

17.4.2024

A9-0085/2

**Amendment 2**

**David McAllister**

on behalf of the Committee on Foreign Affairs

**Johan Van Overtveldt**

on behalf of the Committee on Budgets

**Report**

**A9-0085/2024**

**Tonino Picula, Karlo Ressler**

Establishing the Reform and Growth Facility for the Western Balkans  
(COM(2023)0692 – C9-0408/2023 – 2023/0397(COD))

**Proposal for a regulation**

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AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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**REGULATION (EU) 2024/...**

**OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**on establishing the Reform and Growth Facility for the Western Balkans**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212 and Article 322(1) thereof,

Having regard to the proposal from the European Commission,

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

Having regard to the opinion of the Court of Auditors<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

Whereas:

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<sup>1</sup> Opinion of 30 January 2024 (not yet published in the Official Journal).

<sup>2</sup> Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ....

- (1) *The Union is founded on the values referred to in Article 2 of the Treaty on the European Union (TEU), which include democracy, the rule of law and respect for human rights. Those values form part of the accession criteria established at the Copenhagen European Council in June 1993 ('Copenhagen criteria'), which constitute the conditions of eligibility for the Union membership.*
- (2) *The enlargement process is built on established criteria, fair and rigorous conditionality and the principle of own merits. A firm commitment to 'fundamentals first' approach, which requires a strong focus on the rule of law, fundamental rights, the functioning of democratic institutions and public administration reform, as well as on economic criteria, remains essential. Progress depends on each beneficiary's implementation of the necessary reforms to align with the Union acquis. Regional cooperation and good neighbourly relations remain essential elements of the enlargement process.*
- (3) *Russia's war of aggression against Ukraine further showed that enlargement is a geo-strategic investment in peace, security and stability. Recalling the Union's full and unequivocal commitment to the Union membership perspective of the Western Balkans, the Western Balkans partners' orientation and commitment towards the Union is a strong expression of their strategic choice and place in a community of values. The Western Balkans partners' EU path needs to be firmly anchored in tangible and concrete progress on reforms.*

- (4) It is in the common interest of the Union and its Western Balkans partners, *namely Albania, Bosnia and Herzegovina, Kosovo\**, *Montenegro, North Macedonia and Serbia (the ‘beneficiaries’)*, to advance efforts to reform their political, legal and economic systems with a view to their future Union membership *and to support their accession process*. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.
- (5) *It is necessary* to bring forward some of the advantages of Union membership before accession. Economic convergence is at the heart of *those* benefits. Currently, the convergence of Western Balkans in terms of GDP per capita expressed in purchasing power standards remains low at between 30 % and 50 % of the Union average and is not progressing fast enough.
- (6) To reduce *that* disparity, the *Commission in its Communication of 8 November 2023, entitled ‘New Growth Plan for the Western Balkans’ set out a new* growth plan for the Western Balkans based on four pillars: (a) increasing integration with the EU’s Single Market; (b) boosting regional economic integration, based on EU rules and standards, by fully implementing the existing Common Regional Market Action Plan; (c) deepening reforms aiming at accelerating growth in the region, promoting economic convergence and strengthening regional stability; and (d) establishing a new financing instrument: the Reform and Growth Facility for the Western Balkans (*the ‘Facility’*).

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\* *This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.*

- (7) The implementation of the New Growth Plan for the Western Balkans requires increased funding under a dedicated new financing instrument, the Facility to assist the region in implementing *reforms for sustainable economic growth*, regional integration and *the* Common Regional Market.
- (8) To achieve *the* goals of the New Growth Plan for the Western Balkans, special emphasis with respect to investment areas should be placed on sectors that are likely to function as key multipliers for social and economic development: connectivity, including *sustainable* transport, *decarbonisation*, energy, green and digital transitions, *as well as* education and skills development, *with a particular focus to youth*.
- (9) *Sustainable* transport infrastructure is essential to improve connectivity between the beneficiaries and with the *Union*. It should contribute to *the integration of* the Western Balkan region in the Union. In its proposal revising the trans-European transport *network* (TEN-T), the Commission included a new Corridor crossing the Western Balkan region (*Western Balkans-Eastern* Mediterranean corridor). The TEN-T network is the reference for funding *sustainable* transport infrastructure in that region, *including for environmentally friendly means of transport, such as railways*.

(10) The Facility should support investment and reforms that promote the beneficiaries' path to the digital transformation of the economy and society in line with the *Union* vision for 2030 presented in the Commission communication *of 9 March 2021, entitled '2030 Digital Compass: the European way for the Digital Decade', fostering an inclusive digital economy that benefits all citizens. The Facility* should strive to facilitate *the beneficiaries'* achievement of the general objectives and digital targets with regard to the Union. As outlined by the Commission in its communication of 15 June 2023, *entitled 'Implementation of the 5G cybersecurity Toolbox'*, the 5G cybersecurity Toolbox should be the reference for *Union* funding to ensure security, resilience and *the* protection of integrity of digital infrastructure *projects* in the region.

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(11) The support under the Facility should be provided to meet general and specific objectives, based on established criteria and with clear payment conditions. *Those* general *and specific objectives* should be *pursued in a mutually reinforcing manner. The Facility should support the enlargement process by accelerating the* alignment with Union *values, laws, rules, standards, policies and practices ('acquis')* with a view *to* Union membership, *accelerate regional economic integration and progressive integrations of the beneficiaries in the Union single market, and accelerate their socio-economic convergence with the Union. The Facility should also foster regional cooperation, good neighbourly relations, as well as reconciliation and settlement of disputes.*

- (12) *In addition to boosting socio-economic convergence, the Facility should also help accelerate reforms related to fundamentals of the enlargement process including rule of law, fundamental rights, inter alia, the rights of persons belonging to minorities, including national minorities and Roma, as well as the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. It should also improve the functioning of democratic institutions and public administrations; public procurement, State aid control and public finance management; the fight against all forms of corruption and organised crime; quality education and training as well as employment policies; the region's green transition, climate and environmental objectives.*
- (13) *Union support under the Facility should complement the bilateral and regional support provided under Regulation (EU) 2021/1529 of the European Parliament and of the Council<sup>3</sup>, which remains the main instrument for preparing the beneficiaries for Union membership, while using already existing mechanisms and structures, where possible, and maximising synergies. The approach should build on the existing enlargement methodology, in particular the 2020 Revised Methodology presented by the Commission in its communication of 5 February 2020, entitled 'Enhancing the accession process – A credible EU perspective for the Western Balkans', and the Economic and Investment Plan for the Western Balkans adopted by the Commission on 6 October 2020.*

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<sup>3</sup> *Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III) (OJ L 330, 20.9.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/1529/oj>).*

- (14) *The Facility should complement the existing Economic and Financial Dialogue without compromising its scope, thereby enhancing economic integration and preparation for the Union's multilateral surveillance of economic policies.*
- (15) The Facility should promote the development *of* effectiveness principles, respecting additionality to *and complementarity with* the support provided under other Union programmes and instruments and striving to avoid duplication *and ensure synergies* between assistance under this Regulation and other assistance, *including integrated financial packages composed of both export and development financing* provided by the Union, the Member States, third countries, multilateral and regional organisations and entities.



- (16) *In line with the principle of inclusive partnerships, the Commission should strive to ensure that relevant stakeholders in the beneficiaries, including beneficiaries' parliaments, local and regional authorities, social partners and civil society organisations are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of programmes and the related monitoring processes.*
- (17) *Tailor-made and targeted technical assistance, as well as cross-border cooperation assistance, should continue to be provided in support of the objectives of this Facility and in order to strengthen the relevant capacities of the beneficiaries to implement the Reform Agendas.*
- (18) The Facility should ensure consistency with, and support *for* the general objectives of Union external action as laid down in Article 21 of the *TEU*, including the respect for fundamental rights as enshrined in the **■** Charter of Fundamental Rights *of the European Union*. *It should in particular* ensure the protection and promotion of human rights, and the rule of law.

- (19) *The Facility should boost innovation, research, and cooperation between academic institutions and industry in support of the green and digital transitions, promoting local industries with a particular emphasis on locally based micro, small and medium-sized enterprises and start-ups;*
- (20) *The beneficiaries should demonstrate a credible commitment to European values, including through their alignment with the Union's Common Foreign and Security Policy, including Union restrictive measures.*
- (21) *In the implementation of the Facility, account should be taken of the Union's strategic autonomy as well as of the Union and its Member States' strategic interests and the values on which the Union is founded.*

- (22) Activities under the Facility should support progress towards ***Union social, climate and environmental standards, and support progress towards the United Nations*** Sustainable Development Goals, the Paris Agreement ***adopted under*** the United Nations Framework Convention on Climate Change, the United Nations Convention on Biological Diversity and the United Nations Convention to Combat Desertification and should not contribute to environmental degradation or cause harm to the environment or climate. Measures funded under the Facility should be in line with the beneficiaries' Energy and Climate Plans, their Nationally Determined Contribution and ambition to reach climate neutrality by 2050. The Facility should contribute to the mitigation ***of climate change*** and to the ability to adapt to ***its*** adverse effects, ***and foster*** climate ***resilience***. ***In particular, funding under the Facility should promote the transition towards a decarbonised, climate-neutral, climate-resilient and circular economy.***

(23) The implementation of this Regulation should be guided by the principles of equality and non-discrimination, as elaborated in the Union of Equality strategies. It should promote *and advance* gender equality and *mainstreaming, ensure meaningful participation of women in decision-making processes, and* the empowerment of women and girls, and seek to protect and promote women's and girls' rights, *as well as prevent and combat violence against women and domestic violence, taking into consideration relevant* EU Gender Action Plans and relevant Council conclusions and international conventions. *Furthermore, this Regulation should be implemented in full respect of the European Pillar of Social Rights, including on child protection and labour rights.* The implementation of the Facility should be in line with the United Nations Convention on the Rights of Persons with Disabilities<sup>4</sup> *and its protocol* and ensure accessibility in its investments and technical assistance, *in line with Directive (EU) 2019/882 of the European Parliament and of the Council*<sup>5</sup>.

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<sup>4</sup> OJ L 23, 27.1.2010, p. 35.

<sup>5</sup> *Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70, ELI: <http://data.europa.eu/eli/dir/2019/882/oj>).*

- (24) This Regulation should promote the Green Agenda for the Western Balkans *included in the Commission Communication of 6 October 2020, entitled ‘An Economic and Investment Plan for the Western Balkans’*, by reinforcing environmental protection *and restoration*, contributing to the mitigation of climate change and increasing resilience to climate change, and accelerating the shift towards a low-carbon economy.

(25) Reflecting the European Green Deal as Europe’s sustainable growth strategy and the importance of tackling climate and biodiversity objectives in line with the commitments of the Interinstitutional Agreement, the Facility should contribute to the achievement of **an** overall target of 30 % of Union budget expenditure supporting climate objectives and 7,5 % in 2024 and 10 % in 2026 and 2027 to biodiversity objectives. At least 37 % of the non-repayable financial support channelled through the **Western Balkan Investment Framework (WBIF)** should account to climate objectives. ***That amount should be calculated using the Rio markers following the obligation to report the EU’s international climate finance to the OECD, as well as other international agreements or frameworks. As early as June 2025, the EU climate coefficients, applicable across all programmes under the 2021-2027 Multi-annual Financing Framework (MFF) and set out in the Commission Staff Working Document entitled ‘Climate Mainstreaming Architecture in the 2021-2027 Multiannual Financial Framework’ (SWD(2022) 225), will also be applied to climate expenditure under the MFF’s Heading 6 (‘Neighbourhood and the world’). The Facility will align with the approach of other Heading 6 instruments, including the Instrument for Pre-Accession assistance (IPA III), in order to ensure consistent climate reporting in the region.*** The Facility should support activities that fully respect the climate and environmental standards and priorities of the Union and the principle of ‘do no significant harm’ within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>6</sup>.

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<sup>6</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13, ELI: <http://data.europa.eu/eli/reg/2020/852/oj>).

- (26) The Commission, in cooperation with the Member States and the beneficiaries, should **ensure the compliance, coherence, consistency and complementarity**, increased transparency and accountability in the delivery of assistance, including by implementing appropriate internal control systems and anti-fraud policies. The support under the Facility should be made available under the preconditions that each of the beneficiaries **upholds and respects** effective democratic mechanisms **■**, including a multi-party parliamentary system, **free and fair elections, pluralistic media, an independent judiciary** and the rule of law, and to guarantee respect for **all** human rights **obligations**, including the rights of persons belonging to minorities. Another pre-condition should be that Serbia and Kosovo engage constructively **with measurable progress and tangible results** in the normalisation of their relations **in order** to fully **implement all of** their respective obligations stemming from the Agreement on the Path to Normalisation and its Implementation Annex as well as all past Dialogue Agreements and engage in negotiations on the Comprehensive Agreement on normalisation of relations.
- (27) The overall maximum amount for the Union support through the Facility should be EUR 6 billion in current prices for the period from 2024 to 2027, of which up to EUR 2 billion in **the form of** non-repayable support and EUR 4 billion in concessional financial-assistance loans provided by the Union and provisioned from the EUR 2 billion. At least half of the total amount should be allocated through the **WBIF**, including the entire amount of the non-repayable support, **after deduction of 1,5 % for technical and administrative** assistance, and the amounts necessary for provisioning of the loans.

- (28) This Regulation lays down a financial envelope for the entire duration of *the Facility*, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>7</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (29) The financial liability from loans under *the Facility* should not be supported by the External Action Guarantee, by way of derogation from Article 31(3), second sentence of Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>8</sup>. ***Support in the form of loans*** under this Facility should constitute financial assistance within the meaning of Article 220(1) of Regulation (EU, Euratom) 2018/1046<sup>9</sup> (the ‘Financial Regulation’). An indicative amount of financing for each beneficiary should be calculated based on the formula laid down in the Annex, combining the population share of a beneficiary over the overall population of the Western Balkans region and the average GDP per capita for the Western Balkans region over the GDP per capita of the respective beneficiary, ***with a weighing factor of 60 % and 40 % respectively***. If the payment conditions for the release of funds are not met, the Commission should be able to redistribute part of or the entire amount ***among*** other beneficiaries.

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<sup>7</sup> OJ L 433 I, 22.12.2020, p. 28,

ELI: [http://data.europa.eu/eli/agree\\_interinstit/2020/1222/oj](http://data.europa.eu/eli/agree_interinstit/2020/1222/oj).

<sup>8</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/947/oj>).

<sup>9</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/20 (OJ L 193, 30.7.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1046/oj>).



- (30) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 *of the Treaty on the Functioning of the European Union (TFEU)* should apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, indirect management, financial assistance, blending operations and the reimbursement of external experts, and provide for checks on the responsibility of financial actors.
- (31) Restrictions *on* eligibility in award procedures under the Facility should be *provided for, where appropriate, given* the specific nature of the activity or when the activity affects security or public order.
- (32) In order to ensure *the* efficient implementation of the Facility, including the facilitation of the beneficiaries' integration in European value chains, all supplies and materials financed and procured under this Facility should originate from Member States, beneficiaries, *candidate countries and* contracting parties to the Agreement on the European Economic Area and countries *which provide a level of support to beneficiaries comparable to the one provided by the Union, taking into account the size of their economy, and* for which reciprocal access to external assistance in beneficiaries is established by the Commission, unless the supplies and materials cannot be sourced *under* reasonable conditions in any of those countries.

- (33) While respecting the principle that the Union budget is set annually, the possibility to apply the flexibilities in accordance with the Financial Regulation for other policies should be ensured, including for carry overs and re-commitments of funds, to ensure efficient use of the Union funds, thus maximising the Union funds available under the Facility.
- (34) The implementation of the Facility ■ should be underpinned by a coherent and prioritised set of targeted reforms and investment *related* priorities in each beneficiary (*the* ‘Reform Agenda’), providing a framework for boosting *inclusive sustainable* socio-economic growth, clearly articulated and aligned with Union accession requirements *and the fundamentals of the enlargement process*. The Reform Agenda will serve as an overarching framework to achieve the objectives of *the* Facility. *The Reform Agenda should be prepared in close consultation with relevant stakeholders, including beneficiaries' parliaments, local and regional representative bodies and authorities, social partners and civil society organisations and their input should be reflected in the Reform Agendas.*
- (35) Disbursement of Union support should be conditional on compliance with the payment conditions and on measurable progress in the implementation of reforms set out in the Reform Agendas assessed and formally approved by the Commission. The release of funds should be structured accordingly, reflecting the objectives of the Facility.

- (36) The Reform Agendas should include targeted reform measures and priority investment areas, along with payment conditions in the form of *measurable* qualitative and quantitative steps that indicate satisfactory progress or completion of those measures, and an indicative timetable for the implementation of those measures. ***The Reform Agendas should also include a preliminary list of planned investment projects intended for financing under the WBIF.*** Those steps should be planned for no later than 31 August 2027, although it should be possible for the overall completion of the measures to which such steps refer to extend beyond 2027 but not later than 31 December 2028.
- (37) The Reform Agendas should include an explanation of the beneficiary's system to effectively prevent, detect and correct irregularities, corruption, ***including high-level corruption***, fraud and conflicts of ***interest***, when using the funds provided under the Facility, and the arrangements ■ to avoid double funding from the Facility and other Union programmes as well as other donors.
- (38) ***The Reform Agendas should include an explanation on how the measures are expected to contribute to the climate and environmental objectives and the principle of 'do no significant harm', and the digital transformation.***

- (39) Measures under the Reform Agendas should contribute to improving an efficient public financial management and control system, **money laundering, tax avoidance, tax evasion, fraud and organised crime** and to an effective system of State aid control, **with the aim of** ensuring fair conditions for all undertakings. Such measures should be implemented by the beneficiary by an indicative date which could be set, **as** appropriate for each measure, in the early stage of implementation of the Facility.
- (40) ***The Reform Agendas should be results-based and include indicators for assessing progress towards the achievement of general and specific objectives of the Facility set out in this Regulation. Those indicators should be based on internationally agreed indicators. Indicators should also, to the extent possible, be coherent with the key performance indicators included in the IPA III Results Framework, in the EFSD+ Results Measurement Framework and in the WBIF. The indicators should be relevant, accepted, credible, easy, and robust.***
- (41) ***Funds under the Facility should not support activities or measures which undermine peace agreements in the region.***

- (42) The Commission should assess each Reform Agenda based on the list of criteria set out in this Regulation. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to approve those Reform Agendas. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>10</sup>. The Commission will duly take into account Council decision 2010/427/EU<sup>11</sup> and the role of the European External Action Service (EEAS), where appropriate, and in particular when monitoring the fulfilment of the relevant precondition for Union support.
- (43) The Commission implementing decision referred to in this Regulation should at the same time constitute a work programme within the meaning of Article 110(2) of the Financial Regulation in respect of the amount of non-repayable financial support under this Regulation.
- (44) Given the need for flexibility in the implementation of the Facility, it should be possible for a beneficiary to make a reasoned request to the Commission to amend the implementing decision, where the Reform Agenda, including relevant payment conditions, is no longer achievable, either partially or totally, because of objective circumstances. A beneficiary should be able to make a reasoned request to amend the Reform Agenda, including by proposing addenda, where relevant.

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<sup>10</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

<sup>11</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30, ELI: <http://data.europa.eu/eli/dec/2010/427/oj>).

- (45) The Commission should be able to amend the implementing decision, in particular to take into account a change of the amounts available.
- (46) In ***the event that*** redistribution of support under this Facility which would lead to ***a beneficiary receiving additional support, the beneficiary concerned*** should submit a revised Reform Agenda with additional measures to be achieved. ***The Commission should inform the European Parliament and the Council prior to taking any decision on the redistribution of support.***
- (47) A Facility Agreement should be concluded with each beneficiary to set up the principles of the financial cooperation between the Union and the beneficiary, and to specify the necessary mechanisms related to the control, supervision, monitoring, evaluation, reporting and audit of Union funding under the Facility, rules on taxes, duties and charges and measures to prevent, detect, investigate and correct irregularities, fraud, corruption and conflicts of interest. Consequently, a loan agreement should also be concluded with each beneficiary setting out specific provisions for the management and implementation of funding provided in the forms of loans. ***Both the Facility Agreement and the loan agreement should be transmitted to the European Parliament and to the Council, upon request.***

- (48) *The Facility Agreement should provide the obligation for beneficiaries to ensure the collection of, and access to data in compliance with Union data protection principles and with applicable data protection rules, adequate data on persons and entities receiving funding, including beneficial ownership information, for the implementation of Reform Agendas.*
- (49) Financial support for the Reform Agendas should be possible in the form of a loan. In the context of *the beneficiaries'* financing needs, it is appropriate to organise the financial assistance under the diversified funding strategy provided for in Article 220a of the Financial Regulation and established as a single funding method therein, which is expected to enhance the liquidity of Union bonds and the attractiveness and cost-effectiveness of Union issuance.
- (50) It is appropriate to provide loans to the beneficiaries on highly concessional terms with a maximum duration of 40 years and to not start the repayment of the principal before 2034. It is also appropriate to derogate from Article 220(4) of the Financial Regulation.

- (51) Considering that the financial risks associated with the support to the beneficiaries in the form of loans under *the Facility* is comparable to the financial risks associated with lending operations under Regulation (EU) 2021/947, provisioning for the financial liability from loans under this Regulation should be constituted at the rate of 9 %, in line with Article 211 of the Financial Regulation and the funding of the provisioning should be sourced from EUR 2 billion envelope under *the Facility*.
- (52) In order to ensure that the provisioning rate remains adequate to the financial risks and *to display the progress of the implementation of the Facility* the power to adopt acts in accordance with Article 290 *TFEU* should be delegated to the Commission in respect of amending the provisioning rate and of defining the detailed elements of the Scoreboard. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>12</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>12</sup> OJ L 123, 12.5.2016, p. 1, ELI: [http://data.europa.eu/eli/agree\\_interinst/2016/512/oj](http://data.europa.eu/eli/agree_interinst/2016/512/oj).



- (53) In order to maximise the leverage of Union financial support to attract additional investment, and to ensure **Union** control over the expenditure, the infrastructure investments supporting the Reform Agendas should be implemented through the WBIF. Individual projects or programmes should be submitted to the WBIF Operational Board for its opinion only upon completion of **the** relevant payment conditions **set out** in the Reform Agendas. In **the** case of non-fulfilment of relevant payment conditions for investments within one year, the Commission should be able to redistribute the investment funding under the WBIF among the **other** beneficiaries.
- (54) In order to ensure that the beneficiaries dispose of start-up funding for the implementation of the first reforms, each beneficiary should have access to up to 7 % of the total amount **provided for in** this Facility **as** financial assistance in the form of a pre-financing, subject to availability of funding and to the respect of the preconditions for support under the Facility.

- (55) It is important to guarantee both flexibility and programmability in providing Union support to the beneficiaries. For that purpose, funds under the Facility should be released according to a fixed semi-annual schedule, subject to availability of funding, on *the basis of* a request for the release of funds submitted by the beneficiaries and following verification by the Commission of the satisfactory fulfilment of both the general conditions related to macro-financial stability, sound public financial management, transparency and oversight of the budget and the relevant payment conditions. Where a payment condition is not fulfilled *as per* the indicative timeline set in the decision approving the Reform Agenda, the Commission could withhold *in whole or in part the disbursement of* funds corresponding to that condition, *following a methodology on partial payments*. The disbursement of the corresponding withheld funds could take place during the next window for the release of funds and up to twelve months after the original deadline set out in the indicative timeline, provided *that* the payment conditions have been fulfilled. In the first year of implementation, *that* deadline should be extended to 24 months from the initial negative assessment.
- (56) By way of derogation from Article 116(2) and (5) of the Financial Regulation, it is appropriate to set the payment deadline for contributions to state budgets starting from the date of the communication of the decision authorising the disbursement to the beneficiary and to exclude the payment of default interest by the Commission to the beneficiary.

- (57) *The Commission should provide, upon request of the European Parliament in the framework of the discharge procedure, detailed information about the implementation of the Union budget under the Facility, in particular as regards audits carried out, including weaknesses identified and corrective measures taken, and as regards the award of contracts for investments under the WBIF, including where applicable the amount of beneficiaries' co-financing as well as other sources of contributions including from other Union financing instruments.*
- (58) In the framework of the Union's restrictive measures, adopted on the basis of Article 29 *TEU and Article 215 TFEU*, no funds or economic resources may be made available, directly or indirectly, to or for the benefit of designated legal persons, entities or bodies. Such designated entities, and entities owned or controlled by them, therefore ***should not*** be supported by the Facility.

- (59) In accordance with the Financial Regulation, Regulation (EU, Euratom) 883/2013 of the European Parliament and of the Council<sup>13</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>14</sup>, (Euratom, EC) No 2185/96<sup>15</sup> and (EU) 2017/1939<sup>16</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, fraud, corruption, conflicts of interest, double funding, to the recovery of funds lost, wrongly paid or incorrectly used.
- (60) In particular, in accordance with regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) should be in a position to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

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<sup>13</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/883/oj>).

<sup>14</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1, ELI: <http://data.europa.eu/eli/reg/1995/2988/oj>).

<sup>15</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2, ELI: <http://data.europa.eu/eli/reg/1996/2185/oj>).

<sup>16</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1939/oj>).

- (61) In accordance with Article 129 of the Financial Regulation, the necessary rights and access should be granted to the Commission, OLAF, the Court of Auditors and, where applicable the European Public Prosecutor's Office (EPPO), including by third parties involved in the implementation of Union funds.
- (62) The Commission should ensure that the financial interests of the Union are effectively protected under the Facility. **Considering** the long track record of financial assistance provided to the ■ beneficiaries also under indirect management and taking into account their gradual alignment with the Unions internal control standards and practices, the Commission should rely to a great extent on the operation of the beneficiaries' internal control and fraud prevention systems. In particular, the Commission and OLAF **and, where applicable, EPPO** should be informed of all suspected cases of irregularities, fraud, corruption and conflicts of interest affecting the implementation of funds under the Facility without delay.
- (63) Furthermore, the beneficiaries should report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep **it** informed of the progress of administrative and legal **proceedings**. With the objective of alignment to good practices in Member States, this reporting should be done by electronic means, using the Irregularity Management System, established by the Commission.

- (64) Each beneficiary should establish a monitoring system feeding into **a** semi-annual report **on the** fulfilment of its **Reform** Agenda's payment conditions accompanying the semi-annual request for the release of funds. **The** beneficiaries should collect and provide access to data and information allowing the prevention, detection and correction of irregularities, fraud, corruption and conflicts of **interest**, in relation to the measures supported by the Facility.
- (65) The Commission should ensure that clear monitoring and **independent** evaluation mechanisms are in place in order to provide effective accountability and transparency in implementing the Union budget, and to ensure effective assessment of progress towards the achievement of **the objectives of** this Regulation ■ .
- (66) The Commission should provide an annual report **to the European Parliament and the Council on** progress **towards the achievement** of the **objectives of this** Regulation, **also addressing synergies and complementarities with other Union programmes, in particular support provided under Regulation (EU) 2021/1529, with a view to avoiding the duplication of assistance and double funding.**

- (67) *In the interest of transparency and accountability, the beneficiaries should publish data on final recipients receiving amounts of funding exceeding the equivalent of EUR 50 000 cumulatively during the implementation of reforms and investments under this Facility.*
- (68) The Commission should carry out an evaluation of the Facility upon its completion.
- (69) ■ Beneficiaries should **support** free pluralistic media *that enhance and promote the* understanding of Union values and the benefits and obligations of potential Union membership, while *undertaking decisive actions in terms of tackling Foreign Information Manipulation and Interference. They should also ensure pro-active, clear and consistent public communication, including on the Union support. The recipients of Union funding should actively acknowledge the origin and ensure* visibility of the Union funding, *in line with the Communication and Visibility Manual for EU External Actions.*
- (70) *Implementation of the Facility should also be accompanied by enhanced strategic communication and public diplomacy to promote the values of the Union and highlight the added value of the Union's support.*

- (71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can *rather* be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (72) ■ In order to provide funding for the beneficiaries in due time without further delay, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:



# CHAPTER I

## General provisions

### *Article 1*

#### *Subject matter*

1. This Regulation establishes the Reform and Growth Facility for the Western Balkans (the ‘Facility’).

It lays down the objectives of the Facility, its financing and budget for the period **from 2024 to 2027**, the forms of Union funding under it and the rules for providing such funding.

2. The Facility shall **complement Regulation (EU) 2021/1529 to** provide assistance to the Western Balkans for the delivery of ***EU-related reforms, in particular inclusive and sustainable*** socio-economic reforms and ***reforms concerning fundamentals of the enlargement process, aligned with Union values, as well as*** investments to implement their respective Reform Agendas, as set out in Chapter III.

*Article 2*  
*Definitions*

For the purposes of this Regulation, the following definitions apply:

- (1) ‘beneficiary’ means any of the following: Albania, Bosnia and Herzegovina, Kosovo █, Montenegro, North Macedonia or Serbia.
- (2) ‘enlargement *policy framework*’ means the ***overall policy framework for the implementation of this Regulation as defined by the European Council and the Council, and includes the revised enlargement methodology, agreements that establish a legally binding relationship with the beneficiaries, the negotiating frameworks governing accession negotiations with candidates, where applicable, as well as resolutions of the European Parliament, relevant communications from the Commission, including, where applicable, on the rule of law, and joint communications from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy.***
- (3) ‘Facility Agreement’ means an arrangement concluded between the Commission and the beneficiary laying down the principles ***for*** the financial cooperation between the beneficiary and the Commission under this Regulation; this arrangement constitutes a financing agreement within the meaning of Article 114(2) of the Financial Regulation as regards the financial envelope under Article 6(2), point (a) ***of this Regulation;***
- (4) ‘loan agreement’ means an arrangement concluded between the Commission and ***a*** beneficiary laying down the conditions applicable to the support of the Facility;

- (5) ‘Reform Agenda’ means a comprehensive, coherent and prioritised set of targeted reforms and priority investment areas in each beneficiary, including payment conditions that indicate satisfactory progress or completion of related measures, and an indicative timetable for their implementation;
- (6) ‘measures’ means reforms and investments *as set out in* the Reform Agendas *under* Chapter III;
- (7) ‘payment conditions’ means conditions for the release of funds *that take* the form of observable and measurable qualitative or quantitative steps to be implemented by a beneficiary, as set out in the Reform Agenda *under* Chapter III;
- (8) ‘blending operation’ means an operation supported by the Union budget that combines non-repayable forms of support ■ from the Union budget with repayable forms of support from development or other public *financial* institutions, *including export credit agencies*, or from commercial finance institutions and investors.

- (9) *‘final recipient’ means a person or entity receiving funding under the Facility; for the part of the Facility that is made available as financial assistance, final recipient will be the treasury of the Beneficiary; for the part of the Facility that is made available through the Western Balkans Investment Framework (WBIF), final recipient will be the contractor or sub-contractor implementing the investment project.*
- (10) *‘do no significant harm’ means not supporting or carrying out economic activities that do significant harm to any environmental objective, where relevant, within the meaning of Article 17 of Regulation (EU) 2020/852.*

### *Article 3*

#### *Objectives of the Facility*

1. The general objectives of the Facility shall be to:
  - (a) *support the enlargement process by accelerating the alignment with Union values, laws, rules, standards, policies and practices (‘acquis’) through the adoption and implementation of reforms with a view to future Union membership;*

- (b) accelerate regional economic integration and progressive integration *into* the Union single market;
- (c) accelerate the socio-economic convergence of *the* beneficiaries' economies with the Union;



- (d) *foster regional cooperation, good neighbourly relations, reconciliation and the settlement of disputes in the Western Balkans, as well as people-to-people contact.*

2. The specific objectives of the Facility shall *be* to:

- (a) further strengthen the fundamentals of the enlargement process, including the rule of law *and fundamental rights, the functioning of democratic institutions, including at regional and local level and including de-polarisation, public administration and fulfil the economic criteria; this includes* promoting an independent judiciary, *reinforcing security and stability in the region, strengthening* the fight against fraud *and all forms of corruption, including high-level corruption and nepotism,* organised crime, *cross-border crime* and money laundering *as well as* terrorism financing, tax evasion and tax fraud, *tax avoidance; increasing* compliance with international law; *strengthening* freedom *and independence* of media and academic freedom; *combating hate speech;* enabling *an* environment for civil society, *fostering* social dialogue; *promoting* gender equality, *gender mainstreaming and the empowerment of women and girls,* non-discrimination and tolerance, to ensure and strengthen respect for the rights of persons belonging to minorities, *including national minorities and Roma, as well as rights of lesbian, gay, bisexual, transgender and intersex persons;*

- (b) *move towards full alignment of the beneficiaries with the Union Common Foreign and Security Policy (CFSP), including Union restrictive measures;***
- (c) *fight disinformation and Foreign Information Manipulation and Interference against the Union and its values;***
- (d) *move towards harmonisation of visa policies with the Union;***
- (e) *reinforce the effectiveness of public administration, build local capacities and invest in administrative staff in the beneficiaries; ensure access to information, public scrutiny and the involvement of civil society in decision-making processes; support transparency, accountability, structural reforms and good governance at all levels, including as regards their powers of oversight and inquiry over the distribution of and access to public funds as well as in the areas of public financial management and public procurement and State aid control; support initiatives and bodies involved in supporting and enforcing international justice in the [ ] beneficiaries;***
- (f) *accelerate the transition of the beneficiaries to sustainable, climate-neutral and inclusive economies, that are capable of withstanding competitive market pressures of the Union single market, and to a stable investment environment and reduce their strategic dependencies;***
- (g) *boost regional economic integration in particular through progress in the establishment of the Common Regional Market;***

- (h) foster economic integration of the beneficiaries with the Union single market, in particular through increased trade and investment flows, and resilient value chains;*
- (i) support regional economic integration and enhanced integration with the Union single market through improved and sustainable connectivity in the region in line with trans-European networks to reinforce regional cooperation, good neighbourly relations, reconciliation, as well as people-to-people contact;*
- (j) accelerate the inclusive and sustainable green transition to climate neutrality by 2050, in accordance with the Paris Agreement and the Green Deal, in line with the 2020 Green Agenda for the Western Balkans and covering all economic sectors, particularly energy, including the transition towards a de-carbonised, climate-neutral, climate-resilient and circular economy, while ensuring that investments respect the ‘do no significant harm’ principle;*
- (k) promote the digital transformation and digital skills as an enabler of sustainable development and inclusive growth;*
- (l) boost innovation, research, and cooperation between academic institutions and industry in support of the green and digital transitions, promoting local industries with a particular emphasis on locally based micro, small and medium- sized enterprises and start-ups;*
- (m) boost quality education, training, reskilling and upskilling at all levels, with a particular focus on youth, including tackling youth unemployment, preventing brain drain and supporting vulnerable communities and support employment policies, including labour rights, in line with the European Pillar of Social Rights, and fighting poverty.*

## Article 4

### General principles

1. Cooperation under the Facility shall be ***needs-based*** and shall promote the development effectiveness principles, namely ownership of development priorities by the beneficiaries, a focus on ***clear conditionality and tangible*** results, inclusive partnerships, transparency and mutual accountability. ***That*** cooperation shall be based on an effective and efficient allocation and use ***of resources***. ***The Facility shall strive to ensure an appropriate geographical balance of investment projects.***
2. ***The provision of macro-financial assistance shall not fall within the scope of this Facility.***
3. Support from the Facility shall be additional ***and complementary*** to the support provided under other Union programmes and instruments. Activities eligible for funding under this Regulation may receive support from other Union programmes and instruments provided that such support does not cover the same cost ***and that appropriate oversight and budget control is ensured***. ***The Commission shall ensure complementarities and synergies between the Facility and other Union programmes, with a view to avoiding the duplication of assistance and double funding. There shall be no overlap between support provided under this Regulation and Regulation (EU) 2021/1529.***



4. In order to promote the complementarity, ***coherence*** and efficiency of their ***actions***, the Commission and the Member States shall cooperate and shall strive to avoid duplication ***and ensure synergies*** between assistance under this Regulation and other ***forms of assistance, including integrated financial packages composed of both export and development financing*** provided by the Union, Member States, third countries, multilateral and regional organisations and entities, such as international organisations and the relevant international financial institutions, agencies and non-Union donors, in line with the established principles for strengthening operational coordination in the field of external assistance, including through enhanced coordination with Member States at local level. ***Such coordination at local level shall involve regular and timely consultations and frequent exchanges of information throughout the implementation of the Facility.***
5. Activities under the Facility shall mainstream ***and promote democracy, human rights and gender equality, progressively align with the social, climate and environmental standards of the Union, mainstream*** climate change mitigation and adaptation, where relevant, disaster risk reduction, ***environmental protection and biodiversity conservation, including through, where appropriate, environmental impact assessments,*** and shall support progress towards the Sustainable Development Goals, promoting integrated actions that can create co-benefits and meet multiple objectives in a coherent way. Those activities shall avoid stranded assets, and shall be guided by the principles of ‘do no ***significant*** harm’ and of ‘leaving no one behind’, as well as by the sustainability mainstreaming approach underpinning the European Green Deal.

6. Beneficiaries and the Commission shall ensure that **gender equality**, gender mainstreaming and the integration of a gender **perspective** are taken into account and promoted throughout the preparation of the Reform Agendas and the implementation of the Facility.  
Beneficiaries and the Commission shall take appropriate steps to prevent any discrimination based upon gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Commission **shall** report on these measures in the context of its regular reporting under the Gender Action Plans.
7. The Facility shall not support activities or measures which are incompatible with the beneficiaries' Energy and Climate Plans, their Nationally Determined Contribution under the Paris Agreement, and **the** ambition to reach climate-neutrality by 2050 **at the latest** or that promote investments in fossil fuels, or that cause significant adverse effects on the environment, the climate **or biodiversity**.
8. ***In line with the principle of inclusive partnership, the Commission shall strive to ensure, as appropriate, democratic scrutiny in the form of consultation by a beneficiary's government of its respective parliament as well as of relevant stakeholders, including local and regional authorities, social partners and civil society, including vulnerable groups, all minorities and communities, as relevant, so as to allow them to participate in shaping the design and the implementation of activities eligible for funding under the Facility and in the related monitoring, scrutiny and evaluation processes, as relevant. That consultation shall seek to represent the pluralism of the beneficiary's society.***

9. The Commission, in *close* cooperation with the Member States and **█** beneficiaries, shall *ensure* the implementation of Union commitments to increased transparency and accountability in the delivery of *support*, including by promoting the implementation and reinforcement of internal control systems and anti-fraud policies. *The Commission shall make* information on the volume and allocation of *support publicly* available through *the Scoreboard referred to in Article 26*. *The beneficiaries* shall *publish up-to-date data on final recipients receiving Union funds for the implementation of reforms and investments under this Facility, as described in Article 22*.

#### Article 5

##### *Preconditions for Union support*

1. Preconditions for the support under the Facility shall be that:
- (a) *the beneficiaries uphold and respect effective democratic mechanisms, including a multi-party parliamentary system, free and fair elections, pluralistic media, an independent judiciary and the rule of law, and guarantee respect for all human rights obligations, including the rights of persons belonging to minorities;*
  - (b) *as regards Serbia and Kosovo, they engage constructively with measurable progress and tangible results in the normalisation of their relations with a view to fully implementing all of their respective obligations stemming from the Agreement on the Path to Normalisation and its Implementation Annex as well as all past Dialogue Agreements and engage in negotiations on the Comprehensive Agreement on normalisation of relations.*

2. The Commission shall monitor the fulfilment of the preconditions set out in paragraph 1 before funds, ***including pre-financing***, are released to beneficiaries under the Facility and throughout the period of the support provided under the Facility taking duly into account the ***enlargement policy framework***. ***The Commission shall also take into account the relevant recommendations of international bodies, such as the Council of Europe and its Venice Commission, or the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE), in the monitoring process.***
3. ***As regards the precondition set out in point (b) of paragraph 1 of this Article, the Commission, in accordance with Decision 2010/427/EU, shall duly take into account the role and contribution of the EEAS.***
4. The Commission may adopt a decision concluding that some of the preconditions set out in paragraph 1 of this Article are not met, and in particular, withhold the release of funds referred to in Article 21, irrespective of whether the payment conditions referred to in Article 12 are fulfilled.

## CHAPTER II

### Financing and implementation

#### *Article 6*

#### *Budget*

1. The resources to be made available through the Facility, pursuant to paragraphs 2 and 3, shall not exceed EUR 6 000 000 000 for the period from 2024 to 2027.
2. The financial envelope for the implementation of the Facility shall be EUR 2 000 000 000 for the period from 1 January 2024 to 31 December 2027, with the following distribution:
  - (a) 98,5 % in the form of non-repayable financial support to the beneficiaries for the implementation of the Reform Agendas;
  - (b) 1,5 % for expenditure pursuant to paragraph 6.
3. ■ Support in the form of ■ loans ■ shall be available for an amount of up to EUR 4 000 000 000 for the period from 1 January 2024 to 31 December 2027. That amount shall not constitute part of the amount of the External Action Guarantee within the meaning of Article 31(4) of Regulation No 2021/947.

4. The Commission shall set out the initial indicative amount of financing available for each beneficiary, in accordance with the methodology set out in the Annex, in the corresponding implementing decision referred to in Article 15, calculated *on the basis of* the latest available data on the day of the entry into force of this Regulation in *accordance* with Article 33. Indicative amounts may change during *the* implementation *of the Facility* in accordance with the principles laid out in Article 21.
5. Pursuant to Article 19 *of this Regulation*, the amount of funds made available under the Western Balkans Investment Framework (WBIF) referred to in Article 12 of Regulation (EU) 2021/1529 shall be at least 50 % of the overall amount *set out* in paragraph 1 *of this Article*. That contribution shall include the entire amount of non-repayable financial support as referred to in paragraph 2, point (a) of this Article after deducting the amount of provisioning.

6. The resources referred to in paragraph 2, point (b), may be used for technical and administrative assistance for the implementation of the Facility, such as preparatory actions, monitoring, control, audit and evaluation activities, which are required for the management of the Facility and the achievement of its objectives, in particular studies, meetings of experts, training consultations with the *beneficiaries'* authorities, conferences, consultation of stakeholders, *including local and regional authorities and civil society organisations*, information and communication activities, including inclusive outreach actions, and the corporate communication of the political priorities of the Union, insofar as they are related to the objectives of this Regulation, expenses linked to IT networks focusing on information processing and exchange, corporate information technology tools, as well as all other expenditure at headquarters and Union delegations for the administrative and coordination support *required* for the Facility. Expenses may also cover the costs of activities supporting *transparency and* of other activities such as quality control and monitoring of projects or programmes on the ground and the costs of peer counselling and experts for the assessment and implementation of reforms and investments.

## Article 7

### *Implementation and forms of Union funding*

1. The Facility shall be implemented in accordance with the Financial Regulation, either ***under*** direct management or ***under*** indirect management with any of the entities referred to in Article 62(1), first subparagraph, point (c), ***of that Regulation***.
2. Union funding may be provided in any of the forms laid down in the Financial Regulation, in particular financial assistance, grants, procurement and blending operations.
3. Depending on the required operational and financial capacity, the entrusted entity implementing blending operations may be the European Investment Bank ***Group***, multilateral ***European*** financial institutions, such as the European Bank for Reconstruction and Development, or bilateral European financial institutions, such as development banks, ***or the World Bank Group***. ***Where possible, other non-European multilateral finance institutions may participate in the Facility through joint operations with European financial institutions***. The implementation of blending operations under the Facility shall be complemented by additional forms of financial support ***from*** Member States or third parties.



## Article 8

### *Rules on the eligibility of persons and entities, on the origin of supply and materials and on restrictions under the Facility*

1. Participation in procurement and in grant award procedures for activities financed under the Facility shall be open to international and regional organisations and to all natural persons who are nationals of, or legal persons effectively established in:
  - (a) Member States, beneficiaries, ***candidate countries and*** contracting parties to the Agreement on the European Economic Area;
  - (b) countries ***which provide a level of support to beneficiaries comparable to that provided by the Union, taking into account the size of their economy, and*** for which reciprocal access to external assistance in ***the*** beneficiaries is established by the Commission.
2. The reciprocal access referred to in paragraph 1, point (b), may be granted for a limited period of at least one year ***where*** a country grants eligibility on equal terms to entities from the Union and from countries eligible under the Facility.

The Commission shall decide on the reciprocal access after consulting the **█** beneficiary ***concerned***.

3. All supplies and materials financed and procured under this Facility shall originate from any country referred to *in* paragraph 1, *points* (a) and █ (b), unless █ those supplies and materials cannot be sourced *under* reasonable conditions in any of those countries. In addition, the rules on restrictions *laid down* in paragraph 6 *shall* apply.
4. The eligibility rules under this Article shall not apply to, and shall not create nationality restrictions for, natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor except where the nationality restrictions are based on the rules provided for in paragraph 6.
5. For activities jointly co-financed by an entity or implemented under direct management or indirect management with entities referred to in Article 62(1), first subparagraph, point(c) of the Financial Regulation, the rules *applicable to* those entities shall also apply. This is without prejudice to the restrictions █ under paragraph 6 of this Article, which shall be duly reflected in the agreements concluded with those entities.

6. The eligibility rules and rules on the origin of supplies and materials set out in paragraphs 1 and 3 and rules on the nationality of the natural persons as set out in paragraph 4 may be restricted with regard to the nationality, geographical location or nature of the legal entities participating *in* award procedures, as well as with regard to the geographical origin of supplies and materials *where*:
- (a) **■** such restrictions are required on account of the specific nature *or* objectives of the *activity* or specific award procedure *or* where *those* restrictions are necessary for the effective implementation of the activity;
  - (b) **■** the activity or specific award procedures affect security or public order, in particular concerning strategic assets and interests of the Union, *of* Member States, *or of* any of the beneficiaries, including the security, resilience and protection of integrity of digital infrastructure, including 5G network infrastructure,, communication and information systems, and related supply chains.

7. Tender applicants and candidates from non-eligible countries may be accepted as eligible in t cases of urgency or where services are unavailable in the markets of the countries or territories concerned, or in other duly substantiated cases where the application of the eligibility rules would make the realisation of an activity impossible or exceedingly difficult.

#### *Article 9*

#### *Facility Agreement*

1. The Commission shall conclude a Facility Agreement with each beneficiary for the implementation of the Facility setting out the obligations and payment conditions of the beneficiaries for the disbursement of Facility funding.
2. The Facility Agreement shall be complemented by loan agreements in accordance with Article 17, setting out specific provisions for the management and implementation of funding provided in the forms of loans. ***Facility Agreements, including any related documentation, shall be made available, upon request, to the European Parliament and the Council simultaneously and without delay.***
3. Funding shall be granted to the beneficiaries only after the respective Facility Agreements and the applicable loan agreements have entered into force.

4. The Facility Agreement and the loan agreements concluded with each of the beneficiaries, and agreements concluded with person or entities receiving Union funds, shall ensure that the obligations set out in Article 129 of the Financial Regulation are fulfilled.
5. The Facility Agreement shall lay down the necessary detailed provisions concerning:
  - (a) the commitment of the beneficiary to ***make decisive*** progress towards ***a robust legal framework to fight fraud, and establish*** more efficient and effective control systems, ***including appropriate mechanisms for the protection of whistleblowers as well as appropriate mechanisms and measures to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interest as well as*** to strengthen the fight against money laundering, ***organised crime, misuse of public funds***, terrorism financing, tax avoidance, tax fraud or tax evasion, ***and other illegal activities affecting the funds provided under the Facility***;
  - (b) the rules on the release, withholding, reduction and redistribution of funds in accordance with Article 21;
  - (c) the activities related to management, control, supervision, monitoring, evaluation, reporting and audit under the Facility, as well as system reviews, investigations, anti-fraud measures and cooperation;
  - (d) the rules on reporting to the Commission on whether and how the payment conditions referred to in Article 12 are fulfilled;

- (e) the rules on taxes, duties and charges in accordance with Article 27(9) and (10) of Regulation (EU) 2021/947;
- (f) the measures to **effectively** prevent, detect ■ and correct irregularities, fraud, corruption and conflicts of interest, and the obligation **for persons or entities implementing Union funds under the Facility** to notify the Commission, **OLAF and, where applicable, EPPO**, without delay, of suspected or actual cases of irregularities, fraud, corruption and **conflicts of interest and other illegal activities affecting the funds provided under the Facility** and their follow-up;
- (g) the obligations referred to in Articles 23 and 24, including **the** precise rules and **a** timeframe on collection of data by the beneficiary and access **to it** for the Commission, **OLAF, the Court of Auditors and, where applicable, EPPO**;
- (h) a procedure to ensure that disbursement requests for ■ loan support fall within the available loan amount, **in accordance with** Article 6(3);
- (i) the right of the Commission to reduce proportionately the support provided under the Facility and **to** recover any amount spent to achieve the objectives of the Facility or to ask for early repayment of the loan, in cases of irregularities, fraud, corruption and conflicts of **interest** affecting the financial interests of the Union that have not been corrected by the beneficiary, or of a serious breach of an obligation **provided for in** the Facility Agreement;

- (j) rules and modalities for the beneficiaries to report for the purpose of monitoring the implementation of the Facility and **assessing the achievement** of the objectives set out in Article 3.
- (k) **the obligation for beneficiaries to transmit electronically to the Commission the data referred to in Article 22.**

#### *Article 10*

##### *Carry-overs, annual instalments, commitment appropriations*

1. By way of derogation from Article 12(4) of the Financial Regulation, unused commitment and payment appropriations under the Facility shall be automatically carried over and may be committed and used, respectively, up to 31 December of the following financial year. The amount carried over shall be used first in the following financial year.
2. The Commission shall **submit to** the European Parliament and the Council **information on** commitment appropriations carried over, **including the amounts involved**, in accordance with Article 12(6) of the Financial Regulation **■** .

3. ***In addition to the rules laid down in*** Article 15 of the Financial Regulation on making appropriations available again, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of an action under the Facility shall be made available again to the benefit of the budget line of origin.
4. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments, in accordance with Article 112(2) of the Financial Regulation.

## **CHAPTER III**

### **Reform Agendas**

#### *Article 11*

#### *Submission of Reform Agendas*

1. In order to receive any support under the Facility, each beneficiary shall submit to the Commission a Reform Agenda for the duration of the Facility, ***based*** on the structural reforms part of the latest Economic Reform Programme and the related Joint Policy Guidance agreed at the Economic and Financial Dialogue in May 2023, its growth strategy where applicable, ***the*** enlargement ***policy framework*** and the Economic and Investment Plan for the Western Balkans.



2. The Reform Agendas shall ***provide an overarching framework to achieve the general and specific objectives*** set out ***in Article 3, setting out*** the reforms to be undertaken by the beneficiary, as well as investment areas. The Reform Agendas shall comprise measures for the implementation of reforms through a comprehensive and coherent package. In the areas of ***the fundamentals of the enlargement process***, including the rule of law, the fight against corruption, ***including high-level corruption***, fundamental rights and the freedom of expression, the Reform Agendas shall reflect the assessments in the enlargement ***policy framework***.
3. The Reform ***Agendas*** shall be consistent with the latest macroeconomic and fiscal policy framework submitted to the Commission in the context of the Economic and Financial Dialogue with the ***Union***.
4. The Reform Agendas shall be consistent with and support the reform priorities identified in the context of the beneficiary's accession path, and ***in*** other relevant documents, such as the Stabilisation and Association Agreement, the Energy and Climate Plan, the Nationally Determined Contribution under the Paris Agreement and the ambition to reach climate neutrality by 2050 ***at the latest***.

5. The Reform Agendas shall respect the general principles set out in Article 4.
6. ***The Reform Agendas shall be prepared in an inclusive and transparent manner, in consultation with social partners and civil society organisations.***
7. The Commission shall invite the beneficiaries to submit ***their respective Reform Agendas*** within three months ***of*** the entry into force of this Regulation. ***The Commission shall transmit the beneficiaries' Reform Agendas to the European Parliament and the Council as soon as they are received by the Commission.***
8. In ***the event that*** a redistribution of support under the Facility ***leads*** to a beneficiary receiving additional support, the Commission shall invite ***that*** beneficiary to submit ***an amended*** Reform Agenda for the remaining duration of the Facility ***within three months.*** ***The Commission shall inform the European Parliament and the Council prior to taking any decision on the redistribution.***

## Article 12

### *Principles for financing under the Reform Agendas*

1. The Facility shall **provide incentives for** the implementation of the Reform Agenda of each beneficiary by **setting** payment conditions on the release of funds. **Those** payment conditions shall apply to funds under Article 6(2), point (a), and Article 6(3) and shall take the form of **measurable** qualitative or quantitative steps. Such steps shall reflect progress on specific socio-economic reforms **and on the** fundamentals of the enlargement process **linked to the achievement of the objectives of the Facility** set out in Article 3, consistent with the enlargement **policy framework**.

The fulfilment of **those** payment conditions shall trigger full or partial release of funds, depending on the degree of their completion.

2. In respect of financing implemented through the fund referred to in Article 19, the fulfilment of the payment conditions referred to in paragraph 1 **of this Article** shall constitute a preliminary validation. The funds shall be paid following receipt of a payment request from the ‘fund managers of the joint fund established under the WBIF for receiving donors’ contributions.

3. Macro financial stability, sound public financial management, transparency and oversight of the budget are general conditions for payments that shall be fulfilled for any release of funds.
4. ***Funds under the Facility shall not support activities or measures which undermine peace agreements in the region.***

### *Article 13*

#### *Content of the Reform Agendas*

1. The Reform Agendas shall in particular set out the following elements, which shall be reasoned and substantiated:
  - (a) measures constituting a coherent, comprehensive and adequately balanced response to the objectives set out in Article 3, including structural reforms, investments, and measures to ensure compliance with preconditions referred to in Article 5, ***where*** appropriate;
  - (b) an explanation of how the measures are consistent with the ***general*** principles ***referred to in Article 4, as well as the requirements***, strategies, plans and programmes referred to in ***Articles 4 and 11***;

- (c) *an explanation of how the measures are expected to further strengthen the fundamentals of the enlargement process as referred to in Article 3(2), point (a), including the rule of law, fundamental rights and the fight against corruption;*
- (d) *an indicative list of investment projects and programmes intended for financing under the WBIF, including respective overall investment volumes and envisaged timelines for implementation;*
- (e) an explanation of the extent to which the measures are expected to contribute to climate and environmental objectives *and their compatibility with the principle "do no significant harm"*;
- (f) *an explanation of the extent to which the measures are expected to contribute to digital transformation;*
- (g) *an explanation of the extent to which the measures are expected to contribute to education, training, employment and social objectives;*
- (h) *an explanation of the extent to which the measures are expected to contribute to gender equality and the empowerment of women and girls, and the promotion of women and girls' rights;*
- (i) for the reforms and investments, an indicative timetable, and the envisaged payment conditions for *the* release of funds in the form of *measurable* qualitative and quantitative steps *planned* to be implemented by 31 August 2027 at the latest;

- (j) *an explanation of how the measures are expected to contribute to a progressive and continuous alignment with the CFSP, including Union restrictive measures;*
- (k) the arrangements for the effective monitoring, reporting and evaluation of the Reform Agenda by the beneficiary, including the *proposed measurable qualitative and quantitative steps and* relevant indicators set out in paragraph 2;
- (l) an explanation of the beneficiary's system to effectively prevent, detect and correct irregularities, fraud, corruption, *including high-level corruption*, and conflicts of interest and to enforce State aid control rules, *and the proposed measures to address existing deficiencies in the first years of the implementation of the Reform Agenda;*
- (m) *for the preparation and, where available, for the implementation of Reform Agendas, a summary of the consultation process, conducted in accordance with the beneficiaries' legal framework, of relevant stakeholders, including beneficiaries' parliaments, local and regional representative bodies and authorities, social partners and civil society organisations, and how the input of those stakeholders is reflected in Reform Agendas;*
- (n) *a communication and visibility plan on the Reform Agendas for the local audiences of the beneficiaries;*
- (o) any other relevant information.

2. The Reform Agendas shall be results-based and include indicators for assessing progress towards the achievement of the general and specific objectives set out in **Article 3**. **Those** indicators shall be based, where appropriate and relevant, on internationally agreed indicators and those already available related to **the** beneficiaries' policies. Indicators shall also be coherent, to the extent possible, with the key corporate indicators included in the IPA III Results Framework, in the EFSD+ Results Measurement Framework and in the WBIF.

#### *Article 14*

##### *Commission assessment of the Reform Agendas*

1. The Commission shall assess the relevance, comprehensiveness and appropriateness of each beneficiary's Reform Agenda or, where applicable, any amendment to that Agenda, without undue delay. When carrying out its assessment, the Commission shall act in close cooperation with the beneficiary concerned, and may make observations, seek additional information **or require the beneficiary to review or modify its Reform Agenda**.
2. **As regards the objective set out in Article 13(1)(j) of this Regulation**, the Commission, **in accordance with Decision 2010/427/EU**, shall **duly take into account the role and the contribution of the EEAS**.

3. When assessing the Reform Agendas, the Commission shall take into account relevant available analytical information **about** the beneficiary, **including its macroeconomic situation and debt sustainability**, the justification and the elements provided by the beneficiary as referred to in Article 13, as well as any other relevant information such as the information listed in Article 11.
  
4. In its assessment, the Commission shall consider in particular the following criteria:
  - (a) whether the Reform Agenda represents a relevant, comprehensive, coherent and adequately balanced response to the objectives set out in Article 3 **and elements set out in Article 13**;
  - (b) **whether the Reform Agenda and its measures are consistent with the principles, strategies, plans and programmes referred to in Articles 4 and 11**;
  - (c) whether the Reform Agenda can be expected to accelerate progress towards bridging the socio-economic gap between the beneficiary and the Union, and thereby enhances their economic, social and environmental development and supports the convergence towards the Union's standards, **reduces inequalities and reinforces social cohesion**;



- (d) *whether the Reform Agenda can be expected to further strengthen the fundamentals of the enlargement process as referred to in Article 3(2), point (a);*
- (e) whether the Reform Agenda can be expected to accelerate the transition of the beneficiaries towards sustainable, climate-neutral and climate resilient and inclusive economies by improving regional connectivity, making progress on the twin transition of green and digital, including biodiversity, *reducing strategic dependencies* and boosting *research and* innovation, education, *training, employment* and skills and the wider labour market, *with particular attention on youth;*
- (f) *whether the measures included in the Reform Agenda are compatible with the principles of ‘do no significant harm’ and of ‘leaving no one behind’;*
- (g) whether the Reform Agenda appropriately addresses potential risks in compliance with preconditions and payment conditions;
- (h) whether the payment conditions proposed by the beneficiary are appropriate and ambitious, consistent with the *enlargement policy framework*, as well as sufficiently meaningful and clear to allow for the corresponding release of funds in case of their fulfilment and whether the proposed reporting indicators are appropriate and sufficient to monitor and report on the progress made towards the overall objectives;

- (i) whether the arrangements proposed by the beneficiary are expected to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interest, ***organised crime and money laundering as well as to effectively investigate and prosecute criminal offences affecting the funds*** under the Facility, and ensure that there is no double funding from the Facility and other Union programmes, ***in particular support provided under Regulation (EU) 2021/1259***, as well as other donors from the Facility and other Union programmes and also other donors;
  - (j) ***whether the Reform Agenda effectively reflects the input of relevant stakeholders, including beneficiaries' parliaments, local and regional representative bodies and authorities, social partners and civil society organisations.***
5. For the purpose of the assessment of the Reform Agendas submitted by the beneficiaries, the Commission may be assisted by ***independent*** experts.

## *Article 15*

### *Commission implementing decision*

1. In case of a positive assessment, the Commission shall approve by means of an implementing decision the Reform Agenda submitted by the beneficiary, in accordance with Article 14 or, where applicable, of the amended Agendas submitted in accordance with Article 16. That implementing decision shall be adopted in accordance with the examination procedure referred to in Article 31.
2. The Commission implementing decision shall set out the reforms to be implemented by the beneficiary concerned, the investment areas to be supported and the payment conditions stemming from the Reform Agenda, including the indicative timetable.
3. The Commission implementing decision shall also lay down:
  - (a) the indicative amount of overall funds available to the beneficiary, and the scheduled instalments to be released including pre-financing, structured in accordance with Article 13, once the beneficiary has achieved satisfactory fulfilment of the relevant payment conditions in the form of qualitative and quantitative steps identified in relation to the implementation of the Reform Agenda;
  - (b) the breakdown by instalment of financing between loan support and non-repayable support;

- (c) the time limit by which the final payment conditions for the reforms must be completed;
- (d) the arrangements and timetable for the monitoring, reporting and implementation of the Reform Agenda, including, where *appropriate, through democratic scrutiny as referred to in Article 4(8) as well as, where* relevant, measures necessary for complying with Article 25 ■ ;
- (e) the indicators referred to in Article 13(2) for assessing progress towards the achievement of the general and specific objectives *set out* in Article 3.

### *Article 16*

#### *Amendments to the Reform Agendas*

1. Where the Reform Agenda, including relevant payment conditions, is no longer achievable by the beneficiary, either partially or totally, because of objective circumstances, the beneficiary may propose an amended Reform Agenda. In that case, the beneficiary may make a reasoned request to the Commission to amend its implementing decision referred to in Article 15(1).
2. The Commission may amend the implementing decision, in particular to take into account a change of the amounts available in line with the principles under Article 21.

3. Where the Commission considers that the reasons put forward by the beneficiary justify an amendment to its Reform Agenda, the Commission shall assess the amended Agenda in accordance with Article 14 and may amend the implementing decision referred to in Article 15(1) without undue delay.
4. In an amendment, the Commission may accept timelines for payment conditions extending into 2028. This shall not affect the final deadline set in Article 21(9).

#### *Article 17*

##### *Loan agreement, borrowing and lending operations*

1. In order to finance the support under the Facility in the form of loans, the Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions in accordance with Article 220a of the Financial Regulation.
2. By way of derogation from Article 220(4) of the Financial Regulation the disbursements of the loan may be implemented through the WBIF on behalf of the beneficiary. Recovered amounts shall be transferred to the beneficiary.

3. The Commission shall enter into a loan agreement with the beneficiary. The loan agreement shall lay down the maximum loan amount, the availability period and the detailed terms and conditions of the support under the Facility in the form of loans. The loans shall have maximum duration of 40 years *from the date* of the signature of the loan agreement.

In addition to and by way of derogation from Article 220(5) of the Financial Regulation, the loan agreement shall contain the amount of pre-financing and rules on clearing of pre-financing.

In respect of loan amounts implemented through the WBIF, the loan agreement shall also:

- (a) provide that the beneficiary irrevocably and unconditionally authorises the Commission to pay disbursements to the entity implementing the fund upon request by that entity and that the Commission is acquitted of its payment obligations towards the beneficiary by making the payment to that entity;
- (b) provide for the obligation of the beneficiary to bear the costs of implementation and any fees due in respect of the implementation of the fund in accordance with the conditions agreed between the Commission and the entity implementing the fund.

4. ***The loan agreement shall be made available, upon request, to the European Parliament and the Council.***

*Article 18*  
*Provisioning*

1. Pursuant to Article 211(1) of the Financial Regulation, a provisioning for the loans under this Regulation shall be constituted at the rate of **9 %** upon making available any funds falling under Article 6(3) of this Regulation. The provisioning shall be constituted from the envelope referred to in Article 6(2), point (a), ***of this Regulation***.

Budgetary commitments for the provisioning shall be made by 31 December 2027. By way of derogation from Article 211(2), last sentence, of the Financial Regulation, the provisioning shall be paid progressively and fully constituted at the latest when the loans are fully disbursed.

2. The provisioning shall be paid to the common provisioning fund ***through a specific budget line and be used as part of provisions supporting similar risks***. The provisioning rate shall be reviewed at least every three years from ... [the entry into force of this Regulation].
3. The Commission is empowered to adopt a delegated act in accordance with Article 30 to amend the provisioning rate while applying the criteria set out in Article 211(2) of **■** the Financial Regulation.

## *Article 19*

### *Implementation of investment projects and programmes under the Western Balkans Investment Framework*

1. In order to benefit from the leverage of **Union** financial support to attract additional investment, infrastructure investments supporting the Reform Agendas shall be implemented through the WBIF.
2. The Commission implementing decision referred to in Article 15 shall lay down the amount of funds to be made available for use under the WBIF.
3. The Commission shall submit relevant investment project or programme proposals for the opinion of the WBIF Operational Board referred to in Article 35(8) of Regulation (EU) 2021/947 after **the** adoption of the decision referred to in Article 21(3) **of this Regulation**.
4. At least 37 % of the non-repayable financial support channelled through the WBIF shall account to climate objectives.
5. Financing under the Facility provided from the financial envelope referred to in Article 6(2), point (a), after deduction of the amount of provisioning, shall be implemented under indirect management taking into account a pipeline of investments and **shall be** gradually provided through contributions paid into the joint fund established under the WBIF for **receiving** donors contributions.



6. This financing shall not be made available for investments to **be** supported by the joint fund until the decision referred to in Article 21(3) has been adopted.
7. Financing under the Facility provided from the loans as referred to in Article 6(5) of this Regulation, shall be made available through the WBIF under the loan agreement between the Commission and the beneficiaries in accordance with Article 17(2) of this Regulation. Combined for all loan agreements, there shall be maximum twelve requests for disbursements per year from the fund managers of the joint fund referred to in Article 12(2) of this Regulation to the Commission. Investment projects and programmes may receive support from two financing sources, **as** referred to in **paragraphs 2 and 3 of Article 6 of this Regulation**, as well as from other Union programmes and instruments, subject to that such support from different sources, programmes and instruments provides for additionality and does not cover the same cost. ***For each investment project or programme, the Commission shall provide an assessment to the WBIF Operational Board, including on synergies and complementarities with other Union programmes, in particular support provided under Regulation (EU) 2021/1529, with a view to avoiding the duplication of assistance and double funding.***

*Article 20*  
*Pre-financing*

1. Following the submission of the Reform Agenda to the Commission, the beneficiary may request the release of a pre-financing of up to 7 % of the total amount foreseen under this Facility in accordance with Article 6(4).
2. The Commission may release the requested pre-financing after the adoption of its implementing decision referred to in Article 15 and the entry into force of the Facility Agreement and of the loan agreement referred to in Articles 9 and 17 respectively. The funds shall be released in accordance with Article 21(3), first sentence, and subject to the respect of the preconditions set out in Article 5.
3. The Commission shall decide on the timeframe for the disbursement of the pre-financing, which may be disbursed in one or more tranches.

## Article 21

### *Assessment of the fulfilment of payment conditions, withholding, reduction and redistribution of funds, rules on payments*

1. Twice per year, the beneficiary shall submit a duly justified request for the release of funds in respect of fulfilled payment conditions related to the quantitative and qualitative steps as set out in the Reform Agendas.
2. The Commission shall assess without undue delay whether the beneficiary has ***met the preconditions set out in Article 5 and the principles for financing set out in Article 12(3) and*** achieved satisfactory fulfilment of the payment conditions set out in the Commission implementing decision referred to in Article 15. The satisfactory fulfilment of ***those*** payment conditions shall presuppose that measures related to the same reforms for which the beneficiary had achieved satisfactory fulfilment in prior decisions have not been reversed by the beneficiary. The Commission may be assisted by experts, ***including experts from Member States.***
3. Where the Commission makes a positive assessment of the satisfactory fulfilment of all applicable conditions, it shall adopt without undue delay a decision authorising the release of funds corresponding to those conditions. That decision shall, in accordance with Article 6(5), set the amount of funds to be made available as financial assistance, channelled directly to the treasuries of the beneficiaries and the amount to be made available through the WBIF. In respect of those amounts, the decision shall constitute the condition referred to in Article 12 for the amount of funds to be made available as financial assistance channelled directly to the treasuries of the beneficiaries and the preliminary validation referred to in Article 12 for the amount to be made available through the WBIF.

4. Where the Commission makes a negative assessment of the fulfilment of any conditions as per the indicative timetable, the release of funds corresponding to such conditions shall be withheld. The withheld amounts shall be released only when the beneficiary has duly justified, as part of the subsequent request for release of funds, that it has taken the necessary measures to ensure satisfactory fulfilment of the corresponding conditions.
5. Where the Commission concludes that the beneficiary has not taken the necessary measures within a period of 12 months from the initial negative assessment referred to in paragraph 4, the Commission shall reduce the amount of the non-repayable financial support and of the loan proportionately to the part corresponding to the relevant payment conditions. During the first year of implementation, a deadline of 24 months shall apply, calculated from the initial negative assessment referred to in paragraph 4. The beneficiary may present its observations within two months from the communication to them of the Commission's conclusions.
6. Any amount corresponding to payment conditions that have not been fulfilled by 31 December 2028 shall not be due to the beneficiaries and shall be decommitted, or cancelled from the available amount of loan support, as appropriate.

7. The Commission may reduce the amount of the non-repayable financial support, including by offsetting in line with Article 102 of the Financial Regulation, or of the loan, in the event of identified cases of, or serious concerns in relation to, irregularities, fraud, corruption and conflicts of *interest* affecting the financial interests of the Union that have not been corrected by the beneficiary, or a serious breach of an obligation resulting from the Facility Agreements or from the loan agreements, including on the basis of information provided by OLAF *or of the Court of Auditors' reports. The Commission shall inform the European Parliament and the Council prior to taking any decision of such reductions.*
8. The Commission may decide to redistribute any amount reduced pursuant to paragraph 6 or 7 of this Article among other beneficiaries of the Facility by amending the implementing decisions referred to in Article 15.
9. For the part of the Facility funding paid as financial assistance, channelled directly to the beneficiaries' treasuries, by way of derogation from Article 116(2) of the Financial Regulation, the payment deadline as referred to in Article 116(1), point (a), of the Financial Regulation shall start running from the date of the communication of the decision authorising the disbursement to the beneficiary pursuant to paragraph 3 of this Article.

10. Article 116(5) of the Financial Regulation shall not apply to payments made as financial assistance, channelled directly to the beneficiaries' treasuries pursuant to this Article and to Article 23 of this Regulation.
11. ***Payments of the non-repayable financial support and of the loans*** under this *Article* shall be made ***in accordance with the budget appropriations, as set in the annual budgetary procedure, and*** subject to the available funding, ***respectively***. Funds shall be paid in instalments. An instalment may be paid in one or more tranches.
12. The amount made available as financial assistance, channelled directly to the treasuries of the beneficiaries, shall be paid following the decision referred to in paragraph 3 in accordance with the loan agreement.
13. Payment of any amount of the support in the form of loans, whether channelled directly to the treasuries of the beneficiaries or through the WBIF, shall be subject to the submission by the beneficiary of a request for payment in the form set out in the loan agreement.
14. The amount made available through the WBIF shall be paid following the decision referred to in paragraph 3, following the request for payment referred to in paragraph 13 and following receipt of a payment request from the fund managers of the joint fund established under the WBIF for receiving donors' contributions.

## *Article 22*

### *Transparency with regard to persons and entities receiving funding for the implementation of the Reform Agendas*

- 1. Beneficiaries shall publish up-to-date data on final recipients receiving amounts of funding exceeding the equivalent of EUR 50 000 cumulatively over the period of four years for the implementation of reforms and investments under this Facility.*
- 2. For final recipients referred to in paragraph 1, the following information shall be published in a machine-readable format on a webpage, in the order of total funds received, having due regard to the requirements of confidentiality and security, in particular the protection of personal data:*
  - (a) in the case of a legal person, the recipient's full legal name and VAT identification number or tax identification number, where available, or another unique identifier established by the legislation applicable to the legal person;*
  - (b) in the case of a natural person, the first and last name or names of the recipient;*
  - (c) the amount received by the recipient and the reforms and investments under the Reform Agendas that this amount contributes to implementing.*

3. *The information referred to in paragraph 2 shall not be published where disclosure risks threatening the rights and freedoms of the final recipients concerned or seriously harming their commercial interests. Such information shall be made available to the Commission.*
4. *Beneficiaries shall transmit electronically to the Commission at least once a year the data on the final recipients referred to in paragraph 1 of this Article, in a machine-readable format to be defined in the Facility Agreement, as referred to in Article 9(5)(k).*

## CHAPTER IV

### Protection of the financial interests of the Union

#### *Article 23*

##### Protection of the financial interests of the Union

1. In implementing the Facility, the Commission and the beneficiaries shall take all the appropriate measures to protect the financial interests of the Union, taking into account the principle of proportionality and the specific conditions under which the Facility will operate, the preconditions set out in Article 5(1) and conditions set out in the specific Facility Agreements, in particular regarding the prevention, detection and correction of fraud, corruption, conflicts of interest and irregularities *as well as the investigation and prosecution of offences affecting the funds provided under the Facility*. Each beneficiary shall commit to progressing towards effective and efficient management and control systems and ensure that amounts wrongly paid or incorrectly used can be recovered.



2. The Facility Agreement shall provide for the following obligations of the beneficiary:
- (a) **to** regularly check that the financing provided has been used in accordance with the applicable rules, in particular regarding the prevention, detection and correction of fraud, corruption, conflicts of interest and irregularities;
  - (b) **to protect whistleblowers;**
  - (c) **to** take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interest and irregularities **as well as to investigate and prosecute criminal offences** affecting the financial interests of the Union, to **detect and** avoid double funding and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects or programmes under the Reform Agendas **and to take appropriate measures to treat mutual legal assistance requests by EPPO and Member States' competent authorities concerning criminal offences affecting the funds under the Facility, where applicable and without delay;**
  - (d) for the purpose of paragraph 1, in particular for checks on the use of funds in relation to the implementation of reforms in the Reform Agendas, to ensure the collection of, and access to, **in compliance with Union data protection principles and with applicable data protection rules**, adequate data on persons and entities receiving funding, **including beneficial ownership information**, for the implementation of measures of the Reform Agenda under Chapter III;

- (e) *to* expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129 of the Financial Regulation.
3. The Facility Agreement shall also provide for the right of the Commission to reduce proportionately the support provided under the Facility and recover any amount spent to achieve the objectives of the Facility or to ask for early repayment of the loan, in cases of irregularities, fraud, corruption and conflicts of *interest* affecting the financial interests of the Union that have not been corrected by the beneficiary, or of a serious breach of an obligation resulting from such agreements. When deciding on the amount of the recovery and reduction, or the amount to be repaid early, the Commission shall respect the principle of proportionality and shall take into account the seriousness of the irregularity, fraud, corruption or conflict of interest affecting the financial interests of the Union, or of a breach of an obligation. The beneficiary shall be given the opportunity to present its observations before the reduction is made or early repayment is requested.
4. Persons and entities implementing funds under the Facility shall report any suspected cases of fraud, corruption, conflicts of interest and irregularities affecting financial interests of the Union without delay, to the Commission and *to* OLAF.

## Article 24

### *Role of the beneficiaries' internal systems and audit authorities*

1. For the part of the Facility funding ***made available*** as financial assistance, the Commission shall rely on ***the audit authorities established in each beneficiary for the purpose of controlling public expenditure***. Where applicable, the Anti-Fraud Coordination Services of each beneficiary established in the framework of IPA III ***shall be involved***. ***As appropriate, the Commission shall also rely on further democratic scrutiny as referred to in Article 4(8)***.

The Reform Agendas shall prioritise in the first years of their implementation reforms related to negotiation chapter 32, particularly on public financial management and internal control, as well as on ***the*** fight against fraud, together with chapters 23 and 24, particularly when it comes to justice, corruption and organised crime and chapter 8, particularly on State aid control.

2. The beneficiaries shall report any irregularities, including fraud, which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and shall keep the Commission informed of the progress of any administrative and legal proceedings in relation to such irregularities. Such reporting shall be done by electronic means, using the Irregularity Management System, established by the Commission.
3. The entities referred to in paragraph 1 shall maintain regular dialogue with the Court of Auditors, OLAF and, where appropriate, EPPO.

4. The Commission may carry out detailed systems reviews of the beneficiaries' budget implementation based on a risk-assessment and dialogue with audit authorities, and issue recommendations for improvements in the systems.
5. The Commission may adopt recommendations to the beneficiary on all cases where in its views competent authorities have not taken the necessary steps to prevent, detect and correct fraud, corruption, conflicts of interest and irregularities that have affected or seriously risk affecting the sound financial management of the expenditure financed under the Facility and in all cases where it identifies weaknesses affecting the design and functioning of the control system put in place by the those authorities. The beneficiary concerned shall implement such recommendations or provide a justification on why it has not done so.

## **CHAPTER V**

### **Monitoring, reporting and evaluation**

#### *Article 25*

#### *Monitoring and reporting*

1. The Commission shall monitor the implementation of the Facility and assess the achievement of the objectives set out in Article 3. The monitoring of implementation shall be targeted and proportionate to the activities carried out under the Facility. The indicators referred to in Article 13(2) shall be expected to contribute to the Commission's monitoring of the Facility.

2. The Facility Agreement referred to in Article 9 shall set out rules and modalities for the beneficiaries to report to the Commission for the purpose of paragraph 1 *of this Article*.
3. The Commission shall provide an annual report to the European Parliament and the Council on progress towards the achievement of the objectives of this Regulation. That annual report shall *also address synergies and complementarities of the Facility with other Union programmes, in particular support provided under Regulation (EU) 2021/1529, with a view to avoiding the duplication of assistance and double funding. The annual report shall be complemented by presentations on the state of play of the implementation of the Facility twice per year.*
4. The Commission shall provide the annual report referred to in paragraph 3 of this Article to the Committee referred to in Article 31.

#### *Article 26*

##### *Facility scoreboard*

1. *The Commission shall establish a Facility scoreboard (the ‘Scoreboard’), which shall display the progress of the implementation of the Reform Agendas of the beneficiaries.*

2. ***The Commission is empowered to adopt a delegated act in accordance with Article 30 to supplement this Regulation by defining the detailed elements of the Scoreboard with a view to displaying the progress of the implementation of the Facility as referred to in paragraph 1 of this Article.***
3. ***The Scoreboard shall be operational by 1 January 2025 and shall be updated by the Commission twice a year. The Scoreboard shall be made publicly available online.***

#### *Article 27*

##### *Evaluation of the Facility*

1. After 31 December 2027 and by 31 December 2031 at the latest, the Commission shall carry out an ***independent ex-post*** evaluation of the Regulation. That *ex-post* evaluation shall assess the Union contribution to the achievement of the objectives of this Regulation.
2. The *ex-post* evaluation shall make use of the good practice principles of the OECD Development Assistance Committee, seeking to ascertain whether the objectives have been met and to formulate recommendations with a view to improving future actions.
3. The Commission shall communicate the findings and conclusions of the *ex-post* evaluation accompanied by its observations and follow-up, to the European Parliament, the Council and the Member States. That *ex-post* evaluation may be discussed at the request of ***the European Parliament, the Council or the*** Member States. The results shall feed into the preparation of future programmes and actions and resource allocation. That *ex-post* evaluation and follow-up shall be made publicly available.

4. The Commission shall, to an appropriate extent, associate all relevant stakeholders, including beneficiaries, social partners, civil society organisations, **regional** and local authorities in the evaluation process of the Union's funding provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States and other partners with close involvement of the beneficiaries.

#### **Article 28**

##### ***Reporting by the beneficiaries in the context of the Economic and Financial Dialogue***

***The beneficiary shall report once a year in the context of the Economic and Financial Dialogue on the progress made in the achievement of the reform-related part of its Reform Agenda.***

#### **Article 29**

##### ***Reform and Growth Facility for the Western Balkans Dialogue***

1. ***The Commission shall hold, at least twice a year, a dialogue with the competent committees of the European Parliament, as relevant. Ahead of each dialogue, the Commission shall provide the European Parliament with written information on:***
- (a) the state of progress in the implementation of the Facility;***
  - (b) the assessment of the Reform Agendas;***
  - (c) the main findings of the report referred to in Article 25(3);***
  - (d) payment, withholding and reduction procedures, where applicable, including any observation presented to ensure a satisfactory fulfilment of the conditions; and***
  - (e) any other relevant elements in relation to the implementation of the Facility.***

2. *The dialogue referred to in paragraph 1 may coincide with the High Level Geopolitical Dialogue concerning IPA III to allow for adequate reflection on synergies and complementarities.*
3. *The Commission shall take into account any elements arising from the views expressed through the Reform and Growth Facility for the Western Balkans Dialogue, including the resolutions from the European Parliament, where relevant.*

## CHAPTER VI

### Final provisions

#### Article 30

##### *Exercise of delegation*

1. The power to adopt delegated acts *referred to in Articles 18 and 26* shall be conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in *Articles 18 and 26* shall be conferred on the Commission for *a period of five years* from the date of entry into force of this Regulation. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*



3. The delegations of power referred to in **Articles 18 and 26** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to **Articles 18 and 26** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

### Article 31

#### Committee procedure

1. The Commission shall be assisted by ***the Committee, established by the Regulation (EU) 2021/1529***. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. ***For implementing acts referred to in Articles 15(1) and 16(2), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.***

### Article 32

#### Information, communication and publicity

1. The Commission ***shall*** engage in communication activities to ensure the visibility of the Union funding for the financial support envisaged in the Reform Agendas, including through joint communication activities with the beneficiaries. The Commission ***shall*** ensure that support under the Facility is communicated and acknowledged through a funding statement. ***Actions financed under the Facility shall be carried out in accordance with communication and visibility requirements in Union-financed external actions and in other relevant guidelines.***

2. The recipients of Union funding shall **actively** acknowledge the origin and ensure the visibility of the Union funding, including, where applicable, by displaying the emblem of the Union and an appropriate funding statement that reads ‘funded by the European Union’, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
3. ***Information, communication and publicity shall be provided in accessible format.***

*Article 33*

*Entry into force*

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

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

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX

### Methodology on the allocation of global resources per beneficiary

Each beneficiary's allocation shall be calculated in accordance with the following steps based on data of the reference year:

Step 1: determination of a population allocation key based on the ratio of the beneficiary's population *to* the total sum of populations for the Western Balkans region;

Step 2: determination of a GDP allocation key based on the ratio of the average GDP per capita for the Western Balkans region *to* the GDP per capita of the respective beneficiary and divided by the sum of the six ratios;

Step 3: combination of the percentage weights of each *beneficiary* for population under Step 1 and GDP per capita under Step 2 with a weighing factor of 60 % population and 40 % GDP per capita.

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