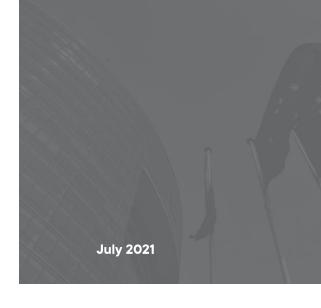


## **Update**

European and Competition Law



## Portugal's recovery and resilience plan: sustainability, inclusiveness and resilience are the watchwords

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On June 16th Portugal's Recovery and Resilience Plan ("RRP") was endorsed by the European Commission, as an instrument for a joint and coordinated response of the Member States to the adverse economic and social consequences caused by the Covid-19 crisis. Portugal's RRP was the first to be positively assessed by the Commission, not only because it was the first to be submitted, "but also because the Portuguese Presidency played such a key role in putting in place the legal and financial framework for this unprecedented common European endeavour", as stated by Paolo Gentiloni, Commissioner for Economy.

The RRP foresees a set of reforms and public and private investments to be implemented in Portugal until 2026 with the European Union financial support, granted under the Recovery and Resilience Facility, the centrepiece of NextGenerationEU, as outlined in Regulation (EU) 2021/241.

In Portugal's case, the financial support amounts to 16.6 billion euros, of which 13.9 billion are granted as non-reimbursable financial contributions (i.e. straight grants), and the remaining 2.7 billion are granted in the form of loans. It should be recalled that this amount is defined for each Member state considering factors such as the national population, the inverse of the GDP per capita, the unemployment rate and the real GDP variation in 2020 and 2021.

The measures covered by this financial support aim to ensure that Portugal is able to address the future economic, social and environmental shocks in a fair, sustainable and inclusive manner. The RRP focuses on three key areas:

- Promoting the green transition: 38% of the RRP's total allocation for reforms and investments will support climate objectives, by means of measures such as financing a renovation programme to increase the energy efficiency of buildings, supporting private projects for the production of hydrogen and use of other renewable energy sources, decarbonising road transport by multiplying charging stations for electric vehicles, among others.
- Promoting the digital transition: 22% of the funds will be earmarked for measures aimed at, for example, digitalising the public administration, modernising the IT infrastructure of the



National Health Service and promoting digital literacy among the adult population as well as the skills needed to adjust to the changing labour market.

• Reinforcing economic and social resilience: namely by means of the implementation of the specific recommendations addressed to Portugal by the Council within the ambit of the European Semester in 2019 and 2020. The social and economic dimension of the RRP will consist, for example, in providing adequate housing for at least 26,000 households, upgrading science facilities in secondary schools and universities and providing the Portuguese National Promotional Bank (Banco Português de Fomento) with a capital buffer to facilitate access to finance, particularly for SMEs affected by the crisis, and to foster competitiveness and job creation.

The implementation of these measures is subject to the "do no significant harm" principle, as set out in the <u>Commission Guidelines</u>, meaning that the RRP must, in no case, significantly undermine objectives linked to climate change mitigation and adaptation, protection of water and marine resources, promotion of a circular economy, pollution prevention and control, and protection of biodiversity and ecosystems. This is a key principle to ensure that the economic recovery does not compromise the objectives set out by the European Union in other equally crucial areas.

After the endorsement of the RRP by the Commission and the submission of a proposal for a Council implementing decision, the Council now has four weeks to adopt the said proposal, following which a financing and a loan agreement shall be concluded with the Commission. Portugal will then have access to a pre-financing amounting to 2.2 billion euros, equivalent to 13% of the planned financial support, to be paid in one or more instalments, depending on the availability of funds. The access to the following instalments will depend on the satisfactory completion by Portugal of the milestones laid down in the annex to the proposal for a decision, which will guide the implementation of the plan's strategic goals. It is a huge challenge, being the monitoring of the implementation of these milestones centralized, at national level, in the structure 'Recovering Portugal', created by the Resolution of the Council of Ministers 46-B/2021.

Upon the completion of the respective milestones, Member States may submit a payment claim, with a limit of two claims per year, which will be subject to assessment by the European Commission. The failure to meet the milestones may ultimately result in a reduction of the financial support allocated to the Member state. It is therefore in the timely and correct implementation of the available funds that lies one of the main challenges of the 'Recovering Portugal'.

Before the RRPs, the need to respond in a coordinated way to the asymmetric effects and to the change in the economic, social and budgetary outlook resulting from the Covid-19 pandemic outbreak had already motivated the approval by the European Commission, since the end of the first 2020 trimester, of multiple public aid schemes, mainly under the Temporary Framework for State aid measures to support the economy in the current Covid-19 outbreak. It is still in force, namely, the extraordinary support to the progressive recovery of companies in a business crisis situation, established by Decree Law 46-A/2020, of 30 July. This public aid scheme establishes, in particular, an extraordinary support for the preservation of employment contracts, known as "simplified lay-off".

The positive assessment of Portugal's RRP represents, within the ambit of the response to the pandemic crisis and in line with the Temporary Framework, the materialisation of an unprecedented common European endeavour, which highlights the vital importance of the cooperation between Member States

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in order to overcome economic and social shocks and to preserve the European Union's cohesion. This Portuguese achievement will be an European achievement, which will pave the way for the construction of a more resilient and cohesive European economy.