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Review article

POST-COVID-19 RECOVERY AND RESILIENCE-BUILDING IN THE OUTERMOST REGIONS OF THE EUROPEAN UNION: TOWARDS A NEW EUROPEAN STRATEGY

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ABSTRACT

The socio-economic environment of the outermost regions of the European Union was severely affected by the COVID-19 crisis. Due to their geographical and historical specificities, the outermost regions were significantly lagging behind the rest of the European Union in terms of economic indicators even in the pre-pandemic period. Expectedly, COVID-19-induced shocks additionally potentiated their development gap.

The purpose of this paper is to summarise the multiple impacts of the COVID-19 pandemic in Guadeloupe, French Guiana, Réunion, Martinique, Mayotte, and Saint Martin (France), the Azores and Madeira (Portugal), and the Canary Islands (Spain), and the related legislative responses of the European Union aiming at eliminating adverse effects of the crisis and building more resilient societies. The factual assessment is carried out primarily through the prism of the European Commission's 2021 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, which underlines the health, economic and social repercussions of the crisis as well as a recommended set of recovery and resilience-building measures in the outermost regions. The legal analysis focuses on the ongoing codification of the rules and measures regulating the governance of the outermost regions as integral parts of the European Union. Pursuant to Article 349 of the Treaty on the Functioning of the European Union (TFEU), the European Union shall adopt specific measures for laying down the conditions for the development of the outermost regions, such as those in the area of fiscal policy, European Structural and Investment Funds, State-aid, agriculture and fisheries policies, and others. In that regard, the paper looks into the recently adopted regulations facilitating the use of EU funds and particular benefits (e.g. tax exemptions) in the outermost regions. Special emphasis is put on the currently tabled initiatives for an updated regulatory framework enabling the outermost regions to improve and strengthen their overall socio-economic position. That mainly refers to the forthcoming European strategy for the outermost regions, to be adopted in 2022. The respective strategy shall lay the foundations for a new strategic approach of the European Union to shaping a sustain-

able and resilient future for the outermost regions apt to face the challenges of the 21st century, notably those related to green, digital, and demographic transition.

***Keywords**: COVID-19 pandemic, European strategy for the outermost regions, green, digital, and demographic transition, outermost regions of the European Union*

1. INTRODUCTION

The COVID-19 crisis has profoundly reshaped the European Union's (hereinafter: EU) socio-economic landscape and is likely to have a prolonged impact on our lives in years to come.[1] It instigated the deepest recession since 1945, affecting particularly sectors in which human interaction is vital, *e.g.* tourism, culture, transport, and retail,[2] and widening already existent regional disparities throughout the EU.[3] Human losses were immense, with around 872,000 more deaths in the EU than in five previous years.[4] Although the entire EU experienced a number of drawbacks, the COVID-19-induced health, economic and social shocks were especially apparent in the outermost regions of the EU, where the pandemic significantly aggravated their already existing disadvantageous position.[5] Such a socio-economic regress went in hand with global trends, which confirmed that the COVID-19 emergency sharply increased poverty and reversed the economic growth of the population.[6]

The paper aims to provide a comprehensive outlook on the outermost regions' legal framework supporting their effective and swift post-COVID-19 recovery and resilience-building. It summarises four types of norms and measures. First, it outlines the key general EU provisions granting the outermost regions special protective measures or derogations thereof. Second, it analyses the targeted *lex specialis*, explicitly introduced for one or all the outermost regions to alleviate hardships derived from their territorial, social, and economic specificities. Third, it highlights the essential general emergency measures adopted at the EU level,

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1 Eurostat Regional Yearbook 2021, Publications Office of the European Union, Luxembourg, 2021, p. 8

2 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), Publications Office of the European Union, Luxembourg, 2022, pp. 26-37

3 Eighth Report on Economic, Social and Territorial Cohesion – Cohesion in Europe Towards 2050, Publications Office of the European Union, Luxembourg, 2022, p. xiii

4 *Ibid.*

5 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, pp. 6, 17, See more: *infra*, Chapter 3 on the impact of the COVID-19 pandemic on the outermost regions

6 Van Treel, M.; Thapa, R., *Progress Undone by Pandemic*, Development and Cooperation, Vol. 48, No. 7-8, 2021, p. 34

directly impacting the outermost regions' well-being and recovery. Fourth, it provides examples of local "pandemic politics"[7] developed in every outermost region.

There is a growing body of literature examining various aspects of the COVID-19 crisis; however, very few pieces reflect on them from the perspective of the outermost regions. For that reason, the paper aims to fill the gap by offering a novel and overarching examination of the most recent provisions, measures, and initiatives put in place to support the outermost regions in their path to resilient post-COVID-19 recovery. Moreover, since "pre-COVID-19 society is dead",[8] the paper also offers an insight into the way forward in the form of a new European strategy for the outermost regions, which drafting is in the final phase.

Currently, there are nine outermost regions under the jurisdiction of three Member States with a total population of five million inhabitants,[9] *i.e.* Guadeloupe, French Guiana, Réunion, Martinique, Mayotte, and Saint Martin (France), the Azores and Madeira (Portugal) and the Canary Islands (Spain).[10] They comprise islands, archipelagos, and land territory.[11] Despite their peculiar geographical location thousands of kilometres away from the European continent – in the Caribbean, South America, the Indian Ocean, and the Atlantic Ocean,[12] they are an integral part of the EU, just as any other region of France, Portugal, and Spain or elsewhere in the EU.[13] Thus, the *acquis communautaire* is fully applicable to them. In addition, the EU pays particular attention to the adoption of special legal

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7 Tesche, T., *Pandemic Politics: The European Union in Times of the Coronavirus Emergency*, Journal of Common Market Studies, Vol. 60, No. 2, 2022, pp. 480-496

8 Tournay, V., *La société pré-Covid est morte. Et après?*, Futuribles, No. 444, 2021, pp. 25-40

9 Eighth Report on Economic, Social and Territorial Cohesion – Cohesion in Europe Towards 2050, *op. cit.*, note 3, p. 27

10 See: Arts. 349(1) and 355(1) of the Treaty on the European Union and the Treaty on the Functioning of the European Union. Consolidated Versions of the Treaty on the European Union and the Treaty on the Functioning of the European Union [2016] OJ C 202 (hereinafter: TEU and TFEU). See also: Outermost Regions (ORs), [https://www.europarl.europa.eu/factsheets/en/sheet/100/outermost-regions-ors-], Accessed 11 March 2022

11 Martinique, Réunion, and Saint Martin are islands; the Azores, the Canary Islands, Guadeloupe, Madeira, and Mayotte are archipelagos, and a French Guiana is a land territory, EU and Outermost Regions [https://ec.europa.eu/regional_policy/en/policy/themes/outermost-regions/#1], Accessed 12 March 2022

12 Hammoud, P.; Masquelin, A.; Thomas, T., *The Outermost Regions – Challenges and Prospects*, Pour la solidarité, Bruxelles, 2018, p. 2

13 Methodological Manual on Territorial Typologies, 2018 Edition, Publications Office of the European Union, Luxembourg, 2019, p. 8.; Outermost Regions of the EU, Briefing Paper, European Parliament, Brussels, 2020, p. 3; Kochenov, D., *The Application of EU Law in the EU's Overseas Regions, Countries, and Territories After the Entry Into Force of the Treaty of Lisbon*, Michigan State International Law Review, Vol. 20, No. 3, 2012, p. 680. According to Valente, the fact that those faraway regions fall under the jurisdiction of the EU Member States is "proof of a political value such States ascribe to them in a

norms and measures, which address a number of challenges and restraints deriving from the outermost regions' remoteness, size, topography, and socio-economic specificities. Alongside such specific provisions, the outermost regions also profit from various derogations in EU legislation introduced to safeguard their particular needs and interests.

In the chapter following the introductory remarks, the paper provides an overview of general and particular legal provisions of utmost importance for preserving the peculiar identity and interests of the outermost regions. They were the backbone of the later introduced measures supporting the fight against the COVID-19 crisis. That primarily concerns Articles 349 and 355 of the Treaty on the Functioning of the European Union, and certain norms regulating the European Structural and Investment Funds responsible for a balanced economic, social, and territorial development of the outermost regions. The analysis of the regulatory framework encompasses the urgent EU legislation adopted specifically to mitigate the effects of the COVID-19 crisis (so-called CRII, CRII+, REACT-EU, and CARE) and the recently prolonged Council's Decision (EU) 2021/991 and Regulation (EU) 2021/2048 on legal exemptions in French and Spanish outermost regions. Chapter 3 examines the tangible impact of the COVID-19 pandemic on the outermost regions and builds on the in-depth data presented in the European Commission's Study on the Impact of the COVID-19 Pandemic on the Outermost Regions and the Eighth Report on Economic, Social and Territorial Cohesion. Chapter 4 puts emphasis on the new European strategy for outermost regions, currently under preparation. The focus is on the post-COVID-19 recovery and resilience-building; however, since the COVID-19 pandemic intertwines with the other multifaceted and overlapping transboundary threats and globally important issues,[14] such as climate change, energy crisis, Brexit, or a war in Ukraine,[15] they are also taken into consideration to a certain extent. That mainly concerns some aspects of climate change and environmental action, since the pandemic and climate change in the outermost regions are "natural realities" potentiating the similar feelings of

postcolonial world", Valente, I. M. F., *The Atlantic Outermost Regions, the Furthest Frontiers of Europe?*, Debater a Europa, No. 12, 2015, p. 76

[14] Schomaker, R.; Hack, M.; Mandry, A.-K., *The EU's Reaction in the First Wave of the COVID-19 Pandemic Between Centralisation and Decentralisation, Formality and Informality*, Journal of European Public Policy, Vol. 28, No. 8, pp. 1278-1279; Exadaktylos, Th.; Guerrina, R.; Massetti, E., *A Year Like no Other: Hope Out of Despair?*, JCMS Annual Review of the European Union in 2020, Vol. 59, 2021, p. 5

[15] Dembowski, H., *Towards an Equitable World (Interview with Svenja Schulze)*, Development and Cooperation, Vol. 49, No. 3-4, 2022, p. 14; Hantrais, L., *Social Perspective on Brexit, COVID-19 and European (Dis)Integration*, JCMS Annual Review of the European Union in 2020, Vol. 59, 2021, pp. 77-78

"widespread mutual vulnerability" and "trust and solidarity".[16] In addressing the objectives of the future European strategy for the outermost regions, the paper explicitly accentuates not only green but also digital transition, which is in line with the Mogherini's stance that recovery instruments introduced by the EU "blend in a very smart way the new urgency dictated by the pandemic with the political priorities set by the Green Deal and Digital Agenda".[17] Finally, the conclusion summarises the core findings of the research intending to foresee future special measures for turning the COVID-19 crisis into an opportunity[18] towards, as Ladi and Tsarouhas argue, "a fundamental change in the economic governance of the EU".[19]

2. LEGAL STATUS OF THE OUTERMOST REGIONS OF THE EUROPEAN UNION – FOCUS ON SPECIFIC SAFEGUARDING MEASURES

2.1. General Overview

The core provisions regulating the status of the outermost regions in the EU and the associated system of specific safeguarding measures are Article 349 and Article 355(1) of the Treaty on the Functioning of the European Union (TFEU).[20] They set a framework for the integrity of the outermost regions with the EU through two sets of norms – on the obligation of the principal EU institutions to adopt adequate special measures and on the territorial scope of the Treaties, respectively.

Pursuant to Article 355(1), the *acquis communautaire* applies to all the outermost regions in the same scope and manner as elsewhere in the EU.[21] In other words, there is a territorial but not a legal divide between the outermost regions and the EU. Notwithstanding the respective equality deriving from Article 355(1), the outermost regions are also granted special rights in line with their unique economic and social circumstances within the EU. Namely, Article 349 foresees the

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16 Van Zeben, J., *The European Green Deal: The Future of a Polycentric Europe?*, European Law Journal, Vol. 26, No. 5-6, 2020, pp. 301-302

17 Mogherini, F., *How 2020 Has Shaped the Future of the European Union: When a Crisis Turns into an Opportunity*, JCMS Annual Review of the European Union in 2020, Vol. 59, 2021, p. 17

18 *Ibid.*, p. 19

19 Ladi, S., Tsarouhas, D., *EU Economic Governance and COVID-19: Policy Learning and Windows of Opportunity*, Journal of European Integration, Vol. 42, No. 8, 2020, pp. 1041-1056

20 TEU and TFEU, *loc. cit.*, note 10. On Arts. 349 and 355 see more: Kochenov, D., *op. cit.*, note 13, pp. 693-717

21 "The provisions of the Treaties shall apply to Guadeloupe, French Guiana, Martinique, Mayotte, Réunion, Saint Martin, the Azores, Madeira and the Canary Islands in accordance with Article 349." TEU and TFEU, *ibid.*

adoption of specific measures to support the outermost regions to overcome "their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development".[22] Specific measures are adopted by the Council, on a proposal from the European Commission and in prior close consultations with the European Parliament. They refer to several areas of particular relevance to the outermost regions, that is, "customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes".[23] Such targeted measures are fully aligned with the Union legal order, do not lead to discriminatory practices towards other EU regions, and contribute to even economic, social, and territorial development of the EU as a whole.

The dichotomy inherent to the legal status of the outermost regions, characterised by the full application of the *acquis communautaire*, on the one hand, and the introduction of special measures intended explicitly for the outermost regions, on the other hand, is best described, in Vitalien's words, as balancing between "assimilation and differentiation".[24] In his analysis of special measures stipulated by Article 349 of the TFEU, Kochenov explains that this "deviation from the *acquis* is justified only if it remedies the specific difficulties outlined in Article 349".[25] The common denominator for all those difficulties is their direct impact on the regional development of the outermost regions; thus, special measures are often introduced and implemented through the instruments of the Cohesion Policy, the primary EU investment policy effectively contributing to even economic, social, and territorial development of the European continent. That is particularly evident in the European Structural and Investment Funds (ESIF) domain, which has continuously helped the outermost regions reach their full economic and social potential in the pre- and post-COVID-19 period. According to Recital 4 of the umbrella legislative act for eight EU Funds – the 2021-2027 Common Provisions Regulation (CPR), "the outermost regions should benefit from specific measures and from additional funding to offset their structural social and economic situation together with the handicaps resulting from the factors referred to in Ar-

[22] *Ibid.*, Art. 349(1)

[23] *Ibid.*, Art. 349(2)

[24] As cited in Kochenov, D., *The EU and the Overseas: Outermost Regions, Overseas Countries and Territories Associated with the Union, and Territories Sui Generis*, in: Kochenov, D., EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis, Kluwer Law International, The Hague, 2011, p. 26

[25] *Ibid.*, p. 31

ticle 349 TFEU".[26] For example, 0,6% of the resources for the Investment for jobs and growth goal under the Multiannual Financial Framework, a long-term EU budget, is allocated to the outermost regions as additional funding,[27] and the co-financing rate applied to the outermost regions for the same goal is the highest one – 85%.[28] Similar differentiated provisions granting the outermost regions specific rights are also incorporated into the Fund-specific Regulations, *i.e.* those adopted separately for each fund covered by the CPR. For example, the special treatment of the outermost regions in EU law is best illustrated by Article 7 of the Regulation on the European Regional Development Fund (ERDF) and on the Cohesion Fund, which regulates the exclusion from the scope of those two Funds. The respective provision provides for the possibility of financing certain investments in the outermost regions, which cannot be financed elsewhere in the EU, either at all or under preferential conditions – investment in airport infrastructure, investment in the disposal of waste in landfills, and investment in increasing the capacity of facilities for the treatment of residual waste (the latter two in duly justified cases only). In addition, the rules on the thematic concentration of the ERDF support, that is, norms specifying and governing the targeted areas of investment, do not apply to the specific additional allocation for the outermost regions. This additional allocation is used "to offset the additional costs incurred in these regions as a result of one or several of the permanent restraints to their development referred to in Article 349 TFEU".[29] Analogous rules on thematic concentration are also

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[26] Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy [2021] OJ L 231. The latest CPR lays down financial rules and common provisions for the 2021-2027 financial period, applicable to eight funds listed in its title. The earlier CPR, which covered the 2014-2020 financial period, included the identical recital referring to the outermost regions. See: Recital 5, Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 [2013] OJ L 347

[27] *Ibid.*, Art. 110, par. 1(g) of the 2021-2027 CPR

[28] *Ibid.*, Art. 112, par. 3(1)

[29] Art. 14, par. 1., 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 [2013] OJ L 231. The principal aim of the ERDF is to reduce regional disparities in the economic development within the EU, particularly by supporting the regions lagging behind the more developed ones. See more: Schütze, R., *An Introduction to European Law*, Oxford University Press, Oxford, 2020, pp. 849-854

employed for the European Social Fund Plus.[30] Moreover, the outermost regions have a separate allocation for the European territorial cooperation goal (Interreg), amounting to 3,5% of the total Interreg allocation.[31]

The importance of *sui generis* arrangements for the outermost regions was particularly accentuated amid the global health and socio-economic crisis generated by the COVID-19 pandemic. In order to help the EU Member States cope with the extraordinary circumstances and build sustainable and resilient economies, in May 2020, the European Commission proposed a powerful recovery instrument embedded within the 2021-2027 EU budget – Next Generation EU (NGEU), worth 750 billion euros.[32] The three of its financial pillars are specifically important for the post-COVID-19 recovery, resilience, and sustainability of the outermost regions, namely the Recovery and Resiliency Facility (RRF), the Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU), and the Just Transition Fund (JTF). Pursuant to Recital 3 of the RRF Regulation, the outermost regions should particularly benefit from EU efforts to reduce development gaps between various EU regions,[33] *inter alia*, through the introduction of special interventions

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30 Art. 7, par. 7., 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 [2021] OJ L 231. The ESF+ supports measures aiming at higher employment levels, fair social protection, upskilling and reskilling of workforce, inclusive societies aligned with the principles of the European Pillar of Social Rights, equal opportunities, fair working conditions *etc.*

31 Art. 9 par. 2(d), 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 [2021] OJ L 231. Interreg supports programmes fostering a cross-border, transnational, interregional and outermost regions' cooperation

32 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, Europe's Moment: Repair and Prepare for the Next Generation, COM (2020) 456 final, Brussels, 27 May 2020. On the scope, role, and importance of the NGEU with respect to tackling the consequences of the COVID-19 crisis, see more: Maitrot de la Motte, A., *Faire face à la crise de la Covid 19: quelles nouvelles ressources propres européennes*, Revue des Affaires Européennes, No. 4, 2020, pp. 823-839; De Witte, B., *The European Union's COVID-19 Recovery Plan: The Legal Engineering of an Economic Policy Shift*, Common Market Law Review, Vol. 58, No. 3, 2021, pp. 635-682; Ladi, S.; Wolff, S., *The EU Institutional Architecture in the Covid-19 Response: Coordinative Europeanization in Times of Permanent Emergency*, JCMS Annual Review of the European Union in 2020, Vol. 59, 2021, p. 32-43; D'Erman, V.; Verdun, A., *An Introduction: Macroeconomic Policy Coordination and Domestic Politics: Policy Coordination in the EU from the European Semester to the Covid-19 Crisis*, Journal of Common Market Studies, Vol. 60, No. 1, 2022, pp. 3-21. According to Hinarejos, regardless of their limited scope and timeframe, the NGEU instruments addressing the economic consequences of the COVID-19 pandemic were expected to improve things more permanently. See: Hinarejos, A., *Economic Governance and the Pandemic: A Year On*, European Law Review, Volume 46, No. 2, 2021, p. 128

33 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility [2021] OJ L 57

aimed at mitigating the social and economic impact of the COVID-19 crisis on the outermost regions (*e.g.* specific actions to compensate additional costs due to size market factors, climate conditions or accessibility deficit).[34] Furthermore, the REACT-EU Regulation foresees a dedicated EU allocation for the outermost regions in the form of an aid intensity of 30 euros per inhabitant, added to the usual allocation distributed through the national budget.[35] Such a supplementary allocation is introduced to counterbalance "the specific vulnerability of their [outermost regions'] economies and societies"[36] during the unprecedented COVID-19 crisis. As emphasised in the full title of the REACT-EU Regulation, alongside tackling the crisis, the Member States are simultaneously obliged to invest in the green, digital, and resilient recovery of their economies. In that respect, the JTF Regulation sets out some of the pivotal rules for the outermost regions. Namely, Article 6 of the respective Regulation stipulates that the Member States having the outermost regions should allocate a specific JTF amount for their just transition towards the EU's 2030 targets for energy and climate and a climate-neutral economy of the EU by 2050, aligned with the specific challenges and needs of those territories.[37]

2.2. *Lex Specialis* with Special Emphasis on Recent Legislative Updates

The aftereffects of the COVID-19 crisis led to a redrafting of a number of existing EU legislative acts, either by way of introducing new provisions or extending their application beyond the initially set deadline. The most recent legislative updates adopted to help the outermost regions overcome multifaceted challenges, including the Covid-19 crisis, concern the extension of specific legal exemptions in French and Spanish outermost regions.

In mid-2021, the Council amended its 2014 Decision regulating the dock dues scheme for certain locally produced products in the French outermost regions by extending the initial deadline of its application, *i.e.* 30 June 2021, until 31 De-

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34 *Ibid.*, Annex VI

35 Recital 5 and Annex VIIa Point 3, Regulation (EU) 2020/2221 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU) [2020] OJ L 437

36 Recital 5 of Regulation (EU) 2021/241, *loc. cit.*, note 33

37 Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231. According to Art. 2 of the JTF Regulation, the JTF provides funds for addressing "the social, employment, economic and environmental impacts of the transition towards the EU's 2030 targets for energy and climate and a climate-neutral economy of the EU by 2050"

cember 2027.[38] Namely, the Decision introduces tax exemptions or reductions in Guadeloupe, French Guiana, Martinique, Mayotte, and Réunion for local products listed in Annex I of the Decision to strengthen local industry and make it more competitive. Given the disadvantageous environment of these outermost regions, characterised by significant imports of raw materials and energy, a low scale of exports, a small local market, and high production costs, the introduction of specific taxation arrangements was necessary to keep the price of local goods as competitive as the price of equivalent goods produced elsewhere, either in metropolitan France or the other Member States. The tax exemptions are limited in order not to exceed 10, 20, or 30 percentage points (depending on the product) between local products and those produced out of the outermost regions. In addition, tax exemptions and reductions are applied only to entrepreneurs with a minimum annual turnover of 550,000 euros. Since these special measures proved beneficial for the economy of the five French outermost regions, France requested their prolongation beyond 1 July 2021, emphasising they would contribute to the further socio-economic development of its outermost regions, especially in circumstances of the public health crisis.[39]

By the end of 2021, another legislative act with a comparable *ratio* came into force concerning the Spanish outermost region – Council Regulation temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands.[40] Similar to France's request related to its five outermost regions, Spain also asked the European Commission to prolong specific measures, which positively contributed to the socio-economic development of its outermost region. They encompass the suspension of the autonomous Common Customs Tariff duties for certain capital goods for commercial or industrial use as well as raw materials, parts, and components used for agricultural purposes, industrial transformation or maintenance, listed in Annexes I and II of the Council's Regulation. The Regulation should have expired on 31 December 2021; yet, its undeniable importance for the progress of the Canary Islands, coupled with the need to recover the islands economically from the COVID-19 crisis, led to its prolongation until 31 December 2031. Recital 4 of the Council Regulation sheds light on the devastating effects of the COVID-19 pandemic on the economic indicators of the Canary Islands. In 2020, a halted tourism activity

[38] Council Decision (EU) 2021/991 of 7 June 2021 concerning the dock dues scheme in the French outermost regions and amending Decision No 940/2014/EU [2021] OJ L 221

[39] *Ibid.*, Recitals 1-8 and Arts. 1, 2 and 5

[40] Council Regulation (EU) 2021/2048 of 23 November 2021 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands [2021] OJ L 420

led to a decline of around 20% of the GDP, while the construction and industrial activity declined by 13% compared to 2019. Thus, the prolongation of the specific measures aims to stabilise the overall socio-economic conditions of the Canary Islands by diversifying the economy, ensuring growth in industry and construction, enhancing innovation, and reducing the reliance of the local industry on the service sector.[41]

The outline of the legislative updates that supported the outermost regions in their post-COVID-19 recovery and resilience-building would be incomplete without a broader picture of recently adopted legislative packages targeted to help all the Member States and their regions fight the pandemic's consequences as urgently and effectively as possible. They encompass five regulations adding to more flexibility, liquidity, and simplification in using EU resources to recover healthcare systems and other sectors of Member State's economies. The first three legislative acts are part of the Coronavirus Response Investment Initiative's packages, known as the CRII and the CRII+, negotiated and adopted during the Croatian Presidency of the Council of the European Union in early 2020. The CRII package comprises two Regulations: the CRII Regulation providing specific measures to mobilise investments in the healthcare systems of the Member States and other sectors of their economies in response to the COVID-19 outbreak,[42] and the Regulation expanding the scope of the EU Solidarity Fund (EUSF) to provide financial assistance to the Member States and to countries negotiating their accession to the EU that are seriously affected by a major public health emergency.[43] The latter amend-

41 *Ibid.*, Recitals 1, 2, 4, 5, 9 and Arts. 1 and 2

42 The key targeted measures include the financing of working capital in small and medium-sized enterprises (SMEs) from the ERDF resources and financial instruments as a temporary measure to provide an effective response to the COVID-19 crisis; more flexibility in the transfer of resources within programme priorities supported by the ERDF, the Cohesion Fund and the ESF; and the contribution of the European Maritime and Fisheries Fund (EMFF) to mutual funds and stock insurance to secure the income of fishermen and aquaculture farmers affected by the COVID-19 crisis. See: Regulation (EU) 2020/460 of the European Parliament and of the Council of 30 March 2020 amending Regulations (EU) No 1301/2013, (EU) No 1303/2013 and (EU) No 508/2014 as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak (Coronavirus Response Investment Initiative) [2020] OJ L 99. In the analysis of the environmental behaviour of SMEs in the Canary Islands, SMEs are recognised as one of the critical determinants in strengthening the outermost regions' competitiveness and sustainable development, including through environmental management. See more: Armas-Cruz, Y.; Gil-Soto, E.; Oreja-Rodríguez, J. R., *Environmental Management in SMEs: Organisational and Sectoral Determinants in the Context of an Outermost European Region*, Journal of Business Economics and Management, Vol. 18, No. 5, pp. 935-953

43 The EU Solidarity Fund was originally mobilised "at the request of a Member State or country involved in accession negotiations with the European Union (…) when a major natural disaster with serious repercussions on living conditions, the natural environment or the economy in one or more regions or one or more countries occurs on the territory of that State". Council Regulation (EC) No 2012/2002

ment of the EUSF proved to be vital for the outermost regions in the aggravating circumstances of the COVID-19 pandemic. Namely, after the Canary Island of La Palma was severely destroyed by eruptions of the volcano Cumbre Vieja from 19 September to 15 December 2021, the European Commission announced on 22 March 2022 that it would grant Spain 5.4 million euros from the EUSF to help repair the damage and handle the COVID-19 crisis simultaneously. While explaining the ratio behind granting Spain the EUSF support, the Commissioner for Cohesion and Reforms, Elisa Ferreira, underlined that "the damage caused by the volcano has exacerbated the negative effects of the Coronavirus crisis, which has particularly affected the outermost regions such as the Canary Islands".[44] The prolonged effects of the COVID-19 crisis called for further amendments to the CRII package, so, on the proposal of the European Commission, the European Parliament and the Council adopted a follow-up Regulation – the CRII+ providing unique exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak.[45] The exceptional flexibility of the CRII+ was additionally extended for one more year in the recently adopted CARE Regulation.[46] Finally, the fifth part of the overall legislative

of 11 November 2002 establishing the European Union Solidarity Fund [2002] OJ L 311, Art. 2, par. 1. The 2020 amendments expanded the Fund's scope to include human health, so nowadays, the Fund provides financial assistance not only concerning "a major or regional natural disaster having taken place on the territory of the (…) eligible State or of a neighbouring eligible State", but also "a major public health emergency having taken place on the territory of the (…) eligible State". Regulation (EU) 2020/461 of the European Parliament and of the Council of 30 March 2020 amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and to countries negotiating their accession to the Union that are seriously affected by a major public health emergency [2020] OJ L 99

44 See more: EU Solidarity: €5.4 Million of Advance Payments to Spain Following the Volcanic Eruption in La Palma, [https://ec.europa.eu/regional_policy/en/newsroom/news/2022/03/22-03-2022-eu-solidarity-eur5-4-million-of-advance-payments-to-spain-following-the-volcanic-eruption-in-la-palma], Accessed 22 March 2022

45 The exceptional flexibility foreseen by the CRII+ included the introduction of a co-financing rate of 100% applicable to expenditure declared in payment applications covering the period of 1 July 2020 – 30 June 2021 for programmes supported by the ERDF, the ESF, or the Cohesion Fund; flexible financial transfers between the respective three Funds as well as different categories of regions; and simplification of some procedural requirements related to programme implementation and audits. Regulation (EU) 2020/558 of the European Parliament and of the Council of 23 April 2020 amending Regulations (EU) No 1301/2013 and (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak [2020] OJ L 130

46 The CARE Regulation extends the application of a co-financing rate of 100 % for the period of 1 July 2021 – 30 June 2022 for programmes supported by the ERDF, the ESF, the Cohesion Fund, and the Fund for European Aid to the Most Deprived (FEAD). It is part of a broader package encompassing the support to the Member States in dealing with the substantial influx of arrivals from Ukraine following the recent military aggression by the Russian Federation against Ukraine. For that reason, the CARE+ Regulation is the best evidence of how the EU helps the Member States in circumstances of

package targeted at tackling the COVID-19 crisis in the Member States and their regions is the REACT-EU Regulation, addressed earlier in Chapter 2.1.[47]

The efficiency of the above-mentioned specific measures introduced to tackle the COVID-19 crisis should be seen in the light of the efficiency of national and regional responses on the ground, which varied considerably across the EU.[48] While reflecting on a close interrelatedness between the EU and national health and socio-economic responses to the pandemic, Genschel and Jachtenfuchs noted that the COVID-19 crisis "has shrunk functional scale to the (sub)national level in the name of security, while lifting expectations of community to the grand transnational scale in the name of solidarity".[49]

3. IMPACT OF THE COVID-19 PANDEMIC ON THE OUTERMOST REGIONS

Even in the years preceding the COVID-19 crisis, most outermost regions underperformed economically than the rest of the EU.[50] As a result, except for the Canary Islands and Madeira, all the other outermost regions were classified as 'less

a multidimensional crisis when they need to cope simultaneously with the COVID-19 pandemic and some other emergencies. Regulation (EU) 2022/562 of the European Parliament and of the Council of 6 April 2022 amending Regulations (EU) No 1303/2013 and (EU) No 223/2014 as regards Cohesion's Action for Refugees in Europe (CARE) [2022] OJ L 109

47 See: *supra*, Chapter 2.1. on the general overview of the legal status of the outermost regions

48 See more: McConnell, A.; Stark, A., *Understanding Policy Responses to COVID-19: the Stars Haven't Fallen from the Sky for Scholars of Public Policy*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1115-1130; Boin, A.; Lodge, M., *Responding to the COVID-19 Crisis: a Principled or Pragmatist Approach?*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1131-1152; Jennings, W. *et al.*, *How Trust, Mistrust and Distrust Shape the Governance of the COVID-19 Crisis*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1174-1196.1174-1196; Mintrom, M. *et al.*, *Policy Narratives, Localisation, and Public Justification: Responses to COVID-19*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1219-1237; Narlikar, A.; Sottilotta, C. E., *Pandemic Narratives and Policy Responses: West European Governments and COVID-19*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1238-1257; Boswell, J. *et al.*, *The Comparative 'Court Politics' of COVID-19: Explaining Government Responses to the Pandemic*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1258-1277; Forster, T.; Heinzel, M., *Reacting, Fast and Slow: How World Leaders Shaped Government Responses to the COVID-19 Pandemic*, Journal of European Public Policy, Vol. 28, No. 8, 2021, pp. 1299-1320; Rhodes, M., *'Failing Forward': A Critique in Light of Covid-19*, Journal of European Public Policy, Vol. 28, No. 10, 2021, pp. 1537-1554; Plümper, Th.; Neumayer, E., *Lockdown Policies and the Dynamics of the First Wave of the Sars-CoV-2 Pandemic in Europe*, Journal of European Public Policy, Vol. 29, No. 3, 2021, pp. 321-341

49 Genschel, Ph.; Jachtenfuchs, M., *Postfunctionalism Reversed: Solidarity and Rebordering During the COVID-19 Pandemic*, Journal of European Public Policy, Vol. 28, No. 3, 2021, p. 350

50 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, p. 17

developed regions' in 2018,[51] eligible for the highest proportion of EU Cohesion Policy funding to help them keep up with the rest of the EU.[52] Nevertheless, the GDP per capita levels in all the outermost regions were lower than the EU average or the national GDP of their respective Member States.[53] Moreover, in all the outermost regions the employment rates were below the EU average – the lowest in Mayotte (43% of the EU average) and the highest in the Azores (71% of the EU average).[54] The outermost regions also recorded the highest rates of young people neither in employment nor in education or training (NEET), esp. in French Guiana and Réunion, where more than one-third of young people comprised the NEET category in 2017.[55] In 2015, the R&D intensity (investments in research and development) was less than 0.5% in the Azores, the Canary Islands, and Madeira, while the EU-28 average was 2.04%.[56]

Geographic, demographic, economic, and other specificities of the outermost regions were essential in creating different infection patterns than in the mainland EU. Due to the remoteness of the outermost regions, infection waves were delayed compared to the rest of the EU, so they had sufficient time to impose early restrictions and other protective measures. In addition, the demographic structure, characterised by the prevalence of young people, contributed to mitigating the incidence of severe cases of COVID-19. Moreover, earlier experience in health-crisis management (*e.g.* at the time of the outbreak of the Chikungunya virus in Réunion or the dengue fever in Martinique) increased the efficiency of their response to the COVID-19 pandemic.[57]

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51 The category of 'less developed regions' encompasses the EU regions where the GDP per capita is at least 75% lower than the EU-27 average. See: Eurostat Regional Yearbook 2018, Publications Office of the European Union, Luxembourg, 2018, p. 17; Eighth Report on Economic, Social and Territorial Cohesion, *op. cit.*, note 3, p. 20

52 See: Eurostat Regional Yearbook 2018, *ibid.*, pp. 17-18

53 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *loc. cit.*, note 5. Even the economically more developed Canary Islands example shows discrepancies between Spain and the Islands' economy, labour market, and relative poverty indicators. Betancort, M. *et al.*, *Inequality of Opportunity in an Outermost Region: the Case of the Canary Islands*, Island Studies Journal, Vol. 14, No. 2, 2019, pp. 23-42

54 Eighth Report on Economic, Social and Territorial Cohesion, *op. cit.*, note 3, p. 149; Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *ibid.*, p. 18

55 See: Eurostat Regional Yearbook 2018, *op. cit.*, note. 51, pp. 62-63; Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *ibid.*, pp. 18-19

56 See: Eurostat Regional Yearbook 2018, *ibid.*, pp. 117-118

57 The description of other factors affecting the health, economic and social impact of the pandemic in the outermost regions see in: Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, pp. 45-49

In October 2021, the European Commission published the Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (hereinafter: the Study), the first comprehensive report with a preliminary analysis of the socio-economic repercussions of the COVID-19 crisis in the outermost regions.[58] It encompassed the period between December 2020 and September 2021. Apart from addressing the pandemic's health, economic and social impacts, the Study also provided recommendations for targeted measures to support future sustainable recovery, growth, and resilience-building.[59] Although exhaustive, the Study was soon supplemented by nine separate in-depth analyses on the impact of the pandemic on each outermost region, published by the European Commission in January 2022.[60] These documents offer an array of statistical data on each of the three impacted areas – healthcare, economy, and society.

First, the health-related impacts of the COVID-19 pandemic were diverse across the outermost regions. The data confirmed the fragility of the healthcare systems of the outermost regions, which suffered greatly under the pressure of high COVID-19 cases. That was especially evident in Guadeloupe, Martinique, Mayotte, French Guiana, and Saint Martin, which recorded the highest incidence of cases, alongside the concurrent outbreaks of dengue fever. At the same time, they also lagged behind mainland France regarding vaccination rollout. Indeed, the only outermost regions with sufficiently high vaccination rates and, consequently, lower infection rates were the Azores, the Canary Islands, and Madeira.[61] Secondly, the economies of the outermost regions experienced multi-layered shocks, which

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58 *Ibid.*, *loc. cit.*, note 2

59 *Ibid.*, pp. 6, 14, 16

60 Outermost Region Fiche Azores – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Canary Islands – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche French Guiana – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Guadeloupe – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Madeira – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Martinique – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Mayotte – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Réunion – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022; Outermost Region Fiche Saint Martin – Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, Publications Office of the European Union, Luxembourg, 2022

61 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, pp. 6-7, 21-23

impacted tourism, transport, construction, creative, and agricultural sectors and, as a result, led to an overall recession. In 2020, the GDP per capita of the Canary Islands decreased double in comparison to mainland Spain (20% vs. 10.8%), and the ratio was similar for the French outermost regions and mainland France (up to 28% vs. 18.6%). Therefore, it is not surprising that the projections suggest that the post-COVID-19 recovery process in the outermost regions would be slower than on the national level of their respective Member States. The downfall of the outermost regions' economies was closely intertwined with the deep crisis in the tourism sector, affected by a sharp decrease in tourist numbers in 2019-2020 by an alarming 70%. The outermost regions heavily relying on tourism include the Azores, the Canary Islands, French Guiana, Guadeloupe, Madeira, Martinique, and Saint Martin. Perturbations in the tourism sector provoked a chain reaction leading to disruptions in other sectors, mainly in the air and sea transport, culture, and retail.[62] Thirdly, as anticipated, negative trends in the healthcare and economic sectors consequently had adverse effects on the social sphere. The Canary Islands and Madeira documented the highest increase in unemployment rates during 2019-2020 (the Canary Islands from 18.8% to 25.2%, and Madeira from 7.1% to 8.1%).[63]

In order to mitigate the distressing effects of the pandemic in the outermost regions and to eliminate further threats to their societies and economies, the EU introduced 345 targeted policy measures by October 2021, primarily related to various support schemes financed by strategic allocations of the European and national funds.[64] Those specific measures are thoroughly elaborated in earlier chapters of the paper on the applicable legislative framework to the outermost regions, especially in the event of extraordinary circumstances of the COVID-19 pandemic.[65] As the Study pointed out, the statistical data on the crisis' health, economic and social impact varies considerably between the outermost regions, confirming the need for a tailored approach to implementing targeted legislative acts and measures on the ground.[66] Some of the most critical actions that call for a diversified approach include support to SMEs; skills development for digitalisation; reinforcing the long-term performance of health systems; flexibility in State-aid rules; social measures targeting youth, employment, and poverty alleviation; keeping vital transport corridors open; and addressing energy risks and promoting

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62 *Ibid.*, pp. 7-8, 24-37, 50-52

63 *Ibid.*, pp. 8-9, 38-44

64 *Ibid.*, pp. 9-10, 64-67

65 See: *supra*, Chapter 2 on the legal status of the outermost regions

66 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, p. 17

energy independence, with particular emphasis on the investment in reliable and renewable energy sources.[67]

The year 2022 was marked by the adoption of one of the most critical and exhaustive analyses of the EU economic and social landscape, published by the European Commission – the Eighth Report on Economic, Social and Territorial Cohesion.[68] The importance of the document goes much beyond the actual presentation of the chronology of the economic, social, and territorial development of the EU. Specifically, it also sets a solid basis for further legislative actions aimed at improving the overall well-being of the EU in a post-COVID-19 period. Some of them were already indicated in the accompanying Communication of the European Commission, which emphasised the most critical steps the EU needs to take in the next 30 years to stimulate growth and overcome drawbacks presented in the Eighth Report.[69] Similarly, the Council of the European Union prepared conclusions that summarise its political position on the Report's findings and called on the Commission and the Member States to take appropriate actions to tackle future socio-economic challenges more effectively.[70] The distinctive element and added value of the Eighth Report on Economic, Social and Territorial Cohesion are that, for the first time, this comprehensive publication included a chapter on the regional dimension of the COVID-19 pandemic outlining both the health and economic impact of the unprecedented crisis. Similar to the Study, it disclosed some worrying numbers related to the coronavirus death toll in the EU,[71]

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67 *Ibid.*, pp. 10-11

68 Eighth Report on Economic, Social and Territorial Cohesion, *loc. cit.*, note 3

69 According to the Communication, future legislative efforts should streamline actions in the domain of green, digital and demographic transitions, technological transformations, democracy and its values, implementation of the European Pillar of Social Rights, strengthening resilience and responsiveness to asymmetric shocks such as the COVID-19 pandemic and others. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on the 8th Cohesion Report: Cohesion in Europe towards 2050, COM (2022) 34 final, Brussels, 4 February 2022

70 In the Council, the Eighth Report on Economic, Social and Territorial Cohesion was thoroughly presented by the European Commission and examined by the Member States at the meetings of the Working Party on Structural Measures and Outermost Regions (SMOR) throughout February and March (CM 1517/22, Brussels, 2 February 2022; CM 1657/22, Brussels, 9 February 2022; CM 1779/22, Brussels, 16 February 2022; CM 1962/22, Brussels, 1 March 2022; CM 2229/22, Brussels, 15 March 2022; CM 2396/22, Brussels, 25 March 2022). Particular attention was paid to the in-depth examination of the impact of the pandemic at a regional level, including the outermost regions. The Council conclusions will be drafted in April and May 2022, and the final adoption is foreseen at the meeting of the General Affairs Council (Cohesion) on 2 June 2022. These are the internal information of the Working Party on Structural Measures and Outermost Regions (SMOR), of which the author is a member

71 See: *supra*, introductory remarks

drawing attention to the fact that the less developed regions recorded the highest increase in mortality – by 17%. Guadeloupe, French Guiana, and Mayotte were one of those hard-hit regions, but the upsurge was also significant in Martinique.[72] On the other hand, statistics in the Azores, the Canary Islands, and Madeira were noticeably better because of the much higher rates of fully vaccinated people.[73] As for other drawbacks, the Eighth Report confirmed that the imposed travel, socialising, vaccination, and distancing restrictions sharply affected the tourism sector on which the outermost regions are heavily dependent, especially in the Azores, the Canary Islands, and Madeira.[74]

4. POST-COVID-19 RECOVERY AND RESILIENCE-BUILDING – TOWARDS A NEW EUROPEAN STRATEGY

The European strategy for the outermost regions comprises strategic orientations set in the Communication of the European Commission, the purpose of which is to address the challenges and acknowledge the potentials and assets of the outermost regions. Thus far, the Commission published four such Communications – in 2004, 2008, 2012, and 2017.[75] At the core of the strategy's implementation is the principle of partnership between the European Commission, the outermost regions, and their respective Member States – France, Portugal, and Spain. Moreover, the European Parliament and the Council are closely intertwined with the partnership trio by nine Members of the Parliament representing nine outermost regions, on the one hand, and the Council's Working Group on Structural Measures and Outermost Regions (SMOR), on the other hand.[76]

The latest 2017 strategy was adopted at a radically different time from nowadays. However, by encouraging the implementation of four sets of specific measures, it contributed to building more sustainable and resilient outermost regions' societies and economies, more ready to adapt to the changing circumstances of the

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72 Eighth Report on Economic, Social and Territorial Cohesion, *op. cit.*, note 3, pp. xiii-xiv

73 *Ibid.*, pp. 5-6

74 *Ibid.*, pp. 1, 9, 10, 11, 16

75 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank – A Stronger and Renewed Strategic Partnership with the EU's Outermost Regions, COM (2017) 623, 24 October 2017; Communication from the Commission – The Outermost Regions of the European Union: Towards a Partnership for Smart, Sustainable and Inclusive Growth, COM (2012)287, 20 June 2012; Communication from the Commission – The Outermost Regions: an Asset for Europe, COM (2008)642, 17 October 2008; Communication from the Commission on a Stronger Partnership Strengthened for the Outermost Regions – Assessment and Prospects, COM (2004) 343, 26 May 2004

76 EU and Outermost Regions, *loc. cit.*, note 11

COVID-19 pandemic. First, it foresaw a close dialogue between the European Commission, the outermost regions, and their Member States. Second, it encouraged investment in key growth-enhancing sectors, notably tourism, fisheries, forestry, agriculture, natural bioproducts, biomedicine, blue economy, space science, circular economy, renewable energy, and others. Third, it backed up measures enabling growth and job creation, such as investments in research and innovation, education and training, competitiveness and entrepreneurship, digital accessibility, transport, and others. Fourth, through joint projects and programmes, it supported the cooperation and synergy between the outermost regions and neighbouring countries,[77] the so-called beneficial "interdependencies".[78] Due to the enormous socio-economic shocks provoked by the COVID-19 pandemic from 2019 onwards, the outermost regions and the EU as a whole impatiently await the introduction of the new European strategy for the outermost regions, which would define a novel strategic approach adapted to 2021-2027 EU priorities, related to the green, digital, and demographic transition as well as complete and resilient recovery from the COVID-19 pandemic. The initial phase of its adoption started in November 2021, when the European Commission launched the public consultation.[79] Furthermore, in December 2021, the French Presidency of the Council announced it would prepare the appertaining conclusions,[80] following the European Commission's presentation of the new strategy on 5 May 2022, with a view to their final adoption at the meeting of the General Affairs Council (GAC) on 21 June 2022.[81]

Although the content of the new 2022 Communication of the European Commission on the strategic approach to the outermost regions is not yet known, it is expectable that the part on the impact of the COVID-19 crisis would reflect some of the most critical objectives of the 2021-2027 financial period calling for a resilient recovery by way of green, digital, and demographic transitions. Some valuable

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77 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank – A Stronger and Renewed Strategic Partnership with the EU's Outermost Regions, *op. cit.*, note 75, pp. 2-16

78 Ciot, M.-G.; Sferlic, R., *EU's Interdependencies in the COVID-19 Crisis*, Romanian Journal of European Affairs, Vol. 21, No. 1, 2021, pp. 119-134

79 EU Cohesion Policy: Commission Launches Public Consultation for a New Strategic Approach for the Outermost Regions [https://ec.europa.eu/regional_policy/en/newsroom/news/2021/07/07-08-2021-eu-cohesion-policy-commission-launches-public-consultation-for-a-new-strategic-approach-for-the-outermost-regions], Accessed 2 April 2022

80 Le programme de la présidence française du Conseil de l'Union européenne – Relance, puissance, appartenance, 1er janvier-30 juin 2022, PFUE, Paris, p. 12

81 For the chronology of the adoption of the Council conclusions on the 2022 European strategy for the outermost regions see: Working Paper, WK 15736/2021, Brussels, 22 December 2021

insights into those objectives can be already found in the recommendations and guidelines of the Eighth Report on Economic, Social and Territorial Cohesion and the Study on the Impact of the COVID-19 Pandemic on the Outermost Regions, illustrated further in the text.

First, the objectives of the future 2022 strategy should be perceived and evaluated through the prism of recommendations of the European Commission underlined in the Study on the Impact of the COVID-19 Pandemic on the Outermost Regions because the Study precisely demonstrated that the global crisis considerably changed the course of the socio-economic approach to the European future. Similar to the rest of the EU, the effects of the crisis were not evenly manifested in all the outermost regions. On the contrary, the scale and nature of the impact varied considerably between the outermost regions. For that reason, future measures for the medium- and long-term recovery, growth, and resilience-building should be adequately adapted to their unique needs and reflect the existing discrepancies generated and accentuated by the pandemic.

The transition recovery pathways of the outermost regions will be primarily determined by the general rules on thematic concentration in using EU funds, requiring substantial investments in green and digital transition during the new financial period 2021-2027.[82] One of the first steps the outermost regions and their respective Member States should take is to reform the public governance to adjust it to future socio-economic challenges and shocks. The Study highlighted that such advancement is needed, for example, in the area of public financial management in Guadeloupe, reducing the administrative burden on applicants for financial support in Saint Martin, and digitalising the public sector in the Azores and Madeira.[83] During the pandemic, the fragility of the outermost regions' labour market confirmed the demand for further investments in employment support schemes and apprenticeship programmes, with a stronger emphasis on long-term and sustainable needs. The respective demand is especially apparent in the case of the youth labour market, which should be further strengthened and advanced with respect to job retention and hiring schemes as well as the development of specific skills in digitalisation, entrepreneurship, and various sectoral areas. Concrete examples include improving hiring and retention support schemes in the Canary Islands and French Guiana, expanding the range of existing training programmes in Saint Martin, and creating vocational training offers in Martinique. Given the immense impact of the COVID-19 crisis on the outermost regions' economies, a number

[82] Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, p. 11

[83] *Ibid.*, p. 11, 78-79

of safeguarding measures should be introduced to improve the future regional business resilience. Adopting targeted sectoral strategies is a necessary initial step to upgrading the business environment through a medium- and long-lasting integrated approach. Some of the recommended strategies refer to marine technology and bioeconomy research and development in Madeira, the dairy production in the Azores, and diversifying the tourism sector in the Azores, the Canary Islands, Madeira, Martinique, and Réunion. Furthermore, it is fundamental to support future-proof business models of SMEs, such as facilitating credit accessibility for entrepreneurs in Martinique, promoting EU funding opportunities in Saint Martin, and supporting informal businesses in Mayotte.[84] Finally, the outermost regions need to keep pace with the rest of the EU in digital and green transitions, which is necessary to create new socio-economic opportunities and boost the overall recovery and resilience-building. For the outermost regions, investing in digitalisation primarily means investing in tackling remoteness. For example, investments in digitalisation would enhance home access to digital tools in Guadeloupe and Martinique, business digitalisation in French Guiana, Mayotte, Réunion, and Saint Martin, and public sector digitalisation in the Azores. As noted by Renda, digital transformation in the European environment is seen as "a salvific tool for sustainable post-pandemic recovery".[85] When it comes to the green transition, adopting appropriate circular and blue economy strategies is the starting point for defining and strengthening local infrastructure and renewable energy options. In that context, investments in projects supporting climate change adaptation should be one of the medium- and long-term priorities.[86] Examples of specific measures include launching an energy-neutral project in the Canary Islands and supporting regional connectivity and renewable energy projects in Réunion.[87] Investing in the green transition of the outermost regions is not only investing in environmental but also economic and social sustainability.[88] Bongardt and Torres explicitly emphasised that the COVID-19 crisis needed to be addressed through the European Green Deal framework because "it is more than just another initiative for green growth", but "a building block of a sustainable European economic model".[89]

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84 *Ibid.*, pp. 11-12, 73, 76-77, 80-84

85 Renda, A., *Making the Digital Economy "Fit for Europe"*, European Law Journal, Volume 26, No. 5-6, 2020, p. 349

86 Ribalaygua, C.; García, F.; García Sánchez, H., *European Island Outermost Regions and Climate Change Adaptation: A New Role for Regional Planning*, Island Studies Journal, Vol. 14, No. 1, 2019, pp. 21-40

87 Study on the Impact of the COVID-19 Pandemic on the Outermost Regions (OR), *op. cit.*, note 2, pp. 12-13, 73, 84-85

88 Van Zeben, J., *op. cit.*, note 16, p. 300

89 Bongardt, A.; Torres, F., *The European Green Deal: More than an Exit Strategy to the Pandemic Crisis, a Building Block of a Sustainable Economic Model*, Journal of Common Market Studies, Vol. 60, No. 1, 2022, p. 170

Secondly, the Eighth Report on Economic, Social and Territorial Cohesion provided for detailed data on demographic trends necessary for defining future demographic policies of the outermost regions within the new 2022 strategy. The Report's analysis highlights that most outermost regions are faced with the demographic challenge of moderately to sharply declining population. In general, they can be grouped in three categories, depending on the nature and impact of demographic trends over the past decade: (1) those with a population reduction; (2) those with a growing population and net outward migration, and (3) those with a growing population and net inward migration. The decline was most evident in Martinique, Guadeloupe, and Saint Martin and moderate in the Azores and Madeira. The outward migration characterised both sub-categories; however, it was notably higher in the French outermost regions, to the extent that it balanced out usually positive natural change. The demographic picture was the opposite in the Portuguese outermost regions; namely, the outward migration was fairly lower, but the natural change was also low or negative. It is estimated that reductions in the population size will continue in the 2020-2030 decade because the current age structure of the population is conducive to its decline and overall ageing. Namely, the share of the young (0-19 years) and working-age population (20-65) is declining, while the older population (65 years and more) is increasing. French Guiana and Réunion are in the second category of the outermost regions with a growing population, especially French Guiana, where natural change is high, and net outward migration is relatively limited compared with French Guiana. In other words, Réunion also has high natural change, but its net outward migration is substantial. According to projections, the population in these two French outermost regions will continue growing by 2030, however, at a somewhat slower pace, especially in Réunion, where the share of the young and working-age population, which is now high, is projected to decrease. As for the third category of the outermost regions, now comprised of the Canary Islands and Mayotte, they owe their increase in the population number primarily to a high net inward migration (the Canary Islands) or a high natural population change (Mayotte). The age structure of their population is different, with the Canary Islands having a much lower share of young people compared to Mayotte, where more than 50% of the population is 0-19 years old. The estimations project that the population size in both outermost regions will continue increasing – in Mayotte in all age groups, while in the Canary Islands, just in working-age and older population groups. What is particularly important from the perspective of defining effective future demographic policies in the outermost regions is that all of them, no matter to which of the three categories mentioned above they belong, will face a considerable increase in the older population. It is projected that this will be especially

noticeable in French Guiana, Mayotte, and Réunion, where the share of the older population is expected to double by 2030.[90]

5. CONCLUSION

Assessed in a two-year retrospective, the health and socio-economic effects of the COVID-19 pandemic on the outermost regions of the European Union can be depicted as particularly detrimental, burdensome, and challenging. Both human toll and recession were more prominent in the outermost regions than elsewhere in the EU, including in their respective Member States – France, Portugal, and Spain. Which determinants generated or potentiated such emergency-invoked hardships, and what can be done to prevent them in the future?

The underlying factor determining the effectiveness of the outermost regions' response to socio-economic shocks is not monodimensional. It is a combination of mutually interwoven elements, which include handicaps listed in Article 349 of the TFEU, a disadvantageous position of less developed regions of the EU (except for the Canary Islands and Madeira), and fragilities of specific growth-enhancing sectors, such as tourism and transport. An array of special measures introduced at the EU level to boost the outermost regions' potential and resilience contribute significantly to strengthening their societies and economies; yet, even in a pre-pandemic period, they could not entirely eliminate the development gap. As expected, COVID-19-induced difficulties additionally potentiated economic discrepancies. Even if the pandemic subsides or disappears in due course, it is assumed that the outermost regions and the EU as a whole will continue to experience the prolonged effects of the protracted crisis for some time to come. In such circumstances, adopting a new strategy and accompanying legislation that would foresee measures targeting the repercussions of the unprecedented (health) crisis is critical.

The drafting process of the new 2022 European strategy for the outermost regions is in full swing. For the first time, the strategy will address the impact of the COVID-19 crisis on the outermost regions and set strategic orientations for the transition recovery pathways. Every crisis is a breeding ground for new beginnings with new opportunities. For the outermost regions, that would mean incorporating their peculiar needs and interests into broader political objectives of the EU, calling for the ambitious green, digital, and demographic transition. The 2021-2027 financial perspective is better equipped with resources and funding channels than the previous 2014-2020 financial envelope, so the European regions will be

[90] Eighth Report on Economic, Social and Territorial Cohesion, *op. cit.*, note 3, p. 201

able to invest in targeted effective recovery while simultaneously building sustainable societies. The outermost regions will have the opportunity to bounce back and become more competitive and resilient to future multi-layered crises.

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