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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Commission proposal on the Facility for the Western Balkans

Delegations will find attached the Commission proposal on the Facility for the Western Balkans with [square brackets], in view of the meeting of the Ad hoc Working Party on the Multiannual Financial Framework (MFF) 2021-2027 revision on 20 November 2023.

2023/0397 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**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,

Having regard to the opinion of the Court of Auditors,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) It is in the common interest of the Union and its Western Balkans partners¹ to advance the efforts to reform political, legal and economic systems of the latter with a view to their future Union membership. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.
- (2) There is a need to bring forward some of the advantages of Union membership before accession. Economic convergence is at the heart of these 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.
- (3) To reduce this disparity, the European Commission adopted a Communication on a 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.
- (4) The implementation of that Growth Plan requires increased funding under a dedicated new Financing Instrument, the Reform and Growth Facility, to assist the region in implementing the growth-promoting reforms, regional integration and Common Regional Market.

¹ Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia and Serbia.

* 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

- (5) To achieve these goals, 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 transport, energy, green and digital transitions, education and skills development.
- (6) Transport infrastructure is essential to improve connectivity between the Western Balkan partners and with the EU. It should contribute to integrate the region in the Union. In its proposal revising the trans-European transport framework (TEN-T), the Commission included a new Corridor crossing the Western Balkan region (Western-East Mediterranean corridor). The TEN-T network should be the reference for funding transport infrastructure in the region.
- (7) 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 EU vision for 2030 presented in the Commission communication '2030 Digital Compass: the European way for the Digital Decade'². It should strive to facilitate their achievement of the general objectives and digital targets with regard to the Union. As outlined by the Commission in its communication of 15 June 2023³, the 5G cybersecurity Toolbox should be the reference for EU funding to ensure security, resilience and protection of integrity of digital infrastructure in the region.
- (8) [Union support under the Facility should not replace the bilateral and regional support provided under Regulation (EU) 2021/1529 of the European Parliament and of the Council⁴, focussing on preparing the Beneficiaries for Union membership, but complement it and add to it, while using already existing mechanisms and structures where possible. The approach should build on the existing enlargement methodology, notably the 2020 Revised Methodology⁵, and the Economic and Investment Plan⁶ from the same year.]
- (9) The support under the Facility should be provided to meet general and specific objectives, based on established criteria and with clear payment conditions. The general objectives of the Facility should be to accelerate regional economic integration, progressive integration with the Union single market, socio-economic convergence of Western Balkans economies and alignment with Union laws, rules, standards, policies and practices with a view to Union membership. The Facility should also help accelerate reforms related to fundamentals of the enlargement process, including rule of law, public procurement and State aid control, public finance management and fight against corruption. These objectives should be pursued in a mutually reinforcing manner.
- (10) The Facility should promote the development effectiveness principles, [respecting additionality to the support provided under other Union programmes and instruments] and striving to avoid duplication between assistance under this Regulation and other assistance provided by the Union, the Member States, third countries, multilateral and regional organisations and entities.

² COM(2021)118 final.

³ 'Implementation of the 5G cybersecurity Toolbox', COM(2023)4049 final.

⁴ 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>).

⁵ COM (2022) 57 final.

⁶ COM(2020) 641 final.

- (11) The Facility should ensure consistency with, and support to the general objectives of Union external action as laid down in Article 21 of the Treaty on European Union, including the respect for fundamental rights as enshrined in the EU Charter of Fundamental Rights. It will notably ensure the protection and promotion of human rights, and the rule of law.
- (12) Activities under the Facility should support progress towards the Sustainable Development Goals, the Paris Agreement and 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' National Energy and Climate Plans, their Nationally Determined Contribution and ambition to reach climate neutrality by 2050. The Facility should contribute to the mitigation action and to the ability to adapt to the adverse effects of climate change, and foster climate resilience.
- (13) 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 gender equality and the empowerment of women and girls, and seek to protect and promote women's and girls' rights in line with the EU Gender Action Plans and relevant Council conclusions and international conventions. The implementation of the Facility should be in line with the United Nations Convention on the Rights of Persons with Disabilities and ensure accessibility in its investments and technical assistance.
- (14) This Regulation should promote the Green Agenda for the Western Balkans⁷ by reinforcing environmental protection, contributing to the mitigation of climate change and increasing resilience to climate change, and accelerating the shift towards a low-carbon economy.
- (15) 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 the 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 WBIF should account to climate objectives. 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) 2020/852⁸.
- (16) The Commission, in cooperation with the Member States and the Beneficiaries, should contribute to 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 continues to respect and uphold effective democratic mechanisms and institutions, including a multi-party parliamentary system, and the rule of law, and to guarantee respect for human rights, including the rights of persons belonging to minorities. Another pre-condition should be that Serbia and Kosovo engage constructively in the normalisation of their relations with a view to fully implementing all their respective obligations stemming from the Agreement on the Path to Normalisation and its

⁷ SWD(2020)223 final, 6.10.2020.

⁸ 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.

Implementation Annex as well as all past Dialogue Agreements and engage in negotiations on the Comprehensive Agreement on normalisation of relations.]

- (17) [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 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 Western Balkans Investment Framework (WBIF), including the entire amount of the non-repayable support, less 1.5% of technical assistance and the amounts necessary for provisioning of the loans.
- (18) This Regulation lays down a financial envelope for the entire duration of this Instrument, 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, for the European Parliament and the Council during the annual budgetary procedure.
- (19) The financial liability from loans under this 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. Loans type of support under this Facility should constitute financial assistance within the meaning of Article 220(1) of Regulation (EU, Euratom) 2018/1046. An indicative amount of financing for each Beneficiary should be calculated based on the formula laid down in Annex I, 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, weighing the two factors with 60% and 40% respectively. If the payment conditions for the release of funds are not met, the Commission may redistribute part of or the entire amount to other Beneficiaries.]
- (20) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU should apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁹ 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.
- (21) Restrictions of eligibility in award procedures under the Facility should be allowed on account of the specific nature of the activity or when the activity affects security or public order.
- (22) In order to ensure an efficient implementation of the Facility, including the facilitation of the Western Balkans Beneficiaries' integration in European value chains, all supplies and

⁹ 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>).

materials financed and procured under this Facility should originate from Member States, Beneficiaries, contracting parties to the Agreement on the European Economic Area and countries covered by Annex I to Regulation (EU) 2021/947 of the European Parliament and of the Council¹⁰ and Annex I to Regulation (EU) 2021/1529 and countries for which reciprocal access to external assistance in Beneficiaries is established by the Commission, unless the supplies and materials cannot be sourced at reasonable conditions in any of those countries.

- (23) [While respecting the principle that the Union budget is set annually, the possibility to apply the flexibilities in accordance with Regulation (EU, Euratom) 2018/1046 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.]
- (24) The implementation of the Facility for Western Balkans should be underpinned by a coherent and prioritised set of targeted reforms and investment priorities in each Western Balkans Beneficiary (a Reform Agenda), providing a framework for boosting socio-economic growth, clearly articulated and aligned with Union accession requirements. The Reform Agenda will serve as an overarching framework to achieve the objectives of this Facility.
- (25) 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.
- (26) The Reform Agendas should include targeted reform measures and priority investment areas, along with payment conditions in the form of qualitative and quantitative steps that indicate satisfactory progress or completion of those measures, and an indicative timetable for the implementation of those measures. Those steps should be planned for no later than 31 August 2027, although the overall completion of the measures to which such steps refer may extend beyond 2027 but not later than 31 December 2028.
- (27) The Reform Agendas should include an explanation of the Beneficiary's system to effectively prevent, detect and correct irregularities, corruption, fraud and conflicts of interests, when using the funds provided under the Facility, and the arrangements that aim to avoid double funding from the Facility and other Union programmes as well as other donors.
- (28) Measures under the Reform Agendas should, where appropriate, contribute to improving an efficient public finance management and control system, fight against corruption, fraud and organised crime, and to an effective system of State aid control, aiming at ensuring fair conditions for all undertakings. Such measures should be implemented by the Beneficiary by an indicative date which could be set, appropriate for each measure, in the early stage of implementation of the Facility.

¹⁰ 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>).

- (29) 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 Council¹¹]. The Commission will duly take into account Council decision 2010/427/EU and the role of the EEAS where appropriate, and in particular when monitoring the fulfilment of the precondition for Union support.
- (30) [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.]
- (31) [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.
- (32) [The Commission should be able to amend the implementing decision, in particular to take into account a change of the amounts available.]
- (33) In case of redistribution of support under this Facility which would lead to additional support to a Beneficiary, this Beneficiary should submit a revised Reform Agenda with additional measures to be achieved.
- (34) 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 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.
- (35) Financial support for the Reform Agendas should be possible in the form of a loan. In the context of Western Balkans financing needs, it is appropriate to organise the financial assistance under the diversified funding strategy provided for in Article 220a of Regulation (EU, Euratom) 2018/1046 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.
- (36) 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 Regulation (EU, Euratom) 2018/1046.

¹¹ 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>).

- (37) [Considering that the financial risks associated with the support to the Beneficiaries in the form of loans under this Instrument 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 Regulation (EU, Euratom) 2018/1046 and the funding of the provisioning should be sourced from EUR 2 billion envelope under this facility.]
- (38) In order to ensure that the provisioning rate remains adequate to the financial risks, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the provisioning rate. 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 on Better Law-Making of 13 April 2016¹². In particular, to ensure equal participation in the preparation of the 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.
- (39) In order to maximise the leverage of of Union financial support to attract additional investment, and to ensure EU 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 relevant payment conditions defined in the Reform Agendas. In case of non-fulfilment of relevant payment conditions for investments within one year, the Commission may redistribute the investment funding under the WBIF among the remaining Beneficiaries.
- (40) [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 foreseen under this Facility financial assistance in the form of a pre-financing, subject to availability of funding and to the respect of the preconditions for the support under the Facility.]
- (41) It is important to guarantee both flexibility and programmability in providing Union support to the Western Balkans Beneficiaries. For that purpose, funds under the Facility should be released according to a fixed semi-annual schedule, subject to availability of funding, based on 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 in accordance with the indicative timeline set in the decision approving the Reform Agenda, the Commission could withhold part or whole of the funds corresponding to that condition. 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 the payment conditions have been fulfilled. In the first year of implementation, this deadline should be extended to 24 months from the initial negative assessment.

¹² OJ L123, 12.5.2016, p.1.

- (42) By way of derogation from Article 116(2) and (5) of Regulation (EU, Euratom) 2018/1046, 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.
- (43) In the framework of the Union's restrictive measures, adopted on the basis of Article 29 of the Treaty on European Union (TEU) and 215(2) of the Treaty on the Functioning of the European Union (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 cannot be supported by the Facility.
- (44) In accordance with Regulation (EU, Euratom) 2018/1046, Regulation (EU, Euratom) 883/2013 of the European Parliament and of the Council¹³ and Council Regulations (EC, Euratom) No 2988/95¹⁴, (Euratom, EC) No 2185/96¹⁵ and (EU) 2017/1939¹⁶, 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, conflict of interest, double funding, to the recovery of funds lost, wrongly paid or incorrectly used.
- (45) 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.
- (46) In accordance with Article 129 of Regulation (EU, Euratom) 2018/1046, the necessary rights and access should be granted to the Commission OLAF, the European Court of Auditors and, where applicable the EPPO, including by third parties involved in the implementation of Union funds.
- (47) The Commission should ensure that the financial interests of the Union are effectively protected under the Facility. At the same time, given the long track record of financial assistance provided to the Western Balkans Beneficiaries also under indirect management and taking into account their gradual alignment with the Unions internal control standards

¹³ 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>).

¹⁴ 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>).

¹⁵ 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>).

¹⁶ 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>).

and practices, the Commission may rely to a great extent on the operation of the national internal control and fraud prevention systems. In particular, the Commission and OLAF should be informed of all suspected cases of irregularities, fraud, corruption and conflict of interests affecting the implementation of funds under the Facility without delay.

- (48) 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 the latter informed of the progress of administrative and legal proceeding. 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.
- (49) Each Beneficiary should establish a monitoring system feeding into an semi-annual report of fulfilment of its Agenda's payment conditions accompanying the semi-annual request for the release of funds. Beneficiaries should collect and provide access to data and information allowing the prevention, detection and correction of irregularities, fraud, corruption and conflicts of interests, in relation to the measures supported by the Facility.
- (50) The Commission should ensure that clear monitoring and 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 this Regulation's objectives.
- (51) The Commission should provide an annual report on the progress with the implementation of the Regulation and the Facility to the European Parliament and to the Committee referred to in this Regulation.
- (52) The Commission should carry out an evaluation of the Facility upon its completion.
- (53) The communication capacities of the Beneficiaries should be enhanced in order to ensure strong and free pluralistic media and public support for and understanding of Union values and the benefits and obligations of potential Union membership, while addressing disinformation and information manipulation. Visibility of the Union funding should also be ensured.
- (54) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can 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.
- (55) Given the ambitious general objectives of this Facility within a short implementation period, 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, the budget for the period [2024-2027], the forms of Union funding under it and the rules for providing such funding.

2. The Facility shall provide assistance to the Western Balkans for the delivery of socio-economic reforms and 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 and Serbia.
2. ‘Enlargement Package’ means the annual Communication on EU Enlargement policy and accompanying staff working documents.
3. ‘Facility Agreement’ means an arrangement concluded between the Commission and the Beneficiary laying down the principles of 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 Regulation (EU, Euratom) 2018/1046 as regards Funds under Article 6(2) point a.
4. ‘Loan agreement’ means an arrangement concluded between the Commission and the Beneficiary laying down the conditions applicable to the support of the Facility.
5. ‘Reform Agendas’ means a comprehensive package of a coherent and prioritised set of targeted reforms and priority investment areas in each Beneficiary, including payment conditions that indicate satisfactory progress or completion of those measures, and an indicative timetable for the implementation of those measures.
6. ‘Measures’ means reforms and investments under the Reform Agendas pursuant to Chapter III.

* 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. 'Payment Conditions' means conditions for the release of funds taking the form of observable and measurable qualitative or quantitative steps to be implemented by the Beneficiaries, as set out in the Reform Agendas pursuant to Chapter III as conditions for the release of funds;
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 finance institutions, or from commercial finance institutions and investors.

Article 3
Objectives of the Facility

1. The general objectives of the Facility shall be to:
 - (a) accelerate regional economic integration and progressive integration with the Union single market;
 - (b) accelerate the socio-economic convergence of Beneficiaries' economies with the Union;
 - (c) accelerate alignment with Union values, laws, rules, standards, policies and practices with a view to Union membership
2. The specific objectives of the Facility shall include to:
 - (a) accelerate the transition of the Beneficiaries to sustainable, and inclusive economies, capable of withstanding competitive market pressures of the Union single market, and to a stable investment environment;
 - (b) boost regional economic integration in particular through progress in the establishment of the Common Regional Market;
 - (c) boost economic integration of the Beneficiaries with the Union single market;
 - (d) support regional economic integration and enhanced integration with the EU single market through improved connectivity in the region in line with Transeuropean Networks;
 - (e) accelerate green transition in line with the 2020 Green Agenda for the Western Balkans and covering all economic sectors, particularly energy, including the transition towards de-carbonised climate-neutral, climate-resilient and circular economy;
 - (f) promote the digital transformation as an enabler for sustainable development and inclusive growth;
 - (g) boost innovation, particularly for SMEs and in support of the green and digital transitions;
 - (h) boost quality education, training, reskilling and upskilling, and employment policies;

- (i) further strengthen the fundamentals of the enlargement process, including the rule of law, democracy, the respect of human rights and fundamental freedoms, through promoting an independent judiciary, reinforced security, the fight against fraud, corruption, organised crime and money laundering and terrorism financing, tax evasion and tax fraud; compliance with international law; strengthen freedom of media and academic freedom and an enabling environment for civil society; foster social dialogue; promote gender equality, non-discrimination and tolerance, to ensure and strengthen respect for the rights of persons belonging to minorities;
- (j) reinforce the effectiveness of public administration and support transparency, structural reforms and good governance at all levels, including 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 Western Balkans Beneficiaries.

Article 4
General principles

1. Cooperation under the Facility shall be based on and shall promote the development effectiveness principles, across all modalities, namely ownership of development priorities by the Beneficiaries, a focus on results, inclusive partnerships, transparency and mutual accountability. The cooperation shall be based on effective and efficient resources allocation and use.
2. [Support from the Facility shall be additional 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.]
3. In order to promote the complementarity and efficiency of their action, the Commission and the Member States shall cooperate and shall strive to avoid duplication between assistance under this Regulation and other assistance provided by the Union, the 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.
4. Activities under the Facility shall mainstream climate change mitigation and adaptation, biodiversity and environmental protection, human rights, democracy, gender equality and, where relevant, disaster risk reduction, 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. They shall avoid stranded assets, and shall be guided by the principles of ‘do no harm’ and of ‘leaving no one behind’, as well as by the sustainability mainstreaming approach underpinning the European Green Deal.
5. Beneficiaries and the Commission shall ensure that equality between men and women, 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 will report on these measures in the context of its regular reporting under the Gender Action Plans.

6. The Facility shall not support activities or measures which are incompatible with the Beneficiaries' National Energy and Climate Plans, their Nationally Determined Contribution under the Paris Agreement, and ambition to reach climate-neutrality by 2050 or that promote investments in fossil fuels, or that cause significant adverse effects on the environment or the climate.
7. The Commission, in cooperation with the Member States and the Beneficiaries, shall contribute to the implementation of Union commitments to increased transparency and accountability in the delivery of assistance, including by promoting the implementation and reinforcement of internal control systems and anti-fraud policies, and by making information on the volume and allocation of assistance available through web-based databases, and shall ensure that data is comparable and can be easily accessed, shared and published.

*[Article 5
Preconditions for Union support*

1. Preconditions for the support under the Facility shall be that the Beneficiaries continue to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantee respect for all human rights obligations, including the rights of persons belonging to minorities. Another pre-condition shall be that Serbia and Kosovo engage constructively in the normalisation of their relations with a view to fully implementing all 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 are released to Beneficiaries under the Facility and throughout the period of the support provided under the Facility taking duly into account the latest Enlargement Package. The Commission may adopt a decision concluding that some of these preconditions are not met, and in particular, withhold the release of funds referred to in Article 21, irrespective of the fulfilment of payment conditions referred to in Article 16(3).

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, of which:
 - (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. The support in the form of a 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 Annex I, in the corresponding implementing decision referred to in Article 15, calculated based on the latest available data on the day of the entry into force of this Regulation in line with Article 29. Indicative amounts may change during implementation in accordance with the principles laid out in Article 21.
5. Pursuant to Article 19, the amount of funds made available under the Western Balkans Investment Framework (WBIF) referred to in Article 12 of Regulation (EU) 2021/1529¹⁷ shall be at least 50% of the overall amount in paragraph 1. 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, trainings, consultations with the Beneficiary authorities, conferences, consultation of stakeholders, information and communication actions, including inclusive outreach actions, and 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 needed for the Facility. Finally, expenses may also cover the costs of other supporting 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 Regulation (EU, Euratom) 2018/1046, either in direct management or in indirect management with any of the entities

¹⁷ 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 L330, 20.09.2021.

referred to in Article 62(1), first subparagraph, point (c) of Regulation (EU, Euratom) 2018/1046.

2. Union funding may be provided in any of the forms laid down in Regulation (EU, Euratom) 2018/1046, 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 or the European Investment Fund, multilateral international financial institutions, such as the European Bank for Reconstruction and Development, or bilateral European finance institutions, such as development banks. Whenever possible, the implementation of blending operations under the Facility shall be complemented by additional forms of financial support, from either Member States or third parties.

Article 8

Rules on eligibility of persons and entities, origin of supply and materials and restriction under the Facility

1. Participation in procurement and 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, and to legal persons which are effectively established in:
 - (a) Member States, Beneficiaries, contracting parties to the Agreement on the European Economic Area and countries covered by Annex I to Regulation (EU) 2021/947 and Annex I to Regulation (EU) 2021/1529;
 - (b) countries for which reciprocal access to external assistance in 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, whenever 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 concerned Beneficiary.
3. All supplies and materials financed and procured under this Facility shall originate from any country referred to paragraph 1 point (a) and point (b), unless if the supplies and materials cannot be sourced at reasonable conditions in any of those countries. In addition, the rules on restrictions in paragraph 6 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 actions jointly co-financed by an entity or implemented in direct management or indirect management with entities as referred to in Article 62(1), point (c) of Regulation (EU, Euratom) 2018/1046, the rules of those entities shall also apply. This is without prejudice to the restrictions established under paragraph 6, which shall be duly reflected in the agreements concluded with those entities.

6. The eligibility rules and origin of supplies and materials referred to in paragraphs 1 and 3 and the nationality of the natural persons referred to in paragraph 4 may be restricted with regard to the nationality, geographical location or nature of the legal entities participating to award procedures as well as with regard to the geographical origin of supplies and materials, in the following cases:
 - (a) where such restrictions are required on account of the specific nature and/or objectives of the activity or specific award procedure and/or where these restrictions are necessary for the action's effective implementation;
 - (b) where the action or specific award procedures affect security or public order, in particular concerning strategic assets and interests of the Union, its Member States, or 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 the case of urgency or where services are unavailable in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of an action 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.
3. Funding shall only be granted to the Beneficiaries 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 Regulation (EU, Euratom) 2018/1046 are fulfilled.
5. The Facility Agreement shall lay down the necessary detailed provisions concerning:
 - (a) the commitment of the Beneficiary to progress towards more efficient and effective control systems, and to strengthen the fight against money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion;
 - (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 prevent, detect, investigate and correct irregularities, fraud, corruption and conflicts of interest, and the obligation to notify the Commission and OLAF without delay of suspected or actual cases of irregularities, fraud, corruption and conflict of interests and their follow-up;
- (g) the obligations referred to in Articles 22 and 23, including precise rules and timeframe on collection of data by the Beneficiary and access for the Commission and OLAF;
- (h) a procedure to ensure that disbursement requests for the loan support fall within the available loan amount, taking into consideration Article 6(3);
- (i) 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 interests 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 the Facility Agreement;
- (j) rules and modalities for the Beneficiaries to report for the purpose of monitoring the implementation of the Facility and assess the achievements of the objectives set out in Article 3.

Article 10

Carry-overs, annual instalments, commitment appropriations

1. [By way of derogation from Article 12(4) of Regulation (EU, Euratom) 2018/1046, 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 inform the European Parliament and the Council of commitment appropriations carried over in accordance with Article 12(6) of Regulation (EU, Euratom) 2018/1046.
3. [By way of derogation from Article 15 of Regulation (EU, Euratom) 2018/1046 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 Regulation (EU, Euratom) 2018/1046.

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, building 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 national growth strategy where applicable, the revised enlargement methodology, the most recent Enlargement Package and the Economic and Investment Plan for the Western Balkans.
2. The Reform Agendas shall set out the reforms to be undertaken by the Beneficiary, as well as investment areas, towards the achievement of the general and specific objectives set out in Article 3. The Reform Agendas shall comprise measures for the implementation of reforms through a comprehensive and coherent package. In the areas of fundamentals, including the rule of law, the fight against corruption, fundamental rights and the freedom of expression, the Reform Agendas shall reflect the assessments in the most recent Enlargement Package.
3. The Reform Agenda 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 EU.
4. The Reform Agendas shall be consistent with and support the reform priorities identified in the context of the Beneficiary's accession path, and other relevant documents, such as the Stabilisation and Association Agreement, the National Energy and Climate Plan, the Nationally Determined Contribution under the Paris Agreement and the ambition to reach climate neutrality by 2050.
5. The Reform Agendas shall respect the general principles set out in Article 4.
6. The Commission shall invite the Beneficiaries to submit within three months from the entry into force of this Regulation their respective Reform Agendas.
7. In case of a redistribution of support under the Facility leading to a Beneficiary receiving additional support, the Commission shall invite the Beneficiary to submit within three months a revised Reform Agenda for the remaining duration of the Facility.

Article 12 Principles for financing under the Reform Agendas

1. The Facility shall incentivise the implementation of the Reform Agenda of each Beneficiary by putting payment conditions on the release of funds. These payment conditions shall apply to funds under Article 6(2) point (a) and Article 6(3) and shall take the form of qualitative or quantitative steps. Such steps shall reflect progress on specific

socio-economic reforms, including on fundamentals of the enlargement process and rule of law, linked to the achievement of the different objectives of the Facility, set out in Article 3, consistent with the latest Enlargement Package.

The fulfilment of the 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 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 have to be fulfilled for any release of funds.

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 if appropriate;
 - (b) an explanation of how the measures are consistent with the principles, strategies, plans and programmes referred to in Article 11;
 - (c) an explanation of the extent to which the measures are expected to contribute to climate and environmental objectives;
 - (d) for the reforms and investments, an indicative timetable, and the envisaged payment conditions for release of funds in the form of qualitative and quantitative steps to be implemented by 31 August 2027 at the latest;
 - (e) the arrangements for the effective monitoring, reporting and evaluation of the Reform Agenda by the Beneficiary, including the relevant indicators set out in paragraph 2;
 - (f) an explanation of the Beneficiary's system to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interests and to enforce State aid control rules;
 - (g) 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. These indicators shall be based, where appropriate and relevant, on internationally agreed indicators and those already available related to Beneficiaries' policies. Indicators shall also be coherent to the extent possible, with the key corporate indicators included in the Instrument for Pre-

Accession assistance (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 or seek additional information.
2. When assessing the Reform Agendas, the Commission shall take into account relevant available analytical information on the Beneficiary, 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.
3. 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;
 - (b) 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;
 - (c) 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, and boosting innovation, education and skills and the wider labour market;
 - (d) whether the Reform Agenda can be expected to further strengthen the fundamentals of the enlargement process as defined in Article 3.2 point (i).
 - (e) whether the Reform Agenda appropriately addresses potential risks in compliance with preconditions and payment conditions;
 - (f) whether the payment conditions proposed by the Beneficiary are appropriate and ambitious, consistent with the assessment from the latest Enlargement Package, 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;
 - (g) whether the arrangements proposed by the Beneficiary are expected to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interests, when using the funds provided under the Facility, and ensure that there is no double funding from the Facility and other Union programmes as well as other donors from the Facility and other Union programmes as well as other donors.

4. For the purpose of the assessment of the Reform Agendas submitted by the Beneficiaries, the Commission may be assisted by 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 its amendment submitted in accordance with Article 16. That implementing decision shall be adopted in accordance with the examination procedure referred to in Article 27(2).
2. The Commission implementing decision shall set out the reforms to be implemented by the Beneficiary, 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 monitoring, reporting and implementation of the Reform Agenda including, where relevant, measures necessary for complying with Article 24;]
 - (e) the indicators referred to in Article 13(2) for assessing progress towards the achievement of the general and specific objectives 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 the 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 does not affect the final deadline set in Article 21(8).

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 Regulation (EU, Euratom) 2018/1046.
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 as of the signature of the loan agreement.

In addition to and by way of derogation from Article 220(5) of Regulation (EU, Euratom) 2018/1046, 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.

Article 18

Provisioning

1. Pursuant to Article 211(1) of Regulation (EU, Euratom) 2018/1046 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).

Budgetary commitments for the provisioning shall be made by 31 December 2027. By way of derogation from Article 211(2), last sentence of Regulation (EU, Euratom) 2018/1046, 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. It may also cover loans for macrofinancial assistance in accordance with Article 31(5) of Regulation (EU) 2021/947. 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 26 to amend the provisioning rate while applying the criteria set out in Article 211(2) of the Regulation (EU, Euratom) 2018/1046.

Article 19

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

1. In order to benefit from the leverage of EU 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 adoption of the decision referred to in Article 21(3).
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 in indirect management taking into account a pipeline of investments and 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), shall be made available through the WBIF under the loan agreement between the Commission and the Beneficiaries in accordance with Article 17(2). 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) to the Commission. Investment projects and programmes may receive support from two financing sources referred to in paragraph 1 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.

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. 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.
2. The Commission shall assess without undue delay whether the Beneficiary has achieved satisfactory fulfilment of the payment conditions set out in the Commission implementing decision referred to in Article 15(1). The satisfactory fulfilment of these 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.
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 these conditions. That decision shall, in accordance with the split established in Article 6(4), set the amount of funds to be made available as financial assistance, channelled directly to the national budget 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 national budget 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 may only be released 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 6, [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 6. 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 Regulation (EU, Euratom) 2018/1046, or of the loan, in the event of identified cases of, or serious concerns in relation to, irregularities, fraud, corruption and conflicts of interests 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.
8. [The Commission] may decide to redistribute any amount reduced pursuant to paragraph 6 or 7 among other Beneficiaries of the Facility by amending the implementing decisions referred to in Article 15(1).
9. For the part of the Facility funding paid as financial assistance, channelled directly to the Beneficiaries' national budgets, by way of derogation from Article 116(2) of Regulation (EU, Euratom) 2018/1046, the payment deadline as referred to in Article 116 (1) point (a), of Regulation (EU, Euratom) 2018/1046 shall start running from the date of the communication of the decision authorising the disbursement to the Beneficiary pursuant to paragraph 4 of this Article.
10. Article 116(5) of Regulation (EU, Euratom) 2018/1046 shall not apply to payments made as financial assistance, channelled directly to the Beneficiaries' national budgets pursuant to this Article and to Article 22 of this Regulation.
11. Payment of funds under this Facility shall be made subject to the available funding. 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 national budget, 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 a loans, whether channelled directly to the national budget 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.

CHAPTER IV

Protection of the financial interests of the Union

Article 22

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 interests and irregularities. 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) 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 interests and irregularities;
 - (b) take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interests and irregularities affecting the financial interests of the Union, to 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;
 - (c) for the purpose of paragraph 1 of this Article, 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, adequate data on persons and entities receiving funding for the implementation of measures of the Reform Agenda under chapter III;
 - (d) expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, the EPPO to exert their rights as provided for in Article 129 of Regulation (EU, Euratom) 2018/1046.
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 interests 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 interests 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, conflict of interests and irregularities affecting financial interests of the Union without delay, to the Commission and OLAF.

Article 23

Role of the national internal systems and National Audit Authorities

1. For the part of the Facility funding paid as financial assistance, channelled directly to the Beneficiaries' national budgets, the Commission shall rely on existing and improved internal control systems of the Beneficiaries, including the National Audit Authorities and, where applicable, the Anti-Fraud Coordination Services of each Beneficiary established in the framework of the Instrument for Pre-accession Assistance.

The Reform Agendas shall prioritise in the first years of their implementation reforms related to negotiation chapter 32, particularly on public finance management and internal control, as well as on 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 2 shall maintain regular dialogue with the European Court of Auditors, OLAF and, where appropriate, the EPPO.
4. The Commission may carry out detailed systems reviews of the national budget implementation based on a risk-assessment and dialogue with National 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, conflict of interests 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 authorities. The concerned Beneficiary shall implement such recommendations or provide a justification on why it has not done so.

CHAPTER V

Monitoring, reporting and evaluation

Article 24

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) are 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.
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.
4. The Commission shall provide the report referred to in paragraph 3 to the Committee referred to in Article 27.

Article 25

Evaluation of the Facility

1. After 31 December 2027, but by 31 December 2031 at the latest, the Commission shall carry out an *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. This *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.

The Commission shall communicate the findings and conclusions of this *ex-post* evaluation accompanied by its observations and follow-up, to the European Parliament, the Council and the Member States. This *ex-post* evaluation may be discussed at the request of Member States. The results shall feed into the preparation of future programmes and actions and resource allocation. This *ex-post* evaluation and follow-up shall be made publicly available.

The Commission shall, to an appropriate extent, associate all relevant stakeholders, including Beneficiaries, social partners, civil society organisations 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.

CHAPTER VI

Final provisions

Article 26

Exercise of delegation

1. The power to adopt delegated acts 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 Article 18 shall be conferred on the Commission for an indeterminate period from the date of entry into force of this Regulation.
3. The delegations of power referred to in Article 18 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 on Better Law-Making of 13 April 2016.
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 Article 18 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 27

Committee procedure

1. The Commission shall be assisted by a Committee. 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.

Article 28

Information, communication and publicity

1. The Commission may 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 may, as appropriate, ensure that support under the Facility is communicated and acknowledged through a funding statement.

2. The recipients of Union funding shall 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. The Commission shall implement information and communication actions relating to the Facility, to actions taken pursuant to the Facility and to the results obtained. Financial resources allocated to the Facility shall also contribute to the corporate communication of the political priorities of the Union, insofar as they are related to the objectives referred to in Article 3.

Article 29
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 Brussels,

For the European Parliament
The President

For the Council
The President
