of the Union’s energy supply, an increase of the

uptake of renewables and energy efficiency, an increase of energy storage capacities or the needed reduction of dependence on fossil fuels before 2030;

(daa) whether the reforms and investments referred to in Article 21c(1a) are expected to have a cross-border or multi-country dimension or effect;’;

(4a) In Article 19(3), point (e) is replaced by the following:

‘(e) whether the recovery and resilience plan contains measures that effectively contribute to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, and whether they account for an amount which represents at least 37 % of the recovery and resilience plan’s total allocation and whether such measures included in the REPowerEU chapter account for at least 37 % of the total estimated costs of the measures included in the REPowerEU chapter, based on the methodology for climate tracking set out in Annex VI; that methodology shall be used accordingly for measures that cannot be directly assigned to an intervention field listed in Annex VI; the coefficients for support for the climate objectives may be increased up to a total amount of 3 % of the allocation of the recovery and resilience plan for individual investments to take account of accompanying reform measures that credibly increase their impact on the climate objectives, subject to the agreement of the Commission;’;

(4b) In Article 20(5), the following point is inserted:

‘(ca) a summary of the proposed measures of the REPowerEU chapter having a cross-border or multi-country dimension or effect, including, inter alia, those measures addressing challenges identified in the Commission’s most recent needs assessment. In case the estimated costs of these measures account for an amount of less than 30 % of the estimated costs of all measures included in the REPowerEU chapter, the summary shall include an explanation containing the reasons for a lower percentage, in particular by demonstrating that other measures included in the Member State’s REPowerEU chapter better address the objectives outlined in Article 21c(1a), or that there are not enough realistic projects available having cross-border or multi-country dimension or effect, in particular considering the lifetime of the Facility;’;

(5) In Article 23, paragraph 1 is replaced by the following:

‘1. Once the Council has adopted an implementing decision as referred to in Article 20(1), the Commission shall conclude an agreement with the Member State concerned constituting an individual legal commitment within the meaning of the Financial Regulation. For each Member State the legal commitment shall not exceed the total of the financial contribution referred to in point (a) of Article 11(1) for 2021 and 2022, the updated financial contribution referred to in Article 11(2) for 2023 and the amount calculated under Article 21a(2).’;

(6) The following Chapter is inserted after Chapter III:

‘CHAPTER IIIa
REPowerEU

Article 21a
ETS revenues

1. EUR 20 billion in current prices shall be available as additional non-repayable financial support under the Facility, in accordance with Article 10e of Directive 2003/87/EC, for implementation under this Regulation to increase the resilience of the Union energy system through a decrease of dependence on fossil fuels and diversification of energy supplies at Union level. That amount shall be made available in the form of external assigned revenue within the meaning of Article 21(5) of the Financial Regulation.
2. The share of the resources referred to in paragraph 1 available for each Member State shall be calculated on the basis of the indicators set out in the methodology in Annex IVa.
3. The amount referred to in paragraph 1 shall be allocated exclusively to measures referred to in Article 21c, with the exception of measures referred to in Article 21c(1a)(a). It may also cover expenses referred to in Article 6(2) of this Regulation.
4. Commitment appropriations covering the amount referred to in paragraph 1 shall be made available automatically up to the respective amounts referred to in that paragraph as of ... [the date of entry into force of this amending Regulation].
5. Each Member State may submit to the Commission a request for allocation of an amount not exceeding its share, by including in its plan the reforms and investments described in Article 21c and indicating their estimated costs.

6. The Council implementing decision adopted pursuant to Article 20(1) following a proposal from the Commission shall lay down the amount of the revenue referred to in Article 10e(1) of Directive 2003/87/EC allocated to the Member State following the application of paragraph 2, to be paid in instalments, subject to available funding, in accordance with Article 24 of this Regulation, once the Member State has satisfactorily fulfilled the milestones and targets identified in relation to the implementation of the measures referred to in Article 21c.

Article 21b

Resources from shared management programmes to support REPowerEU objectives

1. Within the resources allocated to them, Member States under Regulation (EU) 2021/1060 may request to support the objectives of Article 21c(1a) from programmes supported by the ERDF, the ESF+ and the Cohesion Fund, subject to the conditions set out in Article 26a of Regulation (EU) 2021/1060 and the relevant Fund-specific Regulation. Such resources shall be implemented in accordance with the provisions set out in Regulation (EU) 2021/1060 and the Fund-specific regulation
2. Resources may be transferred under Article 3a of Regulation .../... [this amending Regulation] to support measures referred to in Article 21c of this Regulation.

Article 21c

The REPowerEU chapter in the recovery and resilience plans

1. The recovery and resilience plan submitted to the Commission after [the entry into force of this amending Regulation], that requires the use of additional funding under Article 14, Article 21a or Article 21b of this Regulation, shall contain a REPowerEU chapter outlining measures and their corresponding milestones and targets. The measures in the REPowerEU chapter shall be either new reforms and investments, started from 1 February 2022 onwards, or the scaled-up part of reforms and investments included in the already adopted Council Implementing Decision for the respective Member State.
 - 1a. Reforms and investments in the REPowerEU chapter shall aim to contribute to the REPowerEU objectives, by at least one of the following:
 - (a) improving energy infrastructure and facilities to meet immediate security of supply needs for gas, including LNG, notably to enable diversification of supply in the interest of the Union as a whole. As a rule, oil infrastructure and facilities are excluded from the REPowerEU chapter. By derogation, oil infrastructure and facilities necessary to meet immediate security of supply needs may be included in the REPowerEU chapter of a Member State that has been subject to the exceptional temporary derogation in Article 3m(4) of Regulation (EU) No 833/2014 by the entry into force of this Regulation, due to its specific dependence on crude oil and geographical situation;
 - (b) boosting energy efficiency in buildings and critical energy infrastructure,

decarbonising industry, increasing production and uptake of sustainable biomethane, renewable or fossil-free hydrogen and increasing the share and accelerating the deployment of renewable energy;

- (ba) addressing energy poverty;
 - (bb) incentivising reduction of energy demand;
 - (c) addressing internal and cross-border energy transmission and distribution bottlenecks, supporting electricity storage and accelerating the integration of renewable energy sources, and supporting zero emission transport and its infrastructure, including railways;
 - (d) supporting the objectives in points (a) to (c) through an accelerated requalification of the workforce towards green skills and the related digital skills, as well as support of the value chains in critical raw materials and technologies linked to the green transition.
- 1b. By way of derogation from paragraph 1, Member States that are subject to a decrease of the maximum financial contribution in accordance with Article 11(2) may also include in the REPowerEU chapters measures referred to in the already adopted Council Implementing Decisions without having them scaled-up, up to an amount of estimated costs equal to the decrease of the maximum financial contribution in accordance with Article 11(2).
2. The REPowerEU chapter shall also contain an explanation on how the measures of the REPowerEU chapter are coherent with the efforts of the Member State concerned to achieve the REPowerEU objectives, taking into account the measures in the already adopted Council Implementing Decision, as well as an explanation of the overall contribution of measures in the already adopted Council Implementing Decision and other national and EU-funded complementary or accompanying measures to the REPowerEU objectives.
3. The estimated costs of the reforms and investments of the REPowerEU chapter shall not be taken into account for the calculation of the plan's total allocation under Article 18(4), point (f), and Article 19(3), point (f).

4. By way of derogation from Article 5(2) and (3), Article 17(4), Article 18(4), point (d), and Article 19(3), point (d), the principle of “do no significant harm” within the meaning of Article 17 of Regulation (EU) 2020/852 shall not apply to the reforms and investments expected to contribute to the REPowerEU objectives under paragraph 1a, point (a), of this Article, subject to a positive assessment by the Commission that the following requirements are met:
 - (a) The measure is necessary and proportionate to meet immediate security of supply needs in accordance with Article 21c(1a)(a), taking into account cleaner feasible alternatives and the risks of lock-in effects;
 - (b) The Member State has undertaken satisfactory efforts to limit the potential harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852, where feasible, and to mitigate the harm notably through other measures, including measures in the REPowerEU chapter;
 - (c) The measure does not jeopardise the achievement of the Union's 2030 climate targets and the objective of EU climate neutrality by 2050, based on qualitative considerations;
 - (d) The measure is planned to be in operation by 31 December 2026.
- 4a. When carrying out the assessment in relation to points (a) to (d) of paragraph 4, the Commission shall act in close cooperation with the Member State concerned. The Commission may make observations or seek additional information. The Member State concerned shall provide the requested additional information.
- 4b. The amount of revenue made available in accordance with Article 10e(1) of Directive 2003/87/EC shall not contribute to reforms and investments under Article 21c(1a)(a) of this Regulation.
- 4c. The total estimated costs of the measures subject to a positive assessment by the Commission under paragraph 4 shall not exceed 30 % of the total estimated costs of the measures included in the REPowerEU chapter.
5. The provisions of this Regulation shall be applicable *mutatis mutandis* to the reforms and investments of the REPowerEU chapter, unless provided otherwise.

Article 21ca

REPowerEU pre-financing

1. The recovery and resilience plan containing a REPowerEU chapter may be accompanied by a request for pre-financing. Subject to the adoption by the Council of the implementing decision referred to in Article 20(1) and Article 21(2) by 31 December 2023, the Commission shall make up to two a pre-financing payments for a total amount of up to 20 % of the additional funding requested to finance its REPowerEU chapter, under Articles 12, 14, 21a and 21b, while complying with the principle of equal treatment among Member States and proportionality.
2. Each of the two sets of pre-financing payments, for resources transferred under the conditions set out in Article 26 of Regulation (EU) 2021/1060 shall not exceed EUR 1 billion.
3. By derogation from Article 116(1) of the Financial Regulation, the Commission shall make, to the extent possible, the first pre-financing payment within two months after the adoption by the Commission of the legal commitment referred to in Article 23, and the second pre-financing payment within twelve months of the entry into force of the Council Implementing Decision approving the assessment of the recovery and resilience plan including a REPowerEU chapter, subject to available resources.
4. The payment of pre-financing for resources referred in paragraph 2 shall be made following receipt of information from all Member States on whether or not they intend to request pre-financing of such resources, and, where necessary, on a pro-rata basis to respect the total ceiling of EUR 1 billion.
5. In cases of pre-financing under paragraph 1, the financial contribution and, where applicable, the amount of the loan to be paid as referred to in point (a) or point (h) of Article 20(5), respectively, shall be adjusted proportionally.

Article 21d

Monitoring implementation of REPowerEU chapters

1. In accordance with Article 29, the Commission shall monitor the implementation of the measures outlined in the REPowerEU chapter and their contribution to the REPowerEU objectives using already existing monitoring tools in the context of RRF. Such monitoring shall include the reporting by the Commission of the reduction of EU imports of fossil fuels and the diversification of energy supplies in the Recovery and Resilience scoreboard and the annual reports.
 2. The Commission shall provide information on the progress of implementation of the REPowerEU chapter through a dedicated section in the annual report to the European Parliament and the Council, in accordance with Article 31, including through lessons learned after analysing the data available on final recipients and examples of best practices, as well as through regular and transparent information exchanges during the Recovery and Resilience Dialogue.’;
- (6a) The following Article is inserted:

‘Article 25a

Transparency on final recipients

1. Each Member State shall create an easy to use and public portal containing data on the 100 final recipients receiving the highest amount of funding for the implementation of measures under the Facility. Member States shall update those data twice a year.
 2. For final recipients referred to in paragraph 1, the following information shall be published:
 - (a) the recipient’s full legal name in the case of a legal person and their VAT identification number or tax identification number where available or another unique identifier established at country level, the first and last name of the recipient in the case of a natural person;
 - (b) the amount of funds received as well as the associated measures for which the funding has been received under the Facility.
 3. The information referred to in Article 38(3) of Regulation 2018/1046 shall not be published.
 4. Where personal data are published, the information shall be removed by the Member States two years after the end of the financial year in which the funding has been provided to the final recipient.
 5. The Commission shall centralise the public portals and publish the data in the Recovery and Resilience Scoreboard.’;
- (6b) In Article 31(3) the following points are inserted:

‘(ca) an overview of measures having a cross-border or multi-country dimension or effect included in all REPowerEU chapters, their total estimated costs and indication whether the total costs of these measures account for an amount that represents at least 30 % of the total estimated costs of measures included in all REPowerEU chapters;

(cb) the number of measures and their total estimated costs falling under Article 21c(1a)(a) included in all REPowerEU chapters.’;

(6c) In Article 31, paragraph 3a is inserted:

‘3a. The information referred to in letters (ca) and (cb) of paragraph 3 shall only be included in the annual report published following the approval of the assessment of all the recovery and resilience plans containing a REPowerEU chapter.’;

(6d) Article 32(2) is amended as follows:

‘2. The evaluation report shall, in particular, assess to which extent the objectives have been achieved, the efficiency of the use of the resources and the European added value. It shall also consider the continued relevance of all objectives and actions as well as assess the implementation of the REPowerEU chapters and their contributions to the REPowerEU objectives’;

(6e) Annex IVa is inserted after Annex IV in accordance with Annex Ia to this Regulation;

(7) Annex V is amended in accordance with Annex I to this Regulation;

Article 2
Amendments to Regulation (EU) 2021/1060

Regulation (EU) 2021/1060 is amended as follows:

(1) In Article 22(3)(g), the following point is added:

‘(i) a table specifying the total financial allocations for each of the Funds and, where applicable, for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 26 or 27 and the Member State’s request for supporting measures contributing to the objectives set out under Article 21c of Regulation EU 2021/241;’;

(2) In Article 24, the following paragraph is added:

‘7a. For programmes supported by the ERDF, the ESF+ or the Cohesion Fund the Member State may submit a programme amendment, in accordance with this Article requesting that measures contributing to the objectives of REPowerEU as referred to in Article 21c are included in a programme, where such support contributes to the specific objectives of the Fund concerned as set out in Fund-specific Regulations. The amounts requested for such measures shall be programmed under a specific objective in accordance with the Fund-specific Regulations and included in a priority. These amounts overall shall not exceed the limit of 7.5 % of the initial national allocation for each Fund.’;

(3) The following Article is inserted:

‘Article 26a
Support for the REPowerEU objectives

1. Member States submitting to the Commission a recovery and resilience plan containing a REPowerEU chapter in accordance with Regulation (EU) 2021/241 may request through a programme amendment in accordance with Article 24 that up to 7.5 % of their initial national allocation under the ERDF, the ESF+ and the Cohesion Fund is included in priorities contributing to REPowerEU objectives as established in Article 21c of Regulation (EU) 2021/241, provided that such support contributes to the specific objectives of the Fund concerned as set out in the Fund-specific Regulations. The possibility of such a request shall be additional to the possibility of transfer of resources envisaged under Article 26 of this Regulation.
2. Resources Member States request for the purposes of this Article shall be implemented in accordance with this Regulation and the provisions set out in the relevant Fund-specific Regulation.
3. Requests for an amendment of a programme shall set out the total amount of the resources contributing to REPowerEU objectives for each year by Fund and by category of region, where applicable.’;

(4) Annex V is amended in accordance with Annex II to this Regulation.

Article 2a
Amendments to Regulation (EU) No 1303/2013

The following Article is inserted in Regulation (EU) No 1303/2013:

‘Article 25b

Exceptional measures for the use of the Funds to support SMEs particularly affected by energy price increases, vulnerable households and short-time work and equivalent schemes

1. The ERDF may support the financing of working capital in the form of grants to SMEs particularly affected by energy price increases as an exceptional measure strictly necessary to address the energy crisis resulting from the impact of the military aggression against Ukraine under the investment priority “Supporting the capacity of SMEs to grow in regional, national and international markets, and to engage in innovation processes. SMEs particularly affected by energy price increases are those eligible to aid for additional costs due to exceptionally severe increases in natural gas and electricity price under the temporary crisis framework for state aid measures. The ESF may support vulnerable households to help them meet their costs for energy consumption, even without any corresponding active measures, as an exceptional measure strictly necessary to address the energy crisis resulting from the impact of the military aggression in 2022 under the investment priority “Enhancing access to affordable, sustainable and high quality services, including health care and social services of general interest.
2. Operations providing such support may be financed either by the ERDF or the ESF on the basis of the rules applicable to the other Fund. In addition, such operations may be financed by the Cohesion Fund on the basis of the rules applicable either to the ERDF or the ESF and contributing to one of the investment priorities referred to in paragraph 1. Furthermore, the ERDF and the Cohesion Fund may also finance access to the labour market by maintaining jobs of employees and of the self-employed, through short-time work and equivalent schemes, on the basis of the rules applicable to the ESF under the ESF investment priority “Adaptation of workers, enterprises and entrepreneurs to change.

3. Operations providing the support referred to in paragraphs 1 and 2 shall be programmed exclusively under a new dedicated priority axis. The dedicated priority axis may comprise funding from the ERDF and the ESF from different categories of regions and from the Cohesion Fund. Support provided by REACT-EU resources shall be programmed under a separate dedicated priority axis contributing to the investment priority set out in Article 92b(9), third subparagraph. The amounts allocated to the dedicated priority axes referred to in the first subparagraph shall not exceed 10 % of the total ERDF, ESF and Cohesion Fund resources including REACT-EU resources under the Investment for growth and jobs goal allocated to the Member State concerned for the 2014-2020 programming period, as laid down in Commission Implementing Decision 2014/190/EU and Commission Implementing Decision (EU) 2021/1822. By way of derogation from the first and second subparagraphs of Article 120(3), a co-financing rate of 100 % shall be applied to the dedicated priority axis or axes.
4. Requests for the amendment of an existing operational programme submitted by a Member State aiming at introducing a dedicated priority axis or axes referred to in paragraph 3 shall be duly justified and be accompanied by the revised programme. The elements listed in Article 96(2), point (b), subpoints (v) and (vii), shall not be required in the description of the priority axis or axes in the revised operational programme.
5. By way of derogation from Article 65(9), expenditure for operations supporting the financing of working capital in the form of grants in SMEs particularly affected by energy price increases as well as for operations providing support to vulnerable households to help them meet their energy consumption costs and short time work and equivalent schemes shall be eligible from 1 February 2022. For such operations, Article 65(6) shall not apply.
6. By way of derogation from Article 125(3), point (b), operations supporting the financing of working capital in the form of grants in SMEs particularly affected by energy price increases as well as for operations providing support to vulnerable households to help them meet their energy consumption costs and short time work and equivalent schemes may be selected for support by the ERDF, the ESF or the Cohesion Fund prior to the approval of the amended programme.
7. For operations supporting the financing of working capital in the form of grants in SMEs particularly affected by energy price increases implemented outside the programme area but within the Member State, only point (d) of Article 70(2), first subparagraph shall apply. By way of derogation from Article 70(4) this shall also apply for operations supported by the ESF providing support to vulnerable households to help them meet their energy consumption costs and short time work and equivalent schemes implemented outside the programme area but within the Member State.

8. The total payments by the Commission to Member States from the ERDF, the ESF, and the Cohesion Fund excluding REACT-EU resources to the dedicated priorities referred to in paragraph 3 shall not exceed EUR 5 billion in 2023. Amounts shall be paid, subject to available funding under the ceilings of the multiannual financial framework.
9. This Article shall not apply to programmes under the European territorial cooperation goal.’.

Article 3 (deleted)

Article 3a

Amendments to Regulation (EU) 2021/1755

In Regulation (EU) 2021/1755, the following Article is inserted:

Article 4a

Transfer to the Recovery and Resilience Facility

1. By 1 March 2023, Member States may submit to the Commission a reasoned request to transfer to the Recovery and Resilience Facility all or part of the amounts of the provisional allocation set out in the implementing act referred to in Article 4(5). If the transfer request is approved, the Commission shall amend the implementing act referred to in Article 4(5) to reflect the adjusted amounts following the transfers.
2. Where the transfers affect the instalments already paid or to be paid as pre-financing, the Commission shall amend the implementing act referred to in Article 9(1) accordingly for the Member State concerned. Where appropriate, the Commission shall recover all or part of the 2021 and 2022 instalments paid to that Member State as pre-financing, in accordance with the Financial Regulation. In that case the recovered amounts shall be transferred to the Recovery and Resilience Facility for the exclusive benefit of the Member State concerned.
3. Where a Member State chooses to transfer all or part of its provisional allocation to the Recovery and Resilience Facility in accordance with this Article, the amounts to be spent for the purpose referred to in Article 4(4), first subparagraph, shall be proportionately reduced.
4. Where a Member State chooses to transfer all of its provisional allocation to the Recovery and Resilience Facility, Article 10(1) shall not apply. Article 10(2) shall not apply to the amounts transferred to the Recovery and Resilience Facility.’

Article 4

Amendments to Directive 2003/87/EC

In Directive 2003/87/EC, the following Article is inserted:

‘Article 10e

Recovery and Resilience Facility

1. As an extraordinary and one-time measure, for the period until 31 August 2026, the allowances auctioned pursuant to paragraphs 2 and 3 of this Article shall be auctioned until the total amount of revenue obtained from such auctioning has reached EUR 20 billion. This revenue shall be made available to the Recovery and Resilience Facility established by Regulation (EU) 2021/241 and shall be implemented in accordance with the provisions of that Regulation.
2. By derogation from Article 10a(8), for a period until 31 August 2026, a part of the allowances referred to in that paragraph shall be auctioned to support the objectives of Article 21c(1a), points (b) to (d), of Regulation (EU) 2021/241, until the amount of revenue obtained from such auctioning has reached EUR 12 billion.
3. For the period until 31 August 2026, a number of allowances from the quantity which would otherwise be auctioned by the Member States under Article 10(2), point (a), from 1 January 2027 to 31 December 2030, shall be auctioned to support the objectives of Article 21c(1a), points (b) to (d), of Regulation (EU) 2021/241, until the amount of revenue obtained from such auctioning has reached EUR 8 billion. Those allowances shall, in principle, be auctioned in equal annual volumes over the relevant period.
4. By derogation from Article 1(5a) of Decision (EU) 2015/1814, 27 million unallocated allowances in the market stability reserve from the quantity which would otherwise be invalidated, shall be used to support innovation, as referred to in Article 10a(8), first subparagraph, for a period until 31 December 2030.
5. The Commission shall ensure that the allowances destined for the Recovery and Resilience Facility, including for pre-financing payments, where appropriate, in accordance with Article 21ca of Regulation (EU) 2021/241, are auctioned in accordance with the principles and modalities laid down in Article 10(4) of this Directive and in accordance with Article 24 of Commission Regulation (EU) No 1031/2010 to ensure an adequate amount of Innovation Fund resources in 2023-2026. The period for auctioning referred to in this article shall be reviewed a year after its start in the light of the impact on the carbon market and price.
6. The European Investment Bank shall be the auctioneer for the allowances to be auctioned pursuant to this Article on the auction platform appointed pursuant to Article 26(1) of Commission Regulation (EU) No 1031/2010 and shall provide the auction revenues to the Commission.

7. The proceeds from auctioning those allowances shall 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.’.

Article 5a

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*.

Article 6

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

Annex V of Regulation 2021/241 is amended as follows:

(-a) In section 2, point 2.5, the first subparagraph is replaced by the following:

‘2.5. The recovery and resilience plan contains measures that effectively contribute to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, that account for an amount which represents at least 37 % of the recovery and resilience plan’s total allocation and that such measures included in the REPowerEU chapter account for at least 37 % of the total estimated costs of the measures included in the REPowerEU chapter, based on the methodology for climate tracking set out in Annex VI; that methodology shall be used accordingly for measures that cannot be directly assigned to an intervention field listed in Annex VI; the coefficients for support for the climate objectives may be increased up to a total amount of 3 % of the allocation of the recovery and resilience plan for individual investments to take account of accompanying reform measures that credibly increase their impact on the climate objectives, subject to the agreement of the Commission.’;

(a) In section 2, the following points are added:

‘2.12. The measures referred to in Article 21c are expected to effectively contribute towards energy security, the diversification of the Union’s energy supply, an increase of the uptake of renewables and energy efficiency, an increase of energy storage capacities or the needed reduction of dependence on fossil fuels before 2030;

When assessing the measures referred to in Article 21c under this criterion, the Commission shall take into account the specific challenges and the additional funding under the Facility available to the Member State concerned. The Commission shall also take into account the following elements:

Scope

- the implementation of the envisaged measures is expected to effectively contribute to the improvement of energy infrastructure and facilities to meet immediate security of supply needs for gas, including LNG, or oil where the exceptional derogation under Article 21c(1a)(a) applies, notably to enable diversification of supply in the interest of the Union as a whole;

or

- the implementation of the envisaged measures is expected to effectively contribute to boosting energy efficiency in buildings and critical energy infrastructure, decarbonising industry, increasing production and uptake of sustainable biomethane, renewable or fossil-free hydrogen and increasing the share and accelerating the deployment of renewable energy;

or

- the implementation of the envisaged measures is expected to effectively contribute to addressing energy poverty and, where relevant, give adequate priority to the needs of those affected by energy poverty as well as to the reduction of vulnerabilities during the coming winter seasons;

or

- the implementation of the envisaged measures is expected to effectively contribute to incentivising reduction of energy demand;

or

- the implementation of the envisaged measures is expected to address internal and cross-border energy transmission and distribution bottlenecks, supporting electricity storage and accelerating the integration of renewable energy sources, and supporting zero emission transport and its infrastructure, including railways.

or

- the implementation of the envisaged measures is expected to effectively contribute to supporting the objectives in points (a), (b), (ba), (bb) and (c) through an accelerated requalification of the workforce towards green skills and the related digital skills, as well as support of the value chains in critical raw materials and technologies linked to the green transition;

and

- whether the measures, provided under Article 21c are coherent with the efforts of the Member State concerned to achieve the REPowerEU objectives, taking into account the measures in the already adopted Council Implementing Decision, as well as other national and EU-funded complementary or accompanying measures to the REPowerEU objectives.

Rating

A – to a large extent

B – to a medium extent

C – to a small extent

2.12a. The measures referred to in Article 21c(1a) are expected to have a cross-border or multi-country dimension or effect.

When assessing the measures referred to in Article 21c(1a) under this criterion, the Commission shall take into account the following elements:

Scope

— the implementation at the national level of the envisaged measures is expected to contribute to securing energy supply in the Union as a whole, including inter alia by addressing challenges identified in the Commission's most recent needs assessment, in line with the REPowerEU objectives, taking into account the financial contribution of the Member State concerned and its geographical position;

or

— the implementation of the envisaged measures is expected to contribute to reducing dependency on fossil fuels and to reducing energy demand.

Rating

A – to a large extent

B – to a medium extent

C – to a small extent';

(b) In section 3 the part which starts with the words “As a result of the assessment process, and taking into account the ratings” is replaced by the following:

‘As a result of the assessment process, and taking into account the ratings:

The recovery and resilience plan complies satisfactorily with the assessment criteria:

If the final ratings for the criteria under point 2 include scores with:

— an A for criteria 2.2, 2.3, 2.5, 2.6 and 2.12;

and for the other criteria:

— all As,

or

— no majority of Bs over As and no Cs.

The recovery and resilience plan does not comply satisfactorily with the assessment criteria:

If the final ratings for the criteria under point 2 include scores with:

— not an A in criteria 2.2, 2.3, 2.5, 2.6 and 2.12;

and for the other criteria:

— a majority of Bs over As,

or

— at least one C.’.

ANNEX Ia

Annex IVa is inserted after Annex IV of Regulation (EU) 2021/241 as follows:

‘This Annex sets out the methodology for calculating the allocation share of the resources in the form of additional non-repayable financial support under the Facility referred to in Article 21a (1) available for each Member State. The method takes into account, with regard to each Member State:

- the population;
- the inverse of the GDP per capita;
- the gross fixed capital formation price deflator;
- the share of fossil fuels in gross inland energy consumption.

To avoid excessive concentration of resources:

- the inverse of the GDP per capita is capped at a maximum of 160 % of the Union weighted average;
- the inverse of the GDP per capita is capped at a maximum of 55 % of the Union weighted average if the GDP per capita of the Member State concerned is above 130 % of EU-27 average;
- a minimum allocation share is set at 0,15 %;
- a maximum allocation share is set at 13,80 %.

The allocation key applied to the amount referred to in Article 21a(1), ρ_i is defined as follows:

$$\rho_i = \begin{cases} 0,0015 & \omega_i \leq 0,0015 \\ 0,138 & \omega_i \geq 0,138 \\ \omega_i - \frac{\omega_i}{\sum_{i=1}^{27-z-q} \omega_i} \left[\sum_{i'=i}^z (0,0015 - \omega_{i'}) - \sum_{i'=i}^a (\omega_{i'} - 0,138) \right] & 0,0015 < \omega_i < 0,138 \end{cases}$$

where Member States i to z are the Member States benefitting from a minimum allocation share and Member States i to q are the Member States benefitting from a maximum allocation share.

where $\omega_i = \frac{\tau_i + \mu_i + \psi_i}{3}$

where $\tau_i = \frac{\sigma_{i,2021}}{\sum_{i=1}^{27} \sigma_{i,2021}}$ and $\mu_i = \frac{\sigma_{i,2021} \times \frac{FFGIC_{i,2020}}{FFGIC_{EU,2020}}}{\sum_{i=1}^{27} \sigma_{i,2021} \times \frac{FFGIC_{i,2020}}{FFGIC_{EU,2020}}}$ and $\psi_i = \frac{\sigma_{i,2021} \times \frac{GFCF_{i,2022Q2/2021Q2}}{GFCF_{EU,2022Q2/2021Q2}}}{\sum_{i=1}^{27} \sigma_{i,2021} \times \frac{GFCF_{i,2022Q2/2021Q2}}{GFCF_{EU,2022Q2/2021Q2}}}$,

where $\sigma_{i,2021} = \frac{pop_{i,2021}}{pop_{EU,2021}} \times \min\left\{\frac{GDP_{EU,2021}^{PC}}{GDP_{i,2021}^{PC}}; 1,6\right\}$ for Member States i with $\frac{GDP_{i,2021}^{PC}}{GDP_{EU,2021}^{PC}} \leq 1,3$ and

$\sigma_{i,2021} = \frac{pop_{i,2021}}{pop_{EU,2021}} \times \min\left\{\frac{GDP_{EU,2021}^{PC}}{GDP_{i,2021}^{PC}}; 0,55\right\}$ for Member States i with $\frac{GDP_{i,2021}^{PC}}{GDP_{EU,2021}^{PC}} > 1,3$

Defining:

$pop_{i,2021}$ – as the 2021 total population (national accounts) in Member State i ;

$pop_{EU,2021}$ – as the 2021 total population (national accounts) in the EU-27 Member States;

$GDP_{EU,2021}^{PC}$ – as the 2021 weighted average of the nominal GDP per capita (euro) of the EU-27 Member States;

$GDP_{i,2021}^{PC}$ – as the 2021 nominal GDP per capita (euro) of Member State i;

$FFGIC_{i,2020}$ – as the 2020 share of fossil fuels in gross inland energy consumption of Member State i;

$FFGIC_{EU,2020}$ – as the 2020 weighted average share of fossil fuels in gross inland energy consumption of the EU-27 Member States;

$GFCF_{i,2022Q2/2021Q2}$ – as the ratio of 2022 Q2 gross fixed capital formation price index (implicit deflator, 2015=100, national currency, seasonally and calendar adjusted data) of Member State i and 2021 Q2 Gross fixed capital formation price index (implicit deflator, 2015=100, national currency, seasonally and calendar adjusted data) of Member State i;

$GFCF_{EU,2022Q2/2021Q2}$ – as the ratio of 2022 Q2 gross fixed capital formation price index (implicit deflator, 2015=100, national currency, seasonally and calendar adjusted data) of the EU-27 aggregate and 2021 Q2 gross fixed capital formation price index (implicit deflator, 2015=100, national currency, seasonally and calendar adjusted data) of the EU-27 aggregate.

The application of the methodology to the amount referred to in Article 21a(1) will result in the following share and amount per Member State:

Member State	Share as % of total	Amount (in EUR 1 000, current prices)
Belgium	1,41 %	282 139
Bulgaria	2,40 %	480 047
Czechia	3,41 %	681 565
Denmark	0,65 %	130 911
Germany	10,45 %	2 089 555
Estonia	0,42 %	83 423
Ireland	0,45 %	89 598
Greece	3,85 %	769 222
Spain	12,93 %	2 586 147
France	11,60 %	2 320 955
Croatia	1,35 %	269 441
Italy	13,80 %	2 760 000
Cyprus	0,26 %	52 487
Latvia	0,62 %	123 983
Lithuania	0,97 %	194 020
Luxembourg	0,15 %	30 000
Hungary	3,51 %	701 565
Malta	0,15 %	30 000
Netherlands	2,28 %	455 042
Austria	1,05 %	210 620
Poland	13,80 %	2 760 000
Portugal	3,52 %	704 420
Romania	7,00 %	1 399 326
Slovenia	0,58 %	116 910
Slovakia	1,83 %	366 959
Finland	0,56 %	112 936
Sweden	0,99 %	198 727
EU27	100,00 %	20 000 000

ANNEX II

Annex V of Regulation (EU) 2021/1060 is amended as follows:

(1) The text under point 3 is replaced by the following:

‘Reference: points (g)(i), (ii) and (iii) of Article 22(3), Article 112(1), (2) and (3), and Articles 14, 26 and 26a CPR’;

(2) Point 3.1 is replaced by the following:

‘Transfers and contributions (*)

Reference: Articles 14, 26, 26a and 27 CPR

Programme amendment related to	<input type="checkbox"/> contribution to InvestEU	
	<input type="checkbox"/> transfer to instruments under direct or indirect management	
	<input type="checkbox"/> transfer between ERDF, ESF+, Cohesion Fund or to another Fund or Funds	
	<input type="checkbox"/> funds’ contributing to REPowerEU objectives (**)	
	Fund	Additional amount (in EUR) per Fund, year and category of region
ERDF		
Cohesion Fund		
ESF+		

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* Applicable only to programme amendments in accordance with Articles 14, 26 and 26a except complementary transfers to the JTF in accordance with Article 27 CPR.

** Indicate if the programme amendment contributes to REPowerEU objectives in accordance with Article 26a. If yes, indicate the additional amount by Fund, year and category of region at the programme level that contributes to REPowerEU objectives.