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***“The 2021 Recovery and Resilience Facility (RRF)
Regulation: objectives, procedures and the role of Greek credit
institutions as financial intermediaries”***

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*To my family and close friends who have been more than supportive during the
writing of this study.*

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List of Abbreviations

AML	Anti-Money Laundering
Art.	Article
CFT	Combating the Financing of Terrorism
CI	Credit Institution
CI s	Credit Institutions
DNSH	Do No Significant Harm
ECJ	European Court of Justice
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EU	European Union
FATF	Financial Action Task Force
Fund's	Recovery and Resilience Fund's
GDP	Gross Domestic Product
GFC	Global Financial Crisis
Min. Dec.	Ministerial Decision
MS	Member State(s)
NGEU	Next Generation EU
No.	Number
NPV	Net Present Value
OECD	Organization for Economic Co-operation and Development

OLAF	European Anti-Fraud Office
Par.	Paragraph
RES	Renewable Energy Source(s)
RRF	Recovery and Resilience Facility
RRFund	Recovery and Resilience Fund
RRP	Recovery and Resilience Plan
RRPs	Recovery and Resilience Plans
SEA	Strategic Environmental Assessment
Seq.	Following
SFDR	Sustainable Finance Disclosure Regulation
SMEs	Small and Medium-size Enterprises
S.S.C.R.F.	Special Service for the Coordination of the Recovery Fund
SURE	Support to mitigate Unemployment Risks in an Emergency
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
Union	European Union

Introduction

The last three years have been quite decisive in redefining the EU's policy and the goals it wishes to set. The outbreak of the pandemic has shown the need to pool forces and stimulate the economies of the Member States in order to enable them to tackle the socio-economic crisis and to rebuild the foundations that will prepare the Union for any future challenge. Almost two years after the beginning of the pandemic and before the “wounds” that it caused had had time to heal, the EU was faced with another crisis, this time of a geopolitical nature. This concerns the Russian invasion of Ukrainian territory, which once again shook the EU's core, forcing the competent institutions to adjust.

The NGEU as main support instrument, together with the multiannual financial framework, essentially set out an organogram to guide the MS on the points and instruments that national institutions should use to achieve economic recovery and adaptation to the EU's environmental, climate and social priorities. Respect for the EU's international commitments to mitigate and tackle climate change has created new needs for cooperation with the MS, which have led to the creation of conditional support mechanisms. In other words, funding incentives have been provided to direct the implementation of investments towards the promotion of specific objectives within each member state. These concern milestones relating to the digital sector, the environment and the correction of social imbalances in the labor market, aimed, among other things, at supporting and recruiting unemployed adults over 45 years of age and introducing binding quotas on gender representation in the workplace.

All these new programmes, in addition to the support they provide to the MS, also lead to a new period of cooperation and supervision of national processes with a European-centered character, possibly heralding the next step towards European integration and the closing of the gap caused by the coordination of the MSs' economic policies, without a correspondingly binding single policy and, consequently, EU competence. At the same time, however, existing aid control rules play a crucial role and they continue to be applied to avoid tarnishing competition in the single market, while it is important to adapt the relevant state aid framework to the post-pandemic situation in order to adequately address market inertia, avoiding possible contagion and a repeat of the events of the previous GFC 2007-2009.

The main part of this study is concerned with a specific European support mechanism that also covers most of the NGEU. This is the Recovery and Resilience Facility, the idea of which had already been brewing within the Union since the beginning of the CoViD-19 pandemic, with the twofold objective of, on the one hand, immediately addressing the disruption of market functioning and, on the other hand, laying the necessary foundations for the EU and its constituent countries to acquire the resilience and flexibility to be able to cope with and adapt to any future crisis. However, in order to achieve this objective, the EU should give priority to promoting its fundamental

principles and provide appropriate guidance for the policies of the Member States, emphasising the need to seek sustainable alternatives, digital development and, of course, the promotion of equality and other social objectives in the labour market. This mechanism was given legal status by Regulation 241/2020 of the European Parliament and of the Council, detailing the procedures and objectives to be set by Member States applying for funding.

Therefore, the conditional provision of financial assistance from the European Commission to the MS was foreseen through the signing of loan agreements with binding conditions. However, in order to ensure the proper use of the funds, it is essential that a National Recovery and Resilience Plan is prepared and approved in advance, including a precise budget of the expenditure for the reforms and investments that the MS aims to implement in support of the above EU objectives. The agreed amounts will be allocated to each Member State in tranches, subject to the achievement of progressive milestones and targets, following a thorough examination, a positive assessment by the European Commission and its approval by an executive decision of the Council. The milestones they are called upon to achieve must fall under the six pillars defined in the Regulation, namely green transition, digital transformation, smart, sustainable and cohesive growth, social and territorial cohesion, health and economic, social and institutional resilience, as well as policies for the next generation.

For the successful outcome of the programme and the fulfilment of its objectives, an appropriate internal organisation within each Member State is necessary. In particular, the national institutions should be given clear responsibilities in order to reduce as much as possible the 'dead time' caused by bureaucracy and other lengthy administrative procedures, so that the Union's recovery mechanism plan can be implemented immediately. In view of the fact that European financial support can take the form of non-repayable financing and/or loans, the public mechanism must also establish channels of cooperation with the private sector. In particular, the third and final part of this study deals with the role and responsibilities of credit institutions within the Greek territory in order to enable the creation of a lending mechanism for companies and investors seeking to borrow capital on the favorable terms offered by the Greek Recovery and Resilience Fund.

Therefore, this paper is motivated by the current events that inevitably affect negatively and disrupt social, economic and living conditions both for individual Member States and collectively at EU level, seeking to present the mechanism that constitutes an important part of the solution in the short and long term, giving both impetus to governments for appropriate reforms and motivating business initiatives to achieve the desired rates of recovery, to bring the Union to the final stage of 'resilience' to any future turbulence.

Section A: NextGenerationEU - EU's response to the pandemic crisis, the measures taken and the new targets that member states are asked to achieve

1. NextGenerationEU and renewal of the Multiannual Financial Framework: the new additions to the EU's quiver for recovery

1.1 European Semester 2020: drawing up strategic directions for recovery

The outbreak of the Covid-19 pandemic at the beginning of 2020 changed the socio-political and fiscal conditions and prospects for the coming years both at the European and international level, which necessitated a coordinated response to address and reverse the adverse economic and social impacts within the Union, for each member state. However, as defined in Art. 119 par. 1 TFEU, the organization of economic policies is still a national responsibility of the member states, while at the EU level it is the close coordination of these policies, setting common goals based on the open economy of the market, allowing free competition¹. EU institutions were therefore called upon to adapt all the available tools at their disposal in order to achieve a rapid and long-term recovery. The main instrument was the European Semester, which by definition aims to coordinate economic policies and is the framework for determining national reform priorities and for monitoring their implementation². In particular, it is a process of evaluating the economic policies and strategies of the governments of the member states, according to the national reform programs and stability and convergence programs that are submitted annually. The Commission is responsible for providing policy guidance aimed at improving employment and growth, while maintaining sound public finances, by issuing draft recommendations per country. The Council then issues opinions and recommendations per country, providing, where necessary, clarifications³.

The Council's recommendations for the completion of the 2020 European Semester process had to take into account the special circumstances of the pandemic by activating the general escape clause based on the Stability and Growth Pact⁴, i.e. the possibility during periods of severe slowdown in economic activity in the euro area or the Union as a whole, in the member states to deviate temporarily from the adjustment path to achieve the medium-term budgetary objective⁵. The purpose of this decision was to take the necessary measures to coordinate policies within the framework of the Pact, deviating at the same time from the fiscal obligations that would normally apply⁶. The result of the activation of this clause was the removal of a key legal obstacle to the ability of national governments to support their economies.

In particular, the priorities set to deal with the effects of the pandemic concerned:

- investing in the accessibility, efficiency and resilience of health care;

¹ Costa-Cabral Francisco, Hancher Leigh, Monti Giorgio, Feases Alexandre Ruiz, 2020.

² Regulation 2021/241 of the European Parliament and of the Council (establishing a recovery and resilience facility).

³ European Council, 2020.

⁴ Hadjiemmanuil Christos p. 189, 2020.

⁵ Creel Jérôme, Leron Nicolas, Ragot Xavier, Saraceno Francesco, 2021.

⁶ Gortsos Christos, 2022 p. 15-16.

- maintaining employment and addressing the social impact of the crisis;
- focus on research and development;
- ensuring the provision of liquidity and the stability of the financial sector;
- preserving the single market and the circulation of goods and services.

At the same time, efforts were made to achieve sustainable and inclusive growth, while emphasis was placed on contributing to the green and digital transition with a medium-term orientation.

1.2 Purpose and mechanism of the plan

In the context of the international commitments of the member states to achieve environmental goals and the implementation of long-term strategies, as defined in the Paris Agreement⁷ that came into force in 2016⁸, the Union had to coordinate its actions and guide its members, so as to include environmentally oriented policies in their governance. The main concern of the international agreement is the stabilization of the increase in the temperature of the planet at a level below 2 degrees Celsius, and specifically the promotion of the commitment to stabilize the increase below 1.5 degrees Celsius, in order to mitigate and avoid the risks of climate change⁹. In the same context, the Union committed itself with the European Green Deal¹⁰ to achieve climate neutrality by the end of 2050, by gradually organizing financing programs to promote the appropriate transition measures to a sustainable economy¹¹. For the successful outcome of these new commitments, it became necessary to establish a more detailed framework that would define the necessary characteristics of the investments that will be able to contribute to the energy transition of the EU¹². The result of this need was, among other things, two Regulations: the Taxonomy Regulation, which bindingly established the elements that an investment must have in order to be labeled "green" as well as the SFDR, which defined public disclosure obligations of these elements, ensuring transparency in the markets.

In the meantime, however, at the beginning of 2020, the aforementioned CoViD-19 pandemic emerged, which had an economic and social impact at an international level, forcing the Union to add an additional priority and redefine its motivations and objectives, without, however, undermining its environmental commitments. The protection of human lives, the means of livelihood, the reorganization of the single market and the achievement of a lasting recovery meant the need to mobilize the EU

⁷ United Nations (a), 2016 p.4, Intended nationally determined contributions.

⁸ EU position for the UN climate change conference in Paris: Council conclusions, Council of the EU-Press release, 2015.

⁹It was preceded by the signing and ratification at international level of the Kyoto Protocol by all EU member states and the European Commission, with an undertaking to reduce emissions of air pollutants on the period 2008-2012 by 8% in relation to with emissions of the base year (1990), (Ministry of Environment and Energy (Greece)).

¹⁰ According to the European Commission president, Ursula von der Leyen, EU Green Deal is "Europe's man on the moon moment", setting the goal of reconciling the economy with the planet and by extension the way we produce with the way we consume (Tamma Paola, Schaart Eline, Gurzu Anca, 2019).

¹¹ Frédéric Simon , 2019.

¹² Along with the relevant action plans which set out the primary objectives and the necessary conditions to attain those objectives e.g. Decision (EU) 2022/591 of the European Parliament and of the Council (Papadakis Demetris, 2021).

institutions. Markets alone were not able to absorb the shocks and develop balancing and recovery mechanisms with sufficient speed, so government assistance was crucial to undertake investment initiatives aimed at facilitating the objectives set by the EU.

Thus, on May 27, 2020, the European Commission tabled a proposal for a plan that will ensure a sustainable, even, inclusive and fair recovery for all countries by developing the long-term budget¹³, which will include the tools to address the impact of the coronavirus and will lay the foundations for the EU's development. Complementing national efforts, the EU budget¹⁴ could lead to a fair socio-economic recovery, restructure and revitalize the single market, ensure a level playing field and support the urgent investments, especially in the green and digital transitions, which are the only guarantee for Europe's future prosperity and resilience¹⁵. A fundamental means of implementing the plan was the Next Generation EU¹⁶, which was included in the renewed long-term budget of the Union, for the period 2021-2027 and would constitute an "ambitious response", according to the President of the European Commission, Ursula von der Leyen, to the challenges and the action that the EU is called upon to undertake¹⁷. The NGEU consisted of 750 billion Euros (in 2018 prices) and aimed to strengthen the EU's budgetary intervention power¹⁸.

In particular, the NGEU is a temporary recovery tool that includes more than 800 billion in today's prices and has a dual character, corrective and preventive, as it seeks to restore the socio-economic damage caused by the pandemic, but also the transition to a stronger economy by creating opportunities and jobs. This is the largest stimulus package the EU has offered to date and seeks to secure the necessary resources for its resilience and emergency preparedness (such as the 2020 pandemic crisis).

¹³ With total value of 1.74 trillion Euros in 2018 prices, part of a package of aid measures with a total value of 1.8 trillion Euros in 2018 prices. The multiannual financial framework was established by Regulation No. 2020/2090 of the European Parliament and of the Council.

¹⁴ EU budget legal basis: Art. 314 of the TFEU and Art. 106a of the Treaty establishing the European Atomic Energy Community, Articles 39 to 55 of Financial 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, the amendment of 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 for the repeal of Regulation (EU, Euratom) no. 966/2012. Also the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in fiscal matters and sound fiscal management, (Calatozzolo Rita for the European Parliament, 2022).

¹⁵ Gortsos Christos, 2020(a) p.17.

¹⁶ Council Regulation 2020/2094 establishing the EU Recovery Facility to support development after the CoVid-19 crisis.

¹⁷ Statement by the President of the European Commission, Ursula von der Leyen on Next Generation EU, *"The recovery plan turns the huge challenge we face into an opportunity, not only supporting the recovery but also investing in our future: the European Green Deal and digitization will boost jobs and growth, the resilience of our societies and the health of our environment. Now is Europe's time. Our will to take action must be commensurate with the challenges we all face. With Next Generation EU we are giving an ambitious answer"*,

¹⁸ The EU's fiscal impulse should be complementary and not a substitute for national competences. In this context, the NGEU is implemented in conjunction with the Multiannual Financial Framework, while the management of the RRF is part of the European Semester (Creel Jérôme, Leron Nicolas, Ragot Xavier, Saraceno Francesco, 2021).

In practice, it constitutes funding, granted to member states either as non-refundable funding or in the form of loans¹⁹, with the aim of creating mechanisms to facilitate investments and undertake projects in a national context to activate the market, recovery and at the same time promote of the EU's immediate and long-term objectives. Each amount is made available under restrictive and strictly defined conditions, depending on the type of individual funding program and the purposes it serves²⁰.

1.3 Anticipated programs of the recovery tool to achieve the goals

The capital comprising the NGEU will be allocated to individual programs and sectors of the Union pursuing specialized objectives.

Specifically^{21, 22}:

- The largest part of the program is taken up by the newly established **European Recovery and Resilience Facility**, consisting of 723.8 billion Euros aimed at providing incentives to make reforms and investments feasible, among others in the areas of green and growth transition. It takes the form of non-refundable grants and loans of the member states with the European Commission, while the release of the money is done in installments and after the fulfillment of specific conditions to limit the risk and strengthen the commitment regarding the need for recovery in the five pillars of reforms that targeted by the said mechanism (sustainability, digital, unemployment, etc.)²³.
- In the **REACT-EU** program for recovery assistance for the cohesion and regions of Europe, 50.62 billion Euros will be given. The aim is to contribute to the green and digital recovery of the economy, the more efficient management of labor issues (e.g. short-time systems, youth employment) as well as the investment support of small and medium-sized enterprises. This is not a new form of financing but has a complementary nature to the funds of the European Regional Development Fund and the European Social Fund. These funds can be used until the end of 2023, as is already the case for the initial funds. (European Commission)
- Reinforcement of the **Just Transition Fund** to help member states accelerate the transition to climate neutrality, amounting to 40 billion Euros.
- Reinforcement of the **European Agricultural Fund for Rural Development**, amounting to EUR 15 billion, to support rural areas and make the necessary structural changes according to the European Green Deal and to achieve the goals according to the new biodiversity strategy.
- A new **Solvency Support Instrument** will mobilize private resources to urgently support the equity capital of viable European companies from all economic sectors, regions and the most affected countries. The support mechanism is based on the

¹⁹ Kayali Laura, 2020.

²⁰ Economist, 2020.

²¹ European Commission, 2020 (a).

²² European Commission, 2021 (c).

²³ The present mechanism, because it is the main subject of the present study, will be analyzed in more detail in the following chapters.

provision of a guarantee from the EU budget to the European Investment Bank group for the purpose of mobilizing private capital (through financial intermediaries, for example, independently managed funds or special purpose vehicles). It can be operational from 2020 and it will have a budget of 31 billion Euros, with the aim of releasing 300 billion Euros to support the solvency of companies from all economic sectors and prepare them for a cleaner, digital and resilient future. (European Commission, 2020)

- A €15.3 billion upgrade of **InvestEU**, Europe's investment programme, to mobilize private investment in projects within the Union. It specifically targets investments in sustainable infrastructure, research and innovation, digitalization, SMEs and mid-caps, social investment and skills across the EU. In addition, the new Facility for Strategic Investments will aim to develop strong and resilient independent value chains, such as critical infrastructure, technologies and healthcare, and strengthen the autonomy of the Union's single market. Support to businesses is given in the form of a guarantee from the EU budget to finance projects through the EIB group and national development banks.

- A new **Strategic Investment Facility** built into InvestEU to generate investments of up to €150 billion to promote the resilience of strategic sectors, in particular those linked to the green and digital transition, and key value chains in the internal market, thanks to the contribution amounting to 15 billion Euros from Next Generation EU. Support to businesses is given in the form of a guarantee from the EU budget to finance projects through the EIB group and national development banks. (European Commission, 2020)

- A new **health programme, EU4Health**, to strengthen health security and prepare for future health crises, with a budget of €9.4 billion. It aims to invest in EU healthcare systems with a focus on safety and emergency response, and chronic disease prevention and surveillance, access to health, diagnosis and treatment, cross-border health cooperation. Implementation is done through direct grants to the beneficiaries from the European Commission and through public procurement centrally managed by the European Commission. (European Commission, 2020)

- A €2 billion boost to **rescEU**, the Union's civil protection mechanism, which will be expanded and strengthened to enable the Union to prepare for and respond to future crises. It is used for infrastructure to deal with health emergencies, such as storage capacity, transport systems for medicines, doctors and patients within the EU or for their transport to the EU from abroad. The Aid is awarded through public contracts managed by the European Commission.

- An amount of €94.4 billion for the “**Horizon Europe**” programme, which will be strengthened to fund vital research in health, resilience and the green and digital transition.

- Supporting Europe's partners around the world with an additional €16.5 billion **for external action**, including humanitarian aid in response to growing humanitarian needs in the world's most vulnerable areas.

Other EU programs will be strengthened so that the future fiscal framework is fully aligned with recovery needs and strategic priorities. Other instruments will also be strengthened to improve the flexibility of the EU budget and its ability to respond to needs.

All the above areas of investment of the NGEU funds have the following axes: the push to the member states for reforms and investments, the pursuit of restarting the EU economy by providing incentives for private investments and the utilization of the experiences from the crisis.

1.4 The steps to obtain from the European Commission the necessary resources for financing

The Union's budget is financed from own resources²⁴ and supplemented by other sources of revenue. In more detail, they come from contributions from third countries, import duties on products from third countries, a new levy based on non-recyclable plastic packaging waste (an environmental measure introduced for the first time to strengthen the effort to achieve sustainability and proposed 1 January 2021)²⁵, fines imposed when businesses do not comply with EU rules and from value added taxes. It is also financed by a part of the Gross National Income of the countries according to the wealth they have (it is the largest part of the revenues earmarked for the budget). Also included are contributions from third countries from participation in programs, late payment interest, fines and any surplus from the previous year²⁶. The main aim is to gather the necessary resources to enable the EU to finance its budget and implement all its planned policies.

The system of own resources has been implemented in the EU since 1970 and the member states must take all the necessary measures to ensure that the same resources are made available to the European Commission, while they must send an annual report to the Commission on the controls which they carried out on the same resources as the previous year.

Until the beginning of 2020, before the pandemic crisis arose, the Union borrowed on the capital markets with back-to-back type loans which it channeled either to the member states or to third states. But then, given the socio-economic developments, it was necessary to upgrade its policy in order to stand effectively against economic threats. In particular, it started to borrow in the form of bonds²⁷, in a larger volume to achieve the financing of the SURE²⁸ tool to support employment and mitigate the impact of unemployment during the pandemic period.

²⁴ Council Regulation No 2021/768: laying down implementing measures for the implementation of the own resources system.

²⁵ This line of revenue for the budget is expected to provide an annual revenue of €6 billion, is directly related to the upgrading of the political priorities of the Union and seeks to push Member States to reduce packaging waste and create the conditions for a circular economy.

²⁶ "The EU budget at a glance", p. 19 European Commission, 2019.

²⁷ Economist, 2021.

²⁸ Support to Mitigate Unemployment Risks in an Emergency: temporary measure of financial assistance to the member states to deal with the negative economic consequences of a maximum amount of 100 billion Euros, to subsidize wages and, by extension, to secure the respective jobs.

To finance the NGEU, the EU follows a strategy of raising the necessary funds from the capital markets. This is possible because the EU's presence in the capital markets for all these years and the high creditworthiness it has maintained have allowed it to obtain more favorable economic terms²⁹. However, to protect its creditworthiness, it uses as collateral the margin³⁰ from its budget, i.e. the difference between the maximum amount of revenue the EU can raise for its budget and the actual expenditure from its budget, ensuring that it will always be able to meet its obligations³¹.

More specifically, to raise around €800 billion Euros (in current prices) for the NGEU, the Commission is using a diversified financing strategy, which combines the use of different financing instruments and financing techniques with open and transparent communication with market participants. With this approach it becomes possible for the Commission to raise the required volume of funds in a smooth and efficient manner. By extension, investors are attracted to Europe and in turn the international role of the euro is strengthened.

This differentiated strategy³² includes:

1. Annual lending decision on the key parameters of the financing plan announced every two years to offer transparency and predictability to investors and other stakeholders,
2. Structured and transparent relationships with the banks supporting the issuance programme (through a network of primary dealers),
3. Multiple financing instruments (medium and long-term bonds, some of which will be issued as NextGenerationEU Green Bonds, and EU Bonds) to maintain flexibility in terms of market access and management of liquidity needs and maturity profile,
4. Combination of auctions and consortia, in order to ensure efficient access to the necessary financing on favorable terms. The Commission started issuing EU bonds and notes under the NGEU in June 2021.

2. Compatibility of funding with State Aid rules

2.1 Legislation for the prohibition of State Aid

In order to ensure fair competition within the EU, rules have been adopted for the control of State Aid, introducing restrictions and strict conditions for granting them.

²⁹ Martina Philippe , Pisani-Ferryb Jean, Ragotc Xavier, 2021.

³⁰ The difference ('margin') between the ceiling for payments of own resources and the ceiling for payments of the long-term budget acts as a guarantee for the Union to cover all its financial obligations and contingent liabilities in any event, even and in case of negative economic growth.

³¹ The Commission reports twice a year on the progress of the NGEU funding programme. The second report was published on 8 July 2022 and covers the period January - June 2022. It confirmed that the Commission raised €50 billion of long-term funding under the NGEU in the first half of 2022, bringing a total of €121 billion from the start of the program. This borrowing has enabled the Commission to disburse over €100 billion to EU countries in grants and loans under the Recovery and Resilience Facility (RRF) and €15.5 billion in other EU budget programs benefiting from NGEU funding.

³²NextGenerationEU Funding Strategy-Fact Sheet, European Commission, 2021 (b).

Fundamental legal basis is Art 107 par. 1 TFEU which provides that aid granted in any form by states or with state resources and which distorts or threatens to distort competition, due to the favorable treatment of certain businesses or sectors of production are incompatible with the internal market, insofar as transactions among member states are affected. In other words, the main concern is safeguarding an inviolable internal market with free competition and that is why any State Aid that can even potentially lead to a distortion of competition is included in the prohibition. This means that four criteria can be distinguished, which must be identified cumulatively for the identification of the above violation:

- The granting of a financial advantage,
- The selective or preferential treatment of certain business-economic sectors,
- The use of state resources to finance and
- The falsification even under the potential of competition and the distortion of intra-Union trade.

The term "aid" is quite broad, because it does not only refer to grants that directly constitute financing, but also any other indirect form of support that can take the form of debt reduction, more favorable trading terms (e.g. loans with more favorable terms not available in the market), favorable tax treatment³³ but also in the form of a government guarantee³⁴ over a business for lending or other type of credit. Subsequently, State Aid can also be considered the granting of resources from the state to businesses, to replace the missing private interest within the framework of the market economy. The basic criterion according to the established jurisprudence of the ECJ for the fulfillment of the above conditions of the violation is the result of each act and not its purpose³⁵. In particular, the aid can be carried out both through action and through omission (e.g. failure of the state to take measures for the forced collection of debts). In order to be included in the prohibition, it should constitute a state expenditure for the state and be included in its expenses or reduce its revenues³⁶. As regards the time limits for granting State Aid, it is stated that the criteria for this limitation are substantial and the treaty that activates the prohibition may occur at a later time³⁷.

However, there are also cases of aid that, while meeting the above conditions, do not fall within the framework of the prohibition of State Aid. The basic case of exception is the service of public interest, and in particular the Art. 107 par. 2 TFEU defines "compatible with the internal market a) aid of a social nature to individual consumers, provided that they are granted without discrimination of product origin, b) aid to repair losses caused by natural disasters or other extraordinary events and c) aid to the economy of certain regions of the Federal Republic of Germany affected by the division

³³ It may take the form of a tax rate reduction, tax exemption or extraordinary tax incentives. E.g. decision of 2 July 1974, *Italy v Commission*, C-173/73, any measure which results in the wholly or partly unjustified exemption of specific undertakings from burdens justified by the normal application of the general system constitutes state aid. Even though the above seemingly consist neutral operations as they neither involve any expenditure by the state, nor are they intended to generate public revenue, they finally lead to loss of earnings harming the state budget (Oxford University Press, 2016).

³⁴ In the case of the guarantee, the amount of the state aid is calculated based on the interest rate difference that the company would have received without the state guarantee, while if without the government guarantee no credit institution was willing to lend the company, the total amount of loan.

³⁵ E.g. cases C-280/00, C-126/01 and C387/92, Oxford University Press, 2016 p. 84-85.

³⁶ Oxford University Press, 2016, p. 65-66.

³⁷ State aid in the European law and national law order, Konstantinos Evangelos, 2016, p.14.

of Germany, to the extent necessary to compensate for the economic disadvantages caused by that division. After five years have passed since the entry into force of the Treaty of Lisbon, the Council, following a proposal from the Commission, may issue a decision to repeal this point."

According to the wording of the above article, cases a) to c) are considered compatible with the rules on State Aid and there is no question of prohibition. At the same time, Article 107, paragraph 3 establishes some cases that can potentially be considered compatible with the internal market and the prohibitions to preserve it. Specifically,

- a) aid to promote the economic development of areas in which the standard of living is usually low or in which severe underemployment prevails, as well as the areas referred to in article 349 taking into account their structural, economic and social situation,
- b) aid for the promotion of important projects of common European interest or for the removal of a serious disturbance in the economy of a member state,
- c) aid to promote the development of certain economic activities or economic areas, as long as they do not alter the terms of transactions in a way that would be against the common interest,
- d) aid for the promotion of culture and the preservation of cultural heritage, as long as it does not alter the conditions of trade and competition in the Union to an extent contrary to the common interest and
- e) other categories of aid determined by the Council, which decides on a proposal from the Commission.

The next article numbered 108 of the Treaty on the Functioning of the EU comes to seal the framework of these rules, as it establishes a control system for the smooth application of State Aid rules to suppress cases of prohibited aid. The European Commission has competence to control the State Aid measures that the member states notify and seek to take, while it also has the ability to control existing aids to see if they are still compatible with EU law and aids that were granted without notifying it or, finally, which were approved but applied abusively³⁸. The member states in turn, have an obligation to cooperate closely with the European Commission³⁹ and bear the responsibility of notifying the aid they plan to grant and are obliged to notify based on the present legal framework and more specialized legal texts of the Union. Subsequently, the scope of the Commission's control is also limited to aid that risks having a more significant effect on the distortion of competition.

2.2 Rules Framework Update

³⁸ Ministry of Finance (Greece), n.d.

³⁹ Under the Regulation 2015/2282 and in view of the potential impact on trade and competition of aid schemes with large aid budgets, or which have novel characteristics or involve significant market, technological or regulatory changes, Member States should carry out an evaluation of such schemes. In order to enable the Commission to assess the evaluation plan, Member States should submit to the Commission a draft evaluation plan at the same time as they notify the Commission of the aid scheme concerned. To that end, a new form for the evaluation plan, to be used by Member States, was added to Regulation (EC) No 794/2004.

In 2012⁴⁰ the Commission tabled some reform proposals for the implementation of the State Aid framework in order to modernize the control system. More specifically, the proposals aimed to strengthen development for a dynamic and competitive internal market, to bring scrutiny to cases with the greatest impact on the internal market, to introduce improved rules and to make decisions faster. The result of these proposals was Regulation 651/2014 (General Block 32 Exemption Regulation) which made some categories of aid compatible with the functioning of the internal market without the need to notify the Commission pursuant to Art. 108 par. 3 of the TFEU. Among other things the Art. 1 of this Regulation includes regional aid, aid to small- and medium-sized enterprises (SMEs) in the form of investment aid, operating aid and aid for SMEs' access to finance, aid for the protection of the environment, aid for research and development and innovation etc.⁴¹

In addition, according to Art. 108 par. 4, 109 TFEU and Regulation 2015/1588 the Commission has the possibility to define by regulations specific categories of aid that are compatible with the internal market, as defined in Art. 107 par. 2,3 TFEU, thus removing the notification obligation on the part of the member states. These rules should be sufficiently defined and detailed with regard to the purpose of ensuring transparency and legal certainty⁴².

Given that some of the rules established in the context of the Commission's proposals in 2012 were to expire at the end of 2020 and to ensure predictability and legal certainty, the need to extend the expiry date was deemed important and therefore the amendment of Regulations 1407/2013 and 651/2014. In fact, in the context of the European Green Deal and the Digital Agenda for Europe, the Commission has already announced its intention to revise a number of relevant guidelines by the end of 2021. Also taking into account the economic and financial consequences of the outbreak of the COVID-19 disease for businesses, and in order to ensure consistency with the general policy measures adopted by the Commission, in particular during the period 2020-2021, the Regulation (EU) No. 651/2014 should be amended accordingly. In particular, businesses that became problematic due to the outbreak of the COVID-19 disease should remain eligible under Regulation (EU) No. 651/2014 for a limited period⁴³.

2.3 Temporary State Aid framework for the immediate response to the pandemic crisis

The rapid developments and consequences of the pandemic crisis created the need to immediately re-regulate the State Aid regime by establishing a temporary framework. In particular, according to No. 2020/C 91 I/01 Communication of the Commission, a temporary framework was provided for the adoption of State Aid measures in order to support the economy during the current outbreak of the pandemic⁴⁴. The legal basis for

⁴⁰ State Aid Modernisation, European Commission, (a).

⁴¹ Kiriazopoulou Nik., 2020.

⁴² It should be noted that de minimis aid, i.e. small amounts of state aid to businesses escape the control of state aid and the obligation of prior notification to the Commission, in accordance with Regulation 1407/2013.

⁴³ Explanatory considerations of Regulation 2020/972 of the Commission, L 215/3.

⁴⁴ The temporary framework authorises to give to enterprises liquidity support in a variety of ways. The permissible forms of aid include: direct grants, selective tax advantages, or advance payments of up to

these temporary rules is Art. 107 par. 3 (b) of the TFEU, according to which the Commission can decide whether aid for the removal of a serious disruption of the economy of a member state is compatible with the market. This disruption, according to the judgment of the Courts of the Union which is adopted and applied by the Commission, must concern the whole or a significant part of the economy of each member state and not just a part of its territory. Therefore, given that the pandemic has affected all the member states and that the social restraint measures they have taken have a direct financial impact on businesses, the Commission considers the State Aid justified and therefore permissible for a limited period of time, with the aim of addressing the lack of liquidity affecting businesses and to avoid the risk to their viability (especially for SMEs)⁴⁵. The municipalities must prove that the State Aid measures they received comply with all the conditions, are in line with the said announcement and are necessary, appropriate and proportionate to remove a serious disruption of the economy of the municipality concerned⁴⁶.

Since the approval of the temporary framework for State Aid, which took place, a number of amendments followed, among which it was decided to extend its validity until June 30, 2022⁴⁷.

2.4 What applies to the case of Next Generation EU

In order for the granting of NGEU funds to the member states to launch the recovery of the Union and promote the objectives set, with priority on sustainable and digital reform, the conditions for the granting of State Aid must be met. The European Commission to ensure the smooth development of aid programs has published guidance models covering numerous types of investment projects, to help MS draw up their recovery and resilience plans with content that does not contravene State Aid rules. State Aid control aims to ensure that member states' public spending does not crowd out private spending, that overcompensation is avoided and that a level playing field in the single market is maintained⁴⁸. All investments and reforms involving State Aid, as

€800,000 per company; public guarantees for bank loans; subsidised interest rates for loans; guarantees and loans channelled through credit institutions or other financial institutions (which are considered as direct aid to the banks' customers, not to the banks themselves); provision of short-term export credit insurance; aid for COVID-19-relevant research and development; investment aid for testing and upscaling infrastructures; investment aid for the production of COVID19-relevant products; targeted deferrals of tax and/or social security contributions; and targeted wage subsidies for employees, to avoid lay-offs (Hadjimmanuil Christos p. 190, 2020).

⁴⁵ Aim of the temporary state aid framework was to prevent as soon as possible the market distortions between companies and between the banks which would be caused by the forthcoming differences in fiscal capacity (Lamandini Marco, Ottolenghi Guido, Munoz David Ramos, 2020 p.253).

⁴⁶ The impact of CoViD-19- Navigating EU state aid, (Slater Donald, Waelbroeck Denis, Cousin Michaël, 2020).

⁴⁷ State aid: Commission will phase out State aid COVID Temporary Framework (European Commission, 2022).

⁴⁸ Executive Vice-President for Competition Policy Ms. Vesteyjer said: *"To reap the full benefits of limited public resources it is vitally important that State aid rules continue to help keep our single market fair and competitive. We provide Member States with the guidance and tools they need to ensure that their national recovery and resilience plans can be implemented as quickly as possible, in line with EU state aid rules. We continue to work closely with Member States to mitigate the economic impact of the ongoing crisis and enable the recovery of the European economy, while maintaining a level playing field in the single market."*

well as those included in national resilience and recovery plans submitted under the RRF, must be notified to the Commission for prior approval, unless they are covered by one of the block exemption rules for State Aid.

In other words, those measures concerning grants to recipients included in the general exemption regulation No. 651/2014, can be applied directly by the financial institutions without prior notification to the Commission to assess compatibility. The same applies to certain measures, which states wish to include in their recovery plans for the direct support of natural persons or investments to strengthen infrastructure, because they do not interfere with economic activities within their market or, accordingly, are not selective.

Regarding the measures that constitute State Aid and for which individual approval by the Commission is required, they are considered as a matter of priority. In any event, the Commission undertakes to complete its assessment within six weeks of receipt of the full notification from the member state⁴⁹.

The Commission maintains close cooperation with all competent national authorities and assists with all possible energy in the preparatory stage for the design of the investment programs that must comply with the rules in question, with the aim of achieving rapid development of the recovery and resilience plans. In the event that he identifies a possible obstacle in a national plan and a potential violation of the relevant obligations for a financial measure, he contacts the respective MS in a timely manner and offers the necessary guidance to deal with these issues. Also, after assessing the eligibility and permissibility of the aid of an investment, the aid amount is determined, based on the general exemption regulation, where the limit of the amount is examined.

The assessment carried out by the Commission should take into account the compatibility of the aid measures with environmental protection, climate change management, energy, according to the "Guidelines for climate, environmental protection and energy 2022"⁵⁰, in conjunction with Art. 107 par. 3 (c) TFEU establishing the notification obligation. These guidelines, which came into force from January 2022, create a flexible and fit-for-purpose framework that will lead Member States to make the right decisions to achieve the objectives of the Green Deal in an economically and socially efficient way. The rules are in line with the EU's important objectives set out in the European Green Deal and other recent regulatory reforms in the energy and the environment and will cover the major climate protection.

Excursus I

Need to readjust after the Russian invasion of Ukraine - REPowerEU

With the Russian invasion of Ukraine in February 2022, the European community was shaken both socially and morally. The consequences of the war emerged at all levels and the Union was called once again after the outbreak of the pandemic, to take

⁴⁹ European Commission, 2021 (d).

⁵⁰ Official Journal of the EU, Commission (2022/C 80/01).

emergency action⁵¹. Both in the context of restoring the violations and supporting the ideals and principles it advocates, while providing all possible help to the affected Ukrainian people, and in its internal reorganization, redefining its economic policy, in order to intercept and prevent the fragmentation of the European economy. Once again, in a short period of time, it was necessary for the member states to act collectively, condemning any violent act of encroachment on the national sovereignty of a neighboring state. The result was the immediate imposition of economic sanctions on Russia (a total of six sanctions packages have been implemented to date, including restrictive measures and individual sanctions⁵²), aimed at neutralizing its capabilities to continue the offensive. As part of economic sanctions, the EU has imposed certain restrictions on imports and exports to Russia.

At the same time, the lack of a coherent strategy in the energy sector and the subsequent high dependence of Europe on the import of fuels from third countries, and in particular the need to import natural gas from Russia, caused a dramatic rise in prices, which affected the economies of the member states in level of businesses, but also of natural persons. This is one of the pathologies that was immediately felt in the markets of all member states. The continuous increase in inflation combined with the decline in the growth rate of the EU economy makes it necessary to adopt a new strategy, with the interaction of the economic and energy sectors⁵³.

The effort to coordinate and implement the energy independence goals that the EU has already set is therefore considered an immediate priority, at the same time prioritizing the security of supply of the essentials for living and the operation of the fuel market, i.e. natural gas and oil⁵⁴. Already, an effort has been launched to accelerate and strengthen the Renewable Energy Sources systems (intervening for the first time in the formation of the national administrative licensing procedures⁵⁵), to rapidly increase domestic energy production to a sufficient rate to meet demand needs. Emphasis has also been placed on energy efficiency and the rapid development of technology, as well as the legal recognition of the possibility of storing energy produced by RES, so that every amount of energy produced can be utilized and the cost burden on all consumers can be reduced⁵⁶.

⁵¹ As almost prophetically the former president of the European Central Bank stated back to 2020 before the Russian invasion, “Faced with unforeseen circumstances, a change of mindset is as necessary in this crisis as it would be in times of war. The shock we are facing is not cyclical. The loss of income is not the fault of any of those who suffer from it. The cost of hesitation may be irreversible. The memory of the sufferings of Europeans in the 1920s is enough of a cautionary tale” and once again his words seem more relevant than ever (Draghi Mario, 2020).

⁵² Sanctions against individuals consist of travel bans and asset freezes. Travel bans prevent registered individuals from entering or transiting EU territory by land, air or sea. Asset freezing means that all accounts belonging to registered persons and entities in EU banks are frozen. They are also prohibited from making funds or assets available to them, directly or indirectly. This ensures that they can no longer use the money for supporting the Russian regime nor to try to find a safe haven in the EU, (European Council, 2022).

⁵³ The economic consequences of the war in Ukraine (Liakos Dimitris, 2022).

⁵⁴ McGaughey Ewan, 2022.

⁵⁵ Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy efficiency of buildings and Directive 2012/27/EU on energy efficiency. Brussels, 18.5.2022/COM(2022) 222 final- 2022/0160(COD).

⁵⁶ For example, countries with insular and inaccessible areas such as Greece, where electricity connection networks are quite costly.

In this case, it is considered necessary for the Union to take the geopolitical developments into account, the exit from the pandemic with the need to recover its economy and the creation of appropriate conditions so that it is ready to manage future crises. The Commission responded to all of the above on May 18, 2022, with an additional new programme, REPowerEU, which defines joint European actions in the energy sector, complementing the measures taken for security of energy supply and energy storage. More specifically, it is an action plan that will make energy more accessible to European citizens by diversifying supply sources and at the same time Europe's transition to clean forms of energy. In order to speed up this transition, it is necessary to increase the percentage of RES in the energy mix and take measures to address infrastructure bottlenecks, regulatory failures, the appropriate training of workers as well as the filling of positions with sufficiently qualified persons. Therefore, the implementation of this plan requires the adoption of the corresponding reforms and investments⁵⁷.

REPowerEU moves on the borderline of the European Green Agreement⁵⁸ and NextGenerationEU, since as a result it seeks to promote the Union's energy transition, but also joins a financing mechanism for investments and reforms through loan funds from the markets. In particular, this specific tool is now part of the Recovery and Resilience Facility, since the Commission submitted a proposal to amend Regulation No. 2021/241, so as to include the objectives of REPowerEU in the Recovery and Resilience Plans of the member states (especially the content and the mechanism of this amendment will be mentioned in the next chapter, together with the analysis of the RRF). The proposal sets out a specific set of objectives under REPowerEU that should be supported by investments and reforms that will be included in existing recovery and resilience plans. This option aims to create the necessary institutional framework to absorb the funds as quickly as possible of the programme from the markets of member states to strengthen the energy resilience of the Union.

In addition, special funding sources are foreseen for the relevant measures. It also specifies the information that member states should submit to the Commission regarding the reasons, objectives and nature of the necessary amendment to the RRP each member state. In terms of drawing up changes to the relevant RRP to reflect the funds for REPowerEU, it is important to highlight the following principles:

- Member states should continue to focus on the implementation of existing RRP to make progress against milestones and quantitative targets, taking into account their importance for faster recovery from the economic impact of the pandemic and increasing resilience.
- Therefore, the amendment of the RRP should be duly justified and limited to the range of situations described in these guidelines, in order to enable the rapid approval and mobilization of additional investments and reforms.
- The ambition of the RRP cannot be diminished, especially with regard to the reforms that implement the country-specific recommendations. The additional investments and reforms envisaged for the revised RRP should focus on the objectives of REPowerEU.

⁵⁷ REPowerEU: Towards energy independence for Europe, (Dickson G. , Ladakou P. , 2022).

⁵⁸ European Council, 2022 (a).

Therefore, recent developments have forced the EU to take urgent action again and modify its policy. However, the fact that the already established mechanisms were not discarded, but instead updated and used to deal with the current crisis, leads us to the conclusion that the goal of securing the resilience of the Union is not impossible. Despite the unpredictability of conditions and the increased challenges that the EU and humanity as a whole are predicted to face, a solid and flexible foundation is being laid to redress future imbalances. NextGenerationEU does not need to be idle, but rather, it is part of the solution in this case. The fastest possible absorption of the funds it includes to achieve the necessary reforms and investments are a turning point for the future of the economic and social development of the old continent. It remains to be seen whether it will be possible to respond to the extraordinary circumstances and at the same time progress towards achieving the set environmental and climate goals, within the time frames it has set (by 2030⁵⁹ the medium-term goal and by 2050 the long-term goal).

⁵⁹ In conjunction with the established international commitments (United Nations, 2015).

Section B: In particular the regulation of the Recovery and Resilience Facility (RRF)

1. Establishment of the mechanism with Regulation 2021/241 of the European Parliament and the Council

Most of the NGEU's funds are included in the Recovery and Resilience Facility established in Regulation 2021/241, as a tool to boost the growth of the economy and artificially create incentives for both member states and investors to adopt the necessary reforms and invest in a targeted manner, furthering the EU's objectives and supporting the flexibility of the single market. In particular, the purpose of this mechanism is to mitigate the economic and social impacts of the pandemic and to make European economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transition⁶⁰. This mechanism will then be developed, as described in its founding regulation (hereinafter "RRF Regulation").

Articles 120 and 121 of the TFEU are the legal basis for the founding treaties, according to which the member states are required to conduct their economic policy in a way that contributes to the achievement of the objectives of the Union and within the framework of the general guidelines drawn up by the Council. In addition, Article 148 TFEU states that member states must implement employment policies that take the Employment Guidelines into account. Therefore, the coordination of the economic policies of the MS is a matter of common interest. Finally, Article 175 TFEU provides that MS must coordinate their economic policies in such a way as to achieve the objectives of economic, social and territorial cohesion defined in Article 174 TFEU.

Past experience shows that investment often declines significantly during crises. However, it is necessary to support investment at this juncture in order to speed up recovery and strengthen long-term growth potential. The smooth functioning of the internal market and investment in green and digital technologies, innovation and research, including, among others, a knowledge-based economy, the transition to clean energy and boosting energy efficiency in housing and other key sectors that are important for achieving fair, inclusive and sustainable development, contributing to new job vacancies as well as the achievement of EU climate neutrality by 2050.

1.1 Forms of financing in the member states: with loans and non-refundable financing

The way in which funding is granted should be chosen on the basis of its ability to achieve the intended objectives of the actions and to bring about the desired results, taking into consideration, in particular, the costs involved in the audit, the administrative burden and the risk of non-compliance. More specifically, within the framework of the RRF, it is foreseen that the financial support can be provided to the requested member states on the one hand in the form of non-refundable grants and on the other hand in the form of loans.

⁶⁰ Taylor Kira, 2021.

According to Art. 6 of the RRF Regulation, which analyzes the distribution of resources based on the way they are allocated to the non-profit organizations, an amount of 312,500,000,000 Euros⁶¹ is available for non-refundable financial support, while an amount of 360,000,000,000 Euros⁶² is available for loan support to the non-profit organizations (as mentioned in particular in nos. 14, 15 of the Regulation in question and will be analyzed subsequently in section 1.4.2). The above amounts are also provided in Regulation 2020/2094 - regarding the establishment of an EU Recovery Instrument to support the recovery after the Covid-19 crisis⁶³ - Art. 2 par. 2 a) ii) and Art. 2 par. 2 b), respectively.

Non-reimbursable financial support under the Facility takes the form of a specific Union contribution⁶⁴, which will be determined on the basis of a maximum financial contribution calculated for each Member State separately and taking into consideration the estimated total cost of the recovery and resilience plan. Its payment depends on the gradual fulfillment of defined stages of the milestones and objectives⁶⁵ set in each plan. In fact, as referred to in Art. 6 par. 1 a) of the RRF Regulation in Art. 3 par. 4 of Regulation No. 2020/2094, non-refundable grants are the eligible aid method for legal commitments entailing support costs. These commitments are undertaken by the Commission or its executive agencies, with the exception of the technical and administrative support needed to achieve the measures taken for recovery and resilience⁶⁶.

In fact, according to Art. 6 par. 2 of the RRF Regulation, the amounts of non-refundable grants can also cover costs for preparation, monitoring, management control, accounting control and evaluation activities which are required for the management of the mechanism and the achievement of the objectives of. In addition, costs for studies, expert meetings, consultation with stakeholders, information and communication actions, including multi-receptive promotion and corporate communication actions on the Union's political priorities, are covered, insofar as they relate to the objectives of this Regulation. The same applies to expenditure on information technology networks focused on information processing and exchange, corporate information technology tools, and any other technical and administrative assistance expenditure incurred by the Commission for the administration of the Facility. Expenditures may also cover the costs of other support activities, such as quality control and monitoring of projects on the ground, and the costs of peer and expert advice on the evaluation and implementation of reforms and investments.

⁶¹ In 2018 prices, in current 2022 prices it is 385.8 billion Euros.

⁶² In 2018 prices, in current 2022 prices it is 338 billion Euros.

⁶³ Regulation 2020/2094, establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis.

⁶⁴ Regulation 2020/241, recital (18).

⁶⁵ According to Art. 1 (4) of the RRF Regulation, milestones and goals are defined as measures of progress towards the achievement of a reform or an investment, where milestones are qualitative achievements and quantitative goals.

⁶⁶ Regulation No. 2020/2094 Art. 1 par. 3 and Art. 3 par. 7.

The special rules and procedures of the RRF Regulation apply, without prejudice to the general principles of financial management in the context of the Financial Regulation⁶⁷, regarding the allocation, implementation and control of non-reimbursable financial support under this Regulation.

An alternative way of providing financial support within the framework of a recovery and resilience plan for a credit union is in the form of a loan, subject to the conclusion of a loan agreement with the Commission, following a sufficiently substantiated request from the credit union concerned. Loans granted for the implementation of national recovery and resilience plans should have been granted by 31 December 2023 and should have maturities that promote the longer-term nature of such expenditure. According to Article 5 par. 2 of Council Decision 2020/2053, refunds should be programmed, in accordance with the principle of sound financial management, in such a way as to ensure a stable and predictable reduction in liabilities. These durations may not coincide with the maturity durations of the funds borrowed by the Union to finance said loans from the capital markets. It was therefore deemed necessary to be able to derogate from the principle provided for in Article 220 par. 2 of the Financial Regulation, according to which the maturity periods of loans for financial assistance should not be varied.

Funding not linked to expenditure should be applied at the level of payments by the Commission to the member States as beneficiaries, regardless of the return, in any form, of financial contributions from the MS to the final recipients⁶⁸. Without prejudice to the Commission's right to take action in cases of fraud, corruption, conflict of interest or double funding by the Facility and other Union programmes, payments should not be subject to checks on expenditure actually incurred by the beneficiary.

Therefore, within the framework of the RRF, the MS can receive financial support either in the form of non-refundable funding, or in the form of a loan agreement between the Commission and the requested MS. In any case, the allocated funds should be used to implement reforms and private or public investments, with the aim of recovering from the pandemic crisis and building the resilience of the EU. The allocations work as an emergency and temporary response measure and based on the principle the additionality of Union funding, they should not replace recurrent national expenditure, except in absolutely justified and exceptional cases.

1.2 The six pillars that the eligible investments are called to serve

According to Art. 3 of the RRF Regulation, the scope of application of the mechanism concerns objectives of European importance that must be achieved with the use of programme funds and are specified in the following six pillars:

- Green transition,
- Digital transformation,

⁶⁷ Regulation No. 2018/1046 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

⁶⁸ Regulation 2020/241, recital (18).

- Smart, sustainable and inclusive growth, with economic cohesion, employment, productivity, competitiveness, research, development and innovation, and a well-functioning internal market with strong SMEs,
- Social and territorial cohesion,
- Health and economic, social and institutional resilience, with the aim, inter alia, of increasing preparedness for crisis management and crisis response capacity, and
- Policies for the next generation, children and young people, such as education and skills.



Green transition



Digital transformation



Smart, sustainable and inclusive growth



Social & territorial cohesion



Health, and economic, social and institutional resilience



Policies for next generation

Source: https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_el

1.2.1 Green transition

Green transition can be achieved through environmentally friendly technologies and capabilities, targeting among others biodiversity⁶⁹, energy efficiency, building renovation and the circular economy⁷⁰, while contributing to the Union's climate goals, promoting sustainable development, job creation and safeguarding energy supply security.

Given the EU's international commitments to address climate change through the implementation of the Paris Agreement, the UN Sustainable Development Goals and its strategy for sustainable development, as enshrined in the European Green Deal, the RRF must contribute to the integration of climate actions, environmental sustainability and the achievement of the overall target of allocating 30% of the Union's budget expenditure to support objectives for climate. In particular, the measures financed by the Facility and included in member states' recovery and resilience plans should

⁶⁹ Taking into account the value of biodiversity and the need to address its dramatic loss, this Regulation should contribute to mainstreaming biodiversity action into Union policies.

⁷⁰ The shift towards a circular economy is also necessary to strengthen the international economy in line with what has been agreed within the international community (United Nations-Climate Change, 2021).

contribute to the green transition, including biodiversity, or address the challenges arising from it, and should represent a percentage that is at least 37% of the total appropriations of the recovery and resilience plan.

In fact, if an interested Member State requests and agrees with the Commission, it should be possible to increase the coefficients to support the climate objectives by 40% or 100% for individual investments, as explained in the recovery and resilience plan, in order to consider complementary reform measures that contribute with a high degree of certainty and credibility to the climate targets. Consequently, it should be possible to increase the coefficients in support of the climate objectives to a total amount corresponding to 3% of the credits of the recovery and resilience plan for individual investments. The Facility should support activities that fully respect the Union's climate and environmental standards and priorities and the principle of "doing no significant harm"⁷¹ within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council (Taxonomy Regulation).

1.2.2 Digital transformation

Reforms and investments in digital technologies, infrastructures and processes will increase the Union's competitiveness at international level and will also lead to securing the Union's resilience and innovation as well as its gradual independence through the diversification of key supply chains. It is necessary to primarily promote the digitization of services, the development of digital and data infrastructures, collaborative formations and digital innovation hubs and open digital solutions. This transition should also provide incentives for the digital development of SMEs. Investments serving this pillar should respect the principles of interoperability, energy efficiency and personal data protection to enable the participation of SMEs and start-ups and promote the use of open source solutions⁷².

The measures included in the mechanism, related to digital spending and included in the member states' recovery and resilience plans should represent an amount of at least 20 % of the plan's appropriations. To this end, Member States should calculate the digital objective support factor based on a methodology that reflects the extent to which the mechanism support in question contributes to the digital objectives. The weighting factors for the individual measures should be determined based on the areas of intervention⁷³. The methodology should be used accordingly for non-attributable measures directly in one of the areas of intervention. In addition, and in the case of the digital transition, if the Member State concerned and the Commission agree, it should be possible to increase these rates by 40 % or 100 % for individual investments, in order to take into account accompanying reforms that increase the impact of the measures to the digital objectives.

⁷¹ This principle will be analyzed in more detail later in this study (see Section B chapter 2.3).

⁷² The term "open source" refers to something that can be modified and shared freely because its basic design is accessible to everyone. While as a term it comes from the context of software development, today the term "open source" identifies a more general set of values, the open source model. Open source projects, initiatives or even products, are those that embrace and promote the open exchange of ideas, collaborative participation, rapid prototyping, transparency, meritocracy and community development, (el/lak, 2015).

⁷³ As specified in the annex to Regulation No. 2021/241.

1.2.3 Smart, sustainable and coherent development

Taking appropriate measures under the RRF for smart, sustainable and inclusive growth, including economic cohesion, employment, productivity, competitiveness, research, development and innovation, and the smooth functioning of the internal market with strong SMEs should aim to strengthen the growth potential and enable a sustainable recovery of the Union's economy. These reforms and investments should also promote entrepreneurship, the social economy, the development of sustainable infrastructure and transport, as well as industrialization and re-industrialisation, and mitigate the impact of the COVID-19 crisis on the economy. Also, the state members will be able through this pillar to enhance their productivity by mobilizing private investments and to modernize their administrative sector by making public investments. At the same time, a significant cyclical boost will be given to the economies which will contribute decisively to macroeconomic stabilization. The plan's grants will finance a set of mature investments in infrastructure and human capital, many of which simultaneously support more than one of the facility's objectives, such as the green and digital transitions. These investments are expected to immediately increase overall demand and create new jobs, a necessary development especially for MS that have been affected by the consequences of the pandemic but also show an economic deviation from the average prices per capita GDP of the Union (one such case is Greece).

1.2.4 Social and territorial cohesion

Reforms and investments in social and territorial cohesion should also contribute to combating poverty, leveling social imbalances and reducing unemployment rates to recover Member States' economies, so that all European citizens have access to work employment. These reforms and investments should lead to the creation of high-quality and stable jobs, as well as the inclusion and integration of those who are excluded due to objective conditions. The aim is also for the measures included in the recovery and resilience plans to promote social dialogue, to strengthen infrastructure and services, as well as social protection and social welfare systems.

1.2.5 Health and economic, social and institutional resilience

Recent developments in the outbreak of the pandemic have highlighted the importance of developing robust and resilient national health systems, as well as economic, social and institutional resilience, which aim, among other things, to increase crisis preparedness and adaptability and timely response to emergency situations. More appropriate means for the above are the improvement of business continuity and the provision of public services, accessibility and the absorption and management capacity of health and care systems, the efficiency of public administration, including the minimization and fair distribution of administrative burden. Reforms for the efficiency of judicial systems with the aim of more immediate and correct resolution of disputes, as well as for fraud prevention and anti-money laundering supervision, are of decisive importance.

1.2.6 Policies for the next generation

Investing in measures for the next generation is essential and requires the promotion of education and skills, including digital know-how, retraining to upgrade and modernize skills and the development of the active workforce. Measures concerning the development of educational systems can also be included, as well as the development of evaluation mechanisms for education providers, in any areas where it is needed. It is also critical to promote integration programs for the unemployed, as well as investment policies in access and opportunities for children and young people. The immediate goal is to expand the fields of citizens in relation to education, health, nutrition, employment and housing, but also the adoption of policies that bridge the generation gap. These actions should ensure that the next generation will be able to overcome the negative consequences of the COVID-19 crisis, progressing even further and at the same time that the generation gap will not widen even further.

Particular importance must also be given to providing equal opportunities to all, to ensure the equality of cards in all the Union's member states, adopting appropriate measures in the recovery and resilience plans. More specifically, the contribution of women to the management of the pandemic was crucial, given that they represent, at EU level, the majority of workers in the health sector. An additional parameter of difficulty, which must be taken into account, is the condition of single-parent families, of which 85% are made up of female parents, who are called upon to assume multiple roles at the same time. Investments in care infrastructure are essential to foster gender equality and women's economic empowerment to build resilient societies. The result will be the creation of new jobs, preventing poverty and ensuring equal access for all to social life, as they allow more women to participate in paid work.

1.3 Measures of good financial governance in relation to the RRF

Economic governance⁷⁴ is the system of institutions and procedures used in order to promote the objectives of the Union in the economic sector, namely the coordination of economic policies to promote the economic and social progress of the EU and its citizens. The crises in the financial, fiscal and economic sectors, which started in 2008, demonstrated that the EU needed a more effective economic governance strategy than the economic and fiscal coordination that had been applied until then. Developments in economic governance, which after the outbreak of the pandemic have been stepped up to enable the Union to respond to the extraordinary circumstances, include strengthening the coordination and surveillance of both fiscal and macroeconomic policies, as well as creating a framework for the management of crises⁷⁵.

Therefore, in order to ensure the coordination of the economic policies of the Union's financial institutions and to use the money within the framework of the RRF in the best possible way to achieve the goals set for their development and resilience collectively, there must be a provision for their proper management, but also for the way of dealing with possible imbalances on the part of a member state. Specifically, the main criterion

⁷⁴ Financial governance is legally guaranteed through Art. 3 TEU, Articles 2-5, 119-144 and 282-284 of the TFEU, Protocols annexed to the TFEU: Protocol no. 12 on the excessive deficit procedure, Protocol no. 13 on convergence criteria and Protocol no. 14 regarding the Eurogroup.

⁷⁵ De Lemos Peixoto Samuel, 2022.

is the excessive deficit framework, which is based on Art. 126 par. 8 and 11 of the TFEU.

According to Art. 10 of the RRF Regulation, the tool for ensuring the link between the mechanism and good economic governance, allows the Commission to submit a proposal to the Council to suspend all or part of the commitments or payments under the mechanism. For the utilization of the tool and taking into account the importance of the budgetary consequences of the imposed measures, executive powers are assigned to the Council, which acts on a proposal from the Commission. More specifically, the Commission may submit a suspension proposal to the Council if the latter has decided that a central bank has not taken sufficient measures to correct an excessive deficit or, following two consecutive recommendations in the excessive imbalances procedure, the central bank has submitted an insufficient action plan or did not take the recommended corrective action or, finally, did not comply with the macroeconomic adjustment programme, with the exception of the case where a wider slowdown in economic activity across the EU has been identified⁷⁶. The said proposal shall be considered accepted by the Council, unless it decides to reject it by means of an implementing act, within one month of its submission by the Commission. The approval of the proposal to suspend payments, on behalf of the Council, is done by an executive act⁷⁷.

The Commission's obligation to propose a suspension does not apply when and as long as the so-called general escape clause is activated under the Stability and Growth Pact. In order to facilitate the taking of the decisions required to ensure meaningful action in the economic governance process, decisions on the suspension of commitments should be taken by a qualified majority⁷⁸. The imposed suspension of commitments or payments is proportionate, respects the principle of equal treatment between Member States and takes into account the economic and social conditions in the Member State concerned, particularly regarding the level of unemployment, the level of poverty or social exclusion in the Member State concerned compared to the Union average, and the impact of the suspension on the economy of the Member State concerned. Furthermore, according to article 10 par. 5 of the RRF Regulation, the suspension of commitments is subject to a maximum limit of 25% of commitments or 0.25% of nominal GDP, whichever is lower. However, in case of repeated non-compliance, the suspension of commitments may exceed the above maximum values.

Corresponding to the suspension procedure is the suspension procedure. That is, the Council acts on a proposal from the Commission to lift the suspension, if the excessive deficit procedure is suspended or abolished, if the action plan for excessive imbalances is concluded or, finally, if it is judged that the member state has taken the appropriate measures for the implementation of the macroeconomic adjustment programme⁷⁹.

⁷⁶ The concept of a serious slowdown in economic activity throughout the EU is defined as in Art. 3 par. 5 and Art. 5 par. 2 of Regulation No. 1467/97 of the Council for the acceleration and clarification of the implementation of the excessive deficit procedure.

⁷⁷ According to Art. 10 par. 2 of the RRF Regulation priority is given to the suspension of commitments, while payments are suspended in case immediate action is required or for significant non-compliance.

⁷⁸ Art. 10 par. 4 RRF Regulation.

⁷⁹ As the cases of removal are detailed in Art. 10 par. 6 a) to d), RRF Regulation.

The competent committee of the European Parliament may invite the Commission to debates on the implementation of this mechanism in the framework of a structured dialogue so that the European Parliament can express its views⁸⁰. In order for the Commission to take due account of the views expressed by the European Parliament, the structured dialogue should take place within four weeks of the European Parliament being informed by the Commission about the implementation of this mechanism. According to Art. 9 of the RRF Regulation, the application of the suspension procedure is reviewed by the Commission (or if the European Parliament or the Council asks the Commission to submit a proposal), if there are significant changes in the social and economic situation of the Union, acting in accordance with Articles 225 or 241 TFEU.

1.4 Provisions for financial contribution

Appropriate directions to the Commission are necessary to determine the financial contribution in accordance with the objectives and any other relevant requirements established under the recovery mechanism. A system of precise calculation of the aid amount should be established, with a view to transparency and efficiency. The criteria related to country-specific recommendations, as well as to the strengthening of development potential, job creation and economic, social and institutional resilience and which contribute to the implementation of the European pillar of social rights, should be duly taken into consideration. Furthermore, for the sake of simplification, the determination of the financial contribution should follow simple criteria. The financial contribution should be determined on the basis of the estimated total cost of the recovery and resilience plan proposed by the Member State concerned.

1.4.1 Method of contribution and pre-financing

According to Art. 11 of the RRF Regulation, the maximum financial contribution for non-refundable grants, which can be received by a member state is calculated for 70% based on the population, the inverse of GDP per capita and the unemployment rate. For the remaining 30% of the grant amount, the calculation is based on population, the inverse of GDP per capita, and, in equal proportion, the change in real GDP in 2020 to the aggregate change in real GDP over the period 2020- 2021. The change in real GDP for 2020 and the aggregated change in real GDP for the period 2020-2021 are based on the Commission's autumn forecasts for 2020. All of the above is detailed and practical in the respective Appendices of the RRF Regulation.

Each Member State, based on the Art. 12 of the RRF Regulation, may submit a funding request up to the maximum amount, calculated in accordance with article 11, for the implementation of the relevant recovery and resilience plan. Until 31 December 2022, the Commission shall allocate 70 % of the amount corresponding to non-reimbursable subsidies, based on current prices. Thereafter, from 1 January 2023 to 31 December 2023, 30 % of the amount of non-reimbursable grants is available for distribution, based on the current prices.

⁸⁰ Creel Jérôme, Leron Nicolas, Ragot Xavier, Saraceno Francesco, 2021.

If requested by a fund, it is possible for the Committee to pre-finance a maximum of 13% of the total financial contribution. If the amount of the above percentage is short, the next disbursement and, if required, subsequent disbursements, are reduced until the excess amount is offset. If the remaining disbursements are not sufficient, the excess amount is returned⁸¹.

1.4.2 Loan agreements

The loan support is granted, based on Art. 14 of the RRF Regulation, due to the fact that the cost of the recovery and resilience plan is higher than the maximum financial contribution available through the non-refundable contribution, given that there are increased financial needs, linked to additional reforms and investments, especially regarding the green and the digital transition, in the context of recovery and resilience plans. The submission of a request for loan support is done in parallel with the submission of the recovery and resilience plan, otherwise if the request is submitted at a different time, a revised plan with additional milestones and goals should also be submitted.

To ensure the front-loading of resources, Member States should request loan support by 31 August 2023 at the latest⁸². Also, the maximum loan volume for each Member State should not exceed 6.8% of the Gross National Income (GNI) for 2019. An increase in the maximum amount should be possible in exceptional cases and depending on the available resources. For the same reasons, it should be possible to pay the loan in installments subject to the achievement of set milestones and targets.

The Commission will have to evaluate the loan support request within two months. This evaluation takes into account the justification of the request and the amount of the loan, if they are reasonable and plausible. In addition, it is assessed whether the additional reforms and investments comply with the criteria specified in Art. 19 par. 3 of the RRF Regulation. On a proposal from the Commission, the Council should be able to adopt by qualified majority that assessment by an implementing decision which the Council should aim to adopt within four weeks of the adoption of that Commission proposal. In fact, according to Art. 15 par. 5 of the RRF Regulation, the member states that receive a loan open a special account for its management. In addition, they shall transfer the outstanding principal and interest from any other relevant loan to an account indicated by the Commission, 20 working days before the respective due date.

2. Recovery and Resiliency Plans of member states

In order to ensure that the financial aid will be used to strictly achieve the objectives of the recovery and resilience mechanism, in order to lay the foundations for a better future both socially and economically, the state members must submit a recovery and resilience plan to evaluation by the Commission, in order to approve the grant of aid. These plans should describe in detail and document, taking into account the measures included in it, the way in which an integrated and sufficiently balanced response to the

⁸¹ Art. 13 RRF Regulation.

⁸² RRF regulation recital (48).

economic and social situation of each MS is promoted, contributing appropriately to the six pillars, depending on the particular challenges it faces.

2.1 Design eligibility criteria

For the preparation of their national plans, the state members in principle take into account the nos. 3 and 4 of the RRF Regulation (see Art. 17 par. 1 of the RRF Regulation). In particular, the measures they seek to adopt should be in line with the scope of the mechanism, which is reflected in the EU's six pillars-policy areas, namely, green and digital transition, smart, sustainable and cohesive growth, territorial and social cohesion, health, economic, social and institutional resilience and finally policies for the next generation⁸³. In addition, the measures should be in accordance with the general and specific objective of the RRF, that is, on the one hand, the achievement of the recovery and resilience of the Union through the above six pillars, on the other hand, the provision of appropriate financial support for the implementation of investments and of the reforms along with their extension goals and milestones.

In addition, these plans should consider the current challenges and priorities, as identified in the context of the European Semester, but also in the most recent Council Recommendation on the economic policy of the euro area. The measures taken should also be in line with the national plans for energy and climate, the national plans for the establishment of the Just Transition Fund within the framework of the corresponding regulation No. 2021/1056, as well as with the plans to implement guarantees for young people and other operational programs for the funds of the Union (as provided for in Art. 17 par. 3 of the RRF Regulation). An additional criterion for the eligibility of recovery and resilience plans is compliance with the horizontal principles enshrined in Art. 5 of the regulation and specifically the harmonization with the principle of additionality⁸⁴ and the principle of not causing significant harm⁸⁵.

The finally eligible projects include a comprehensive and coherent package of measures for the implementation of reforms and public investments, which may also include public programs as long as they aim to mobilize private investments, providing incentives. In fact, any projects that include measures that have started since February 2020 can be eligible, as long as they meet all the above conditions and are deemed eligible during their evaluation.

According to Art. 18 par. 4 of the RRF Regulation, the national recovery and resilience plans must be properly justified and documented. To do this, they should, among other things, detail and explain how appropriate reforms and investments can be implemented to drive growth and build resilience, while serving all goals and milestones they set at an economic and social level. In more detail, it is required, among other things, to define in detail the set of measures, the impact and the contribution of the plan,

⁸³ As they have been more thoroughly analyzed in chapter 1.2.

⁸⁴ It is understood that financing through the RRF cannot replace regular expenses of the national budgets, except in fully justified cases, and that the said support is provided in addition to the support of other programs and instruments of the Union, as long as they do not cover the same expenses (Art. 5 par. 1 and Art. 9 of the RRF Regulation).

⁸⁵ See below in chapter 2.3, where it is analyzed extensively.

- on growth potential, job creation and economic, social and institutional resilience, including by promoting policies for children and youth, and mitigating the economic and social impact of the COVID-19 crisis, contributing to the implementation of the European pillar of social rights and thereby strengthening economic, social and territorial cohesion and convergence within the Union,
- on the green, digital transition and, particularly, to the predictions for biodiversity and the circular economy,
- on effectively dealing with country-specific challenges and priorities identified in the context of the European Semester,
- on gender equality and equal opportunities for all,
- on the implementation of reforms and investments that do not significantly harm the environmental objectives, and
- on preventing, detecting and dealing with conflicts of interest and cases of corruption and fraud.

In addition, the recovery and resilience plan may also include cross-border or multi-state projects. Finally, the arrangements for the effective monitoring and implementation of the submitted plan by each Member State should be listed, including the proposed milestones and targets, as well as the estimated total cost of the investments and reforms to be covered by the plan, accompanied by sufficient justification, while close cooperation between the Commission and the Member States throughout the process is crucial for the successful outcome of the programme.

2.2. Evaluation process of the plans by the Commission and decision of the Council for their approval

The Commission to assess the recovery and resilience plan proposed by each Member State, pursuant to Art. 19 of the RRF Regulation, should act in close cooperation with it and formulate observations or request additional information. It must fully respect the national ownership of the project, taking into consideration the justifications and evidence provided by the Member State concerned⁸⁶. For the successful completion of the assessment, the relevance, effectiveness, efficiency and coherence of the recovery and resilience plan proposed by the Member State are taken into account, based on the list of criteria as analyzed in the previous subsection, i.e. the contribution of the measures to the green and digital transition, in dealing with the challenges of the relevant MS, in not causing significant damage to the environmental objectives, in mitigating the socio-economic consequences of the pandemic crisis, etc. (see above under 2.3).

To draw up high-quality recovery and resilience plans and to help the Commission assess their degree of achievement, it is possible to use expert advice and, at the request of the MS concerned, peer advice and technical assistance. MS can also request support

⁸⁶ Evaluating the national plans is challenging, because they present data in very different structures. The number and definition of headline categories and the availability of summary information about sub-categories varies from country to country, (Darvas Zsolt, Domínguez-Jiménez Marta, Devins Ashling, Grzegorzczuk Monika, Guetta-Jeanrenaud Lionel, Hendry Surya, Hoffmann Mia, Lenaerts Klaas, Tzaras Alkiviadis, Vorsatz Victor, Weil Pauline, 2022).

under the technical support mechanism. MS should be encouraged to promote synergies with recovery and resilience plans of other MS. The evaluation of the proposed recovery and resilience plans and, where applicable, their updates, must be completed within two months of the formal submission of the submitted plans. The MS concerned and the Commission may agree to extend that deadline by a reasonable period of time, if necessary.

Provided that the recovery and resilience plan satisfactorily meets the assessment criteria, the maximum financial contribution is made available to the MS concerned when the estimated total cost of reforms and investments included in the recovery and resilience plan equals or exceeds the amount of maximum financial contribution. Instead, an amount equal to the estimated total cost of the recovery and resilience plan should be made available to the MS concerned where that estimated total cost is lower than the maximum financial contribution. However, no financial contribution should be granted to the MS if the recovery and resilience plan does not satisfactorily meet those criteria. The Council's implementing decision is amended, following a proposal from the Commission, to include the updated maximum financial contribution calculated on the basis of actual results in June 2022. The Council should adopt the relevant amending decision without undue delay.

Finally, according to the wording of Art. 23 of the RRF Regulation, following the executive decision of the Council for the approval of the plan, the Commission concludes an agreement with the respective MS, which constitutes an individual commitment⁸⁷. For each MS the legal commitment does not exceed the financial contribution, as specifically defined in Art. 11 of the same Regulation.

2.3 Evaluation of RRP based on the "do no significant harm" principle

As defined in principle in Recital Art. 23 of the RRF Regulation, the mechanism should support activities that fully respect the Union's climate and environmental standards and priorities and the principle of "doing no significant harm". Then the same vocabulary is registered in Art. 5 of the RRF Regulation, where it mentions the "horizontal principles", which apply without exception to every MS and institution that joins or serves this mechanism. The aim is to take care of each side, so that measures for reforms and investments aimed at the green transition, environmental protection and, by extension, climate neutrality, are included in the recovery and resilience plans, rejecting any measure that does not meet the conditions of said principle, but also to make every effort by the member states to implement this part of the plans. Thus, in order to ensure that the above will be carried out, it was deemed important to complete the RRF Regulation, special guidance that defines the parameters for the successful integration of the MS into the RRF and receiving the necessary financial support.

⁸⁷ According to recital (37) of Regulation 2018/1046, "legal commitment" is: the act by which the competent authorizing officer undertakes or establishes an obligation that results in a subsequent payment or payments and the recognition of an expense that burdens the budget, and which includes specific agreements and contracts concluded in the context of partnership financing agreements and framework contracts;

Therefore, in February 2022⁸⁸, a text of technical guidance was published by the Commission, for the implementation of the principle of not causing significant damage under the RRF Regulation. The principle in question is found for the first time in no. 2020/852 Taxonomy Regulation, Art. 17 and in this light should be interpreted⁸⁹. More specifically, according to the six environmental objectives covered by the classification regulation, this article defines an activity as it having a "significant burden", when it burdens:

1. the climate change mitigation, if it results in significant greenhouse gas emissions;
2. the adaptation to climate change, if it leads to an increased negative impact of actual and expected climate conditions on the activity itself or on people, natural resources or assets;
3. the sustainable use and protection of water and marine resources if it is detrimental to the welfare or to the good ecological potential of water bodies, including surface and groundwater, or for the good environmental status of marine waters;
4. the circular economy, including waste prevention and recycling, if the activity in question leads to significant inefficiencies in the use of materials or in the direct or indirect use of natural resources, or if it significantly increases production, the incineration or disposal of waste, or if the long-term disposal of waste is likely to cause significant and long-term damage to the environment;
5. the pollution prevention and control if it leads to a significant increase in emissions of pollutants into the atmosphere, water or soil;
6. the protection and restoration of biodiversity and ecosystems if it greatly affects the well-being and resilience of ecosystems or is burdensome to the conservation status of habitats and species, including those of Union interest.

MS must provide a non-significant harm assessment⁹⁰ for each measure of the recovery and resilience plans. According to the regulation establishing the RRF, no measure included in a recovery and resilience plan should entail a significant burden on the environmental objectives, and the Commission cannot positively assess the plan if even one measure does not comply with the principle of not causing significant harm. Therefore, the evaluation in question must be carried out at the level of measures⁹¹, regardless of the individual sector to which they belong, thus including those that contribute to the green transition but also those that are included in the remaining pillars defined by the RRF Regulation.

The assessment of non-significant harm must be carried out for both investments and reforms. There are, however, some categories of economic activities that have a double effect, as the reforms for them, depending on their design, may contribute to a large extent to the green transition, but may also carry the risk of a significant burden on environmental objectives (e.g. an increase in indirect subsidies for fossil fuels may be assessed as inhibiting climate change and pollution control objectives). The purpose of this strategic evaluation is to check the reforms in terms of their compatibility with the DNSH principle, while encouraging the adoption of the necessary reforms in the

⁸⁸ Technical guidance on the application of “do no significant harm” under the Recovery and Resilience Facility Regulation, European Commission (2021/C 58/01) , 2021.

⁸⁹ Gortsos Christos, 2020 p. 18.

⁹⁰ European Commission (2021/C 58/01) , 2021.

⁹¹ According to the technical guidelines of the Commission, measures within the framework of the RRF Regulation are interventions that constitute an economic activity or that may bring about changes in an economic activity.

national recovery and resilience plans, especially for sectors of activity that can contribute greatly to the recovery and the achievement of the environmental objectives of the mechanism (such as the industrial or energy sectors). More broadly, for measures that do not have or have a negligible impact on all or some of the six environmental objectives set by Art. 17 of the Taxonomy Regulation, a simplified assessment procedure is applied for MS. In particular, the latter should provide a brief justification for the objectives not affected and focus the main part of the evaluation to those of them who may be significantly affected^{92 93}.

Measures included in recovery and resilience plans must comply with relevant EU legislation, including environmental legislation. However, although compliance with existing EU legislation is a strong indication that the measure does not cause environmental burden, it does not automatically mean that it complies with the principle of no significant harm, in particular as some objectives included in Article 17 have not yet been fully incorporated in EU environmental legislation.

In order to properly assess⁹⁴ the non-causing of significant harm, the assessment of the environmental dimensions and the sustainability check for each measure should be considered. Although these criteria alone cannot lead to the final judgment, they are nevertheless a strong indication of the absence of significant damage to the environmental objectives. Therefore, if a Member State has carried out an Environmental Impact Assessment (EIA) in accordance with Directive 2011/92/EU⁹⁵, a Strategic Environmental Assessment (SEA) in accordance with the Directive 2001/42/EC, or in auditing sustainability and building resilience to climate change, as set out in the Commission's guidelines on sustainability auditing under the InvestEU⁹⁶ Regulation, for a measure it seeks to include in its national recovery and resilience plan, will contribute positively to context of the assessment as to not causing significant harm.

In addition, the direct and primary indirect effects of a measure are an appropriate criterion for this evaluation⁹⁷. Direct impacts arise at the time of project implementation and may reflect project-level or system-level impacts of the measure. Primary indirect effects may reflect effects arising outside the projects or systems in question and may appear after the implementation of the measure or beyond the timeframe of the Recovery and Resilience Facility, which, of course, are reasonably foreseeable and relevant. An additional criterion for the evaluation is the life cycle of the activity, which promotes the respective measure. More specifically, the production, use and end-of-life phases must be taken into account.

⁹² One of the examples mentioned in the Commission's guidelines is the possible reform of the social protection of the self-employed, which will have no or negligible impact on all six objectives.

⁹³ European Commission (2021/C 58/01), 2021.

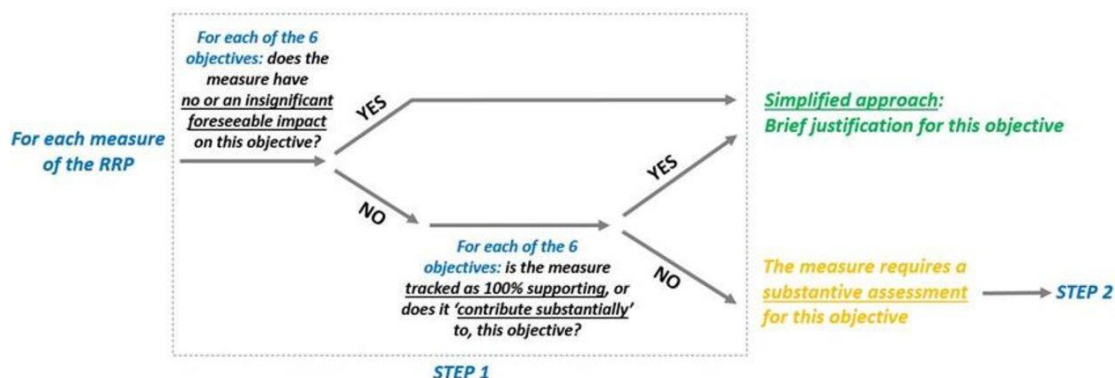
⁹⁴ European Commission (2021/C 58/01), 2021.

⁹⁵ Environmental impact assessment is a process that ensures that the environmental consequences of projects are taken into account before decisions are made. Environmental assessments can be carried out for individual projects, such as a dam, motorway, airport or factory, under Directive 2011/92/EU or for public plans or programs under Directive 2001/42/EC.

⁹⁶ Technical guidance on sustainability proofing for the InvestEU Fund, European Commission (2021/C 280/01), 2021.

⁹⁷ European Commission (2021/C 58/01), 2021.

In cases where for the implementation of a measure, there are more possible economic activities, the solution with the lowest possible impact on the environmental objectives should be chosen. An issue arises when an economically feasible solution or suitable technology has not yet been developed to find an alternative with a low environmental impact. The assessment will then be made, in comparison with the best available levels of environmental performance in the respective sector, provided that the chosen activity leads to significantly better environmental performance than the available alternatives.



Decision Tree Diagram

Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC0218%2801%29>

2.4 Disbursement of amounts in installments - the role of "conditionality"

For the purposes of sound financial management and respecting the performance-based nature of the mechanism, specific rules are laid down for financial commitments, payments, suspension and recovery of funds, as well as for the termination of contracts related to financial support. To ensure predictability, MS should be able to submit duly justified payment requests twice a year (Art. 24 par. 2 of the RRF Regulation). In the evaluation decision submitted by the Commission to the Council, it must state the arrangements and the implementation monitoring schedule, the relevant indicators of the fulfillment of the proposed milestones and objectives (both regarding the non-repayable financing and the loan component) as they have approved according to Art. 20 of the RRF Regulation, as well as the arrangements for granting the Commission access to the necessary documentation data of all the above.

Payments are made in installments, after the MS has satisfactorily fulfilled the relevant milestones and objectives, according to the defined implementation monitoring schedule, which has been determined and is based on a positive evaluation by the Commission, while they must be completed by 31st December 2026. In order to obtain the aforementioned positive assessment for the release of the funds⁹⁸, the MS shall take appropriate measures to ensure that the use of funds in relation to measures supported by the Facility complies with applicable Union and national law. In particular, to focus on preventing, detecting and dealing with cases of fraud, corruption and conflict of interest and avoiding double funding from the mechanism and other Union programs.

⁹⁸ In fact, according to Art. 20 par. 4, if the Commission reaches a positive preliminary assessment regarding the satisfactory fulfillment of relevant milestones and objectives, it submits its findings to the economic and fiscal committee to take into account its opinion regarding the satisfactory fulfillment of the above.

Therefore, the role of conditionality is particularly important, since it constitutes the access ticket of each MS to the gradual release of funds to be able to finance and implement the desired reforms and investments, being within the financial planning and achieving long-term growth, prosperity and resilience. In other words, there should be excessive consistency on the part of the competent authorities of the MS in order not to miss the deadlines and targets agreed in the operational agreements and loan agreements with the Commission.

However, if the recovery and resilience plan is not implemented satisfactorily by the MS, or if serious irregularities occur (e.g. fraud, corruption, conflict of interest regarding the measures for the implementation of the plan), or a serious breach of obligation arising from the agreements for financial support, it is possible to suspend or even terminate⁹⁹ contracts related to said support, but also to reduce and recover funding (Art. 24 of the RRF Regulation). Recovery should, if possible, be ensured by offsetting against outstanding disbursements under the Facility. The relevant committee may submit its observations within one month of notification of the Commission's decision on the above (Art. 24 par. 6 of the RRF Regulation). A condition for lifting the suspension is for the MS to take satisfactory measures to ensure satisfactory fulfillment of the agreed milestones and objectives, as stated in the executive decision of the Council.

The payment deadline starts from the date of notification of the approval decision for the disbursement for each MS separately, or in case there was a previous suspension, from the date of notification of the decision to lift the suspension (Art. 24 par. 7 of the RRF Regulation). Therefore, within the framework of the RRF, the payment of financial contribution installments does not fall within the scope of application Art. 116 par. 2 of the financial regulation.



Source: https://economy-finance.ec.europa.eu/eueconomyexplained/recovery-and-resilience-facility_en

⁹⁹ In particular, based on Art. 24 par. 9, if no tangible progress is made on any of the milestones within 18 months from the date of approval of the Council's implementing decision, the Commission shall terminate the contracts.

The above image summarizes the steps that must be taken in order for the MS to gain access to the financing of the RRF funds.

2.5 Coordination, Monitoring and Evaluation of RRP Progress

The concerned MS and the Commission must promote synergies and ensure effective coordination between the mechanism and the other programs of the Union, including any means of technical support, but also those measures financed by the funds of the Union. Thus, it is considered appropriate to observe coherence, complementarity, coordination and consistency, during the planning and implementation of the various instruments at the EU and national level, especially with regard to measures financed by the EU¹⁰⁰. It is also necessary to achieve close cooperation between the competent principles for implementation, control at Union and national level to achieve the objectives of the Recovery and Resilience Facility (Art. 28 of the RRF Regulation)¹⁰¹.

In order to carry out the aforementioned cooperation more effectively and to monitor the achievement of the objectives set by the RRF¹⁰², the Commission is assigned the task of issuing delegated acts in accordance with Art. 290 of the TFEU and the particulars contained in Art. 33 of the RRF Regulation. This authorization begins in February 2021 and has an indefinite duration. It may, however, be revoked at any time by a decision of the European Parliament or the Council and shall enter into force on the day following its publication in the Official Journal of the EU or at a later date, as provided in the decision. The revocable act does not affect the validity of delegated acts that have already entered into force. Delegated acts issued by the Commission must first be notified simultaneously to the European Parliament and the Council.

In fact, for their drafting, the Commission conducts consultations with experts appointed by the MS. In particular, according to the provisions of Art. 29 of the RRF Regulation, the Commission must monitor the implementation of the objectives of the mechanism and the measures taken for it. Thus, the Commission's performance reporting system ensures that data for monitoring the implementation of activities and results are collected in an efficient, effective and timely manner.

In particular, according to the provisions of Art. 29 of the RRF Regulation, the Commission must monitor the implementation of the objectives of the mechanism and the measures taken for it. Thus, the Commission's performance reporting system ensures that data for monitoring the implementation of activities and results are collected in an efficient, effective and timely manner. To this end, proportionate reporting requirements are imposed on recipients of Union funding. The Commission shall then submit a report on the expenditure financed by the Facility under each of the

¹⁰⁰ At this point, should be mentioned the crucial role of The Recovery and Resilience Task Force (RECOVER), which was established on 16 August 2020 within the European Commission's Secretariat-General and is responsible for steering the implementation of the RRF and for coordinating the European Semester, in close cooperation with the Commission's Directorate-General for Economic and Financial Affairs. RECOVER reports to Commission's President (EU Funding Review, 2020).

¹⁰¹ At EU level it is Commission's part to act as the "playmaker" of every RRP (Corti Francesco, Ferrer Jorge Núñez p. 6, 2021).

¹⁰² European Commission, 2020.

intended pillars, with a breakdown of the estimated expenditure provided to the approved RRP.

In order to achieve the best results in terms of the drafting of progress reports, the Commission is authorized to complete the RRF Regulation, to define common indicators used in the submission of reports, monitoring and evaluation of the RRF, in terms of the achievement of the specific and general goals. Complementary authorization also has in determining the methodology for reporting on social costs, including for children and young people.

Additionally, it is drawn up by the Commission, in accordance with the procedure Art. 30 of the RRF Regulation, a table of results for recovery and resilience, in order to identify the progress of the implementation of the RRP that have been approved for each MS, in relation to the six target pillars. This table shall be implemented in December 2021 and shall be updated by the Commission twice a year and shall be published on a website or portal. In order to define the detailed elements of the scoreboard and, by extension, the optimal display of progress, the Committee is given the authority to supplement the RRF Regulation, according to the particulars contained in Art. 33 of the above regulation.

An additional safeguard for monitoring the implementation of the innovative recovery and resilience mechanism is the obligation to submit annual reports from the Commission to the European Parliament and the Council. This report should include information on the progress made by the RRP of the MS against agreed targets and milestones and the status of disbursements of allocated funds and their suspensions.

The reports must also include information on the mechanism's contribution to the climate and digital transition objectives, its performance based on the common indicators determined by the Commission pursuant to Art. 29 par. 4 of the RRF Regulation and the expenses financed by the mechanism regarding the six pillars and the related social expenses.

The last stage of the evaluation of the RRF by the Commission are the two independent evaluation reports provided for in Art. 32 of the RRF Regulation. Specifically, one must be submitted by February 2024 to the European Parliament, the European Economic and Social Committee and the Committee of the Regions to oversee the achievement of objectives and the efficient use of resources with European added value¹⁰³. The second, which is an ex-post evaluation, must be submitted by December 2028 and includes information on the long-term impact of the Facility.

¹⁰³ If deemed appropriate, the evaluation is accompanied by a proposal to amend the regulation (Art. 32 par. 3 of the RRF Regulation).

Excursus II

Troubling cases of member state plans and the application of conditionality as a response to the respect of the rule of law

With the establishment of the RRF, all the concerned MS hastened to initiate the necessary procedures in order to draw up their national recovery and resilience plans, to look for the eligible investments that will frame the goals and aspirations of said plans, as well as to organize their strategy in the most appropriate way possible, so as to lead to long-term and durable socio-economic development. The fastest possible completion of the project approval process was a key concern of all stakeholders, so that the first tranche of funding could be immediately released and the respective reform and investment plan could be implemented, while also mobilizing private capital for investment.

The majority of MS submitted the plans within the first half of 2021, while receiving a response before the end of the same year. Most plans were in line with the principles and objectives of the Union from the outset, setting the bar high and adopting quite ambitious solutions to achieve their milestones and objectives¹⁰⁴. The main criterion was the two fundamental pillars, the green and digital transition with the minimum percentages of the financial support that were determined in the RRF Regulation¹⁰⁵. Ultimately 26 recovery and resilience plans were submitted, with the exception of the Netherlands which did not submit a plan for evaluation to apply for participation in the RRF.

The example of the German plan¹⁰⁶ is typical, devoting 52% of the aid totaling 25.6 billion Euros to its digital reorganization (whereas the minimum limit set by the RRF Regulation is 20%). An additional characteristic example of an ambitious plan is the one submitted by Luxembourg¹⁰⁷, with the goal of a green and environmental transition of 61% from a total aid amounting to 93 million Euros. A similar approach is followed by Finland's plan¹⁰⁸, which aims to be carbon-neutral by 2035, with a total financial support of 2.1 billion Euros (50% of which is used for the green transition).

It is worth mentioning the case of Bulgaria, which submitted the first plan on October 15, 2021 for an aid amounting to 6.3 billion Euros, but did not receive a positive evaluation from the Commission, because it did not meet the minimum conditions to receive the aid, especially with regard to biodiversity targets (of strategic importance to the mechanism, protecting the environment and at the same time complying with the Green Deal). It took almost a year of negotiations and amendments to the plan for the two sides to come to an agreement, with the final positive approval from the Council coming in May 2022. The final plan uses 58.9% of the aid for the green transition,

¹⁰⁴ However, the political environment of each state must also be taken into account as the implementation of the plans and the achievement of the milestones and targets also depends on the policy implemented by the government in question (Economist, 2022).

¹⁰⁵ Darvas Zsolt, Domínguez-Jiménez Marta, Devins Ashling, Grzegorzczuk Monika, Guetta-Jeanrenaud Lionel, Hendry Surya, Hoffmann Mia, Lenaerts Klaas, Tzaras Alkiviadis, Vorsatz Victor, Weil Pauline, 2022.

¹⁰⁶ European Commission, 2021 (e).

¹⁰⁷ European Commission, 2021.

¹⁰⁸ European Commission, 2021 (a).

adopting after concessions many energy efficiency measures, including on state energy management, establishing a 40% reduction in greenhouse gases by 2025 compared to at their 2019 levels, the completion of electricity market liberalization and the closure of coal-fired power stations by 2038¹⁰⁹.

However, the cases of Poland and Hungary were special, requiring special handling and court rulings to resolve them and prevent similar incidents from happening again in the future. In more detail, both of these states have often troubled the European institutions in the past¹¹⁰, due to non-respect of the fundamental principles of the Union and in particular the continuous violation of the principle of the rule of law¹¹¹. On the one hand, Poland¹¹² since 2015 had introduced reforms to the judicial system, undermining its independence, since disciplinary investigations of judges were allowed due to the content of the decisions they made, while a special body was established by the government to impose sanctions on judges, among other things for the content of their decisions. The independence of the judiciary is embedded in the rule of law and is therefore considered a violation of the fundamental values of the EU. On the other hand, Hungary^{113 114}, in addition to issues of independence in its judicial system, creates issues of conflict of interest and systemic corruption (OLAF, the anti-corruption agency of EU fraud, has placed this country at the top of the list of irregularities involving EU funds, with the overpricing of public works).

The European Commission has tried to discipline Poland by withholding the EU's recovery plan, including 36 billion Euros in grants. The EU's efforts to stop Poland's behavior have also been supported by the new earmarking mechanism, as enshrined in Regulation 2020/2092, by which it can withhold resources from member states that do not honor their commitments to the EU¹¹⁵ in order to protect its budget and ensuring its effective exercise¹¹⁶.

Subsequently, Poland and Hungary appealed to the ECJ against Regulation 2020/2092 under which they were sanctioned and argued (1) that the violation of the value of the Rule of Law when combining the provisions of Articles 2 and 7 TEU must be judged, according to their narrow interpretation, directly, independently and not indirectly, so in terms of their general operation and behavior as EU Member States and (2) that the challenged Regulation 2020/2092 suffers from violation of European law in substance because (a) it lacks a sufficient legal basis, given that Art. 7 TEU must be applied in combination with Art. 2 TEU, as it was issued in excess of the competences of the

¹⁰⁹ Rakovska Katerina, Todorov Todor, 2021.

¹¹⁰ Pech Laurent, Scheppele Kim Lane, 2017-last revised 2020.

¹¹¹ According to Art. 2 of Regulation under art. 2020/2092 as "rule of law" means the value of the Union enshrined in Article 2 TEU. It includes the principles of legality, which implies a transparent, accountable, democratic and pluralistic legislative process; legal certainty; prohibition of the arbitrary exercise of executive powers; effective judicial protection, including access to justice, by independent and impartial courts, and in respect of fundamental rights; separation of powers; non-discrimination and equality before the law. The rule of law is understood in relation to the other values and principles of the Union which are enshrined in Article 2 TEU, (Regulation No. 2020/2092, on a general regime of conditionality for the protection of the Union budget).

¹¹² Pech Laurent, Kochenov Dimitry, p. 34, 2021.

¹¹³ Zsiros Sandor, Liboreiro Jorge, 2022.

¹¹⁴ Liboreiro Jorge, 2022.

¹¹⁵ Novakova Barbora, 2022.

¹¹⁶ Baczynska Gabriela, 2022.

European Union, as determined by the relevant provisions of the TEU and the TFEU, interpreted and applied in particular in the spirit of the provisions of Article 5 of the TEU, which establish the rule of "granting competence" and because (b) was issued in violation of the principle of legal certainty, which is the foundation of the rule of law and of the entire EU legal order¹¹⁷.

As a result, the ECJ issued judgments Nos. C-156/21 (on Hungary's appeal) and C-157/21 (on Poland's appeal) which are particularly important as they raise and resolve questions of interpretation of fundamental provisions of primary European Law, with which the rule of law regime is established and organized normatively for the entire European legal order, leading at the same time to a section towards European integration. The ECJ rejected the appeals, resorting to a teleological, systematic and historical interpretation of nos. 2, 7 TEU, 310 par. 4 and 5, 317 and 322 par. 1 TFEU to document the legal basis of the regulation in question. Among other things, the Court argued that the principles enshrined in Art. 2 TEU and include the rule of law and the principle of solidarity, establishing the principle of mutual trust between member states, they need to be respected not only when a state enters the EU but also throughout the time it remains a member, so that the Union to be able, within the limits of its powers, to defend and guarantee full compliance with its values.

In addition, the ECJ documented that, apart from the mechanism of Article 7 of the TEU, the European Union, through its competent bodies as the case may be, has the ability to issue, under the authority of the provisions of primary European Law, regulatory acts and establish arrangements for the full respect of the values of article 2 of the TEU in individual fields of its activity in terms of its relations with each of the MS. Thus, in this way of directly and indirectly ensuring the full respect of all the values enshrined in Article 2 TEU, legal certainty itself is shielded within the limits of the EU legal order¹¹⁸. Subsequently, the Art. 310 par. 4.5 and 317 TFEU provide for the principle of financial management, a key aspect of the Union's budget, subsequently ensuring both the financial interests of the EU and each individual Member State. This principle is equally based on mutual trust for the responsible use and distribution of common budgeted resources. By extension, it follows that any violation of the principle of sound fiscal management constitutes a violation of the rule of law.

Therefore, the ECJ concluded that the mechanism of arbitrariness is part of the framework of dealing with violations or threats against all the aforementioned fundamental principles of the Union and the safeguarding of its economic interests, being in line with the principle of proportionality between the punitive instrument used and the intended by its purpose. In order to support the validity of the mechanism of resiliency and the observance of legal certainty, the ECJ also cited that the observance of the necessary procedural guarantees and consultations with the respective involved parties on the part of the Commission is foreseen¹¹⁹.

Poland's recovery and resilience plan was approved more than a year after its submission and was specifically assessed positively on 1 June 2022 (submitted 03/05/2021), while at the time of writing there was no progress on the approval of the

¹¹⁷ Pavlopoulos Prokopis, 2022.

¹¹⁸ Pavlopoulos Prokopis, 2022.

¹¹⁹ Pavlopoulos Prokopis, 2022.

Hungarian design¹²⁰. The EU, thus, gave a resounding message that the violations of its basic principles by the MS will not be accepted and in order to defend them, it has prevention and suppression mechanisms in its quiver, excluding the violators from the funding attributed to them from its budget or even by imposing fines. The relevant decisions of the ECJ constitute an additional step to support and protect the EU legal order, promoting and demanding the respect of the EU rule of law by all members of the Union.

Excursus III

Possibility to modify the RRP under REPowerEU

As has already been explained up to this point, for the proper implementation of the Recovery and Resilience Mechanism, the MS are required to follow the procedure foreseen in the respective regulation for the preparation of their national RRP, which will outline the strategy for the use of the financial assistance they are to receive. These plans, with some exceptions, have already been submitted, approved and implemented with the disbursement of the first tranches. However, in order to bring this mechanism into line with geopolitical developments and to compensate for the devastating consequences of the war in Ukraine, the Member States have been given the opportunity to amend their national plans under the new EU REPowerEU plan. As stated in the first annex to this study, this plan is the result of the Union's immediate response to the energy crisis caused by Russia's violent and aggressive strategy, and highlights the rapid development of instruments for the transition to clean energy and the creation of a more resilient energy system, paving the way for a true Energy Union¹²¹.

As a result, the Commission issued a guidance document on RRP under REPowerEU (2022/c 214/01, 31-05-2022 Official Journal of EU)¹²², according to which countries have to follow a specific procedure in order to amend their national RRP and request additional financial support. In particular, at the stage of the reassessment of the recovery plans in accordance with the procedure under Art. 18 par. 2 of the RRF Regulation for 30% of the amount of non-reimbursable funding, if the funding limit is increased, they are encouraged to use the additional amount for adopting investments and reforms in line with the objectives of the new Union plan. However, even in the event that the residual financing ceiling is reduced during the reassessment, MS will still be able to request a loan under the RRF to promote urgent energy objectives. Conditions for such a loan support request are:

- Documentation of increased financial needs,
- The provision of a list of additional reforms and investments, with the objectives and milestones to be achieved and
- The cost estimate for the revised RRP.

¹²⁰ European Commission Press Release, 2021.

¹²¹ European Commission-Press release, 2022.

¹²² European Commission (2022/C 214/01), 2022.

The increased financial needs may be the result of new reforms and investments introduced in the RRP by the MS, or of the reduction of the financial assistance ceiling as mentioned above.

Subsequently, the revised RRP, should contain a specific chapter on REPowerEU, indicating the new reform and investment measures with all the necessary information on how they contribute to the achievement of the energy targets, accompanied by a set of milestones and targets. The appropriateness of the measures should be confirmed by the content of the country-specific recommendations that they are invited to adopt in the context of the European Semester 2022. Additional funding for measures that were already included in the RRP before its modification can only be provided if they are considered 'new' due to their substantial contribution to energy savings and reduction of fossil fuel consumption. To be eligible to fund measures already existing in the RRP, MS are required to describe 'how' they will further the purpose of REPowerEU, including a list of the proposed measures together with a brief explanation of their contribution. Finally, the new chapter added to the RRP should include all measures that are funded from other sources at national or even EU level, other than the RRF funding granted, but which contribute to the REPowerEU plan objectives.

The detailed description of the measures must necessarily be complemented by an explanation of how the combination of all the measures included in the specific chapter is relevant, effective and proportionate to the achievement of the objectives of the REPowerEU. As regards relevance, the Member States should start their justification by presenting the measures already included in the plan in comparison with those added in the new specific chapter for the gaps that the latter fill at national and/or EU level which the former measures do not fill. As regards the criterion of effectiveness, the 'why' and 'how' the measures chosen are appropriate for the above energy objectives must be justified. Finally, in order to provide a satisfactory proportionality argument, Member States should describe how the measures included in the REPowerEU chapter are proportionate to what is necessary to achieve its objectives, and how the balancing of legitimate interests supports these measures.

Prior to the submission of the revised RRP, the MS should have initiated and maintained for the purpose of the amendment an informal dialogue with the Commission, informing it of its objectives and strategy for the adoption of the REPowerEU-related measures.

The filing shall be followed by the assessment procedure of the revised RRP and in particular the chapter on REPowerEU. For this purpose, Art. 21 para. 4 (c) of the RRF Regulation and all reforms and investments adopted in this specific chapter and financed by the RRFund constitute an integral part of the RRP, fulfilling all the conditions of Art. 18 and the evaluation criteria of Art. 19 of the RRF Regulation. A special exemption regime, however, applies during the evaluation for the obligation to contribute with a minimum of 20% to the digital switchover, but MS are invited to pursue digital investments to achieve the REPowerEU objectives.

In addition, reforms and investments included in REPowerEU funds and financed under the RRF will be assessed against an additional evaluation criterion, set out in Annex V, section 2.12 of the proposed amendment to the RRF Regulation, concerning their

effective contribution to the objectives of REPowerEU. This criterion can be considered to be met if the measures meet one of these objectives:

- improving energy infrastructure and facilities to meet immediate security of oil and gas supply needs, in particular to allow for diversification of supply in the interest of the Union as a whole,
- enhancing the energy efficiency of buildings, de-carbonizing industry, increasing the production and increasing the consumption of sustainable biomethane and renewable or non-fossil hydrogen and increasing the share of renewable energy sources,
- addressing internal and cross-border bottlenecks in energy transport, in particular by building connections with other MS, or supporting zero-emission transport and infrastructure, including railways,
- support the above objectives through faster retraining of the workforce. towards green skills, as well as supporting value chains in key materials and technologies linked to the green transition; and
- the complementarity and significant contribution of the reforms and investments included in the REPowerEU chapter (Article 21c (1)), together with the other measures described (21c(2)(a) and (b)), to achieving the diversification of the Union's energy supply or reducing dependence on fossil fuels before 2030.

Indeed, the countries will have to demonstrate that investment and reforms will deliver the REPowerEU targets, by measuring:

Reducing imports of fossil fuels from Russia,

- For gas imports, estimating the reduction in billions of cubic meters saved by Russia with equivalent measures,
- The estimated reduction in energy consumption,
- The modernization of the network infrastructure towards decentralization, market integration or enhancing security of supply.

The REPowerEU chapter should include a table indicating the nature of each measure (e.g. new or modified measure, existing RRP measures, measures financed from other sources), the expected impact on the reduction of gas imports from Russia, expressed in billions of cubic meters meters.

Finally, measures to improve energy infrastructure and facilities to meet the immediate needs of security of oil and gas supply, in particular to allow for diversification of supply in the interest of the Union as a whole, will not need to comply with the DNSH principle. This concerns in particular investments in gas and oil capacities that are critical to ensure a very rapid reduction of dependence on Russian suppliers. This derogation concerns measures that are necessary to guarantee short-term security of supply and should not hamper overall progress towards the 2050 climate targets, taking into account national energy and climate plans.

Section C: The role of Greek Credit Institutions in the context of the implementation of the national RRP

1. National legal framework for the implementation of the RRF

1.1 General information on Greece's participation in the RRF

In the framework of the RRF Regulation, the Ministry of Finance submitted on 28.04.2021 to the European Commission the National Recovery and Resilience Plan "Greece 2.0"¹²³. The plan in question was approved with no. 10152/21 Executive Decision of the European Council. It was then signed and ratified with Art. 2 of Law 4822/2021 (A'135) the Funding Agreement between the European Union, represented by the European Commission and the Hellenic Republic, represented by the Minister of Finance, in accordance with the RRF Regulation, which established the Recovery and Resilience Fund (art. 1), as well as the Loan Agreement between the European Commission as the representative of the European Union and the Minister of Finance as the representative of the Hellenic Republic.

The National Recovery and Resilience Plan, "Greece 2.0", regarding the improvement of competitiveness and promotion of private investment and exports, includes as a particularly important investment to strengthen the country's competitiveness, create the framework and provide loans for private investment financing¹²⁴. Greece is entitled to draw from the Recovery and Resilience Facility a total of 30.5 billion Euros during the period 2021-2026, of which 17.8 billion Euros concern non-refundable grants while 12.7 billion Euros concern loans, in accordance with the provisions in article 3 of Executive Decision 10152/21 of the European Council¹²⁵. Through the National Recovery and Resilience Plan, Greece intends to utilize all of these funds, especially the loan funds, in order to promote and finance business proposals that will be directed to investments that fall under the following five thematic axes: a) digital transformation, b) green transition, c) extroversion, d) development of economies of scale through partnerships, acquisitions and mergers, e) innovation - research and development, as specified in the decision of the Deputy Minister of Finance (B' 4521) under items 1205352EΞ021/30.09.2021). The aforementioned investments concern private initiatives co-financed with the investors' equity and loans granted, among others, by credit institutions and International Financial Organizations.

1.2 Law 4822/2021 for the sanction of loan agreement of the Greek State with the European Commission

According to this law (as amended by Law 4820/2021) the establishment of the appropriate organizational framework for the effective utilization of the resources of

¹²³ Greece 2.0-gov.gr, 2021.

¹²⁴ Velesioti Aggeliki, 2022.

¹²⁵ The disbursement of the first tranche of €3.96 billion took place on 8 April 2022, following a positive preliminary assessment by the Commission on 28 February of the same year on the fulfilment of the required milestones and targets. Greece thus received 13% of the total RRF funds allocated to it. The second tranche is expected to be released subject to a positive assessment by the Commission by the end of 2022 (naftemporiki.gr, 2022).

the “Next Generation EU” European Recovery Mechanism and the Recovery & Resilience Facility was provided in Art. 270. An independent Special Recovery Fund Coordination Service was also established under the Minister of Finance for the purpose of coordinating the drafting of the National Recovery Plan, as well as monitoring and coordinating the implementation of the programs and projects that will be financed from the resources of the Fund that will be allocated to Hellas. This service (art. 271) aims at:

- coordinating the drafting of the National Recovery Plan, which will be submitted for approval to the institutions of the European Union,
- monitoring and coordinating the implementation of the programs and projects that will be financed with the resources of the Recovery Fund and allocated to Greece.

In addition, the Special Service of the Recovery Fund is also responsible for the coordination and monitoring of the concluded financial contribution and loan agreements, as the case may be, with the European Commission signed by the Minister of Finance and the Minister responsible for the Special Service of Coordination of the Recovery Fund, according to the provisions in articles 14, 15 and 23 of the RRF Regulation. This special service consists of:

- The Directorate of Program and Project Support, with the main responsibility of preparing and monitoring the implementation processes of the programs and projects of the National Plan, the support of the competent ministries and other public bodies and the simplification, facilitation and acceleration of the relevant procedures,
- The Directorate of Reports and Reports, responsible for the drafting of reports and reports related to the implementation of the milestones and objectives of the Recovery Fund to the national and European institutions,
- The Directorate of Administrative Support, responsible for planning and supporting the implementation of the financial and administrative procedures required for the operation of the Special Service, including its electronic and technological support.

The nos. 272 et seq. determine the organizational, structural and administrative details for the service in question.

Finally, the possibility of providing technical assistance to the Special Service for the Coordination of the Recovery Fund (S.S.C.R.F.) of the Ministry of Finance, as well as to the implementing bodies of the RRP projects and the Ministries that supervise the implementation of the above projects is foreseen (Art. 280A). The aforementioned Special Service is considered necessary in order to ensure the smooth development of the implementation of the national RRP and the full utilization of the financial aid, in order to lay the foundations for the desired development leap in the Greek economy, facilitating at the same time the work of credit institutions and coordinating the obligations they undertake within the framework of the RRF.

1.3 Law 4820/2022 on the implementation of an open invitation to the interested credit institutions for expression of interest in cooperation with the RRFund

Subsequently, Law 4820/2021 was issued for the further specialization and provision of necessary regulations and services of the RRFund. Among other things, a Financial

Control Committee was established for the funds of the RRF, the possibility of covering operational expenses, the costs of moving auditors for on-site audits and others from the mechanism's Technical Assistance, the specialization of eligibility assessment criteria, the management of the accumulation of aid, as well as the procedure for a faster pre-contractual audit by the Court of Auditors, for any contract that is in doubt and is to be financed by RRFund funds. In this section, special mention needs to be made of the possibility of concluding a contractual relationship of the Greek State with eligible credit institutions for the immediate processing of investment financing, through cooperation with interested investors.

According to Art. 197 par. 1 (b) of Law 4820/2021, in order to make possible the financing of companies that will undertake the implementation of investments through the resources of the RRFund, the Greek State may enter into contracts with credit institutions or European financial institutions that meet the terms and conditions as defined in the public open invitations, with the decisions Art. 439 and 440-30/09/2021 of the Recovery Fund Coordination Department which is part of the Ministry of Finance. So far, the cooperating credit institutions that accepted the public proposal and met the corresponding conditions are the four systemic banks of the country, Eurobank¹²⁶, Alpha Bank¹²⁷, Piraeus Bank¹²⁸, National Bank of Greece¹²⁹, as well as Pancreta Bank¹³⁰ with Optima Bank^{131, 132}. The European Investment Bank¹³³ and the European Bank for Reconstruction and Development have also accepted this invitation. The possibility of submitting applications from other credit institutions also remains open until the resources of the national RRFund are exhausted, while disbursements for the implementation of investments must be completed by the end of August 2026¹³⁴.

As defined in par. 2 of Art. 197 Law 4820/2021, for the effective implementation of the national plan, "Greece 2.0", the process of allocating the necessary funds to European financial institutions and credit institutions, the opening and the conditions for meeting the necessary bank accounts for the movement of the above funds. It is equally necessary to determine every necessary order, authorization or power of attorney, to make it possible to carry out withdrawals, deposits, debits, credits as well as transfers to and from the aforementioned special bank accounts. Another issue that needs to be clarified is the way of checking with the respective eligibility criteria of an investment plan submitted to a credit institution cooperating with the RRFund and by extension the terms and conditions of the process of granting loans to companies that are characterized as eligible recipients. The organization, negotiation, preparation and entry into force of each loan or security agreement may be entered into in the name and/or on behalf of the Greek State, and that is why further specialization of the procedure and terms of his representation is required in this respect. In this article, special mention is made of the need to define the procedure, conditions and criteria for assignment to the

¹²⁶ Eurobank, 2021.

¹²⁷ Alpha Bank, 2021.

¹²⁸ Pireus Bank, 2021.

¹²⁹ National Bank of Greece, 2022.

¹³⁰ Pancreta Bank, 2021.

¹³¹ Optima Bank, 2021.

¹³² Stergiou Leonidas, 2021.

¹³³ European Investment Bank, 2021.

¹³⁴ OT-Inside Stories, 2021.

competent evaluators¹³⁵ as well as the responsibilities of the Investment Council. All of the above are validly regulated through ministerial decisions of the Minister responsible for the Special Coordination Service of the Recovery Fund, issued after a relevant recommendation of the Service. By the same decision, European financial institutions may be excluded from the process of assigning evaluators, in particular the European Investment Bank and the European Bank for Reconstruction and Development.

In addition, with the aim of ensuring the correct distribution and use of the fund's resources, it is provided in Art. 197 par. 1 period b' the establishment of an Investment Council, a decision of the Minister responsible for the Special Coordination Service of the Recovery Fund. The Investment Council is responsible for monitoring the conclusion and execution of loan agreements and, in general, the obligations of credit institutions, European financial institutions and all other institutions operating within the framework of the national RRFund. All types of loans granted with the resources of the Recovery and Resilience Fund in accordance with paragraphs 1 and 2 hereof are exempt from the contribution of paragraph 3 of article 1 of Law 128/1975 (A' 178), as applicable from time to time.

1.4 Specification of the necessary measures for the correct implementation of the national RRP

All the above-mentioned regulations essentially laid the foundations to flexibly foresee and specify the specific measures for the smooth operation of the new recovery mechanism. In order to achieve the above, a series of additional measures are required that concern the RRFund and further specify the responsibilities of the established services and agencies, as well as the appropriate way of coordinating them, in order to ensure the defense of the five branches of reforms, preventing any abuse of the resources provided. Thus, among other things, the following necessary decisions were issued to regulate more specific issues in the form of laws or ministerial decisions, so that there is no confusion as to the respective competent bodies and the limits of their competences, in particular there is talk of:

- The decision under item 120535EΞ2021/30.09.2021 of the Deputy Minister of Finance "Criteria for evaluating the eligibility of investment projects financed with loans from the Recovery and Resilience Fund" (B' 4521), as amended by item 159335EΞ2021/13.12.2021 decision of the Deputy Minister of Finance on the subject: "Amendment of the decision under items 120535EΞ2021/30.9.2021 of the Deputy Minister of Finance on the subject: "Criteria for evaluating the eligibility of investment projects financed with loans from the Recovery and Resilience Fund" (B' 4521)" (B' 5885),
- Under data 120536EΞ2021/30.09.2021 the decision of the Deputy Minister of Finance to determine the procedure for allocating funds to credit institutions, the terms and conditions of the procedure for granting loans to businesses, specifying the criteria and the method of checking the eligibility of investments that are financed with resources from the Recovery and Resilience Fund, and

¹³⁵ These are groups of specialized professionals who will contribute to the evaluation of the eligibility of the investment for the proper use of RRF funds and are selected from a collective list following an electronic lottery by the credit institution.

the definition of the process, conditions and criteria for assigning evaluators of the eligibility of investment projects. Also included is the amendment of the present, with the decision of the Deputy Minister of Finance under data 159337 EX 2021/13.12.2021,

- Ministerial Decision No. 168312EΞ2021/30-09-2021, regarding the Approval of a Public Call for the creation of a list of evaluators, who cooperate with credit institutions and investment project bodies in the context of the evaluation of the eligibility of investment projects which are included for financing from the loan funds of the Recovery and Resilience Fund,
- Ministerial Decision No. 57416EΞ2022/03-05-2022, with its amendments from time to time, to determine the procedure for selecting an evaluator from the evaluator register according to Art. 196 par. 2 of Law 4820/2021, for the control of the eligibility of investment projects in the context of their financing from RRFund loans,
- No. 439, 440 2021/30-09-2021 Ministerial Decisions on the Approval of an Invitation to credit institutions for cooperation with the aim of jointly providing loans to finance eligible investments within the Recovery and Resilience Fund, in accordance with par. 1 of article 197 of Law 4820/2021 (A' 130),
- The under no. 131605EΞ2021/21-10-2021 Ministerial Decision on the establishment and formation of an Application Review Committee within the framework of no. 01/30.09.2021 Invitation to credit institutions for cooperation in order to jointly provide loans to finance eligible investments within the context of the Recovery and Resilience Fund, in accordance with paragraph 1 of article 197 of Law 4820/2021 (A' 130),
- Law 4915/2022, which includes provisions on the responsibilities of the Special Coordination Service of the Recovery Fund,
- No. 65771EΞ2022/18-05-2022 Ministerial Decision on the establishment, formation and approval of the Internal Operating Regulations of the Investment Council (in accordance with Art. 197 par. 1 law 4820/2021), for the monitoring of the conclusion and execution of the loan agreements entered into in the framework of the utilization of RRFund resources and in particular the obligations of, among others, credit institutions and European financial institutions (Art. 1 of this Ministerial Decision) and, finally,
- No. 12027EΞ2022/01-02-2022 Ministerial Decision on the determination of the minimum interest rate for granting loans with RRFund resources from the banking institutions to the beneficiaries, according to Art. 4 n. 4822/2021, determined as fixed at a rate of 0.35%¹³⁶. This interest rate is the minimum and can be agreed higher, according to par. 6 Art. 8 of the Ministry Decision 120536EΞ2021/30-09-2021.

2. Cooperation of Credit Institutions with the Greek State within the framework of RRFund

With regard to RRFund funds for the channeling of financing in the form of loans for the purpose of implementing private investments, a cooperation mechanism of the Greek State with specific bodies was adopted for the granting of loans to each eligible

¹³⁶ OT.gr Newsroom, 2022.

interested party following a specific procedure. The three financing channels chosen are commercial banks for financing small-medium and large private investments, the international financial institutions for medium and large investments and the Hellenic Development Investment Bank with the creation of Fund-of-Funds (FoF) for the financing of equity capital or quasi-equity capital for the most dynamic and rapidly growing enterprises¹³⁷. The first financing channel is the "Financing Mechanism through Commercial Banks"¹³⁸. The loans that credit institutions will grant to mobilize investments from the resources of the Hellenic RRFund are characterized as "RRFund Loans"¹³⁹.

The above loans will cover a maximum percentage of fifty percent (50%) of the total eligible investment cost of the financed investments, while the private participation of the investor is necessary and will cover, at a minimum, a percentage of twenty percent (20 %) of the total eligible investment cost. A percentage of at least thirty percent (30%) of the total eligible investment costs will be covered through a "Co-Financing Loan" granted by the cooperating credit institution. The principle of symmetrical satisfaction applies to Recovery and Resilience Fund Loans and Co-financing Loans, ("pari passu") in terms of repayments and collateral provided.

The initial amount of €200,000,000 will be made available to each credit institution (CI) cooperating with the Special Recovery Fund Coordination Service, according to the Operational Agreement signed between each eligible CI¹⁴⁰ and the Greek State. The amount of the said first disbursement will be deposited by the competent Departments of the Ministry of Finance, in a special account that will be maintained by the credit institutions for the purposes of granting RRFund Loans. The disbursement of further funds by the competent departments of the Ministry of Finance will be carried out in parts and in relation to the achievement by the CI of the objectives and the fulfillment of the conditions mentioned in the Operating Agreement.

For the granting of Co-financing Loans and RRFund Loans, the CIs publish an invitation for the submission of applications from those interested to invest with the resources of this European development mechanism, together with the submission of an investment plan with the stages of the proposed investment, the contribution to the objectives of the national recovery plan "Greece 2.0", as well as the detailed costs that this entails. This is followed by the assessment stage of the viability of the proposed investment and the creditworthiness of this body, carried out by the respective CI, autonomously based on its internal procedures and policies and the best financial practices, without any intervention of the Special Recovery Fund Coordination Service and demonstrating to this end the due diligence appropriate to a CI that has been licensed and operates legally within the European Union.

Furthermore, the CIs are responsible for the preparation, organization, preparation and execution of the main credit and collateral security agreements for the Recovery and

¹³⁷ Atlantis Consultant, 2021.

¹³⁸ Min. Dec. 439/30-09-2021, 1.2 (p. 6).

¹³⁹ Plantzos Kostis, 2022.

¹⁴⁰ The selection is made following the publication of a public proposal for the submission of an application by each interested CI who meets the necessary terms and conditions, as confirmed and after a corresponding evaluation (2.1, 2.2 of decision 439/30-09-2021).

Resilience Fund Loans as well as for the recovery of all types of debts from these loans in accordance with the provisions of the Operating Agreement. In addition, certified independent assessors will check the eligibility and compatibility of the investments with the guidelines of the National Recovery and Resilience Plan and compliance with the applicable rules on the accumulation of state aid. The evaluators will be selected from the list that will be compiled according to the specific provisions of paragraph 2 of article 196 of Law 4820/2021. Upon completion of the process of evaluation and selection of an eligible investment by the CI¹⁴¹, it will be possible to sign a loan agreement for the granting of a RRFund Loan as well as a Co-financing Loan¹⁴² with the investor, who is then designated as the Final Recipient.

2.1 Right to submit a request for cooperation

In the context of the two public invitations published for the submission of requests for cooperation with the Greek State within the framework of the RRFund, the right to submit is recognized to each CI, in the sense of Regulation No. 575/2013 of the European Parliament and of the Council and the 4261/2014, which (1) has its headquarters and operates legally in any member state of the EU, (2) is directly supervised by the European Central Bank as a systemically important supervised entity or an important supervised group - within the meaning of cases 16 and 22 of Art. 2 of Regulation No. 468/2014 of the ECB- and is included in the list of systemically important supervised entities/groups issued under Art. 49 of the same Regulation and (3) has at least one store within the Greek Territory.

In the invitation that was published, certain conditions for the acceptance of CI applicants were further specified. In more detail, those candidates who are under special liquidation¹⁴³, resolution¹⁴⁴ or in a similar situation provided for in Directive 2014/59/EU and by the relevant national law of their country of residence are excluded from cooperation, as well as if a declaration procedure has been initiated against them in any from the previous situations.

The fact of serious professional misconduct, violating the applicable legislative or regulatory provisions or the ethical standards of the relevant professional branch, is also decisive for the exclusion, as long as this has been established by a court decision or an administrative act with final or binding force.

During the selection of cooperating CIs, the professional credibility of each one will be checked, in the sense of the absence of harmful behavior and/or intent to commit misconduct, especially, among others, (a) in the case of providing false data and information in the context of submitting an application cooperation with the Greek State, intentionally or negligently, (b) in the case of entering into agreements with other natural or legal persons with the aim of distorting competition, and (c) in the case of

¹⁴¹ The CIs receive a fee for the management and resource allocation services of the RRFund, according to the specifics contained in Annex IV ("Main Terms of the Operating Agreement"), Min. Dec. 439/30-09-2021.

¹⁴² The Loans in question can take any legal form - such as that of the bond loan according to nos. 59-73 of Law 4548/2018 and Art. 14 of Law 3156/2003, with payment manager and representative of bondholders the contracting party CI.

¹⁴³ In the sense of Law 4261/2014.

¹⁴⁴ In the sense of Art. 2 of Law 4335/2015.

attempting to influence, by unfair means, the selection process of collaborating CIs. The CI rejection cases set forth under (a)-(c) are cured if the candidate takes adequate corrective action. Furthermore, the commission of an "irregularity", in the sense of Art. 1 par. 2 of Regulation 2988/1995, nor a conflict of interest situation¹⁴⁵ that cannot be remedied with less intrusive measures.

In order for the CIs' participation in the selection process to be valid, they must consistently comply with his tax and insurance obligations. Specifically, that they have not breached their obligations regarding the payment of taxes or social security contributions, a fact to be confirmed by a court decision or an administrative act, in accordance with the relevant legal framework. The CI application is also rejected if it has been fined, up to two years before the application deadline, for violations of high or very high seriousness¹⁴⁶ of the labor law. However, if the relevant CI fulfills its obligations by paying the taxes, or the due contributions and the accompanying interest and surcharges, then it is lifted and there is no longer a reason for disqualification.

In addition to all the aforementioned reasons for exclusion, which are considered at the level of a legal entity, an obstacle to participation also occurs when the members of the administrative, supervisory or management body who have the power to represent¹⁴⁷ the CI have been convicted of specific criminal acts. In particular, none of the above persons should have been convicted for participation in a criminal organization, for bribery, for fraud, for crimes related to terrorist acts, for money laundering from illegal activities, for child labor or other criminal acts related to human trafficking.

2.2 Allocation of resources to CIs

Following the conclusion of a contract with the Greek State, the respective CI - and European financial institution - may receive part of the RRFund funds provided for in the above contract through a deposit of the General Directorate of Financial Services of the Ministry. Finance. The deposit is made either in a special account held by the CI for the specific purpose, or in a special account of the Bank of Greece in the name of the Greek State, which can be managed by the CI - with a special notarial power of attorney - (Art. 5 par. 1 decree 159337EΞ2021 of the Deputy Minister of Finance). Accordingly, the return of the provided funds will be made in a separate account maintained by the Greek State for the purpose of repayment (Art. 5 par. 3 resolution 159337EΞ2021 of the Deputy Minister of Finance).

The deposit, as already mentioned, will be made in parts depending on the achievement of specific goals, even performance indicators, as each time is agreed in the respective contract. CIs after the disbursement of the first tranche to receive the next, must cumulatively (1) have already concluded contracts for RRFund Loans for at least 60% of the first tranche, (2) have disbursed based on such contracts at least 5% of the first installment and (3) not to accumulate more than 5% of the total capital of the granted loans in overdue debts with a delay of more than 90 days. Especially for the contribution under (3) condition, the CI must submit sufficient documentation and justification,

¹⁴⁵ In the sense of Art. 61 of Regulation 2018/1046 of the European Parliament and of the Council.

¹⁴⁶ According to Min. Dec. 29164/755/2019 (Government Gazette B 2686).

¹⁴⁷ If it is a Public Limited Company, all the members of the Board of Directors and the managing director are included in the audited persons.

otherwise there is a possibility that the requested funds will not be granted (Art. 5 par. 2 resolution 159337EΞ2022).

2.3 Beneficiaries of RRFund Loans - Final Recipients

Every investor who applies for financing through the RRFund for the implementation of investments and is positively evaluated to join this mechanism constitutes a Final Recipient. More specifically, based on Art. 6 par. 1 Min. Dec. 159337EΞ2022, Final Recipient means any natural or legal person who receives financing through the "Financing Mechanism through Commercial Banks" and does not constitute:

- a) a person who has his registered or real headquarters or has an establishment in non-cooperating countries, as these are defined from time to time in article 65 of the Greek Income Tax Code (law 4172/2013),
- b) a person who has its registered office or real seat or has an establishment in countries included in the currently applicable EU list of non-cooperative tax jurisdictions [Annex I of the Council Conclusions on the revised EU list of non-cooperative tax jurisdictions (2021/C 66/ 10)],
- c) a person who has its registered or real headquarters or has its real seat or has an establishment in countries included in the Annex to the delegated regulation (EU) 2016/1675 (L 254), as applicable from time to time,
- d) a person having its registered or actual seat or establishment in a state rated as "partially compliant", "provisionally partially compliant" or "non-compliant" by the Organization for Economic Co-operation and Development (OECD) and its World Forum on Transparency and Exchange of Information for Tax Purposes based on the international standard for the exchange of information upon request, as applicable,
- e) a person that has its registered or real headquarters or has an establishment in a state included in the "Public Statement" (Public Statement) of the Financial Action Task Force (FATF) as applicable from time to time, i.e. countries or jurisdictions with such serious strategic deficiencies where the FATF calls on its members and non-members to implement countermeasures or for which the FATF calls on its members to implement enhanced due diligence measures, and
- f) a person that has its registered or actual seat or has an establishment in a state included in the statement "Improving Global AML/CFT Compliance: On Going Process", as applicable from time to time (i.e. a state or jurisdiction with strategic weaknesses in their measures to money laundering prevention and combating the financing of terrorism (AML/CFT) but which have committed to developing an action plan with the FATF).

In the case of a legal entity, private companies are also included, companies whose state participation in their total share capital does not exceed 50% and companies that own and/or manage energy networks, which constitute a state monopoly. With the Operational Agreement, concluded between the Greek State and the CIs, more specific conditions and specializations can be defined for the determination of the Final Recipient.

2.4 Intermediary financial CI services

Through the Operational Agreement signed each time, the Greek State assigns to the CIs intermediary financial and any other related services for the financing of investments through the RRF. In particular, the CI must:

- carry out an eligibility check on each submitted funding request, as well as to contribute its share to the appointment of the evaluator, according to Art. 196 par. 2 of Law 4820/2021,
- then carry out a credit assessment of the applicant,
- prepare, draw up, complete and monitor the execution of the loan agreements from RRFund resources and the agreements for the related collaterals, and
- take care of the repayment and collection of any amount due from the concluded loan contracts, taking all necessary measures judicially or extrajudicially (and through forced execution).

Subsequently, the CI cooperating with RRFund must grant or ensure the grant to each eligible investor/Final Recipient of a Co-Financing Loan on terms of *pari passu* both for prepayments and repayments, as well as for collateral. The interest rate of the Co-Financing Loan is determined based on the market rate at the discretion of the CI, in contrast to the interest rate of the RRFund Loan which, as mentioned above, is determined by a similar ministerial decision¹⁴⁸. The CI may also, at its discretion, grant additional loans with completely separate financing from that of RRFund Loans and Co-financing Loans, with the aim of financing the ineligible costs - which do not justify, that is, after the evaluation, financing through the Fund's resources -. These loans can be granted with a separate credit agreement or cumulatively with the same RRFund Loan agreement and/or with that of the Co-financing Loan. An additional possibility is the conclusion of hedging agreements that can be linked to all the aforementioned credit agreements.

2.5 Evaluation and selection process of Eligible Investments

After the signing of the Operating Agreement between the Greek State and the relevant CI and within 20 working days, with the agreement of the Special Recovery Fund Coordination Service, the CI publishes an open call for the submission of funding requests through the RRFund, accompanied by the proposed investment plans and all other necessary supporting documents determined by the CI. For its part, the CI must take all necessary measures to ensure the widest possible publicity of the call (e.g. by posting it on its official website), as well as for the orderly management and processing of funding requests it is about to receive.

¹⁴⁸ However, the prevailing market conditions and the interest rate at which the Greek State borrows from the Commission also play an important role. Specifically, according to the statement of the Greek Finance Minister, "The loans currently provided by the credit institutions cooperating with the Recovery and Resilience Fund have an interest rate of 0.35%. This is valid until the first €1.6 billion, which we had borrowed at a very low interest rate from the Commission, is exhausted. When that is exhausted we will go to a rate rise, reasonable in the first phase and much higher in the second phase" (naftemporiki.gr, 2022 (a)).

2.5.1 Eligibility Check by CI

In the first phase, the CI conducts an eligibility check of the requested investment. Immediately after the receipt of the requests, it proceeds without delay to the aforementioned control in order to exclude those that clearly do not meet the eligibility criteria. Specifically, it must confirm that the applicant does not fall under any of the exceptions of Art. 6 par. 1(a) of the resolution 159536EΞ2021 (and its amendments) and, if it is a legal entity, that it falls under one of the cases of Art. 6 par. 1(c) of the same decision. In addition, it must assess the possibility of lending the investment plan in accordance with banking conditions, that the investment exists in Greek territory and in particular that the proposed plan is intertwined with the objectives and eligible costs set by the national recovery and resilience plan without being linked with excluded and burdensome activities for them (Art. 196 law 4820/2021).

Also, the CIs carry out a creditworthiness and viability check, i.e. assess whether the proposed investment plan and the investor are receptive to bank financing based on the current credit policy, the CI's internal procedures and safe financial criteria (Art. 6 par. 3 and Art. 8 par. 1(a)-(b)). More precisely, the solvency and risk profile of the applicant, the prospects of carrying out the activities included in the submitted business plan¹⁴⁹ and the viability with a positive net present value¹⁵⁰ of the latter are checked. This evaluation stage follows the positive evaluation of the investment plan by the evaluator.

Therefore, once the eligibility of the funding request is verified in principle, the CI must inform the Special Recovery Fund Coordination Service in order to start the process of selecting an evaluator, according to Art. 196 par. 2 and 201 par. 2 of Law 4820/2021 and with Art. 10 of No. 120536EΞ2021 of the decision of the Deputy Minister Home.

2.5.2 Eligibility Check by the Evaluator

In order to carry out the eligibility check of the proposed investment, a list of evaluators is drawn up according to the procedure Art. 196 par. 2 of Law 4820/2021. The registered evaluators are not paid by the Greek State, nor by the CI, but enter into an assignment contract with each entity of the investment project (applicant) in which the issues of remuneration are regulated, among other things, which in any case is paid by the said body before the control of the proposed plan (Art. 10 Min. Dec. 159337EΞ2021).

With the compilation and publication of the above list, the selection of the evaluator for the control of the investment plan is done by drawing lots from the CI - by any suitable and reliable means, even via computer. The person of the selected evaluator must not

¹⁴⁹ Companies interested in receiving funding can use the services of private consultancy firms for the preparation of their business plans, regarding the development of the project, its eligibility for funding, communication with the CI and the monitoring and provision of financial reports during the implementation of the investment project (KPMG, 2021).

¹⁵⁰ Net Present Value (NPV) is the sum of the present values of cash inflows and outflows over a period of time. It measures the excess or shortfall of cash flows, in present value terms, relative to the cost of funds used for an investment. It is a tool used in economics to determine whether an investment is worth financing or not, (Banking News, 2017).

have a conflict of interest, as, nor in the past, he/she was involved in the study, structuring, preparation and/or evaluation of the investment plan on behalf of the organization, as well as they must not have any shareholding or other relationship. The absence of a conflict of interest is certified by submitting a responsible declaration of Law 1599/1986.

Those who are registered in the list of assessors must act impartially and in accordance with the rules of ethics and the legal framework of the exercise of their auditing activity. The CI bears no responsibility for the performance of the eligibility check by the evaluator and the content of the corresponding report. Conversely, the auditor undertaking the audit is liable for any damage to a third party caused by a positive act or omission in relation to the audit report, in case of fraud or gross negligence in the performance of his duties. The total amount of compensation for the injured party for each audit project cannot exceed ten times the fee paid for it.

If the result of the review by the evaluator is negative, the implementing body of the investment project may, within one month from the submission of the report, request a new review, carried out by three evaluators included in the same list. This evaluation is binding and the fee is again paid by the investment entity.

Regarding the performance of this evaluation, according to Art. 8 par. 1 (c) of Min. Dec. 159337EΞ2021 the assessor must check:

- The existence of an eligible investment plan,
- Its compatibility with the principle of not causing significant harm,
- Its eligibility in terms of the investment objectives of the RRFund loan programme and not to exceed the maximum rates of RRFund subscription,
- The contribution of the plan to the achievement of climate change objectives and the achievement of the green and digital transition,
- The compatibility of the interest rate provided with the state aid rules,
- The distribution of expenses in the five axes of eligible actions, which will also be reflected in the relevant balance sheets,
- The recording of outsourcing costs and the accounting categorization of investment costs based on the financial statements, and
- The avoidance of double funding, i.e. the parallel funding of the same costs from the RRFund and from another EU programme.

In particular, with regard to the compatibility of the registered investment plan with the principle of not causing significant damage, the existence and content of the sustainability proofing study is checked, in accordance with Commission Notice No. 2021/C 280/01. In other words, the negative or positive effects of the investment, the basic mitigation measures, the residual risks for the projects that require an Environmental Impact Assessment¹⁵¹ must be checked and costed. In addition, it must be confirmed that the project does not fall under any of the excluded activities of Art. 6 par. 9 (b) 159337EΞ2021, as well as that the relevant national and EU environmental legislation is not violated.

¹⁵¹ For a more detailed reference to the method of the assessment in question, see above Section B, chapter 2.3.

Regarding the control of violation of state aid rules, it should be mentioned that it is examined based on the RRFund loan granting rate. Specifically, if this interest rate is equal to or greater than the reference interest rate - according to the No. 2008/C 14/02 announcement of the Commission-, then there is no case of state aid and the investment plan is considered compatible with the rules in question. However, if the loan interest rate is lower, the RRFund loan constitutes state aid and the provisions of Regulation No. 651/2014 and other relevant regulations apply or in a specific case-by-case aid scheme of the European Commission (Art. 8 par. 6 Min. Dec. 159337EΞ2021). If the eligible investment complies with the above rules, the CI grants the RRFund Special Coordination Service and the Investment Council a written certificate of non-provision of state aid to RRFund loans.

The evaluation of each proposed eligible investment plan must be carried out within a reasonable period of time, depending on its size and purpose. In any case, it should not exceed four months.

Depending on the result and the overall content of the evaluation report, the amount of financing that can be received through a RRFund loan is determined by the individual institution of the investment project. It is calculated, that is, on the basis of a budget of eligible investment costs regarding the five target pillars of the loan programme and the coverage of specific criteria in each pillar (Art. 196 Law 4820/2021). If a project is deemed eligible in more than one pillar then it can receive up to 50% funding of the total eligible investment cost. However, if the project is not considered eligible in the pillars of green transition, digital transformation, innovation, research and development or extroversion, due to not meeting the minimum required percentages, it can receive funding of up to 30%, as long as the sum of the percentages of these pillars amounts to at least 30% (Art. 8 par. 4 Min. Dec. 159337EΞ2021).

2.6 CIs' Obligations under the RRFund Framework

With the start of the mediation services that the CI undertakes to provide to the Greek State for the granting of RRFund Loans and Co-financing Loans, during the process developed above, they owe and fulfill some obligations defined in the number Min. Dec. 159337EN2021 and are specialized among them business agreement.

2.6.1 CIs' Obligations arising from the contractual relationship with the Greek State under the RRFund Framework

More specifically, each CI must check and monitor the positive present value of the eligible investments and compliance with the eligibility criteria even after they have been approved by the evaluators. Special emphasis is placed on allocating 38.5% of each tranche of RRFund resources for investments that pursue the green transition and, on the other hand, 20.8% of these for eligible actions that contribute to the digital transition, in accordance with the commitments of the Greek State from the national RRP. Also taking into account the principle of not causing significant harm, the CI must by definition exclude ineligible activities under the conditions set by said principle and in the same context require from the final recipients/investors on an annual basis the verification of the permanent compliance of the eligible investment with national and

EU environmental legislation, as well as the permanent implementation of the technical guidance for the sustainability audit within the Invest EU fund.

Subsequently, the CI, based on the best banking practices and policies, takes appropriate measures to prevent, identify and effectively deal with irregularities and cases of fraud, corruption and conflict of interest. In addition, it regularly checks the individually applied procedures for the use of RRFund resources in accordance with the purposes and conditions of the loans and in particular for the implementation of the investment based on the rules for prevention, detection and treatment of the aforementioned violations. In order to optimally monitor and service RRFund loans, the CI must keep separate accounts for each type of loan. Finally, to avoid situations of conflict of interest, the selection of investment projects to be financed must be carried out with objectivity and transparency during the evaluation process.

For adequate monitoring and management by the Special Recovery Fund Coordination Service and the Investment Council, CIs are required to send electronic reports on the number of applications received, the number and amounts of loans approved and disbursed, and the rejected requests. They must also provide in a timely manner all the information and data required regarding the RRFund loans, the relevant key performance indicators and the eligibility of the investments in question. The details of the loans that must be specified each time concern the amount of each loan agreement concluded and the analysis of the amount in relation to each of the five pillars of the eligible actions, as well as the amount of the loan disbursed to the final recipient, in relation to the total of RRFund funds received by the relevant CI. It is also deemed necessary to report the breakdown of investment costs, based on the binding percentages defined by Art. 1 par. 2 Min. Dec. 159337EΞ2021 and the amount of interest paid in relation to the amount of accrued interest and the amount of RRFund loans disbursed. Finally, in the present reports, the CI must note the progress of eligible and financed with RRFund resources, the amounts of overdue debts from the relevant loan contracts that are in arrears of more than thirty (30) and ninety (90) days, as well as the percentages of canceled loans.

The result of any violation of the applicable rules of law, defined in the public invitation for participation of investors and in the respective operational agreement, is any timely and appropriate action on the part of CI, to initiate the procedures for the recovery of RRFund funds, showing at least the diligence that would be shown for the recovery of loans granted with equity. In addition, it must inform the Special Recovery Fund Coordination Service without delay, as soon as it becomes aware of any change in the eligibility criteria of the investment.

2.6.2 Obligations imposed by the CI on the final recipients

Another obligation of CIs is to include at least the following conditions for the final recipient in each loan agreement for financing with RRFund resources:

- a. The appointment on behalf of the final recipient of the CI as a representative of the bondholders (within the meaning of Art. 64 of Law 4548/2018) and beneficiary of payments even after the end of the loan, for those RRFund loans that take the form of a bond loan;

- b. The RRFund loan is to be used exclusively for the implementation of the eligible investment in compliance with what is defined in the loan agreement between them,
- c. Not to violate applicable national and EU legislation;
- d. The recognition and acceptance of audits and the provision of information to the respective competent authorities, regarding the implementation of the investment and the use of the Fund's resources. That is, the final recipient must allow authorized officials, auditors and consultants to carry out audits and inspect the facilities, activities, data and records related to the eligible investment, facilitating their work in every possible way;
- e. The timely and valid issuance or renewal of all the necessary supporting documents, permits, approvals required by the applicable legislation to achieve the eligible investment to ensure the unhindered and legal implementation of the project;
- f. The accounting monitoring of the use of RRFund loan resources;
- g. The use of the final recipient's existing or future assets relating to the eligible investment for the creation and provision of collateral or other types of collateral and encumbrances. An exception to the above is the provision of collateral over the RRFund loan or the co-financing loan and any related interest rate risk hedging contracts. The CI has the discretion to allow the establishment of the above collateral for the financing of the ineligible costs of the financed investment and for the financing of the final recipient that is not a special purpose company, as long as it provides the necessary guarantees for the preferential repayment of RRFund and co-financing loans and finally;
- h. Providing the CI with any information and evidence for any event that constitutes a complaint event, makes any information provided in the evaluation process inaccurate or untrue, or adversely affects either the financial situation of the investment entity, or in the development and implementation of the eligible investment.

2.6.3 Obligations imposed by the CI on the final recipients

During the management of the credit relationship with the respective final recipient, the CI can exercise all the rights and powers provided for in the legislation, in the operational agreement it has entered into with the Greek State, in the RRFund loan and collateral contracts and any other kind of ancillary contracts that accompany them. More specifically, simultaneously with the fulfillment of the extended obligations by the CI, the latter may monitor the progress of the implementation of the eligible investments in connection with the disbursement of the RRFund loan, monitor the servicing of these loans and the observance of the obligations undertaken by the investors according to the terms of the contracts they enter into.

The CIs manage their credit relationship with the final recipients, without requiring consent or approval from the Greek State for individual actions and procedures in the exercise of its discretion. They can control deviations from the negative and positive obligations of the final recipient, respond to relevant requests for the approval of deviations from provisions of the loan agreement, the modification, adjustment or termination of it and the security agreements that accompany them. There are, however, two cases for RRFund loan arrangements in which the consent of the Minister responsible for the Special RRFund Coordination Service is necessary, (a) if they provide for debt restructuring with cancellation of RRFund funds if there have been previous corresponding arrangements with a cumulative cancellation of funds of an

amount exceeding half a percent (0.5%) of the total RRFund funds disbursed in the CI and/or (b) if they include debt restructuring with suspension of installments or extension of the repayment schedule if there have been previous corresponding arrangements for debt restructuring exceeding 10% of the total disbursements in CI of RRFund funds.

Regarding the right of termination, it is exercised by the CI at its discretion, if after the disbursement of the RRFund Loan it is established that the final recipient and/or the eligible investment did not meet the eligibility criteria from the beginning or subsequently ceased to meet the eligibility criteria. Following the above, the CI is obliged to take any necessary action for the immediate return and collection of the RRFund funds that have already been disbursed in accordance with the loan agreement, while maintaining the possibility to terminate the co-financing loan agreement as well.

2.6.4 Duty of CI care -credit risk allocation

The CI must fulfill every obligation it undertakes by demonstrating the due diligence, efficiency and effectiveness appropriate to a financial institution authorized and operating lawfully within the EU. The liability of the CI for breach or breach of its obligations under the operating agreement concluded with the Greek State, is limited only to cases of fraud or gross negligence. Therefore, it can be concluded that he is not negligent if he has shown at least the diligence he showed in the corresponding co-financing loan with regard to the RRFund loan. It is indicated that the credit risk of non-repayment of RRFund loans and any related loss is borne solely by the Greek State. Accordingly, the risk of non-repayment of the co-financing loans is borne only by the respective CI.

2.7 Right to Management Fee for CIs

Every CI that cooperates with the Greek State in the context of the recovery mechanism is entitled to a fee for the management services and at the same time financial mediation that it provides during the execution of each operational agreement. This fee must cover all the costs borne by the CI, but not including any financial claims it holds against the final recipients, such as for example any costs for file examination, for modifying the terms of the RRFund loan or for its services representative of the bondholders - in case the RRFund loan took the form of a bond loan-.

The Greek State owes a management fee to each cooperating CI for the entire period of validity of their cooperation, i.e. from the entry into force of the operational agreement between them until its expiration, it is settled periodically up to twice a year per six months, unless otherwise provided in the operational agreement and is calculated based on the amounts of RRFund loans managed by the CI.

Specifically, this fee consists of:

- a. An amount equal to 1% of the sum of the capital of RRFund loans for which the CI has already concluded a loan agreement with the final recipient, within the relevant liquidation period, provided, however, that the entire capital of each such loan agreement is disbursed. If this condition is not fulfilled and is not disbursed according

to the agreed terms, then the amount of the fee calculated on the basis of the undisbursed capital becomes refundable to the Greek State and offset against the corresponding amount of the management fee paid in the liquidation period, during of which the non-disbursement of part or all of the RRFund loans is finalized,

b. An amount equal to 1% of the sum of funds of RRFund loans disbursed to final recipients within the relevant management fee settlement period under the terms of the concluded loan agreements with RRFund resources, and

c. An amount equal to 0.05% per annum of the sum of the outstanding capital of the RRFund loans.

For the valid calculation of the management fee in accordance with the above, RRFund loan amounts that are subject to any payment delay on the part of the final recipient and RRFund loans in which the loan contract has been terminated or debts have been permanently written off are not taken into account. In particular, if a termination event occurs, no management fee is due to the CI for the relevant loan agreement.

Each operational agreement specifies the terms of repayment and payment of the management fee, while the Special Coordination Service of the Recovery Fund may request clarifications or the presentation of additional documents and supporting documents for the optimal calculation of the due fee, shaping the corresponding payment deadline accordingly.

It is worth mentioning at this point that some categories of expenses related to actions within the framework of financing through the development mechanism are borne exclusively by the final recipient. In particular, it is about (1) the fee of the evaluator who is selected by lottery by the CI to check the eligibility of each investment, (2) the fees and expenses of external legal, technical, etc. consultants, which the CI needs to hire for the preparation, organization and monitoring of RRFund loans, (3) the costs for the establishment, registration and registration of the necessary collateral for the conclusion of RRFund loans (e.g. costs of mortgage registrars, land registries, document services, etc.) and respectively for the eventual liquidation of these collaterals and enforcement costs, (4) costs renewal of insurance policies and (5) fees and expenses for the preparation, organization and administration of co-financing loans of any kind.

2.8 Termination of Operating Agreement

The Greek State may terminate the operational agreement it concludes with the collaborating CIs, if any of the termination events that will be mentioned below occur. Initially, one of these events concerns the functionality of the CI, that is, if it is put into a special liquidation regime or in a consolidation process or its operating license is revoked for any reason and, in general, if it subsequently ceases to meet the eligibility criteria included in the No. 439/30-09-2021 Invitation¹⁵². The unauthorized use of the funds disbursed by the RRFund or the non-timely and appropriate payment to the Greek State of any amount due from the relevant operational agreement also constitutes a complaint, unless it is a temporary inability to repay due to a technical or administrative obstacle in the payment systems.

¹⁵² Unless the defects are removed within a deadline set by the Greek State to the CI.

Subsequently, if any event and circumstance occurs that may have a material negative influence on the CI's ability to fulfill its obligations under the concluded operational agreement, as well as if there is a violation of provisions of Union or relevant national law during the preparation and performance of these obligations, by an act or omission of an economic entity involved in the implementation of the RRFund plan and even potentially damaging the general budget of the EU, allows the Greek State to terminate the relevant operational agreement. The right of termination applies even when information, statements or assurances are provided to the Greek State that prove to be essentially false, due to fraud or gross negligence on the part of the CI.

The CI also has the right to terminate, in the event that it becomes illegal under the rules of European law for the Greek State to execute the loan agreement it has signed with the Commission within the framework of the RRF, or if the Commission or the Court of Justice of the EU requires the immediate repayment of the funds of the RRFund drawn by the Greek State during the execution of the loan agreement.

In the event of the termination of the operational agreement, the CI is not entitled to request the disbursement of the next installment of RRFund funds, while it must pay without delay the balance of the special account for the return of RRFund funds, but keeping the management fee to which it is entitled. The Greek State takes all necessary actions to replace the CI with another financial institution in every loan contract it has entered into with RRFund resources, as a creditor, organizer, manager or representative of bondholders, etc. If the reason for termination is due to fraud or someone's gross negligence party, the other party is entitled to claim compensation.

Concluding Remarks

As we approach the end of 2022, having gone through another year full of challenges for the future, moving into an even more uncertain period with rising inflation and the tension in the EU's relations with Russia as a result of the sanctions imposed on the latter due to the violent invasion to Ukraine, they are causing a blockage in the market chain and the expected price increase in all products. The energy sector is as topical as ever, as evidenced by the efforts of 15 of the 27 member states to impose a cap on the price of gas¹⁵³. It is therefore clear that, following the pandemic crisis, the new geopolitical crisis is having an impact, affecting all European citizens to a greater or lesser extent. The innovative mechanisms for supporting and boosting the economies of states, which have been thoroughly developed above, are more vital than ever, and in particular the implementation of the RRP, in order to set in motion both the state mechanism to introduce reforms and private initiatives to implement beneficial investments.

Moving at this point to a brief review of the support mechanism first established by Regulation 241/2021, it is worth noting the innovative element in the way the funds are used. Financial support to EU member states is not being provided for the first time. Financial support has been granted, many times to the past, to address critical periods and to help avoid defaulting on state obligations or even to provide targeted stimulus to specific scientific disciplines. This time, however, a single support mechanism has been created, which has been adapted to the internal needs of each country by thoroughly investigating the shortcomings of the national market, aiming at the recovery of its weakest points. Moreover, the role of RRP has been twofold: on the one hand, as an opportunity for national institutions to look at the needs of their state, while seeking the best way to revive and ultimately maintain satisfactory growth rates, and on the other hand, as a commitment to the EU institutions, outlining the milestones and objectives that each time constitute the condition for the release of the next financial tranche.

Therefore, apart from the non-reimbursable funding component, which is reminiscent of the support pattern followed by the EU up to now, there is a lending mechanism in place here, firstly from the Commission to the MS and then to the investors, with the cooperation of the CIs. This cooperation represents a "new era" in the banking regulation industry and potentially the next step in its evolution. After the period of state intervention in the banking system and the existence of clientelism in less developed countries such as Greece, a period of re-regulation followed, with the redefinition of the relationship between the state and CIs to enable them to comply with accepted European regulatory standards. Now, with what has already been exposed, it is understood that we are in another transition, where the state mechanism needs to cooperate and collaborate with the private sector in order to be able to promote its objectives, i.e. by giving the cooperating CIs a power of attorney and a role of representation of the State vis-à-vis investors in the context of the RRFund.

¹⁵³ Tsouga Anastasia, 2022.

However, this cooperation is also beneficial to the other party, i.e. the CIs. This is because the favourable lending conditions offered by the Recovery Fund attract interest in lending and thus new customers are added to the CIs. In addition, the fact that the RRFund loans are granted up to a maximum of 50% of the total investment cost and are potentially accompanied by co-financing loans of up to 30%, contributes to an increase in the demand for loan capital to finance the submitted investment project. Thus, the profit of CIs is increased by collecting the interest payable on behalf of investors and leveraging the returned funds to develop their scope of operations. At the same time, the banking industry is evolving as CIs gradually take on additional roles, as in the present case, carrying out, together with the credit check, the first phase of assessing the eligibility of the potentially financed investment before it is assigned to the relevant Evaluators.

The key "stake" in this mechanism is whether the national commitments made by all MS in adopting their recovery plan can be met given the volatile nature and complexity of market conditions. In other words, will societies be able to absorb the new measures and make profitable investments so that the investors who owe them can repay the loans granted to them to implement them? The servicing of outstanding instalments is crucial at the first level to prevent the public debt of each state from ballooning, but also to release the RRF instalments so that the full amount agreed is received and reforms and investment projects that have not been completed are not left behind. This, of course, is of paramount importance for the purpose and philosophy of the RRF, since its objective is to contribute to the development of the Union and to implement fundamental regulations, taking into account urgent environmental and social sensitivities. Therefore, any failure in the functionality of the project in question will lead to the frustration of the EU's ambitious plans to improve its robustness and the quality of life of its citizens.

In the same context, it is of course worth mentioning the direct relationship between the effectiveness of the RRF and the political developments that will inevitably occur within each country. In particular, the long-term nature of the programme automatically leads to the thought that its implementation will coincide with the national elections and the possible change of political figures. The fundamental principle of 'pacta sunt servanda' obviously obliges political leaders to honour on behalf of the state the commitments made by their predecessor and to comply with the economic agreements and commitments, but smooth cooperation is up to the two contracting and cooperating parties. Besides, it has happened in the recent past, at moments of vital importance for the Greek state, that smooth cooperation between the national and European institutions has not been possible, making it difficult for the processing of financial rescue requests. The aim, therefore, is to avoid similar turmoil and to ensure that external relations develop smoothly, with the rulers understanding the commitments and following a policy appropriate to support and serve the state's obligations.

Lastly, having analysed the function and purpose of the RRF, the rationale for the EU's environmental and energy objectives inevitably develops. More specifically, reflections on the necessity of environmental regulation had already begun well before the pandemic outbreak in 2020, aiming at trying to enshrine environmental sensitivity in

the policies of all states internationally. Thus, international commitments were gradually initiated with the signing of agreements as early as the 1990s, but once again, state priorities remained more of an economic nature, ignoring the need for prevention to the greatest possible extent and reaching the stage today where an urgent response is required without further delay. Therefore, the current circumstances, which were unprecedented, led the EU to develop a new policy, setting new priorities as a means of both dealing with emergencies and preparing for future crises. A typical and topical example is that of the EU's energy self-reliance, which was brought to the fore on the occasion of the tensions in the Union's relations with Russia and, if achieved through the measures adopted to speed up the relevant procedures, will lead to its independence and energy omnipotence on the one hand, and to the promotion of alternative and less environmentally damaging methods on the other.

Consequently, the initiatives taken by the EU institutions, in close cooperation with all member states, are of both legal and real interest. The idea of financial support, with reimbursable and non-reimbursable funding, with binding conditions for the implementation of radical reforms and investments, is leading us to a new era of an intentionally even closer economic cooperation. This approach has a dual character as it seeks to provide a solution to the socio-economic crisis faced by the EU in the wake of the pandemic and the current attempt to define Russian foreign policy, but also to evolve the EU as a whole, improving and preparing it for future generations. However, whether the objectives set by the Union, with particular emphasis on the environmental sector, can be achieved in practice within the limited timeframe set is a question that remains to be proven by the evolution and adaptability of the relevant EU mechanisms. Events are unfolding rapidly and the EU must act decisively, but the response of the countries and their markets will ultimately determine the effectiveness of their initiatives.

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