Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 311 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Parliament[1],

Acting in accordance with a special legislative procedure,

Whereas:

(1) The system of own resources of the Union must ensure adequate resources for the orderly development of the policies of the Union, subject to the need for strict budgetary discipline. The development of the system of own resources can and should also contribute, to the greatest extent possible, to the development of the policies of the Union.

(2) The Lisbon Treaty introduced changes to the provisions related to the system of own resources of the Union which enable the abolition of an existing category of own resources and the establishment of a new category.

(3) The European Council of 7 and 8 February 2013 called upon the Council to continue working on the proposal of the Commission for a new own resource based on value added tax (VAT) to make it as simple and transparent as possible, to strengthen the link with Union VAT policy and the actual VAT receipts, and to ensure equal treatment of taxpayers in all Member States.

(4) In June 2017 the Commission adopted a reflection paper on the future of EU finances. In it, the Commission proposed a range of options linking own resources more visibly to Union policies, in particular to the single market and to sustainable growth. According to the paper, in introducing new own resources, attention should be paid to their transparency, simplicity and stability, their consistency with Union policy objectives, their impact on competitiveness and sustainable growth, and their equitable breakdown among Member States.

(5) The present system for determining the VAT-based own resource has been criticised repeatedly by the Court of Auditors, the European Parliament and Member States as overly complex. The European Council of 17 to 21 July 2020 has therefore concluded that it is appropriate to simplify the calculation of that own resource.

(6) In order to better align the Union's financing instruments with its policy priorities, to better reflect the role of the general budget of the Union ('the Union budget') in the functioning of the single market, to better support the objectives of Union policies and to reduce Member States' contributions based on gross national income (GNI) to the Union's annual budget, the European Council of 17 to 21 July 2020 concluded that over the coming years the Union would work towards reforming the system of own resources and introduce new own resources.

(7) As a first step, a new category of own resources based on national contributions calculated on the basis of non-recycled plastic packaging waste should be introduced. In accordance with the European strategy for plastics, the Union budget can contribute to reduce pollution from plastic packaging waste. An own resource which is based on national contributions that are proportional to the quantity of plastic packaging waste that is not recycled in each Member State will provide an incentive to reduce the consumption of single-use plastics, foster recycling and boost the circular economy. At the same time, Member States will be free to take the most suitable measures to achieve those goals, in line with the principle of subsidiarity. In order to avoid an excessively regressive impact on national contributions, an adjustment mechanism with an annual lump sum reduction should be applied to contributions of Member States with a GNI per capita in 2017 below the EU average. The reduction should correspond to 3,8 kilograms multiplied by the population in 2017 of the Member States concerned.

(8) The European Council of 17 to 21 July 2020 noted that, as a basis for additional own resources, the Commission will put forward in the first semester of 2021 proposals on a carbon border adjustment mechanism and on a digital levy with a view to their introduction at the latest by 1 January 2023. The European Council invited the Commission to put forward a revised proposal on the EU Emissions Trading System, possibly extending it to the aviation and maritime sectors. It concluded that the Union will, in the course of the multiannual financial framework for the period 2021-2027 ('MFF 2021-2027'), work towards the introduction of other own resources, which may include a Financial Transaction Tax.

(9) The European Council of 17 to 21 July 2020 concluded that the own resources arrangements should be guided by the overall objectives of simplicity, transparency and equity, including fair burden-sharing. It also concluded that Denmark, the Netherlands, Austria and Sweden, and, in the context of the support for the recovery and resilience, as well as Germany, are to benefit from lump sum corrections to their annual GNI-based contributions for the period 2021-2027.

(10) Member States should retain, by way of collection costs, 25 % of the amounts of traditional own resources collected by them.

(11) The integration of the European Development Fund into the Union budget should be accompanied by an increase in the own resources ceilings established in this Decision. A sufficient margin between the payments and the own resources ceiling is necessary to ensure that the Union is able – under any circumstances – to fulfil its financial obligations, even in times of economic downturn.

(12) A sufficient margin should be preserved under the own resources ceilings for the Union to cover all of its financial obligations and contingent liabilities falling due in any given year. The total amount of own resources allocated to the Union to cover annual appropriations for payments should not exceed 1,40 % of the sum of all the Member States' GNIs. The total annual amount of appropriations for commitments entered in the Union budget should not exceed 1,46 % of the sum of all the Member States' GNIs.

(13) In order to keep the amount of financial resources put at the disposal of the Union unchanged, it is appropriate to adjust the own resources ceiling for appropriations for payments and for appropriations for commitments expressed as a percentage of GNI, in the event of amendments to Regulation (EU) No 549/2013 of the European Parliament and of the Council[(2)] which result in significant changes in the level of GNI.

(14) The economic impact of the COVID-19 crisis underlines the importance of ensuring that the Union has sufficient financial capacity in the event of economic shocks. The Union needs to provide itself with the means to attain its objectives. Financial resources on an exceptional scale are required in order to address the consequences of the COVID-19 crisis without increasing the pressure on the finances of the Member States at a moment where their budgets are already under enormous pressure to finance national economic and social measures in relation to the crisis. An exceptional response should therefore take place at Union level. For that reason, it is appropriate to empower the Commission on an exceptional basis to borrow temporarily up to EUR 750 000 million in 2018 prices on capital markets on behalf of the Union. Up to EUR 360 000 million in 2018 prices of the funds borrowed would be used for providing loans and up to EUR 390 000 million in 2018 prices of the funds borrowed would be used for expenditure, both for the sole purpose of addressing the consequences of the COVID-19 crisis.

(15) This exceptional response should address the consequences of the COVID-19 crisis and avoid its re-emergence. Therefore, support should be limited in time and the majority of the funding should be provided in the immediate aftermath of the crisis, meaning that legal commitments of a programme financed by these additional resources should be made by 31 December 2023. The approval of payments under the Recovery and Resilience Facility will be subject to the satisfactory fulfilment of the relevant milestones and targets set out in the Recovery and Resilience Plan, which will be assessed in accordance with the relevant procedure set out in the Regulation establishing a Recovery and Resilience Facility, which reflects the conclusions of the European Council of 17 to 21 July 2020.

(16) To bear the liability related to the envisaged borrowing of funds, an extraordinary and temporary increase in the own resources ceilings is necessary. Therefore, for the sole purpose of covering all liabilities of the Union resulting from its borrowing to address the consequences of the COVID-19 crisis, the ceiling for appropriations for payments

and the ceiling for appropriations for commitments should each be increased by 0,6 percentage points. The empowerment of the Commission to borrow funds on capital markets on behalf of the Union for the sole and exclusive purpose of financing measures to address the consequences of the COVID-19 crisis is closely related to the increase in the own resources ceilings foreseen in this Decision and, ultimately, to the functioning of the system of own resources of the Union. Accordingly, that empowerment should be included in this Decision. The unprecedented nature of this operation and the exceptional amount of the funds to be borrowed call for certainty about the overall volume of the Union's liability and the essential features of its repayment, as well as for the implementation of a diversified borrowing strategy.

(17) The increase in the own resources ceilings is necessary since the ceilings would otherwise not be sufficient to ensure the availability of adequate resources that the Union needs to meet the liabilities resulting from the exceptional and temporary empowerment to borrow funds. The need to have recourse to this additional allocation will also only be temporary since the relevant financial obligations and contingent liabilities will decrease over time as the borrowed funds are repaid and the loans mature. Therefore, the increase should expire when all funds borrowed have been repaid and all contingent liabilities relating to loans provided on the basis of those funds have ceased, which should be by 31 December 2058 at the latest.

(18) Activities of the Union to address the consequences of the COVID-19 crisis need to be significant and must take place over a relatively short period. The borrowing of funds needs to follow this timing. Therefore, new net borrowing activity should stop at the latest at the end of 2026. After 2026 borrowing operations should be strictly limited to refinancing operations to ensure an efficient debt management. The Commission, when implementing the operations through a diversified funding strategy, should make the best use of the capacity of the markets to absorb the borrowing of such significant amounts of funds with different maturities, including short-term financing for the purpose of cash management, and ensuring the most advantageous repayment conditions. In addition, the Commission should regularly and comprehensively inform the European Parliament and the Council about all aspects of its debt management. Once the payment schedules for the policies to be funded by the borrowing are known, the Commission will communicate an issuance calendar containing the expected issuance dates and expected volumes for the forthcoming year as well as a plan setting out the expected principal and interest payments to the European Parliament and the Council. The Commission should update that calendar regularly.

(19) The repayment of funds borrowed for the purpose of providing non-repayable support, providing repayable support through financial instruments or provisioning for budgetary guarantees, as well as payment of the interest due, should be funded by the Union budget. The borrowed funds which are used to provide loans to Member States should be repaid using the sums received from the beneficiary Member States. The necessary resources need to be allocated and made available to the Union for it to be able to cover all of its financial obligations and contingent liabilities resulting from the exceptional and temporary empowerment to borrow funds in any given year and under

any circumstances, in compliance with Article 310(4) and Article 323 of the Treaty on the Functioning of the European Union (TFEU).

(20) Amounts not used for interest payments as foreseen will be used for early repayments before the end of the MFF 2021-2027, with a minimum amount, and can be increased above this level provided that new own resources have been introduced after 2021 in accordance with the procedure set out in the third paragraph of Article 311 TFEU. All liabilities incurred by the exceptional and temporary empowerment to borrow funds should be fully repaid by 31 December 2058. In order to ensure the efficient budgetary management of the appropriations needed to cover repayments for the funds borrowed, it is appropriate to provide for the possibility of underlying budgetary commitments being broken down in annual instalments.

(21) The schedule of repayments should respect the principle of sound financial management and cover the entire volume of funds borrowed under the empowerment of the Commission with a view to achieving a steady and predictable reduction of liabilities during the overall period. For that purpose, the amounts due by the Union in a given year for the repayment of the principal should not exceed 7,5 % of the maximum amount of EUR 390 000 million for expenditure.

(22) Given the features of the exceptional, temporary and limited empowerment of the Commission to borrow funds for the purpose of addressing the consequences of the COVID-19 crisis, it should be clarified that, as a rule, the Union should not use funds borrowed on capital markets for the financing of operational expenditure.

(23) In order to ensure that the Union is always able to fulfil its legal obligations in respect of third parties in a timely manner, specific rules should be provided by this Decision authorising the Commission, during the period of the temporary increase in the own resources ceilings, to call on Member States to provisionally make available the relevant cash resources if the authorised appropriations entered in the Union budget are not sufficient to cover liabilities arising from the borrowing linked to that temporary increase. The Commission should, as its last resort, only be able to call cash resources if it cannot generate the necessary liquidity by activating other measures of active cash management, including, if necessary, through a recourse to short-term financing on capital markets, in order to ensure timely compliance with the Union's obligations towards lenders. It is appropriate to provide that such calls should be announced by the Commission to Member States duly in advance and should be strictly *pro rata* to the estimated budget revenue of each Member State, and in any case, limited to their share of the temporarily increased own resources ceiling, that is 0,6 % of Member States' GNI. However, if a Member State fails, in full or in part, to honour a call on time, or if it notifies the Commission that it will not be able to honour a call, the Commission should nevertheless be authorised on a provisional basis to make additional calls on other Member States on a *pro rata* basis. It is appropriate to provide a maximum amount that the Commission may annually call from a Member State. The Commission is expected to submit the necessary proposals for the purpose of entering the expenditure covered by the amounts of cash resources provisionally provided by the Member States in the Union budget in order to ensure that those resources are taken into account as early as