

Implementation of EU funds: towards more effective management and control systems under shared management (risk assessment tools, conditionality and future role of EPPO)

Background note for the Public Hearing

Introduction

This note seeks to provide background elements and references to studies and Fact sheets, which may be useful for better understanding the issue at stake and the earlier research work linked to the topic.

The aim of this public hearing is to focus on prevention and ex-post tools and on roles of different actors on Member States' and EU levels in the response to shortcomings in the shared management.

During the 2014-2020 programming period, the EU is allocating over EUR 350 billion to its cohesion policy, i.e. 32.5% of the overall EU budget. These funds will be spent on such varied activities as road-building, environmental protection, investment in innovative enterprises, job creation and vocational training. Almost EUR 200 billion will be allocated to the ERDF (including EUR 10.2 billion for European Territorial Cooperation and EUR 1.5 billion as a special allocation for the outermost and sparsely populated regions). Over EUR 83 billion will be allocated to the ESF and EUR 63 billion to the Cohesion Fund.¹

At the same time Cohesion policy is the area of the EU expenditure where material error persists, and it has spiked to 5% level in 2018. On the other hand, delays in implementation of the ESI funds continue to affect the final years of this MFF. Past beneficiaries' surveys have indicated that simplification measures have not necessarily resulted in perceived reduction of administrative burden. This hearing brings together institutions and stakeholders with an aim to identify future steps to amend this state of affairs.

This note comprises links to a number of studies on the issues of shared management, as well as to the Parliaments Fact Sheets relevant to the topic.

¹ For more details, see the Fact Sheet "Economic, social and territorial cohesion":

<https://www.europarl.europa.eu/factsheets/en/sheet/93/economic-social-and-territorial-cohesion>

The role of the Commission and the cooperation between the Commission and Member States in shared management

The bulk of EU spending - 76% of the budget² - involves funds, which come under shared management by the EU Member States, for example, the Structural Funds and the Cohesion Fund. The EU entrusts management of these funds to the Member States.

For funds in 'shared management', the Commission entrusts the Member States with implementing programmes at national level. Member States then allocate these funds to end recipients (e.g. companies, farmers, municipalities, etc.).

Each Member State has primary responsibility for setting up management and control system, which complies with the requirements of the Regulations, for ensuring that this system functions effectively, and for prevention, detection, and correction of irregularities.

The Commission plays a supervisory role, ensuring that the arrangements governing the management and control systems are compliant. The Commission is responsible for verifying the effective functioning of these systems and making financial corrections, where necessary.

Although the Structural Funds are part of the EU budget, the way they are spent is based on a system of shared responsibility between the European Commission and national authorities:

- the Commission negotiates and approves programmes proposed by EU countries, and allocates resources.
- the EU countries / regions manage the programmes, implement them by selecting projects, control and assess them.
- the Commission is involved in programme monitoring, commits and pays out approved expenditure and verifies the control systems.

For each operational programme, the national authority appoints:

- a managing authority (national, regional or local public authority or public/private body to manage the operational programme)
- a certification body (national, regional or local public authority or body to certify the statement of expenditure and the payment applications before their transmission to the Commission)
- an auditing body (national, regional or local public authority or body for each operational programme to oversee the efficient running of the management and monitoring system).

The single audit approach is crucial for funds implemented under shared management, and Member States' audit authorities are fully responsible for the national audit work and results.

For more details please see the Fact Sheets listed at the end of this note.

² For more details see Fact Sheet "Implementation of the budget":
<https://www.europarl.europa.eu/factsheets/en/sheet/30/implementation-of-the-budget>

Establishing of the European Public Prosecutor's Office and its future role

Adopting the directive on the fight against fraud to the EU's financial interests by means of criminal law marked a historic breakthrough for the EU and its taxpayers after 20 years of pressure from the Parliament.

In April 2017 16 member states agreed to establish a European Public Prosecutor's Office (EPPO), using the 'enhanced cooperation' procedure.

Later on, more EU countries decided to join the effort. There are currently 22 Member States participating in the enhanced cooperation (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Slovakia, Spain).

The EPPO is an independent office in charge of investigating, prosecuting and bringing to justice crimes against the EU budget.

Ms Laura Codruța Kövesi was appointed and assumed office as the first European Public Prosecutor in October 2019. Ms Kövesi was the former chief prosecutor of Romania's National Anticorruption Directorate.

The EPPO central office is being set up in Luxembourg, and is expected to be operational in November 2020. The Chief Prosecutor along with the College of Prosecutors from all participating countries will head the day-to-day criminal investigations carried out by the delegated prosecutors in all participating member states.

The EU prosecutor's mission will be to tackle fraud against the EU finances. It will have the power to investigate and prosecute crimes affecting the EU's financial interests.

The EPPO will conduct cross-border investigations into fraud involving EU funds of over €10 000, or into cross-border VAT fraud cases involving damage of above €10 million.

The EU prosecutor will work hand in hand with national law enforcement authorities. It will also work closely with other bodies like Eurojust and Europol.

Observations on shared management in the latest annual discharge procedure

In its annual audit report for the year 2018, the European Court of Auditors made several observations on the shared management.

Notably, Court's sampling procedure of 2018 transactions comprised of seven transactions under shared management with Member States. Among them, one was quantifiable and above the materiality threshold of 2 %. This was a shared management transaction under AMIF in Spain (error of 9,4 %)³.

Among other things, the Court notes that the Commission has not implemented its recommendation, which was made in Courts report for the year 2015, in particular:

"Recommendation 3: the Commission should submit a legislative proposal to amend, through a legislative act of equal legal value, Regulation (EC) No 1083/2006 with respect to the extension of the eligibility period for financial instruments under shared management to the Council and the Parliament. A change of the regulation is required

³ Annual report of the Court of Auditors on the implementation of the budget concerning the financial year 2018, together with the institutions' replies, https://www.eca.europa.eu/Lists/ECADocuments/annualreports-2018/annualreports-2018_EN.pdf, 8 October 2019. OJ C 340, pages 181-182

to provide legal certainty to the Member States.”⁴
(the Commission had not accepted this recommendation)

Other observations of the Court present suggestions for further improvement, but the findings are not seen as alarming.

Parliament has addressed those and other shared management issues in its latest annual discharge report, adopted on 13 May 2020.

Parliament makes a number of observations and suggestions. In particular, Parliament addresses the Courts findings with regard to the material error in AMIF.

Parliament *“urges the Commission to address the systemic weaknesses identified by the Court, such as a lack of ex post checks of supporting documents in case of ex ante administrative checks of payment claims; calls on the Member States to improve checks of the procurement procedures organised by beneficiaries of funds in relation to the legality and regularity of such procedures.”⁵*

Parliament also calls on the Commission to
“establish a uniform and standardised information system for Member States to report information on the final beneficiaries of Union funds in the area of agriculture and cohesion”
The Parliaments resolution elaborates on this in detail⁶.

Also, in the light of serious irregularities and misuse of funds in Member States, Parliament calls on the Commission to *“consider the introducing direct management instead of shared management in case of intentional misuse of funds for the new MFF”⁷*;

Other recent Parliamentary activities linked to the issues at stake

Recently a group of Members, among them several CONT Members, have asked a Parliamentary question for oral answer to the Council (Rule 136) on the subject of

“State of play of Council negotiations on the Regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States”

In their question the Members recall that in May 2018, the Commission put forward a proposal for a Regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States, and Parliament adopted its first reading position on the proposal for the Regulation in April 2019, and stated it was ready to begin interinstitutional negotiations.
The Members asked to the Council when does the Council intend to start negotiations with Parliament.⁸

⁴ditto, p. 156

⁵European Parliament decision of 13 May 2020 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section III – Commission and executive agencies (2019/2055(DEC)), https://www.europarl.europa.eu/doceo/document/TA-9-2020-0114_EN.html, paragraph 468.

⁶ ditto, paragraphs 26., 27. and 28

⁷ ditto, paragraph 230.

⁸ Full text of the question:

https://www.europarl.europa.eu/doceo/document/O-9-2020-000029_EN.html

Selected studies relevant to the main themes of the Public Hearing.

Parliament has commissioned a number of studies as well as organised events relevant to the topic. To maintain focus, the selection was limited to the research carried out for CONT and REGI committees. The documents are presented arranged by the requesting body, in chronological order (starting from more recent).

For CONT committee

Study

"The European Public Prosecutor's Office: Strategies for Coping with Complexity"

May 2019

This study analyses challenges related to the establishment of the European Public Prosecutor's Office (EPPO) as enhanced cooperation among the current 22 Member States and discusses possible solutions for coping with them. Complexity is identified as a main challenge owing to the EPPO's specific multilevel structure, the relationship between the EPPO and non-participating Member States, and the fact that the EPPO Regulation leaves many procedural rules to the law of the Member State in which an investigation takes place. Depending on the nature of the challenge, the suggested strategies to cope with complexity encompass legislative, administrative, and monitoring measures.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621806/IPOL_STU\(2019\)621806_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621806/IPOL_STU(2019)621806_EN.pdf)

Study

"Ex Ante Conditionality in ESI Funds: State of Play and their potential impact on the Financial Implementation of the Funds"

November 2018

This study is a detailed analysis of progress in the fulfilment of all Ex Ante Conditionalities in the Common Provision Regulation for ESI Funds. The process is almost complete (99%). A number of managing authorities have experienced delays during the process of compliance and in access to funds. This is manifested by a lower absorption rate, but that is believed to be temporary. Delays as a rule affected countries with lower administrative capacities; nevertheless, most authorities interviewed judged the framework beneficial (even if its costs were considered to be significant). Also the managing authorities in countries with better administrative capacities tended to see the process of proving compliance to be rather burdensome.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621790/IPOL_STU\(2018\)621790_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621790/IPOL_STU(2018)621790_EN.pdf)

Study

"Financial Instruments under Cohesion Policy 2007-13: How have Member States and Selected Financial Institutions Respected and Preserved EU Financial Interests?"

February 2016

This study assesses the implementation of financial instruments (FIs) in Cohesion policy during the 2007-13 programming period. It takes stock of existing knowledge on the operation of FIs as reflected in the academic literature and policy documents. A comparative analysis of eight case studies, focusing on the different stages in the lifecycle of FIs, provides the basis on which to draw lessons from the implementation of FIs in 2007-13, highlighting implications for 2014-20.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2016/552306/IPOL_STU\(2016\)552306_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/552306/IPOL_STU(2016)552306_EN.pdf)

Study

“Member State difficulties with Structural Funds management and control systems in the programming period 2007-13”

May 2010

Member States have experienced difficulties over the establishment of 2007-2013 structural funds management and control systems, which are linked to the applicable rules, the organisational arrangements, human resources and the tools required. While strengthened control requirements seem to have contributed to reducing error rates, such difficulties have affected the rate of interim payments.

Besides, structural funds regulatory framework is considered to have introduced more clarity but the focus on control requirements seem no longer proportionate, deflecting Structural Funds managers' attention from content issues. Recommendations are issued to address the weaknesses identified.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/411278/IPOL-JOIN_ET\(2010\)411278_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/411278/IPOL-JOIN_ET(2010)411278_EN.pdf)

For REGI committee:

Study

“The Role of Evaluation in Cohesion Policy”

April 2020

This study analyses the role of evaluation in Cohesion Policy, with a focus on the 2014–2020 programming period. It presents and assesses those EU rules, which shape evaluations and their implementation at both the EU and Member State levels. Based on this evidence, it discusses possible options for the post–2020 period.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2020/629219/IPOL_STU\(2020\)629219_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/629219/IPOL_STU(2020)629219_EN.pdf)

Study

“Financial Implementation of European Structural and Investment Funds”

June 2018

This research paper provides an informative overview of the state of play of the financial implementation of European Structural and Investment Funds (ESIF), with an assessment of the reasons for the state of implementation and the implications. The report is based on desk-review research. It considers financial implementation in the 2007-2013 funding period, before focusing on implementation thus far in the 2014-2020 period. It identifies and analyses factors that influence the pace of ESIF financial implementation.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621785/IPOL_STU\(2018\)621785_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621785/IPOL_STU(2018)621785_EN.pdf)

Study

“Research for REGI Committee -Control and simplification of procedures within ESIF”

April 2018

This study assesses the relationship between two components of European Structural and Investment Funds – control and audit systems, and simplification measures designed to reduce the complexity of implementation – and explores how this relationship conditions performance. It sets out financial control and audit systems and tasks in 2014-2020, and assesses the causes of complexity before exploring how issues are being addressed in the simplification agenda.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2018/601972/IPOL_STU\(2018\)601972_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/601972/IPOL_STU(2018)601972_EN.pdf)

Study

“Research for REGI Committee - Lessons learnt from the Closure of the 2007-13 Programming Period”

June 2017

This study analyses the closure process for programmes funded under the European Regional Development Fund and the Cohesion Fund in 2007-13. It details the regulatory provisions, guidance and support provided for closure in 2007-13 and assesses the closure experiences of programme authorities before drawing lessons and developing conclusions and recommendations for EU-level institutions and programme authorities.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2017/601984/IPOL_STU\(2017\)601984_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/601984/IPOL_STU(2017)601984_EN.pdf)

Workshop Documentation

“Research for REGI Committee: Proceedings of the Workshop on Simplification in Cohesion Policy”

August 2016

A workshop on "Simplification in Cohesion Policy" was held during the meeting of the Committee on Regional Development on 16 March 2016. The debate addressed among others simplified cost options, e-cohesion, rules, guidance and audit processes. Experience gained in two Member States was also presented.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2016/585888/IPOL_STU\(2016\)585888_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/585888/IPOL_STU(2016)585888_EN.pdf)

Study

“Research for REGI Committee - Maximisation of Synergies between European Structural and Investment Funds and Other EU Instruments to Attain Europe 2020 Goals”

June 2016

This study provides a comprehensive and systematic analysis of the existing scope for synergies between ESIF and other EU instruments contributing to Europe 2020 goals. It identifies different arenas for the pursuit of synergies (regulatory settings, governance arrangements, strategic frameworks and implementation approaches), noting achievement thus far, and, looking towards 2020, assessing the potential for maximising synergies.

Link to the document:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2016/585872/IPOL_STU\(2016\)585872_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/585872/IPOL_STU(2016)585872_EN.pdf)

Relevant Parliament's Fact Sheets

The following among the Parliament's Fact Sheets can be consulted for concise, regularly updated information on the topics addressed in the hearing:

- Implementation of the budget
<https://www.europarl.europa.eu/factsheets/en/sheet/30/implementation-of-the-budget>
- The Union's expenditure
<https://www.europarl.europa.eu/factsheets/en/sheet/28/the-union-s-expenditure>
- Economic, social and territorial cohesion
<https://www.europarl.europa.eu/factsheets/en/sheet/93/economic-social-and-territorial-cohesion>
- European Regional Development Fund (ERDF)
<https://www.europarl.europa.eu/factsheets/en/sheet/95/european-regional-development-fund-erdf->
- Cohesion Fund
<https://www.europarl.europa.eu/factsheets/en/sheet/96/cohesion-fund>
- Combating fraud and protecting the EU's financial interests:
<https://www.europarl.europa.eu/factsheets/en/sheet/32/combating-fraud-and-protecting-the-eu-s-financial-interests>

Disclaimer and copyright. The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy. © European Union, 2020.

Administrator responsible: Rudolfs VERDINS

Contact: Poldep-Budg@ep.europa.eu