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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: Position of the Council at first reading with a view to the adoption of a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL establishing the Instrument for Pre-Accession assistance  
(IPA III)  
- Adopted by the Council on 7 September 2021

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**REGULATION (EU) 2021/...**  
**OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**establishing the Instrument for Pre-Accession assistance  
(IPA III)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>1</sup> OJ C 110, 22.3.2019, p. 156.

<sup>2</sup> OJ C 86, 7.3.2019, p. 295.

<sup>3</sup> Position of the European Parliament of 27 March 2019 (OJ C 108, 26.3.2021, p. 409) and position of the Council at first reading of 7 September 2021 [(OJ ...)] [(not yet published in the Official Journal)]. Position of the European Parliament of ... [(OJ ...)] [(not yet published in the Official Journal)].

Whereas:

- (1) Regulation (EU) No 231/2014 of the European Parliament and of the Council<sup>1</sup> expired on 31 December 2020. In order to maintain the Union's effectiveness in external action, a framework for planning and delivering external assistance should be maintained for the period between 2021 and 2027.
- (2) The objective of an instrument for pre-accession assistance is to prepare beneficiaries for future membership of the Union and to support their accession process. It is therefore essential to have a dedicated instrument for pre-accession assistance to the beneficiaries listed in Annex I for the 2021-2027 period (IPA III) in support of enlargement, while ensuring that its objectives and functioning are consistent with, and complementary to, the general objectives of Union external action as laid down in Article 21 of the Treaty on European Union (TEU), including respect for fundamental rights and principles as well as the protection and promotion of human rights, democracy and the rule of law. This instrument should also be complementary with the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) established under Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>2</sup>.

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<sup>1</sup> Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11).

<sup>2</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

- (3) Article 49 TEU provides that any European State which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and is committed to promoting those values may apply to become a member of the Union. Those values are common to Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
- (4) A European State which has applied to join the Union can become a member of the Union only where it has been confirmed that it fully meets the accession criteria established at the Copenhagen European Council in June 1993 (the 'Copenhagen criteria') and provided that the Union has the capacity to integrate the new member. The Copenhagen criteria relate to the stability of institutions which guarantee democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and the ability to assume not only the rights but also the obligations under the Treaties, including the pursuit of the aims of political, economic and monetary union.

- (5) The enlargement policy of the Union is a strategic investment in peace, security, stability and prosperity in Europe and allows the Union to be better positioned to address global challenges. It also provides increased economic and trade opportunities to the mutual benefit of the Union and the aspiring Member States, while ensuring a gradual transformation of the beneficiaries. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.
- (6) The enlargement process is built on established criteria and fair and rigorous conditionality. Each beneficiary is assessed on its own merits. The assessment of progress achieved and the identification of shortcomings aim to provide incentives and guidance to the beneficiaries listed in Annex I to pursue the necessary far-reaching reforms. For the prospect of enlargement to become a reality, a firm commitment to 'fundamentals first' remains essential. The 'fundamentals first' approach links the rule of law and fundamental rights with the two other crucial areas of the accession process: economic governance – strengthened focus on economic development and improved competitiveness – and the strengthening of democratic institutions and public administration reform. Each of the three fundamentals is of crucial importance for the reform processes in the beneficiaries listed in Annex I and addresses key concerns of the people. Progress towards accession depends on each applicant's respect for the Union's values and its capacity to undertake and implement the necessary reforms to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices of the Union.

- (7) Good neighbourly relations and regional cooperation are essential elements of the enlargement process and are critical for security and stability of the Union as a whole. The definitive, inclusive and binding resolution of bilateral disputes is also important.
- (8) Embracing and committing to core European values is a choice, and is essential for all partners aspiring to Union membership. In line with this, the partners should take ownership and fully commit to European values as well as to upholding a global order based on rules and values and vigorously pursuing the necessary reforms in the interest of their people. This includes progressive alignment with the Union's common foreign and security policy, in particular on issues where major common interests are at stake, such as restrictive measures and tackling disinformation and other hybrid threats.
- (9) The Commission emphasised the firm, merit-based prospect of Union membership for the Western Balkans in its communication of 6 February 2018 entitled 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans'. On 5 February 2020, the Commission presented a revised methodology for the accession process in its communication entitled 'Enhancing the accession process – A credible EU perspective for the Western Balkans', which was endorsed by the Council. The Commission also presented an economic and investment plan for the Western Balkans for their recovery over the longer term following the COVID-19 crisis.

- (10) The Union and its Member States, in the Sofia Declaration of 17 May 2018 and the Zagreb Declaration of 6 May 2020, reaffirmed their unequivocal support for the European perspective of the Western Balkans as well as their engagement at all levels to support the region's political, economic and social transformation. In the Zagreb Declaration, the Union and its Member States reiterated their strong solidarity with the Western Balkans partners, in particular in the context of the COVID-19 crisis.
- (11) The European Council has granted the status of candidate country to the Republic of Albania, Iceland, Montenegro, the Republic of North Macedonia, the Republic of Serbia and the Republic of Turkey. It confirmed the European perspective of the Western Balkans, based on the Stabilisation and Association Process which remains the common framework for relations with the Western Balkans. Without prejudice to positions on status or to any future decisions to be taken by the European Council or by the Council, those benefiting from such a European perspective which have not been granted candidate country status may be considered as potential candidates solely for the purposes of this Regulation. In March 2015, the Government of Iceland asked the Union to no longer consider Iceland a candidate country, without, however, officially withdrawing Iceland's membership application.

- (12) Assistance should also be provided in compliance with the agreements concluded by the Union with the beneficiaries listed in Annex I. Assistance under this Regulation should mainly focus on assisting the beneficiaries listed in Annex I to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights, including those of persons belonging to minorities, and promote gender equality, tolerance, social inclusion and non-discrimination, including in relation to persons in vulnerable situations, children or persons with disabilities. It should also support the development of a social market economy in line with the key principles and rights set out in the European Pillar of Social Rights solemnly proclaimed and signed on 17 November 2017 by the European Parliament, the Council and the Commission<sup>1</sup>. It should not support actions that contribute to any form of segregation or social exclusion.

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<sup>1</sup> OJ C 428, 13.12.2017, p. 10.



- (13) As good neighbourly relations and regional cooperation are essential elements of the enlargement process, assistance should also continue the support for the efforts of the beneficiaries listed in Annex I to advance regional, macro-regional and cross-border cooperation and territorial development, including through the implementation of Union macro-regional strategies. Those programmes should further contribute to the high visibility of assistance in the Union and in the beneficiaries listed in Annex I. Assistance under this Regulation should also enhance beneficiaries' economic and social development and economic governance, foster economic integration with the Union single market, including customs cooperation, promote open and fair trade that underpins a smart, sustainable and inclusive growth agenda, including through the implementation of regional development and cohesion policies, agriculture and rural development policies, social and employment policies, including labour mobility, the development of the digital economy and society, and boost research and innovation, also in the context of the 2018 flagship initiative Digital Agenda for the Western Balkans.
- (14) Actions under IPA III should support reconciliation, peace-building and conflict prevention through mediation efforts, confidence-building measures and processes that promote justice, truth-seeking, reparations and guarantees of non-recurrence.

- (15) Assistance under this Regulation should be used to strengthen health security and preparedness for public health emergencies as well as to address, in complementarity with other Union instruments, the major economic shock generated by the COVID-19 outbreak and to mitigate its severe socio-economic impact, by mobilising resources to accelerate the economic recovery of the region.
- (16) Special emphasis should be put on creating further opportunities for the youth, including for young professionals, while ensuring that such opportunities contribute to the socio-economic development of the beneficiaries listed in Annex I. Assistance under this Regulation should also aim to tackle brain drain.
- (17) The Union's efforts to support reform progress in the beneficiaries listed in Annex I through funding under IPA III should be well communicated by those beneficiaries as well as by the Union. In that regard, the Union should enhance communication and campaign efforts in order to ensure visibility of funding under IPA III.
- (18) The Union should provide support to the transition towards accession for the benefit of the beneficiaries listed in Annex I, drawing on the experience of the Member States. Such cooperation should focus particularly on the sharing of experience that was acquired by the Member States during their own reform processes.

- (19) Strengthening the rule of law, including the independence of the judiciary, the fight against corruption, money laundering and organised crime, as well as transparency, good governance at all levels, and public administration reform, including in the fields of public procurement, competition and State aid, remain key challenges and are essential for beneficiaries to come closer to the Union and to prepare to fully assume the obligations of Union membership. In view of the longer-term nature of the reforms pursued in those areas and the need to build up track records, financial assistance under this Regulation should address those issues as early as possible.
- (20) In accordance with the principle of participatory democracy, the Commission should encourage the strengthening of parliamentary capacities, parliamentary oversight, democratic procedures and fair representation in each beneficiary listed in Annex I.
- (21) Enhanced strategic and operational cooperation between the Union and the beneficiaries listed in Annex I on security is pivotal to addressing effectively and efficiently the threats of security, organised crime and terrorism.
- (22) Cooperation on migration at international and regional level, including further consolidating border and migration management capacities, ensuring access to international protection, sharing relevant information, enhancing border control and efforts to tackle irregular migration, addressing forced displacement and fighting against trafficking in human beings and people smuggling, is an important aspect of cooperation between the Union and the beneficiaries listed in Annex I.

- (23) The communication capacities of the beneficiaries listed in Annex I should be enhanced in order to ensure public support for and understanding of Union values and the benefits and obligations of potential Union membership, while addressing disinformation.
- (24) It is necessary that the Union lead the transition to a healthy planet and a more connected world. The European Green Deal as set out in the Commission communication of 11 December 2019 provides a renewed commitment and a new strategic framework to achieve that global objective. The Union should use its influence, expertise and financial assistance to mobilise the beneficiaries listed in Annex I to join it on a sustainable path. This Regulation should therefore promote the green agenda by reinforcing environmental protection, contributing to the mitigation of climate change and increasing resilience to climate change, and accelerating the shift towards a low-carbon economy.

(25) The beneficiaries listed in Annex I need to be better prepared to address global challenges, such as sustainable development and climate change, and to align with the Union's efforts to address those issues. Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change<sup>1</sup> and the United Nations Sustainable Development Goals, IPA III should contribute to mainstreaming climate action in the Union's policies and to the achievement of an overall target of 30 % of Union budget expenditure supporting climate objectives and the ambition of 7,5 % of the budget reflecting biodiversity expenditures in 2024 and 10 % in 2026 and 2027, while taking into account the existing overlaps between climate and biodiversity goals. Actions under IPA III are expected to contribute 18 % of the overall financial envelope of IPA III to climate objectives, with the objective of increasing this percentage to 20 % by 2027. Relevant actions are to be identified during the preparation and implementation of IPA III, and the overall contribution from IPA III should be considered in the relevant evaluations and review processes.

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<sup>1</sup> OJ L 282, 19.10.2016, p. 4.

- (26) Actions under IPA III should support the implementation of the United Nations 2030 Agenda for Sustainable Development adopted in September 2015 as a universal agenda, to which the Union and its Member States are fully committed and which all beneficiaries listed in Annex I have endorsed. In order to achieve those objectives, in addition to actions in which climate is one of the main objectives, actions under IPA III should, whenever possible, mainstream environmental sustainability and climate change objectives across all sectors, with particular attention to environmental protection and tackling cross-border pollution, and should pursue green growth in national and local strategies, including supporting sustainability criteria in public procurement. Actions under IPA III should be consistent with the principle of 'do no harm' and should comply with Union taxonomy to the extent possible, in particular to ensure the sustainability of investments in the Western Balkans and Turkey.

- (27) The implementation of this Regulation should be guided by the principles of gender equality and the empowerment of women and girls, and should seek to protect and promote women's and girls' rights in line with the EU Gender Action Plans and relevant Council conclusions and international conventions, including the Council conclusions on women, peace and security of 10 December 2018. Strengthening gender equality and the empowerment of women and girls in Union external action and increasing efforts to reach the minimum standards of performance indicated by the EU Gender Action Plans should lead to a gender-sensitive and transformative approach in the cooperation between the Union and the beneficiaries listed in Annex I. Gender equality should be reflected and mainstreamed throughout the implementation of this Regulation.
- (28) This Regulation lays down a financial envelope for the entire duration of IPA III, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup>, for the European Parliament and the Council during the annual budgetary procedure.

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<sup>1</sup> OJ L 433I, 22.12.2020, p. 28.

- (29) The Commission and the Member States should ensure the compliance, coherence, consistency and complementarity of their assistance, in particular through regular consultations and frequent exchanges of information during the different phases of the assistance cycle, including at local level. The necessary steps should also be taken to ensure better coordination and complementarity with other donors, including through regular consultations. The Commission should ensure that relevant stakeholders in the beneficiaries listed in Annex I, including civil society organisations and local and regional authorities, as appropriate, are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of programmes and the related monitoring processes. The role of civil society should be enhanced in programmes implemented through government bodies and as a direct beneficiary of Union assistance. Likewise, Union assistance should also support human rights' defenders.



- (30) The priorities of the actions aimed at achieving objectives in the relevant policy areas supported under this Regulation should be set out in a programming framework established by the Commission for the duration of the Union multiannual financial framework for the 2021-2027 period ('IPA programming framework'). The IPA programming framework should be established in partnership with the beneficiaries listed in Annex I, in line with the overall policy framework and principles, as well as with the general and specific objectives laid down in this Regulation, and should take into due account relevant national strategies. The IPA programming framework should identify the areas to be supported through assistance with an indicative allocation for each area of support, including an estimate of climate-related expenditure.

- (31) It is in the common interest of the Union and the beneficiaries listed in Annex I to advance the efforts of those beneficiaries to reform their political, legal and economic systems with a view to Union membership. Assistance should be based both on a performance-based approach and the fair share principle, ensuring progress in all beneficiaries listed in Annex I. Assistance should be targeted and adjusted to their specific situations, taking into account any further efforts needed to meet the objectives of this Regulation. The needs and capacities of the beneficiaries listed in Annex I should be taken into account in accordance with the fair share principle in order to avoid a disproportionately low level of assistance as compared to other beneficiaries. Assistance under this Regulation should be differentiated in scope and intensity according to the performance of the beneficiaries listed in Annex I, in particular their commitment to and progress in implementing reforms, in particular in the field of the rule of law and fundamental rights, democratic institutions and public administration reform, economic development and competitiveness.

- (32) Where the relevant indicators show a significant regression or persistent lack of progress by a beneficiary listed in Annex I in the areas covered by the 'fundamentals first' approach, the scope and intensity of assistance should be modulated accordingly, without prejudice to the powers of the Council to adopt restrictive measures following a decision on the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries in accordance with Article 215 of the Treaty on the Functioning of the European Union (TFEU) and without prejudice to the Commission's power to suspend payments or the implementation of financing agreements in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>1</sup> (the 'Financial Regulation'). Due consideration should be given to the respect by the beneficiaries of the principles of the United Nations Charter and international law.
- (33) The Commission should assess each year the implementation of the IPA programming framework, describing how the performance-based approach and the fair share principle were implemented. That assessment should also include the state of play of the level of funding for each objective, as well as for each beneficiary listed in Annex I. It should also allow the committee established by this Regulation to have adequate information to assist the Commission.

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<sup>1</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (34) The Commission should ensure clear monitoring and evaluation mechanisms are in place in order to provide effective accountability and transparency in implementing the Union budget, and in order to ensure effective assessment of progress towards the achievement of this Regulation's objectives. Whenever possible and appropriate, the results of the Union's action should be monitored and evaluated on the basis of pre-defined, transparent, country-specific and measurable indicators, adapted to the specificities and objectives of IPA III.
- (35) The transition from the direct management of pre-accession funds by the Commission to indirect management by the beneficiaries should be progressive and in line with the respective capacities of those beneficiaries, having regard to principles of good governance. The Commission should take appropriate supervisory measures ensuring the protection of the financial interests of the Union, and be able, where necessary, to reverse that transition. Assistance should continue to make use of the structures and instruments that have proved their worth in the pre-accession process.

- (36) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence, consistency and complementarity with the Union's external financing instruments, as well as through synergies with other Union policies and programmes, such as Horizon Europe – the Framework Programme for Research and Innovation – established by Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>1</sup>, Erasmus+ established by Regulation (EU) 2021/817 of the European Parliament and of the Council<sup>2</sup>, the Creative Europe Programme established by Regulation (EU) 2021/818 of the European Parliament and of the Council<sup>3</sup>, the European Green Deal, the Just Transition Fund established by Regulation (EU) 2021/1056 of the European Parliament and of the Council<sup>4</sup> and the Connecting Europe Facility established by Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>5</sup>, including, where relevant, coherence and complementarity with macro-financial assistance.

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<sup>1</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

<sup>2</sup> Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union Programme for education and training, youth and sport and repealing Regulation (EU) No 1288/2013 (OJ L 189, 28.5.2021, p. 1).

<sup>3</sup> Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 (OJ L 189, 28.5.2021, p. 34).

<sup>4</sup> Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

<sup>5</sup> Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).

- (37) In order to maximise the impact of combined interventions to achieve a common objective, IPA III should be able to contribute to actions under other programmes, as long as the contributions do not cover the same costs.
- (38) Union funding under IPA III should be used to finance actions under the international dimension of Erasmus+, the implementation of which should be carried out in accordance with Regulation (EU) 2021/817.
- (39) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, prizes, procurement and indirect management, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (40) As the respect for democracy, human rights and the rule of law is essential for sound financial management and effective Union funding as referred to in the Financial Regulation, assistance could be suspended in the event of the degradation of democracy, human rights or the rule of law by a beneficiary listed in Annex I.

- (41) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, administrative burdens, and the expected risk of non-compliance. That should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (42) The Union should continue to apply common rules for the implementation of its external action. Rules and procedures for the implementation of the Union's instruments for financing external action are laid down in Regulation (EU) 2021/947. Additional detailed provisions should be laid down to address specific situations, in particular for cross-border cooperation, agriculture and rural development policy areas.

- (43) External actions are often implemented in a highly volatile environment that requires continuous and rapid adaptation to the evolving needs of Union partners and to global challenges such as human rights, democracy and good governance, security and stability, climate change and environment, irregular migration and forced displacement and their root causes. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial implementation of the programmes. To increase the ability of the Union to respond to unforeseen needs, while respecting the principle that the Union budget is set annually, this Regulation should preserve the flexibility allowed under the Financial Regulation to other policies, namely carry-overs and re-commitments of committed funds, while adhering to the goals and objectives laid down in this Regulation. This will ensure the efficient use of Union funds, both for Union citizens and for the beneficiaries listed in Annex I, thereby maximising the Union funds available for the Union's external action interventions.



- (44) The new European Fund for Sustainable Development Plus (EFSD+) established by Regulation (EU) 2021/947, which builds on its predecessor, should constitute an integrated financial package supplying financing capacity in the form of grants, budgetary guarantees and other financial instruments worldwide, including to the beneficiaries listed in Annex I. The governance of the EFSD+ operations covering the Western Balkans carried out under this Regulation should be ensured by the Western Balkans Investment Framework (WBIF). The steering committee of the WBIF includes the beneficiaries from the Western Balkans listed in Annex I, the contributors to the European Western Balkans Joint Fund, relevant financial institutions and relevant regional organisations, as appropriate. The specific strategic board for the EFSD+ operations covering the Western Balkans should continue to be as inclusive.
- (45) The External Action Guarantee, established by Regulation (EU) 2021/947, supports the EFSD+ operations, and IPA III should contribute to the provisioning needs in respect of the operations to the benefit of the beneficiaries listed in Annex I, including the provisioning and liabilities arising from macro-financial assistance loans.

- (46) It is important to ensure that cross border cooperation programmes are implemented consistently with the framework established in the external action programmes and Regulation (EU) 2021/1059 of the European Parliament and of the Council<sup>1</sup>. Specific co-financing provisions should be established in this Regulation.
- (47) Annual or multiannual action plans and measures referred to in this Regulation constitute work programmes under the Financial Regulation. Annual or multiannual action plans consist of a set of measures grouped into one document.

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<sup>1</sup> Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94).

(48) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>2</sup>, (Euratom, EC) No 2185/96<sup>3</sup> and (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

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- <sup>1</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).
- <sup>2</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).
- <sup>3</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).
- <sup>4</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>1</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Beneficiaries listed in Annex I should also report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep the latter informed of the progress of administrative and legal proceeding. With the objective of alignment to good practices in Member States, this reporting should be done by electronic means, using the Irregularity Management System, established by the Commission.

- (49) Assistance under this Regulation should be implemented in a transparent, accountable and depoliticised manner. The Commission should monitor this closely, including at local level.

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<sup>1</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (50) Communication fosters democratic debate, reinforces institutional control and scrutiny over Union funding, and contributes to boosting the credibility of the Union. The Union and the beneficiaries of Union funding should enhance the visibility of Union actions, and should communicate adequately the added value of Union support. In that regard, in accordance with the Financial Regulation, agreements concluded with recipients of Union funding should contain obligations to ensure appropriate visibility, and the Commission should act in an appropriate and timely manner when those obligations are not met.
- (51) In order to take account of any changes in the enlargement policy framework or of significant developments in the beneficiaries listed in Annex I, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to adapt and update the thematic priorities for assistance listed in Annexes II and III as well as to adopt a delegated act to supplement this Regulation by setting out certain specific objectives and thematic priorities for assistance. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>1</sup> OJ L 123, 12.5.2016, p. 1.

- (52) In order to ensure uniform conditions for the implementation of this Regulation, in particular on specific conditions and structures for indirect management with the beneficiaries listed in Annex I and on the implementation of rural development assistance, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. When establishing the uniform conditions for implementing this Regulation, the lessons learnt from the management and implementation of past pre-accession assistance should be taken into account. Those uniform conditions should be amended if developments so require.
- (53) The committee established under this Regulation should be competent also for legal acts and commitments under Council Regulation (EC) No 1085/2006<sup>2</sup> and Regulation (EU) No 231/2014, as well as for the implementation of Article 3 of Council Regulation (EC) No 389/2006<sup>3</sup>.

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>2</sup> Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, 31.7.2006, p. 82).

<sup>3</sup> Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (OJ L 65, 7.3.2006, p. 5).

- (54) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (55) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multiannual financial framework 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

# Chapter I

## General provisions

### *Article 1*

#### *Subject matter*

This Regulation establishes the Instrument for Pre-accession Assistance ('IPA III') for the period of the multiannual financial framework 2021-2027 ('2021-2027 MFF').

It lays down the objectives of IPA III, the budget for the 2021-2027 period, the forms of Union assistance and the rules for providing such assistance.

### *Article 2*

#### *Definition*

For the purpose of this Regulation, 'cross-border cooperation' means cooperation between:

- (a) Member States and beneficiaries listed in Annex I to this Regulation as referred to in Article 3(1), point (b), of Regulation (EU) 2021/1059;
- (b) two or more beneficiaries listed in Annex I to this Regulation; or



- (c) beneficiaries listed in Annex I to this Regulation and countries and territories listed in Annex I to Regulation (EU) 2021/947.

### *Article 3*

#### *Objectives of IPA III*

1. The general objective of IPA III is to support the beneficiaries listed in Annex I in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required by those beneficiaries to comply with Union values and to progressively align to Union rules, standards, policies and practices ('*acquis*') with a view to future Union membership thereby contributing to mutual stability, security, peace and prosperity.
2. IPA III shall have the following specific objectives:
  - (a) to strengthen the rule of law, democracy, the respect of human rights and fundamental freedoms, including through promoting an independent judiciary, reinforced security and the fight against corruption and organised crime, compliance with international law, freedom of media and academic freedom and an enabling environment for civil society, to promote non-discrimination and tolerance, to ensure respect for the rights of persons belonging to minorities and the promotion of gender equality and to improve migration management, including border management and tackling irregular migration, as well as addressing forced displacement;

- (b) to reinforce the effectiveness of public administration and to support transparency, structural reforms and good governance at all levels, including in the areas of public procurement and State aid;
- (c) to shape the rules, standards, policies and practices of the beneficiaries listed in Annex I in alignment with those of the Union and to reinforce regional cooperation, reconciliation and good neighbourly relations, as well as people-to-people contacts and strategic communication;
- (d) to strengthen economic and social development and cohesion, with particular attention to youth, including through quality education and employment policies, through supporting investment and private sector development, with a focus on small and medium-sized enterprises (SMEs), as well as on agriculture and rural development;
- (e) to reinforce environmental protection, to increase resilience to climate change, to accelerate the shift towards a low-carbon economy, to develop the digital economy and society and to strengthen sustainable connectivity in all its dimensions;
- (f) to support territorial cohesion and cross-border cooperation across land and maritime borders, including transnational and interregional cooperation.

3. In accordance with the specific objectives, assistance may, as appropriate, address the following thematic priorities:
- (a) establishing and promoting from an early stage the proper functioning of the institutions necessary to secure the rule of law and further consolidating democratic institutions;
  - (b) strengthening capacities to face migration challenges at regional and international levels;
  - (c) enhancing capacities for strategic communication, including communicating to the public about necessary reforms for meeting the Union's membership criteria;
  - (d) enhancing good governance and reforming public administration in line with the principles of public administration;
  - (e) strengthening fiscal and economic governance;
  - (f) strengthening all aspects of good neighbourly relations, regional stability and mutual cooperation;
  - (g) strengthening the capacity of the Union and its partners to prevent conflict, build peace and address pre- and post-crisis needs;

- (h) strengthening the capacities, independence and plurality of civil society organisations;
- (i) promoting the alignment of beneficiaries' rules, standards, policies and practices with those of the Union;
- (j) promoting gender equality and the empowerment of women and girls;
- (k) strengthening access to and the quality of education, training and lifelong learning at all levels, and offering support to cultural and creative sectors and sport;
- (l) fostering quality employment and access to the labour market;
- (m) promoting social protection and inclusion and combating poverty;
- (n) promoting smart, sustainable, inclusive and safe transport, removing bottlenecks in key network infrastructures, and enhancing energy security and diversification;
- (o) improving the private-sector environment and competitiveness of enterprises, in particular of SMEs;
- (p) improving access to digital technologies and services and strengthening research, technological development and innovation;
- (q) contributing to the security and safety of the supply of food and water;

- (r) protecting the environment and improving the quality of the environment;
- (s) cooperating with the beneficiaries listed in Annex I in the peaceful use of nuclear energy in the areas of health, agriculture and food safety;
- (t) increasing the ability of the agri-food and fisheries sectors to cope with competitive pressure and market forces.

4. With a view to promoting good neighbourly relations, fostering Union integration and promoting socio-economic development, assistance for cross-border cooperation between the beneficiaries listed in Annex I may, as appropriate, address the following thematic priorities:

- (a) promoting employment, labour mobility and social and cultural inclusion across borders;
- (b) protecting the environment and promoting adaptation to climate change, the mitigation of climate change, and risk prevention and management;
- (c) promoting sustainable transport and improving public infrastructures;
- (d) promoting the digital economy and society;
- (e) encouraging tourism and preserving and promoting cultural and natural heritage;
- (f) investing in youth, sport, education and skills;

- (g) promoting local and regional governance;
- (h) promoting cross-border initiatives to foster reconciliation and transitional justice;
- (i) enhancing competitiveness, the business environment and the development of SMEs, trade and investment;
- (j) strengthening research, technological development, innovation and digital technologies.

5. The thematic priorities for providing assistance according to the needs and capacities of the beneficiaries listed in Annex I are further set out in Annex II. The thematic priorities for cross-border cooperation between beneficiaries listed in Annex I are further set out in Annex III. Each of those thematic priorities may contribute to the attainment of more than one specific objective.
6. The Commission is empowered to adopt, prior to the adoption of the IPA programming framework, a delegated act in accordance with Articles 14 and 15 in order to supplement this Regulation by setting out certain specific objectives and thematic priorities for assistance related to the matters referred to in paragraph 3, points (a) to (m) and point (r), and paragraph 4, points (a) to (j), of this Article.

#### *Article 4*

##### *Budget*

1. The financial envelope for the implementation of IPA III for the 2021-2027 period shall be EUR 14 162 000 000 in current prices.
2. The amount referred to in paragraph 1 of this Article may be used to finance support measures for the implementation of IPA III, such as preparatory, monitoring, control, audit and evaluation activities, including corporate information technology systems, in accordance with Article 24 of Regulation (EU) 2021/947.

#### *Article 5*

##### *Cross-programme provisions*

1. In implementing this Regulation, consistency, synergies and complementarities with other areas of the Union's external action and with other relevant Union policies and programmes, and policy coherence for development shall be ensured.
2. Regulation (EU) 2021/947 shall apply to activities implemented under this Regulation where it is referred to in this Regulation.

3. IPA III shall contribute funds to actions implemented and managed in accordance with Regulation (EU) 2021/817. Regulation (EU) 2021/817 applies to the use of those funds. To that end, the contribution of IPA III shall be included in the single programming document referred to in Article 13(6) of Regulation (EU) 2021/947 and adopted in accordance with the procedures laid down in that Regulation. That programming document shall contain an indicative minimum amount to be allocated to actions established under Regulation (EU) 2021/817.



4. Assistance under this Regulation may be provided to the type of actions provided for under the European Regional Development Fund and the Cohesion Fund the specific objectives and scope of support of which are set out in Regulation (EU) 2021/1058 of the European Parliament and of the Council<sup>1</sup>, the European Social Fund Plus established by Regulation (EU) 2021/1057 of the European Parliament and of the Council<sup>2</sup> and the European Agricultural Fund for Rural Development to be established by a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

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<sup>1</sup> Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60).

<sup>2</sup> Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

5. The European Regional Development Fund shall contribute to programmes or measures established for cross-border cooperation between the beneficiaries listed in Annex I and one or more Member States. The Commission shall adopt those programmes and measures in accordance with Article 17(3) of this Regulation. The amount of the contribution from IPA III funds allocated to cross-border cooperation ('IPA III-CBC'), as referred to in Article 10(3) of Regulation (EU) 2021/1059, shall be determined in accordance with that Article. IPA III-CBC programmes shall be managed in accordance with Regulation (EU) 2021/1059.
6. IPA III may contribute to transnational and interregional cooperation programmes or measures that are established and implemented under Regulation (EU) 2021/1059, taking into account macro-regional strategies or sea basin strategies, where applicable, and in which the beneficiaries listed in Annex I to this Regulation participate.

Where a transnational and interregional cooperation programme or measure is also supported by NDICI, pre-financing shall be paid in accordance with Article 22(5) of Regulation (EU) 2021/947.

7. Where appropriate, other Union programmes may contribute to actions established under this Regulation in accordance with Article 9, provided that the contributions do not cover the same costs. This Regulation may also contribute to measures established under other Union programmes, provided that the contributions do not cover the same costs. In such cases, the work programme covering those actions shall establish which set of rules shall be applicable.
8. To ensure the coherence and effectiveness of Union financing or to foster regional cooperation, the Commission may, where duly justified, decide to extend the eligibility of action plans and measures referred to in Article 9(1) to countries, territories or regions which would not otherwise be eligible for financing pursuant to Article 3(1), provided that the plan or measure to be implemented is of a global, regional or cross-border nature.

## Chapter II

### Strategic planning

#### *Article 6*

#### *Policy framework and general principles*

1. The enlargement policy framework defined by the **European Council** and the Council, the agreements that establish a legally binding relationship with the beneficiaries listed in Annex I, as well as resolutions of the European Parliament, communications of the Commission and joint Communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, shall constitute the overall policy framework for the implementation of this Regulation. The Commission shall ensure coherence between the assistance under this Regulation and the enlargement policy framework.
2. Programmes and actions under IPA III in pursuit of the specific objectives referred to in Article 3(2) shall mainstream the horizontal priorities of climate change, environmental protection, human rights and gender equality, in order to promote integrated actions that create co-benefits and meet multiple objectives in a coherent way. Where applicable, programmes and actions shall address interlinkages between Sustainable Development Goals, including the goals of promoting peaceful and inclusive societies, as well as of poverty reduction.

3. The Commission, in liaison with Member States, shall contribute to the implementation of Union commitments to increased transparency and accountability in the delivery of assistance, including by making information on assistance volume and allocation available through web-based databases, and shall ensure that data is comparable and can be easily accessed, shared and published.
  
4. The Commission and the Member States shall cooperate in ensuring coherence and shall strive to avoid duplication between assistance under this Regulation and other assistance provided by the Union, the Member States and the European Investment Bank Group, in line with the established principles for strengthening operational coordination in the field of external assistance, including through enhanced coordination with Member States at local level and through the harmonisation of policies and procedures, in particular the international principles on development effectiveness. Such coordination shall involve regular and timely consultations, frequent exchanges of information during the different phases of the assistance cycle, shall involve inclusive meetings aimed at coordinating the assistance, including at local level, and shall constitute a key step in the programming processes of the Union and the Member States.

5. In line with the principle of inclusive partnership, where appropriate, the Commission shall ensure that relevant stakeholders in the beneficiaries listed in Annex I, including civil society organisations and local and regional authorities, as appropriate, are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of programmes and the related monitoring processes. The Commission shall encourage coordination among the relevant stakeholders.

The capacities of civil society organisations shall be strengthened, including their capacities as direct beneficiaries of assistance, where appropriate.

6. The Commission, in liaison with the Member States, shall take the necessary steps to ensure coordination and complementarity with multilateral and regional organisations and entities, such as international organisations and financial institutions, and agencies and non-Union donors.

## Chapter III

### Implementation

#### *Article 7*

#### *IPA programming framework*

1. Assistance under this Regulation shall be based on an IPA programming framework for the delivery of the specific objectives referred to in Article 3(2) and the thematic priorities referred to in Article 3(3) and further set out in Annexes II and III. The Commission shall establish the IPA programming framework for the duration of the 2021-2027 MFF.
2. The European Parliament and the Council shall authorise the annual appropriations within the limits of the 2021-2027 MFF.
3. The IPA programming framework shall be developed in accordance with the policy framework and general principles set out in Article 6 and shall take relevant national strategies and sector policies into due account.
4. The IPA programming framework shall include indicative allocations of Union funds for thematic areas in accordance with the specific objectives referred to in Article 3(2), as applicable, broken down by year, without prejudice to the possibility of combining assistance contributing to the achievement of different specific objectives.

5. The IPA programming framework shall include indicators for assessing progress towards the achievement of the specific objectives referred to in Article 3(2). Those indicators shall be coherent with the key performance indicators referred to in Annex IV.
6. The Commission shall carry out an annual assessment of the implementation of the IPA programming framework in light of the evolution of the policy framework referred to in Article 6 and based on the indicators referred to in paragraph 5 of this Article. That assessment shall also include the state of play of the allocations committed and planned for beneficiaries listed in Annex I and how the performance-based approach and the fair share principle referred to in Article 8 have been implemented. The Commission shall submit that assessment to the committee referred to in Article 17.
7. On the basis of the annual assessment referred to in paragraph 6, the Commission may propose to revise the IPA programming framework as appropriate. Furthermore, the Commission may review the IPA programming framework following the mid-term evaluation referred to in Article 42 of Regulation (EU) 2021/947 and, where appropriate, may revise it. Any revision of the IPA programming framework shall be carried out in accordance with the procedure referred to in paragraph 8.
8. Without prejudice to paragraph 9, the Commission shall adopt the IPA programming framework by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 17(3).



9. The Commission shall adopt the programming framework for cross-border cooperation with Member States in accordance with Article 17(3).

#### *Article 8*

##### *Assistance to beneficiaries, performance assessment and fair share principle*

1. Assistance under this Regulation shall be based both on a performance-based approach and the fair share principle, as set out in paragraphs 2, 3 and 4.
2. Assistance shall aim to ensure progress with respect to all the beneficiaries listed in Annex I and shall be targeted and adjusted to their specific situations, taking into account any further efforts needed to meet the objectives of this Regulation. The needs and capacities of those beneficiaries shall be taken into account in accordance with the fair share principle in order to avoid a disproportionately low level of assistance as compared to other beneficiaries.
3. Assistance shall be differentiated in scope and intensity according to performance of the beneficiaries listed in Annex I, in particular as regards their commitment to and progress in implementing reforms, as well as according to their needs.
4. In assessing the performance of the beneficiaries listed in Annex I and deciding on the assistance to be provided, particular attention shall be paid to the efforts made in the fields of the rule of law and fundamental rights, democratic institutions and public administration reform, as well as economic development and competitiveness.

5. In the case of a significant regression or persistent lack of progress by a beneficiary listed in Annex I in the areas referred to in paragraph 4 of this Article as measured by the indicators referred to in Article 7(5), the scope and intensity of assistance shall be modulated accordingly, in accordance with paragraph 6, including by reducing the funds proportionally and redirecting them in ways that avoid compromising support for improving fundamental rights, democracy and the rule of law, including support to civil society and, where appropriate, cooperation with local authorities. Where progress has resumed, the assistance shall also be modulated accordingly in accordance with paragraph 6 to further support those efforts.
6. Assistance to the beneficiaries listed in Annex I shall be decided in the framework of measures referred to in Article 9.

#### *Article 9*

##### *Implementing measures and methods*

1. Assistance under this Regulation shall be implemented in direct management or indirect management in accordance with the Financial Regulation through annual or multiannual action plans and measures as referred to in Chapter III of Title II of Regulation (EU) 2021/947. The Commission shall adopt, by means of implementing acts, action plans and measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(3). Chapter III of Title II of Regulation (EU) 2021/947 shall apply to this Regulation with the exception of Article 28(1) of that Regulation.

2. The transition from direct management by the Commission to indirect management by the beneficiaries listed in Annex I shall be progressive and in line with the respective capacities of those beneficiaries as well as with regard to principles of good governance. The Commission shall take appropriate supervisory measures ensuring the protection of the financial interests of the Union, as appropriate. The Commission may also reverse that transition in the event that a beneficiary listed in Annex I fails to fulfil relevant obligations, principles, objectives and rules established in the Financial Regulation.
3. The European Parliament may hold regular exchanges of views with the Commission regarding its own assistance programmes, on matters such as capacity-building, including related mediation and dialogue, and election observation.
4. Action plans under this Regulation may be adopted for a period of up to seven years.
5. Budget support shall be based on mutual accountability and a shared commitment to democracy, human rights and the rule of law, and shall be provided in accordance with Article 236 of the Financial Regulation and Article 27 of Regulation (EU) 2021/947. Actions under IPA III shall support the development of parliamentary control, audit capacities and increased transparency and public access to information.

*Article 10*  
*Cross-border cooperation*

1. Up to 3 % of the financial envelope shall be indicatively allocated to programmes for cross-border cooperation between the beneficiaries listed in Annex I and the Member States, in line with their needs and priorities.
2. The Union co-financing rate at the level of each priority shall not be higher than 85 % of the eligible expenditure of a cross-border cooperation programme.
3. The level of pre-financing for cross-border cooperation with Member States may exceed the percentage referred to in Article 51(3) of Regulation (EU) 2021/1059 and shall amount to 50 % of the first three budgetary commitments to the programme.
4. Where cross-border cooperation programmes are discontinued in accordance with Article 12 of Regulation (EU) 2021/1059, support under this Regulation to the discontinued programme that remains available may be used to finance other actions eligible under this Regulation.

## Chapter IV

### Eligibility

#### *Article 11*

#### *Eligibility for funding under IPA III*

Participation in procurement, grant and prize award procedures for actions financed under this Regulation shall be open to international and regional organisations and to all other natural persons who are nationals of, and to legal persons which are effectively established in:

- (a) Member States, beneficiaries listed in Annex I to this Regulation, contracting parties to the Agreement on the European Economic Area and countries covered by the Annex I to Regulation (EU) 2021/947; and
- (b) countries for which reciprocal access to external assistance is established by the Commission.

For the purposes of point (b), reciprocal access may be granted, for a limited period of at least one year, where a country grants eligibility on equal terms to entities from the Union and from countries eligible under this Regulation. The Commission shall decide on the reciprocal access after consulting the recipient country or countries concerned.

## **Chapter V**

### **EFSD+ and budgetary guarantees**

#### *Article 12*

##### *Financial instruments and guarantee for external actions*

1. In accordance with Article 31(7) of Regulation (EU) 2021/947, the beneficiaries listed in Annex I to this Regulation shall be eligible for support through the European Fund for Sustainable Development Plus (EFSD+) and the External Action Guarantee (EAG). EFSD+ and EAG operations shall be financed under this Regulation as provided for in Chapter IV of Title II of Regulation (EU) 2021/947 *mutatis mutandis*, subject to the special provisions of this Article.
2. The Commission shall be advised by a specific strategic board in the management of the EFSD+ operations for the Western Balkans ('strategic board').
3. The strategic board shall advise the Commission on the strategic orientation of investments for the Western Balkans under EFSD+, and contribute to their alignment with the guiding principles, policy framework and objectives set out in this Regulation.

The strategic board shall support the Commission in setting overall investment goals for the Western Balkans as regards the use of the EAG to support EFSD+ operations and shall monitor an appropriate and diversified thematic coverage for investment windows.

4. The strategic board shall include representatives of the Commission, all Member States and the European Investment Bank (EIB).

The European Parliament shall have observer status. Participation in the strategic board may be open to other relevant stakeholders. The strategic board shall decide on the inclusion of any new member or observer.

Without prejudice to specific arrangements on co-chairing, the strategic board shall be chaired by the Commission, and shall, to the extent possible, adopt opinions by consensus.

Participation in the meetings of the strategic board shall be voluntary.

5. Before the first meeting of the strategic board, the Commission shall propose the rules of procedure for adoption by the strategic board, including rules on participation of representatives in the Western Balkans Investment Framework, the role of observers and on the designation of co-chairs.

The minutes and agendas of the meetings of the strategic board shall be made public following their adoption.

6. The Commission shall report every year to the strategic board about the progress made in respect of the implementation of the operations covering the Western Balkans.

## Chapter VI

### Monitoring, reporting and evaluation

#### *Article 13*

##### *Monitoring, audit, evaluation and protection of the Union's financial interests*

1. Article 41 of Regulation (EU) 2021/947 in relation to monitoring and reporting shall apply to this Regulation *mutatis mutandis*. The annual report referred to in Article 41(5) of Regulation (EU) 2021/947 shall also contain information on commitments and payments per instrument (IPA, IPA II and IPA III).
2. The key performance indicators for monitoring the implementation and progress of IPA III towards the achievement of the specific objectives set out in Article 3 are listed in Annex IV to this Regulation.
3. For cross-border cooperation with Member States, the indicators shall be those referred to in Article 34 of Regulation (EU) 2021/1059.
4. In addition to the indicators listed in Annex IV, the reports accompanying the annual Commission communication on the Union's enlargement policy and the Commission's assessments of the economic reform programmes shall be taken into account in the results framework of IPA III assistance.



5. In addition to the elements referred to in Article 41(5) and (6) of Regulation (EU) 2021/947, the annual report shall contain information on the commitments for specific objectives referred to in Article 3 of this Regulation.
6. Article 42 of Regulation (EU) 2021/947 in relation to the mid-term and the final evaluation shall apply *mutatis mutandis*.
7. In addition to Article 129 of the Financial Regulation on the protection of the financial interests of the Union, under indirect management, beneficiaries listed in Annex I to this Regulation shall report any irregularities, including fraud, which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and shall keep the Commission informed of the progress of any administrative and legal proceedings in relation to such irregularities. Such reporting shall be done by electronic means, using the Irregularity Management System, established by the Commission.

## **Chapter VII**

### **Final provisions**

#### *Article 14*

##### *Delegation of power*

The Commission is empowered to adopt delegated acts in accordance with Article 15 to amend Annexes II, III and IV and a delegated act to supplement this Regulation in order to set out certain specific objectives and thematic priorities for assistance as referred to in Article 3(6).

#### *Article 15*

##### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 14 shall be conferred on the Commission for the period of validity of this Regulation.

3. The delegation of power referred to in Article 14 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 14 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 16*

##### *Adoption of further implementing rules*

Specific rules establishing uniform conditions for implementing this Regulation, in particular in relation to the structures to be set up in preparation for accession and to rural development assistance, shall be adopted by the Commission in accordance with the examination procedure referred to in Article 17(3).

*Article 17*  
*Committee procedure*

1. The Commission shall be assisted by a committee for the Instrument for Pre-accession Assistance (the 'IPA III committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. The IPA III committee shall assist the Commission to fulfil the objectives referred to in Article 3 in light of the annual assessment provided by the Commission in accordance with Article 7(6) and Article 13(5).
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. The rules of procedure of the IPA III committee shall provide for proportionate time limits allowing committee members early and effective opportunities to examine the draft implementing acts and express their views, in accordance with Article 3 of Regulation (EU) No 182/2011.
5. Where the opinion of the committee is to be obtained by a written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so requests.

6. An observer from the EIB shall take part in the IPA III committee's proceedings with regard to questions concerning the EIB.
7. The IPA III committee shall assist the Commission and shall be competent also for legal acts and commitments under Regulations (EC) No 1085/2006 and (EU) No 231/2014 and the implementation of Article 3 of Regulation (EC) No 389/2006.
8. The IPA III committee shall not be competent for the contribution to Erasmus+ as referred to in Article 5(3).

### *Article 18*

#### *Information, communication and visibility*

1. The recipients of Union funding under IPA III shall acknowledge the origin of, and ensure the visibility of, the Union funding, in particular when promoting and reporting on the actions and their results, by highlighting the support received from the Union and its benefits for people in a visible manner in communication materials related to the actions supported under this Regulation and by providing coherent, effective and proportionate targeted information to multiple audiences in a strategic manner, including to the media and the public.

Agreements concluded with recipients of Union funding under IPA III shall contain obligations in that respect.

Agreements concluded with beneficiaries listed in Annex I shall include the principles to be followed in visibility and communication activities and the objectives of those activities, and a clear obligation to actively publicise information about programmes and actions under IPA III.

In order to improve the results of communication activities for cross-border cooperation programmes between the beneficiaries listed in Annex I, specific joint communication activities shall be planned.

Actions under IPA III shall be carried out in accordance with communication and visibility requirements in Union-financed external actions and in other relevant guidelines.

2. The Commission shall carry out information and communication actions relating to IPA III and its actions and results, in particular at local and regional level, in order to ensure the visibility of the Union's financial assistance. Financial resources allocated under IPA III shall also contribute to the corporate communication of, and reporting on, the political priorities of the Union, as far as these priorities are directly related to the objectives referred to in Article 3.
3. IPA III shall support strategic communication and public diplomacy, including the fight against disinformation, with a view to communicating the Union's values as well as the added value of, and results achieved by the Union's actions.

4. The Commission shall make publicly available relevant information on all actions financed under this Regulation in accordance with Article 38 of the Financial Regulation, including as appropriate through a comprehensive single website.
5. Where security issues or political sensitivities may make it preferable or necessary to limit communication and visibility activities in certain countries or areas or during certain periods, the target audience and the visibility tools, products and channels to be used in promoting a given action shall be determined on a case-by-case basis, in consultation with and in agreement with the Union. Any such exceptions shall be duly justified and their scope shall be specified and limited in each case. Where rapid intervention is required in response to a sudden crisis, it shall not be necessary to produce a full communication and visibility plan immediately. In such situations, however, the Union's support shall nevertheless be appropriately indicated from the start.

## *Article 19*

### *Transitional provisions*

1. This Regulation shall not affect the continuation or modification of actions under Regulations (EC) No 1085/2006 or (EU) No 231/2014, which shall continue to apply to those actions until their closure. Chapter III of Title II of Regulation (EU) 2021/947 shall apply to those actions, except for Article 28(1) and (3) thereof, instead of which Articles 8(4), 10(1) and 10(3) of Regulation (EU) No 236/2014 of the European Parliament and of the Council<sup>1</sup> shall apply.
2. The financial envelope for IPA III may also cover technical and administrative assistance expenses necessary to ensure the transition between the measures adopted under IPA II and under IPA III, as well as any activities related to the preparation of the successor programme for pre-accession assistance.
3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

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<sup>1</sup> Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77 15.3.2014, p. 95).



*Article 20*  
*Entry into force*

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

It shall apply from 1 January 2021.

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

Done at ...,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

The Republic of Albania

Bosnia and Herzegovina

Iceland

Kosovo\*

Montenegro

The Republic of North Macedonia

The Republic of Serbia

The Republic of Turkey

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

## ANNEX II

### THEMATIC PRIORITIES FOR ASSISTANCE

Assistance may, as appropriate, address the following thematic priorities:

- (a) **Establishing and promoting from an early stage the proper functioning of the institutions necessary to secure the rule of law and further consolidating democratic institutions.** Interventions in this area shall aim at: establishing independent, accountable, impartial, professional, depoliticised, and efficient judicial systems, including through transparent and merit-based recruitment, evaluation and promotion systems and effective disciplinary procedures in cases of wrongdoing, and promoting judicial cooperation; ensuring access to justice; promoting police cooperation and information exchange; developing effective tools to prevent and fight organised crime, trafficking in human beings and of small arms and light weapons, migrants smuggling, drug trafficking, money laundering/financing of terrorism and corruption; supporting engagement with the Union on counter-terrorism and preventing radicalisation; and promoting and protecting human rights, including non-discrimination and gender equality, the rights of the child, rights of persons belonging to minorities including national minorities and Roma, as well as rights of lesbian, gay, bisexual, transgender and intersex persons, and fundamental freedoms, including freedom of expression, freedom of the media, freedom of assembly and association and data protection.

- (b) **Strengthening capacities to face migration challenges at regional and international level.** Interventions in this area shall aim at: sharing relevant information, further consolidating border and migration management capacities, ensuring access to international protection, enhancing border control and efforts to tackle irregular migration and addressing forced displacement.
- (c) **Enhancing capacities for strategic communication, including communicating to the public about necessary reforms for meeting the Union's membership criteria.** Efforts in this area shall aim at supporting further development of independent and pluralistic media and media literacy and shall serve, inter alia, as a means of building capacities in the area of cyber-security and increasing state and societal resilience to disinformation and other forms of hybrid threats.
- (d) **Enhancing good governance and reforming public administration in line with the principles of public administration.** Interventions shall aim at: strengthening public administration reform frameworks, including in the field of public procurement, improving strategic planning and inclusive and evidence-based policy and legislative development; enhancing professionalisation and de-politicisation of public service by embedding meritocratic principles; promoting transparency and accountability; improving the quality and delivery of services, including adequate administrative procedures and the use of citizen-centred eGovernment; strengthening public financial management; and improving the production of good quality statistics.

- (e) **Strengthening fiscal and economic governance.** Interventions shall aim at: supporting the implementation of the economic reform programmes and systematic cooperation with international financial institutions on fundamentals of economic policy and strengthening of economic institutions; enhancing the capacity to strengthen macroeconomic stability and social cohesion; supporting sustainable development and progress towards becoming a functioning market economy with the capacity to cope with competitive pressures and market forces within the Union; and advancing towards the Common Regional Market.
- (f) **Strengthening all aspects of good neighbourly relations, regional stability and mutual cooperation.**
- (g) **Strengthening the capacity of the Union and its partners to prevent conflict, build peace and address pre- and post-crisis needs,** including through: early warning and conflict-sensitive risk analysis; promoting people to people networking, reconciliation, peace-building and confidence-building measures, initiatives promoting reconciliation, transitional justice, truth-seeking, reparations and guarantees of non-recurrence (such as RECOM); and supporting capacity building in support of security and development (CBSD) actions in accordance with Article 9 of Regulation (EU) 2021/947.

- (h) **Strengthening the capacities, independence and plurality of civil society organisations** and social partners' organisations, including professional associations, in beneficiaries listed in Annex I and encouraging networking at all levels among Union-based organisations and those of beneficiaries listed in Annex I, enabling them to engage in an effective dialogue with public and private actors.
- (i) **Promoting the alignment of beneficiaries' rules, standards, policies and practices with those of the Union**, including public procurement and State aid rules.
- (j) **Promoting gender equality and the empowerment of women and girls**. Interventions in this area shall aim at: establishing a more enabling environment for the fulfilment of women's and girls' rights and achieving real and tangible improvements in gender equality in strategic policy areas such as freedom from all forms of gender-based violence; sexual and reproductive health and rights; economic and social rights and the empowerment of women and girls; equal participation and leadership; women, peace and security; and the gender dimension of green and digital transformations, including through supporting gender budgeting.

- (k) **Strengthening access to and the quality of education, training and lifelong learning at all levels, and offering support to cultural and creative sectors and sport.** Interventions in this area shall aim at: promoting equal access to quality early childhood education and care, primary and secondary education; improving the provision of basic skills; increasing educational attainment levels; tackling brain drain; reducing early school-leaving; reinforcing teachers' training; empowering children and youth and enabling them to reach their full potential; developing vocational education and training systems and promoting work-based learning systems to facilitate the transition to the labour market, including for persons with disabilities; improving the quality and relevance of higher education and research; encouraging alumni related activities; and enhancing access to lifelong learning and supporting investment in education and accessible training infrastructure, particularly with a view to reducing territorial disparities and fostering non-segregated inclusive education and including through the use of accessible digital technologies.

- (1) **Fostering quality employment and access to the labour market.** Interventions in this area shall aim at tackling high unemployment and inactivity by supporting sustainable labour market integration in particular of young people (especially those not in employment, education or training), women, long-term unemployed and all under-represented groups. Measures shall stimulate quality job creation and support the effective enforcement of labour rules and standards across the entire territory in line with the key principles and rights defined in the European Pillar of Social Rights. Other key areas of intervention shall be supporting gender equality and youth and promoting employability and productivity, the adaptation of workers and enterprises to change, the establishment of a sustainable social dialogue and the modernisation and strengthening of labour market institutions such as public employment services and labour inspectorates.



- (m) **Promoting social protection and inclusion and combating poverty.** Interventions in this area shall aim at modernising social protection systems to provide effective, efficient and adequate protection throughout all stages of a person's life, promoting the transition from institutional to family and community-based care, fostering social inclusion, promoting equal opportunities and addressing inequalities and poverty. Interventions in this area shall also focus on: integrating marginalised communities such as the Roma; combating discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation; and enhancing access to affordable, sustainable and high quality services, such as early childhood education and care, housing, healthcare and essential social services and long term care, including through the modernisation of social protection systems.
- (n) **Promoting smart, sustainable, inclusive and safe transport, removing bottlenecks in key network infrastructures, and enhancing energy security and diversification,** by investing in projects with high European added-value. The investments should be prioritised according to their relevance to TEN-T connections with the Union, cross-border links, job creation, contribution to sustainable mobility, reduced emissions, environmental impact and safe mobility, in synergy with the reforms promoted by the Transport Community Treaty. Interventions in the area of energy shall aim at increasing energy efficiency and sustainable production as well as diversifying supplier countries and routes.

- (o) **Improving the private-sector environment and competitiveness of enterprises, in particular of SMEs**, including smart specialisation, as key drivers of growth, job creation and cohesion. Priority shall be given to sustainable projects which improve the business environment.
  
- (p) **Improving access to digital technologies and services and strengthening research, technological development and innovation** by investing in digital connectivity, digital trust and security, digital skills and entrepreneurship, in capacity building in research and innovation systems, in mobility, in research infrastructure and in enabling environment and by promoting networking and collaboration.
  
- (q) **Contributing to the security and safety of the supply of food and water** and the maintenance of diversified and viable farming systems in vibrant rural communities and the countryside.

- (r) **Protecting the environment and improving the quality of the environment**, addressing environmental degradation and halting biodiversity loss, promoting the conservation and sustainable management of terrestrial and marine ecosystems and renewable natural resources, investing in air quality, water and waste management and sustainable chemical management, promoting resource efficiency, sustainable consumption and production and supporting the transition to green and circular economies, contributing to the reduction of greenhouse gas emissions, increasing resilience to climate change and promoting climate action governance and information and energy efficiency. IPA III shall promote policies to support the shift towards a resource-efficient, safe and sustainable low-carbon economy and strengthen disaster resilience as well as disaster prevention, preparedness and response.
- (s) **Cooperating with the beneficiaries listed in Annex I in the peaceful use of nuclear energy in the areas of health, agriculture and food safety**, ensuring full compliance with the highest international standards, as well as supporting actions addressing the consequences on the local population exposed to any radiological accident and aiming at improving their living conditions, and promoting knowledge-management, training and education in nuclear-related fields. Where applicable, these activities shall be coherent with those of the European Instrument for Nuclear Safety and in line with Regulation (EU) 2021/947.

- (t) **Increasing the ability of the agri-food and fisheries sectors to cope with competitive pressure and market forces** as well as to progressively align with the Union rules and standards, while pursuing economic, social and environmental goals in balanced territorial development of rural and coastal areas.
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### ANNEX III

#### THEMATIC PRIORITIES FOR ASSISTANCE FOR CROSS-BORDER COOPERATION BETWEEN BENEFICIARIES LISTED IN ANNEX I

With a view to promoting good neighbourly relations, fostering Union integration and promoting socio-economic development, assistance for cross-border cooperation may address the following thematic priorities, as appropriate:

- (a) promoting employment, labour mobility and social and cultural inclusion across borders through, inter alia: integrating cross-border labour markets, including cross-border mobility; joint local employment initiatives; information and advisory services and joint training; gender equality; equal opportunities; integration of immigrants' communities and vulnerable groups; investment in public employment services; and supporting investment in public health and social services;

- (b) protecting the environment and promoting adaptation to climate change, the mitigation of climate change, and risk prevention and management through, inter alia: joint actions for environmental protection; promoting sustainable use of natural resources, coordinated maritime spatial planning, resource efficiency and circular economy, renewable energy sources and the shift towards a safe and sustainable low-carbon, green economy; improving air and water quality, including by enhancing alignment with European environmental standards, and waste and water management; promoting investment to address specific risks; ensuring disaster resilience and disaster prevention, preparedness and response; and promoting and enhancing international coordination of transboundary rivers;
- (c) promoting sustainable transport and improving public infrastructures by, inter alia, reducing isolation through improved access to transport, digital networks and services and investing in cross-border water, waste and energy systems and facilities;
- (d) promoting the digital economy and society by, inter alia, the deployment of digital connectivity and the development of eGovernment services, digital trust and security as well as digital skills and entrepreneurship;
- (e) encouraging tourism, especially sustainable tourism, and preserving and promoting cultural and natural heritage;

- (f) investing in youth, sport, education and skills through, inter alia, developing and implementing joint education, vocational training, training schemes and infrastructure supporting joint youth activities;
  - (g) promoting local and regional governance and enhancing the planning and administrative capacity of local and regional authorities;
  - (h) promoting cross-border initiatives to foster reconciliation and transitional justice (such as RECOM);
  - (i) enhancing competitiveness, the business environment and the development of SMEs, trade and investment through, inter alia, the promotion of and support to entrepreneurship, in particular in relation to SMEs, and the development of local cross-border markets and internationalisation, also contributing to the Common Regional Market;
  - (j) strengthening research, technological development, innovation and digital technologies, inter alia, through promoting mobility and through the sharing of human resources and facilities for research and technology development.
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## ANNEX IV

### LIST OF KEY PERFORMANCE INDICATORS

The following list of key performance indicators shall be used to help measure the progress and, where appropriate, readiness by beneficiaries listed in Annex I and the Union's contribution to the achievement of the specific objectives of IPA III:

1. Composite indicator<sup>1</sup> on political criteria (source: European Commission).
2. Attitude towards the EU: Percentage of population with a positive general attitude towards the EU (source: European Commission/EU Delegations).
3. Composite indicator on Union *acquis* alignment (source: European Commission).
4. Composite indicator on economic criteria (source: European Commission).
5. Expenditure on social protection as % of GDP (source: Eurostat) and Employment Rate of persons aged 20 to 64 and changes in the Gini coefficient of a beneficiary over time (source: Eurostat).

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<sup>1</sup> The indicator includes 5 elements:

- Functioning of judiciary
- Fighting against corruption
- Fighting against organised crime
- Freedom of expression (which is an element of fundamental rights)
- Public administration reform.



6. Digital skills (source: Eurostat).
7. 'Ease of doing business' (source: World Bank).
8. Energy intensity measured in terms of primary energy and GDP (source: Eurostat). Share of renewable energy in gross final energy consumption % (source: Eurostat).
9. Greenhouse Gas (GHG) emissions avoided (tonnes CO<sub>2</sub>-eq) with IPA III support (source: European Commission). PM 10 concentrations compared to the EU daily limit value (50 µg/m<sup>3</sup>); (Source: European Environmental Agency).
10. Areas of marine, terrestrial and freshwater ecosystems under a) protection, b) sustainable management with IPA III support.
11. Good neighbourly relations, such as number of cross-border partnerships established, formalised and implemented, percentage of intra-regional trade to GDP (Source of data: National statistics, Regional Cooperation Council), number of persons crossing the border/day, and number of goods transporting vehicles crossing the border every day<sup>1</sup> (Source: Transport Observatory).

Indicators will, where relevant and possible, and where data is available, be disaggregated by gender and age.

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<sup>1</sup> Data on the latter to only be available from 2023 onwards.