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(pursuant to Article 322(1), TFEU)

**concerning the proposal for a
Regulation of the European
Parliament and of the Council on
establishing the Reform and Growth
Facility for the Western Balkans
[Interinstitutional File
2023/0397(COD) of 8 November
2023]**

Contents

	Paragraph
Introduction	01-09
Context	01-03
Scope and limitations of this opinion	04-09
Scope	04-07
Limitations	08-09
Specific comments	10-56
Explanatory memorandum	10-11
Assessment of the Western Balkan countries' needs	10-11
Chapter I – General provisions	12-19
Objectives of the facility	12-14
Preconditions for support	15-19
Chapter II – Financing and implementation	20-29
An increase in the EU budget	22-23
Allocation of funds	24-28
Derogations from the Financial Regulation and from the NDICI Regulation	29
Chapter III – Reform Agendas	30-45
Reform Agendas to be submitted by the Western Balkan countries	30-36
Pre-financing	37
Highly concessional loans	38-42
Western Balkans Investment Framework	43-45
Chapter IV – Protection of the financial interests of the Union	46-52
ECA audit rights	46-49
National internal control systems and National Audit Authorities	50-52
Chapter V – Monitoring, reporting and evaluation	53
Chapter VI – Final provisions	54
Legislative financial statement	55-56
Concluding remarks	57-60

Annexes

Annex I – Previous ECA reports and opinions taken into account for this opinion

Annex II – Comparison of the objectives of the proposal and the IPA III Regulation

Annex III – Agreements to be concluded after the entry into force of the Reform and Growth Facility for the Western Balkans Regulation

Annex IV – Derogations from the Financial Regulation and the NDICI Regulation

Annex V – Overview of the Western Balkan countries' preparedness in the area of financial control

Introduction

Context

01 Since the early 2000s, six Western Balkan countries – Albania, Bosnia and Herzegovina, Kosovo¹, Montenegro, North Macedonia and Serbia – have aspired to EU membership. One requirement for EU accession is a functioning market economy. However, the Western Balkans’ economic convergence with the EU has been considered insufficient for many years². As part of the enlargement process, the EU has been financially supporting the socio-economic development of the Western Balkan countries. This support comes in addition to other forms of assistance, which promote essential reforms related to EU values and alignment with the EU legislative *acquis*. For the 2021-2027 multiannual financial framework (MFF) the EU is making more than €14 billion available to pre-accession countries (including support for Türkiye) under the Instrument for Pre-accession Assistance (IPA III).

02 On 8 November 2023, the Commission proposed to establish a **Reform and Growth Facility for the Western Balkans** (the proposal)³ as part of a new growth plan for the region⁴. This facility would provide additional support of **up to €6 billion** to the six Western Balkan countries between 2024 and 2027. The new growth plan builds upon and provides further impetus for economic priorities set in the Economic and Investment Plan presented in 2020⁵.

03 The objective of the proposed facility is to “accelerate regional economic integration, progressive integration with the Union single market, socio-economic convergence of Western Balkans economies and alignment with Union laws, rules, standards, policies and practices with a view to Union membership”⁶. The facility is

¹ This designation (used throughout this opinion) is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244/1999 and the International Court of Justice Opinion on the Kosovo declaration of independence.

² COM(2023) 690, 2023 Communication on EU Enlargement Policy, 8.11.2023, p. 11.

³ COM(2023) 692, Proposal for a Regulation of the European Parliament and of the Council on establishing the Reform and Growth Facility for the Western Balkans, 8.11.2023.

⁴ COM(2023) 691, New growth plan for the Western Balkans, 8.11.2023.

⁵ COM(2020) 641, An Economic and Investment Plan for the Western Balkans, 6.10.2020.

⁶ Recital 9 of the proposal.

expected to become operational in 2024, subject to the outcome of the legislative procedure.

Scope and limitations of this opinion

Scope

04 The Commission published the proposal for establishing the Reform and Growth Facility for the Western Balkans on 8 November 2023. The legal basis for the proposal is Articles 212 and 322(1) of the Treaty on the Functioning of the EU, meaning that the European Court of Auditors (ECA) must be consulted as part of the legislative process. The Council submitted a formal request for an ECA opinion on 20 December 2023 and invited the ECA to submit its opinion by 9 February 2024 at the latest. The European Parliament submitted its formal request for an opinion on 25 January 2024. This opinion fulfils the consultation requirement.

05 In June 2023, the Commission presented a communication on the mid-term revision of the 2021-2027 multiannual financial framework⁷ accompanied by a proposal to amend the MFF Regulation⁸. The latter proposed, among others, to increase the funding available under MFF Heading 6 'Neighbourhood and the world'. We refer to these Commission documents where we consider appropriate.

06 This opinion is based on a review of the legislative proposal on establishing the Reform and Growth Facility for the Western Balkans and the related documents, such as the explanatory memorandum and the legislative financial statement. We consulted the Commission's Directorates-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and Budget (DG BUDG). We complemented our review by analysing research papers from sources such as the European Parliament Research Service. This opinion takes into account a series of previous ECA special reports and opinions on the EU enlargement process and financial assistance to third countries (see [Annex I](#)).

⁷ COM(2023) 336, Communication from the Commission on the Mid-term revision of the Multiannual Financial Framework 2021-2027, 20.6.2023.

⁸ COM(2023) 337, Proposal for a Council Regulation amending the multiannual financial framework, 20.6.2023.

07 The opinion expresses our views on the legislative proposal and contributes to the legislative procedure by making suggestions on how to clarify certain parts of the proposal with the aim of improving the financial management of EU funds⁹.

Limitations

08 The Commission proposed establishing the Reform and Growth Facility for the Western Balkans without preparing an impact assessment, stating in its explanatory memorandum that this was due to “the political urgency of the proposal”¹⁰. This limited our ability to issue a fully informed opinion.

09 The Commission planned to publish an analytical document “presenting the evidence behind the proposal” within three months of the initiative’s adoption¹¹, meaning by 8 February 2024. However, when the ECA adopted this opinion on 30 January 2024, the Commission had not yet published the document. This meant that we could not consider it in our opinion.

⁹ Opinions in the [Guide to our methodology](#), pp. 24-25.

¹⁰ Explanatory memorandum in the proposal, p. 5.

¹¹ *Ibid.*, p. 5.

Specific comments

Explanatory memorandum

Assessment of the Western Balkan countries' needs

10 The Commission presented the proposal for setting up the facility together with a communication on a new growth plan for the Western Balkans. In this communication, the Commission stressed that the Western Balkan countries' economic convergence with the EU was considered as "not satisfactory"¹², while describing it elsewhere as "insufficient"¹³. Their GDP per capita ranges from 30 % to 50 % of the EU average. The aim of the new growth plan is to "significantly accelerate the speed of the enlargement process and the growth of the [Western Balkan countries'] economies"¹⁴. It consists of four pillars:

- (1) enhancing economic integration with the EU's single market;
- (2) boosting economic integration within the Western Balkans through the Common Regional Market, an economic initiative agreed by the six Western Balkan countries in 2020;
- (3) accelerating fundamental reforms;
- (4) increasing financial assistance through a Reform and Growth Facility for the Western Balkans.

11 The new growth plan builds upon and provides further impetus for economic priorities set in the Economic and Investment Plan presented in 2020¹⁵. The Commission considers the facility to be the "centrepiece" of the plan¹⁶. The Commission's communication on the growth plan explains why it is needed to enhance the convergence of the Western Balkan economies with the EU. It also highlights various benefits that the measures under the growth plan and the proposed facility

¹² COM(2023) 691, New growth plan for the Western Balkans, p. 1.

¹³ Explanatory memorandum in the proposal, p. 1.

¹⁴ COM(2023) 691, New growth plan for the Western Balkans, p. 1.

¹⁵ COM(2020) 641, An Economic and Investment Plan for the Western Balkans.

¹⁶ Explanatory memorandum in the proposal, p. 1.

would bring to the region. However, in the absence of an impact assessment or an analytical document (see paragraphs 08 and 09), we were unable to assess the extent to which the intended €6 billion in support from the facility is likely to contribute to the achievement of the facility's main objectives of accelerating economic integration and convergence of the Western Balkan countries' economies with the EU.

Chapter I – General provisions

Objectives of the facility

12 The general objectives in Article 3(1) are to:

- (a) accelerate regional economic integration and gradual integration with the EU's single market;
- (b) accelerate the socio-economic convergence of beneficiaries' economies with the EU;
- (c) accelerate alignment with EU values, laws, rules, standards, policies and practices with a view to EU membership.

13 The specific objectives in Article 3(2) largely correspond to several of those defined under the IPA III¹⁷. The comparison of the objectives in *Annex II* also shows that the facility places greater emphasis on the Western Balkan countries' economic reforms, regional economic integration and gradual integration into the EU's single market¹⁸.

14 The proposal to establish the facility leaves many important aspects to be defined as part of subsequent agreements – i.e. the Facility Agreement, the Reform Agendas, and loan agreements – which will be concluded only once the proposed Regulation has entered into force. For instance, only the Reform Agendas, which are to be drawn up by the governments of the Western Balkan countries (see paragraphs 30-36), will set

¹⁷ Regulation (EU) 2021/1529 of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance, 15.9.2021.

¹⁸ As defined in Article 3(2)(a), (b), (c) and (d).

out detailed measures on how to implement the aforementioned specific objectives¹⁹. [Annex III](#) summarises the different agreements to be put in place.

Preconditions for support

15 Article 5 defines two sets of preconditions that the countries need to observe to be eligible for funding:

- (a) the Western Balkan countries must “continue to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and to guarantee respect for all human rights obligations, including the rights of persons belonging to minorities”; and
- (b) Kosovo and Serbia must “engage constructively in the normalisation of their relations”.

16 The first precondition relates to the countries’ progress in the area of ‘fundamentals’ of the enlargement process²⁰. This provision corresponds to similar provisions for other external action instruments. It constitutes an eligibility criterion for the beneficiary countries to receive funding under the facility. The Commission considers that the Western Balkan countries are fulfilling these general principles.

17 The Commission monitors the progress toward these ‘fundamentals’ and in its latest communication on EU enlargement noted that “in a number of enlargement countries there was some progress” in the area of fundamental rights. It also pointed out that “some negative trends continued, with gender-based violence remaining prevalent, while freedom of media continued to be hindered by political and economic interests, which weakens control over public authorities, opens space for foreign interference and undermines communication about the EU”²¹. In addition, the latest enlargement reports for the Western Balkan countries²² show that their preparedness in the area of “Judiciary and fundamental rights” varied from “some level of preparation” to “moderately prepared” for applying the EU legislative *acquis* in this area.

¹⁹ Article 11(2) and Article 13(1) of the proposal.

²⁰ As defined in Article 3(2)(i).

²¹ [COM\(2023\)690](#), 2023 Communication on EU Enlargement Policy, p. 9.

²² Commission press release on the [2023 Enlargement package](#).

18 The second precondition requires engagement with a view to full implementation of the [Agreement on the path to normalisation between Kosovo and Serbia](#) of February 2023 and its implementation annex. However, the Council recently stated that it “regrets the lack of implementation by both parties of this Agreement”²³ and of other previous commitments also mentioned in Article 5(1) of the proposal. This illustrates one of the challenges ahead for the facility.

19 It is important that the Commission continue to monitor the fulfilment of both preconditions as part of the yearly enlargement reports, as envisaged in Article 5(2) of the proposal. If a country breaches the conditions, the Commission may decide to withhold funds. However, to clarify this provision, the **Commission and legislators should consider** using the following wording for the last sentence of Article 5(2): “The Commission may adopt a decision concluding that some of these preconditions are not met, and ~~in particular,~~ **in such cases, should** withhold the release of funds [...]”.

Chapter II – Financing and implementation

20 The maximum resources envisaged for the facility are €6 billion for the 2024-2027 period. The facility is to be financed as follows:

- (a) €2 billion in non-repayable support (grants, provisions covering the loans, and administrative support) under MFF Heading 6 ‘Neighbourhood and the world’ as part of the 2021-2027 MFF revision²⁴; and
- (b) €4 billion in the form of highly concessional loans financed through borrowing operations on the financial markets (see paragraphs [38-42](#)).

21 Considering that for the current MFF the EU has made over €14 billion available to pre-accession countries (including support for Türkiye) under the IPA III, the amounts to be provided through the facility represent a substantial increase in the funding envisaged for the Western Balkan countries. This corresponds to an estimated increase of over 40 % in the support made available over the 2021-2027 financing period.

²³ [Council conclusions on Enlargement](#), ref. 16707/23, 12.12.2023, point 37.

²⁴ [COM\(2023\) 337](#), Proposal for a Council Regulation amending the multiannual financial framework, Article 1(5) and [Annex I](#).

An increase in the EU budget

22 To finance the €2 billion in non-repayable support under the facility, the Commission proposed to increase MFF Heading 6. This increase is part of a mid-term revision of the MFF, which would include increasing the ceiling for MFF Heading 6 by €10.5 billion (at current prices)²⁵.

23 Rather than increasing funding under the existing IPA III instrument, the Commission opted for the creation of a separate facility. The Commission justified this choice by highlighting the differences with the IPA III, such as the use of a performance-based instrument, including the use of *ex-ante* conditionality to determine access to funding, and the use of two thirds of the facility for loans. The Commission also highlighted the impossibility of redeploying funds under the IPA III²⁶.

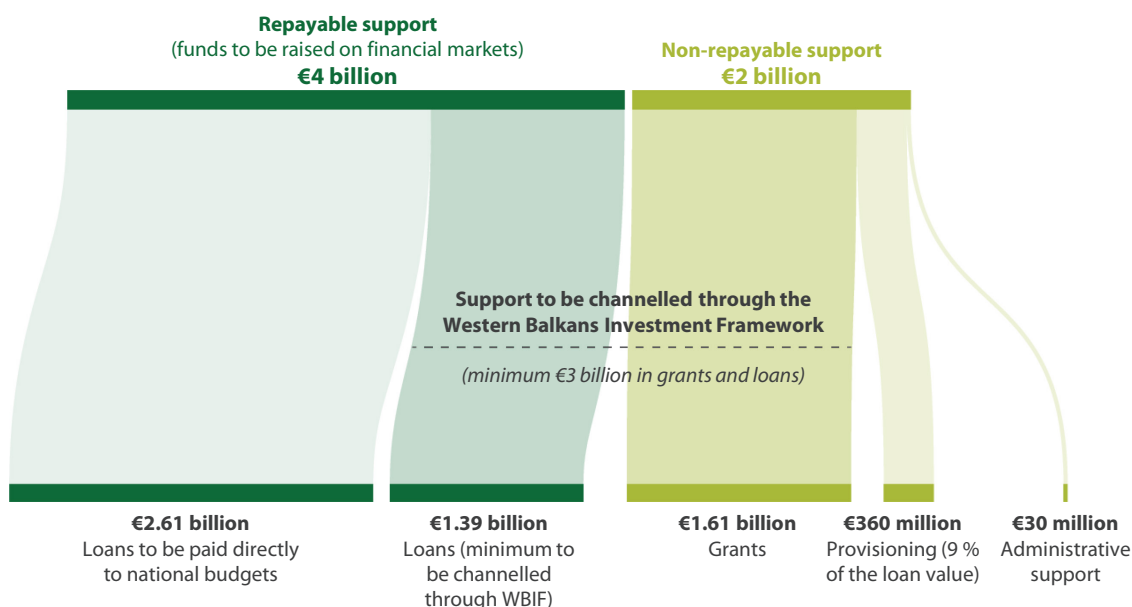
Allocation of funds

24 Article 6 provides for the allocation of funds, with an overall split of two thirds for loans and one third for non-repayable support (comprising grants, provisions backing the loans and other forms of support, and administrative assistance) (see [Figure 1](#)).

²⁵ Communication on the Mid-term revision of the MFF 2021-2027, p. 6.

²⁶ Point 1.5.5 of the legislative financial statement.

Figure 1 – Budget for the Facility



Source: ECA, based on the legislative proposal on establishing the Reform and Growth Facility for the Western Balkans

25 At least 50 % of the envisaged total of €6 billion is to be channelled through the [Western Balkans Investment Framework \(WBIF\)](#)²⁷. The WBIF is a dedicated international investment platform composed of the Commission, international financial institutions, EU member states' bilateral development banks, and bilateral donors (see paragraphs [43-45](#)).

26 In accordance with Article 6(4) of the proposal, the Commission would set the amounts available for each beneficiary country using a succinct formula laid down in an annex to the proposal, combining the population size of a beneficiary country and its GDP per capita²⁸. The support under the facility will be provided to the beneficiary countries in the form of 'financing not linked to cost' as laid down in Article 125(1)(a) of the [Financial Regulation](#).

27 The facility will not replace support being provided to Western Balkan countries under the IPA III. On the contrary, the facility is meant to complement other forms of EU assistance, such as bilateral and regional IPA programmes, as well as cross-border

²⁷ Article 6(5) of the proposal.

²⁸ Annex to [COM\(2023\) 692](#), Proposal for a Regulation on establishing the Reform and Growth Facility for the Western Balkans.

programmes co-financed through the European Fund for Regional Development²⁹. However, given the fact that several of the objectives of the proposed facility are similar to those under the IPA III (see paragraph 13 and *Annex II*), it is essential that the Commission pay particular attention to the coordination of the assistance, as outlined in Article 4(3) of the proposal.

28 As a precondition for releasing funds, Article 9(3) of the proposal requires the Commission and each Western Balkan country to conclude Facility Agreements and loan agreements. These agreements will be legally binding and will set out detailed obligations for the beneficiary countries. Article 9(4) imposes an obligation to protect the EU's financial interests through these agreements. Article 9(5)(g) regulates access to data and documentation under the Facility Agreement. However, this provision would be clearer if the European Court of Auditors were mentioned alongside the Commission and the European Anti-Fraud Office (OLAF) (see paragraph 47).

Derogations from the Financial Regulation and from the NDICI Regulation

29 The entire proposal contains seven derogations from the Financial Regulation and one from the Neighbourhood, Development and International Cooperation Instrument – Global Europe (*NDICI Regulation*). Most of the derogations provide the facility with the necessary flexibility to use unspent funds in another year and with the possibility to channel a proportion of the loans through the WBIF. We list the derogations in *Annex IV*.

Chapter III – Reform Agendas

Reform Agendas to be submitted by the Western Balkan countries

30 In order to receive funding, the governments of the Western Balkan countries must draw up Reform Agendas setting out “the key measures each Beneficiary intends to undertake during the period 2024-2027 to accelerate socio-economic and

²⁹ Regulation (EU) 2021/1059 on specific provisions for the European territorial cooperation goal (Interreg) supported by the ERDF and external financing instruments.

convergence [*sic*] with the EU”³⁰. The Reform Agendas should “serve as an overarching framework to achieve the objectives of this Facility”³¹.

31 The Reform Agendas will have to contain a set of payment conditions relating to the intended reforms³². The Commission will assess the Reform Agendas and approve them through a Commission implementing decision³³. This procedure for creating the Reform Agendas certainly enhances the countries’ ownership. However, it also leaves considerable leeway for the Western Balkan governments to design the conditions for disbursement. In practice, the Reform Agendas form part of a consultation process with the Commission prior to their submission by beneficiary countries. However, it is important to note that the proposal does not explicitly allow the Commission to request that governments review and/or modify the draft Reform Agendas. Given the risks described below, the **Commission and legislators should consider** amending Article 14 in such a way that the Commission can not only *make observations* on the draft Reform Agendas, but also require that the Western Balkan governments *review and/or modify* these accordingly. Such a revision would be aligned with the approval process for the cross-border programmes in which the Western Balkan countries participate³⁴.

32 There is a risk that the disbursement conditions to be set in the Reform Agendas might not be ambitious enough and that the underlying indicators might not be sufficiently clear and measurable. In 2022, our special report regarding the rule of law³⁵ concluded that EU action had had a limited overall impact in advancing fundamental rule-of-law reforms, which are an essential precondition in the EU enlargement process. We recommended that the Commission set strategic targets for each enlargement country by establishing final impact indicators and related milestones regarding fundamental reforms³⁶. For this reason, the Commission should

³⁰ Explanatory memorandum in the proposal, p. 2.

³¹ Recital 24 of the proposal.

³² Article 12(1) of the proposal.

³³ Articles 14 and 15 of the proposal.

³⁴ Article 18(3) and (4) of [Regulation \(EU\) 2021/1059](#) on specific provisions for the European territorial cooperation goal (the Interreg Regulation) supported by the ERDF and external financing instruments.

³⁵ [Special report 01/2022](#): “EU support for the rule of law in the Western Balkans: Despite efforts, fundamental problems persist”.

³⁶ [Special report 01/2022](#), Recommendation 1 – Strengthen the mechanism for promoting rule of law reforms in the enlargement process.

be able to require the countries to review or modify the disbursement conditions and, where relevant, to include such indicators in the Reform Agendas.

33 Another observation stemming from our previous special reports was that it was difficult to make reforms sustainable, particularly given the weak administrative capacity of the Western Balkan countries³⁷. It is unclear from the proposal how the Commission intends to ensure that this risk to sustainability is mitigated. The proposal only presupposes that measures satisfactorily fulfilled by the beneficiary “have not been reversed”³⁸. In the case of fundamental reforms, sustainability is of increased relevance as it is also a precondition for granting support under the facility, in line with Article 5(1) of the proposal (see paragraphs [15-19](#)).

34 The requests for payments to be submitted by the beneficiary countries twice per year are meant to allow the Commission to check that the relevant conditions have been fulfilled before it disburses the funds. If the Commission considers that progress on reforms has not been satisfactory, it can withhold the corresponding amounts until the beneficiary country has fulfilled the relevant conditions³⁹. Crucially, where a beneficiary country has not taken the necessary steps within 12 months of the initial negative assessment (or within 24 months during the first year of implementation), the Commission will reduce the overall support proportionately to the part corresponding to the relevant payment conditions (including the proportion to be channelled through the WBIF)⁴⁰.

35 We welcome the fact that the Commission has increased the use of conditionality for funding through the facility. This new approach corresponds to our past recommendation that the Commission strengthen the mechanism for promoting reforms in the enlargement process⁴¹. According to the proposal, if a country does not meet the payment conditions, the Commission can redistribute some or all of the funding to the other beneficiary countries⁴². This creates an even stronger incentive for the Western Balkan countries to engage with reforms. However, the actual meaning of “satisfactory fulfilment” of the conditions in Article 21(2) is unclear. The

³⁷ [Special report 01/2022](#), paragraph 32; and [special report 21/2016](#) on EU pre-accession assistance for strengthening administrative capacity in the Western Balkans.

³⁸ Article 21(2) of the proposal.

³⁹ Article 21(4) of the proposal.

⁴⁰ Article 21(5) of the proposal.

⁴¹ [Special report 01/2022](#), Recommendation 3 – Reinforce the use of conditionality in IPA III.

⁴² Article 21(8) and recitals 19 and 39 of the proposal.

criterion for triggering the “full or partial release of funds” is also unclear⁴³. Therefore, the **Commission should consider** developing internal guidance for assessing the satisfactory fulfilment of the payment conditions defined in the Reform Agendas. The guidance should also address any potential reversal of the conditions previously fulfilled.

36 Finally, the Commission may reduce the support to be disbursed in the event of identified cases of, or serious concerns in relation to, irregularities, fraud, corruption, and conflicts of interests that have not been corrected by the beneficiary country⁴⁴. The Commission can also base this decision on information provided by OLAF. However, the European Court of Auditors’ reports are not mentioned in this context. Therefore, the **Commission and legislators should consider** explicitly mentioning the European Court of Auditors’ reports at the end of Article 21(7).

Pre-financing

37 Following submission of the Reform Agendas, Western Balkan countries may request a pre-financing payment⁴⁵. Subject to specific conditions set out in Article 20, they could receive pre-financing of up to 7 % of the total support available to them under the facility. This could represent up to €390 million in pre-financing.

Highly concessional loans

38 The proposed facility would allocate €4 billion in loans for the Western Balkan countries. The Commission would finance the loans by borrowing the necessary funds on capital markets or from financial institutions, while applying the *diversified funding strategy* set up in 2022 by the EU as a general borrowing method⁴⁶. The loans would be provided on highly concessional terms, with repayment of the principal starting

⁴³ Article 12(1) of the proposal.

⁴⁴ Article 21(7) of the proposal.

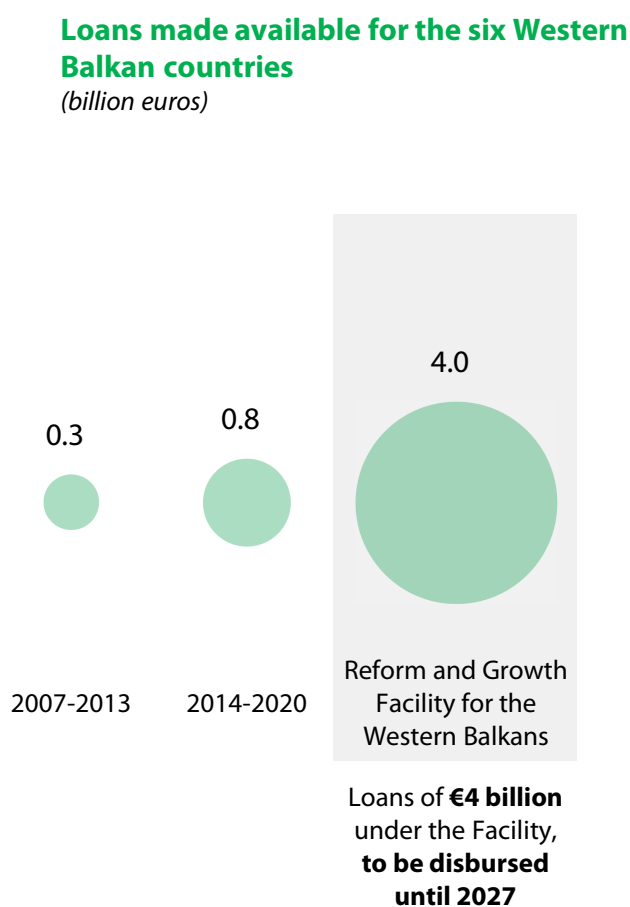
⁴⁵ Article 20 of the proposal.

⁴⁶ See also our [opinion 07/2022](#) on the diversified funding strategy.

only from 2034 and maturity of up to 40 years⁴⁷. This means that their maturity would be even longer than for the 35-year loans provided to Ukraine in 2023⁴⁸.

39 It is important to note that loans proposed under the facility would represent a substantial increase compared to the amounts lent to Western Balkan countries under previous MFFs. *Figure 2* compares previous and currently proposed loans.

Figure 2 – Macro-financial assistance and loans proposed under the Reform and Growth Facility for the Western Balkans



Source: ECA, based on the Commission staff working document [SWD\(2023\) 244](#) accompanying the Report from the Commission on the implementation of macro-financial assistance to third countries in 2022 (Annex 1) and on the [proposal for establishing the Reform and Growth Facility for the Western Balkans](#).

⁴⁷ Recital 36 and Article 17 of the proposal.

⁴⁸ Recital 27 of [Regulation 2022/2463](#) on establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +), 14.12.2022.

40 As required by Article 211(1) of the Financial Regulation, the proposed loans would be backed with a provision to be paid to the EU's common provisioning fund. Article 18(1) of the proposal sets the provisioning rate at 9 % of the loan value. This corresponds to the standard provisioning rate set in Article 31(5) of the [NDICI Regulation](#) for macro-financial assistance and to the rate applied for loans to third countries previously. The provisioning would be paid from the grant part of the facility, for a total amount of €360 million (see [Figure 1](#) above). Article 18(1) of the proposal also allows the Commission to build up the provision gradually over time as the loans are disbursed.

41 In our earlier opinions, we criticised the Commission for not setting up a provision for loans provided to Ukraine and highlighted the risks of guaranteeing the loans directly by the EU budget⁴⁹. We therefore welcome the Commission's decision to propose the standard approach of backing loans to the Western Balkan countries with a 9 % provision.

42 Article 18(2) also requires the Commission to review the provisioning rate "at least every three years". To do so, the Commission would be empowered to adopt delegated acts (see paragraph [54](#)). The frequency for reviewing the provisioning rate is aligned with the requirements set in Article 211(1) of the Financial Regulation. However, as the facility is meant to operate until the end of 2028, in practice the Commission would re-assess the provisioning rate once during the lifetime of the facility.

Western Balkans Investment Framework

43 At least half of all the funds from the facility, i.e. at least €3 billion, would be channelled through the WBIF. This framework has been in place since 2009 and is "a joint financial platform of the European Commission, financial organisations, EU Member States, and Norway aimed at enhancing cooperation in public and private sector investments for the region's socio-economic development and contributing to the European integration of the Western Balkans"⁵⁰. The beneficiary countries participate in this platform as observers. The WBIF secretariat is hosted by the

⁴⁹ [Opinion 07/2022](#) on a diversified funding strategy, in particular paragraphs 15-17; and [opinion 03/2023](#) on the Ukraine Facility, paragraphs 38-45 and 76.

⁵⁰ Press release – European Commission announces additional €680 million investment package for the Western Balkans under the Economic and Investment Plan, 13.12.2023.

European Commission and, at present, the participating international financial institutions are as follows:

- (1) Council of Europe Development Bank;
- (2) European Bank for Reconstruction and Development (EBRD);
- (3) European Investment Bank (EIB) and European Investment Fund;
- (4) World Bank Group, including the International Finance Corporation;
- (5) *Kreditanstalt für Wiederaufbau* (German development bank);
- (6) *Agence Française de Développement* (French development agency).

44 In line with Article 6(5) of the proposal, the funding channelled through the WBIF would include all grants available under the facility (about €1.6 billion) and at least €1.4 billion in loans (see [Figure 1](#) above). Article 19(1) further specifies that this funding would support “infrastructure investments”. To put the intended funding of €3 billion into perspective, it is important to note that the Commission contributed about €2.94 billion in IPA grants to the WBIF for infrastructure investments between 2009 and 2023 (of which €1.59 billion in 2021-2023 under the IPA III).

45 It is important to note that funding through the WBIF would be released gradually according to the countries’ progress with reforms set out in the Reform Agendas⁵¹. Every six months, with each decision authorising the release of funds (as set out in Article 21(3) of the proposal), the Commission would also decide on the proportion of payments to be made available through the WBIF or through the Western Balkan countries’ national budgets.

Chapter IV – Protection of the financial interests of the Union

ECA audit rights

46 The proposal emphasises the need to further strengthen audit and control mechanisms in the Western Balkan countries. It also explicitly recognises the European Court of Auditors’ audit rights (stemming from Articles 285 and 287 TFEU) related to funds spent under the facility. In particular, Article 9(4) of the proposal states that the Facility Agreement, the loan agreements, and agreements with persons or entities

⁵¹ Article 19(5), 19(6), and 19(7) of the proposal.

receiving the funds must “ensure that the obligations set out in Article 129 [of the Financial Regulation on Cooperation for protection of the financial interests of the Union] can be fulfilled”. However, certain provisions of the proposal would benefit from further clarification.

Access to documentation under the Facility Agreement

47 Firstly, Article 9 imposes an obligation to protect the EU’s financial interests through the Facility Agreement to be concluded with each beneficiary country. In particular, the Facility Agreement will set out detailed provisions related to “the commitment of the Beneficiary to progress towards more efficient and effective control systems (...)”⁵² and to “management, control, supervision, monitoring, evaluation, reporting and audit under the Facility, as well as system reviews, investigations, anti-fraud measures and cooperation”⁵³. However, as explained in paragraph **28**, Article 9(5)(g) on access to data and documentation would be clearer if the European Court of Auditors were mentioned alongside the Commission and OLAF. Therefore, in order to avoid misunderstandings about the European Court of Auditors’ audit rights, the **Commission and legislators should consider** explicitly naming the European Court of Auditors in Article 9(5)(g).

Access to documentation under the WBIF

48 As stated earlier, at least half of the funding from the facility (including all grants) would be channelled through a joint fund established under the WBIF and administered by the EBRD and EIB. These sums would be implemented under *indirect management* with the international financial institutions, as laid down in Article 62(1)(c) of the Financial Regulation. The general conditions of the joint fund explicitly provide the European Court of Auditors with audit rights, including access to documentation and the right to carry out on-the-spot visits as required⁵⁴. However, it should be noted that, in the past, one of the six financial institutions participating in the WBIF, the World Bank Group, hindered access to documentation that the European Court of Auditors needed to carry out its audit work properly⁵⁵.

⁵² Article 9(5)(a) of the proposal.

⁵³ Article 9(5)(c) of the proposal.

⁵⁴ General conditions of the European Western Balkans Joint Fund, last amended on 6.9.2023, point 5.11. Commission Scrutiny, p. 35.

⁵⁵ The [ECA’s 2018 annual report](#), 8.10.2019, Box 6, p. 285.

Audit rights related to the loan agreements

49 Article 22(2)(d) of the proposal states that the Facility Agreement must set out the obligation of the beneficiary countries to “expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, the EPPO to exert their rights”. However, unlike Article 9(4) of the proposal that imposes an obligation to protect the EU’s financial interests, Article 22(2) does not explicitly spell out the loan agreements. For the sake of clarity and consistency, and with the aim of avoiding any misunderstanding about the European Court of Auditors’ audit rights, the **Commission and legislators should consider** referring to the loan agreements alongside the Facility Agreement in Article 22(2).

National internal control systems and National Audit Authorities

50 For the loans paid directly to the national budgets, the Commission would rely on the existing internal control systems of the Western Balkan countries⁵⁶. This approach is aligned with the IPA III, under which a proportion of the EU funds is implemented under *indirect management* (except for Bosnia and Herzegovina and Kosovo) with an institutional setup defined in the Financial Framework Partnership Agreements concluded with the countries⁵⁷. The proposed Regulation instructs the national entities to “maintain regular dialogue with the European Court of Auditors, OLAF and, where appropriate, the EPPO”⁵⁸.

51 We welcome the fact that the Commission opted for an established institutional structure. However, the latest enlargement reports from November 2023 pointed out that the Western Balkan countries’ preparedness in the area of financial management varied from “some level of preparation” to “moderately prepared” (see [Annex V](#)). It is also unclear to which entities exactly the term *National Audit Authorities* refers in Article 23. The Commission informed us that this provision concerns National/State Audit Office (Service) in charge of auditing the national budgets. This provision does not concern the IPA Audit Authorities set up for the indirect management of IPA funds.

52 Importantly, the facility is meant to reinforce the audit and control systems of the Western Balkan countries. Article 23(1) states that “The Reform Agendas shall

⁵⁶ Article 23(1) of the proposal.

⁵⁷ See for example the [Financial Framework Partnership Agreement](#) between the European Commission and the Republic of Albania, in particular Articles 10, 11, and 50.

⁵⁸ Article 23(3) of the proposal.

prioritise in the first years of their implementation reforms related to negotiation chapter 32, particularly on public finance management and internal control (...)", as well as other measures such as the fight against fraud, corruption, and organised crime. However, the proposal would be even clearer if these priorities were also clearly stated in Article 13 on the content of the Reform Agendas (see paragraphs 30-36). The **Commission and legislators should therefore consider** referring to these priorities in Article 13(1) of the proposal.

Chapter V – Monitoring, reporting and evaluation

53 Article 24 of the proposal requires the Commission to monitor the implementation of the facility and prepare annual reports on the progress achieved. The proposal also specifies that indicators used for monitoring the facility must be "coherent to the extent possible, with the key corporate indicators included in the Instrument for Pre-Accession Assistance (IPA III) Results Framework, in the EFSD+ Results Measurement Framework and in the WBIF"⁵⁹. We welcome this approach as using indicators coherent with those defined in the [IPA III Regulation](#) has the advantage of aligning the facility with other pre-accession assistance. It would also permit the aggregation of results and facilitate monitoring of progress towards achievement of the facility's objectives. In addition, Article 25 of the proposal requires the Commission to carry out an *ex-post* evaluation of the facility between 2028 and 2031.

Chapter VI – Final provisions

54 Article 26 confers on the Commission the power to adopt delegated acts to amend the provisioning rate for loans, as envisaged under Article 18(3) of the proposal. As stated in paragraph 42, the Commission would re-assess the provisioning rate once during the lifetime of the facility.

Legislative financial statement

55 The legislative financial statement envisages an increase in administrative and human resources for the facility. It shows that administrative costs would amount to

⁵⁹ Article 13(2) of the proposal.

around €34 million in total for the 2024-2027 period⁶⁰. Of this amount, €4 020 000 would be accounted under MFF Heading 7 'European public administration'.

56 The required human resources for the Commission have been estimated at 24 full-time equivalents. This would include six officials and temporary staff, and 18 posts consisting mostly of contract staff. Of the 24, nine staff would be deployed to the EU delegations to Western Balkan countries.

⁶⁰ Legislative financial statement, p. 48.

Concluding remarks

57 One requirement for EU accession is a functioning market economy. However, economic convergence between the Western Balkan countries and the EU has been considered insufficient for many years. The Commission proposed to establish the Reform and Growth Facility for the Western Balkans to boost their economic growth and increase convergence toward the average income level of the EU member states. The proposed facility would provide up to €6 billion in support, with €2 billion in non-repayable support and €4 billion in loans. The amounts represent a substantial increase – estimated at over 40 % – in the funding envisaged for the Western Balkan countries over the 2021-2027 financing period. Given the fact that several of the objectives of the proposed facility are similar to those under the IPA III, it is essential that the Commission pay particular attention to the coordination of the assistance. The proposal envisages backing the loans with a provision set at 9 %. This is the standard provisioning rate for loans to third countries to protect the EU budget against potential losses.

58 The proposal introduces stronger conditionality for funding under the facility by linking payments to the fulfilment of conditions to be set in the Reform Agendas. However, the proposal leaves many aspects to be defined as part of subsequent agreements, which will only be concluded following the entry into force of the Regulation establishing the facility. In particular, the Reform Agendas to be submitted by the Western Balkan governments in consultation with the Commission, will need to define clear conditions for disbursing support.

59 The Commission would rely on an established framework for cooperation with the Western Balkan countries. At least half of the funds from the facility (including all grants) would be channelled through the WBIF, an investment platform in place since 2009. For the loans channelled through national budgets, the Commission would mainly rely on the internal control systems of the beneficiary countries to protect the EU's financial interests. However, some of the countries' authorities have low administrative capacity. Therefore, it is important that the facility prioritise reforms in the area of financial control in the early years of implementation.

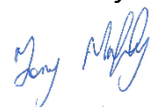
60 As a result of our review of the legislative proposal, we suggest that the **Commission and legislators consider:**

- clarifying the procedure for withholding funds if a beneficiary country breaches a precondition for funding (see paragraph [19](#));

- enabling the Commission to require Western Balkan governments to review and/or modify the Reform Agendas (see paragraph 31);
- developing internal guidance for assessing the satisfactory fulfilment of the payment conditions defined in the Reform Agendas (see paragraph 35);
- explicitly citing ECA reports among documents that could constitute the basis for the Commission's decision to reduce support (see paragraph 36);
- clarifying the ECA's rights to access data and documentation under the Facility Agreement in order to align them with those of the Commission and OLAF (see paragraph 47);
- explicitly mentioning loan agreements in Article 22 on the protection of the EU's financial interests (see paragraph 49);
- mentioning priority reforms in the area of financial control in Article 13 of the proposal, which regulates the content of the Reform Agendas (see paragraph 52).

This opinion was adopted by Chamber III headed by Ms Bettina Jakobsen, Member of the Court of Auditors, in Luxembourg at its meeting of 30 January 2024.

For the Court of Auditors



Tony Murphy
President

Annexes

Annex I – Previous ECA reports and opinions taken into account for this opinion

Special reports dealing with pre-accession countries and the EU enlargement process

Special report 01/2022	EU support for the rule of law in the Western Balkans Despite efforts, fundamental problems persist
Special report 27/2018	The Facility for Refugees in Turkey Helpful support, but improvements needed to deliver more value for money
Special report 07/2018	EU pre-accession assistance to Turkey Only limited results so far
Special report 21/2016	EU pre-accession assistance for strengthening administrative capacity in the Western Balkans A meta-audit
Special report 20/2016	Strengthening administrative capacity in Montenegro Progress but better results needed in many key areas
Special report 11/2016	Strengthening administrative capacity in the former Yugoslav Republic of Macedonia Limited progress in a difficult context
Special report 19/2014	EU Pre-accession Assistance to Serbia
Special report 18/2012	European Union assistance to Kosovo related to the rule of law
Special report 14/2011	Has EU assistance improved Croatia's capacity to manage post-accession funding?

ECA publications dealing with loans to third countries

Opinion 03/2023	Opinion concerning the proposal for a Regulation of the European Parliament and the Council on establishing the Ukraine Facility [2023/0200 (COD)]
2023	Annual reports concerning the 2022 financial year
Special report 05/2023	The EU's financial landscape A patchwork construction requiring further simplification and accountability
Opinion 07/2022	Opinion concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method [2022/0370 (COD)]

Annex II – Comparison of the objectives of the proposal and the IPA III Regulation

Objectives of the proposal	Objectives of the IPA III Regulation
<p><i>I. General objectives (according to Article 3(1) of the proposal)</i></p>	<p><i>I. General objective of IPA III (according to Article 3(1) of IPA Regulation)</i></p>
<p>The general objectives of the Facility shall be to:</p> <p>(a) accelerate regional economic integration and progressive integration with the Union single market;</p> <p>(b) accelerate the socio-economic convergence of Beneficiaries' economies with the Union;</p> <p>(c) accelerate alignment with Union values, laws, rules, standards, policies and practices with a view to Union membership</p>	<p>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.</p>
<p><i>II. The specific objectives (Article 3(2) of the proposal)</i></p>	<p><i>II. The specific objectives (Article 3(2) of IPA Regulation)</i></p>
<p>(a) accelerate the transition of the Beneficiaries to sustainable, and inclusive economies, capable of withstanding competitive market pressures of the Union single market, and to a stable investment environment;</p>	<p>(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;</p>
<p>(b) boost regional economic integration in particular through progress in the establishment of the Common Regional Market;</p>	<p>(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;</p>
<p>(c) boost economic integration of the Beneficiaries with the Union single market;</p>	<p>(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;</p>
<p>(d) support regional economic integration and enhanced integration with the EU single market through improved connectivity in the region in line with Trans-European Networks;</p>	<p>(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;</p>

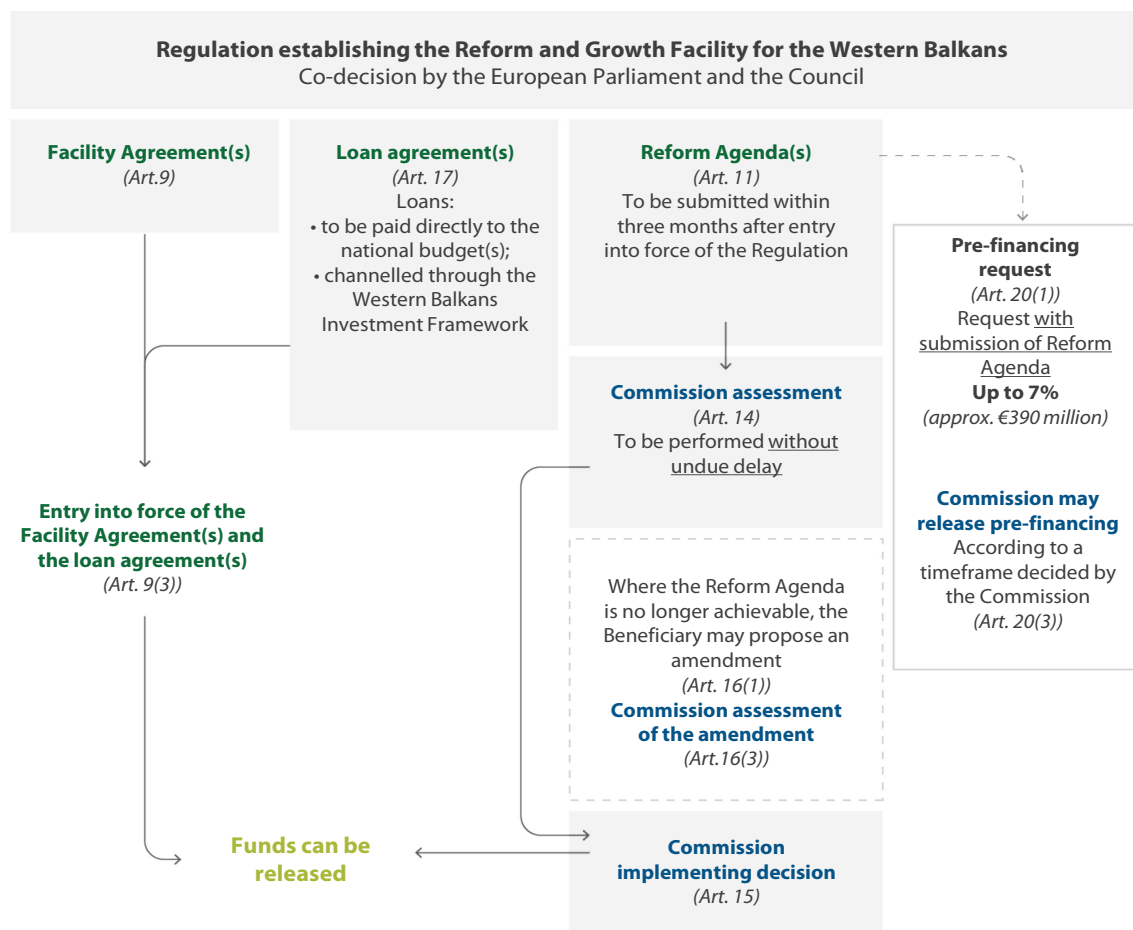
Objectives of the proposal
(e) accelerate green transition in line with the 2020 Green Agenda for the Western Balkans and covering all economic sectors, particularly energy, including the transition towards de-carbonised climate-neutral, climate-resilient and circular economy;
(f) promote the digital transformation as an enabler for sustainable development and inclusive growth;
(g) boost innovation, particularly for SMEs and in support of the green and digital transitions;
(h) boost quality education, training, reskilling and upskilling, and employment policies;
(i) further strengthen the fundamentals of the enlargement process, including the rule of law, democracy, the respect of human rights and fundamental freedoms, through promoting an independent judiciary, reinforced security, the fight against fraud, corruption, organised crime and money laundering and terrorism financing, tax evasion and tax fraud; compliance with international law; strengthen freedom of media and academic freedom and an enabling environment for civil society; foster social dialogue; promote gender equality, non-discrimination and tolerance, to ensure and strengthen respect for the rights of persons belonging to minorities;
(j) reinforce the effectiveness of public administration and support transparency, structural reforms, and good governance at all levels, including in the areas of public financial management and public procurement and State aid control; support initiatives and bodies involved in supporting and enforcing international justice in the Western Balkans Beneficiaries

Objectives of the IPA III Regulation
(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.

Note: The corresponding colours indicate similar objectives.

Source: ECA based on the IPA III Regulation and the proposal.

Annex III – Agreements to be concluded after the entry into force of the Reform and Growth Facility for the Western Balkans Regulation



Source: ECA, based on the legislative proposal on establishing the Reform and Growth Facility for the Western Balkans.

Annex IV – Derogations from the Financial Regulation and the NDICI Regulation

Derogations from Regulation (EU, Euratom) 2018/1046 (Financial Regulation)

Proposal for a “Regulation on establishing the Reform and Growth Facility for the Western Balkans”		“Financial Regulation” Title of Article
Article where derogation is used	Purpose of the derogation	
Article 10(1)	Unused commitment and payment appropriations under the Facility shall be automatically carried over and may be committed and used, respectively, up to 31 December of the following financial year. The amount carried over shall be used first in the following financial year.	Article 12(4) Cancellation and carry-over of appropriations
Article 10(3)	Commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of an action under the Facility shall be made available again to the benefit of the budget line of origin.	Article 15 Making appropriations corresponding to decommitments available again
Article 17(2) Recital (36)	The disbursements of the loan may be implemented through the WBIF on behalf of the Beneficiary. Recovered amounts shall be transferred to the Beneficiary.	Article 220(4) Financial assistance – Rules and implementation
Article 17(3)	The loan agreement shall contain the amount of pre-financing and rules on clearing of pre-financing.	Article 220(5) Financial assistance – Rules and implementation
Article 18(1)	Budgetary commitments for the provisioning shall be made by 31 December 2027. The provisioning shall be paid progressively and fully constituted at the latest when the loans are fully disbursed.	Article 211(2), 2nd subparagraph, last sentence Provisioning of financial liabilities

Proposal for a “Regulation on establishing the Reform and Growth Facility for the Western Balkans”		“Financial Regulation” Title of Article
Article where derogation is used	Purpose of the derogation	
Article 21(9) Recital (42)	For the part of the Facility funding paid as financial assistance, channelled directly to the Beneficiaries’ national budgets, payment deadlines shall start running from the date of the communication of the decision authorising the disbursement to the Beneficiary pursuant to paragraph 4 of this Article.	Article 116(2) Time limits for payments
Article 21(10) Recital (42)	In case of payments made as financial assistance, channelled directly to the Beneficiaries’ national budgets pursuant to this Article and to Article 22 of this Regulation, it is appropriate to exclude the payment of default interest by the Commission to the Beneficiary.	Article 116(5) Time limits for payments

Derogations from Regulation (EU) 2021/947 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI)

Proposal for a “Regulation on establishing the Reform and Growth Facility for the Western Balkans”		NDICI Regulation Title of Article
Article where derogation is used	Purpose of the derogation	
Article 6(3) Recital (19)	The support provided to the Beneficiaries in the form of loans shall not constitute part of the amount of the External Action Guarantee within the meaning of Article 31(4) of Regulation (EU) 2021/947.	Article 31(3), 2nd sentence, and Article 31(4) EFSD+, the External Action Guarantee, budgetary guarantees and financial assistance to third countries – Scope and financing

Source: ECA, based on the legislative proposal on establishing the Reform and Growth Facility for the Western Balkans.

Annex V – Overview of the Western Balkan countries' preparedness in the area of financial control

2023 Enlargement report	Chapter 32 – Financial control
Albania SWD(2023) 690	<p>“Albania is moderately prepared in the area of financial control. Some progress was made during the reporting period when it comes to updates to the legal framework of internal control and internal audit”. (page 72)</p>
Bosnia and Herzegovina SWD(2023) 691	<p>“Bosnia and Herzegovina has some level of preparation in this area. Some progress was made, notably in implementing the strategies on public internal financial control (PIFC) at state level and in both entities, producing consolidated reports while improving capacities for online reporting, and better training civil servants in charge of PIFC”. (page 77)</p>
Kosovo SWD(2023) 692	<p>“There is some level of preparation in this area. Kosovo made limited progress during the reporting period by adopting the new 2022-2026 PFM strategy and its action plan”. (page 75)</p>
North Macedonia SWD(2023) 693	<p>“The country is moderately prepared in the area of financial control. Some progress included the setting up of the Anti-Fraud Coordination Service Network, the adoption of the Organic budget Law and the Law on inspection, and the signature of a Memorandum of Understanding between the Parliament and the State Audit Office to strengthen follow-up on individual audit reports”. (page 71)</p>
Montenegro SWD(2023) 694	<p>“Montenegro is moderately prepared in the area of financial control. Overall, limited progress was made in implementing last year’s recommendations. A new public finance management reform programme was adopted in December 2022, which means that the strategic framework for public internal financial control is now broadly in place”. (page 81)</p>
Serbia SWD(2023) 695	<p>“Serbia is moderately prepared in the area of financial control. Limited progress was made in the reporting period, notably with the continued implementation of public internal financial control (PIFC)”. (page 89)</p>

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