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The Financial Responsibility Regulation

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These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union.

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Regulation (EU) No 912/2014
of the European Parliament and of the Council
of 23 July 2014
establishing a framework for managing financial responsibility linked to investor-to-state dispute settlement tribunals established by international agreements to which the European Union is party

(The “Financial Responsibility Regulation”
or “FRR”)

Outline

1. The aim and scope of the FRR

2. The content of the FRR:
   (i) allocation of financial responsibility
   (ii) determination of the respondent
   (iii) obligations enshrined in the duty of cooperation

1. The aim and scope of the FRR

Aim:

To establish clear rules concerning the apportionment of financial responsibility and the involvement of the EU and its Member States (MS) in investor-to-State (ISDS) proceedings under EU international agreements

Scope:

ISDS proceedings conducted under international agreements to which the EU is a party

2. The content of the Regulation

(i) Criteria for allocation of financial responsibility

Key criterion: the actor of the treatment challenged to be in breach of the agreement bears the costs

- **EU treatment -> EU financial responsibility**
- **MS treatment -> MS financial responsibility**

Exception: MS treatment is "required by EU law"

-> EU financial responsibility (as long as prior MS law was compatible with EU law)

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2. The content of the Regulation

(ii) Criteria for determination of the respondent

Key criterion: the entity bearing financial responsibility also acts to defend the claim in a dispute

- **EU financial responsibility -> EU respondent**
- **MS financial responsibility -> MS respondent**

Exceptions: EU respondent when:

- the dispute also involves EU treatment
- MS prefers the EU to act as the respondent
- similar measures are subject to WTO dispute

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2. The content of the Regulation

(iii) Obligations enshrined in the duty of cooperation

- in all cases, close cooperation between EU and MS to ensure the best possible defence of any claims alleging a breach of EU agreements

- arrangements for the payment of costs of litigation and of awards granting monetary compensation to ensure that the resources of the EU are not unduly burdened

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Thank you for your attention!

For the text of the Financial Responsibility Regulation
see the *Official Journal* of the European Union
(OJ L 257, 28.8.2014, p. 121–134)

http://data.europa.eu/eli/reg/2014/912/oj