

# INTRODUCTION

The Volume intends to offer a deep, theoretical analysis of the EU Cohesion Policy, a crucial *portfolio* of the EU competences and actions, with a mandate to reduce the gaps between the level of development of the regions of the European Union. Cohesion Policy is defined as a rebalancing and redistribution mechanism between the Member States. But cohesion is also one of the fundamental objectives of the Union, as indicated in Art. 3 TEU and therefore, as such, endowed with horizontal value, capable of contributing to the achievement and effective functioning of the internal market and the Economic and Monetary Union (EMU), and to be considered in the formulation and implementation of all the policies and actions of the Union and in the coordination of the economic policies of the Member States (Art. 175, para. 1 TFEU). It is also a vibrant example of solidarity in EU and a flexible instrument able to adapt itself to react to crisis of different sort. For all these reasons, the Cohesion Policy is at the cornerstone in all the analysis concerning possible amendments of the EU legal system.

The present Volume constitutes a unique in-depth commentary on the present and the future of the EU Cohesion Policy and on its role in the progression of the European integration, also assessing the relevant case law from the Court of Justice of European Union in this traditional field of EU litigation, nowadays confronted with new challenges.

In his article, Prof. Rosario Sapienza traces the origin and the development of the policy, from its introduction in the mid-seventies, to the formalization of competence in the Single European Act of 1986, to the fundamental innovations introduced on the matter by the Maastricht Treaty, up to those implemented in the Lisbon Treaty, which included expressly the territorial dimension of Cohesion Policy in the Treaty on the Functioning of the European Union, designing a general introduction of the legal framework concerning the 2021-2027 programming period and the most recent perspectives for the developments of the policy.

Prof. Michele Vellano analyses the internal and external dimension of the Territorial Cooperation, before and after the explicit recognition of the territorial dimension in the Cohesion Policy, as a shared responsibility between the European Union, the Member States and the regional and local authorities. His assessment shows how territorial cooperation is a powerful instrument of EU integration and good neighborhood.

The European Grouping of Territorial Cooperation (EGTC), instrument aiming at fostering the territorial cooperation between subnational entities of different member States, is assessed by Dr. Simone Carrea. The work highlights in particular how the EU has favored the development of conflict of law rules not only in the field of civil and commercial matters, but also in public relations. Dr. Carrea analyzes the role played by the EGTC for regulating cross-border and transnational administrations, reconstructing the complex legal problems inherent the internal and external relations of the EGTC.

Prof. Maurizio Maresca assesses the role of the EU Cohesion Policy in the field of transport infrastructure (TEN-T), aiming at implementing and developing a Europe-wide network of railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals, at closing gaps and removing bottlenecks and technical barriers.

Dr. Claudia Cinnirella underlines that, similar to the EU fundamental rights or to the EU citizenship, the EU Cohesion Policy is one of the basic EU constitutional principles and expresses at the highest level the solidarity in Europe. Title XVIII of the Treaty on the Functioning of the European Union is in fact a concrete expression of solidarity between Member States, which is expressed in support of social inclusion, convergence and regional competitiveness, but also, more generically, for the internal market integration.

The article of Prof. Sébastien Adalid assesses the instrument Next Generation EU and its predominant component, the Recovery and Resilience Facility, adopted on the basis of Art. 175, para. 3, TFEU. In view of the chosen legal basis, the instrument aims not only at recovery from the pandemic crisis, but also at supporting reforms and long-term investments in the fields of employment, education, research and innovation, health, business environment, public administration, with a special focus on green and digital technologies, with a lasting impact on the productivity and resilience of the Union economy. The article assesses the possible future NGEU and RRF for the future development of the EU integration.

Prof. Ilaria Ottaviano analyses the potential role of Art. 175, para. 3 TFEU for the reform of the EU economic governance, at Treaties unchanged. The Article is considered a flexibility clause, a vehicle for policy goals with unclear competence in the treaties, allowing the adoption of very broad measures outside the structural funds. Moving away from cohesion in traditional sense to a much broader sense, the Cohesion Policy is assessed as a macroeconomic policy measure.

The EU Cohesion Policy has also been proposed to combat recent violations of the rule of law in some Member States, such as Poland and Hungary, having noted the substantial ineffectiveness of infringement procedures and of the only possible political sanctions, in application of Art. 7 TEU. Dr. Viviana Sachetti addresses the Regulation EU No. 2020/2092 on a general regime of conditionality for the protection of the Union budget, the European judgments on the validity of the Regulation and the position taken by the Court of Justice on the matter against Member States.

Prof. Roberto Cippitani analyzes the exemptions from the rules on State aid related to regional policy, analyzing the *de minimis* rules which allow exemptions from State aid control for small aid amounts, the General Block Exemption Regulation, the impact of the Temporary Framework in relation to these profiles, due to the negative economic consequences of the pandemic Covid-19 and the recent provisions on the matter in force as from January 2024.

Col. Antonio Caputo addresses the relevant and rich case-law concerning the irregularities and frauds in the context of Cohesion Policy which, according to OLAF, constitute the first and the most relevant field of attempt to the EU budget.

To all the contributors (Professors and young scholars of Italian and foreign Universities, as well as the military Corp of Italian Guardia di Finanza) my heartfelt thanks for the commitment and the passion put in addressing their topics. A sincere gratitude to Dr Viviana Sachetti and Dr. Anna Licastro for the careful editorial revision of the Volume.

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