



The green turn of EU finances: the introduction of the “do no significant harm” principle in the Financial Regulation

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SUMMARY: 1. Introduction. – 2. The finances of the EU and their revival. – 3. The EU Green Strategy and the role of finances. – 3.1. The “do no significant harm” principle as a new green standard. – 4. The “do no significant harm”: an emerging principle of EU environmental law. – 4.1. The “do no significant harm” principle under the Taxonomy: a negative condition. – 5. The EU Financial Regulation. – 5.1. The “do no significant harm” in the Financial Regulation: legal significance. – 5.2. Operationalization and implications of the application of the “do no significant harm” in the Financial Regulation. – 5.3. Hurdles to the application of the “do no significant harm” principle in the Financial Regulation. – 6. Concluding remarks.

1. Introduction

In September 2024, a subtle yet profound reform was introduced with the integration of the “do no significant harm” (DNSH) into the

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Financial Regulation, which is the law that governs the general budget of the EU.¹ The reform of the Financial Regulation confirms a growing role that EU finances are called to play within the green transition and EU governance more broadly. Following its initial application in the Recovery and Resilience Facility, the largest programme adopted to boost the post-pandemic economic recovery, the reformed Financial Regulation now applies the DNSH principle to all finances of the EU.² Well-established under international environmental law, the DNSH is assuming an autonomous meaning in the field of EU environmental law. Despite flying under the radar of most scholarly attention,³ this green-oriented reform of the Financial Regulation signals an important turn of EU public finances towards ecological targets.

As this article will show, the “green” turn of EU finances is a key component of a broader EU ecological agenda. The reform examined in this contribution has embedded environmental considerations directly into the EU financial management principles and the EU budget that, with its multiannual approach, is emerging as a particularly

¹ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council, of 23 September 2024, on the financial rules applicable to the general budget of the Union (recast), Recital 2 and Art. 33. Regulation (EU) 2020/852 of the European Parliament and of the Council, of 18 June 2020, on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 (hereafter the “Taxonomy Regulation”).

² For an analysis of the genealogy of the integration of the DNSH principle in the Recovery and Resilience Facility see L. KENTACHE, *A Duty Under Customary International Law and a Condition for Funding Under the EU Recovery and Resilience Facility: The Genealogy of the “Do No Significant Harm” Principle*, in *European Journal of Public Procurement Markets*, n. 5, 2023, p. 88 ff. See also I. COSTANZO, *Il principio Do no significant harm (DNSH) nel processo di transizione ecologica: un itinerario di riflessione*, in *RIDPC*, n. 4, 2023, p. 717 ff.; M. PIGNATTI, *The ‘do no significant harm’ Principle as a Strategic Tool. The ‘Sustainable Economic Activity’ and Issues for the Innovation in Public Contracts*, in *RRM*, n. 1, 2023, p. 195 ff.; F. DE LEONARDIS, *Lo Stato Ecologico. Approccio sistemico, economia, poteri pubblici e mercato*, Torino, 2023, p. 173 ff.; R. BIFULCO, *Nascita di un principio? La tormentata formazione del Do No Significant Harm*, in *RGA Online*, 2024, www.rgaonline.it/articoli/contributi/nascita-di-un-principio-la-tormentata-formazione-del-do-nosignificant-harm; R. FAMÀ, *Beyond “Fit for 55”: the Emergence of the ‘Do No Significant Harm’ Principle in EU Law and EU Funding Mechanisms*, in *Review of European, Comparative & International Environmental*, n. 1, 2025, p. 62 ff.

³ C. KILPATRICK, *Explaining and Remediating the Near Absence of the Budget in EU Law Scholarship*, in *CMLR*, vol. 61, 2024, p. 623.

effective instrument for delivering sustainability objectives. Therefore, there is room to argue that the integration of the DNSH principle in the Financial Regulation will mark a paradigm shift towards “ecological primacy” in EU financial governance, thus challenging traditional understandings of the principle of sound financial management.⁴ This contribution will explore this new frontier, critically analysing the implications of the DNSH principle’s inclusion in the Financial Regulation of the EU. For its level of technicity, the Financial Regulation is hardly studied, while its recent green turn offers the occasion to dig into it, thus providing an innovative contribution to the existing literature.

2. *The finances of the EU and their revival*

The finances of the EU are a domain that is rapidly evolving and becoming increasingly central in the EU’s strategy to address its challenges.⁵ The Security Action for Europe (SAFE) Regulation, the recently adopted plan to strengthen defense investments, is an example of such dynamism.⁶ Being increasingly confronted with what Draghi has defined as “common imported shocks”, the EU is shifting towards

⁴ For the concept of “ecological primacy” see E. CHITI, *Managing the Ecological Transition of the EU: the European Green Deal as a Regulatory Process*, in *CMLR*, vol. 59, 2022, p. 19. For an early assessment of the DNSH principle in the Next Generation EU see M. ONIDA, *The Do Not (Significantly) Harm Principle*, in KARS DE GRAAF AND OTHERS (eds.), in *Liber Amicorum Jan Jans*, Paris, 2021, p. 45.

⁵ L. CALZOLARI, F. COSTAMAGNA, *La riforma del bilancio e la creazione di SURE e Next Generation EU*, in P. MANZINI, M. VELLANO (a cura di), *Unione europea 2020*, 2021, p.169-195.; R. FAMÀ, *The EU as a Borrower: Reconnecting the Debates on Economic and Monetary Union and the EU Budget*, in *ELR*, vol. 50, n. 5, 2025, p. 568 ff.

⁶ European Commission, Proposal for a Council Regulation establishing the Security and Action for Europe (SAFE) through the reinforcement of the European Defence Industry Instrument, Brussels 19 March 2025, COM (2025) 122final. For preliminary commentaries see P. DERMINE, *Funding Europe’s Defence: A First Take On the Commission’s ReArm Europe Plan*, in *VBlog*, 2025, www.verfassungsblog.de/rearm-europe-law; M. MARKAKIS, *Defence Spending and the Future of EU Finances: The ReArm Europe Plan*, in *Montesquieu Instituut*, 2025; R. FAMÀ, *Op-Ed: “Financing a European Defence: What Role for the EU Budget?”*, in *ELL*, 2025, www.eulawlive.com.eu1.proxy.openathens.net/op-ed-financing-a-european-defence-what-role-for-the-eu-budget.

more centralized spending strategies.⁷ In this context, EU finances are emerging as a powerful political instrument, enabling the spillover of policy initiatives across different domains through forms of conditionality attached to EU finances.⁸ Therefore, funds are at the forefront of the EU policy strategy in the “Europe of events,”⁹ beyond the conventional “Europe of rules.”¹⁰

The COVID-19 pandemic imprinted an unprecedented acceleration towards EU strategic spending on a large scale.¹¹ This approach transcends the traditional limitations of the EU budget, such as its small size, equal to 1% of the EU GDP.¹² The EU is currently rediscovering and effectively utilizing its borrowing capacity to expand its fiscal space and to offer more affordable loans and grants to its Member States.¹³

The Recovery and Resilience Facility (RRF), the largest spending programme ever adopted by the EU, exemplifies this trend, as the plan allowed tackling post-pandemic economic recovery through an

⁷ See M. DRAGHI, *The Next Flight of the Bumblebee: The Path to Common Fiscal Policy in the Eurozone*, 15th Annual Feldstein Lecture, National Bureau of Economic Research, Washington, 11 July 2023 <<https://www.nber.org/lecture/2023-15th-annual-feldstein-lecture-mario-draghi-next-flight-bumblebee-path-commonfiscal-policy>>; discussing the so-called “European Public Goods” see M. DRAGHI, *In Depth Analysis. The Future of European Competitiveness*, September 2024, p. 290. Concerning the “de-regulation” tendency see the “Omnibus Package” European Commission, ‘Commission simplifies rules on sustainability and EU investments, delivering over €6 billion in administrative relief’. <https://finance.ec.europa.eu/publications/commission-simplifies-rules-sustainability-and-eu-investments-delivering-over-eu6-billion_en>.

⁸ R. WARNING, *Green Conditionality in State Aid Law*, in *European Commission Competition Policy Brief*, 2021, p. 31. M. FISICARO, *Beyond the Rule of Law Conditionality: Exploiting the EU Spending Power to Foster the Union’s Values*, in *EP*, n. 7, 2022.

⁹ R. CROWE, *The European Union’s Public Finances in Times of Crisis: Fragmentation, Innovation, and Consolidation*, in C. KILPATRICK, J. SCOTT (eds.), *New Frontiers of EU Funding*, 1st edn, Oxford, 2024.

¹⁰ See L. VAN MIDDELAAR, *Alarums and Excursions: Improvising Politics on the European Stage*, Newcastle, 2019.

¹¹ N. LUPO, *Il Piano Nazionale di Ripresa e Resilienza (PNRR) e alcune prospettive di ricerca per i costituzionalisti*, in *Federalismi.it*, n. 1, 2022, p. iv ff.

¹² A. LAMASSOURE, *The Multiannual Financial Framework: a Driver of Reform*, in B. LAFFAN, A. DE FEO (eds.), *EU Financing for Next Decade. Beyond the MFF 2021-2027 and the Next Generation EU*, EUI, 2020, p. 16.

¹³ D. HODSON AND OTHERS, *Accountability in Pan-European Borrowing: Mind the Gap in West European Politics*, 2024, p. 1.

investment approach with a clear focus on green spending.¹⁴ Remarkably, in this context, for the first time, the EU legislator has used the Taxonomy framework, particularly the DNHS principle, as a benchmarking tool for selecting investments and reforms financed by the National Recovery and Resilience Plans compatible with this emerging green standard.¹⁵ This technique allowed the EU to align its spending policy with a new green paradigm, as it will be explained in detail shortly.¹⁶

It became evident that the EU budget is acting as a stimulus for constraining Member States' behaviors towards the EU strategic goals, including transition targets, to the extent that some scholars refer to a new method for the EU to rule, named "governance through funding."¹⁷ This approach represents a nuanced evolution in the EU's policy implementation, where financial mechanisms serve as a dynamic lever for achieving complex, multifaceted policy goals that extend beyond traditional budgetary realms.¹⁸

The green transition is not excluded from this transformative process. Being among the EU's strategic priorities, there is a strong incentive to subject EU funds to green standards, in a way that allows funds to play a role also in the green transition.¹⁹ It is safe to argue that

¹⁴ S. BEKKER, *The EU's Recovery and Resilience Facility: A Next Phase in EU Socioeconomic Governance?*, in *Politics and Governance*, n. 9, 2021, p. 175; A. BIONDI, *The Recovery and Resilience Facility and National Political Dynamics: A Midsummer Night(Mare)?*, in *federalismi.it*, 2022, p. 12; P. BISCIARI AND OTHERS, *The EU Budget and the Next Generation EU Recovery Plan: A Game Changer?*, in *II Economic Review*, National Bank of Belgium, 2021, pp. 29-67.

¹⁵ M. ONIDA, *op. cit.*, pp. 45-52; C. FASONE, M. SIMONCINI, *The Ambiguities of Conditionality as an Instrument of EU Internal Governance*, in C. FASONE, A. DIRRI, Y. GUERRA (eds.), *Established EU Rule of Law Instruments. State of the Art*, in *RED SPINEL Working Paper*, 2023, p. 68; B. BICHI RUSPOLI FORTEGUERRI, *Do No Significant Harm: natura giuridica e funzioni del DNSH nel diritto dell'Unione europea*, in *EJ*, n. 3, 2025, p. 144 ff.

¹⁶ For the role played in public procurement see M. COZZIO, *Transizione ecologica e appalti verdi: nuove regole e soluzioni dell'Unione europea e dell'Italia*, in *Osservatorio sulla sostenibilità*, *Studium Iuris*, n. 1, 2021, pp. 67-78.

¹⁷ EUI Conference, "Governing Through Funding in the EU", 9 June 2025, all the details of the event www.eui.eu/events?id=574387.

¹⁸ B. DE WITTE, *The European Union's COVID-19 Recovery Plan: The Legal Engineering of an Economic Policy Shift*, in *CMLR*, vol. 58, 2021, p. 635.

¹⁹ In general, on conditionality see A. BARAGGIA, M. BONELLI, *Linking Money to Values: The New Rule of Law Conditionality Regulation and Its Constitutional Challenges*, in *GLJ*, n. 23, 2022, p. 131.

the reform of the Financial Regulation, which is the object of the current analysis, aims to further ensure coherence between the EU green transition strategy and the EU spending policies through the application of the DNSH principle. The following section briefly introduces the EU green strategy and previous cases of the DNSH principle’s applications to EU finances.

3. *The EU Green Strategy and the role of finances*

With the European Green Deal, the European Union proclaimed its intention to be carbon-neutral by 2050.²⁰ To this purpose, the EU is placing itself in the world arena as one of the most climate-ambitious international organizations.²¹ In this context, a need soon emerged to reorient all the EU instruments towards the green transition, ensuring that EU policies are coherent and contribute to the green goals.²² As environmental and economic domains become more intertwined, EU spending mechanisms must also be activated to support the green transition.

Despite the challenges provoked by Covid-19 on the economy and the Russian aggression on Ukraine for the EU energy sector, the EU has pursued the implementation of the European Green Deal through several initiatives. First, the European Climate Law,²³ second, the “Fit

²⁰ 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, COM (2019) 640final, pp. 4 and 18 (hereafter “The European Green Deal”). On the European Green Deal in general see F. FERRARO, *L’evoluzione della politica ambientale dell’Unione: effetto Bruxelles, nuovi obiettivi e vecchi limiti*, in *RGA*, 2021, p. 777 ff.; F. DONATI, *Il Green Deal e la governance europea dell’energia e del clima*, in *Rivista della Regolazione dei Mercati*, 2022, p. 13 ff.; M. PASSALACQUA, *Green Deal e transizione digitale verso un diritto eventuale*, in M. PASSALACQUA (ed.), *Diritti e mercati nella transizione ecologica e digitale*, Padova, 2022, p. 14 ff.; E. CHITI, *Oltre la disciplina dei mercati: la sostenibilità degli ecosistemi e la sua rilevanza nel Green Deal europeo* in *Rivista della Regolazione dei Mercati*, 2022, p. 468 ff.

²¹ See Workshop “The European Union as a World Leader in the Transition to Sustainability”, 15 July 2025, University of Udine.

²² B. CALABRESE (ed.), *Legal Perspectives for a Sustainable Circular Economy*, Cheltenham, 2026; A. SIKORA, *European Green Deal – Legal and Financial Challenges of the Climate Change*, in *ERA Forum*, 2021, p. 681 ff.

²³ Regulation (EU) 2021/1119 of the European Parliament and of the Council, of 30 June 2021, establishing the framework for achieving climate neutrality and amending

for 55”²⁴ legislative package that included proposals to reform several legal acts related to climate and energy policies to reach the 2030 target, and third, the EU created a system for recognizing sustainable investments in the private sector with a Taxonomy framework.²⁵

The following sections give an overview of the European Green Deal, the European Climate Law, the “Fit for 55”, and the Taxonomy. Additionally, they reconstruct how the ‘do no significant harm’ principle has developed under EU law.

3.1. *The “Do no significant harm” principle as a new green standard*

The European Green Deal (hereafter also EGD) represents a “Green Manifesto” of the EU.²⁶ Despite being a Communication from the Commission with no binding force, it contains an overarching transition strategy. According to Chiti, the EGD is a wide-ranging and ambitious regulatory project that requires a re-reading of the EU construct.²⁷ Indeed, the EGD acts as a map for the transition of the European Union towards a climate-neutral economy.²⁸ The Commission affirmed that the EGD forms part of the EU’s strategy to implement the UN’s 2030 Agenda and the Sustainable Development Goals.²⁹ The roadmap set in the EGD establishes the final goal of climate neutrality by 2050 and an intermediate target consisting of cutting by 55% the carbon emissions by 2030 compared to 1990 levels. In the European Green Deal Communication, the Commission explains that the “do no harm” principle should be used as a new standard for scrutinizing all EU actions. In other words, when introducing a new initiative, the EU

Regulations (EC) No 401/2009 and (EU) 2018/1999 (hereafter “European Climate Law”).

²⁴ N. DE SADELEER, *Environmental Law in the EU: A Pathway Toward the Green Transition*, in *Blu Planet Law*, p. 27.

²⁵ European Commission Official Website, “EU taxonomy for sustainable activities”, www.finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en.

²⁶ A. BARTOLINI, *Green Deal europeo e il c.d. principio DNSH*, in *federalismi.it*, 2024, p. 51 ff.

²⁷ See E. CHITI, *Managing the Ecological Transition of the EU*, cit., p. 19.

²⁸ *Ivi*, p. 20.

²⁹ COM (2019) 640final, cit., p. 3.

should consider the harm it might have on the environment and include this assessment in the design of a policy.

As Pérez noted, the European Climate Law is the first legislative initiative to execute the EGD.³⁰ It establishes a framework for the irreversible and gradual reduction of anthropogenic greenhouse gas emissions by sources and enhancement of removals by sinks regulated in Union law.³¹ Art. 1 of the European Climate Law sets out that actions are taken in pursuit of the long-term temperature goal set out in point a) of Art. 2.1 of the Paris Agreement. Therefore, the European Climate Law is explicitly linked to the implementation of the Paris Agreement, and writes into law the mandatory goal of reducing emissions by 55% in 2030 and of climate neutrality for the EU by 2050 as compared to 1990 levels.³² In line with the EGD, it appears that the EU must balance growth with the sustainability of ecosystems.³³ The European Climate Law expressly refers to the “do no harm” principle of the European Green Deal in its Recital number 9.³⁴

A few days before the European Climate law entered into force, the Commission presented the “Fit for 55” package, whose main goal is to contribute to implementing the European Green Deal.³⁵ As the name suggests, the package includes measures to reduce greenhouse gas emissions by 55% in 2030 compared to 1990 levels established under the European Climate Law. Curiously, the Commission Communication on “Fit for 55” does not expressly refer to the “do no harm” principle of the EGD. However, it acknowledges on multiple occasions the role played by finances in the green transition, particularly for the post-pandemic recovery, such as when it notes that unprecedented resources are earmarked to support the transition through the Recovery and Resilience Facility, under the 2021-2027 Multiannual Financial Framework, and the sustainable finance

³⁰ B. PÉREZ DE LAS HERAS, *The ‘Fit for 55’ Package: Towards a More Integrated Climate Framework in the EU*, in *RJEA*, vol. 22, n. 2, 2022, p. 64.

³¹ European Climate Law, Art. 1.

³² *Ivi*, Art. 1 par. 2 and Art. 4 par. 1.

³³ *Ivi*.

³⁴ *Ivi*, Recital 9.

³⁵ B. PÉREZ DE LAS HERAS, *op. cit.*, p. 62.

framework.³⁶ More broadly, the “Fit for 55” recognizes the importance of investments for a competitive green transition and highlights that NGEU is specifically tailored to support this goal.³⁷ Also, it is worth noting that some of the legal acts belonging to the “Fit for 55” package refer to the “do no harm” principle, such as the Effort Sharing Regulation, the Renewable Energy Directive, and the Social Climate Fund.³⁸ Finally, in its July 2020 Conclusions, the European Council endorsed the application of the “do no harm” principle to EU pandemic expenditures.³⁹ On that occasion, the European Council sealed the agreement on the NGEU programme and decided that expenditure of the Recovery Plan should help reach the climate targets.⁴⁰ In detail, the European Council agreed that EU expenditure must be consistent with the “do no harm” principle of the European Green Deal. As anticipated above, the RRF, the cornerstone of NGEU, subordinated all EU-funded investments and reforms to the DNSH principle for the first time in EU history.⁴¹ As we can see, the integration of the DNSH principle into EU legal texts has appeared rather puzzling and fragmented, whereas the reform of the Financial Regulation, which is the subject of this analysis, aims to harmonise its application.

³⁶ Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Fit for 55”: delivering the EU’s 2030 Climate Target on the way to climate neutrality COM (2021) 550final, p. 4 (hereafter “Fit for 55”).

³⁷ *Ivi*, pp. 4 and 12.

³⁸ Regulation (EU) 2023/857 of the European Parliament and of the Council, of 19 April 2023, amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999; Directive (EU) 2023/2413 of the European Parliament and of the Council, of 18 October 2023, amending Directive (EU) 2018/2001; Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652; Regulation (EU) 2023/955 of the European Parliament and of the Council, of 10 May 2023, establishing a Social Climate Fund and amending Regulation (EU) 2021/1060.

³⁹ European Council, ‘Special meeting of the 17-21 July 2020 – Conclusions’, EUCO 10/20, 21 July 2020, par. 18.

⁴⁰ *Ibidem*.

⁴¹ Regulation (EU) 2021/241 of the European Parliament and of the Council establishing the Recovery and Resilience Facility [2021] (hereafter “RRF Regulation”).

4. The “do no significant harm”: an emerging principle of EU environmental law

The EGD Communication places a special emphasis on the “do no harm” principle. However, the Commission does not define its meaning, nor does it refer to the Taxonomy framework, which instead offers a specific definition. Paragraph 2.2.5 of the EGD is titled “Green Oath: do no harm principle”.⁴² As I have argued elsewhere, the term “oath” evokes a solemn commitment that should guide the Union’s policy approach. The European Green Deal boldly declares that all EU policies and actions must work in unison to facilitate a successful green transition.

Central to this commitment is the “do not harm” principle, which, in the Commission’s view, should help align existing legislation with emerging environmental priorities, ensuring a comprehensive and consistent approach to sustainable development. To bring this principle into action, the EGD provides that the explanatory memorandum, which accompanies legislative proposals and delegated acts, must contain a section illustrating how the policy at stake complies with the principle of “do no harm”.⁴³ In such a way, the no-harm principle becomes a standard against which the Commission should calibrate its legislative proposals. As Onida argues, the “Green Oath: do no harm principle” aims at counterbalancing this effect by incorporating green considerations in the legislative process.⁴⁴

Afterward, the Commission inserted the “do no harm” principle in the Communication “Better regulation: Joining forces to make better laws”.⁴⁵ The “Better regulation” requires the Commission to “assess the economic, social and environmental impacts of policy actions and ensure a consistently high quality of proposal legislation”.⁴⁶ The “Better regulation” Communication states that the Commission will “ensure that the “do no significant harm” principle is applied across all policies

⁴² COM (2019) 640final, cit., p. 19.

⁴³ *Ibidem*.

⁴⁴ M. ONIDA, *op. cit.*, p. 45.

⁴⁵ Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Better regulation: Joining forces to make better laws COM (2021) 219final.

⁴⁶ *Ivi*, p. 1.

in line with the European Green Deal”.⁴⁷ This means that nowadays the impact assessment also includes the “do no significant harm” scrutiny;⁴⁸ moreover, explanatory memoranda of legislative proposals from the Commission must justify how the initiative complies with the DNSH principle.⁴⁹

The DNSH represents both an emerging standard and a long-standing environmental principle for the EU. It is worth recalling that the DNSH principle is not mentioned within the EU Treaties. However, it is a well-established principle under international environmental law.⁵⁰ Nevertheless, the EU has developed a distinctive interpretation and application of the DNSH principle.⁵¹ Under international law, the DNSH principle is a customary law principle that aims at good relationships between neighboring countries.⁵² In this context, the DNSH principle is centered on preventing transboundary environmental damage and avoiding activities carried out in a State to cause significant harm to the environment of another State.⁵³ Differently, under the legal development discussed here, the DNSH

⁴⁷ *Ibidem.*

⁴⁸ *Ivi*, p. 16.

⁴⁹ *Ibidem.*

⁵⁰ See P. SANDS, J. PEEL, *Principles of International Environmental Law*, 3rd edn., Cambridge, 2012, p. 191; N. BREMER, *Post-environmental Impact Assessment Monitoring of Measures or Activities with Significant Transboundary Impact: An Assessment of Customary International Law*, in *Review of European, Comparative & International Environmental Law*, vol. 26, 2017, pp. 80-85; M. TIGNINO, C. BRÉTHAUT, *The Role of International Case Law in Implementing the Obligation not to Cause Significant Harm*, in *International Environmental Agreements: Politics, Law and Economics*, vol. 20, n. 4, 2020, pp. 631-648; United Nations, ‘Report of the United Nations Conference of the Human Environment’ Stockholm, 2-16 June 1972, (hereafter “Stockholm Declaration”) Principle 21; S. MALJEAN-DUBOIS, *The no-harm principle as the foundation of International Climate Law*, in B. MAYER, A. ZAHAR (eds.), *Debating Climate Law*, Cambridge, 2021, p. 15. See L. KENTACHE, *A Duty Under Customary International Law and a Condition for Funding Under the EU Recovery and Resilience Facility*, *cit.*, p. 88 ff.

⁵¹ *Ibidem.*

⁵² Stockholm Declaration Principle 21; P. SANDS, *Principles of International Environmental Law*, Cambridge, 2003, p. 191; S. MALJEAN-DUBOIS, *op. cit.*, p. 15; International Court of Justice, Judgment, 2010, Rep. 14, *Argentina/Uruguay* (Pulp Mills on the River Uruguay) par. 101; Reports of International Arbitral Awards, 1938 and 1941, n. 3, *United States/Canada* (Trail Smelter Case) pp. 1905, 1965.

⁵³ International Court of Justice, Advisory Opinion, 1996, *Legality of the Threat or Use of Nuclear Weapons*, para. 27.

principle primarily acts as a green criterion for activities to be considered sustainable when EU action is involved.

The Taxonomy Regulation gives a specific definition of the DNSH principle.⁵⁴ The latter was introduced in the field of private finance to offer a framework for identifying “sustainable” investments.⁵⁵ The word “Taxonomy” is normally used in the field of biology to provide a classification system for species. Similarly, the EU aimed to introduce science-based criteria for investments to be regarded as genuinely “green.” This effort served two purposes: on the one hand, it aimed to impede greenwashing, and on the other, to render sustainable investments more appealing on the market.⁵⁶

4.1. *The “do no significant harm” principle under the Taxonomy Regulation: a negative condition*

The Taxonomy Regulation establishes a dual criterion for sustainable investments: they must positively contribute to environmental goals while simultaneously avoiding substantial negative impacts on those objectives listed in Art. 9 of the same

⁵⁴ Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088, (Hereafter Taxonomy Regulation), Recitals 5-6. See also F. SCHUTZE, J. STEDE, *The EU Sustainable Finance Taxonomy and Its Contribution to Climate Neutrality*, in *Journal of Sustainable Finance & Investment*, vol. 14, n. 1, 2021, p. 133; N. DE ARRIBA-SELLIER, *Sustainable Finance: Green Taxonomies as Instruments of System Change?*, in J. H. VAN ZEBEN, C. HILSON (eds.), *A Research Agenda for Environmental Law*, Cheltenham, 2025, p. 157 ff.

⁵⁵ Commission (EU), “Sustainable finance: Commission’s Action Plan for a greener and cleaner economy”, Press Release (8 March 2018) www.ec.europa.eu/commission/presscorner/detail/en/IP_18_1404; P. SWEATMAN and M. HESSENIUS, “Applying the EU Taxonomy”: *Lessons from the Frontline*, in *Climate Strategy and Climate & Company Paper*, p. 5.

⁵⁶ M. DELSIGNORE, *Il principio DNSH e la lotta al greenwashing*, in *federalismi.it*, 2024, p. 72. See also S. BOWLES, *Unpacking the EU Taxonomy’s Do No Significant Harm Provision*, in *S&P Blog*, 2023, www.spglobal.com/esg/insights/blog/unpacking-the-eu-taxonomy-s-do-no-significant-harm-provision. See also C. DE VINCENTI, *Green Investments: Two Possible Interpretations of the “Do No Significant Harm” Principle*, in F. CERNIGLIA, F. SARACENO (eds.), *Greening Europe: 2022 European Public Investment Outlook*, Cambridge, 2022, p. 177 ff.; ID, *The “Do No Significant Harm” Principle: Two Possible Interpretations*, in *Luiss Policy Brief*, n. 62, 2022, p. 1 ff.

Regulation.⁵⁷ In other words, under the Taxonomy Regulation, the DNSH principle functions as a restrictive screening mechanism for qualifying sustainable investments.⁵⁸ The environmental objectives listed in Art. 9 of the Taxonomy Regulation are “climate change mitigation”, “climate change adaptation”, “the sustainable use and protection of water and marine resources”, “the circular economy, including waste prevention and recycling”, and “pollution prevention and control.” To give a concrete example of the DNSH screening function, an investment cannot be considered sustainable if it substantially decreases greenhouse gas emissions but has a significant negative impact on the well-being of an ecosystem. While striving to reduce environmental side effects, the DNSH principle recognizes that absolute zero harm is unrealistic, allowing for marginal (i.e., non-significant) environmental harm. However, identifying in an objective manner when harm becomes “significant” remains challenging, and the assessment may vary depending on the specific conditions of an ecosystem.

Interestingly, the Taxonomy Regulation gradually expanded its normative influence, generating regulatory spillover effects within the European budget. As anticipated, the Recovery and Resilience Facility applied the DNSH principle as defined in the Taxonomy Regulation to EU funds.

Preliminary studies on the operationalization of the DNSH principle in the Recovery and Resilience Facility have been recently carried out.⁵⁹ As I have argued elsewhere, the DNSH principle affected the design and type of actions that could be financed with post-pandemic money.⁶⁰ In other words, the streamlining of the DNSH pushed to include environmental considerations in national Recovery and Resilience plans, and this has led, in some cases, to exclude certain types of

⁵⁷ F. SCHUTZE, J. STEDE, *op. cit.*, p. 133.

⁵⁸ G. M. CARUSO, *Il principio “do no significant harm”: ambiguità, caratteri e implicazioni di un criterio positivizzato di sostenibilità ambientale*, in *La cittadinanza europea*, n. 2, 2022, p. 35 ff.

⁵⁹ B. BICHI RUSPOLI FORTEGUERRI, *op. cit.*; L. KENTACHE, *The Operationalization of the Novel ‘Do No Significant Harm’ Principle Under the Recovery and Resilience Facility Framework: Unravelling its Multilevel Application*, in *Review of European Administrative Law*, vol. 18, n. 2, September 2025, pp. 129-158.

⁶⁰ *Ibidem*.

interventions.⁶¹ The DNSH principle functioned as a regulatory standard, preventing the advancement of reforms and investments that could potentially undermine environmental goals. In practice, Member States could not implement measures funded by the RRF funds that could lead to significant harm to environmental objectives indicated in the Taxonomy Regulation. Through this approach, the EU effectively steered Member States towards more environmentally sustainable policy choices, and EU funding mechanisms were strategically repositioned to support the European Green Deal’s ecological vision.

Afterward, the DNSH principle has expanded its application to additional EU funds, being integrated into the Common Provision Regulation.⁶² The latter is the legal act that governs a large variety of EU funds, such as the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund, the Maritime, Fisheries, and Aquaculture Fund, and finally the Asylum, Migration and Integration Fund, and the Financial Support for Border management and Visa Policy. In this context, the DNSH principle was applied horizontally. Continuing its green policy trajectory, the EU once again synchronized its spending with this emerging environmental approach, with the Commission explicitly seeking to apply the RRF’s methodology to different funding streams.⁶³ The progressive expansion of the DNSH principle across EU funds provided the Commission with a broad range of DNSH’s applications and contributed to a more consolidated practice of screening activities against the DNSH principle. Extending the DNSH principle to all EU

⁶¹ Italia Domani, “Relazione al Parlamento sullo stato di attuazione del Piano Nazionale di Ripresa e Resilienza”, 5 October 2022, I, p. 99 ff.; U. BARELLI, *Il PNRR ed il principio “Do No Significant Harm” (DNSH)*, in *RGA*, 2023, p. 1 ff.

⁶² See Regulation (EU) 2021/1060 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, Recital 10 and Art. 9 (4). (hereafter “Common Provisions Regulation”). See the study by M. BELTRÀ MIRALLES AND OTHERS, *The Implementation of the ‘Do no Significant Harm’ Principle in Selected EU Instruments*, Luxembourg, 2023, p. 15.

⁶³ Commission Explanatory Note, ‘Application of the “Do No Significant harm” Principle Under Cohesion Policy’, 2021, p. 1.

finances through the Financial Regulation's reform marks another significant "green" turn, which builds upon the insights gained from its earlier applications.

5. *The EU Financial Regulation*

Considering the DNSH principle's growing prominence in EU law and the EU financial dimension, its integration into the Financial Regulation is a key development, which will be analyzed in the following sections. To better grasp its full extent, it is useful to provide a preliminary overview of the Financial Regulation and gain a deeper understanding of it. This offers a unique opportunity to provide an innovative contribution to the literature by examining a domain that remains largely uncharted in EU legal scholarship.

The EU Financial Regulation represents a comprehensive legal framework that governs the management of the European Union's budgetary resources, to the extent that Craig described it as a "constitutional framework for Community administration of the kind that has not existed hitherto."⁶⁴ It is a complex legal instrument that applies horizontally to all funds, whose legal basis is explicitly offered by Art. 322 TFEU.⁶⁵ The latter empowers the European Parliament and the Council, under the ordinary legislative procedure, to adopt a regulation dealing with two sets of rules: those governing the procedure for establishing, implementing the budget, and presenting and auditing accounts; and the rules for a comprehensive system of oversight and accountability, specifically focusing on the responsibilities and potential liabilities of key financial actors, such as the authorizing officer and accounting officer.

The Financial Regulation is regularly updated to reflect changing financial management needs, and the current Financial Regulation, as amended in September 2024, includes 280 articles. Due to its length and level of detail, it is also known as "the EU financial bible".⁶⁶ Its

⁶⁴ P. CRAIG, *EU Administrative Law*, Oxford, 2006, p. 26.

⁶⁵ R. CROWE, *op. cit.*, p. 32.

⁶⁶ C. DELON DESMOULIN, *Droit budgétaire de l'Union européenne*, Paris, 2011, p. 44; M. L. SANCHEZ-BARRUECO, *The 2012 Financial Regulation: Building the cathedral*

complexity is reflected in its 17 Titles, one of the most important being Title II. The latter contains a set of fundamental principles designed to ensure good financial governance, such as the principles of unity and budget accuracy, guaranteeing a sound approach to fiscal management, while the principle of annuality ensures regular financial planning.

The Financial Regulation also illustrates core fiscal principles that include maintaining budget balance, using a standard unit of account, the principle of universality, the principle of specificity of budget allocations, and promoting good financial management. These principles collectively serve as a robust framework that guides how EU institutions allocate, spend, and monitor financial resources, creating a transparent and disciplined approach to managing the complex financial architecture of the European Union.

Detailed rules are also dedicated to the establishment and the structure of the budget (Title III) and provisions on how to implement the EU budget, a function which is in the hands of the European Commission (Title IV). Given the growing importance of the activities carried out by the EU to mobilize its budget, such as borrowing operations, a specific title has been recently devoted to these financial instruments, budgetary guarantees, and financial assistance, which is now Title X of the Financial Regulation.

The Financial Regulation applies to all revenue and expenditure of the budget. Provisions regarding the implementation of the budget, as well as those contained in a basic act, must comply with the principles set in Title II of the Financial Regulation.⁶⁷ Moreover, Art. 3 (2) of the Financial Regulation provides that any proposal submitted to the legislative authority that contains a derogation from a title of the Financial Regulation different from Title II must justify the reasons for such a derogation in its recitals and explanatory memorandum. Consequently, although formally the Financial Regulation is an act of secondary law, as De Witte has argued, it has a special legal value for what concerns budgetary matters, thus especially positioning EU public finance law within the EU legal system.⁶⁸

of EU legitimacy?, in *Challenges of the knowledge Society*, 8th Ed. CKS E-Books, 2014, p. 842.

⁶⁷ Financial Regulation, Art. 3 (1).

⁶⁸ B. DE WITTE, *op. cit.*, p. 661.

5.1. *The “do no significant harm” in the Financial Regulation: legal significance*

As anticipated at the beginning of this article, the EU legislator amended Title II of the Financial Regulation, one of its most important Titles, by adding an explicit reference to the “do no significant harm” principle. Consequently, the application of the DNSH principle has now been generalized to the entire EU budget, aiming at avoiding inconsistencies for uneven applications of the principle.⁶⁹ Particularly, the DNSH is now integrated in Chapter 7 (Title II) of the Financial Regulation, headed “Principle of sound management and performance.” This reform introduced paragraph 2 lett. *d*) to Art. 33 Financial Regulation which now reads as follows «programmes and activities, where feasible and appropriate in accordance with the relevant sector-specific rules, should be implemented to achieve their set objectives *without doing significant harm* to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems» as enshrined in the Taxonomy Regulation.⁷⁰ Therefore, the EU has opted to embed the DNSH principle into its “EU financial bible” and to make an explicit reference to the definition provided in the Taxonomy Regulation. Also, it is worth noting that the DNSH principle is now part of the Financial Regulation’s article titled “Performance and principles of economy, efficiency and effectiveness”.

As observed, in the past, the European legislator had employed the DNSH principle’s formulation inconsistently, sometimes referencing the Taxonomy, while other times the European Green Deal, thereby generating confusion among legal practitioners. This choice signals a deliberate stance by the EU to adopt a single and consistent standard for all its funding streams.

Despite little attention having been paid to it, this reform will be central as it introduces an eco-conditionality approach to EU funding.

⁶⁹ M. PIGNATTI, *op. cit.*, p. 210.

⁷⁰ Financial Regulation, Art. 33, new para. *d*).

The explicit incorporation of the DNSH principle into the Financial Regulation reflects a qualitative shift in EU finances, a “green turn”, and represents a further spillover of the EU Taxonomy framework. Overall, it emerges that the EU budget is strategically positioned as a critical lever in safeguarding and further accelerating the EU green agenda.

The preface to the new Financial Regulation supports this argument when it explicitly states that among the most important changes introduced, the reform aims at «enshrining the respect of EU values, gender equality, social rights and *the environment in the financial rules for the Union budget*». ⁷¹ With this reform, respect for the environment is now entangled in the EU financial law. Being positioned close to EU values and social objectives, the inclusion of environmental considerations in the Financial Regulation suggests a broader ambition for EU finances, consisting of contributing to ESG (environment, social, and governance) targets and playing a more pronounced policy role.

Integrating the DNSH principle into the Financial Regulation is legally significant, given that, as explained earlier, it is a core regulatory instrument for EU finances, especially placed in the EU legal framework. Despite being a secondary law act, the Financial Regulation requires that all funding-related legal acts comply with it and states that its Title II cannot be derogated. ⁷² Therefore, it might be asserted that the Financial Regulation purports to be hierarchically superior to other acts concerning EU finances. ⁷³

The DNSH principle has been included in the Financial Regulation’s Title dedicated to sound financial management, a principle which is also referred to in the Treaty on the Functioning of the European Union, precisely in Art. 310(5), where it is stated that «The budget shall be implemented in accordance with the principle of sound financial management». Following this reform, the DNSH principle will form part of the sound financial management assessment, which has traditionally included the three “E”: economy, efficiency,

⁷¹ *Ivi*, p. 17.

⁷² *Ivi*, Art. 3 (2).

⁷³ R. CROWE, *op. cit.*, p. 32.

and effectiveness in the management of public funds. In other words, the recent reform demands a transformation of the principle of sound financial management, from a purely economic to a more comprehensive and multidimensional one.

Therefore, we can conclude that, following this reform, the principle of sound financial management, traditionally anchored in the three ‘E’s of economy, efficiency, and effectiveness, will now include a fourth ‘E’ - ‘environment.’ As the Commission has stated in the text of the proposal for the new Financial Regulation, referring to the green transition, the aim of this reform is «to ensure that budget implementation effectively helps achieve the European Green Deal».⁷⁴ Consequently, the budget emerges as a new catalyst for the sustainability transition.

Also, from a criterion that was applied to EU funding through specific legal acts, such as in the Recovery and Resilience Facility or the Common Provision Regulation, the reformed Financial Regulation renders the DNSH principle indistinctly applicable to the entire EU budget galaxy. Therefore, we might assume that this reform aims at streamlining the same standard for all the spending programmes adopted by the EU, rather than having inconsistent applications and gaps.

5.2. Operationalization and implications of the application of the “do no significant harm” principle in the Financial Regulation

The proposal for amendment of the Financial Regulation states that the introduction of an explicit reference to the “do no significant harm” principle in Art. 33 (2) of the Financial Regulation is coherent with the general EU commitment to sustainable financing and the green transition. However, while this ambition seems straightforward, putting it into practice could be significantly more complex. Indeed, the application of a principle whose legal meaning, at the current stage,

⁷⁴ Proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast) COM (2022) 223final.

remains unclear under EU law might be challenging.⁷⁵ It is therefore central to discuss the concrete operationalization of the DNSH in the Financial Regulation, its implications, and the challenges it might generate. To do so, comparing the DNSH as it appears in the new Financial Regulation with the experience gained under the Recovery and Resilience Facility might offer relevant insights.

The operationalisation of the DNSH principle under the new Financial Regulation can be approached through four distinct dimensions: *a)* when the DNSH principle applies; *b)* what its application entails; *c)* who is responsible for implementing and monitoring its application; and *d)* how compliance with the DNSH principle is assessed and enforced.

As to the first aspect, the text of the newly introduced Art. 33 of the Financial Regulation literally states that «programmes and activities [...] should be implemented [...] without doing significant harm». The critical point for applying the DNSH principle emerges during the actual implementation phase of projects and activities. Indeed, this is the moment when concrete harm to environmental, climate, and circular economy objectives mentioned in the Taxonomy Regulation might be caused. Nonetheless, the DNSH principle’s application becomes equally critical during the planning phase, which inherently precedes and shapes implementation. A difference emerges with the Recovery and Resilience Facility’s modality to apply the DNSH principle. It is worth noting that under the RRF, the DNSH assessment was carried out *ex-ante* by the Commission when the National Recovery and Resilience Plans were presented, deployed across the public procurement process, and, to a limited extent, *ex-post*, when, upon the realization of the milestones and targets, the money was disbursed to the Member State concerned. Concerning the latter, it has so far emerged that the *ex-post* assessment has been limited and not particularly stringent.⁷⁶ It does not

⁷⁵ B. BICHI RUSPOLI FORTEGUERRI, *op. cit.*; A. S. BRUNO, *Il PNRR e il principio del Do Not Significant Harm (DNHS) davanti alle sfide territoriali, in federalismi.it*, n. 8, 2022, p. 2 ff.

⁷⁶ D. JOITA, C. ELENA DOBROTA, C. POPESCU, “Do No Significant Harm” Principle and Current Challenges for the EU Taxonomy Towards Energy, in C. MACHADO, J. P. DAVIM (eds.), *Corporate Governance for Climate Transition*, Heidelberg, 2023, p. 187 ff.

come as a surprise that there have not been cases where the money was frozen for lack of compliance with the “do no significant harm” principle. Therefore, while during the *ex-ante* assessment under the RRF, the DNSH principle allowed the selection of green-aligned projects, impacting the design of the plan and its measures, it is unclear whether the *ex-post* assessment has been effective.

Moving to the second point, what the DNSH application entails, the reformed Art. 33 (2) Financial Regulation does not specify the practical consequences of the introduction of the DNSH principle for EU funds. Likely, this reform will require a mandatory environmental assessment of the EU-funded projects. Yet, the wording used is particularly broad, namely, “programmes and activities” that must be scrutinized against the potential harm they can generate across the six environmental objectives. It is plausible that this requirement will entail greater bureaucratic complexity. Moreover, each programme will likely need to undergo an *ad hoc* assessment, taking into account specific geographical, natural, and contextual conditions. The shift to a DNSH assessment is also likely to involve more complex data analysis regarding environmental damage, aspects that were not relevant under the previous sound financial management framework, which had a primarily economic focus. This situation will place additional administrative pressure on actors involved in the implementation of EU projects, such as local authorities, who may lack sufficient expertise. This consideration leads to the next point.

When discussing who is responsible for implementing and monitoring its application, we should recall that the Financial Regulation sets the rule for the establishment and implementation of the EU budget; therefore, there is room to argue that the “do no significant harm” principle is addressed to all institutional actors involved in the creation of EU spending programmes and in the EU budgetary process. Consequently, the EU legislator will need to take DNSH considerations into account when approving a legal act establishing a funding programme. Moreover, based on Art. 310 (1) TFEU, the European Parliament and the Council establish the annual budget.⁷⁷ Also, as

⁷⁷ Based on Artt. 14 and 16 TEU, the European Parliament and the Council must exercise budgetary functions.

enshrined in Art. 17 TEU, the Commission implements the budget. Therefore, the DNSH principle is addressed to all the institutions involved in budgetary matters, such as the European Parliament, the Council, and the Commission.⁷⁸ In addition, the multilevel architecture of the EU budget often requires the Member States to contribute to the implementation of the budget, such as under the shared management. For this reason, Art. 310 (5) TFEU specifies that the Member States must cooperate with the Union to ensure the respect of the principle of sound financial management. Remarkably, the introduction of the DNSH principle *de facto* extends the normative scope of the principle of sound financial management, which is now assuming a multidimensional character. As such, following this reform, the Member States, their local authorities, and operational partners will need to contribute to the correct application of the DNSH principle to EU funds.

In accordance with its mandate under Art. 287 TFEU, the European Court of Auditors (ECA) is entrusted with scrutinizing the sound management of EU finances. Consequently, following this reform, the ECA’s auditing will include a screening dedicated to the DNSH principle. This means that in the following years, ECA will integrate into its annual reports specific sections dedicated to DNSH compliance. As it is well known, every year the European Court of Auditors issues an opinion based on its auditing activities to assess whether annual accounts of the EU are reliable, and spending activities comply with the rules and regulations.⁷⁹ To this purpose, auditors conduct tests that enable them to generate statistical assessments of potential errors across revenue streams and expenditure categories. Therefore, misapplications of the DNSH principle within EU finances will result in an error rate signaled by the European Court of Auditors’ annual reports.

Finally, we should look at how compliance with the DNSH principle will be assessed and enforced. Indeed, while under the RRF, the Commission issued a Technical Guideline illustrating how the DNSH principle should be operationalized given the specificities of the post-

⁷⁸ P. NICOLAIDES, *Must the Commission Prohibit State Aid That Harms the Environment?*, in *European State Aid Law Quarterly*, 2023, p. 17.

⁷⁹ See European Court of Auditors, “Annual Report Concerning the 2023 Financial Year”, 10 October 2024, www.eca.europa.eu/en/publications?ref=ar-2023.

pandemic plan, providing a document for a self-evaluation, similar guidelines do not exist for the new Financial Regulation.⁸⁰ This circumstance might render the effective implementation of the DNSH principle more complex. Likely, new methodologies will need to be developed from scratch to carry out the screening of the programmes and activities against the DNSH principle. One possible measure could be the creation of a list of activities excluded from EU funding due to their detrimental impact on environmental objectives.

Certainly, the enforcement of the DNSH principle as enshrined in the Financial Regulation might be the most challenging part. In principle, under the RRF, the prospect of losing funding for non-compliance has served as a powerful incentive for rigorous implementation. Nonetheless, as for the integration of the DNSH in the Financial Regulation, it is unclear whether non-conformity with this new environmental principle might lead to the suspension of funds disbursement. A similar enforcement mechanism is not explicitly foreseen.

In the absence of explicit guidance, potential non-compliance will likely be revealed through the European Court of Auditors' Annual Reports only. These documents will inform the European Parliament's budget discharge process, potentially enabling the Parliament to leverage its budgetary prerogatives to enforce more rigorous compliance and give this principle some "teeth" for this green turn of EU finances.

5.3. Hurdles to the application of the "do no significant harm" principle in the Financial Regulation

The newly introduced approach based on the DNSH principle may give rise to three main difficulties: first, the risk of an overly stringent interpretation; second, the possibility of a too discretionary application; and third, the additional administrative burden it may generate. Moving to the first, while the principle of integration has formed part of the EU

⁸⁰ Commission (EU), "Technical Guidance on the Application of "Do No Significant Harm" under the Recovery and Resilience Facility Regulation" (Notice) C/2023/111, 11 October 2023.

primary law for a long time, entailing the “integration” of environmental considerations in EU policy-making,⁸¹ the DNSH principle seems to bring a more radical approach that aims at excluding “brown” activities from being financed by the EU. If interpreted in a stringent way, the DNSH principle requires that the EU might finance only those programmes that contemporarily do not 1) lead to a sizable amount of greenhouse gas (GHG) emissions;⁸² 2) to an increased negative effect of the present and future climate, on activities or individuals, nature, or resources;⁸³ 3) harm the good conditions or ecological potential of water bodies, like surface and groundwater, or the good environment conditions of marine waters;⁸⁴ 4) result in significant inefficiencies in the utilisation of materials or the direct or indirect use of natural resources, or if it significantly augments the production, incineration, or waste disposal, or if the waste disposal in the long-term may result in relevant and durable environmental harm;⁸⁵ 5) cause a substantial rise in the emission of pollutants into air, water, or soil;⁸⁶ 6) have significant negative impact on the well-being and resilience of ecosystems, or do not impair the good status of habitats and species that require conservation.⁸⁷ Given the extensive range of potential negative effects that must be simultaneously avoided, a rigorous application of the DNSH principle could paradoxically risk paralyzing a significant portion (if not all) of economic activities that the EU pursues. As such, the inclusion of the DNSH principle has the

⁸¹ See Art. 11 TFEU and Art. 37 of the Charter of Fundamental Rights of the EU; M. MONTINI, *The European Green Deal from an Environmental Protection Perspective: the Missing Role of the Environmental Integration Principle*, in KARS DE GRAAF AND OTHERS (eds.), *Liber Amicorum Jan Jans*, Paris, 2021, pp. 87-96; S. BÄR AND R. KRAEMER, *European Environmental Policy After Amsterdam*, in *JEL*, n. 10, 1998, p. 315; M. MONTINI, *The Principle of Integration*, in M. FAURE (ed.), *Encyclopedia of Environmental Law*, Cheltenham, 2028, pp. 138-149; L. KRAMER, *EU Environmental Law*, London, 2012, p. 24; L. KRAMER, *Giving a Voice to the Environment by Challenging the Practice of Integrating Environmental Requirements into other EU Policies*, in S. KINGSTON (ed.), *European Perspectives on Environmental Law and Governance*, New York, 2013, p. 88.

⁸² Taxonomy Regulation, Art. 17 a) “Climate change mitigation”.

⁸³ *Ivi*, Art. 17 b) “Climate change adaptation”.

⁸⁴ *Ivi*, Art. 17 c) “The sustainable use and protection of water and marine resources”.

⁸⁵ *Ivi*, Art. 17 d) “The circular economy, including waste prevention and recycling”.

⁸⁶ *Ivi*, Art. 17 e) “Pollution prevention and control”.

⁸⁷ *Ivi*, Art. 17 f) “Protection and restoration of biodiversity and ecosystems”.

potential to transform EU financial governance, marking a radical shift from a purely economic logic to one in which environmental considerations take precedence.

To avoid a complete standstill, the Financial Regulation establishes that the DNSH principle applies only «where feasible and appropriate in accordance with the relevant sector-specific rules». This “feasibility clause” might offer some flexibility when the DNSH principle is to be applied in the presence of competing interests. This leads to a second possible difficulty: an expansive reading of this “feasibility clause” might determine a too lenient application of the DNSH principle and broad discretionary choices. In practice, the institutional actors will be called to balance the DNSH principle with other priorities and specific sectoral rules. The exercise of this discretion might result in an uneven application of the DNSH principle between programmes enacted by the EU and concrete implementation at the national level. To give a concrete example, the recently introduced SAFE Regulation, the new funding programme for speeding up defence investments, does not mention the DNSH, neither in its recitals nor in its articles. This absence is alarming. In principle, defence-related investments might lead to significant harm to the environmental objectives of the Taxonomy Regulation, and this could have been a case where the DNSH “feasibility clause” enshrined in the Financial Regulation applies. However, in the Regulation introducing SAFE, the EU legislator has not offered a justification concerning this issue in the recitals. Admitting that there may be cases in which sustainability considerations yield to more pressing interests, such as defence and security, this aspect should at least be acknowledged and, in particular, duly justified. Such a discretionary approach, if left unexplained, could seriously undermine the effectiveness of the newly introduced DNSH principle within the EU financial governance framework.

Finally, the new DNSH principle might impose an excessive burden on those actors responsible for implementing EU funds, such as local authorities and implementing partners. The RRF’s experience reveals that meeting existing environmental regulations does not inherently satisfy the new requirement of the DNSH principle. Compliance with environmental law is necessary but not sufficient to demonstrate respect for the new DNSH principle. In addition, the lack of expertise with

regard to the new DNSH assessment, such as data analysis, might represent a concrete obstacle for its effective enforcement and lead to poor results. In the following years, it will be important to develop standardized DNSH practices to better identify the real extent of the DNSH principle. Despite being a fascinating and innovative eco-conditionality tool, it seems the EU legislator is placing a relevant burden on EU finances to achieve the green transition, aiming to achieve “more with less.”⁸⁸ As EU funds are ultimately implemented by local authorities and operating partners, this DNSH approach risks placing an additional layer of bureaucratic duties on them, rendering funds implementation remarkably complex and ineffective.

6. *Concluding remarks*

The introduction of the DNSH principle in the Financial Regulation further implements the European Green Deal, given that all sectors must contribute to the green transition strategy. Considering its multiannual nature, the EU budget is especially positioned to contribute to the ecological targets. The DNSH-related new form of eco-conditionality applies to all funds, and in this way, it can be argued that the finances of the EU are “greened” to deliver the ecological transition.

The EU’s strategy now focuses on limiting to a maximum extent potential negative impacts on environmental, circular economy, and climate objectives when implementing EU programmes, and the introduction of the DNSH principle in the Financial Regulation moves beyond a piecemeal approach. This normative shift requires that EU financial resources inherently incorporate environmental assessment standards into the principle of sound financial management. This approach will likely have a positive impact on future generations, as harms such as those to biodiversity or the good conditions of habitats are rarely repaired after they are inflicted. Therefore, the EU opting to finance only those activities that do not harm will (partially) prevent a detrimental impact on the environmental objectives.

Indeed, the DNSH contributes to the “green” turn of the EU finances, whose structural design appears to herald a new era of

⁸⁸ R. CROWE, *op. cit.*, p. 54.

“ecological primacy” in EU financial governance.⁸⁹ Yet, the discretionary scope afforded to its application could render its substantive effects more nebulous. In theory, the DNSH principle appears simple, yet its real-world application could be far more complex, especially for those actors involved in concrete project management who risk bureaucratic overload. Given the paucity of provisions dedicated to the “do no significant harm” principle in the EU Financial Regulation, further guidance from the Commission on its concrete interpretation might be essential for its future application and for measuring its successful implementation.

⁸⁹ E. CHITI, *Managing the Ecological Transition of the EU*, cit., p. 19.

ABSTRACT (ITA)

L’articolo esamina la recente introduzione del principio del “*Do No Significant Harm*” (DNSH) nel regolamento finanziario dell’UE, uno sviluppo cruciale nella strategia di transizione verde dell’Unione. Attraverso l’inserimento di tale principio nel quadro della governance finanziaria, l’UE sta trasformando il proprio paradigma di bilancio da una prospettiva puramente economica a una multidimensionale che attribuisce priorità alla sostenibilità ambientale. Nel complesso, pur rappresentando un approccio potenzialmente trasformativo alla strategia ecologica dell’Unione, lo studio evidenzia le principali sfide legate all’operationalizzazione del principio DNSH, tra cui possibili oneri amministrativi e complessità applicative. L’articolo sostiene che questa riforma segna un passaggio verso un bilancio dell’UE più verde, in cui la dimensione finanziaria si configura come un elemento chiave per promuovere l’agenda della transizione ecologica, in linea con il *Green Deal* europeo. Tuttavia, l’applicazione discrezionale del principio DNSH, dovuta alla cosiddetta “*clausola di fattibilità*”, potrebbe in ultima analisi limitarne l’efficacia.

ABSTRACT (ENG)

The article examines the recent introduction of the “Do No Significant Harm” (DNSH) principle into the EU Financial Regulation, a pivotal development in the EU’s green transition strategy. By embedding this principle in the financial governance framework, the EU is transforming its budgetary approach from a purely economic to a multidimensional one that prioritizes environmental sustainability. Overall, while the principle represents a potentially transformative approach to the EU ecological strategy, the study highlights significant challenges in the DNSH operationalization, including potential administrative burdens and implementation complexities. The article argues that this reform signals a shift towards a greener EU budget, positioning finances as a critical lever for advancing the ecological transition agenda, aligned with the European Green Deal. However, discretionary applications of the DNSH principle due to a “feasibility clause” may ultimately limit the principle’s effectiveness.