

Ukraine's EU accession process in the field of regional and local development

Ministry responsible for regional and local development
in the driving seat!

POLICY PAPER

Kyiv, March 2023

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Outline of this Policy Paper has been presented to and discussed with the experts' community during meeting jointly organized by Ministry of Communities and Territories Development of Ukraine (MinRegion)¹ and U-LEAD with Europe on the 7th of October 2022.

¹ In December the Cabinet of Ministers merged the Ministry of Infrastructure with the MinRegion. The new "Ministry of Development of Communities, Territories and Infrastructure" (Ministry for Restoration), is the legal successor and assumes all functions and powers of the former MinRegion. This paper hereinafter therefore refers to the new Ministry for Restoration.

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1. Introduction

1.1. Background

Ukraine is in the midst of the war with Russia and in the meantime, it was given a clear political commitment from the EU Member States about its perspective for the membership. It is within this framework that the Ministry of Development of Communities, Territories and Infrastructure (hereinafter referred to as the Ministry) **faces challenges** on two fronts. One is to strengthen its **capacities on coordination issues for supporting both war and post-war reconstruction** and development at regional and municipal level while the other is **to put in place structures and procedures** that will effectively support the regional and municipal components of the country's EU accession process. Applicant countries seeking membership in the European Union must adopt the *acquis communautaire* ("acquis"). The *acquis* is the collection of common rights and obligations that constitute the body of EU law, and is incorporated into the legal systems of EU Member States. The Ministry's role in Ukraine as an EU candidate country will be focused on effective **approximation of the country to the acquis requirements** in the areas of its competence as well as on effective absorption of pre-accession funds supporting this process.

The EU accession process of Ukraine will have at least one crucial aspect very different from experience of any other candidate country in the whole history of the EU. In the case of Ukraine, the **EU accession process will take place in parallel with the reconstruction of the significant part of the country** devastated by the ongoing war activities. In a joint assessment report released on 9 September 2022, "*the Government of Ukraine, the European Commission, and the World Bank, in cooperation with partners, estimate that the current cost of reconstruction and recovery in Ukraine amounts to \$349 billion and this figure is expected to grow in the coming months as the war continues*"². The report says that **recovery and revitalisation will need to be designed in a way that strongly supports local economies, with local governments at the top of the planning and implementation efforts**. The document also points to the importance of the institutional capacity building across different administrative levels as an integral part of the recovery and stresses that capacity development should start as early as possible.

As it is realistically to expect that the recovery will be supported massively with financial assistance from the EU budget, its Member States, other Western countries and multilateral financial institutions, it is of at most importance for the **Ministry to develop its internal capacities as well as to support capacity building of institutions at national, regional and municipal levels for effective absorption of these funds**.³

² <https://www.worldbank.org/en/news/press-release/2022/09/09/ukraine-recovery-and-reconstruction-needs-estimated-349-billion>

³ The reform of local self-government and of regional development represents a solid basis for preparations for EU accession. Though the European Charter of Local Self-Government was signed by Ukraine in 1996, real progress had to wait until the Revolution of Dignity in 2014. Following the local elections of October 2020, there are now 1,470 local self-governments with increased competences and resources. Municipalities are thus better able to fulfil their self-government mandates, including development-related activities such as planning, financing, and implementation of concrete projects. A

When talking specifically about the EU funds and the EU accession more generally, the **Ministry's capacity development is required in two areas:**

- **The EU accession process:** The process of the EU accession – it is at least a decade long, as experience of Western Balkans shows, it could be very long and consists of numerous stages, each of them with its specific characteristics and challenges for a candidate country. Special attention in this area of capacity building would be attributed to those segments of the process and of ***the acquis that are in the Ministry's competence, primarily the chapter 22*** (regional policy and coordination of structural instruments), but also some other chapters, such as chapter 32 (financial control).
- **Absorption of the EU pre-accession funds:** In contrast to the Western Balkan countries where the pre-accession assistance has been rather small both measured both in nominal terms and as percentage of GDP, in Ukraine the assistance will be probably much larger. Consequently, absorption of the EU funds – it consists of ***the ability and skill of central, regional and local levels to generate projects and programmes that meet the stated policy objectives as well as of the ability of the authorities to manage the funds entrusted to them effectively and efficiently*** – will be already in the pre-accession phase of great importance for Ukraine⁴. When designing its structures and processes for effective absorption of the EU funds, experience of relevant EU Member States, especially the ones that joined the EU during the large Eastern enlargement, should be consulted.

1.2. Objectives

Bearing in mind that reconstruction of Ukraine will be the main priority for the authorities when conditions stabilise, the overall objective of the paper is to provide policy and capacity building advice to the Ministry on two subjects, on the EU accession process in general, and especially in the areas of its competence, and on ***establishing structures and procedures that are in line with the requirements of the EU accession process*** and are conducive for effective absorption of the EU funds.

In more specific terms, **the policy paper has the following objectives:**

- to present (i) the overall logic of the **EU accession process** with its main characteristics, stages and challenges (based on experiences of candidate countries in the EU enlargements over the last two decades), and (ii) those segments of the EU accession process that deal specifically with the regional

new State Regional Development Strategy was approved in 2020, subsequently followed by an Action Plan and new regional-level planning documents. More about those processes, see in Compendium of Articles published by *U-LEAD with Europe, 2021*, as well as in *OECD, 2022*.

⁴ As the Western Balkans countries have been receiving relatively small pre-accession assistance, the financial incentive for these countries to establish structures for effective absorption of the EU funds was rather limited. For this group of countries, a large increase of the EU funding would come only after their accession to the EU, similarly as this was the case for all “new” member states that joined the EU in 2004/7 and also for Croatia that become a member in 2013. In the case Ukraine, a large increase of the EU funds will be available already in the pre-accession phase what argues strongly for putting in place structures and processes required for good absorption capacity already much earlier.

development and the EU funds, especially chapter 22 (regional policy and coordination of structural instruments).

- to present (i) the concept of the EU funds absorption capacity, (ii) performance of and lessons learnt by the “new” EU Member States, i.e. the states that joined during the Eastern enlargement experiences, on this subject, and (iii) key stylised features of institutional structure and procedures for absorption of the EU funds.
- to articulate guiding principles for (i) capacity development of the Ministry on the EU accession process in general, and especially on those segments of this process that deal specifically with the regional development and the EU funds, (ii) capacity development of the Ministry itself as well as of institutions across different levels of administration on various aspects of the EU funds absorption, and (iii) some guiding principles for setting up structures and procedures within the Ministry that are in line with the requirements of the EU accession process and are conducive for effective absorption of the EU funds at national and regional levels.

1.3. Structure of the document

In addition to this *Introduction*, the policy paper is composed of the four main chapters and a number of Annex tables.

The *second chapter* provides a brief overview of the EU accession process focusing on its main characteristics, including the main players, stages of the process and challenges typically faced by an EU candidate country.

In contrast to this chapter that addresses EU accession process in general, the next two chapters are more clearly focused on the regional development component of the EU accession process and on its financing. While the *third chapter* explains the overall logic of the EU cohesion policy as the main financial instrument for reducing socioeconomic disparities among the Member States, the *fourth chapter* discusses the EU funds absorption capacity subject and focusses on the absorption capacity concept as such as well as on experiences and lessons learnt in this very area by the “new” Member States.

And finally, the *fifth chapter* that is aimed at providing some guiding principles for setting up the EU accession compatible institutional framework for regional development in Ukraine. The chapter is focused on identifying principles for the design of the structures and procedures within the Ministry that are in line with the requirements of the EU accession process as well as the design of a structure at national and sub-national levels that will be conducive for effective absorption of the EU funds.

2. The EU accession process: main objectives, stages, changes over time

2.1. Objectives of the EU enlargement with a focus on objectives of the EU candidates

The EU is a unique political and economic entity that combines international cooperation and integration among sovereign states within Europe. It is neither state nor international governmental organisation, in clear terms. The predecessor of the EU – European Economic Communities – was established in the 1950s with only 6 original members, but the issue of enlargement was raised already in its early years. Throughout its history, the EEC/EU enlarged seven times, the first time in 1973 and the last time in 2013, and the EU now consists of 27 Member States. The EU enlargements have always happened as a response of the EU on applications for membership rather than that the EU would actively sought to expand. The legal basis for the enlargement has always been incorporated in the Treaty. Under the EU's **Treaty on European Union** (TEU), this subject is addressed in **paragraph 49**. Similarly, as its predecessors, this paragraph says that any European state which respects the values referred to in Article 2 [human dignity, freedom, democracy, equality, the rule of law and human rights] and is committed to promoting them may apply to become a member.

Though the process of enlargement has changed significantly over time, it has consistently pursued two strategic objectives.

- One was a **political objective** aimed at extending peace, stability and democracy across, and the respect for European values. This objective was very obvious during the 1980s – in the case Greece, Portugal and Spain – where the EU members were ready to start the EU accession talks in order to strengthen democracies in the post-authoritarian countries. The fall of the Berlin Wall with the end of the cold war opened a historical opportunity for reunification of Europe. In 1995, the EU enlarged with three traditionally neutral states – Austria, Finland and Sweden – and since then also with Eastern European countries that embarked on a transition from one party system to a democracy and from centrally planned to market economy. The EU focus on supporting peace, stability and democracy has been present also in the last two decades. After the 1990s hostilities in the Western Balkans, the EU membership perspectives was opened to all the countries from this region. While Croatia became an EU member in 2013, other countries are still in different stages of their EU accession process. And last year, a couple of months after the Russian invasion of Ukraine, the EU perspective was offered also to Ukraine, Moldova and Georgia.
- Another strategic objective of the EU enlargement process that has been consistent throughout its history is **economic one**. It is aimed at extending market economy and prosperity across the European continent. Over the decades, the EU has gone from very simple to the most demanding forms of regional economic integration, from a customs union, over the extended single market to a monetary union. As a result of its deepening and widening, the EU has undergone substantial changes in its economic governance. It is today, also as a consequence of several crises during

the last decade, significantly more complex than ever before and has become, in contrast to the past, a very more important component of the EU accession process.

The experience of the previous enlargements, especially those ones from 1980s on, have demonstrated that the **EU accession process offers an important pro-reform and pro-modernisation incentive for a candidate country**. There are several reasons why the membership within the EU is considered attractive and is worth serious reform efforts on the side of the candidate countries. Some of them are the following (Dabrowski, 2022): *First*, the EU is widely considered a club of prosperous, stable and democratic countries. Therefore, joining such a club is a synonym for an increased standard of living. *Second*, being a member of the EU means membership in the customs union, complete harmonisation with the *EU acquis*, and full participation in the Single European Market characterised with its four fundamental freedoms (free movement of goods, services, capital and labour). *Third*, new EU members typically with a lower income per capita level, gain access to a broad spectrum of EU budget funds, especially those ones related to the Common Agriculture Policy and cohesion policy⁵, and more recently, funds from the new temporary instrument *New Generation EU*. And *fourth*, geopolitical stability and security are also expected upon completing an accession process. It was an essential argument in the case of the Western Balkans accession initiated in the early 2000s, after the decade of bloody ethnic conflicts in the region, and this was a decisive argument also in the case of the newest candidates after the Russian invasion of Ukraine.

2.2. Key components of the enlargement process

Prior to the EU accession negotiations, the EU Member States typically enter into an **international agreement** with an aspirant country aimed at supporting the latter **to** approximate its legislation, policies and administrative practice to the principles and standards of the EU. The common characteristics of these agreements, called Association or Europe Agreements (SA or EA) for Central and Eastern candidate countries, Stabilisation and Association Agreements (SAA) for the South Eastern Countries, and Association Agreements (AA) for Eastern European countries, is that they provide privileged trade access of candidate countries to single European market. These agreements are sometimes accompanied with a framework for closer cooperation in some other sectors, such as visa facilitation and eventually liberalisation as well as assistance aimed at improving administrative capacities of the countries concerned.

There is another component of cooperation between the EU Member States and an aspirant country that has been typically established already in the early stage of the EU accession process and well before the start of the EU accession negotiations. It relates to the **funding and technical assistance provided to aspirant countries with the objective to assist those meeting standards that are required by the EU membership**. This **pre-accession assistance** has been delivered through variety of instruments, such as Phare, ISPA, Sapard and CARDS. Since 2006 funding has been

⁵ Namely the following: European Social Fund Plus (ESF+), the European Regional Development Fund (ERDF), the Cohesion fund (CF), the Just Transition Fund (JTF) and the European Territorial Cooperation Goal / Interreg (ETC) for cross-border regional cooperation.

provided through various generations of IPA funds for the EU candidate countries from the Western Balkans and Turkey and ENI funds for the Eastern European partners. In case of extraordinary macroeconomic imbalances, these countries are eligible also for MFA funds provided by the EU Member States.

The third component of the enlargement process is **conditionality**. It refers to the **conditions an aspirant country has to meet in order to qualify for the EU membership**. Enlargement conditionality has evolved considerably over the decades with these adjustments being the most profound in the period since the end of the cold war. At that time, the EU found itself in a situation of prospective enlargement to a large number of Eastern European countries. Further on, these were the countries that had until recently a completely different political set up and economic system than the EU Member States. It was within this context that the EU Member States decided to revisit the question of conditionality, at the same time as they started to build the new Policy of Enlargement.

Table 1: EU Enlargement stages

Original Member States	EU Enlargements						
	North	South I	South II	EFTA	East I	East II	
1958	1973	1981	1986	1995	2004	2007	2013
Belgium France Germany Italy Luxemburg Netherlands	Denmark Ireland UK	Greece	Portugal Spain	Austria Finland Sweden	Czech Republic Estonia Hungary Latvia Lithuania Poland Slovakia Slovenia Cyprus Malta	Bulgaria Romania	Croatia

The EU Member States stick to the Treaty provision that the membership is opened to all European countries, and this meant also to the ex-communist countries from the eastern part of the continent. However, at the 1993 Copenhagen European Council the EU members they agreed about the conditions to be met for the EU membership. The so-called **Copenhagen criteria** include the following: (i) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities (the **political criteria**), (ii) the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the EU (the **economic criteria**), and (iii) the ability to take on obligations of membership (the **acquis criteria**). The latter requires from a candidate country to incorporate *acquis* into its national legislation and to implement this legislation effectively by using appropriate administrative structures and judiciary. This was the occasion for the EU to state additionally that it is very important that there is an absorption capacity of the very EU to accept new Member States. In 1995, Copenhagen criteria were reinforced with

the **special attention that has to be paid to the administrative capacity of the candidate country for the implementation of the acquis**.

2.3. Stages in the EU accession process

The EU accession is an extremely complex technical and political process. As part of its enlargement policy, the EU supports the accession of an EU aspirant country through two different instruments, breaking down accession into **two parallel processes**:

- **The EU association process based on association-type of agreement**; The agreement constitutes the framework for the relations between the European Union and the potential candidate country and aims to promote gradual rapprochement between the parties by deepening political ties and economic integration. The agreement deals with a wide range of activities, individually agreed between the parties, that are needed to meet the three Copenhagen criteria. In the case of Ukraine, the Association Agreement (AA) was signed on 27 June, 2014 and ratified on 1 September 2017. The main objective of the AA is to provide a framework for the process of progressive approximation of Ukraine's national legislation with the *acquis in sectors covered by the AA*.
- **The EU accession negotiation process**; This is a process in which an EU candidate country has to reach an agreement with the EU Member States about the terms of its accession to the EU. Under the 2020 **Enlargement Methodology**, the process is organised under 6 clusters with each of them containing a certain number of altogether presently 35 negotiating chapters.

The two processes of the EU accession are closely interlinked and with the EU negotiations advancing, they increasingly merge nearly into a single process. Nevertheless, they should be regarded as separate processes as they are based on different legal bases and deal with different tasks. While the **association process is dealing with the gradual approximation of national legislation with relevant parts of the *acquis***, required under the association agreement, the **negotiation process in return is dealing with specific problems in the transposition of the *acquis***. The latter ends with the completion of accession negotiations approximately two years before the membership in the EU. In order to run both processes effectively and in a highly coordinated manner, an EU candidate country has to design and put into operation an institutional structure and procedures that are capable of reaching these objectives (Mišćević and Mrak, 2017).

While in the case of the Western Balkan countries, their specific version of association agreements called Stabilisation and Association Agreements were based on a clear political commitment of the on the side of the EU reached at the 2003 Thessaloniki European Council about the perspective EU integration for the countries of region, these was not case with AAs of the EU with the three Eastern neighbours – **Ukraine, Moldova and Georgia**. The decision of the **European Council of 23-24 June 2022** gave the EU membership perspective to these three countries as well.

The EU accession process (from the point of view of candidate countries) or the EU enlargement process (from the point of view of Member States) **is a long, complex and also highly technical process**. In the continuation of this sub-chapter, a brief overview

of the main stages of this process is provided. In general, the stages of the process may be classified into the following **three groups**:

- i. stages that need to be done before the EU accession negotiations start,
- ii. stages during the EU accession negotiations, and
- iii. stages after completion of the EU accession negotiations and before the candidate country becomes an EU member state.

Stages before the EU accession negotiations start

- (1) *Application for the EU membership*; accession to the EU is laid down in paragraph 49 of the EU's Treaty on European Union (TEU).
- (2) *Preparation of the opinion*; Once the application is filled and on request of the Council, the European Commission prepares the Opinion of the applicant that need to be based on Copenhagen accession criteria. The Opinion is being drafted on the basis of responses to the questionnaire completed by the applicant country.
- (3) *Decision of the European Council on the EU candidacy status of the applicant country*; The Opinion is discussed at the European Council. On the basis of the European Commission's recommendation, the European Council may decide either to grant the EU candidacy status to the applicant country, to hold it or to reject it. The decision must be taken with unanimity. **At the European Council of 23-24 June 2022, Ukraine and Moldova were given a status of the EU candidate countries** while the candidate county status will be granted to Georgia once it addresses some key priorities reflected in the European Commission's opinion.
- (4) *Decision of the European Council to start the EU accession negotiations with the candidate country*; Again, on the recommendation of the European Commission, the European Council may take a decision to open the EU accession negotiations with the candidate country, and again, the decision must be approved with unanimity. It is possible that the decision of the European Council about the candidacy status and the decision about starting the EU accession negotiations are taken at the same meeting. In majority of cases, the decision about starting the EU accession negotiations is taken later, sometimes with a long delay. North Macedonia, for example, got an EU candidacy status in 2005, but European Council's decision for starting the EU accession negotiations was taken only in summer 2022.

Stages during the EU accession negotiations (based on 2020 Enlargement Methodology)

- (1) **Formal start of the EU accession negotiations**; **First Intergovernmental Conference** on the candidate country's accession to the EU represents the formal start of its negotiations for accession to the EU accession. At this Conference, the EU presents the so-called Negotiating Framework for the candidate country's accession negotiations to the EU. Since 2020 and as experienced by North Macedonia and Albania that started the EU accession negotiations last year, the negotiating frameworks are strongly guided by the

- 2020 Enlargement Methodology. Its main characteristics are presented in some more details in *sub-chapter 2.7*.
- (2) **Screening**; During this process, the European Commission and the candidate country examine the candidate country’s legislation in each area of the *acquis* (in the case of the ongoing negotiations of Serbia and Montenegro, the *acquis* is divided into 35 areas called “chapters”). The main objective of this process is to determine where, why and how the domestic legislation needs to be adapted to the community law. The European Commission reports to the Council on the screening of each chapter and may propose the opening of negotiations or conditions to be met – so called benchmarks – prior to opening of the negotiations.
 - (3) **Meeting “opening benchmark” conditions**; in contrast to the large Eastern enlargement negotiations, where the candidate country entered directly into the negotiations stage following screening, a new stage has *de-facto* been introduced into the process in negotiations with Croatia and Turkey and later on with Serbia and Montenegro. Within this stage, a candidate country has to meet certain benchmarks, called “opening benchmarks” which are articulated as a precondition for opening the negotiating chapter. “Opening benchmarks” are not stipulated for all the negotiating chapters but only for those ones that are considered as more demanding for the candidate country.
 - (4) **Negotiations**; Once “opening benchmarks” are met for all the negotiating chapters within a thematic cluster, a candidate country is invited to present its negotiating positions for all the chapters being part of that very cluster. The response of the EU (draft common position) is drafted by the European Commission but must be approved by the Council. “Closing benchmarks” are an integral part of the EU common position. The aim of negotiations is to reach an agreement on the exact terms of the membership including exemptions from the *acquis*. There are two types of possible exemptions: (i) a transition period is the most common and allows a temporary exemption of the candidate country from the *acquis* and (ii) a derogation allows a permanent exemption from the *acquis*; not applied in the recent enlargement except for some minor technical details. The process of negotiations typically lasts several years and is completed when the candidate country and the EU reach an agreement on all the negotiating “chapters”.
 - (5) **Provisional closing of the negotiations on each of the negotiating chapters**; For the (provisional) closure of the negotiations on each of the negotiating chapters, a candidate country must prove a high degree of harmonisation with the EU standards on that very chapter and a sufficient track record in implementation of the EU standards in that very chapter.
 - (6) **Conclusion of the EU accession negotiations**; The process of negotiations – it typically lasts several years – is completed when a candidate country and the EU reach an agreement on all the negotiating “chapters”. During the concluding round of the EU accession negotiations, the exact date of the accession is agreed and based on this date also financial also the financial conditions of accession to the EU must be calculated and negotiated. The time period between the end of the negotiations and the completion of all the required ratification processes usually takes between one and a half and two years.

Stages after completion of the EU accession negotiations and before the full membership

- (1) *Drafting and approval of the accession treaty*; Once negotiations are completed, the accession treaty is drafted. This is the document that cements the country's membership of the EU. It contains the detailed terms and conditions of membership, all transitional arrangements and deadlines, as well as details of financial arrangements and any safeguard clauses. The accession treaty must be approved by the Council with unanimity and by the European Parliament through a consent procedure. Once the accession treaty is signed, the candidate becomes an acceding country. This means it is expected to become a full EU member on the date laid down in the treaty, providing the treaty has been ratified.
- (2) *Ratification of the accession treaty*; After the accession treaty is signed, it must be ratified by the parliaments of both the candidate country and all the EU Member States. In the acceding country, a referendum is usually held prior to the ratification of the agreement in the parliament.
- (3) *Accession to the EU*; This is a moment when the acceding country becomes a full EU member state with all its rights and obligations deriving from the EU treaties.

2.4. Duration of the EU accession process

The EU accession is a years-long process. For the 21 current Member States to complete the EU accession process and join the EU (the remaining six were original founding members), the process lasted on average about 9 years. The timeline varies, however, depending on national and global politics and on how much a country needs to reform its own laws to meet the EU's standards. For 9 countries, the complete EU accession process it took 10 or more years. Just for reaching the EU candidacy status, it can take several years. Among the current EU members, it took an average of about 3.5 years from the time a country submitted a formal application to the time the European Council approved its candidacy status⁶. The negotiation phase of joining the EU is typically by far the longest. Among the current EU members, the time between the launch of negotiations and the signing of an accession treaty has taken an average of about 4 years – accounting for roughly half of the average duration of the overall accession process. The negotiations were the longest for Portugal, Spain and Croatia (over 6 years), and the quickest for Austria, Finland and Sweden (less than 1.5 years)⁷. And finally, the process of signing the accession treaty and its ratification typically takes between 1 and 2 years. *Table 1* presents the timeline of the 10-years long EU accession process for Croatia as the most recent country that joined the EU.

⁶ Ukraine's and Moldova's applications took roughly 4 months and were approved about 11 times faster than the average for the EU member states.

⁷ [European Union membership: How countries join, and more | Pew Research Center](#)

Table 1: Timeline of Croatia’s EU accession process

Stages	Date
Croatia applies for the EU membership	February 2003
European Commission issues a positive opinion	April 2004
Council awards Croatia a candidate status	June 2004
Council adopts negotiating framework	March 2005
Screening stage of the negotiations begin	October 2005
First chapter of the negotiations opened	June 2006
Last chapter of 33 negotiating chapters closed	June 2011
European Commission issues positive opinion on Croatia’s accession to the EU	October 2011
European Parliament assents to Croatia’s entry to the EU	December 2011
Council adopts decision on admission of Croatia to the EU	December 2011
EU member states and Croatia sign accession treaty	December 2011
Croatia accedes to the EU (after Croatia and all EU member states ratified the accession treaty)	July 2013

Source: Review of the Balance of Competences between the United Kingdom and the European Union: EU Enlargement. HM Government, December 2014.

The process has been even lengthier for the Western Balkan countries as illustrated in *Table 2*. At the 2003 Thessaloniki European Council, 6 countries from the region received a commitment from the EU Member States that they would support their efforts towards European integration. Now, 20 year later, only Croatia has actually joined. Five of them have received the candidate country status, Bosnia and Herzegovina only in December 2022. Though Montenegro started the EU accession negotiations in 2012 and Serbia in 2013, none of them is close to the completion of the negotiations. These means that for both of them the EU accession negotiations will take well over a decade.

Table 2: Status of the EU accession process for the applicant countries (as of February 2023)

Region / Country	Application	Candidate status	Start of the accession negotiations	Signature of the accession treaty	Accession
Western Balkans					
Croatia	2/2003	6/2004	10/2005	12/2011	7/2013
North Macedonia	3/2004	12/2005	7/2022	....	....
Montenegro	12/2008	12/2010	6/2012	....	....
Albania	4/2009	6/2014	7/2022	....	....
Serbia	12/2009	3/2012	12/2013	....	....
Bosnia and Herzegovina	2/2016	12/2022	....	....	....
Turkey	4/1987	12/1999	10/2005	....	....
New candidates					
Ukraine	2/2022	6/2022	....	....	....
Moldova	3/2022	6/2022	....	....	....
Georgia	3/2022	....	....	....	....

Source: Based on Sapir, 2022 and updated with more recent developments.

It goes beyond the scope of this document to provide a thorough analysis of the **reasons for slow progress of the Western Balkans EU accession negotiations**. In general terms, they could be classified into three mutually reinforcing groups, with two of them having the origins on the side of the EU Member States and the third having the origins on the side of the candidate countries in the region.

As far as reasons emerging from the EU side are concerned, one group of reasons may be summarised with the so-called “**enlargement fatigue**” after the large Eastern enlargement. Reduced appetite for further enlargements was reinforced with some negative consequences associated with this big-bang enlargement. The second group contributing to more cautious approach to further enlargements had its source in preoccupation of the EU Member States with **internal problems**, especially with the financial, migrant and COVID crises. All these crises were instrumental for shifting the institutional arrangement for the EU enlargement process whereby **the role of the European Commission as traditionally strong promotor of enlargements had been de-facto reduced** and the Council structures obtained a much stronger role in managing the accession negotiations process. Both groups of reasons – the indicated changed political attitude of some member states towards further EU enlargements – are reflected in several revisions of the EU enlargement strategy, one in 2006 and another one in 2011/12. A common denominator of these two revisions was twofold – **more rigorous conditionality, and greater emphasis on the EU absorption capacity, i.e. its internal and institutional capacity to accept new members.**

Unfortunately, the two revisions of the EU enlargement strategies have not provided tangible incentives for the EU candidate countries in the region to embark more enthusiastically on the design and implementation of difficult reforms, especially those ones in politically sensitive areas. As a consequence of insufficient commitment on the side of domestic political elites, the reforms were either delayed or not implemented at all. This is partially due a lack of clear political and financial incentives for decision makers to advance complex reforms, which would accelerate the negotiation process.

IPA-II, for example, with a strong focus on sector budget support, has proved to be a successful general purpose development support instrument for the EU candidate countries in the early stages of the EU accession process. On the other hand, however, the instrument was less appropriate for tackling specific EU accession needs of those candidate countries that are already in the process of the EU accession negotiations (Mrak and Tilev, 2008).

2.5. The EU’s institutional framework for running the EU accession negotiations

The accession negotiations with candidate countries are conducted based on the **Negotiating Framework**, which determines the manner and principles of conducting the negotiations. The following »players« from the EU side are involved in the negotiations:

- **The Council of the EU (the Council of Ministers)**; it considers the screening results, assesses the ability of a candidate country to apply the *acquis* in a negotiation

chapter and invites the candidate country to submit the negotiating position for this very chapter once the opening benchmarks are met, and also takes decision about provisional closing of the negotiations on each individual negotiating chapter once the closing benchmark are met for that very chapter.

- ***The European Council***; It adopts the decision that a candidate country starts the EU accession negotiations and confirms the negotiating framework. Upon the completion of accession negotiations, the European Council adopts the decision on the formal conclusion of negotiations.
- ***The European Commission***; It drafts negotiating positions for the Council, conducts the accession negotiations on behalf of the EU at the operational level and advises the candidate country with regard to achieving the objectives of public policies and the application of the EU *acquis*.
- ***The European Parliament***; It gives consent for the full membership of the candidate country which successfully went through the accession negotiations. The EP may put pressure on the negotiating parties by giving opinions on certain specific issues related to the accession negotiation process (most commonly on issues related to the achievement of the objectives of certain EU public policies or on problems in the application of the *acquis* in one of the policy areas).
- ***The EU member states***; They develop national positions, which are conformed into a single negotiating position towards the candidate country through consultations and joint work within the working groups of the Council. For the accession treaty to enter into force, it must be ratified by all member states.

2.6. Some “lessons learnt” by candidate countries about the EU accession process⁸

Adjustment to the EU “rules of the game” is a backbone of the EU accession process: The EU accession is actually a matter of adjustment. The initiative to join the EU always came from a candidate country and not from the EU. Therefore, a ***large part of the process called “negotiations” should more appropriately be called “adjustment” of the candidate countries to the acquis.*** This is logical taking into account that the candidate country joins a club with established rules of the game resulting from the compromises achieved in the past among the existing members of the club. The subjects of negotiations are only the exemptions from the rules of the game in the form of transitional periods.

The EU accession negotiations are with the Member States and not with the European Commission; Even though a candidate country is often under the impression that it negotiates with the European Commission, this is actually not the case. ***The European Commission*** – it negotiates on behalf of the Member States – ***plays the role of an honest broker in the negotiations.*** In practice, this means that a candidate country has much better chances to succeed with its negotiating position or any other proposal, if it is able to convince the European Commission at the professional level.

⁸ Based on (i) Potočník and others, 2007, and (ii) Mrak and Engelman, 2011. See also GIZ, 2013 a, and European Policy Centre (CEP), 2014, for the EU Accession Process in Serbia.

A large majority of EU accession negotiations is done “at home”; Experiences show that only a small proportion of the EU accession negotiation process is conducted through negotiations between a candidate country on the one hand and the Member States/EU institutions on the other. A large majority of negotiations *de facto* take place in the candidate country itself, through discussions among various stakeholders during the preparation of negotiating positions. It should be underlined that a candidate country’s accession to the EU and its alignment with the *acquis* is associated with **significant adjustments/changes of internal, domestic policies, with creation of new structures, and also with an increase of public finance expenditures**. As a consequence, EU accession is often associated with tough internal political discussions about substantive and fiscal priorities of the country. Further on, alignment with the *acquis* is often associated with additional costs for some economic agents in the country and it is up to the government that in discussions with these agents defines its EU accession negotiations position in a particular area.

Multidimensional character of the EU accession negotiation process; It involves at least two dimensions, i.e. a political one and a technical one. As far as the **political dimension** is concerned, the EU-integration process of the Western Balkan countries in the recent years clearly confirms this fact associated with the reduced interest of some EU Member States in further enlargements (“enlargement fatigue”). The process also has a strong **technical/professional dimension**, as it requires a lot of expertise on the side of the candidate country, both for the preparation of its negotiating positions and for an effective presentation and argumentation of these positions in negotiations with the EU Member States. For all these processes an absolute precondition is that professionals responsible for a particular segment of the *acquis communautaire* have a thorough understanding of all its characteristics. Weaknesses in this respect will become clearly visible and demonstrated already during the screening process, i.e., in a rather early stage of the negotiations.

Other factors often mentioned as important for successful EU accession negotiations of a candidate country: A very crucial factor for successful EU accession negotiations is a broad political consensus and popular support for EU integration in a country, which enable the negotiation process to proceed efficiently and in a quite undisturbed manner.

2.7. The EU accession negotiations: with the focus on the 2020 Enlargement Methodology

Over the last 25 years, the process of the EU accession negotiations has gone through several stages and consequently we can talk about several generations of these negotiations. The new EU enlargement methodology adopted in February 2020 *de-facto* represents a guidance for a new *generation* of the EU accession negotiations. It provides a conceptual framework for the EU accession negotiations that just started with Albania and North Macedonia. The 2020 **Enlargement Methodology is based on four principles**.

- *more credibility*: For the EU accession process to restore credibility on both sides, it needs to be based on solid trust, mutual confidence and clear communication. In practical terms this means that **leaders of the candidate countries must become**

more credible on their commitments to deliver fundamental reforms while the EU must in return deliver on its commitment to the merit-based process, i.e., member states should agree to move forward in the negotiations if candidate countries meet the objective criteria. Negotiations on the fundamentals – rule of law, functioning of democratic institutions and economic reforms – will be opened first and closed last and will be guided by roadmaps.

- ***stronger political steer***: While EU accession negotiation have been considered pretty much a technical process in which on the EU side the European Commission plays an important if not even dominant role, in future these negotiations should get a stronger political connotation. ***This means that both sides should show more political leadership and should live up to their respective commitments.*** On the EU side, more direct involvement and scrutiny from the Council is expected though forms have not been determined yet. To ensure political steer (and credibility), the methodology proposes a set of institutional structures; some of them are existing (enhanced) ones and others are new ones. These structures include: (i) regular EU-Western Balkan Summits and inter-ministerial meetings, (ii) country specific Inter-Governmental Conferences, (iii) more regular meetings of SAA bodies, and (iv) member states will be invited to contribute more systematically to the accession process.
- ***a more dynamic process***: This means a possibility for faster negotiations of those candidate countries who can and wish to move forward quicker. On the other hand, for those who opt to go slower also the enlargement process will be slowed down. The main instrument to be applied for make the process more dynamic is ***clustering of currently 35 chapters of the acquis into six logically connected thematic policy clusters***:
 - (1) fundamentals including rule of law,
 - (2) internal market,
 - (3) competitiveness and inclusive growth, (i)
 - (4) green agenda and sustainable connectivity,
 - (5) resources, agriculture and cohesion, and
 - (6) external relations.

This novelty does have a potential to speed up the negotiations process, but only under precondition that the necessary reforms are adopted before opening of the cluster. To be efficient in the design, articulation and implementation of these reforms, ***the candidate country needs good analytical and technical preparation, strategic organisation and management at the political and technical levels***, appropriate prioritisation / sequence of the reforms and availability of necessary resources to implement them. With these preconditions met, the proposed set-up allows that a policy-cluster, it consists of several chapters, could be closed in around one year. An exception is fundamentals cluster – it will be in the heart of the accession negotiations – that will be opened as the first cluster and will remain opened till the end of the negotiations. ***Progress under the fundamentals' cluster will determine the overall pace of negotiations*** and will be taken into account for the decision to open or close new clusters or chapters.

- *predictability, positive and negative conditionality*; There has been a strong call on the side of the member states as well as the candidate countries for a more predictable process and for more clarity on what the EU expects from the candidate countries and consequently what are the positive consequences of progress achieved or the negative consequences associated with the lack of progress. The European Commission will use the annual enlargement package as an instrument of checking the progress or lack of it. The methodology specifies positive conditionality, i.e. meeting of the agreed priorities sufficiently, in a way that it will (i) lead to closer integration of the country with the EU or to a kind of “phasing in” of individual EU policies, and (ii) provide access to increased funding and investment from perform-based IPA and closer cooperation with IFIs. Serious and prolong stagnation or even backsliding of reforms will trigger negative conditionality mechanisms, such as freeze or suspension of the negotiations in certain areas or reopening of already closed chapters as well as downward adjustment of the scope and intensity of EU funding.

The 2020 Enlargement Methodology is, on the one hand, designed in a way that requires much stronger political steer of an acceding country to run the negotiations effectively. On the other hand, the Methodology has further strengthened the negative conditionality upon the acceding countries and has further intensified the member states’ “hand on” approach to the accession negotiations. As a consequence of all these changes, ***the candidate countries starting the EU accession negotiations under this methodology will have to adjust their institutional structures and procedures for the negotiations accordingly***. Let me provide some illustration:

- In contrast to the past, especially during the large Eastern enlargement, the process will be strongly or even decisively political what by itself means that a ***high commitment at the top political level of an acceding country*** will be needed to run the negotiations effectively. Another aspect supporting the conclusion about the increasingly political character of the negotiations is a very *broad definition of fundamentals*. The concept does not involve only areas of rule of law, in particular judicial reform, the fight against corruption and organised crime, fundamental rights, and the strengthening of democratic institutions (Chapter 23 and 24) but *also public administration reform and economic criteria*. For all these areas integrated under the fundamentals cluster, the negotiations will start first and will be closed last, and their overall progress will depend decisively on meeting various benchmarks.
- In contrast to the past when negotiations were based on chapter-by-chapter logic, this generation of ***the negotiations will be run through negotiation clusters***. Negotiations for a cluster may be opened only when all opening conditions for all respective negotiating chapters under this cluster are met. This by itself will put a pressure on a negotiating country *to speed up reforms that will need to be adopted before opening of the cluster*. To be efficient in the design, articulation and implementation of these reforms, the candidate country will need to have a strong strategic organisation and guidance at political level (see previous alinea), good analytical and technical preparation, strong management at the political and technical levels, appropriate prioritisation / sequence of the reforms and availability of necessary resources to implement them.

- In contrast to the past, especially during the large Eastern enlargement, the process of the EU accession negotiations will have a much stronger and elaborated ***negative conditionality***, which may more easily than ever before result in temporary suspension of the negotiations. Further on, in contrast to the past, when in substance terms a majority of the negotiations of the acceding country were de-facto done with the European Commission (and the member states have in large majority of cases provided their consent), now the ***member states have a much more “hand on”*** attitude in the negotiations. This, of course, makes the negotiations much more exposed to political pressures from one or several member states and consequently significantly less predictable.

3. The EU cohesion policy as a backbone of the member states' regional development

3.1. Conceptual basis, evolution, priorities and principles of operation

Conceptual basis as well as legislative and substantive evolution of the EU cohesion policy

The cohesion policy of the EU, also referred as regional or structural policy, is the main investment policy of the EU with the stated aim of promoting economic and social well-being of regions and cities of the EU and also at reducing regional disparities. The EU's cohesion policy covers all European regions, although regions across the EU fall in different categories depending mostly on their economic, social and territorial situation.

Even though the **Treaty of Rome** did not specifically mention cohesion policy, it clearly specified that the **EU has the task of promoting solidarity among the member states** by referring to the “economic and social cohesion”. In the **Treaty on European Union (TEU)**, this reference is captured in **Article 2**. The Treaty of Rome also established the **European Social Fund (ESF)** with the objective to improve employment opportunities for workers in the internal market and contribute thereby to raising the standard of living. In the Treaty on Functioning of European Union (TFEU), this objective features in Article 162. And finally, the **European Investment Bank (EIB)**, also instituted by the Treaty of Rome, was assigned the primary task of improving economic and social cohesion. In line with the priorities of the EEC and later on EU, the EIB provides loans to the member states to support development.

In substantive terms, cohesion policy did not have an important political priority within the first decade of the European Economic Community (EEC). The reason was that economic disparities among the six founding member states were not very large what left Italy by and large alone in advocating for stronger policy aimed at reducing disparities among the member states.

The situation changed with the first enlargement in 1973 when UK, Denmark and Ireland joined the EEC what also meant an increase of economic disparities among the member states. In recognition of this situation, the **European Regional Development Fund (ERDF)** was set up in 1975. Its task was to correct the main regional imbalances by co-financing productive investment to create jobs and invest in infrastructure and health and education. While its objectives were to compensate the structural lag of some regions and to fight against de-industrialisation, it also enables the United Kingdom, whose depressed industrial areas were among the first beneficiaries of the ERDF, to reduce its net contribution to the Community budget (Kelber, 2010).

After the second and third enlargement of the EEC, with Greece in 1981 and with Portugal in Spain in 1985, the case for more substantive financing of less developed members aimed at reducing the development gap vis-à-vis the EU average increased even further. However, it was not until 1985, with the Single European Act, that the cohesion policy became a full-fledged EU policy, aimed at completing the internal market and at ensuring that free market is supplemented by a social and redistributive

policy with a geographical dimension. An entirely new chapter was introduced into the Treaty establishing a Constitution for Europe (that was never ratified) and was then translated into the Treaty of on Functioning of the European Union (TFEU) – Chapter XVIII, Articles 174-178 – known as the **Lisbon Treaty**. Article 174, it articulates the overall framework under which the EU economic and social cohesion is being implemented, says the following: “In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion. In particular, **the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions**” (Kelber, 2010).

As a part of the **Multiannual Financial Framework** (MFF) known a Delors I that covered the 5-year period 1988-1992, the cohesion policy got an important boost not only in financial terms but also in terms of its implementation. This was a period when the cohesion policy was changed from a simple project-by-project financial support to a much more complex policy instrument based on more demanding implementations principles, such as multi-annual programming, partnership and additionality (see more in the next section of this sub-chapter). In 1992, the fourth of the cohesion policy funds – the Cohesion Fund (CF) – was set up to finance projects to improve the environment and transport infrastructure in Member States whose gross GNP per capita is below 90% of the EU-average. The establishment of this fund rounded up the institutional architecture of the EU cohesion policy for the next three decades. In 2021, with the EU green transition paradigm the fourth fund for implementation of the EU cohesion policy objectives – the Just Transition Fund (JTF) – was established.

As far as substance of the EU cohesion policy is concerned, it has always supported the policy priorities of the EU. During the MFFs 2000-2006 and 2007-2013, the main substantive priority was to implement effectively the Lisbon strategy aimed at increasing, growth, jobs and productivity, and in the final years of that period also to fight negative consequences of the financial crisis. This was also the period when the EU fully integrated the 13 new member states from Central and Eastern Europe, all of them less developed than the EU average, into the EU cohesion policy. The last completed MFF covering the period 2014-2020 was in substance terms focused on supporting Europe 2020 objectives of smart, sustainable and inclusive growth.

Basic principles for management of the EU cohesion policy funds

Management of the EU cohesion policy funds is governed by several basic principles. The most important ones among them are the following ones (Mrak and Tilev, 2008):

- **Concentration**; the structural operations of the EU are focused mainly on the least developed regions, with the greatest need for the funds.
- **Programming**; The allocation of the EU cohesion resources is planned and programmed in accordance with medium-term national development plans. Programming, in the sense of planning expenditure over a number of years in order to achieve strategic objectives, has resulted in greater certainty and more stability and coherence in the policy followed and projects funded. The programming process has many stages, which involve a high level of integration and cooperation

at various levels, while the decisions become binding for all the parties involved. The programming period has lengthened and is now seven years.

- ***Additionality***: The EU structural and investment funds' must not replace public or equivalent structural expenditure by a Member State in the regions concerned, but should serve as a supplementary measure to the existing public expenditure in member states. National co-financing is typically required to account for 25% of the total investment costs on average. Any increase in EU aid should result in at least an equivalent increase in total EU and national expenditure in the member states, taking macro-economic considerations into account. EU funding always supplements national funding so that the country may overcome its financial constraints and must not be used to as a means for countries to make savings in their own national budgets. The primary responsibility for addressing developmental challenges lies with the member states. The EU's role is to support them in achieving better results than they could alone.
- ***Partnership***: This means the highest possible level of cooperation between the Commission and member states in the design and implementation of programmes. Stronger participation of private sector entities, including the social partners, as well as regional and local authorities in the process of programming and implementation, has led to better targeted and more innovative projects, improved monitoring and evaluation of performance and the wider dissemination of information on their results.
- ***Efficiency***: The implementation, monitoring and efficiency of structural operations are primarily the concern of member states. Improving efficiency is one of the main objectives of the new rules regarding the operation of the Structural Funds. The approach for achieving this is by rewarding regions that successfully manage developmental programmes. A special performance reserve was introduced to ensure the effectiveness of assistance financed by EU Structural and Investment Funds.
- ***Subsidiarity***: The organisation of the EU cohesion policy funds is administratively structured according to regional, national and European priorities, whilst the role of the Commission is restricted to the areas where it is more effective than action taken at the national, regional or local level.

3.2. Cohesion policy under the EU budget

The EU budget: some general facts

EU budget has undergone significant changes since the late 1950s. The last major budgetary revision was done in the second half of the 1980 following the EC enlargement with Spain and Portugal and with the conclusion of the *Single Economic Act*. Since then, the EU budgetary system remains more or less unchanged and is composed of two major elements. *First*, the strategic course of the EU public finances and financial framework for the medium-term period is determined in a multiannual financial framework (MFF). And *second*, implementation and operational details of the EU financial plan within the defined medium-term framework are elaborated in the annual budget.

- **Multiannual financial framework (MFF);** It is basically an agreement among the EU member states on the budgetary priorities facilitating the budgetary procedure and the management of various programmes. Within the framework of an MFF, the maximum volume and the composition of the foreseeable EU expenditures are indicated. Until now, EU institutions have adopted 6 MFFs. The first one, known as “Delors I”, covered the 5-years period between 1988 and 1992 while each of the remaining ones covered 7-year periods; the first one for the 1993-1999 period, the second one for the 2000-2006 period, the third one for the period 2007-2013, the fourth one for the period 2014-2020 in the current one for the period 2021-2027.
- **Annual budget;** Comparison between the data contained in the MFF as a strategic document for a particular year and the adopted annual budget as an operational document for the same year shows that deviations between the adopted budget expenditure and the planned expenditure, as foreseen in the medium-term financial perspective, are minimal and that the structure of expenditure is practically identical between the two documents. This just confirms that the MFF *de-facto* determines the total volume of the annual budget as well as its expenditure structure, even though it is the annual budgetary procedure, which is formally required for adoption of the annual EU budget.

If we look at the expenditure side of the EU budget, one can clearly identify strong concentration on two big ticket items – agriculture and cohesion policy – with each of them participating with roughly one third of total EU budget expenditures in the MFF 2021-2027 period. As shown in *Table 3*, the cohesion policy already amounted to over 20 per cent of the total EU budget expenditures in the first MFF covering the period 1988-1992. Later on, and as a consequence of the large Eastern enlargement, the share of the cohesion policy increased to over one third of the EU budget and remained at more or less that level ever since⁹.

Table 3: Evolution of the EEC / EU cohesion policy as an expenditure item of the EU budget (as per cent of total EU budget expenditures)

1988-1992	1993-1999	2000-2006	2007-2013	2014-2020	2021-2027*
21.7	33.2	34.7	35.6	33.9	30.5

* MFF 2021-2027 only

Source:

- Mrak, Mojmir and Richter, Sandor and Szemler, Tamasz. *Cohesion Policy as a Function of the EU Budget: A Perspective from CEE Member States*. WIIW Research Report 400, May 2015 (for the period 1988 – 2020).
- The EU's 2021-2027 long-term Budget and NextGenerationEU: Facts and figures. European Commission, April 2021 (for the MFF 2021-2027).

Expenditures projected within the MFF and implemented through annual budgets, require financial resources that are guaranteed to the EU by the so-called Own Resources system. Within this system, the EU can make use of the following four sources of financing during the MFF 2021-2027: (i) traditional resources, such as

⁹ If the funds from the so-called Next Generation EU (NGEU) instrument are taken into account, then funding for cohesion purposes participates with more than 50 per cent within the total volume of funds available for the 2021-2027 period under the MFF and the NGEU.

customs duties (in 2014-2020 period, they participated with around 13 per cent in total budget revenue), (ii) contributions based on the value added tax (in 2014-2020 period, they participated with some twelve per cent in the total, (iii) contribution based on non-recycled plastic packaging waste (it is expected to contribute marginally to the total budget revenue), and (iii) contributions from the member states based on the relative size of their GNI (in 2014-2020 period, they participated with over 70 per cent in total budget revenues). The EU institutions have agreed to consider introducing other new sources of revenue for the EU budget, closely linked to policy priorities, for the post 2027 period.

Next Generation: EU as an additional and temporary instrument of EU funding

As a response to the coronavirus crisis that hit Europe and the world, the EU introduced in 2021 an entirely new financial instrument called **Next Generation EU** (NGEU). The instrument worth of EUR 750 billion is aimed at mitigating the immediate economic and social damage caused by the coronavirus pandemic and at making the EU fit for the future. The instrument is envisaged to help build a post-COVID EU that is greener, more digital, more resilient and better fit for the current and forthcoming challenges. One portion of the total amount – EUR 390 billion – was available in the form of grants or non-refundable transfers and the rest – 360 billion – in the form of loans.

In contrast to the EU budget that is being financed from the Own Resources System (under this legal arrangement, the EU budget is not allowed to have a deficit), the Next Generation EU instrument is being financed by raising funds on the capital markets. The borrowed amounts are planned to be repaid over a 30-years period between 2028 and 2058. To help with the repayments, the EU plans to introduce new own resources to the EU budget.

Financial package of the EU for the 2021-2027 period

In the context of the ongoing coronavirus crises that hit Europe and the world as whole, the EU member states provided an unprecedented financial stimulus response at the EU level. The overall size of the adopted financial package was EUR 1,824 billion (in 2018 prices). The package consisted of two components. The first one was an agreement on the regular MFF, this time for the 2021-2027 period, worth altogether EUR 1,074 billion (in 2018 prices) and the second one worth EUR 750 billion (in 2018 prices) was an agreement about the already mentioned NGEU as an entirely new financial instrument of the EU. *Table 4* provides an agreed allocation of funds from the MFF and NGEU by expenditure priorities.

**Table 4: Allocation of funds under the MFF 2021-2027 and the NGEU
(in billion EUR; in 2018 prices)**

Billion EUR, current prices 2018	2014-2020	EC	EC			European Council		
	(EU-27)	proposal 2.5.2018	proposal 27.5.2020			deal 21.7.2020		
	MFF	MFF	MFF	NGEU	Total	MFF	NGEU	Total
1. Com. mar., innovation, digitalization	116	166	141	70	210	133	11	143
2. Cohesion, resilience and values	387	392	379	610	989	378	722	1.100
Cohesion policy	369	332	323	-	323	330	-	330
IRR	-	-	-	560	560	-	673	673
Grants	-	-	-	310	310	-	313	313
Loans	-	-	-	250	250	-	360	360
REACT EU	-	-	-	50	50	-	48	48
3. National sources and environment	400	337	357	45	402	356	18	374
Common agricultural policy	383	324	333	15	348	336	8	344
Just transition fund	-	-	10	30	40	8	10	18
4. Migration and border management	10	31	31	0	31	23	0	23
5. Security and defense	2	24	15	10	25	13	0	13
6. EU as a global partner	96	109	103	15	118	98	0	98
7. Administration	71	76	75	0	75	73	0	73
Total	1.082	1.135	1.100	750	1.850	1.074	750	1.824

Source: EU institutions, various sources

3.3. Chapter 22 as the key segment of the *acquis* governing the EU approximation in the area of regional development

Legal basis

Strengthening economic, social and territorial cohesion has been grounded in the **Treaty on the Functioning of the European Union (TFEU)** in Articles 174 to 178. Of particular importance are **Article 174** that prescribes the EU's aim to reduce disparities between the levels of development of the various regions and the backwardness of the least favoured regions and Article 175 which envisages the role of member states and promotes the usage of cohesion instruments / funds to achieve the objectives set out in Article 174.

At the secondary level of the EU legislation, the *acquis* covered within this negotiating chapter – Chapter 22 – consists mostly of the **framework and implementing regulations**¹⁰ that do not require transposition into the national legislation. They define the rules for drawing up, approving and implementing cohesion policy funds programmes reflecting each country's territorial organisation. These programmes are negotiated and agreed with the European Commission, but implementation is the responsibility of the member states. They must respect the EU legislation in general, for example in the areas of public procurement, competition and environment, when selecting and implementing projects. Member states must have an institutional framework in place and adequate administrative capacity to ensure programming,

¹⁰ The set of regulations governing cohesion policy during the MFF 2021-2027 is presented in the sub-chapter 3.2.

implementation, monitoring and evaluation in a sound and cost-effective manner from the point of view of management and financial control¹¹.

Substance priorities

When analysing in more details the substance of the negotiating **chapter 22, these are its core elements** (GIZ, 2013 b):

- (1) **Legislative framework**: Member states must put in place a legislative framework allowing for multi-annual programming at national and regional level and budget flexibility, enabling co-financing capacity at national and local level and ensuring sound and efficient financial control and audit of interventions. In addition, member states must respect the EU legislation in general, for example in the areas of public procurement, competition and environment, non-discrimination, equality between women and men, when selecting and implementing projects.
- (2) **Institutional framework**: Member states must set up an appropriate institutional framework. This includes designating and establishing all structures at national and regional level required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved. The institutional framework also requires establishing an efficient mechanism for inter-ministerial coordination as well as the involvement and consultation of a wide partnership of organisations in the preparation and implementation of programmes.
- (3) **Administrative capacity**: Member states have to ensure an adequate administrative capacity in all relevant structures. This includes recruiting and training qualified and experienced staff and establishing measures to retain such staff. In this context, member states need to make the necessary organisational arrangements, adapt procedures and organisation charts and prepare accompanying documents.
- (4) **Programming**: For each individual MFF period, this process covers the preparation of (i) a multi-annual strategic document outlining the national authorities' plans how to use cohesion policy funds within the respective MFF, as well as of (ii) a series of operational programmes including ex-ante evaluations. All these programming documents outline each country's strategic goals and investment priorities, linking them to the overall policy objectives at the EU level. The documents need to be prepared in a broad partnership with various stakeholders and need to be agreed between the European Commission and the member state. Member states have to ensure that a sufficient pipeline of projects is established allowing for a full financial implementation of programmes.
- (5) **Monitoring and evaluation**: Member states need to establish a monitoring and evaluation system what includes the set-up of evaluation structures and processes in different relevant bodies as well the installation of a comprehensive and computerised management information system (MIS) accessible and usable for all concerned bodies.

¹¹https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en

- (6) *Financial management and control*: Member states must set up a specific framework for financial management and control including audit. This includes designating and establishing all structures required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved.

Framework and timetable of the Chapter negotiations 22 for Croatia, Montenegro and Serbia

Under the 2020 Enlargement Methodology, Chapter 22 is an integral component of the cluster “Resources, agriculture and cohesion”.¹²

In the case of Croatia that joined the EU as most recent member state, as well as in the case of two Western Balkan countries – Montenegro and Serbia – that are in an advanced stage of the EU accession negotiations, one **opening benchmark** has been set as a precondition for opening the negotiations on this chapter. All the three candidate countries were asked to present to the European Commission a *detailed Action Plan and a related timetable*, setting out clear objectives and timeframes in order to meet requirements deriving from the EU cohesion policy. Of the two Western Balkan countries, Montenegro has successfully completed this task and opened the negotiations on this very chapter while Serbia still has to come into this stage.

As far as **closing benchmarks** are concerned, they are strongly *focused on implementation and institutional and administrative capacity building* as well as on further alignment of procedures and methodologies for planning and implementing the EU funds and the EU cohesion policy. Croatia had successfully met its seven closing benchmarks in this segment of the EU accession negotiations while Montenegro has six closing benchmarks and some of them have not been met until now. Serbia still doesn't have closing benchmarks as the Chapter 22 negotiations were not opened yet.

Table 5 provides the Chapter 22 negotiations timetable for the three countries.

¹² https://neighbourhood-enlargement.ec.europa.eu/commission-analytical-report-ukraines-alignment-eu-acquis_en

Table 5: Chapter 22 negotiating timetable for Croatia, Montenegro and Serbia
(status of February 2023)

MAIN STEPS	MONTENEGRO	CROATIA	SERBIA
Explanatory Screening:	14-15 November 2012	11-14 September 2006	1-2 October 2014
Bilateral Screening:	17-18 December 2012	5-6 October 2006	28-29 January 2015
Council approves the Screening Report and opening benchmarks are set up:	22 May 2013	29 April 2007	23 October 2015
Opening benchmarks fulfilled:	28 April 2016		
Negotiating Position submitted:	27 June 2016	25 June 2008	
Council approves the Common Position:	6 June 2017	30 September 2009	
Opening of the Chapter:	20 June 2017	2 October 2009	
Provisional closure of the Chapter:		19 April 2011	

Source: [Ministry for European Affairs, Montenegro. EU accession negotiations: analysis of benchmarks for Montenegro through comparison with Croatia and Serbia, January 2018.](#)

4. Absorption capacity for the EU cohesion funds: concept, experiences, and lessons learnt

4.1. Absorption capacity and its main modalities¹³

Absorption capacity conceptual framework

The funds for implementing cohesion policy objectives are made available to the EU member states at the start of a MFF period after adoption by the European Commission of relevant programmes. **Absorption capacity refers to an EU member state's ability to efficiently and effectively spend the financial resources, which has been allocated to them.** Member states absorb funding when they receive a payment from the EU budget as co-financing towards eligible projects in their respective countries. While absorption is important to achieve policy objectives, it is not an end in itself but rather a means of investing in actions to help achieve national and EU policy objectives. Cohesion policy funding is significant and should bring important benefits to EU citizens. In order to do so, it is particularly important that funding is spent in a way that represents value for money (European Court of Auditors, Special Report, No. 17, 2018).

Main modalities

There are basically three main modalities of cohesion funds' absorption capacity in the EU member states (Mrak and Horvat, 2009):

- (1) ***macro-economic absorption capacity***; relates to the ***overall ability of the economy to generate viable investment opportunities that could be financed by external investment support***. Since this ability depends on the overall level of development of the economy, it is defined and measured as percentage of GDP. Based on experience, the European Commission concludes that EU member states have a limited macro-economic capacity to absorb external investment support effectively and efficiently. In line with this assessment, the ceiling for total cohesion policy transfers to individual member states during the recent MFFs has been put at the level of between 3 and 4 per cent of their respective national GDPs.
- (2) ***financial absorption capacity***; can be defined as the ***ability to co-finance EU supported programmes and projects***, to meet additionality requirements, to plan and guarantee any national contributions in multi-annual budgets and to collect these contributions from several partners interested in a program or project.
- (3) ***administrative or institutional absorption capacity***; can be defined as the ability or skills of central and local authorities to prepare suitable plans, multi-annual programmes and projects in due time, to decide on programmes and projects, to arrange the co-ordination among principal partners, to cope with administrative and reporting requirements and to finance and supervise implementation properly, avoiding irregularities as far as possible. More specifically,

¹³ For main features related to absorption capacities for EU funds, in general, and to administrative absorption capacities, in particular, see Horvat, 2005 (a).

administrative absorption capacity is composed of two parts. On the *demand side*, administrative capacity is determined by the **ability of project applicants to generate projects that meet the bidding requirements** of the public ordering procedure used. On the *supply side*, administrative capacity is determined by the **ability of the authorities to manage cohesion policy funds entrusted to them effectively and efficiently in all stages of the programming process** – from initial planning to implementation and evaluation of projects.

Absorption of the EU cohesion funds in practical terms: stage one – focus exclusively on spending the allocated funds

In simplified terms, the absorption of the EU funds is most often understood as the ability of a given country, region or programme to spend funds received from the EU. **The indicator of success in this area is the percentage EU funds used in relation to the allocation** at the end of the reporting period and/or at the end of the financial perspective (Horvat(b), 2005).

Such an approach to the degree of absorption most often dominates both in scientific research and reports prepared by the member states and the EU institutions such as the European Commission or the European Court of Auditors. **This is due to the fact that it is relatively easy to measure and in a synthetic way shows the ability of the entire institutional system** (treated broadly: institutions, the use of procedures and interactions with stakeholders) but also the ability to mobilise the political level in order to spend the available EU funds.

In many countries of Central and Southern Europe, this kind of absorption capacity understanding has been **subject of public and media interest as well as the lively political discourse**. The focus point in such debates is always not to "lose" any penny from the allocated funds. Therefore, the achieved percentage of spending in relation to allocation has become a very important indicator of absorption capacity and thus - as a proxy - a reflection of the quality of the cohesion policy management system in individual countries (Horvat(c), 2005).

Until today, it is the basic information analysed in monitoring reports concerning the use of the European funds both in relation to individual countries, programmes and, for example, regions at NUTS II level. Cohesion policy's success viewed through the angle of the achieved percentage of spending of the EU funds, derives from the regulations (Regulation (EC) No 1260/99) concerning the Structural and the Cohesion Funds, which had – in year 1999 - introduced the rule of automatic **decommitment**. The rule stipulates that the funds allocated (commitments) in the EU's multiannual budget to given programmes and in a given year must be spent and payment application to the EU produced within a certain period of time. The purpose of decommitment rule is to encourage financial discipline in implementation of EU funds. Under 2021-2027 MFF the rule is a three-year time limit after the commitment date (N+3) for the whole period with the exception of funds committed for the last year (2027) which must be spent during two years (until the end of 2029).

The amount of funds that must be spend at the end of the MFF in order not to lose the allocated sums are the highest in last years. This has the effect of a large number of big infrastructure projects, whose implementation periods are the longest in recent years: e.g. in Poland, at the end of January 2023 it was still 30% of value of all allocated funds to be spend and proved to the European Commission before the end of 2023 (the end of the implementation period for perspective 2014-2020).

Practically **all member states, for various reasons at different stages of implementation, have problems with certifying the sufficient value of projects** to avoid automatic decommitment in individual years and at the end of the MFF. According to many analyses, this results in implementation of projects by member states, especially of those having large amounts to be spend, that are simple – but not necessarily the most innovative, integrated and cross-sectoral. This is because such more complex and innovative projects require very high administrative skills and overcoming the usual patterns and routines. In order to avoid decommitment, the member states very often at the end of MFF propose shifts between different types of projects (priorities) from those more ambitious and with higher value added from development point of view to those that can be realised more quickly, are less comprehensive and easier to implement.

We can find the following paradox: **the countries and regions that have the largest financial allocations under the EU cohesion policy are due to their low level of socio-economic development under the greatest pressure to spend funds quickly and fully.** This results in the use of common patterns of action (to minimise the risk of failure) or overspending on technical infrastructure projects (including, for example, roads) that are not difficult to implement, when compared to projects related to, for instance, European Social Fund. This in turn reduces the impact of cohesion policy on strategic structural change, increasing competitiveness and, as a result, contributing to the reduction of development disparities, which is the declared goal of this policy.

Concentration of attention by the member states on spending as much of the financial resources as possible, regardless of their effectiveness in achieving the assumed objectives and results (promoting structural changes, building competitiveness and socio-economic cohesion) has been criticised for years - both by the scientific community, the EU institutions and periodically by the member states themselves. However, the European Commission continues to defend the application of the automatic decommitment rule, claiming that it has a mobilising effect on the member states, their administrative systems as well as political commitment.

From the perspective of the last twelve years, it can be concluded that the criticism of focusing the attention of EU cohesion policy on how to safeguard against the loss of EU funds at any cost has led to a relative loss of importance of the percentage of funds used in relation to the allocation of funds as the most important indicator for the absorption of EU funds.

Absorption of the EU cohesion funds in practical terms: stage two – value-for-money of spending becomes more important

Under the EU cohesion policy in the MFF 2014-2020 and the new one for years 2021-2027 an important aspect of assessing the absorption of individual member states and regions is also ***the assessment of the ability to achieve the set development goals***¹⁴. The effectiveness of the use of the EU funds (and thus also the concept of absorption) is therefore no longer perceived only through the ability to spend the allocated funds, but also the ability of the institutional system to implement the agreed actions and projects and, in a broader strategic perspective, the assumed results. In practical terms, this means for the MFF 2021-2027 that programmes and funds (measured at the level of specific objectives) that will not achieve the assumed milestones and targets set for output and result indicators within the so-called performance framework (Article 16 of the Common Provisions Regulation 2021-2027) could experience suspension of payments or even their loss.

Another way to increase efficiency of spending EU funds was introduced into the MFF 2014-2020 through the ***so-called ex-ante conditionalities*** set at the level of Partnership Agreements and programmes. The ex-ante conditionality requires a Member State to achieve a pre-defined key condition (institutional or legal nature) before starting the implementation of a relevant priority of the European structural and investment fund (ESIF) programme. These conditionalities in return contribute to the achievement of the specific objective of the intervention and in the same time are in line with goals of the EU investment priority.

Further on, the MFF 2021-2027 introduced a ***modified concept of enabling conditions***. They are fewer, more focused on the goals of the fund concerned and – in contrast to the 2014-2020 period – monitored and applied throughout the whole period of implementation. Member states will not be able to declare expenditure related to specific objectives until the enabling condition is fulfilled. Enabling conditions aim at supporting both: (i) key structural reforms and promotion of European values (horizontal conditions) and (ii) implementation of specific objectives under four policy objectives (out of 5) of the Cohesion Policy Funds.

And finally, within the MFF 2021-2027, there is also a strengthened ***mechanism for linking the European Structural and Investment Funds to the European economic governance*** (European Semester). Funds may be withheld or even lost by the EU member states due to the lack of full implementation of country specific recommendations, which are issued annually by the Council within the European Semester cycle. The recommendations for each individual member state aim at improving the quality of implementation of various national public policies (not only those directly related to the implementation of cohesion policy) and their compliance with

¹⁴ This is also consequence of the changes within the EU economic governance system and more generally within the process of how the European integration process works.

existing EU priorities (e.g. in terms of macroeconomic stability, labour policy or the implementation of the European Green Deal).

4.2. Quality of governance and absorption capacity

Quality of government is a broader concept than administrative capacity for implementation of structural funds because it includes also external (to the system of structural funds) factors influencing the overall performance of a state or region in delivery of public goods and services. The most important quality of government components include: (i) effective regulatory framework for implementing public policies, (ii) human and social capital, (iii) effective administration in delivery of public goods and services, (iv) effective system of multilevel governance and partnership, and (v) political context including the level of commitment to Europeanisation process.

Annex 3 presents the 2021 **European quality governance index**¹⁵. As can be seen from this table, the quality of government index is generally higher in the countries and regions that are more developed, i.e., having higher level of GDP per capita or Human Development Index (HDI). This, however, does not mean that all poorer countries and regions are slow in implementation of structural funds and / or that their effectiveness in achieving goals of the policy is lower than in more developed states and regions.

The administration capacity of a country is correlated with the level of the quality of government but only to limited extent (Blanco-Alcántara and others, 2022). Apparently other factors than just level of socio-economic development decide about overall absorption capacity levels of individual countries and regions. It seems, for example, that countries with higher allocation of structural funds in comparison to their GDP or public spending tend to perform better than those in which cohesion policy transfers represent a smaller portion of the GDP and overall public spending (Bachtler and Mendez, 2022). This is probably the result of the higher political commitment in those countries fuelled by higher reliance on the EU transfers as the main source of investment.

On other hand, the ability to use EU structural funds for increasing convergence at national and regional level and achieving other socio-economic broader results – improving competitiveness, support of structural changes or improving business environment – is linked to the overall macroeconomic performance, quality of human resources, the level of openness of an economy, existence of a diversified and open, territorially embedded entrepreneurial supportive culture and a higher ability to innovate. Thus, the overall quality of governance is influencing positively the achievement of more ambitious goals – many researches show that the ***structural effects of the realisation of EU funded programmes are higher in more developed regions and metropolitan regions*** (Dicharry B., 2022).

It is interesting that ***there is no clear link between the level of regionalisation and administrative capacity to absorb the EU funds***. There are examples of well

¹⁵ More about the applied methodology: Charron N., Lapuente V., Bauhr M., 2021, Sub-national Quality of Government in EU Member States: Presenting the 2021 European Quality of Government Index and its relationship with Covid-19 indicators, Working Paper Series 2021:4 QoG The Quality of Government Institute, Goteborg.

performing countries in regard to absorption of EU funds having high (such as Poland) and no-existing (Baltic States) or low level of regional autonomy. It seems that from a technical point of view the most important factor for the speed and level of absorbing funds is not regionalisation, understood as a creation of autonomous regional authorities, but rather a ***well-functioning institutional system of implementation in which the government and appointed territorial authorities have been assigned clear responsibilities and are able to cooperate smoothly at any territorial level*** (Bachtler and Mendez, 2022). However, it is also important to underline that other studies suggest that decentralisation, especially in the case of bigger states in well developed countries, is an important factor in speeding up processes of modernisation, structural transformation and making positive use of integration processes such as globalisation and Europeanisation (Boadway and Dougherty, 2018).

4.3. Key determinants of the EU cohesion funds' absorption capacity

As discussed in chapter 4.1., the European Structural and Investment Funds absorption capacity in a narrower sense is defined as the overall ability of the public administration of a state or region or in broader sense all institutions involved in the process of programming, management monitoring and financing projects to implement programmes and projects co-financed by structural and cohesion funds according to requirements of EU legislation.¹⁶

On the basis of the review of the recent scientific literature and taking into account recent experiences of countries with a substantial share of EU funds in comparison to their GDP (see, the case study of Poland by Zuber, 2022), one can identify **four thematic groups of key factors** (based on the programming cycle) influencing the ability to implement the EU structural funds and effectively use it for the process of modernisation and achievement of European goals and values. They include the following:

- (1) Programming – factors influencing the ability of the member state to programme the EU expenditure at strategic and operational levels;
- (2) Management – factors influencing ability to manage effectively the process of coordination and implementation of the EU structural funds at strategic and operational levels;
- (3) Monitoring and Control – factors influencing the process of monitoring and control of programmes and projects;
- (4) Evaluation and learning factors influencing the ability to learn from problems and mistakes and follow good examples.

Each of the four groups of factors will be discussed at some details in continuation of this chapter.

(1) Programming

The most important requirement is the ability of an individual member state to prepare: (i) a **Partnership Agreement** – a document defining the overall strategy for the use of

¹⁶ One should pay attention to the role of institutions and governance with regard to development. Rodriguez-Pose, 2020, is presenting that a higher quality of government is associated with a better regional innovative performance. Moreover, the better the institutional quality and the higher the investment in local roads, the higher the change in regional GDP.

EU funds, and (ii) **programmes** setting out in more detail the objectives and envisaged use of the funds in a thematic breakdown – in relation to individual policy objectives or individual funds – or, if this results from the territorial structure of a given country, also through regional programmes. A specific type are territorial (cross-border) cooperation programmes requiring the development of extensive cooperation with foreign partners, which makes their preparation more time- and labour-intensive.

The following challenges are to be noted:

- to assure the possibility to achieve the country's own development goals while achieving the EU goals and observing requirements set out in the regulations (for example, the percentage of financial resources to be spent on measures related to respond to climate change or active labour market policy);
- to ensure appropriate strategic coordination between the different funds and actions supported by the EU and those planned under national or regional policies;
- to prepare an appropriate project pipeline to achieve the assumed development goals. Very often, the ambitious goals set out in the Partnership Agreement and programmes cannot be achieved due to the lack of appropriate support mechanisms for the preparation of projects in areas defined as strategic.

(2) Management

Important factor influencing the speed and ability to fully absorb EU funds are not only a well-organised, effective institutional system but also less tangible elements such as the administrative culture, institutional stability (e.g. in terms of turnover the staff) and political culture (e.g. lack of influence on the project selection process). However, here are four pre-condition elements for an efficient management of EU funds:

- a) An effective institutional system
- b) An effective coordination system
- c) High quality of administration and stability of employment
- d) An effective and simple legislative system.

a) Effective institutional system:

- Strategic and coordinating institutions being able to (i) lead the whole process of strategic programming, coordinate, including giving guidance, implementation and monitoring of PA and programme, (ii) ensure the preparation of the required legislation and having power to initiate amendments if necessary, (iii) control, negotiate effectively with the EU and internal national partners in order to reconcile the EU and national strategic interest, checking eligibility of expenditure, conduct information policy;
- Managing authorities of national programmes being responsible for programming, managing and implementation of national and /or regional programmes. If necessary also the designation of intermediary institutions for managing specific parts of a programme working under guidance and control of the Managing Authorities;
- Implementing bodies responsible for implementing the various components of the operational programmes (organisation of competitions, clearance, payments, supervision, etc.);

- Audit authority responsible for auditing the systems of implementation of programmes and projects and verifying and assessing the fulfilment of the designation criteria;
- Institution responsible for financial management and receiving payments from the EC (usually Ministry of Finance);
- Institution(s) responsible for evaluation of effectiveness and efficiency of EU funded projects. This function can be combined with the overall responsibility for the system of monitoring indicators;
- Monitoring committees to ensure that in the process of implementation various stakeholders with the right to accept election criteria and monitoring performance of the implementation system are involved;
- If necessary, identification of additional institutions (creation or development of new functions in existing structures) responsible for management of specific tasks and processes. As experience of the member states show the number and profile of required additional institutions to absorb EU funds depends very much on the internal management systems of public policies. For example, it can include specific institutions to deal with financial instruments (at national or/and regional level), for preparation of big infrastructural projects, for specific elements of employment and social policy, for enhancing innovation and links with private and public sector, etc.).

b) Effective coordination system:

An effective coordination system for the EU funds is crucial for ensuring that programming, implementation, monitoring and evaluation components of the management cycle are well interlinked and able to produce information that help managers to take necessary decisions on time to ensure that funds are fully absorbed and goals of the intervention achieved. The coordination challenge is higher in bigger countries with higher shares of EU structural funds in relation to their GDP and hence requiring more complicated implementation structures and more stakeholders to cooperate with. Proper coordination is ensured by individual Member States through appropriate legislation, creation of specific institutions to deal with relevant management issues (e.g. coordination bodies, monitoring committees) and appropriate procedures. Due to the increasing pressure of the European Commission on the use of territorial instruments addressed to functional areas (metropolitan, sub-regional, rural, specific areas like dependent on fossils and others), organisations and structures representatives of these areas must also be included in this system.

c) High quality of administration and stability of employment:

The absorption capacity of the EU funds is very much related to the quality of public administration: knowledge of the EU and national regulations, skills, knowledge, ability to effectively manage programmes and projects including programming, preparation, monitoring and control. In many Central European countries, special institutions or units within existing structures have been set up for the implementation of cohesion policy programmes. They are still characterised by a greater understanding of European rules and the ability to apply them in national conditions.

This bore fruits (Bachtler and Mendez, 2022) – the new EU Member States which joined after 2004, coped much better with the implementation of the EU funds than it would result from their general level of quality of government (see Annex 3). However, among

this group we can find examples of countries that initially had considerable difficulties in absorbing the EU funds due to the lack of functioning of their civil service and the low stability of their institutional system.

The costs of having an efficient administration capable of absorbing the EU funds are considerable and can reach up to 3-4 per cent of the value of all transfers. So far, to a large extent, even the salaries of employees directly related to the managed EU funds have been largely covered by the EU.

d) Effective and simple legislative system:

The implementation of the EU Structural Funds is carried out directly on the basis of the EU regulations, which are directly applicable in the EU Member States. In order to clarify certain provisions of the regulations, the European Commission prepares implementing acts and guidelines, which formally have no legal force. They however play an important role in clarifying and guiding the methods for applying the principles of cohesion policy and for specifying individual provisions of regulations.

This means that, in theory, there is no need to adopt national legislation for the implementation of the EU cohesion policy, but in practice EU Member States tend to adopt legal acts or national guidelines for different groups of beneficiaries and referring to different processes (eligibility of funding, rules for territorial instruments, monitoring, evaluation, promotional activities and others). It should also be remembered that in order to be able to implement projects co-financed by the EU ESIFs, it is however necessary to harmonise the national law with EU law in some specific areas: environmental regulations, regulations related to public procurement, competition policy or in the field of non-discrimination and equal opportunities policy are of fundamental importance here. It is therefore necessary to build a system for monitoring the compliance of national legal regulations and taking proper legislative initiative if necessary on the part of the Member States to ensure good absorption of funds.

(3) Monitoring and Control

The key factor affecting the level of absorption in the area of monitoring and control is the overall administrative quality (see above), but there are also others which are more specific. These include:

- a) Monitoring of physical and financial progress is carried out as part of the monitoring of programmes in accordance with the principles set out in regulations, with the help of indicators illustrating the scope of support, the amount of goods produced and services provided (output) and the effects directly resulting from the intervention (outcome). As experience from the Member States show, monitoring the expected impact of the policy should be carried out with the help of indicators obtained from public statistics – therefore it is necessary to develop a good cooperation with the relevant national statistical institution.
- b) An effective reporting system covering all key elements for tracking financial and material progress at the level of projects, priorities, policy objectives and programmes. For financial progress, it is crucial to track the value of projects submitted for implementation, projects with which contracts have been signed, ready for settlement and the value of financial flows between the EU and the Member State.

- c) In order to support the monitoring and control system, it is essential to have well-functioning electronic system (IT) in place to keep track of the progress of programmes and projects and to select a sample for intervention for control purposes.
- d) The quality of the monitoring system is also influenced by the activity and quality of cooperation within the system of monitoring committees created separately for each programme, the Partnership Agreement and possibly subcommittees concerning individual thematic areas. The involvement of partners in monitoring the implementation of programmes will allow interventions to be better tailored to their needs and can be helpful in improving performance.
- e) Depending on the needs of individual states it could also be helpful to issue a number of monitoring guidelines describing in detail how to set up and organise monitoring systems in specific areas (e.g. from monitoring of spending on climate related projects). This can be enhanced by introduction a system of trainings for administration dealing with monitoring, control and evaluation as discussed below.

(4) Evaluation and learning

A good evaluation system provides an opportunity for administration and stakeholders to broaden their knowledge and to make adjustments to objectives, instruments and the institutional implementation system. Key ingredients for a properly conducted evaluation include:

- (i) proper definition of specific indicators especially those related to the expected effects of the intervention,
- (ii) good cooperation with the academic community and professional evaluators especially when it comes to formulating evaluation questions and determining research methods,
- (iii) a good system of cooperation between different strategic, managing and implementation institutions enabling the diffusion of knowledge and mutual learning,
- (iv) a decision-making system, which enables constant analysis and then implementation of evaluation recommendations at the level of coordinating and managing institutions.

The political level and the European Commission should be involved in the evaluation system.

5. Guiding principles for setting up structures and procedures

Based on what has been said in the previous three chapters, especially in chapter 4, it could be concluded that ***the process of setting up structures and procedures for an efficient EU accession process of Ukraine in the area of regional and local development is an extremely complex and demanding task***. It requires strong political commitment and the allocation of sufficient resources in the form of adequate human resources, structures and a good legal system.¹⁷

It is assumed that the process will be highly beneficial for Ukraine and that the EU should be interested in supporting the process of building absorption capacity in Ukraine as soon as possible. Adequate resources should be allocated for this purpose both in the budgets of the pre-accession programmes and at the time of Ukraine's accession to the EU.

The main objective of this chapter is to provide some ***guiding principles that the Ministry may use for setting up structures and procedures that are in line with the requirements of the EU accession process*** and are conducive for effective absorption of the EU funds at national and regional levels. These guiding principles are structured within two groups:

- the design of the structures and procedures within the Ministry
- for enhancing capacity of structures at sub-national levels.

5.1. Guiding principles for the design of the structures and procedures within the Ministry

At the national level, the following guiding principles for building an efficient for the EU accession process in the area of regional and local development and within this framework especially for effective absorption of EU funds seem to be appropriate:

- (1) Develop a basic understanding of the EU accession process and especially of the EU accession negotiations;
- (2) Strengthen the understanding of the EU cohesion policy and of the EU accession negotiations on the regional development subject;
- (3) Reinforce regional policy as an instrument for modernisation, reconstruction and growth of Ukraine's competitiveness and as a vehicle for European integration;
- (4) Strengthen the role of the Minister in charge for regional development in strategic programming;
- (5) Strengthen programming basis for regional policy in EU standards at national level;
- (6) Reinforce administrative capacity of key national level institutions;

¹⁷ See also paper by Rodríguez-Pose, and Bartalucci, 2022, where the authors have highlighted the heightened relevance of place-sensitive policies in emergency and recovery contexts. Even in post-war, post-conflict recovery settings, geography matters. The ten lessons learnt presented as milestones of place-sensitive policies offer essential guiding principles to inform future recovery planning and implementation.

- (7) Strengthen the legislative framework for regional development;
- (8) Build appropriate tools for the management, monitoring and control of EU-supported programmes and projects;
- (9) Enhance the cooperation system between public institutions, academy, CSOs, and business.

(1) *Develop a basic understanding of the EU accession process and especially of the EU accession negotiations*

The EU accession process is a long, politically complex and highly technical process. It is therefore of high importance for the high-level officials of the Ministry and its professional staff in general to understand well the basic features of this process and especially of the EU accession negotiations. In more specific terms, the following topics / subjects should be part of the Ministry's institutional building on this subject:

- (i) basic logic and legal framework for the EU accession including for the process of accession negotiations,
- (ii) stages of the EU accession process and especially of the accession negotiations,
- (iii) role of individual EU institutions and the member states within the EU accession process and evolution of the accession negotiations with a focus on the 2020 enlargement methodology,
- (iv) EU budget.

(2) *Strengthen the understanding of the EU cohesion policy and of the EU accession negotiations on the regional development subject*

Cohesion policy is the main investment policy of the EU with the stated aim of promoting economic and social well-being of regions and cities of the EU and also at reducing regional disparities. It is a policy that participates with roughly one third in the EU budget with its management being shared between the EU institutions and the Member States. From a candidate country's point of view, it is one of the most demanding in terms of meeting the EU accession criteria. It is therefore of utmost importance that the Ministry in charge for regional development is prepared well for the EU accession process in general and especially for its segment of the EU accession negotiations governed within the Chapter 22. In more specific terms, the following topics / subjects should be part of the Ministry's institutional building on cohesion policy:

- (i) concept and evolution of the EU cohesion policy and its basic principles (including concentration, programming, additionality, efficiency and subsidiarity),
- (ii) EU budget features with its specific methodological issues relevant for the cohesion policy,
- (iii) EU cohesion policy under the MFF 2021-2027 (objectives, legal basis, instruments for Member States and candidate countries),
- (iv) substance of the negotiations under the Chapter 22 focused on legislative framework, institutional framework, administrative capacity, programming, monitoring and evaluation, and financial control.

(3) Reinforce regional policy as an instrument for modernisation, reconstruction and growth of Ukraine's competitiveness and a vehicle for European integration

It seems that despite many years of building the regional policy system in Ukraine and supporting this process by numerous foreign donors, the time has come to acknowledge at the level of the government the advantages of regional policy for the processes of reconstruction and socio-economic development, both in the national and territorial dimensions. New initiatives at the national level are required within this area in order to create an awareness for the need to allocate additional human, financial and material resources in the area of regional development. Regional policy (Chapter 22) should be given priority in the accession negotiations as an instrument for modernising public policies, transferring know-how and introducing new standards for conducting public policies – simply as a source of the modernisation and Europeanisation of the country. *In practical terms, this means:*

- (i) preparing appropriate legislation strengthening the coordinating role of the Ministry
- (ii) creating a strong administrative structure within the Ministry to lead the process of strengthening the administrative capacity of the entire Ukrainian administration to absorb cohesion policy funds in benefit of all citizens.

(4) Strengthen the role of the Minister in charge for regional development in strategic programming

In order to accomplish the role of coordinating the funds to be received under the EU cohesion policy¹⁸, it is necessary to strengthen the role of the Minister in charge of regional policy in the preparation of both *national documents* (national socio-economic development strategies and programmes) and those *sectoral documents* that concern policies that are the subject of support from cohesion policy, such as transport, environment, climate change, employment promotion and social cohesion, innovation and many other specific areas. A subject of careful analysis should be the delineation of competences with the *minister responsible for rural development*, as s/he is dealing not only with agricultural policy but also cohesion policy.

The Minister in charge of regional policy should also have increased ***powers to coordinate activities from different EU sources and other donors, including the coordination of programmes and projects related to the post-war reconstruction of Ukraine and its territories***. The Minister should be responsible for preparing the required regional and structural development programmes before, and the Partnership Agreement and operational programmes after the EU accession. He / she should also be responsible for the implementation of other structural funds, such as the current Recovery and Resilience Facility). *In order to speed up the process*, it would be advisable to prepare as early as possible a vision of the layout of strategic objectives and implementation programmes co-financed by European funds, which would serve the purpose of negotiations with the EU.

¹⁸ Under the current regulation (for MFF 2021-2027), an EU member state may have an access to a maximum volume of funds that are equivalent to 2.6 per cent of GDP)-

(5) Strengthen programming basis for regional policy in EU standards at national level

In order to strengthen the foundations for regional policy and to ensure coordination of various sectoral or horizontal instruments, which have a clear territorial impact, consideration should be given to the **preparation of a new state regional development strategy**.¹⁹ This strategy would:

- (i) take into account the EU methodology (e.g. outcome and output indicators),
- (ii) help to define strategic objectives and priorities for different types of regions and territories,
- (iii) ensure coordination between different types of activities,
- (iv) define the role of national instruments in conducting regional policy vis-à-vis the EU funds as well as the shape and scope of the implementation of the territorial instruments,
- (v) include a clear vision of the institutional system, including the role of local and regional authorities and various public development support institutions at national and sub-national level.

On the basis of the new state regional development strategy, a **multiannual and multidimensional project pipeline of interventions of key significance for territorial development** and enhancing structural changes should be prepared (infrastructural, addressing human resources and support to business development).

(6) Reinforce administrative capacity of key national level institutions

The increased role of the Ministry in the programming and implementation of national and the EU cohesion policies must be accompanied with increased volume of funds available for the preparation and implementation of the EU cohesion policy. Initially, administrative capacity should be developed within the Ministry, but gradually also in the institutions chosen for the management of programmes co-financed by the EU²⁰ and additional institutions supporting various specific development spheres (support for SMEs, innovation, infrastructure, labour market, education, etc.).

It is important to understand that building administrative capacity to effectively absorb EU funds is a process that can take several years. However, the objective should be to achieve full capacity at the moment of accession. To achieve this, it would be beneficial to develop a **multi-year action plan for building administrative capacity**. This plan should be adopted by the Government and should include details such as the number and types of institutions required, the necessary staffing levels, and training needs. The plan should also address any gaps in institutional and legal requirements to ensure

¹⁹ Kyiv School of Economics (KSE), 2020, has elaborated a Strategic Assessment of the State Strategy for Regional development until 2027 (SSRD) and presented a number of proposals which could be considered by Ukrainian authorities when revising the SSRD, such as: (i) stronger engagement of institutional and non-institutional stakeholders; (ii) further development of the organisational infrastructure for SSRD implementation, monitoring, evaluation and possible revision; (iii) prioritisation of the goals and the measures; (iv) planning the financial and managerial resources needed for the implementation; (v) supplementing the list of policies covered in SSRD with policies on social cohesion, environment and energy.

²⁰ These functions could be placed inside the Ministry in charge for regional development or in other Ministries depending on the decision of the Government.

speedy and efficient reconstruction. By following such an action plan, relevant ministries and institutions supporting the programming and implementation of funds in key sectors can be strengthened in a planned manner. A specific part should also be devoted to ***strengthening sub-national institutions (see below)***. The plan should be a basis for a gradual increase in the number of employees in institutions dealing with regional policy and organisation of technical assistance support programmes also financed by international donors. The preparation of such a plan would be very useful for the Chapter 22 negotiations.

(7) Strengthen the legislative framework for regional development

The implementation of the EU structural funds theoretically does not require the preparation of separate national legislation. However, it seems that it would be good to prepare amendments of the legislation that will ***strengthen the role of the Minister in charge for regional development*** in the programming and implementation of activities similar to those supported under the EU cohesion policy ***already before the accession to the EU***. Legislative acts or guidelines can transpose good European practices into Ukraine legislation even before accession in the field of territorial instruments, application of the partnership principle, the system for monitoring and evaluation, and a number of others. It would also be good to develop a system for monitoring the harmonisation process of national legislation with EU regulations in areas crucial for the implementation of cohesion policy projects, e.g. in the field of environmental protection, state aid, competition rules, non-discrimination, rule of law, etc.

(8) Build appropriate tools for the management, monitoring and control of EU-supported programmes and projects

Building a system supporting the process of managing the implementation of programmes and projects, also in the strategic dimension (achieving the assumed goals - outputs and outcomes, as well as broader objectives of EU policies), requires a huge amount of work. In order to reduce human resources, an ***integrated IT system for monitoring the implementation of projects*** including corresponding indicators specified in the programmes should be built as soon as possible, compatible with EU standards. The construction of such a system requires the definition of boundary conditions (e.g. procedures), which are not yet known in detail, but the experience of many the Member States and advice from the EU can be used in this area. The system should be flexible enough to be able to monitor projects in the pre-accession period, gradually acquiring new functionalities in order to meet the requirements of the cohesion policy regulations. In order to increase the quality of monitoring and evaluation reports, cooperation with institutions such as the State Statistic Service and relevant scientific and academic institutions should also be gradually developed.

(9) Enhance cooperation system between public institutions, academy, CSOs, and business

In order to ensure high-quality programming and effective implementation of the EU funds, it is necessary to build a system of cooperation with partners representing not only local governments, but also scientific institutions (which can provide knowledge about the course of regional development processes), CSOs (which can encourage

local and thematically organised partners) and business (which can participate in planning development activities at the national level, regional and local).

5.2. Guiding principles for enhancing capacity of structures at sub-national levels

- (1) Early definition of a decentralised system for the management of EU funds;
- (2) Designation of common classification of territorial units for statistics;
- (3) Administrative strengthening of institutions at regional level (oblast);
- (4) Strengthening regional and local capacity to identify and prepare projects.

(1) Early definition of a decentralised system for the management of EU funds

As the Ukrainian authorities express a strong desire to start accession negotiations with the EU, it is critical that the government establishes a system for implementing the EU cohesion policy in Ukraine. This system should identify the institutions responsible for individual functions within the programming and implementation of regional policy at the national and sub-national level, including the role of regions (oblast). Given Ukraine's size and population parameters similar to the requirements under the EU NUTS regulations, sub-national levels such as regions should play a crucial role in future programming and implementation of EU cohesion funds. At this level, institutions should coordinate and manage the implementation functions, such as organising competitions, evaluating and selecting projects, signing contracts with beneficiaries, and monitoring and controlling programs, depending on the degree of decentralisation of the programmes co-financed by the EU. Local authorities should participate in the selection of projects while retaining the Ministry's determinative role in setting the rules and guidelines for various aspects of intervention implementation. Defining the system early can prevent the misuse of scarce resources by allocating similar functions to institutions under reconstruction programmes that were not designed to deal with pre-accession and EU structural funds.

(2) Designation of common classification of territorial units for statistics

In parallel to the choice of a territorial model, it is necessary to definitively determine the territorial division of the country into statistical units according to the Nomenclature of Territorial Units for Statistics (NUTS) and LAU (Local Administrative Units).²¹ The division of Ukraine into NUTS and LAUs will be discussed in the framework of the Chapter 22 negotiations.

²¹ The NUTS classification (Nomenclature of territorial units for statistics) is a hierarchical system for subdividing the economic territory of the EU into into regions at three different levels. Regions eligible for support from cohesion policy are to be defined at NUTS 2 level. Two regulations are of particular importance in this area:

- Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) – last amended on 13/11/2019;
- Regulation (EU) 2017/2391 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EC) No 1059/2003 as regards the territorial typologies (Tercet).

(3) Administrative strengthening of institutions at regional level (oblast)

The adoption of an implementation model for the EU cohesion policy in territorial systems postulated above will allow to define the detailed scope of functions of institutions at various levels of territorial governance. Administrative reinforcement should take place gradually, starting with the strengthening of the oblast governments administration. The priorities include:

- Capacity building for programming; This involves not only the ability to develop regional strategies, but also the capacity to regularly evaluate and refine them, which includes creating a prioritised list of significant regional development projects and interventions. It also entails establishing connections between the regional level and academic and scientific institutions and enhancing the ability to coordinate government sectoral activities and non-cohesion policy programs co-funded by the EU and other donors, including those focused on reconstruction efforts.
- Skills development in organising competitions, developing and organising project evaluation systems, monitoring and implementation. The Ministry should work closely with regional administrations to establish detailed procedures that can be implemented at the regional level. Based on these procedures, systemic training should be organised for regional administrations. The selection of projects should be carried out at least based on an assessment of independent experts with the participation of representatives from local government and other stakeholder groups.
- Strengthen cooperation with local authorities in identifying the best projects that are part of regional strategies and, on the other hand, develop capacities to help local authorities to prepare territorial strategies for specific types of territories, such as metropolitan areas, rural areas, industrial areas or areas dependent on fossil fuels.

Construction of new structures within **oblast government administration office** (special purpose units for dealing with EU funds related issues), with the employment and training of new employees should be gradual and based on the provision of the above-mentioned plan for strengthening of the administrative capacity to absorb EU funds adopted by the Government.

(4) Strengthening regional and local capacity to identify and prepare projects

The key issue in the first stage of absorbing European funds is to prepare an appropriate number of projects that align with EU goals and requirements, while also supporting regional and local development objectives. However, this is particularly difficult in the poorest regions due to a lack of administrative capacity in local governments, low level of human capital and limited activity among institutions that support lack or low level of regional or local development such as business development centres, local and regional development agencies, incubators, industrial parks, and others. It is crucial to establish a training system for local governments and selected groups of local beneficiaries, as well as a permanent system of advisory services for enterprises using the existing network of business support institutions. In addition, projects related to skills development and professional activation, education, development, health and social

care, and other relevant areas, should also be considered. The process of improving capacity to generate high quality projects that can be financed through EU pre-accession and structural funds at the regional and local level should be closely coordinated with reconstruction efforts, ideally using the same institutional and procedural systems.

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Annexes

Annex 1: Allocation of the cohesion policy funds under MFF 2021-2027 per member states and by instruments (in million EUR; 2018 prices)

Breakdown of Cohesion Policy allocations per Member State (in million EUR, 2018 prices)

	ESF+	ERDF	CF	of which transferred to the CEF	ETC	Total allocation
Belgium	1 037	1 022	-	-	327	2 386
Bulgaria	2 326	5 087	1 467	346	119	8 998
Czechia	2 397	9 251	7 389	1 741	272	19 308
Denmark	106	125	-	-	225	457
Germany	5 791	9 683	-	-	892	16 366
Estonia	446	1 502	952	224	51	2 951
Ireland	451	351	-	-	258	1 060
Greece	5 184	10 156	3 508	827	112	18 960
Spain	9 896	20 886	-	-	606	31 388
France	5 922	8 048	-	-	967	14 937
Croatia	1 758	4 749	1 372	323	163	8 042
Italy	12 897	23 615	-	-	830	37 341
Cyprus	197	414	207	49	33	851
Latvia	629	2 209	1 204	284	43	4 085
Lithuania	1 007	3 071	1 645	388	73	5 796
Luxembourg	13	13	-	-	25	52
Hungary	4 877	11 831	3 015	710	226	19 949
Malta	110	421	192	45	20	743
Netherlands	367	449	-	-	331	1 147
Austria	349	477	-	-	192	1 018
Poland	13 201	41 974	10 750	2 533	497	66 422
Portugal	6 651	10 201	3 946	930	121	20 919
Romania	7 288	15 099	4 094	965	326	26 806
Slovenia	645	1 365	834	196	66	2 909
Slovakia	2 129	7 187	1 868	440	195	11 379
Finland	537	788	-	-	142	1 466
Sweden	627	765	-	-	311	1 703
<i>Technical assistance</i>	306	673	114	-	28	1 121
<i>Transnational cooperation</i>	175	-	-	-	-	175
<i>Interregional innovation investments</i>	-	500	-	-	-	500
<i>European Urban Initiative</i>	-	500	-	-	-	500
<i>Interregional cooperation</i>	-	-	-	-	500	500
Total	87 319	192 410	42 556	10 000	7 950	330 235
	26.4 %	58.3 %	12.9 %		2.4 %	100.0 %

Source: European Commission. The EU's long-term Budget and the NextGenerationEU: Facts and figures, April 2021.

Annex 2: Allocation of the grant component under the NGEU's Recovery and Resilience Facility²² per member states (in million EUR; 2018 prices)

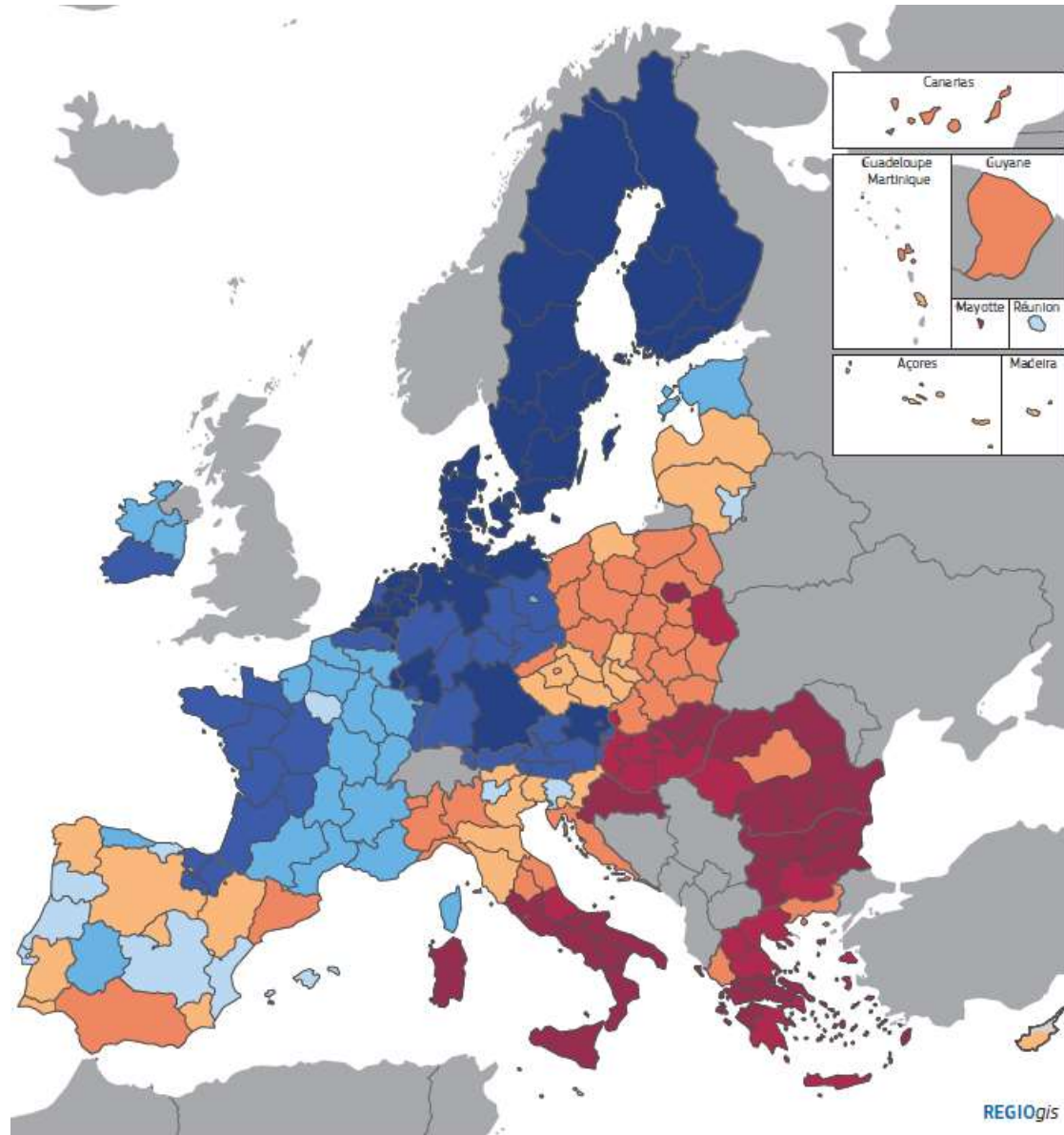
Recovery and Resilience Facility – Maximum grant allocations (*) (in billion EUR, 2018 prices)

	For 70 % of the amount available	For 30 % of the amount available	Total
 Belgium	3.4	2.1	5.5
 Bulgaria	4.3	1.5	5.8
 Czechia	3.3	3.2	6.5
 Denmark	1.2	0.2	1.4
 Germany	15.2	8.4	23.6
 Estonia	0.7	0.2	0.9
 Ireland	0.9	0.1	0.9
 Greece	12.6	3.9	16.5
 Spain	43.5	20.8	64.2
 France	22.7	13.6	36.3
 Croatia	4.3	1.5	5.8
 Italy	44.7	19.0	63.7
 Cyprus	0.8	0.2	0.9
 Latvia	1.5	0.3	1.8
 Lithuania	2.0	0.1	2.1
 Luxembourg	0.1	0.0	0.1
 Hungary	4.3	2.3	6.6
 Malta	0.2	0.1	0.3
 Netherlands	3.7	1.8	5.5
 Austria	2.1	1.1	3.2
 Poland	18.9	3.2	22.2
 Portugal	9.1	3.8	12.9
 Romania	9.5	3.7	13.2
 Slovenia	1.2	0.5	1.6
 Slovakia	4.3	1.5	5.9
 Finland	1.5	0.4	1.9
 Sweden	2.7	0.3	3.1
 EU-27	218.8	93.8	312.5

Source: European Commission. The EU's long-term Budget and the NextGenerationEU: Facts and figures, April 2021.

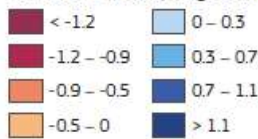
²² This is a component of the NGEU which covers a large majority of all grant funds under this instrument.

Annex 3: European Quality of Governance Index, 2021



European Quality of Governance Index, 2021

Standard deviation, range from poor quality (negative) to high quality (positive)



Scores are expressed in z-scores; the EU average is therefore equal to 0. Positive (negative) values reflect higher (lower) quality of government than the EU average.

All Member States at the NUTS 2 level.

Source: The Quality of Government Institute, University of Gothenburg.

Source: European Commission. 8th Cohesion Report, 2022.