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Ensuring a Fair Development? The Role of Cohesion Policy and Just Transition Mechanism in the EU Green Initiative

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Abstract: The dual imperatives of environmental sustainability and equitable development occupy a central position in the EU's strategic vision, yet their concurrent pursuit engenders inherent tensions. The EU has noted that some regions and people are more vulnerable in the process of realizing green ambitions and that the Just Transition Mechanism (JTM) and Cohesion Policy (CP) are two of the most crucial concepts and tools for the EU to mitigate this friction in order to mediate between socio-economic equity and the realization of green ambitions. This article examines how the EU's CP and JTM reconcile environmental climate goals with social fairness, especially the potential challenges and interactions in this process. Combining legal analysis of EU treaties and funding regulations with policy evaluations of subsidy implementation, it identifies a divergence in primary objectives between the CP's regional balanced development goals and the JTM's mandate to mitigate the social impact of urgent decarbonization. The study argues that achieving a fair green transition requires a wider interpretation of "Just Transition" under EU climate law. It proposes harmonizing the CP and JTM, and sets the functionalism as the core to determine the integrative relationship between the CP and JTM. Furthermore, enforceable and convenient procedural rights for affected populations is a feasible way to improve the supporting effect of related structural funds. By addressing normative gaps in participatory equity, this analysis advances institutional pathways to align environmental urgency with just development in supranational policymaking and implementation.

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1. Introduction

Since the adoption of the European Green Deal (EGD) in 2019,[1] the European Union (EU) has promoted its pace of legislation on environmental protection and climate change mitigation in order to achieve its green objectives.[2] The EGD covers multiple sectors of the EU economy which shows the EU's ambitions to transform itself into a modern and resource-efficient society.

Obviously, it is very difficult and complex to accomplish an overall structural change in this giant union. The EU is establishing a legal system for green transition through harmonized legislation to ensure the consistency of member states' environmental policies; however, there are wide disparities in the level of economic development of individual member states and regions of the European Union, and for some low-income regions that rely on traditional industries, green transition is a tough process. From its inception, the EU has been attentive to internal inequalities and has consistently intervened to bridge the gap between different regions. Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that the EU's goals include: "strengthening of its economic, social and territorial cohesion" and "reducing disparities between the levels of development of the various regions and the backwardness of the least favored regions."[3]

It is the Treaty foundation of the cohesion policy (CP). This policy is a main investment policy[4] to divert multiple EU fund resources to reduce

1 This document accommodates environmental challenges in various areas and sets out a systematic path for economic sustainability development in the EU. See "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 the European Green Deal," European Commission, December 12, 2019, accessed April 6, 2025, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52019DC0640.

2 These are selected environmental legislative actions, not all the related legislation enacted after the publication of the European Green Deal.

3 Consolidated version of the Treaty on the Functioning of the European Union - Part Three: Union Policies and Internal Actions – Title XVIII: Economic, Social and Territorial Cohesion – Article 174 (ex Article 158 TEC) (OJ C115, 9 May 2000), accessed March 10, 2025, https://eur-lex.europa.eu/eli/treaty/tfeu_2008/art_174/oj/eng.

4 The EU's definition of investment policy from the perspective of policy implementation, however, as a provision set out in the TFEU and reflective of the EU's holistic approach and endeavors, is a principle that must be followed and taken into account in the implementation of all EU policies.

the disparity of EU inequality.[5] Although the green transition is a main focus of the CP, it is a policy strategy which has to take comprehensive factors that contribute to the EU internal inequality. Thus, some disputes and ambiguities would arise which would hinder the process of the EU green transition. It is evident that the reason for the dispute is the discrepancy in policy goals, and the measures of reconciliation is worth delving into.

The JTM is a critical tool to support the fairness of EU green transition which would help to mobilize approximately EUR 55 billion from 2021 to 2027.[6] At first blush, these two policy instruments may cooperate and ensure the equity in the EU green transition process. The fact, however, is that there are still a large number of regions that can barely afford the industrial change and replacement under the green initiative.

The implementation and application of the EU's CP and JTM is not a simple overlay, they are different policies pursing different targets with a certain degree of functional overlap. In addition, the concepts of the just transition (JT) and CP, their internal structures and legal implications are not clear. In this context, even their respective roles cannot be fully defined, let alone the linkages and synergies effect between the two.

Although there are a few scholars that explore the concept and legal implication of the JT[7] – they delve into the question to explore its function and meaning in the EU or international context – it is still limited and not enough. For one thing, due to the different sources and scenarios of application, the concept and legal meaning have to be examined in the specific context of the EU green transition, while assessing their usefulness in the context of concrete examples. For another, the relationship and synergies effect between the JT and CP have not been examined.

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5 "EU Cohesion Policy (2021–27) – Policies," IEA, October 26, 2021, accessed March 10, 2025, https://www.iea.org/policies/14328-eu-cohesion-policy-2021-27.

6 "The Just Transition Mechanism – European Commission," European Commission, accessed February 10, 2025, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/finance-and-green-deal/just-transition-mechanism_en.

7 Vilja Johansson, "Just Transition as an Evolving Concept in International Climate Law," *Journal of Environmental Law* 35, no. 2 (2023): 229–49; Vasiliki (Vicky) Karageorgou, "The EU Just Transition Concept and Its Application in the Case of the Just Transition Mechanism," *Journal for European Environmental & Planning Law* 20, no. 3–4 (2023): 287–320, https://doi.org/10.1163/18760104-20030006.

Against this background, this article would delve into the concept and legal implication of EU's JT and CP, especially the relationship and policy interactions between the two in the context of the EU's pursuit of environmental objectives.

2. Concept and Legal Implication

2.1. Elements, Origins and Purpose

The concept of the JT was first introduced by a worker activist in North America.[8] Its impact and influence has expanded in the decade since it was introduced, but the basic scope of coverage remains in the context of labor rights affected by environmental policies. The noun was adopted by international organizations as well. The UN Framework Convention on Climate Change (UNFCCC) adopted the reference of JT in a meeting in 2010 after years of negotiation.[9] In 2016, the International Trade Union Confederation (ITUC) Centre for the JT released a report stating that the JT is not only about tackling unemployment, it's an initiative investing in programs and efforts to achieve sustainable goals for jobs, sectors, and economies.[10] The factors that incorporated in the JT consideration has been extended and was not limited to the environmental policy impact on labor rights by this interpretation.

In contrast to the JT, the CP is a more macro-level policy that is widely accepted in the EU field, which is usually linked to the EU's territorial space, i.e. "territorial cohesion," and which, as already mentioned, is rooted in Article 174 of the TFEU.[11] Apart from the Treaties, there have been many

8 Anabella Rosemberg, "Building a Just Transition: The Linkages between Climate Change and Employment," *International Journal of Labour Research* 2, no. 2 (2010): 125–61.

9 The document states "Realizes that addressing climate change requires a paradigm shift towards building a low-carbon society […], while ensuring a just transition of the workforce that creates decent work and quality jobs." UNFCCC: Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad-Hoc Working Group on Long-term Cooperative Action under the Convention (March 15, 2011).

10 "Just Transition: A Report for the OECD," JTC, May 2017, accessed March 2, 2025, https://www.oecd.org/environment/cc/g20climate/collapsecontents/Just-Transition-Centre-report-just-transition.pdf.

11 Consolidated version of the Treaty on the Functioning of the European Union – Part Three: Union Policies and Internal Actions – Title XVIII: Economic, Social and Territorial Cohesion – Article 174 (ex Article 158 TEC) (OJ C115, 9 May 2000).

initiatives and agendas that deal with the EU territorial development gap in the last two decades, the territorial perspective of the CP provides the legal foundation and context for these measures.[12] The legislative work of the CP began in the 1990s, with a legislative cycle of six years or so; basically the funds and regulations related to the maintenance of fairness in the EU are all included in the framework of the CP.[13]

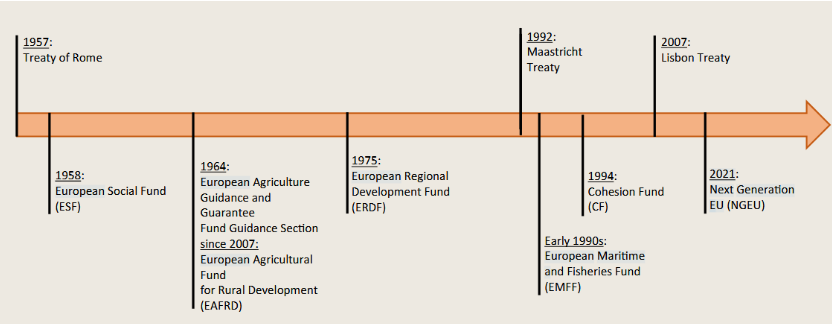

Fig. 1. Key Treaties and funds related to CP. (Victor Forte-Campos and Juan A. Rojas, "Historical Development of the European Structural and Investment Funds" [SSRN Scholarly Paper, Social Science Research Network, Rochester, 2021], https://papers.ssrn.com/abstract=3873939.)

Reducing imbalances and inequalities within the Union is the aim of the CP. This attempt entails economic, social, and geographical coherence that is consistent with article 174 of the TFEU, with special emphasis on rural and other underprivileged areas impacted by industrial transition. Thus, mitigating the impacts of ecological policies to promote a fair transition is only one aspect of the CP, which is fundamentally concerned with the inequalities that arise in all areas of the EU's socio-economy. This provision dates back to 1957, the Treaty establishing the European Economic

12 Vratislav Havlík, "The Power of Ideas: The Territorial Dimension of EU Cohesion Policy and Its Impact on EU Multi-Level Governance," *European Journal of Spatial Development*, October 17, 2023.

13 European Commission, "Cohesion Policy Legislation 2021–2027," accessed February 28, 2025, https://ec.europa.eu/regional_policy/information-sources/legislation-and-guidance/regulations_en.

Community (TEEC).[14] The main tools for the CP implementation are various types of structural funds (see Fig. 1), but it is debatable that some scholar equates the CP with various types of structural funds in their discussions.[15]

2.2. Current Legal Basis and Connection between the Just Transition and Cohesion Policy

2.2.1. The Paris Agreement Sets the Concept Foundation for the Just Transition

As mentioned previously, the concept of the JT did not originate from the EU, it originated in North America. The international organizations play an important role in the development and expansion of its concept and influence. The signing of the Paris Agreement in 2015 was a major milestone in the expansion of JT's influence, with the JT prominently featured in the agreement. The EU formally ratified the adoption of the accession to the Paris Agreement in 2016, whereby the JT has had a significant impact through the international treaties on the equity of the EU's green transition. The relevant formulation of the JT appears in the preamble to the Paris Agreement,[16] but in international law, preambular provisions do not generally create legal obligations.[17] Although EU and some other western countries realized the importance of the JT, they signed a political declaration to uphold the international endeavor for it,[18] it serves only as a sworn statement and has no formal legal effect.

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14 Article 158 of the Treaty establishing the European Economic Community (TEEC), also known as the Treaty of Rome, is now article 174 of the TFEU.

15 Lars P. Feld and Joshua Hassib, "On the Role of EU Cohesion Policy for Climate Policy," (working paper, ZEW Discussion Papers, 2024).

16 The Preamble to the 2015 Paris Agreement refers to the Just Transition by committing to "take into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities." United Nations, Paris Agreement (2015) Preamble.

17 Jan Klabbers, "Treaties and Their Preambles," in *Conceptual and Contextual Perspectives on the Modern Law of Treaties*, eds. Dino Kritsiotis and Michael J. Bowman (Cambridge: Cambridge University Press, 2018), 172–200, https://doi.org/10.1017/9781316179031.009.

18 "Supporting the conditions for a just transition internationally" adopted 4 November 2021 at the COP 26 in Glasgow, UK, para. 4, accessed March 14, 2025, https://webarchive.nationalarchives.gov.uk/ukgwa/20230313132211/https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally/.

2.2.2. EU Legal Framework for the JT and CP

It is evident that the JT and CP have different policy objectives and also arise in different legislative contexts. Article 174 of the TFEU, as the primary law of the EU, sets a valid foundation for the CP. It can be deemed as the guiding principle for the subsequent CP measures with the aim of decreasing developing disparities in the EU.[19] This policy can also be seen as a comprehensive investment policy as it is implemented to foster equal socio-economic development in the EU through investment.[20] As displayed in Figure 1, the main component is the multiple EU funds constructed for different purposes.[21] The Common Provisions Regulation (CPR)[22] incorporates the stipulation about the priority use of these funds for achieving sustainability, green, fair transition to a net zero carbon and a resilient EU economy.[23] This regulation is a key legal strategy to establish a unified rule for the management, allocation and implementation of the EU's eight structural funds. By harmonizing these funds, this design would maximize the influence of EU funding to support the territorial cohesion and sustainable development. In addition, as a periodic measure, the 2021–2027 rule set a new fund of the JT, which sets a legal link between the JT and CP compared with the 2013–2020 CPR.[24]

19 Lela Tijanić and Ines Kersan-Škabić, "Tracking the Green Transition in the European Union within the Framework of EU Cohesion Policy: Current Results and Future Paths," *Economies* 13, no. 2 (2025): 37, https://doi.org/10.3390/economies13020037.

20 Ian Bache, "Cohesion Policy: A New Direction for New Times?," in Helen Wallace, *Policy-Making in the European Union*, 7th ed. (Oxford: Oxford University Press, 2014).

21 The funds under the Cohesion policy framework mainly including European Regional Development Fund (ERDF), European Agricultural Fund for Rural Development (EAFRD), European Social Fund (ESF), Cohesion Fund (CF), European Maritime and Fisheries Fund (EMFF).

22 Regulation (EU) 2021/1060 of the European Parliament and of the Council of June 24, 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 (2024), http://data.europa.eu/eli/reg/2021/1060/2024-06-30/eng.

23 "Cohesion Policy of EU," European Circular Economy Stakeholder Platform, February 14, 2025, accessed April 1, 2025, https://circulareconomy.europa.eu/platform/en/financing/cohesion-policy.

24 Regulation (EU) No 1303/2013 of the European Parliament and of the Council of December 17, 2013 Laying down Common Provisions on the European Regional Development

The EU has emphasized the importance of the JT in its climate law,[25] it explicitly stipulates that the climate actions should be taken aligning with a way of "just and fair transition." This stipulation ensures the position of the JT in the EU secondary law. In addition, the EGD and its following multiple initiatives have specified the implementation measures of the JT. The main strategy is constructing a JT mechanism, as a part of the EGD investment plan to mitigate the negative effect of the green transition.[26] There are three pillars to support the operation of the mechanism: Just Transition Fund (JTF), "InvestEU" scheme, and public sector facility.[27] The relevant fund and financial legal documents including the CPR naturally fall into the legal documents of JTM.[28]

2.2.3. The Comparison and Relation between the JT and CP

The JTF has been included in the implementation framework of the CP,[29] which shows that there is functional overlap between the two with a similar main practical way of investment and funding. In addition, the CPR also incorporates both of the JTF and cohesion fund to channel money flow with the other six funds.[30] This regulation would motivate one third of the EU

Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund f`or 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 (OJ L347, 20 December 2013), http://data.europa.eu/eli/reg/2013/1303/oj/eng.

25 EU Climate Law, supra note 12.

26 The European Green Deal, supra note 1.

27 "The Just Transition Mechanism – European Commission," European Commission, accessed February 10, 2025, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/finance-and-green-deal/just-transition-mechanism_en.

28 Although not all the funds included by the Common Provision Regulation regulation to the Just Transition fund, which is one of the core funding tools of Just Transition Mechanism, there is definitely the regulating function produced by the CPR.

29 "Cohesion Policy," European Circular Economy Stakeholder Platform, February 14, 2025, accessed April 1, 2025, https://circulareconomy.europa.eu/platform/en/financing/cohesion-policy.

30 Regulation (EU) 2021/1060 of the European Parliament and of the Council of June 24, 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 (OJ L231, 30 June 2021), http://data.europa.eu/eli/reg/2021/1060/oj/eng.

budget to promote the realization of a comprehensive strategic direction,[31] which links the operation and application of the JT and CP in the funding process. However, this does not mean that there is a common and consistent goal between the two. For one thing, with regards the JT, the EU climate law and the EGD focus on supporting people and places which are influenced by green policy to promote the pursuit of climate and environmental goals. For another, the CP, with its original goal to support the balanced economic development within the EU. It can be seen that although the CP is concerned about the regional development imbalance caused by the EU's environmental policies, its ultimate pursuit is balanced and equitable development within the EU, and the JT aims to maintain the legitimate interests of people affected by green policies to promote the realization of environmental goals, so it can be concluded that the pursuit of the two is not exactly the same.

3. Micro Perspective: The Operational Practice of Just Transition and Cohesion Policy

Various EU Structural Funds and other financial support are the main instruments for the implementation of the JTM and CP. Member states and regions are the main recipients of funds when they are in operation, and it is worth noting that the Just Transition Fund (JTF) is not only one of the pillars of the JTM, but also is included in the toolbox of the CP strategy by the EU.

The JTF requires joint efforts and close coordination between EU and its members in its implementation. First of all, the ultimate pursuit of the JTF is definitely the EU's environmental goals, so, according to the JTF Regulation, Member States that have not committed to reach net zero carbon emissions by 2050 can only approach half of the fund's resources.[32] This provision clarifies that one of the functions of the JTF is to facilitate the EU member states' compliance with the EU's ultimate goal of achieving

[31] There are five strategic directions in detail: (1) Smart and Competitive Europe; (2) Green and Climate-Resilient Europe; (3) Connected Europe; (4) Social and Inclusive Europe; (5) Europe Closer to Citizens.

[32] Regulation (EU) 2021/1056 of the European Parliament and of the Council of June 24, 2021 Establishing the Just Transition Fund (OJ L231, 30 June 2021), https://eur-lex.europa.eu/eli/reg/2021/1056/oj/eng.

carbon neutrality by 2050, accelerating the Union's transformation as a whole. The Commission will give final approval to the regions where the Fund projects will be implemented, and the member states and regional authorities will work together to prepare one or more Territorial Just Transition plans (TJTPs).

As the country received the most EU funding from 2014 to 2020, amounting to EUR 1.5 billion, Poland is a practical example for understanding the interaction and conflict between the JTM and CP.[33] Its plan was approved by the European Commission in 2022, in which five Polish priority regions were listed. However, there were, in fact, seven regions initially proposed by Poland, but two regions, Lublin Voivodeship and Zgorzelec, were rejected by the EU due to lack of clarity in the plan. In addition, the Western Małopolska region was later rejected on the grounds that it did not detail how the JT's funding would affect the region's transformation process.[34]

The EU's rigorous scrutiny of the use of JTF funds is partly reflected in the content requirements for the TJTP. The JTF Regulation require member states to submit plans describing the ways in which they will support jobs and ensure that these measures are in line with the principles of climate neutrality and the EGD.[35] This is the EU's way of guiding and monitoring the effective implementation of the EU's green policies by individual member states, and of using JTF funds for transformational aid in line with green objectives. Some people may think that this strategy may lead to a less efficient use of JTF funds, and that some regions affected by the transition policies may not receive the funding they deserve. This is understandable, as each region has different facilities and human resource bases, as well as different degrees of impact. procedures. However, the JTF Regulation, as well as other relevant fund regulations, provide for detailed and stringent

33 "EU Cohesion Policy: Commission Adopts €76.5 Billion Partnership Agreement with Poland for 2021–2027," European Commission, June 30, 2022, accessed April 9, 2025, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4223; "Cohesion Policy and Poland," Official Website of European Commission, accessed April 3, 2025, https://ec.europa.eu/regional_policy/en/information/publications/factsheets/2014/cohesion-policy-and-poland.

34 Miłosława Stępień, Alina Pogoda, and Michiel Stapper, *Following the Money: Poland – What Is the Just Transition Fund Going to Finance* (CEE Bankwatch Network, 2024).

35 Regulation (EU) 2021/1056 of the European Parliament and of the Council of June 24, 2021 establishing the Just Transition Fund, 2021 (OJ L231, 30 June 2021).

operational procedures, as these institutionalized funds have established objectives. Simplifying the approval process could lead to the funds being used for other purposes or even misused, so it is not acceptable to solely cut off some operational and screening processes, especially when the steps are set to ensure the alignment between policy objectives and funding flows.

The TJTPs submitted by the five Poland regions are significantly different. The Upper Silesia region emphasizes innovation and the substitution of traditional industries by high-tech industrial institutions, while the Western Małopolska region focuses on supporting and investing in enterprises in order to contribute to the stabilization of the employment rate and to prevent people from losing their jobs. In addition, some plans lack key components.[36] For example, the Upper Silesian region does not provide an emissions reduction target for the region, and the region's coal plants will be completely shut down by 2030, which would reduce CO_2 emissions by a significant amount because most of the region's electricity was generated by coal prior to the transition. Anticipated estimates of emission reductions are important for achieving climate neutrality. Article 11(d) of the JTF Regulation requires that the expected contribution to the 2050 climate neutrality goal of the impacts on the environment, economy, and employment of the JTF's support be described in the TJTP.[37] This plan does not strictly comply with this requirement. However, this provision also does not explicitly require the reporting of carbon reduction values by region in the provided TJTP, leaving room for ambiguity in the content of the TJTP.

Compared to the JTM, the CP covers a wider sectors scope. A number of EU funds, including the JTF, and financial instruments are categorized in a policy perspective under the CP. Its multiple mandates dictate its comprehensive objectives in policy practice, as evidenced by the amount of

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36 Selective elements of planned outcomes based on TJTP of Poland, CEE Bankwatch Network based on a methodology formulated by Michiel Stapper and data contained in the Territorial Just Transition Plans for Poland, Emilia Ślimko, Magdalena Bartecka and Alina Pogoda, Territorial Just Transition Plans for Polish Coal Regions (Alliance of Associations Polish Green Network, CEE Bankwatch Network, 2021), accessed May 14, 2025, https://bankwatch.org/wp-content/uploads/2021/10/2021-10-20_TJTP_Poland.pdf.

37 Regulation (EU) 2021/1056 of the European Parliament and of the Council of June 24, 2021 establishing the Just Transition Fund, 2021 (OJ L231, 30 June 2021).

funds set aside for the CP 2021–2027: EUR 392 billion – which is equivalent to one-third of the EU's total budget.[38] According to the CP 2021–2027 partnership agreement between Poland and the Commission,[39] the CP's efforts are directed in five main directions: firstly, the energy transition and environmental protection; secondly, the digitalization of EU society; thirdly, the protection of the rights of citizens; fourthly, the financing of regional governments to promote the partnership; and fifthly, the support and protection of the fisheries and the marine environment. The first objective is the most green-relevant, the JTF will support several of Poland's most affected regions with nearly EUR 4 billion in financial support, however, according to the agreement,[40] most of the CPF funds will be used for direct green investments rather than supporting the affected areas. The third goal focuses on social inclusion and resilience. The fifth measure focuses on fisheries and the marine environment, which is a direct contribution to the environment, biodiversity and other climatic issues, and does not pay much attention to the inequities caused by the relevant transformation measures. Otherwise, the other two goals are not directly related to a fair green transition.

It can be seen that at the policy level, the EU places the environment, climate and ecological pursuits at the forefront of the CP. However, Article 174 of the TFEU, which is the legal foundation of the CP, does not seem to be set up for the pursuit of environmental objectives, and only a small part of the funds would generate direct effect on reducing regional disparities brought about by green transition measures.

38 Vasilis Margaras and Emmanuel Alvarez, "The Future of Cohesion Policy: Current State of the Debate," European Parliamentary Research Service, 2025, accessed April 29, 2025, https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2025)767217.

39 "EU Cohesion Policy: Commission Adopts €76.5 Billion Partnership Agreement with Poland for 2021–2027," European Commission, June 30, 2022, accessed April 9, 2025, https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_22_4223/IP_22_4223_EN.pdf.

40 Ibid.

4. Assessment of Measures Under the Due Conception and Legal Implications of Just Transition and Cohesion Policy

4.1. Limitation of Implementing Framework

Although the EU currently places the CP and JTM at a crucial position, and has set up European structural funds such as the JTF, CPF, ESF+, ERDF, etc. to provide substantial economic support, these settings may still not be able to fully buffer the industrial and employment impacts of the EU's green policies. The dimension, framework, and intensity of the current JT implementation are not enough. Also, the citation and application practices of the CP policy show a tendency of generalization, which may lead to the impairment of the function of the CP policy and is not conducive to the achievement of equity in the green transition.

The JTF creates an immediate link between the JTM and the CP, which enhances the relevance of the two. However, it just focuses on the most affected region,[41] the interests of other citizens who are affected to varying degrees can easily be ignored. In addition, even though the JTF as a core fund does not fully reflect the concept of equity in the JT, the population focused on in the implementation of the JTF regulation is limited. It mainly helps the employment situation in the most important traditional industrial areas, such as the unemployed in fossil energy extraction companies; however, the fact remains that there are a large number of other citizens who are directly affected by the industrial changes in these areas.[42]

Furthermore, the JTF application requirements are not of a sufficient standard. As mentioned above, member nations are obliged to send in the TJTP to the EC under the JTF Regulation with the required key information attached to its content. However, due to the lack of detail required by the filing criteria, some crucial information in the plan form may not be mentioned. In addition, the official organizations of these regions may be eager to receive economic support from the JTF due to the pressure of shortage of funds, while neglecting to pay attention to the objectives of

41 Ruven Fleming and Romain Mauger, "Green and Just? An Update on the 'European Green Deal'," *Journal For European Environmental & Planning Law* 18, no. 1–2 (2021): 164–80, https://doi.org/10.1163/18760104-18010010.

42 Karageorgou, "The EU Just Transition Concept and Its Application in the Case of the Just Transition Mechanism."

the JTF, in which case the goal of fairness that the JTF is expected to pursue will be jeopardized.[43]

Moreover, the JTM and CP are in conflict to some extent, although the EU appears to have achieved a coupling between them. In terms of its fundamental function, the CP aims to promote economic growth and employment opportunities to downsize the economic differences across the different areas of the EU, which is essentially an economic promotion policy, and some of the projects may be related to traditional industries, which is not in line with the green transition pursued by the JT. There may also be a conflict when dividing EU resources between the climate change adaptation actions and the CP.[44] Whilst the EU has made principles such as sustainable development key to the operation of the CP, including innovation, accessibility, education, business, employment and other factors, all points are to be considered by the CP,[45] so it is bound to be inclusive to a certain extent. The EU has taken note of this issue and it is undeniable that in the last decade it is increasingly strengthening the link between the CP and environmental protection and climate change mitigation endeavors,[46] which is a good tendency, however in terms of the functionality of the legal set-up, it is very difficult to fully reconcile it.

Last but not least, money mobilized by funds and other tools is insufficient. The EU is currently supporting the green transition through funds such as the JTF, ESF+, and other financial support such as Invest EU. What appears to be a systematic approach to aid is, in fact, deeply flawed, with the exception of the JTF, other instruments either do not have the sole purpose of financing areas affected by the green strategy or do not have the capacity to do so directly. The EU structural funds including the JTF, CPF are the mainstay of the defense of a JT, and, according to the common rules of these

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43 Another potential negative factor is the current EU JTM focus on the most affected regions and citizens, which promotes competition between different regions to receive funding allocations, which may have led to a lack of analysis of intended programs and impacts. As a result, the JTF's use of funds may be derailed.

44 Feld and Hassib, "On the Role of EU Cohesion Policy for Climate Policy."

45 Ramona Pîrvu et al., "The Impact of the Implementation of Cohesion Policy on the Sustainable Development of EU Countries," *Sustainability* 11, no. 15 (2021), https://doi.org/10.3390/su11154173.

46 Michal Nekvasil and Bedřich Moldan, "Could Cohesion Policy Push EU Climate Efforts?," *Climate Policy* 18, no. 1 (2018): 129–39, https://doi.org/10.1080/14693062.2016.1251878.

funds, the achievement of the climate goals is one of their main objectives, and thirty per cent of the funds will go to this area. However, equity, which is affected by climate measures, is not sufficiently taken into account.[47]

4.2. The Misalignment of CP Policy's Focus on Equity in the Green Transition

According to the primary law of CP legislation, Article 174 of the TFEU, the CP is set up to improve economic, social and territorial cohesion.[48] The generalized provisions of primary law leave a great space for interpretation and manipulation by EU officials. This has led the EU to pile more and more elements into the CP, and while it is understandable to give the CP overarching consideration, the focus on a fair green transition must be reinforced.

For one thing, the EU defines the CP in practice as its primary investment policy,[49] which limit its function of the JT facilitation. As the original purpose of the CP policy was for EU cohesion, it is reasonable for the EU to consider the imbalance caused by the green transition as only one of the aspects.[50] However, defining the CP directly as an investment policy may limit its role and function in promoting EU cohesion and alleviating disparities between regions, as support in other areas such as culture, education, training, etc., in addition to finance, is also important. This limitation may also have a negative impact on the adaptation of the green transition.

For another, climate friendliness and energy transition are gaining importance in the CP program. Three of the eleven objectives of the CP program for 2014–2020 are related to climate change issues.[51] In fact, the CP has never lacked attention to climate change issues in its implementation over the years.[52] Compared to the 2014–2020 phase, the 2021–2027

47 The EU Common Provision regulation, supra note 44.

48 Article 174, TFEU, supra note 7.

49 "Modernising the Cohesion Policy to Meet Today's Challenges," Directorate-General for Communication, April 1, 2025, accessed May 5, 2025, https://commission.europa.eu/news-and-media/news/modernising-cohesion-policy-meet-todays-challenges-2025-04-01_en.

50 The EU has listed related legislation on Cohesion Policy. See "Cohesion Policy Legislation 2021–2027," European Commission, accessed May, 5 2025, https://ec.europa.eu/regional_policy/information-sources/legislation-and-guidance/regulations_en.

51 Dorota Murzyn, "Cohesion Policy and the EU's Response to Climate Change Challenges," *Przegląd Europejski* 2022, no. 4 (2023): 81–94, https://doi.org/10.31338/1641-2478pe.4.22.6.

52 Elisavet Thoidou, "The Climate Challenge and EU Cohesion Policy: Implications for Regional Policies," *International Journal of Innovation and Sustainable Development* 7, no. 3 (2013): 303–20, https://doi.org/10.1504/IJISD.2013.056946.

CP program has gone further in terms of greening, with increased financial support, improved regulation and adjustment measures, and reinforced communication and visibility provisions (see Table). Increased attention and investment in green is a trend in the EU policy area; however, businesses and individuals in regions that have been affected by the transformational shocks caused by green policies have not received more attention. The current CP policy focus on green areas is centered on promoting and supporting the energy transition and water resilience. Rather than directly supporting the adaptation of affected regions to the green transition, the CP policy is moving away from a "balanced" and "cohesive" approach.

Table. Environment and Climate Consideration of two program periods of Cohesion Policy (2014–2020, 2020–2027).

2014–2020	2021–2027
Relevant ex-ante conditionalities.	Enabling conditions.
List of specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations.	Climate proofing of investments in infrastructure with an expected lifespan of at least 5 years.
Climate and environmental weighting of intervention fields in implementing act.	Climate and environmental weighting of intervention fields in annex I.
Minimum contribution at Fund level to climate targets.	If 3% climate bonus applied to Recovery and resilience plan, then also to Cohesion Policy funds.
Total indicative amount of support envisaged for climate change objectives to be indicated in the Partnership Agreement and in the programmes.	National climate contributions, for ERDF and Cohesion Fund, to be established in the Partnership Agreement.
	Climate adjustment mechanism: in case monitoring indicates insufficient progress, remediation measures agreed in annual review meeting.
Managing authorities to undertake actions to avoid or reduce environmentally harmful effects of interventions and ensure results in net social, environmental and climate benefit.	"Do no significant harm" principle.

Source: "New Cohesion Policy," European Commission, accessed May 5, 2025, https://ec.europa.eu/regional_policy/2021-2027_en.

The JTM and CP are essential to accelerate the EU's adaptability to green policies. They can help to address the equity issues arising from carbon reduction policies, where the TFEU provides a legal centerpiece of balanced development and cohesion in the EU. But the EU has adopted a restrictive understanding of the JT, while the CP policies have strayed from the conceptual track of valuing balanced development.

5. Definition of "Just Transition" in a More Strengthened Legal Context

5.1. Stabilization and Expansion

Whether internationally or within the EU, the JT is increasingly mentioned and cited, and its theoretical connotations are becoming richer, but there are very few interpretations of its legally binding definition; it remains "under-discussed and poorly defined in legal literature."[53] In the EGD, the EU closely links the JT to green investments and explains the functions of the JTM:

> The Just Transition Mechanism will focus on the regions and sectors that are most affected by the transition because they depend on fossil fuels or carbon-intensive processes. It will draw on sources of funding from the EU budget as well as the EIB group to leverage the necessary private and public resources.[54]

The EGD categorizes the JTM as part of its sustainable investment program at the implementation level and does not elaborate on the theoretical definition of the JT. Besides, the EU climate law also does not elaborate on the definition of the JT, its Article 4(5) simply states that "the need to ensure a just and socially fair transition for all" needs to be taken into account in the pursuit of climate goals.[55]

JT represents the direction of the EU's attention and efforts to address the equity of the various social roles generated by green measures.[56] There-

[53] Ann Eisenberg, "Just Transitions" (SSRN Scholarly Paper, Social Science Research Network, Rochester, 2018), https://papers.ssrn.com/abstract=3281846.

[54] 2.2.1, European Green Deal, supra note 1.

[55] The EU Climate Law, supra note 12.

[56] Some of the EU's green policies are to some extent the product of political activity and gamesmanship, and there is a degree of opacity in their operation. Anna Kyriazi and Joan Miró, "Towards a Socially Fair Green Transition in the EU? An Analysis of the Just Transition Fund Using the Multiple Streams Framework," *Comparative European Politics* 21, no. 1 (2023): 112–32, https://doi.org/10.1057/s41295-022-00304-6.

fore, it should be set as a binding principle of EU environmental governance. Current frameworks merely acknowledge the JT through fragmented aspirational clauses, lacking substantive obligations to operationalize socio-economic equity in decarbonization.[57] Elevating the JT to a cross-cutting legal principle would mandate systematic ex-ante impact assessments for all climate policies, ensuring proportionality between mitigation targets and distributive justice. Concurrently, legislative revisions must expand the JT's targeting scope beyond the most affected fossil fuel-dependent regions. Amendments to the JTF should cover all significantly adversely affected entities, including workers in carbon-intensive industries, SMEs in green transitions, and communities impacted by biodiversity policies. The JT framework must evolve beyond investment to integrate technical assistance, educational interventions, and judicial safeguards enabling CJEU oversight of national compliance. This holistic approach would transform the JT from political rhetoric into an actionable rights-based framework, aligning with the EU's value of social rights while mitigating regressive impacts of the green transition.

5.2. Enhancing the Compatibility of Cohesion Policy

The balanced development of environmental protection is a vital area of concern for the CP, which is rooted in the importance of environmental protection matters in the EU. Article 191(1) of the TFEU makes the protection and enhancement of the quality of the environment a pursuit of EU policy.[58] The CP's focus on the green development gap reflects a focus on fairness. In this sense, the JTF belongs to the scope of the CP.

In addition, the scope of the CP is quite large and is not limited to regional disparities caused or amplified by green policies,[59] but also focuses on regional economic disparities in the EU caused by a variety of

[57] Jerzy Jendrośka, Moritz Reese, and Lorenzo Squintani, "Towards a New Legal Framework for Sustainability under the European Green Deal," *The Opole Studies in Administration and Law* 19, no. 2 (2021): 87–116, https://doi.org/10.25167/osap.4274.

[58] Article 191(1), TFEU, supra note 7.

[59] The diversified targets can be seen in the CP objectives set out in the partnership agreement between Poland and the commission, which include: educating energy dependence and protecting the environment; digital transformation of the economy and society; building socially inclusive and resilient communities; local partnerships; sustainable fisheries and aquaculture sector; sustainable fisheries and aquaculture; and the development of the local

reasons. Therefore, the promotion of green investment is also its main concern, which creates friction within it, and can also be understood as friction between the CP and the JTF, i.e. the CP promotes the green industry transition through investment,[60] and also supports employment and business development in regions affected by this transition through funding to maintain equity. Although the EU has set an ambitious zero carbon target, this should be based on the premise of overall equity. The EU, as a whole, not a particular EU region, is the subject to seek to realize the goal. As such, the CP should allocate a sufficient amount of funds to promote the development of the economy of the affected region, rather than overly aggressively investing a large portion of the funds in the replacement of traditional industries. This is, in fact, supported by EU law, as Article 191(2) TFEU mentions: "Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union."[61]

Regional differences should, therefore, be a necessary consideration for the implementation of green policies. Therefore, the CP should first consider the expected resilience of regions to the impacts of green investments and establish a systematic assessment of socio-economic impacts when developing and implementing green policies, and allocate JTF funds accordingly.

The CP is designed to respond to national and regional differences within the EU.[62] Although the CP is important for investments to reduce gas emissions, and related climate investments are increasingly expanding, these growing green investments are predicated on adequate funding to ensure balanced development and growth across regions.

economy, society; Building socially inclusive and resilient communities; Local partnerships; Sustainable fisheries and aquaculture sector. See the Partnership Agreement, supra note 70.

60 Green policies may be understood in a broad sense to include the promotion of direct green transitions as well as the promotion of green and just transitions that are influenced by the corresponding policies. In this context, a narrower understanding is applied.

61 Article 191(2), TFEU, supra note 7.

62 Maciej Jagódka and Małgorzata Snarska, "Should We Continue EU Cohesion Policy? The Dilemma of Uneven Development of Polish Regions," *Social Indicators Research* 165, no. 3 (2023): 901–17, https://doi.org/10.1007/s11205-022-03048-8.

6. Conclusion

The EGD, as the EU's flagship sustainability strategy, crystallizes its transformative climate ambitions by accelerating decarbonization timelines, thereby amplifying the urgency of addressing transitional inequities. This study systematically examines the interplay between the CP and JTM within this accelerated green transition paradigm. While the CP serves as the EU's longstanding instrument for reducing regional disparities through multidimensional investments in infrastructure, innovation, and social inclusion, the EGD's heightened pace of ecological modernization has intensified tensions between rapid industrial restructuring and equitable outcomes. The analysis positions the CP and JTM as dual yet often misaligned pillars of the EU's sustainability architecture, tasked with reconciling climate neutrality objectives under the Paris Agreement with the socio-economic vulnerabilities of structurally disadvantaged regions.

The CP's multiplicity of objectives and lack of normative definition of the JT creates functional overlaps and tensions with the JTM, which prioritizes compensatory justice for communities affected by decarbonization. While the CP increasingly channels investments into green infrastructure, its limited focus on transitional equity reveals a structural imbalance. In addition, procedural gaps in stakeholder participation — exemplified by contested TJTPs in Central and Eastern Europe — highlight systemic barriers to translating equity norms into enforceable entitlements.

To reconcile these tensions, the study advocates for a binding and clearer legal definition of "Just Transition" within the EU framework, mandating comprehensive socio-economic impact assessments for climate policies. It further proposes integrating the JTM's compensatory measures with the CP's structural reforms to ensure vulnerable communities receive sufficient transitional relief and sustainable development support.

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