2020 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER FERREIRA

Hearing on 30 November 2021

Questions concerning general issues

1. How do you implement cohesion policy projects in connection with the green deal, particularly in mobility, energy and infrastructure? In your annual report, page 6, you mention that 19.2% of projects are linked to climate neutrality. Are you planning to increase this number? How do you rate your progress in terms of achieving carbon neutrality and in particular the development of renewable energy?

<u>Commission's answer:</u>

The Commission firmly believes that regions and cities have a key role to play in the fulfilment of the European Green Deal. Cohesion Policy, which accounts for about one third of the 2021-2027 EU budget, is best placed to support regions and local communities with financial and technical support for their green transformation, ensuring that every region succeeds and none is left behind. It promotes innovation, employment, resilient infrastructure, sustainable energy, water and waste measures, climate action, the preservation of ecosystems and biodiversity and enables cities to become hubs of green urban mobility networks, circular economy systems and recycling networks.

The ambition for cohesion policy's contribution to climate targets is higher for the new period. The European Regional Development Fund (ERDF) and the Cohesion Fund (CF) will invest in total EUR 274 billion in the regions of the EU, with at least 30% (ERDF) and 37% (CF) of the respective financial allocations contributing to climate targets with the overarching objective to support transition to a climate neutral economy. Progress will be closely monitored through the assignment of climate contribution factor for each type of intervention, pursuant to Annex I of the Common Provisions Regulation (CPR).

Cohesion Policy will deliver more than EUR 100 billion in climate and environment-related projects over the 2021-2027 programming period. Investments under Policy Objective (PO) 2 Greener Europe will be instrumental in supporting energy efficiency, clean energy, the circular economy, climate change mitigation and sustainable urban transport. Climate action can also be indirectly supported by other policy objectives, i.e. green technological solutions or climate-proofed and energy efficient social infrastructures. Around EUR 17 billion have been set aside for local development projects managed directly by local people and promoting the sustainable development of local communities. In addition, the new European Urban Initiative with its EUR 450 million investment budget will give cities access to expertise and peer experience in designing sustainable urban policies. Around EUR 80 billion will be dedicated to smart mobility, smart energy networks, eco-districts based on the deep renovation of buildings, energy efficiency in public and private buildings, creation of green spaces, improved urban planning, responsible use of land, the zero-waste concept, and the integration of renewable heating solutions across an entire district.

Specifically, the ERDF will focus on supporting a low-carbon Europe by promoting clean and fair energy transition, by supporting the energy efficiency and renewable energy, diversification of regions dependent on energy intensive industries and providing incentives for delivering a transition that is fair for all. As regards mobility, cohesion policy will concentrate on support of a successful transition to sustainable mobility systems.

Cohesion policy supported Member States and regions in the previous two programming periods to invest in the development of carbon neutrality and renewable energy with good progress and good practice examples.

For instance, under the 2014-2020 programmes, the Commission is investing over EUR 55 million from ERDF in replacing more than 68 km of Zagreb's heating pipes with a more reliable and efficient network, thus reducing heat and water losses, making the system compatible with renewable heating sources and contributing to lower carbon emissions. Another example is an investment of EUR216 million from the Cohesion Fund (CF) to modernisation of the Bucharest thermal energy transmission system, thus tackling the issue of massive heat loss, providing sustainable and affordable thermal energy transmission system, and increasing the energy efficiency and air quality.

The data reported by the ERDF and CF programmes indicate that, at the end of 2019, the relevant investments made led to a decrease of GHG emissions by 2 949 229 tonnes of CO2 equivalent. In terms of renewable energy, the additional capacity of renewable energy production achieved thanks to the ERDF and CF investments was of 1 983 MW.

In the shorter term, REACT-EU projects, financed under the Next Generation EU (NGEU) will also support green investment and contribute to climate objectives. The Just Transition Fund (JTF) with the budget of EUR 17.5 billion, also partially financed by NGEU will support the most vulnerable communities and workers, especially in the coal regions (See reply to question 14).

Sustainable development principles should also be taken into account in the selection of operations, for instance through the use of Green Public Procurement, climate proofing and ‘energy efficiency first principle’ etc. In line with the ‘Do Not Significant Harm’ Principle, unsustainable lock-in practices will be excluded to make our investments truly transformational. This means, for example, no support to diesel buses based on higher euro standards.

2. Many Member states complain about the complexity of the Arachne system. Currently, for Regio funds, which countries do not use this system? And how many funds does that represent? Do the states which use Arachne use it for all the Regio programs? Overall Arachne covers what percentage of Regio funds?

Commission's answer:

The anti-fraud data-mining tool Arachne supports Member State authorities in their administrative management checks on ERDF projects through a 'risk-scoring' process that identifies projects featuring high risk. In such cases, additional verifications or other measures may be appropriate to verify the declared expenditure.

Arachne establishes a database of ESF and ERDF projects on the basis of the information submitted by Managing Authorities. It complements it with publically available data related to companies or to persons publicly exposed. On the basis of these data, Arachne identifies red flags related to projects, beneficiaries and, if such data is provided by the programme authorities, contracts and contractors.

The Commission continuously promotes the benefits of Arachne towards Member States and programme authorities. In its proposals for the Common Provisions Regulation (CPR) 2021-2027, the Commission proposed the mandatory use of the anti-fraud data-mining tool to ensure better protection of the EU budget and cohesion funding in particular. Unfortunately, this proposal was not adopted by the co-legislators.

Currently, 19 Member States and the UK use Arachne for one or more programmes on a voluntary basis. As a result, today 242 cohesion programmes are included in Arachne (56% of total number of programmes – 60% of programmes with DG REGIO funds including ETC programmes). Some Member States (IT, CZ, FR) use Arachne for nearly all programmes.

CY, DK, FI, DE, PL, SE, EE are not using Arachne. EL is still in a ‘pilot’ phase.

The reasons why some Member States are not using Arachne are diverse; concerns include data protection, subsidiarity, the effectiveness of the system. As regards data protection, the Commission filed a request for prior checking with the European Data protection supervisor and was found to be compliant with the GDPR. There is however an ongoing review of the data protection notification in view of the new Data Protection Regulation, and also to reflect upon the changes since the prior data protection notification was done. A data protection impact assessment (DPIA) is also expected since Arachne falls under Article 39 of the Data protection regulation (processing on a large scale of special categories of data referred to in Article 10). As regards complexity, the Commission regularly organises trainings on the use and functionalities of Arachne and has created a help desk function for users when they encounter difficulties.

3. Could you provide us list of the share of single bidding and non-open procedures per Member State per region in EU funded procurement spending in 2020? What are the largest sectors affected?

Commission's answer:

In 2019 DG REGIO, in close consultation with DG GROW, which is responsible for public procurement procedures, performed an in-depth analysis of the issue of single bidding and non-competitive tendering procedures for projects funded by the European Structural and Investment Funds (ESIF). The final report was published in May 2019 and contains a series of conclusions and policy recommendations.

The Report is accompanied by an online dashboard presenting statistical data on single bidding per sector, per year and by region for selected Member States. Information on the sectors concerned is available at this this link:

In addition to this comprehensive analysis, DG GROW publishes annual statistics in the Internal Market Scoreboard, including, under the public procurement chapter, an indicator measuring the proportion of contracts awarded where there was just a single bidder or no calls for bids and reflecting several aspects of procurement, including competition and bureaucracy. The 2020 data set will be published by GROW by the end of November 2021 at the following link.

4. According to the Court the implementation of financial instruments under shared management is delayed and the payments to final recipients continues to remain low. What is the Commission doing in order to make the financial intermediaries disburse the funds to the final beneficiaries?

Commission's answer:

The ESIF Financial Instruments Annual Summaries for 2020, which reflect the state of implementation with the cut-off date 31 December 2020, and which will be sent to the European Parliament by 30 November 2021, demonstrate that the progress in payments to final recipients of financial instruments accelerated considerably in 2020. The data for 2020 show that the European Union has achieved the target set out in the Investment Plan for Europe to double the use of ESIF financial instruments in the programming period from 2014 to 2020.

Not counting the national financing, the programme amounts invested from all ESIF financial instruments in final recipients more than doubled in the course of 2020: the cumulative payments to final recipients grew from EUR 4.7 billion in 2019 to

EUR 10.3 billion (all ESIF). This is an unprecedented increase. The pace of implementation is almost the same as in the previous period at the end of the seventh year, even though the total volumes have doubled.

During 2020, the European Social Fund (ESF) financial instruments progressed by more than doubling the amounts committed and paid to final recipients; in particular the payments increased from EUR 87 to 182 million.

Under the European Maritime and Fisheries Fund (EMFF), the implementation of the financial instruments in the sole Member State concerned remained positive. Another Member State has decided to implement financial instruments expected to kick off activities in 2022. At the same time, a number of other Member States carried out ex-ante assessments for the roll out of financial instruments under the current EMFF operational programmes or, for most of them, under the 2021-2027 programmes.

Concerning the European Agricultural Fund for Rural Development (EAFRD) financial instruments, the Commission does not note a delay in their implementation. In cooperation with the EIB, the Commission continues to facilitate the process through targeted coaching for Member States' managing authorities. The implementation of EAFRD financial instruments has now reached cruising speed. By end 2020, EUR 201 million EAFRD resources were spent, which is more than 25% of the total EAFRD 2014-2020 programmed resources for financial instruments (EUR 648 million). Given that the eligibility period is extended until end of 2025, there is still ample time for the full implementation of these financial instruments and spending of the resources.

The accelerated speed of ESIF financial instruments implementation is continuing throughout 2021. The Commission's latest data from payment applications submitted by Member States by 17 November 2021 show that a total of EUR 13.8 billion (including national co-financing) has been paid to final recipients in programmes supported by ERDF and Cohesion Fund (CF), 73% of what was paid into financial instruments. This figure shows another important cumulative increase compared to EUR 9.4 billion (ERDF+CF) reported on 31 December 2020. The numbers are expected to grow further as many payment applications will be submitted towards the end of this year.

Further changes are provided in the Common Provisions Regulation (CPR) for the period 2021-2027 to better link EU payments to recipients on the ground, to improve the take-up of financial instruments and to deliver the investments on the ground faster. The CPR simplifies the rules to facilitate a faster set-up of financial instruments. The market failures and investment needs are analysed during the preparation of the programmes when the programme authorities make their decisions about the form of support. There are fewer compulsory elements which should be considered by the ex-ante assessments and financial instruments may be based on the existing or updated ex-ante assessments. It is also possible to continue successful instruments which started under 2014-2020 programmes in the new period, as long as public procurement rules are complied with. Therefore, the lead times for the actual set-up of the financial instruments are shorter compared to the previous programming period (which normally could have taken up to two years before the financial instrument was operational). These preconditions should facilitate an earlier start of the financial instruments and thus also providing programme support to final recipients earlier.

5. Could you inform us regarding the implementation of the Common State Aid Action Plan 2018-2022?

Commission's answer:

The Commission notes that over the past years, errors related to State aid identified by Member States authorities and the Commission have been less frequent, as shown by the joint typology of errors agreed with audit authorities. For the most recent accounting year 2019 – 2020, only 3% of the findings identified by Member States and 4% of those identified by the Commission concerned State aid. However, the financial impact of State aid errors may be high if an operation is found to be entirely ineligible, for example due to the incentive effect not being respected (as was the case in previous years due to a non-compliant national State aid law, which has since then been appropriately corrected).

The Commission continues to implement the measures designed under its State Aid Action Plan identifying and disseminating good practices and offering training to ESIF stakeholders, including:

- Two **thematic seminars** were organised in 2018, namely “State Aid in environmental and wastewater projects co-financed from the European Structural and Investment Funds (ESIF)”, and “State Aid in Research, Development and Innovation (RDI) projects co-financed from the European Structural and Investment Funds (ESIF)”. Thematic seminars focus on State aid for specific sectors issues, and they target State aid specialists with a link to cohesion policy. These two seminars were attended by more than 100 participants. The Commission also provided Member States audit authorities in spring 2020 with update information on COVID-19 specific temporary derogation measures on State aid rules.
- DG REGIO in cooperation with DG COMP organises **biannual State aid training sessions**, the last of which took place in October 2021. The trainings are targeted at practitioners who possess general knowledge of State Aid principles. Since 2018, more than 170 participants from 28 Member States attended these State aid training sessions. To facilitate the access to the trainings and further disseminate State aid related information, video recordings of the State aid training are available on DG REGIO's website since May 2021. Member States’ auditors as well as DG REGIO and EMPL staff are also invited to join these trainings.

- DG REGIO has put in place **TAIEX-REGIO PEER 2 PEER** support to facilitate exchanges between peers that manage and administer funds from the European Regional Development Fund (ERDF) and the Cohesion Fund in the Member States. Since 2018, 8 exchanges on state aid related issues took place between Member States.
- DG REGIO also set-up a **community of Member States' State aid practitioners**, which supports managing authorities in exchanging knowledge and good practice between themselves. The members of the community focus on discussing specific State aid related issues linked to the implementation of the programmes and projects funded under the ERDF and/or the Cohesion Fund and finding solutions. This also serves as a basis for drawing a pool of thematic experts.
- Lastly, **DG COMP electronic support system** for the clarification and interpretation of NOA (Notice On the notion of Aid) and General Block Exemption Regulation (GBER)-provisions (**e-WIKI**) is available for clarification and interpretation questions of Member States and other stakeholders regarding provisions of the GBER and of the NOA. Replies to these questions are made available to State aid experts of all Member States via e-WIKI. Access to this platform is granted by designated users in the Member States. Target group: Designated users of the eState aid WIKI, ESIF practitioners and competent bodies in the Member States. Up to date (November 2021), DG COMP published answers to some 1900 interpretation and clarification questions on e-Wiki.

6. Regarding simplification which was a big goal for the new Cohesion Policy rules 2021-2027: Do you expect due to that any negative effects on the error rates compared in the upcoming years compared to 2020?

Commission's answer:

The Commission considers that simplification has positive effects on the level of error rates. Such positive effect of simplification, to curb the root causes of errors and to achieve a reduced level of error, has also been highlighted by the European Court of Auditors at the occasion of the CONT Public remote hearing 'Will simplifications suggested for the new period bring the necessary balance between more efficient, effective and correct spending of EU funds?' held in June 2021.

Beyond the general objective to cut red tape and bureaucracy and improve access to the funds for the beneficiaries, the Commission expects that reducing the complexity of rules through the simplification measures will further contribute to decreasing the level of errors.

For the 2021-2027 period, the co-legislator has further allowed for more flexibility in the programming, the development of synergies and use of blending of EU funding, and cross reliance on audit in order to avoid the duplication of controls. The numerous simplification measures introduced in the Common Provisions Regulation (CPR) include more targeted requirements and assessment criteria linked the enabling conditions, more flexibility in programming, as only the first five years will be programmed initially, followed by a substantive mid-term review in 2025, and a streamlined audit approach. The programming of the new period will also be the opportunity to further push Member States and regions towards e-cohesion.

Moreover, the increased use of simplified cost options (SCOs) is of particular importance for the European Regional Development Fund (ERDF) and the European Social Fund Plus (ESF+). SCOs not only reduce bureaucracy linked to verifications (it is estimated that this simplification alone could save up to 25% of administrative costs for programme managers), they also reduce the risk of errors.

Such SCOs were also complemented under the 2021-2027 CPR by the provision of financing not linked to costs (FNLTC), the continuation of the «payments based on conditions» introduced in the 2018 Omnibus regulation. It represents a radical simplification in implementation as it changes the focus from costs, reimbursement and checks linked to individual projects to tracking deliverables and results for the projects, a group of projects or schemes.

The Commission continues the active promotion of simplified cost options together with the ‘financing not linked to cost’ option, in particular through its Transnational Network of ERDF/CF SCO set up for Member State experts, the ESF Community of Practice on Result-based Management and the ESF Committee.

Member States are reluctant to implement FNLTC raising legal certainty concerns and in particular as regards audits and controls. The Commission therefore intends to provide clarification and reassure programme authorities about audits and control procedure in relation to FNLTC schemes in view of their further take-up in upcoming programmes.

As far as the ESF is concerned, DG EMPL actively contributes to developing methodologies for unit costs or lump sums and provided a number of EU-level SCOs, i.e. “off-the-shelf”, ready-to-use solutions for Member States in a number of areas. Currently, EU-level SCOs are in force covering four areas: education, training for unemployed, labour market-related counselling services, and training for employees. Based on a recent study, DG EMPL will develop new EU-level SCOs and financing not linked to costs (FNLC) schemes for the 2021-2027 period in the area of community social services and for ALMA (transnational mobility schemes for disadvantaged young people).

Other simplification measures such as the abolition of specific rules on revenue generating investments or the introduction of a simple rule on VAT eligibility will also concur with a significant reduction of both administrative burden and risk of non-compliance with overly complex rules.

The Commission considers that simplification is not at odds with assurance, as illustrated by the rollover of existing management and control systems into the next programming period. Whilst proposing many simplifications, the Commission has also strengthened certain elements contributing to assurance, such as the process of the selection of projects, the focus of management verifications to identified risks and simpler conditions to apply net financial corrections when the national control system failed to detect serious irregularities in first instance.

Simplification is also very much linked to administrative capacity building: deploying e-cohesion or simplified costs or any new procedure requires the relevant expertise and capacities in managing authorities. The Commission's initiatives and support of the Member States to deploy administrative capacity building can be an opportunity to boost simplification and its concrete impact on the ground.

7. Regarding the ERDF, could the Commission outline the initial impact of Covid-19 on the original performance indicators? Could the Commission evaluate the fulfilment of the new Covid-19 specific indicators?

Commission's answer:

The Commission notes that despite the difficulties in 2020, implementation of the Cohesion policy programmes towards the EU objectives progressed significantly in 2020 and 2021. The full impact of the COVID-19 crisis on the original performance indicators will be fully assessed in the ex-post evaluation of the 2014-2020 cohesion policy, to be completed in 2025.

The Commission received the first reporting on the 2020 Coronavirus Response Investment Initiatives (CRII and CRII+) reprogramming in May of 2021. This included information on the specific indicators introduced during 2020 to monitor the contribution of Cohesion Policy to the COVID-19 response. Reasonable progress was reported for 2020 in delivering a range of COVID-19 indicator target values. The indicators on CRII(+) and REACT-EU are available under the following links in the Cohesion's Open Data website :

- Overview of changes made in the context of CRII(+);
- Overview of changes made in the context of REACT-EU (launched by the Commission in end June 2021);
- Overview of cohesion policy coronavirus indicators (aggregating CRII(+) and REACT-EU)

A first assessment of the 2020 achievements will be published in the 2021 Annual Summary Report in December 2021. The Honourable Members are referred to the answer on question number 13, which provides concrete examples of achievements regarding the COVID-19 specific indicators.

8. How did Cohesion policy support MS in the COVID crisis? Which type of measures supported with the CRII and REACT-EU initiatives were particularly successful? Did all Member States benefit? What type of support to fight the COVID-19 pandemic did Bulgaria receive under the cohesion funds?

Commission's answer:

The Commission has proposed extraordinary measures to help Member States cope with the COVID-19 crisis, including the legislative changes under the Coronavirus Response Investment Initiative packages (CRII and CRII +), which were both adopted in record time with the support of the European Parliament.

The CRII package allowed to redirect rapidly available 2014-2020 EU funding towards the most affected sectors. Since the beginning of the crisis, over EUR 20 billion were reallocated, of which EUR 13 billion were approved in just the first 6 months. Of this amount:

- EUR 7.7 billion to the healthcare sector to rapidly purchase vital personal protective equipment, ventilators and ambulance vehicles;
- EUR 11.5 billion to the businesses sector (including EUR 3.6 billion from other sectors), through emergency grants and low-interest rate loans; it allowed businesses to stay afloat during lockdowns.
- EUR 4.1 billion to the most vulnerable people across the EU for new employment measures and remuneration schemes; to make sure people did not find themselves without income from one day to another.

Simplifications such as extension of deadlines, accelerated payments and retroactive reimbursement of COVID-19 related expenditure and the use of the temporary increase of the EU co-financing rate to 100% were particularly helpful to enable the support reach the ground quickly.

The Commission has provided extraordinary liquidity for the Member States - 188 cohesion policy programmes applied the temporary increase of the EU co-financing to 100% thus increasing liquidity by a total of EUR 12.5 billion. This amount comes in addition to the EUR 7.6 billion made immediately available through non-recovered pre-financing. In addition, the Member States were able to benefit from retroactive project eligibility for emergency spending (as of 1/02/2020). These measures allowed for a faster disbursement of funds thus accelerating absorption.

On the recovery side, the REACT-EU objective was to respond to various challenges and needs throughout the Union with additional investments. REACT-EU continues and extends the crisis response and crisis repair measures delivered through the CRII and CRII + and constitutes a bridge to the long-term recovery plan. These additional resources will be used for projects that foster crisis repair capacities in the context of the coronavirus crisis, as well as investments in operations contributing to preparing a green, digital and resilient recovery of the economy.

Accompanying measures were designed to speed up implementation of these additional resources. REACT-EU support is channelled through the existing delivery system for cohesion policy (programmes), thereby ensuring smooth implementation under the robust assurance system in place. The direct links with local, regional and national administrations as well as with partners are well-established and allowed for tailoring the support to specific needs on the ground.

The extended scope of support of REACT-EU covers investments that are necessary now and do not require a lengthy implementation process, such as medical products and health services (e.g. personal protective equipment, disinfecting gels, respiratory equipment), working capital in SMEs (e.g. in the tourism sector), providing schools with the necessary digital services or renovation of buildings. These projects can be delivered quickly, to protect the health and jobs of EU citizens, while fostering green and digital transition on the ground.

The Commission provides an overview of EU cohesion policy response to the COVID-19 crisis at the publicly available Open Data Platform (regularly updated), as follows:

- Overview of changes made in the context of CRII(+);
- Overview of changes made in the context of REACT-EU (launched by the Commission in end June 2021);
- Overview of cohesion policy coronavirus indicators (aggregating CRII(+) and REACT-EU)

While the possibility to reallocate unspent funds varied across Member States, depending on the amount of resources not yet committed, all Member States were able to benefit from the simplified procedures, extended deadlines for reporting, audit simplifications, and extension of scope for calls for projects.

With regard to Bulgaria in particular, at the outset of the pandemic, thanks to CRII, EUR 20 million from cohesion policy funding helped the country's health sector to better respond to the emergency by purchasing new top class medical equipment and delivering life-saving medicines and personal protective equipment. Furthermore, thanks to CRII and CRII+, Bulgaria mobilised a comprehensive package of more than EUR 600 million (ERDF + national co-financing) from cohesion policy for SME response to the crisis. These funds were dedicated to alleviate the effects of the crisis on SMEs by providing liquidity, working capital and investment aid for adapting in the crisis, and include an adapted EUR 150 million equity and quasi-equity portfolio to be implemented in facilitated investment conditions thanks to the State Aid Temporary Framework. On the ESF side, EUR 183 million supported employment measures.

In 2021, the support to Bulgaria continued with EUR 436 million from REACT-EU split among ESF and ERDF. With EUR 249 million, ESF supports school education, employment retention, medical staff, vulnerable people and social services. ERDF concentrates again on the support to SMEs (EUR 120 million) and the health system (EUR 66 million). In 2022, Bulgaria will receive a further EUR 140 million from REACT-EU to be further planned and invested.

9. The Commission's 2020 AMPR evaluation of the ERDF indicates that 'the performance reserve from non-performing priorities (EUR 2.7 billion from the ERDF) was reallocated to performing priorities in order to optimise investments'. How does the Commission evaluate its experience with the use of performance reserve? Could the Commission indicate some examples of non-performing priorities as well as those where the reserve was allocated?

Commission's answer:

The Commission considers that the performance framework, including the performance reserve, as designed in the 2014-2020 period allowed, for the first time, to assess performance at a certain point in time within an agreed framework comprising a set of milestones for each programme's priority axis. This in itself constituted a significant progress towards a performance culture for Cohesion policy implementation, compared to previous programming periods but also represented a pioneering exercise for the performance orientation of the EU budget as a whole.

At the same time, the performance review was designed in the regulation to be an exercise based on a purely quantitative assessment of the achievement of the milestones set in the programmes. Building on this experience, for the 2021-2027 programming period, the Common Provisions Regulation moves away from such a quantitative system towards a more comprehensive one, bringing together a set of qualitative and quantitative elements: the mid-term review.

There were both performing and non-performing priority axes in all 11 thematic objectives of Cohesion policy . At the level of the Cohesion policy (ERDF, CF, ESF) approximately EUR 16 billion available under the performance reserve were definitively allocated to the respective 'performing' priority axes, while an amount of approximately EUR 3.6 billion had to be reallocated from 'non-performing' to other priority axes, which had achieved their milestones.

10. In 2020, the scope of the EU Solidarity Fund was extended to cover also public emergencies. Could the Commission outline whether the available resources were sufficient to cover all relevant applications in 2020? In 2020, what was the average time needed to deliver the financial support to regions hit by disasters? Did it decrease in comparison to the previous years?

Commission's answer:

In response to the COVID-19 outbreak and the urgency to address the associated public health crisis, the Commission proposed in March 2020 to extend the scope of the EU Solidarity Fund (EUSF) to encompass major public health emergencies.

In total, 19 Member States and three accession countries applied for assistance from the Fund relating to the major health emergency caused by COVID-19.

All applications received were assessed in a single package to ensure consistent and equitable treatment. Following a series of exchanges with the responsible national authorities to clarify issues regarding the eligibility of certain types of expenditure declared the Commission has finalised its assessment in February 2021.

In the case of major public health emergencies, the Commission applied a similar method for determining aid amounts[1] as for natural disasters: a country receives 2.5% of the total amount of eligible public expenditure up to the country specific threshold for major health emergencies, plus 6% of the part of the public expenditure exceeding the threshold. As this calculation led to a total amount for all countries exceeding the available budget resources, the amounts per country were reduced on a pro rata basis[2]. It was the first time since the establishment of the EUSF in 2002 that a pro rata reduction needed to be applied to the potential aid amounts for applications calculated by applying the accepted methodology. The EUSF assistance was mobilised in an amount of almost EUR 530 million in response to the COVID-19 major public health emergency. The assessment of the received applications resulted in an overall potential aid of EUR 1.12 billion, which was more than double of the available budget.

Indeed, the increasing number and scale of natural disasters, as well as the need to provide assistance in relation to the COVID-19 public health emergency, has put a severe strain on the resources of approximatively EUR 600 million potentially available for the EUSF as agreed by the legislators in the MFF 2021-2027.

Climate change is causing more frequent and extreme weather and climate disasters in Europe, as shown in the past two years. Between 2002 and 2019, the EUSF was mobilised for 91 interventions. In comparison, in 2020 alone the Commission received 31 new EUSF applications (22 COVID-19 health emergency related and 9 natural disaster applications). In 2021, the Commission has so far received 8 EUSF applications for support to recover from natural disasters.

The Commission is also concerned about the increased intensity and impact of the disasters. In 2020, Croatia received EUSF assistance of over EUR 680 million - the second highest amount ever paid by the Fund for emergency and recovery operations after a natural disaster. In 2021, the application from Germany for the devastating floods in July reported the biggest total direct damage ever presented in the history of the EUSF, namely EUR 29.2 billion. This is the damage suffered by Germany alone. Belgium, the Netherlands, Austria and Luxembourg also submitted applications, following this summer’s natural disasters.

[1] The methodology for calculating the EUSF aid was set out in the 2002-2003 Annual Report on the EUSF and accepted by the European Parliament and the Council.

[2] The pro-rata reduction applied corresponds to 47.01% of the total potential aid for all eligible 20 applications, calculated by consistently applying the accepted methodology.

The time needed to deliver financial support to regions hit by disasters depends largely on the availability of the budgetary allocation, especially, under the new Solidarity and Emergency Aid Reserve (SEAR) heading. In 2020, the majority of the applications did not request the payment of an advance. However, when it was requested and budgetary allocation was available, the Commission was able to provide the financial support very fast. For example, in case of the EUSF application from Croatia in relation to the earthquake in March 2020 a first disbursement of EUR 88.9 million as an advance payment (until now, the highest ever advance payment paid out under the EUSF) was made 10 weeks after reception of the EUSF application. In 2020, the average time to make disbursement of the payments of the balance was slightly more than 6 months.

In order to shorten the time needed to mobilise the assistance, the Commission is carrying out significant upstream and downstream support to affected countries. However, since 2021 the mobilisation of the EUSF under the new SEAR heading has made the budgetary situation and mobilisation of the Fund more complex and on average lengthier, given the SEAR procedures and deadlines.

11. What is the role of cohesion policy in job creation and support for small and medium companies?

Commission's answer:

Cohesion policy contributes significantly to job creation and support to SMEs. By 2023, for the 2014-2020 ERDF programmes, over EUR 57 billion (programmed amounts) are set to be invested in improving the business environment and entrepreneurship. Some 235 000 direct jobs have already been created as a result of business support since 2014 (66% of the target and representing a 36% increase vis-à-vis 2019).

As regards enterprises, the most up-to-date Commission numbers show that 49 000 firms have already benefited from ERDF schemes for cooperation with research institutes (76% of the target and representing a 44% increase from 2019), the number of enterprises receiving support increased to more than 1.4 million (the final 2023 target is approx. 1.7 million enterprises, a two and a half times annual increase).

The ESF/YEI helps millions of Europeans improve their lives by learning new skills and finding better jobs. By end 2020, 45.3 million participants were supported by the ESF and the Youth Employment Initiative (YEI) and 5.4 million people found a job (including self-employed) thanks to ESF and YEI support.

Cohesion policy has been playing a key role in job creation/ job preservation and support for SMEs during the pandemic. The swift EU support to SMEs complemented measures which were also taken at national level. In spring 2020, for instance, Member States were given the possibility to re-allocate unspent

Cohesion policy funds under the Coronavirus Response Investment Initiative packages (CRII and CRII+). In addition, with an allocation of EUR 50.6 billion, REACT-EU has been supporting crisis repair measures under the 2014-2020 Cohesion Policy Funds, continuing CRII-type of support not only to healthcare, but also workers and businesses, including SMEs. These measures allowed EUR 11.5 billion to be used in direct support to SMEs, including – on an exceptional basis – to cover also working capital to keep SMEs afloat. Grants and low-interest rate loans were provided through ERDF, with special attention to affected regions and sectors (such as tourism) and ESF provided support for social services, retention of employment, support to vulnerable groups and others, e.g. through support to short-time work arrangements, supplementary wage for health care personnel, IT equipment, protective equipment and services for vulnerable groups.

Throughout the pandemic, businesses have been supported with EUR 11.5 billion from Cohesion policy through the use of CRII flexibilities. Moreover, a significant amount of the REACT-EU funding is being used to further assist SMEs – EUR 6.7 billion have so far been allocated for business support through ERDF, in particular for productive investments in SMEs, business development, sustainable production of goods, while EUR 7.5 billion have so far been allocated for labour market measures through ESF. The Member States will be able to use this funding until the end of 2023.

In order to allow full transparency and accountability of the use of Cohesion policy resources during the COVID-19 crisis, the Commission's Coronavirus Dashboard on the Open Data Platform provides up-to-date information on the use of the CRII and CRII+ measures by Member State and programme.

Finally, with a combined budget of EUR 393 billion over the course of the next programming period 2021-2027, Cohesion policy will be one of the cornerstones of the EU socio-economic recovery from the COVID-19 pandemic. The overall ERDF budget of EUR 226 billion will be complemented by the Cohesion Fund (EUR 48 billion) and JTF (EUR 19 billion) to stimulate private and public investments helping SMEs directly and indirectly via business support (in particular to ensure resilient, green and digital transition of SMEs) and improvement of their business environment (also including better infrastructure and better public services). The ESF+ with a budget of EUR 99 billion will be supporting SMEs to develop, manage and maximise the use of their human capital available, including adoption of new work-organisation practices, HR tools and systems for managing human capital, and workforce upskilling and reskilling.

12. The Commission's 2020 AMPR indicated that when it comes to environmental and climate protection, the Cohesion fund has so far showed relatively few results. Which measures is the Commission taking to improve the results and reach the 2023 targets?

Commission's answer:

The experience at the end of the 2007-2013 period was that the most significant achievements were reported in the last years of implementation. While the data presented in the 2020 AMPR presents the state of play at the date of signature, environmental and climate protection results should be seen over the entire implementation period.

In 2020, the Commission reports:

- Approx. 11 million people already covered by investments in flood protection (41% of the target and representing an increase of 57% compared to 2019) and 16.1 million (increase from 14.7 in 2019) people better protected against wild fires, bring about more than 27 million people who are now better protected against extreme weather events.
- Conservation of habitats already for 6.5 million hectares (79% of the target and a 14% annual increase)
- Projects resulting in 2.700 MW of renewable energy are already implemented (41% of the target), representing a 38% increase against the previous year.

Overall, the projects already selected for renewable energy production are for additional capacity of 4600 MW. The Commission is preparing to publish the values end 2021 with the ESI Funds' Annual Summary Report. The preliminary data shows progress in all areas but with significant achievements still needed by the end of 2023.

Strong contribution of Cohesion policy to greening and climate neutrality will be significantly reinforced in 2021-2027, in particular through thematic concentration mechanism, ensuring that at least EUR 64 billion will be geared towards Green Deal objectives. Pursuant to the commitment to assign respectively 30% and 37% of ERDF and Cohesion Fund to climate objectives, at least EUR 78 billion will also promote the climate agenda. Lastly, the Just Transition Fund, by alleviating the social and economic costs of climate transition, is expected to accelerate its take up.

13. Has the crisis negatively impacted on the implementation of the 2014-2020 programmes due to the difficult situation for both national administrations and beneficiaries? Did cohesion funding continue to contribute to EU priorities: greening and climate neutrality; digitisation; better connectivity?

Commission's answer:

The Commission notes that overall the implementation of programmes continued to progress well towards the EU objectives in 2020-2021, despite the exceptional circumstances created by the COVID-19 pandemic in 2020 and 2021.

Although it is too early to evaluate the full impact of the crisis on Member States and programmes, the project selection rates for Cohesion policy programmes continued to increase as well as the payments accelerated during the exceptional circumstances created by the COVID-19 pandemic in 2020 and 2021. In particular, there was a sharp rise in expenditure at beneficiaries' level under Cohesion policy by mid-2021 (details are to be found in the dedicated Open Data Platform story).

In spite of the unprecedented pressure on public administrations in 2020 as a consequences of the COVID-19 pandemic, the funds spending rate accelerated, with the highest increases being observed for smart growth (reaching 54% from 40% previously), sustainable growth (reaching 59% from 45% previously) and territorial cooperation (reaching 48% from 30% previously). The Commission payments to Member States in 2021 under Cohesion policy have been at a historically highest level with the combined expenditure of ERDF, CF and ESF between January and October amounting to EUR 52.1 billion. This high level of expenditure has occurred thanks to CRII/CRII+ packages and REACT-EU supplementary funding, as detailed in the reply to the question 8.

Cohesion policy is significantly supporting investments in EU's climate, environmental and energy objectives in the Member States and regions in 2014-2020 (and as a matter of fact since periods 2007-2013). Cohesion policy has actually been the main EU financial support for Member States, regions and cities in areas such as energy efficiency, water and waste management or sustainable mobility. In this respect it has played a key role in a number of regions and cities to kick start the sustainability and energy transitions as well as launching large scale investment programmes in these areas. Several Member States and regions have a good track record and used Cohesion policy funding for investments in programmes and projects that are now good practice as regards progress towards carbon neutrality. At the end of 2019 the share of 2014-2020 ERDF/CF total EU planned support (EUR 55.3 billion) allocated to climate action was 21.1% of the EU budget. By the end of 2020, this total planned amount slightly decreased to EUR 52.5 billion with the ERDF/CF planned climate action share now at 19.6% (EUR 51.4 billion out of EUR 261.9 billion). This was principally a result of the reallocations linked to the 2020 CRII/CRII+ initiative to support the coronavirus pandemic response, in particular to reallocations to reinforce the immediate public health response and support to SMEs.

REACT-EU resources implemented in the 2014-2020 programmes also support digitalisation and greening, although the 25% target for climate relevant actions is non-binding given the aim of the instrument to provide Member States with flexibility in allocating emergency repair assistance to the sectors and regions that need it the most. As of 19 November 2021, EUR 36.6 billion of REACT-EU resources were allocated through ERDF and ESF (as the agreed planned amount in adopted REACT-EU programme amendments). The main measures include:

- EUR 5.5 billion of ERDF allocated in support of the green transition, of which EUR 4.7 billion specifically target climate action;
- EUR 2.7 billion of ERDF allocated for digital economy;
- EUR 6.7 billion of ERDF allocated in support of enterprises and business development;
- EUR 5.7 billion of ERDF allocated in support of healthcare systems;

- EUR 12.3 billion of ESF allocated in support of labour market measures, social inclusion and education and training.

Further details are available on the Open Data Platform in tracking climate action dedicated story and in REACT-EU dedicated story (with regular updates).

This strong contribution of Cohesion policy to greening and climate neutrality will be significantly reinforced in 2021-2027, in particular through thematic concentration mechanism, ensuring that at least EUR 64 billion will be geared towards Green Deal objectives. Pursuant to the commitment to assign respectively 30% and 37% of ERDF and Cohesion Fund to climate objectives, at least EUR 78 billion will also promote the climate agenda. Lastly, the Just Transition Fund, by alleviating the social and economic costs of climate transition, is expected to accelerate its take up.

14. Climate neutrality ambitions require transition from fossil fuels and highly emitting industries. How can you ensure that no one is left behind and that the economy remains competitive? Can you give concrete examples how Cohesion funding is oriented to contribute to achieve climate neutrality objectives?

Commission's answer:

Cohesion policy plays a crucial role in supporting the European regions in their transition towards a carbon neutral economy. However, a level playing field must be set as every European region starts from a different socio-economic position. For this reason, the Commission has put in place several initiatives that should tackle the challenges. The Just Transition Fund focuses on disadvantaged regions coping with the fossil fuels phase out and industry de-carbonisation and aims to provide support particularly to workers and SMEs and those most impacted by the transition in these regions. The Fund’s objective is to help the regions to restructure their industries, ensure that new economic activities are competitive and viable and to provide the necessary training and professional development to workers. This includes investments in SMEs, creation of new enterprises, R&D&I, environmental rehabilitation, clean energy, up- and re-skilling of workers, job-search assistance and transformation of existing carbon-intensive installations. The priority sectors covered by the Fund are coal, lignite, peat, shale oil, petroleum refineries, fossil fuel based energy production, metals, chemicals, cement, or fertilisers. The Fund is endowed with a total budget of EUR 17.5 billion for the 2021-2027 programming period. In this context, DG REGIO has opened a call for interest for the “Just Transition Platform Working Groups” to engage various stakeholders from affected regions in thematic collaboration (steel, cement, chemicals as well as horizontal stakeholder strategy). Each group will offer a forum for know-how exchange and tackling various challenges, with a view of developing a common just transition vision.

DG REGIO is also active in the "Coal Regions in Transition" initiative. As the EU makes the transition to a climate neutral economy, coal production and consumption are decreasing. The established Coal Regions in Transition Platform aims to support coal and carbon-intensive regions in the clean energy transition through the use of available funds and programmes and the exchange of best practices. The main focus in the pilot phase are regions with existing coal mining activities (41 regions across 12 Member States). The overall objectives are to assist coal regions in preparing transition strategies, preparing a pipeline of projects to kick start the transition, and reflecting on implementation with the use of existing EU funds. The initiative is well in line with the Cohesion policy objectives for supporting industrial transition and restructuring in Europe's regions. Member States develop their national strategies to prepare for the transition from coal. A concrete example concerns the Polish Country Team set up under the Coal Regions in Transition Initiative, that identified projects with focus on energy and economic transformation of the region with strong links to social aspects. The main areas of interest were the development of a post-mining sites management system, air quality technologies, modernization of ex-mining areas, developing of information system on air pollution, thermo-modernisation of multi-family municipal buildings and support for SMEs and start-ups.

Through the Steering Committee of the initiative START (Secretariat Technical Assistance to Regions in Transition), DG REGIO is also offering regions technical assistance on analysing their industrial potential and developing strategies for energy transition for 2030. Currently, 7 regions benefit from the START programme (Asturias, Spain; Jiu Valley, Romania; Karlovy Vary, Czechia; Małopolska, Poland; Megalopolis, Greece; Midlands, Ireland; Silesia, Poland).

The Honourable Members are also referred to the reply to question number 1.

15. The crisis has had the effect to slow down the programming for 2021 – 2027. What efforts has the Commission done to catch up with the adoption of the partnership agreements and programmes?

Commission's answer:

The Commission started early on with the 2021-2027 programming preparations and the legislative proposals in 2017. The views of the Commission on the investment needs and policy responses (Annexes D of the 2019 Country Reports) were in place half a year earlier than for the 2014-2020 programming exercise. Based on the ambitious roadmaps sent by the Member States in the summer 2019, mature draft programming documents were expected in the first half of 2020 in view of adoption by the end of 2020. The late adoption of the 2021-2027 legal basis, the COVID-19 crisis, and the emergency response it called for, including urgent support under cohesion policy as well as massive investment for recovery and resilience under RRF, have delayed these initial plans.

Now that CRII measures have successfully been put in place, REACT-EU programming is progressing well with 90% of the 2021 tranche already approved, and the RRPs already submitted by Member States, authorities which are often the same for RRF and Cohesion policy funds, can now focus on finalising the partnership agreements and operational programmes..

The Commission's has made concrete efforts to catch up with the adoption of the Partnership Agreements and programmes. The Commission is fully engaged in the informal dialogue since 2019 and continued to intensively cooperate with the Member States, without interruption notwithstanding to the COVID-19 crisis. Frequent written exchanges and meetings continued to take place to negotiate on different topics related to programming. The Commission services provided feedback on a rolling basis on draft parts of programming documents and once the Member State submits a mature draft document, an observations letter is issued consolidating all the areas in need of improvement. If the Member State updates the documents accordingly before the formal submission, this will contribute to a smoother and faster subsequent formal adoption process.

As of 22 November 2021, five partnership agreements (PAs) have been received (AT, DE, EL, FI and LT) and one (EL) was adopted in record time thanks to intensive and fruitful cooperation with the national authorities. It is expected to receive more than half of the PAs by the end of 2021. In addition, the Member States submitted 34 Cohesion policy programmes (AT, DE, EL and Interreg).

An important mitigating factor is that the regulatory eligibility start date is 1/1/2021 so implementation could potentially start (noting that operations cannot be selected for support where they were physically completed or fully implemented before the application for funding and that the requirements of the finally adopted programme are respected). Furthermore, the unspent 2021 allocations are automatically transferred in equal proportion over the period 2022-2025, so that the funds are not lost.

Questions concerning fraud, error, irregularities and audits

16. What new initiatives have been put in place to fight against fraud and corruption with the Member States?

<u>Commission's answer:</u>

In 2020 DG REGIO continued its close cooperation with OLAF. As part of its policy to increase the recovery rate of OLAF investigations, DG REGIO has given systematic follow-up to OLAF financial recommendations and finalised in 2020 the follow-up process for 13 open financial recommendations issued by OLAF in final case reports, thus recovering 87% of the recommended amounts (EUR 145 million).

Under its Joint Anti-Fraud Strategy, DG REGIO launched in 2020 and 2021 a number of new initiatives to fight fraud and corruption.

In June 2021, DG REGIO launched a new EU Funds Anti-fraud Knowledge and Resource website. This new knowledge tool provides anti-fraud practitioners of Member States with resources to improve their administrative capacity in the area of anti-fraud / anti-corruption inter alia through concrete examples from Member states, presentation of tools that have proven to be effective, good practices, knowledge sharing and peer connections.

This is in addition to technical support and training that was provided in 2020 and 2021 to Member States authorities on identifying and preventing fraud and corruption in 2014-2020 ESI Funds, on anti-fraud strategies and the regions, and on fraud risk management in Cohesion policy.

Further progress was made to encourage the adoption of anti-fraud strategies and policies at Member State level, and to intensify the cooperation between national authorities across borders and with stakeholders and civil society. DG REGIO encouraged the programme authorities to update their analysis of the specific situation of fraud risks in each programme, both in the context of the adoption of 2014 – 2020 programme amendments to integrate CRII(+) and REACT-EU related objectives in the measures financed under the ESIF programmes, and in the negotiations on new programmes for 2021–2027. These negotiations also cover – whenever relevant - specific anti-fraud issues identified by OLAF, to be taken into account for actions in relation to the strengthening of administrative capacities of programme authorities.

In line with the invitation addressed to the Commission by the European Council in July 2020, legislative measures to protect the EU-funds against fraud and irregularities were launched to increase the use of IT tools and achieve a more transparent and interoperable access of the Commission to data about beneficiaries, final recipients, beneficial owners, contractors and subcontractors. Important progress was achieved in the Common Provisions Regulation (CPR) for the 2021-2027 programming period on the type of information to be collected and stored by Member States on the beneficial owners of the recipients of EU funds, including beneficial owners of legal entities being beneficiaries, and final recipients of EU funds. Such data should allow to strengthen the control and audit processes, notably as regards fraud and conflict of interest. The Commission also put forward proposals for the mandatory use of a single data-mining and risk-scoring tool (for control and audit purposes) for, amongst others, the CPR and the Brexit Adjustment Reserve. The co-legislator did however not yet agree on making the use of the tool mandatory and the use of such data-mining and risk scoring tool by Member States therefore remains voluntary. The Commission will continue to make available to Member States a data-mining and risk-scoring tool for control and audit purposes

(ARACHNE) and, in the absence of a legal obligation for the Member States to use it, will strongly encourage them to use it. The Commission is currently reflecting on how to further enhance the interoperability of the data on beneficiaries and final recipients of EU funding, including with the use of the single data mining and risk-scoring tool ARACHNE.

Another initiative by the Commission is to provide to Member States and the civil society tools in support of integrity in public procurement of projects financed by ESI Funds. The integrity pacts pilot project is an example of such tools. The project 'Integrity Pacts – Civil Control Mechanism for Safeguarding EU Funds' covered so far 18 projects co-funded with Cohesion policy funding in 11 Member States, and is intended to be proposed for further mainstreaming.

Exploring innovative ways of improving efficiency in projects funded by EU funds, Integrity Pacts are a tool to increase transparency and accountability, enhance citizens' engagement and trust in public institutions, bring cost savings and improve competition and promote awareness and better understanding of public procurement. The results of the pilot project done in partnership with Transparency International will be widely disseminated in all Member States. The initiative has been widely recognised as a success in bringing EU policies and administrations closer to citizens. It received the European Ombudsman's Award for Good Administration 2019 in the category "Excellence in open administration."

REGIO is currently reflecting on how this experience can be scaled up in the context of the future long-term EU budget 2021-2027. Member States are encouraged to mainstream integrity pacts in their operational programme, in particular for projects with high public interest or large and complex projects, in particular operations of strategic importance in the meaning of the CPR.

17. What initiatives are there to protect cohesion investment from irregular spending, particularly corruption and conflict of interest risks?

Commission's answer:

At policy level, the Commission has been developing a common EU culture for protecting Cohesion investment from irregular spending, including corruption, and avoiding conflicts of interest, which requires continuous dialogue and co-operation between the Commission and Member State authorities implementing the EU budget.

The Commission has zero tolerance to fraud and corruption. Whenever concerns about irregular spending are raised by programme authorities, audits or in the media, the Commission cooperates closely and immediately with national authorities to examine them and to ensure adequate follow up. Payments are immediately stopped for the concerned operations / measures and OLAF is immediately kept informed for possible further investigations. Progress and results of actions or verifications taken at national level are reported in full transparency to the CONT committee, as was the case for example with the recent concerns about administration of EU funds in shared management in Bulgaria or fraud suspicions in Romania.

The Honourable Members are also invited to refer to the reply provided under question number 16, which offers an overview of new initiatives taken in 2020-2021 to fight fraud and corruption.

The Commission has also undertaken to accompany Member States in applying the new rules on conflict of interest. The Commission has published in April 2021 its guidance document on avoidance and management of conflicts of interest. It promotes a uniform interpretation of the rules set out in the Financial Regulation, in particular Article 61, across all management modes and contains practical examples and measures that could be put in place to avoid and manage situations of conflict of interest. The preparation of this guidance was the opportunity to raise further awareness to Member States' authorities on the need to sufficiently mitigate risks of conflict of interest, and subsequently specific action was taken to communicate the new Commission guidance on conflict of interests towards ESIF programme authorities. DG REGIO consulted in 2020 the programme authorities (at its technical group meeting of audit authorities on 23 September 2020 and during the EGESIF meeting of 25 September 2020) and provided dedicated presentations to managing authorities throughout 2021.

Furthermore, DG REGIO has reviewed the existing procedures of audit authorities to ensure that the provisions of the 2018 Financial Regulation are well understood in view of their implementation in shared management and to confirm that appropriate audit procedures are in place in the Member States to prevent and detect situations of a conflict of interests. Following the important audit resources mobilised in 2019 and 2020 in the Czech case, DG REGIO has also planned further thematic audits on measures taken by specific programmes or Member States to avoid conflicts of interests for 2021 and 2022.

The 2021-2027 CPR includes enhanced obligations on conflict of interest, such as the rules of procedure for each monitoring committee (Article 38(2)), procedures involving financial instruments for the selection of final recipients (article 59(7)), and obligations for Member States to record and store additional data on beneficiaries, their beneficial owners and their contractors / sub-contractors (Article 69(2) and Annex XVII). Member States will have to collect information on ultimate recipients of EU funds, i.e. beneficial owners of legal entities being beneficiaries or contractors, and recipients under umbrella schemes. This will increase transparency and strengthen the control and audit processes, notably as regards the risk of conflict of interest or undue concentration of funds under specific beneficiaries, contractors or their beneficial owners indicating risks of possible corruption or wrongdoings.

Moreover, in order to further exploit the possibilities offered in the fight against fraud, corruption and conflicts of interest through the availability of such additional data, the Commission strives to further develop the digitalisation of controls and audits and enhance the quality and interoperability of the data on recipients of EU funding in the context of the up-coming revision of the Financial Regulation. The mandatory use of data mining and risk-scoring tools (such as Arachne) would contribute to this objective.

Lastly, pursuant to the Regulation on a general regime of conditionality, which entered into force in January 2021, the Commission may propose to the Council to adopt budgetary measures if breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way. Corruption and non-addressed issues of conflict of interests are among the elements to be taken into account by the Commission for its assessment. As regards Cohesion policy funds, the Commission may propose measures that include, for instance, the suspension of the approval of programmes, reduction of pre-financing, suspension of payments.

18. In June 2021 the Commission issued a warning for interruption blocking payments on risky projects pending the results of the verifications by the national authorities. Did the national authorities provide the Commission with reasonable assurance that the serious irregularities uncovered by journalists have been resolved? If yes, how did the Commission check that this is indeed the case or how does it intend to do so? Did the Commission impose any financial corrections regarding the ITI Danube Delta; if not: how far are you in the process of determining whether to impose corrections? Could you please provide some information on the audits that the Commission intends to carry out in 2022?

Commission's answer:

The Commission understands that this question relates to the allegations of fraud and corruption linked to the ITI instrument - development of the Danube Delta in Romania. This was the subject of the reply sent on 23 September 2021 by the Director General of DG REGIO to a letter sent by the CONT Chair on 2 September 2021. Since then information received by DG REGIO allows to update some figures.

The entire ITI Danube Delta instrument has a total budget of EUR 1.1 billion coming from 8 Romanian programmes. These funds are earmarked for poverty reduction, nature conservation and environmental protection projects in Romania along the Danube Delta, financed by 5 different European Structural and Investment Funds.

The allegations of irregularities are concentrated in one programme – the Regional operational programme, concerning 3 calls for projects under one priority axis supporting mostly SMEs and micro-enterprises. The amount allocated to these 3 calls under which 347 projects were funded is EUR 104 million.

As the Director General of DG REGIO mentioned in his 23 September reply to the CONT Chair, alleged irregularities uncovered by journalists still need to be confirmed. However, the Commission has taken swift action to protect the EU budget as soon as this information was brought to its knowledge and issued in June 2021 an interruption of payments, blocking any EU reimbursement to the 347 risky projects pending the results of the verifications. The Commission will resume payments only when it will get the assurance that the issues have been fully addressed and the irregular expenditure, if any, has been corrected.

Moreover, following the publication of a journalistic investigation on the matter, OLAF opened in May 2021 an investigation related to allegations of fraud and other irregularities into a specific project financed by the ITI Danube Delta in Romania.

Meanwhile, the Romanian authorities have provided further information that they carried out verifications on all projects for which allegations were raised in the press or complaints received, i.e. 73 projects selected under the three risky calls of the regional operational programme. The managing authority informed the Commission about the verification work carried out and mentioned in particular that it notified 35 of these projects to the national anti-fraud body in Romania (DLAF) or prosecutor office (DNA) for further investigation, due to fraud suspicions. The managing authority also carried out additional verifications on a risk-based sample of another 22 operations (in addition to the above mentioned 73 operations that were already fully checked by the managing authority) verifying whether the selected projects do contribute to the development of the Danube region and are regular. The managing authority identified a potential irregularity in one case out of these 22, which is being further investigated. If the irregularity is confirmed, a financial correction will be applied.

The Commission agreed with the Romanian authorities that the managing authority provides the results of its verifications to the Audit Authority for an independent review on the adequacy of the risk-assessment method to select operations to be reviewed and checks carried out, and for confirmation of the results. The conclusions of the Romanian audit authority should be communicated to the Commission before the end of 2021. This will feed into the preparation of the targeted audit that the Commission plans to also carry out at the beginning of 2022 to verify on the spot the effectiveness of the actions undertaken by the Romanian authorities. Based on the results, appropriate financial corrections will be initiated, if needed.

19. Given that journalists uncovered very wide-spread irregularities and fraud concerning three of the seven projects under the ITI Daube Delta, is the Commission limiting its measures to these three projects or did the Commission undertake own checks and precautionary measures also on the remaining four projects; if not: why not?

Commission's answer:

The Honourable Member is invited to refer to the reply provided above under question number 18 on the scope of the verifications currently undertaken by the national authorities.

The allegations of irregularities are concentrated in 3 calls for projects under one priority axis supporting mostly SMEs and micro-enterprises in one programme – the Regional operational programme. The amount allocated to these 3 calls under which 347 projects were funded is EUR 104 million. Following further verifications, the Romanian authorities transmitted 355 of the 73 projects with media suspicions or complaints to the national anti-fraud body or prosecutor office. There are no indications that the activities financed from the remaining 7 programmes contributing to the ITI Danube Delta would be affected by similar risks, as they concern operations of a different nature and are under implementation by different management and control systems. For example, the main contributor to the ITI instrument is the Large Infrastructure OP (EUR 408 million), with the construction of the Brăila Bridge as a flagship project, for which no irregularity suspicion was reported.

The Commission will perform its own check to review the ITI overall governance arrangements and the work and actions taken by the national authorities in relation to the regional operational programme during an audit planned to be performed in early 2022.

20. One of the lessons learnt from the ITI Danube Delta was that its governance system was highly complex involving a multitude of actors making it difficult to control. Could you provide examples of how this lesson learnt will benefit when implementing similar instruments?

Commission's answer:

The Commission agrees that as regards the ITI Danube Delta instrument, the governance system involving a multitude of actors under 8 programmes and 5 ESI Funds is very complex and lessons should be drawn from the way this instrument is being implemented. This is why the Commission is launching an evaluation whose conclusions will be taken into account when implementing similar instruments in the future, with a view to improve the overall governance.

Meanwhile, based on the lesson learned as regards the governance system, the Commission has already advised the Romanian authorities to deploy technical assistance measures to foster regional and local cooperation based on more collaborative and transparent working and decision-making method, to develop a robust locally-based governance and management system, strategic planning and a full ownership by the local actors.

The Commission also trusts that the new requirement under the Common Provisions Regulation to collect data on beneficial owners will provide additional tools and possibilities to the programme authorities, through the analysis of such data and use of data-mining tool including specific indicators on beneficial owners, to better identify possible conflict of interest situations.

21. Auditors are not fraud investigators, but in their work, they may find indicators of fraud or conflict of interest, thus vigilance to fraud risk is important. ECA found that only 21% of operations in their sample were audited using a checklist with explicate reference to the risk of fraud and concluded that audit authorities need to keep better track of the risk of fraud in their audits of operations. What is the Commission doing or intending to do to increase the awareness of audit authorities regarding the risk of fraud?

Commission's answer:

Audit authorities are fully alerted to the risk of fraud (many of them assume also the role of national OLAF correspondents - AFCOS) and fraud aspects are normally covered under audits of operations and audit authorities liaise with anti-fraud offices when suspicions are detected. However this may not be sufficiently documented yet in the audit checklists in use. The Commission accepted the related ECA recommendation and will continue its work with audit authorities with a view to completing the checklists for audits of operations and better documenting the steps taken to address any fraud risks discovered.

Beyond audits of operations audit authorities carry out system audits including dedicated ones on the effective functioning of key requirement 7 (Effective implementation of proportionate anti-fraud measures), using specific checklists. Under their joint Anti-Fraud Strategy, DGs REGIO and EMPL recommended to audit authorities in April 2021 to add a reference to the Irregularities Management System (IMS) in these system audit checklists, aiming at ensuring clear reporting mechanisms on both suspicions of fraud and on control weaknesses.

Furthermore, DGs REGIO and EMPL updated the Enquiry Planning Memorandum of their compliance audits. This type of audits aims to seek, via review and re-performance of the work of audit authorities, reasonable assurance that no serious deficiency in the management and control system remains undetected, unreported and/or uncorrected once the accounts have been submitted to the Commission. The checklist for audits of operations has been further developed to cover and document this check and will be presented to audit authorities at the technical group meeting in December 2021.

OLAF representatives also systematically participate in the annual bilateral control coordination meetings of Commission auditors with the national/regional audit authorities, in which a standard point on the agenda concerns fraud awareness raising and anti-fraud issues. OLAF representatives make tailored presentations in these meetings and participate in the discussions with each Member State. In 2021 OLAF drew the attention of Member States authorities to fraud and corruption risks in EU funded projects in the area of health infrastructure.

The Honourable Member is also invited to refer to the reply provided to question 16, which offers an overview of new initiatives in 2020-2021 to fight fraud and corruption.

22. The issue of EU co-financed guest houses and other infrastructure investments (e.g. training centres) that are either not used for the intended purpose or repurposed shortly after the minimum required time (3 to 5 years according to CPR) is an ongoing issue in several Member States. Could the Commission please provide an overview over all audits conducted during the last programming period on these issues including a detailed description of the measures taken/recommendations issued for each audit? Which Member States are most affected? How did the Commission follow up on these audits and with which results?

Commission's answer:

Most of the productive investments financed during programing period 2014-2020 are still within the minimum durability period of 3 or 5 years, according to Article 71 of the Common Provisions Regulation. Moreover, it is important to note that the legal obligation of beneficiaries expires after 5 years and that the regulatory basis does not require further controls beyond that period (unless the Member State reduces this time limit to 3 years in cases concerning the maintenance of investments or jobs created by SMEs, or on the contrary increases through national rules such durability period). The same rules were also retained in the 2021-2027 programming period by the co-legislator.

ERDF programmes

Czechia

The CONT Committee raised concerns on the durability of infrastructure investments made under the Czech Operational Programme Enterprise and Innovation in the 2007-2013 programming period.

On 23 November 2020, in follow-up of those articles and the European Parliament CONT Committee concerns, DG REGIO submitted to the Managing Authority at the Czech Ministry of Industry and Trade a set of questions regarding the 31 individual projects highlighted in the Czech media report, requesting the Managing Authority to review the concerned projects and report back to the Commission, paying particular attention to the SME status and risk of fraudulent bankruptcy of the beneficiaries listed. DG REGIO sent a reminder by letter to the programme authorities on 8 February 2021, underlining the importance of receiving clear answers and timely information on the verifications performed on the 31 projects.

The Czech reply was delivered to REGIO on 25 February 2021.The Czech authorities replied to all questions raised in the letter, but in order to complete the analysis, DG REGIO requested on 26 March 2021 the managing authority and the audit authority to provide additional clarifications on 12 points. This was necessary to enable DG REGIO to draw a well-founded conclusion on the adequacy of the management verifications for the affected calls. DG REGIO welcomed the clarifications submitted by the programme authorities on 29 April 2021 on the majority of the points and on 1 September 2021 requested further clarification on two outstanding points, in preparation of the audit planned on the programme:

- The missing confirmation of the status of two SMEs which could not be obtained yet, due to a lack of audit trail.
- The assurance provided by the managing authority on the durability of the only non-SME project (out of 31) for years 4 and 5 of the regulatory durability period.

The Czech authorities informed the Commission on 23 September 2021 that they were not in a position to provide the requested clarifications, as they planned to contact the concerned beneficiaries and the relevant local tax authorities with a view to obtain the requested confirmations, however they had no legal basis to carry out further verifications after the end of the durability period.

DG REGIO carried out in October 2021 the audit mission on durability of investments (to which it committed to the CONT Committee in early 2021). The specific objectives of this audit were:

- to ensure that there is a reliable system in place to cover the risks in the area of durability of investments in the Czech Republic in the 2014-2020 programming period;
- to verify the adequacy of the management and control system in place in relation to the durability of operations in the previous 2007-2013 Enterprise and Innovation OP, in particular in relation to cases raised in media investigations.

DG REGIO is currently finalising its audit work and stands ready to inform the CONT Committee of its results by year end / beginning of next year.

Romania

In Romania, early preventive system audits carried out by DG REGIO pointed at issues of insufficient procedures for the verification of the durability of investments during and after the durability period. In line with the audit recommendation issued by DG REGIO, the Romanian programme authorities introduced the required improvements and the audit findings are now closed.

Poland

In Poland, DG EMPL auditors identified deficiencies related to the verification of durability of operations by one specific intermediate body. In line with Article 71(3) of the CPR, the intermediate body did not consider the ESF operations as subject to durability requirement and did not carry out durability controls. However, some of these operations were cross-financed by the ERDF, so they should have respected durability rules pertinent to the ERDF. As a result, the programme authorities were requested to implement a number of corrective measures to ensure that all operations concerned by ERDF cross-financing respect the provisions of the CPR. The Member State authorities replied to the draft audit report disagreeing with the Commission position and sent an extensive explanation concerning durability checks. However, these explanations were not supported by sufficient evidence. The Commission issued its final audit report in October 2021 and maintained the finding, asking for additional explanations/evidence from the programme authorities to complete their assessment. Pending receipt of the documents listed in the final audit report, the Commission auditors' finding remains open and the system considered insufficiently compliant with Article 71(3) CPR.

Rural Development Programmes

For the 2014-2020 programming period, guesthouses were financed, together with other types of investments, under Rural Development sub-measure 6.4 (investments in creation and development of non-agricultural activities). The Commission carried out 21 audits, in 12 Member States (BG, CZ, EE, GB, GR, HU, IT, LT, LU, SE), covering this sub-measure, and in 8 of these audits (7 Member States: BG, CZ, GB, GR, HU, IT and RO) guesthouses projects were part of the sample (it is to be noted that for BG the audit concerned a project linked to transitional expenditure from the previous programming period, as BG did not refinance this sub measure in 2014-2020 programming period). In 4 Member States (CZ, GR, RO and HU) the Commission had findings linked to the appropriate procedures to detect and deal with the creation of artificial situations to receive the aid. For 2 Member States the findings were clarified in the framework of the contradictory procedure, whereas for 1 Member States the finding was maintained, but deemed not systemic (creation of artificial conditions in one file - not systemic). For the fourth audit, the contradictory procedure with the Member State is still ongoing.
For the 2007-2013 programming period, the Commission audited the measures financing guesthouses in 9 Member States (BG, CZ, FI, FR, HR, HU, IT, LT, LV, RO) and in two of these Member States weaknesses in the implementation of appropriate procedures to detect and deal with the creation of artificial situations to receive the aid were detected (BG, RO). For RO the findings did not require a financial correction but only a recommendation for improving the control system. For BG the findings resulted in a financial correction covering 9 projects and in a recommendation to increase the control rate.

For other infrastructure investment measures financed through Rural Development programmes, the Commission considers that for their nature and size they are not particularly prone to the risk of not being used for the intended purpose or repurposed shortly after the minimum required time.
During the 2014-2020 programming period 31 audits (in 17 MS: AT, BG, CY, CZ, DE, DK, EE, ES, FI, FR, GR, HR, HU, IT, PL, PT, SK) have been carried out

covering sub-measure 4.3 “support for investments in infrastructures related to development, modernisations or adaptation of agriculture and forestry” (covering mainly rural/forest roads and irrigation infrastructures) and measure 7 “basic services and village renewal in rural areas”. No findings have been detected concerning non-compliance on the durability of the investments.

23. Some Member States have longer durability requirements for infrastructure investments going beyond the 3-5 years required under the CPR. In such cases, does the Commission in its audits apply the longer durability period or the 3-5 years as required by the CPR?

Commission's answer:

The Commission confirms that in the cases referred to by the Honourable Members, it applies in its audits the longer durability period under the national law. Indeed, national rules can always be stricter (never less strict) than EU level rules and in such case constitute the basis for Commission audits.

24. How was the development concerning fraud on the one hand and irregularities on the other side for Cohesion Policy in the previous period of 2014-2020 and what are in your view the main reasons for that? What do you expect in this regard for the upcoming 2021-2027 period?

Commission's answer:

The number of fraudulent irregularities reported by the Member States in Cohesion Policy for the programming period 2014-2020 is in line with those of the programming period 2007-2013. For 2020, 0.52% of cohesion payments were affected by reported suspicions of fraud declared by the Member States. This is below the general fraud detection rate for the entire 2014 – 2020 period which is slightly higher (0.65%).

As for the number of cases reported by DG REGIO to OLAF for investigation purposes, nine cases were reported in 2020 and five cases were reported in 2021 to-date.

The number of non-fraudulent irregularities reported by the Member States in Cohesion Policy for the programming period 2014-2020 has been increasing over the period, but remains below the levels reported in the previous programming period. OLAF is currently analysing the trend for reporting of non-fraudulent irregularities in the programming period 2014-2020 (compared to 2007-2013). The Commission notes that at the same time the error rate for Cohesion policy funds decreased as well overall, as a result of the reinforced control and assurance system in 2014-2020 and actions taken to address root causes of most frequent errors (public procurement, State aid, increased use of simplified cost options …).

It is difficult to forecast future trends, however the continuation of the current robust assurance system, coupled with further important improvements (more risk-targeted management verifications, increased use of simplified cost options, nonacceptance of accounts when the error rate remains above 2%, additional data by Member States on beneficial owners, contractors / sub-contractors and link to AML registers), capacity building measures in 2014-2020 and the carry-over of systems for 2021-2027, will contribute to further increasing the detection capacity of programme authorities.

The Commission services disclose in their Annual Activity Reports the types of irregularities identified by the audit authorities and by the Commission auditors, using the joint typology of errors developed by the Commission and agreed with audit authorities (see pages 40 - 43 of the 2020 AAR of DG REGIO). In addition, a study on the Commission findings (errors not detected by programme authorities) and root causes of errors was performed in 2020 and presented to the EGESIF (Expert Group on European Structural and Investment Funds) as well as to the audit authorities.

The main types of irregularities may vary within operational programmes of each Member State. Overall, ineligible expenditure/project and public procurement represent the two mains types of errors in the implementation of ESI Funds. These irregularities are mainly due to complex rules combined with insufficient awareness/training of the staff in programme authorities, leading to errors not detected or insufficiently quantified. This is why the Commission has continued to work on those main strands (general capacity building actions and targeted remedial actions as well as simplification of rules and procedures in its legal framework for Cohesion Policy), in particular through the promotion of simplified cost options and financing not linked to costs.

This effort will continue in the 2021-2027 programming period, with a view to reduce the overall volume of irregularities in the delivery of Cohesion policy programmes. The 2021-2027 regulatory framework provides for more streamlining and reduction of the root causes of errors by an increased use of simplified cost option schemes or new models of financing not linked to costs. Together with co-legislators, the Commission also achieved important progress in the 2021-2027 Common Provisions Regulation on the type of information to be collected and stored by Member States for control purposes, which will improve availability of data on beneficial owners of legal entities being beneficiaries or contractors, and recipients under umbrella schemes. This will increase transparency and strengthen the control and audit processes, ultimately contributing to reducing the risk of conflict of interest, fraud or irregular expenditure. In this respect, the Commission has taken steps to enrich the fields reported in the ARACHNE data-mining tool to include specific indicators on beneficial owners. It will continue to strongly promote the use of the tool and of its new functionalities with the objective to reduce these risks in the future.

25. The ECA Annual Report 2020 indicates that the audit authorities are not tracking the risk of fraud to a sufficient extent, as ‘only 21 % of operations from the 2014-2020 period (40 out of 192) were audited using a checklist with explicit reference to the risk of fraud’

(para 5.46). ECA also highlights that two Member States initially failed to report all cases of suspected fraud to the Commission. How can the tracking and reporting of risk of fraud by audit authorities be improved?

<u>Commission's answer:</u>

For the first part of the question the Commission refers to the reply provided to the Honourable Members of Parliament under question 21 above.

In both cases referred to by the ECA, the Member State authorities concerned have in the meantime corrected their initial mistake and reported the instances of irregularities and possible fraud in the Irregularities Management System (IMS). The two cases mentioned by ECA were therefore adequately corrected by the Member States authorities concerned (the audit authorities are not necessarily the IMS reporting authorities) and do not demonstrate a general weakness in reporting fraud suspicions in IMS (two instances out of the 64 irregularities identified by audit authorities, all other cases correctly reported). The Commission however, when transmitting its audit reports, systematically reminds programme authorities, including audit authorities, about their obligations to report irregularities (including fraud suspicions) into the dedicated IT system IMS.

The Commission is continuously developing IMS and provides guidance on reporting to Member States in order to mitigate the risk of under-reporting (the Commission also refers to the related ECA Special Report N° 6/2019 and its replies therein).

The Commission also provides in its annual “Report on the protection of the financial interests of the EU – fight against fraud” detailed information about and analyses of irregularities (including fraud) and thereby contributes to improving reporting practices.

26. In its 2020 Annual report, the ECA once again concluded that controls are insufficient and that the verifications conducted by managing authorities are “ineffective for preventing or detecting irregularities in the expenditure declared by beneficiaries” (point 5.17). The discharge report 2019 therefore called on the Commission to conduct a thorough analysis of the underlying reasons and structural problems causing the persisting systemic weaknesses identified by the Court and address clear, practical and readily implementable horizontal as well as country-specific recommendations to the national authorities and share the results with the discharge authority (see paras 30, 217, 244).

Did the Commission conduct such an analysis? If yes: what were the findings, results and recommendations? Did the Commission detect any specific patterns across the managing and certifying authorities in different Member States? How was the cooperation with the national authorities? If no: why did the Commission not conduct such an analysis and when does it intend to do so?

Commission's answer:

The Commission has conducted such an overall analysis and provides the results in its AARs where it compares the main error types identified by the audit authorities and by the Commission auditors, using the joint typology of errors developed by the Commission and agreed with audit authorities (see for DG REGIO: p. 40 of the 2020 AAR and Annex 7D and for DG EMPL: p. 55 of the 2020 AAR and Annex 7).

In addition, a study on the root causes of additional errors identified by Commission audits (and therefore not detected by programme authorities) was performed in 2020 and presented to the representatives of the managing authorities in the EGESIF (Expert group on European Structural and Investment Funds) as well as to the audit authorities. These analyses reply to the recommendations of the discharge report 2019 and were the basis for a more structured dialogue with programme authorities on undetected irregularities and the ways to improve the detection capacity of managing and audit authorities.

As far as irregularities are concerned, the Commission analysis shows that there are differences between Member States and between programmes within each Member State. The situation can vary from year to year and also depends on the capacity of each administration (national or regional) concerned or the special circumstances in one year (e.g. staff turnover or specific issue found in a sample). This appears clearly in Annex 7 of DG REGIO and DG EMPL AARs, respectively, which report for each programme the error rates, as reported by the audit authorities and as confirmed by the Commission, for three consecutive years.

The typology of errors reported by the audit authorities and by the Commission confirms that ineligible expenditure/project and public procurement represent the two mains sources of errors for the ESI Funds implementation, followed by insufficient audit trail (missing supporting information or documentation).

Sources of errors are mainly due to complex rules combined with insufficient awareness/training and sometimes high turnover of the staff in programme authorities, leading to errors not detected or insufficiently quantified. This is why the Commission has continued to work on those main strands: general capacity building actions and targeted remedial actions as well as simplification of rules and procedures in its legal framework for Cohesion policy, in particular through the promotion of simplified cost options and financing not linked to costs.

The control systems in place and its audit work enable the Commission to have a very granular and detailed knowledge on how systems function at the level of national and regional authorities under shared management, identifying areas, programme authorities or bodies where improvements are still needed and taking action where appropriate. The Commission is able to identify which managing or audit authorities still present deficiencies in their work, and therefore issue targeted recommendations to remedy those deficiencies. It was the case this year for 30

ERDF/CF operational programmes (out of 293) and 8 out of the 81 ERDF/CF audit authorities (see details on page 37 of the 2020 DG REGIO AAR).

Furthermore, DG REGIO together with DG EMPL and DG MARE launched a general dialogue with managing and audit authorities on the types of irregularities found in Commission audits.

A discussion on existing discrepancies between the Commission findings and the audit authority's ones (errors remaining undetected by audit authorities) is a standard point on the agenda of bilateral annual coordination meetings with audit authorities (foreseen in Article 128(3) of the CPR) since 2018. Since 2020, an even more structured discussion with the concerned audit authorities includes a detailed analysis of the additional errors found by EU audits and not detected previously by programme management verifications and audits, with a view to better detect this types of issues in future programme verifications and audits.

As concerns the non-detection risk for audit authorities in particular, DG REGIO, DG EMPL and DG MARE organised in November 2020, for ESIF audit authorities, a dedicated workshop on the Commission findings concerning public procurement aspects and ineligible expenditure not previously identified by audit authorities' audits (over 200 participants from all ESIF audit authorities). Examples of additional errors detected by Commission audits when re-performing the work of audit authorities were presented in this events and explanations were provided of why these findings constituted breaches of the directives or applicable rules and how such errors are to be quantified and included in the reported error rates (see example detailed in DG REGIO AAR, page 43). This workshop was video-recorded and put at the disposal of audit authorities for further dissemination to the staff of audit / managing authorities in the Member States. In March 2022 a repetition of such a structured dialogue based on more recent, 2021 Commission audit findings is planned. In addition, at the occasion of the Technical Group Meeting between Commission auditors and Member States' audit authorities in March 2021 Commission auditors shared findings stemming from their audits on financial instruments. Such dialogues allow to clarify the standards to be applied by audit authorities and increase the detection capacity of audit authorities for similar breaches in future audits.

The Commission will continue sharing its findings with managing and audit authorities in different fora, depending on the topic and the needs.

Preventive actions also take place at the level of managing authorities to tackle the most frequent errors: for each system finding, a recommendation is issued and closely followed up to ensure that the system is fixed and mitigate any risk for the future. Such recommendations can include for instance requesting improvement of methodological tools/selection procedures, recruitment of additional staff or experts, training activities on tools or on the correct interpretation of rules such as public procurement. Managing authorities and certifying authorities are in that respect benefitting from the audit results and recommendations issued by audit authorities regarding the main sources of irregularities (reported under the common typology of errors defined jointly with the Commission). The Commission is also continuously encouraging audit authorities to provide such regular feedback sessions to managing authorities: this helps them to strengthen their internal control procedures, update their risk assessment and checklists, and further train their staff and beneficiaries to avoid recurring errors.

Some detailed examples of remedial actions taken at the level of managing authorities or audit authorities are reported on pages 42-43 of 2020 DG REGIO AAR.

27. The ECA found that 30% of errors concerned costs that were not in line with national or EU eligibility rules. Could you please comment in how much this is a reflection of gold-plating by Member States? How has the issue of gold-plating developed in 2020: did it increase or decrease; are there any specific differences across Member States (which Member States gold-plate the most, which gold-plate the least,...)?

Commission's answer:

National eligibility rules are part of the legal framework relevant for the selection of projects and beneficiaries. As a general rule these national eligibility rules are not to be considered a reflection of gold plating but are relevant for the implementation of operations. In 2020, audit authorities reported for the third year irregularities they found in their audits of operations (over 6.600 irregularities for ERDF/CF and ESF/YEI) following a common typology agreed with the Commission and shared between the Member States.

Most of the irregularities identified by audit authorities and the Commission concern the same main categories: ineligible expenditure/ projects (54%), audit trail (16%), public procurement (14%) and State Aid (14%). This also corresponds to the most common types of irregularities identified by the ECA for its additional findings (in 2020 72% of the errors coming from ineligible projects and costs, including 30% or 13 irregularities identified by the Court being cost items or participants not in line with national / EU eligibility rules). This shows that audit authorities detect the different types of irregularities contributing to the error rate, but not entirely in all cases. The Commission will follow up all errors reported by the ECA and will apply financial corrections where appropriate and legally possible.

The Commission notes that in some cases national or regional rules applied to expenditure under programmes co-funded by the ESI Funds are more demanding than those foreseen in the national legislation for similar expenditure nationally funded. These additional requirements can indeed be seen as an instance of gold plating, self-imposing unnecessary administrative burden and complexity to Cohesion funded expenditure.

DG REGIO takes initiatives to curb the root causes of errors, in particular by communicating, increasing trust and dialogue between programme authorities and with the Commission services and promoting simplification at all levels and fight against gold-plating at national / programme level. DG REGIO and DG EMPL auditors are looking systematically in potential instances of gold plating while auditing the work of audit authorities, intermediate bodies or managing authorities. In few cases, auditors have spotted excessive procedures and rules over time and issued targeted recommendations to address such gold plating rules at programme level. The detected cases however do not underline a trend in particular Member States or over time.

28. ECA found that ineligible expenditure accounted for about 1.4 percentage points of the estimated level of error and that three projects that did not meet the eligibility conditions accounted for about 1.5 percentage points. Together, these errors accounted for 2.9 percentage points, a significant amount of the estimated level of error of 3.5%. What measures did the Commission undertake to tackle this reoccurring category of error?

Commission's answer:

The Commission has actively promoted the use of simplified cost options (SCO) and will continue to do so in the 2021 – 2027 programming period, in order to reduce the risk of ineligibilities and other errors. As the Court of Auditors confirms in its annual report, SCOs have the potential to reduce beneficiaries administrative workload and are considered to be less prone to error (see para. 5.23 DAS 2020). DG REGIO and DG EMPL take initiatives to curb the root causes of errors, in particular by facilitating the uptake of SCOs – which may become a radical game-changer for programme error rates – and by providing assistance and support to the programme authorities to prepare and assess the SCO schemes for the 2021 – 2027 programmes under preparation.

DG REGIO also offers tailored preventive actions to address the risk of non-detection of errors and under-reporting of their financial impact by the first control layer of programmes (managing authorities) and second level (audit authorities) , thereby improving the quality of assurance offered by programme authorities:

-Organising dedicated information sessions, workshop discussions, training material and best practice guidance for managing and audit authorities on the basis of an analysis of the recurrent errors identified for the concerned programmes (see Commission reply to question number 26 above) ;

- Sharing with programme authorities detailed analysis of the errors found in DG REGIO/DG EMPL and ECA audits and divergences against the applicable legal framework;

- Providing an overall analysis comparing the main error types identified by the audit authorities and by DG REGIO auditors, based on the joint typology of errors;

- Lending assistance and supervision to audit authorities in need of support to arrive at reliable assurance results, providing support for the analysis of specific systemic or recurrent findings;
- Consistently imposing remedial action plans from managing and/or audit authorities in case deficiencies are identified.

There are also at times differences of interpretation between national, EU and ECA auditors, which may lead to diverging views on what constitutes non-compliance and hence leads to ineligibility according to the auditor (for example, whether a specific action selected contributes to the objective of the programme). This is for example the case in 2020 as indicated in the Commission's reply to box 5.4 of the ECA Annual report.

29. ECA found errors with the use of standard scales of unit costs (points 5.24-5.26): the beneficiary rightly declared cost based on the simplified cost method determined by the managing authority, but the managing authority declared costs based on the Commission's calculation method. According to the ECA, the difference in calculation methods resulted in an imbalance in favour of Italy of more than 43 mio Euro so far for the period 2014-2020. What did Italy use the 43 mio Euro for received due to the imbalance? Did the Commission carry out any controls on the spending of the amounts received due to the imbalance?

    The Commission replied that the CPR does not require that the same calculation method be used between the beneficiary and the national authorities, and the national authorities and the Commission, but that the Commission has requested to adjust the simplified cost option to avoid such imbalances in the future. How can this be acceptable? Would that not carry the risk to incentivise national authorities to use simplified cost options to achieve imbalances to receive amounts that can be spent freely and without rigid controls?

<u>Commission's answer:</u>

The Honourable Member is referred to the reply given to question number 9 of Commissioner Schmit's discharge questionnaire, as follows.

During its 2020 State of Assurance audit, the European Court of Auditors (ECA) audited five operations co-financed under Axis I (Education) and thematic objective 10 (Investing in education, training and vocational training for skills and lifelong learning) of the operational programme PON 2014IT05M2OP001 – "Per la Scuola competenze e ambienti per l'apprendimento". These operations support classes to primary and secondary education students outside normal school hours. In line with Article 67 of Regulation (EU) 1303/2013 (the Common Provisions Regulation), beneficiaries had to declare eligible costs using scales of unit costs based on the simplified cost option method (SCO) determined by the managing authority on 2 November 2015. The beneficiaries claimed expenditure based on the national SCOs and the managing authority paid the beneficiaries for the expenditure claimed accordingly. The Italian authorities selected a method that was already approved for similar type of operations and beneficiaries under a scheme for grants funded by the Member State before the calls' publication (National SCOs).

For each of the five operations audited by the ECA, the managing authority declared to the Commission a different amount calculated on the basis of the simplified cost method (EU SCOs) defined by the Commission Delegated Regulation 2017/2016 dated 29 August 2017, implementing Article 14.1 of the Regulation (EU) 1304/2013 (the ESF Regulation). This method is based on the number of participants gaining a certificate in classroom training, multiplied by the standard scales of unit costs defined in the Commission Delegated Regulation, according to the length of module, additional specific support and meal allowance.

The Commission had already carried out a compliance audit and also identified a difference between the amounts paid to beneficiaries and the amounts claimed to the EU budget, based on the two different SCO methods. Under the CPR there is no direct link between the contribution from the Funds to an operational programme and the financing to a specific operation. Accordingly, the Member State may apply its accounting practices to support operations, therefore the difference identified by the Commission (and confirmed by ECA) is legal under the regulation.

However the Commission still requested the Member State to reduce the difference between the two amounts for future declarations to the EU budget. As a result of the Commission’s audit, the following measures have been adopted:

1) The Commission has requested the national authorities to apply the adjustment method indicated in the Delegated Regulation 2017/2016. Thanks to this adjustment, the SCO value has been reduced and applied to the operations certified in the subsequent year. This will lead to a reduced amount reimbursed to the Member State of EUR 12.5 million for the operations certified in the subsequent accounting period.

2) In its reply to the Commission’s audit, the Member State has also committed to use the difference identified by the Commission (and confirmed by ECA) for similar types of operations under the same programme addressed to the same type of beneficiaries (i.e. schools). Hence, the EU amounts reimbursed to the Member State above what was paid at national level to beneficiaries will be used to support additional operations for the same policy area.

30. ECA concluded that the Commission does not have adequate information to monitor sufficiently whether amounts under ongoing assessment of regularity are treated appropriately. What measures did the Commission apply or intend to undertake to improve the quality of information and ensure that these amounts are treated properly?

Commission's answer:

The Commission accepted this ECA recommendation, even if it has no legal basis to impose additional reporting obligation on programme authorities as recommended by the ECA. Under shared management programmes in Cohesion policy, the implementation of operations under the programmes, including accounting, is the responsibility of the Member States. Managing authorities carry out management verifications on annual expenditure up to the preparation of annual accounts. Audit authorities perform audits of operations (almost 11 000 operations or parts of operations audited in total for the accounting year 2018-2019 for ERDF/CF and ESF/YEI programmes, close to 6 600 irregularities reported). As a result of these first level management verifications and second level audits carried out to test the quality of first level verifications, most amounts are definitely withdrawn from the accounts (financial corrections applied). However, in case of doubts on the eligibility and regularity of certain such amounts not definitely clarified at the time of submitting the programme accounts to the Commission, the provisions of Article 137(2) CPR allow the Member States to temporarily put aside expenditure from the accounts until the moment where the legality and regularity of expenditure - or on the contrary its ineligibility - is confirmed. This means that such expenditure is not declared to the Commission, being excluded from the accounts submitted to the Commission for the concerned year and consequently from the settlement of the balance by the Commission. The amounts under ongoing assessment under Article 137(2) CPR are indeed encoded in the accounting systems of the programme certifying authority, where they are put on hold. Such amounts, if reintroduced in subsequent payment claims to the Commission once their legality and regularity has been confirmed (if it is the case), are included in the future population of payments to be audited by the audit authority and may therefore be sampled for audit. Otherwise, if the eligibility of such amount sis not confirmed, such amounts are definitely corrected and annulled. The audit authorities have to provide detailed information on the reconciliation of their audit populations in the annual control reports and the Commission carefully assesses this aspect in its desk review of such control reports. Therefore, the Commission considers that the control mechanisms in-built in the management and control systems provide reasonable assurance concerning the monitoring and follow-up of such amounts. Moreover, instructions in that regard are provided to all programme authorities in the Commission guidance notes on annual control reports, treatment of errors and audit of accounts. However the Commission will require managing authorities to provide more information in the annual summary to monitor the destination of such amounts (whether they were definitely withdrawn in subsequent years or reintroduced in future payment claims).

31. ECA concluded that reservations might not cover all material risks as its analysis confirmed that 63 OPs at DG REGIO were affected by material errors, but reservations

were only issued for 39 OPs. Is this exclusively explained by the de minimis threshold or how can this difference be explained?

Commission's answer:

The “de minimis” threshold is not applied to funds under shared management, and therefore does not apply to Cohesion policy Funds and programmes.

The issue raised by ECA is a technical one. The difference is therefore linked to the fact that these programmes refer to different accounting years. The 63 programmes with confirmed residual total error rates above 2%, as confirmed by DG REGIO following its audit work (see page 45 of 2020 DG REGIO AAR), to which the Honourable Member refers, relate to the 2018-2019 accounting year and not to the 2019-2020 accounts which are the basis to determine 38 reservations entered for the 2020 reporting year (see page 48 of 2020 DG REGIO AAR).

Reservations are decided by the Director General at the time of signature of the Annual Activity Report (AAR) based on all audit information available at that time. This obviously cannot include information that may come after the AAR is signed, based on future audits that the Commission will carry out. This is the case for these 63 programmes from the previous accounting year with residual total error rates above 2% confirmed at the time of signature of the AAR based on audits carried out by the Commission after the last AAR was signed (and therefore the results of which were not available the previous year). However such new audit evidence was taken into account in the Director’s General decision to put certain of the 38 programmes under reservation, where relevant for the accounting year under assessment for the AAR.

Reservations are issued in the AAR “in relation to the relevant expenditure in the year, in line with the Financial Regulation and corporate instructions” (as also explained in the Commission reply to paragraph 5.62 of the ECA 2019 Annual Report and 5.60 of the ECA 2020 Annual Report). The criteria used by the Commission to reach its opinions and issue reservations on the operational programmes cover the accounts, the effective functioning of management and control systems and the legality and regularity of expenditure, based on all information cumulated since the previous AAR, including the latest audit information contained in the assurance package received by 1st March, just before the AAR to be signed mid-April. Commission’s opinion and reservations are therefore based on all and the most updated audit information available, as fully and transparently disclosed in the AAR (see Annex 5 of the 2020 DG REGIO AAR).

Therefore, as a general rule, a programme has been put under reservation for the 2020 reporting year (and reported as such in the 2020 REGIO AAR) if at least one of the following conditions applies, based on the 2019/2020 assurance packages received by 1 March 2021 and cumulative audit information on each programme at the date of the AAR:

- a total error rate reported by the audit authority above 10%, since the risk is not covered by the 10% retention on interim payments. All interim payments made by the Commission in 2020 have been subject to a 10% retention until the national control cycle is completed and the accounts are accepted, therefore protecting the EU budget during 2020 in a number of these programmes;
- deficiencies in key elements of the systems (identified by national or EU audits), which could result in irregularities above 10% and for which no adequate corrective measures to remedy the deficiencies have yet been implemented by the Member States;
- a total residual error rate reported by the audit authority above 2%, indicating that insufficient corrective actions were taken by the programme managing / certifying authorities; or
- material issues concerning the completeness, accuracy and veracity of the submitted programme accounts.

To follow-up on ECA's comments in its 2019 and 2020 Annual Reports, both DG REGIO and DG EMPL fully took account of the results of their compliance audits on the 2018/2019 accounts for their assessment of the newly submitted 2019/2020 accounts in the 2020 AARs, assessing for each concerned programme whether previous findings could have an impact on the reportable error rates. This has led in some cases to additional reservations in the 2020 AARs, as indicated for example in the DG EMPL 2020 AAR (see pages 113-116 of the Annexes) or in the list of DG REGIO's reservations (Annexe 7O of its 2020 AAR). The list of total error rates and total residual error rates reported by audit authorities for the 2019-2020 accounting year, as adjusted by DG REGIO where relevant, is disclosed in Annex 7B of 2020 REGIO AAR. Adjustments made by DG REGIO to the error rates reported in the latest assurance packages also take into account the previous year's confirmed error rates after all controls were applied.

DG REGIO and DG EMPL will continue, for their 2021 annual activity reports, to carefully take account of all most recent audit information (including not completely confirmed one) to assess the need for reservations and to adjust the residual error rates being part of the key performance indicator on legality and regularity, as needed. DG REGIO will endeavour to further disclose for each programme whether the situation includes in future AARs impact from the analysis of previous years' confirmed error rates, for the full information of the reader.

32. Did DG REGIO issue any net financial corrections in 2020?

<u>Commission's answer:</u>

DG REGIO imposed net financial corrections in 2020 in relation to the closure of 2007-2013 programmes (see reply to question number 33 below).

The Commission services have assessed the possibility to initiate procedures for net financial corrections in 2020 in relation to 2014-2020 programmes falling under the competence of DG REGIO but concluded that not all conditions set by the co-legislator in the Common Provisions Regulation (CPR) were met.

The Commission needs indeed to respect the restrictive statutory criteria set by the co-legislator in the CPR for net financial corrections and follow all due contradictory procedures in line with the legal obligations and international auditing standards, before applying financial corrections, including net ones. The Commission therefore cannot confirm whether the requested additional financial corrections should be net or not before completing the financial correction procedure. This depends on a careful analysis and final confirmation of the serious deficiency as defined in the regulation, taking account of any additional information provided by the Member State during the financial correction procedure, including on measures taken, and of the applicability of the conditions set by the co-legislator for net financial corrections under Article 145(7) of the CPR.

The Commission provides in the AAR a state of progress of the different required financial correction procedures for the previous accounting years (see DG REGIO 2020 AAR, pp. 50-51). In particular, in 2020, five financial correction procedures were on-going, and one procedure initiating net financial corrections was started as indicated above.

33. Did the Commission apply flat-rate corrections in 2020? For which operational programmes and what kind of flat-rates?

Commission's answer:

As reported in DG REGIO 2020 AAR, financial corrections implemented in 2020 relating to the 2019/2020 and past accounting years for 2014-2020 programmes are the following:

- Member States have deducted EUR 1.5 billion from the 2019-2020 accounts, of which 345 million of definitive financial corrections resulting from national audits.
- For previous accounting years, the Commission imposed additional extrapolated financial corrections for a cumulative amount of EUR 141,5 million to bring the residual error rate for each of the previous accounting years (risk at closure) down to below 2%.

The amounts reported as withdrawn from the accounts from programme authorities comprise any financial corrections directly applied by the programme authorities as a result of management verifications, national audits and financial corrections imposed by the Commission as a result of its audits (or of follow-up to ECA or

OLAF reports) and accepted by the Member State. The Commission identified individual irregularities (precise amounts or flat rate corrections in case of public contracts, based on the Commission decision of May 2019), system deficiencies (flat rate corrections) or residual error rates above 2% (extrapolated corrections). These amounts of financial corrections introduced in the accounts are subject to audits carried out by the Member States' audit authorities. DG REGIO and DG EMPL therefore use these amounts of corrections disclosed in the programme accounts for its reporting on financial corrections in their AARs.

For 2020 examples of flat rate or extrapolated financial corrections requested by DG REGIO from some ERDF/CF programmes comprise:

2020 Flat rate financial corrections			
Italy ROP Sicilia ERDF5	% flat rate correction	EUR 7.7 million	Existence of system deficiencies identified during a 2019 early preventive system audit as part of wider correction of EUR 155 million comprising various flat rate corrections (between 5% and 100%) on public contracts
Ireland (2 ERDF programmes)	25% flat rate correction	EUR 31 million	System deficiencies in relation to lack of adequate verifications of State aid and weak management verifications
2020 extrapolated financial corrections to bring the RTER below 2%			
France	Programme Midi-Pyrénées	EUR 83 115	
Italy	Programme Calabria ERDF/ESF	EUR 195 188	
Portugal	10 programmes grouped in one sample	EUR 109.3 million	Systemic State aid irregularity (wrong transposition of EU rules)

In 2021 a 100% flat rate financial correction was accepted by Slovakia on the Technical Assistance OP 2007-2013 at closure (ERDF amount EUR 17.4 million) due to the direct award of IT contracts without publication (net correction due to the absence of overbooking for this programme at closure). In addition, the Commission requested further extrapolated financial corrections to reduce the residual error rate of four programmes in Italy for a total of around EUR 1.5 million but the contradictory procedure is still on-going (national programmes Governance and Institutional Capacity and Infrastructure and Networks; regional programmes Sardegna and Sicilia).

Further information will be made available in DG REGIO 2021 AAR.

34. As last year, a number of ERDF projects were audited and it turned out that there is a high error rate in public procurement (63%) and ineligible expenditure (11%). what measures is Regio taking to correct this recurring problem?

Commission's answer:

The percentages of error referred to by the Honourable Member refer to the results of DG REGIO audits carried out in 2020 on managing authorities (thematic audits) and audit authorities (re-performance, compliance audits), as reported in the DG REGIO 2020 AAR (p.41 and graph on p.42 on “Categories of project findings found during REGIO audits”).

The high frequency of public procurement irregularities found in DG REGIO’s 2020 audits is mainly due to a continued systemic issue (detected in 2019) in two Member States (Spain and Italy) concerning the incorrect transposition of the public procurement Directives into former national legislation (limitation of sub-contracting without justification). The other main source of public procurement irregularities was due to the restrictive use of technical specifications, standards or brands without the required mention “or equivalent” in Spain, Poland and Romania, as well as the irregular award of additional contracts in programmes in five Member States. These irregularities were not detected or not sufficiently quantified by the programme authorities, although the Commission notes that in case of incorrect transposition of a European Directive in the national legislation the programme authorities do not have the legal means to consider an irregularity and even less to impose a financial correction to the concerned beneficiary. This case is therefore not an example of serious deficiency at the level of the concerned authorities, but an issue of conflict of legal provisions between the European and national levels. In such cases the Commission still concludes its assessment in line with the applicable EU rules and imposes financial corrections to the Member State to protect the EU budget, as required.

Overall the Commission however confirms that programme authorities, including audit authorities, better and more frequently detect public procurement errors than in the past (27% of the 3 620 irregularities reported by audit authorities for ERDF/CF for the accounting year 2018-2019). This is also confirmed by the ECA results (“Member States had detected many procurement errors”) where audit authorities had detected 21 quantified irregularities and ECA 6 additional (much less than in the past) accounting only for 4% of all quantifiable errors ECA found this year (paragraphs 5.31-5.33 of the ECA Annual Report 2020). The Commission estimates that such improvements reflect the impact of the Commission public procurement action plan that helps programme administrators, auditors and beneficiaries of ESI Funds to further improve their procurement practices and related administrative capacity. However the situation is not yet satisfactory in all cases and the Commission continues to systematically implement its public procurement action plan.

With this objective in mind, DGs REGIO and EMPL have organised a dedicated workshop / training session with representatives from all audit authorities in November 2020 (over 200 participants, video recordings shared with audit authorities for further dissemination, see reply to question number 26). The Commission presented to audit authorities and discussed with them the recurrent types of public procurement errors found in Commission audits and not detected by audit authorities (artificial splitting, significant contract modification, discriminatory or disproportionate selection criteria, use of standards without the words "or equivalent") to improve the common understanding on these findings, to contribute to a lessons learnt process, improving the detection capacity by both managing and audit authorities avoiding recurrent audit findings on procurement in the future.

A presentation was also offered by the Commission and the OECD at a technical group meeting with ESIF audit authorities in December 2020, explaining the potential of public procurement as a strategic policy instrument to further increase compliance and performance in the implementation of projects under the ESI Fund programmes.

About ineligible expenditure the Commission refers to its replies under questions 26, 27 and 28 above.

35. In 2020 the Commission closed or partially closed 24 of 101 remaining OPs from 2007-2013 programming period. This means that 77 OPs remain to be closed (of these 63 have been partially closed) three years after the closure of the programming period. What is causing the delays to closing the remaining or partially open OPs? ECA concluded that it is possible that the AAR does not actually cover all material risks. Could you comment on that, please?

Commission's answer:

By the time of the 2020 AAR DG REGIO had closed or pre-closed[3] 97% of ERDF/CF programmes; nine programmes in four Member States remained open due to serious issues remaining unsettled (all nine programmes were put under reservation in the 2020 REGIO AAR, see DG REGIO 2020 AAR, pp. 51-52).

In 2021 DG REGIO made further progress as concerns closure of its programmes and by mid-November, five additional programmes have been closed or pre-closed (in total 318 out of 322 ERDF/CF programmes, 98%).

Currently 44 programmes (13%) have received pre-closure proposals, meaning that the Commission paid the uncontested amounts and withheld only the remaining expenditure for individual contested irregularities; 39 of these programmes are subject to administrative/court proceedings or recoveries at national level, thus blocking the full release or deduction of the concerned amounts.

[3] meaning most of the closure balance settled except remaining individual contested irregularities

Other programmes are affected by pending issues such as OLAF reports, Commission audits etc. and usually require further contradictory procedures with the Member States before adopting financial correction decisions. These on-going financial correction procedures have to be finalised before fully closing the programmes. For the remaining four open programmes, we estimate we will be in a position to (pre)close one programme (HR Transport) by the end of 2021 and the remaining three programmes in the course of 2022 (HU Electronic Public Administration, IT Research and Competitiveness and RO Increase of Economic Competitiveness), due to on-going litigations with the concerned Member States.

Overall, in 2021, REGIO disbursed another EUR 49, 5 million for the closure of 2007-2013 ERDF/CF programmes in addition to the EUR 10.9 billion already paid at closure in the period of 2017-2020.

In its Annual Report concerning the financial year 2020, the ECA commented that reservations disclosed in the Annual Activity Reports (AARs) might not necessarily cover all material risks.

This is due to the ECA taking into account additional audit information and conclusions obtained by the Commission subsequently to the signature of the 2020 AAR. The Commission explained in reply to the ECA Annual report that reservations are issued in AARs in relation to the relevant expenditure in the year, in line with the Financial Regulation and corporate instructions and are based on all audit information available to the Commission services at the time of signature of the AAR, including adjustments that the Commission had to do to past reported error rates and whether this impact the current assessment for the AAR. Therefore, the Commission considers that the material risks are sufficiently covered.

The Directorate General can obviously not take account of potential future audit results (see also Commission reply to question number 31 above).

36. What are the biggest problems in Cohesion Policy when it comes to irregularities and how to tackle those issues? Are the goals in Cohesion Policy reached effectively with the current instruments and programmes? Did you manage to limit the impact of the health crisis on the Cohesion Policy goals?

Commission's answer:

The Honourable Member is referred to the reply to question number 26 above regarding the main irregularities identified in Cohesion policy and how to tackle them.

With a view to effectively reaching goals with the existing instrument and programmes, the discussion by EU Institutions in preparation of the 2021-2027 MFF has addressed, at its core, the role of Cohesion policy in the context of the Union's Treaty and policy objectives. The decisions on the additional resources provided under REACT-EU and on the objectives to be pursued under cohesion policy 2021-2027 (policy objectives and specific objectives) and the decided budget allocations, have clarified and set the legislative framework for the dedication of a major part of the EU budget to reducing social, economic and territorial disparities.

The introduction of the Just Transition Fund in the cohesion policy instruments reflects the Union's commitment to addressing the just transition using the shared management method.

The upcoming ex-post evaluation of the 2014-2020 programming period to be delivered in 2025 will look precisely at the assessment of the 2014-2020 programmes. Those programmes are still ongoing with significant investments to be finalised.

In relation to the impact of the health crisis on the Cohesion policy goals, the Commission has worked intensively with the Member States to respond to the public health and economic crisis in 2020. Many of the long-term goals of cohesion policy were put on hold to allow short-term emergency measures in the field of healthcare, businesses and social support to the most vulnerable. During this time, the CRII(+) flexibilities were used to re-allocate unspent funds mainly from green and digital priorities, such as low carbon economy, environment protection, transport and energy network infrastructures and information and communication technologies (see Commission replies to questions number 7 and 8 above).

Whereas regional data enabling to quantify the impact of the economic crisis on regions are not yet available (expected early March 2022), the pandemic nonetheless highlighted that regions have been unevenly hit. Some regions are expected to experience a particularly sharp reduction in GDP, especially those with a large share of value-added in wholesale and retail trade, transport and accommodation. This may further widen disparities. The crisis also pointed out the vulnerability of many regions, such as their capacity to respond to unexpected shocks, notably linked to globalisation and technological change. Diversification of economic activity, building on smart specialisation strategies, notably in relation to the digital transition in combination with place-based policies, can help regions become more productive and less vulnerable to future shocks.

These temporary deviations from the long-term goals will be rebalanced by the NextGenerationEU resources, namely REACT-EU. This injection of additional resources in current programmes will allow the resumption of projects previously halted and bridge the gap between emergency crisis response and long-term investments by strengthening the resilience of healthcare systems, preserving and creating employment, in particular for young people, supporting the poorest of our society, and providing working capital and investment support for SMEs. Green and digital priorities will once again be at the top of the agenda. A "win-win" strategy is encouraged to exploit the multiple positive effects of targeted measures, whereby they can quickly address the negative consequences of the outbreak, while ensuring a smart and sustainable recovery.

The upcoming Eighth Cohesion report will look at the long term trends in disparities and at the early evidence of the impact of the pandemic. We will therefore come back to that question when we debate the Cohesion report in early 2022 and during the ex-post evaluation 2014-2020 to be delivered in 2025.

Questions concerning international and transnational issues

37. How do you fight concretely against the obstacles that may exist in transnational and cross-border projects?

Commission's answer:

In 2015, the Commission has conducted the Cross Border Review, a major consultation process to assess how obstacles persist on affecting cross-border cooperation in general, including but not limited to Interreg. This has shown that legal and administrative obstacles do hamper seamless interaction in cross-border regions. Such obstacles are generally due to incompatibilities amongst applicable legal frameworks on the two sides of a border, or to lack of administrative procedures taking into account an eventual cross-border application. Experience also shows that most of these obstacles are enrooted in national law.

The Commission has adopted the Communication "Boosting Growth and Cohesion in EU Border Regions" (COM(2017)534) and the report "EU border regions : Living labs of European integration". In both documents it states the actions being implemented to overcome those obstacles. Amongst several others, the Commission would like to emphasise two: the b-solutions initiative and the European Cross-Border Mechanism.

With b-solutions the Commission is working directly with border stakeholders to assess the root causes of specific obstacles and defining pathways for their potential solutions. Not only is this allowing to solve some obstacles, it is also demonstrating that obstacles can be solved. To the moment 90 different cases of obstacles have been addressed, in different sectors. To ensure that other border regions can benefit from the built knowledge deriving from this experience, several publications have been issued, including a full report for each case. The Commission is committed to continue this initiative. Furthermore, with the new Interreg Specific Objective "Better Cooperation Governance" Member States will also be able to use Interreg funding to work on solutions to cross-border obstacles in their borders. The knowledge built with b-solutions will certainly be a good support.

The European Cross-Border Mechanism or ECBM is a proposal for regulation that will create a legal mechanism under European law allowing for national authorities to solve specific obstacles that hamper projects of a cross-border nature. After its presentation in 2018, the European Parliament has issued a report, proposing amendments but being favourable to open negotiations. The Committee of the

Regions has issued a much favourable opinion. However the Council has taken a less favourable position at technical level during the recent Portuguese Presidency.

The Commission is convinced that the adoption of such a mechanism would be a significant improvement for overcoming border obstacles.

With respect to cross-border EU-transport infrastructure projects, obstacles may arise as investments in TEN-T infrastructure projects are subject to authorisations and permits, including environmental assessments, land use approvals and public procurement and state aid procedures. The complexity of some of these procedures, including their major variation across Member States, has often led to delays TEN-T implementation. This complexity is enhanced in the case of cross-border projects, since coordination of timetables and procedures between two or more Member States is required to facilitate the timely implementation of such projects.

Therefore the Commission will table in December 2021 a legislative proposal revising the current TEN-T Regulation, which aims to set up necessary measures and instruments to accelerate the TEN-T implementation pace. One of the main objectives of the TEN-T revision is to improve the efficiency of the governance tools of the TEN-T Regulation. The revision will reinforce the role of the European Coordinators and streamline the existing TEN-T monitoring and governance tools. Moreover, to address delays in the completion for projects due to complex and varying procurement, permitting, and authorisation procedures, Directive (EU) 2021/1187 (the Streamlining Directive) was adopted on 7 July 2021. The Directive aims to ensure that TEN-T core network project implementation is better coordinated, by streamlining measures to advance the realisation of the trans-European transport network, and making the procedures clearer for project promoters, in particular regarding permit granting and public procurement. When it comes to cross-border projects, Member States have to ensure that there is cooperation - by coordinating timetables and agreeing on a joint schedule on permit granting procedures, with the assistance and oversight of EU coordinators. The Directive is in force since August 2021 and has to be transposed by Member States by August 2023.

38. What are the third countries with which Regio has developed partnerships

Commission's answer:

Since 2006, DG REGIO has formalised regional policy dialogues through written agreements (memoranda of understanding or letters of intent) with ministries in 14 countries.

These include the EU strategic partners (China, Japan, India, Brazil, Russia, Mexico), and Latin American countries (Argentina, Chile, Colombia, Peru) and SICA (the Central America Integration System), as well as the Eastern Partnership Countries (Ukraine, Moldova, Georgia).

In the case of India, the agreement covers the EU-India Smart and Sustainable Urbanisation Partnership that DG REGIO leads on the Commission side.

For further details the Honourable Member is invited to consult DG REGIO's site: https://ec.europa.eu/regional_policy/en/policy/cooperation/international/

39. According to ECA Special report 14/2021: "Interreg cooperation: The potential of the European Union's cross border regions has not yet been fully unlocked" border regions often perform less well economically than other regions within Member States. Does the Commission intend to introduce a clear separation between programmes eligible for Interreg funding and those that could be funded by other "mainstream" cohesion policy programmes (for instance, the European Regional Development Fund)?
ECA also found projects whose cross-border character was questionable, as the required "cooperation" among partners was limited to presenting a common project proposal to secure financing. What can be done to overcome this phenomena?

Commission's answer:

While cross border regions are often geographically peripheral and rural, they are places with a high potential for economic growth, encouraged by their cultural and linguistic diversity, complementary competitive advantages, unspoilt nature and less trodden tourism destinations. The border regions have a vital role to play in the European integration process; they are seen as "laboratories of European integration" because they are hot spots of cross-border interaction, where many people carry out daily activities on both sides of the border.

Interreg promotes cooperation between countries, regions and stakeholders in border regions since its creation. There are regions where the advantages of the single market and freedom of movement are very visible, but there are also regions suffering from different economic, social and territorial disparities.

The solutions to these barriers will not come solely from the funding of projects but also from better cross-border governance and engagement of partners, especially by reducing legal and administrative obstacles (see Commission reply to question number 37 above).

According to the recent report by the Commission on "EU Border Regions: Living labs of European integration" (COM(2021) 393 final, 14 July 2021): "Cross-border regions need tailor-made solutions and policies that can maximise their potential, remove existing barriers and boost their economic recovery and resilience".

The new Interreg Regulation to support the 2021-2027 cross-border cooperation programmes entered into force on 1 July 2021. It includes a new Interreg-specific objective on Better Cooperation Governance, which enhances the potential for Interreg cross-border cooperation programmes (both along internal and external borders) to actively remedy border obstacles in those regions. The Commission has been promoting this new specific objective to be included in the new generation programmes (it is estimated that more than 85% of the programmes will actually include this new objective). In parallel, the new ERDF Regulation strongly encourages Member States and regions to make use of their own national and regional ERDF programmes to invest in cross-border initiatives and infrastructure projects. The Commission promotes this "embedding cooperation" principle by stating that cooperation is not the sole responsibility of Interreg. Making use of synergies with investments in neighbouring regions is a major step to increase the effectiveness of Cohesion policy in border regions. The ERDF national and regional programmes will play a complementary role in assisting border regions in catching up with various development related parameters.

Synergies and complementarities between funding sources are key factors. Mainstream and Interreg programmes may operate under the same objectives but in case of Interreg – the cross border character is a decisive criterion for deciding on operations.

Concerning the question on genuine cooperation character of projects, the Commission would like to confirm that the cross border character is always seen as a condition for providing funding by Interreg. Projects without cross border character should not be supported by Interreg under any circumstances. Furthermore, it is important to mention that the cross border dimension is not assessed with only one criterion but is embedded in many other selection criteria describing the need and the rationale to which the project responds. The Commission is promoting best practices of selection procedures and criteria via various workshops organised with the support of Interact, the technical support programme for Interreg programmes. It is also supporting Interact in elaborating suitable criteria to be used in the course of projects selection by the Interreg programmes.

Questions concerning absorption-related issues

40. The absorption capacity is one of the major problem areas for this DG. This low capacity also hinders the capacity for development or economic recovery. What new measures have been put in place to increase this rate?

Commission's answer:

Absorption capacity under Cohesion policy can be understood in two-fold way. On one hand, it is about the extent to which a Member State is able to spend the financial resources allocated from the Funds in an effective and efficient manner. It implies the capacity of authorities and beneficiaries to comply with administrative and reporting requirements and to generate good quality and timely projects. On the other hand, the absorption capacity is also determined by the administrative capacity of the actors, including effective (simplification) measures that enable faster implementation of the Funds and thus contribute indirectly to their better absorption.

With respect to the 2014-20 programming period, after a slow start in 2014-2016, the implementation of programmes is clearly progressing well. The Honourable Member is referred to the Commission reply to question number 13 above: Cohesion policy has been at the forefront of the European union response to the coronavirus crisis. The project selection rates have continued to increase (being much above 100% of available funds on average) as well as the payments accelerated in 2020 and 2021 during and despite the exceptional circumstances created by the COVID-19 pandemic, reaching by now close to 60% of absorption. In particular, there was a sharp rise in expenditure at the beneficiaries' level under cohesion policy by mid-2021 (details in dedicated Open Data Platform story). The payments (from the Commission to Member States) in 2021 under cohesion policy have been at a historically highest level thanks to CRII(+) and REACT-EU, having increased by 17% in just one year.

Efforts continue to speed up implementation on the ground.

Since 2016, we continue to work more closely with programmes considered to be at risk to help prevent implementation issues, under absorption and potential de-commitment. A close dialogue is in place with the concerned Member States / programmes to ensure timely absorption and performance of EU funds.

Furthermore, the Commission has proposed extraordinary measures to help Member States cope with the coronavirus related crisis, including the legislative changes under the CRII(+). These amendments provided for additional flexibility and liquidity to deploy Cohesion policy support rapidly while reducing the administrative burden, while deploying support to programme authorities to implement the programme amendments rapidly (see Commission reply to question 8).

Other simplifications used by the Member States included the extension of deadlines, accelerated payments and retroactive reimbursement of COVID-19 related expenditure, 100% co-financing for one year under CRII(+) flexibilities and introduced in the REACT-EU Regulation, alleviation of a number of conditions that normally apply to Cohesion policy (for ex. thematic concentration under REACT-EU) also aim to further speed up the implementation. The Commission continues to assist Member States with REACT-EU programming (for the upcoming 2022 tranche, the detailed allocations of which was decided on 24/11) and implementation.

Besides the legislative framework (that defines the measures that could increase absorption), the Commission provides substantial support to Member States, making available a wide range of concrete tools to improve the Member States' capacity to implement the Funds. There is cooperation with other Directorates-General, the Joint Research Centre, the European Investment Bank, the European Investment Fund, the World Bank and the OECD as well. This includes technical assistance and advisory services including administrative capacity building measures, to improve their absorption capacities and the results achieved (e.g.

Peer2Peer exchange of good practices and expertise under "REGIO TAIEX"; "JASPERS" helping to prepare quality projects that can improve absorption for 2014-2020).

To promote actively the use of simplified cost options (SCOs) for ERDF/CF programmes as well, beside ESF programmes that already use such schemes more widely, DG REGIO has put launched a transnational Simplified Cost Options Network in November 2018 to share good practice and experiences on the deployment of SCOs under the ERDF and CF between authorities (the Honourable Member may also refer to replies given on question number 28).

Furthermore, DG REGIO is making extensive use of technical assistance at the Commission initiative to increase the administrative capacity of programme authorities and beneficiaries in key Cohesion policy areas. Several tools have been developed and made available to Member States. Examples include instruments for peer exchange (TAIEX-REGIO Peer2Peer) and networking, a competency framework, a practical toolkit for development of administrative capacity building roadmaps, a self-assessment instrument helping managing authorities to analyse their performance, Integrity Pacts that promote integrity and transparency through civic monitoring, an online 'EU Funds Anti-fraud Knowledge and Resource Centre', and training sessions for experts on key topics like public procurement, State aid, prevention of fraud/corruption and roadmap development. Identification of good practice is done through pilot projects, for example on strategic public procurement or engagement of citizens in cohesion policy.

We also have good cooperation in place with other partners (DG REFORM, World Bank, OECD, EIB). For example, in the area of the Just Transition Fund (JTF), the Technical Support Instrument of DG REFORM is supporting the preparation of Territorial Just Transition Plans in 18 Member States. JASPERS will offer its assistance in project pipeline preparation as well as preparation of specific projects to be financed by the JTF.

Finally, for the 2021-2027 period, some far-reaching simplifications that can speed up the implementation and absorption of the Funds were proposed and – following the legislative process – largely preserved. These include among others the deletion of the lengthy designation procedure (that allow for faster payments), simpler rules e.g. on financial instruments or VAT eligibility (that accelerate the preparation of investments) or a broader use of simplified cost options (that are effective in reducing error rates and allow for quicker payments) etc. It is important that Member States take full advantage of all these simplifications offered in the regulation and avoid any gold-plating of rules at national level.

The framework for 2021-2027 also pays increased attention to improved administrative capacity of programme authorities and beneficiaries. Annexes D of 2019 Country Reports have identified factors for effective delivery of cohesion policy to be addressed by each Member State, including such measures as elimination of excessive burden for applicants, capacity of beneficiaries, or improved public procurement performance etc. Some Member States were also recommended to develop high-quality roadmaps on strengthening administrative capacity to allow for a strategic use of technical assistance (TA) and capacity building measures. Last, in addition to 'standard' technical assistance subject to certain ceilings defined in the CPR (Article 36 CPR) Member States can make use of additional financing not linked to costs type of technical assistance without limitation (Article 37 CPR) to reinforce the capacity and efficiency of public authorities and bodies, beneficiaries and relevant partners necessary for the effective administration and use of the Funds. It is also possible to support capacity building directly linked to investments under funding allocated to the specific objectives.

In line with the CPR, Member States should also allocate an appropriate percentage of the resources coming from the Funds for the administrative capacity building of social partners and civil society organisations.

41. Which new measures did the Commission put in place to increase the absorption rate?

Commission's answer:

The Honourable Member is referred to the reply given to question 40 above.

42. Given that the absorption capacity is not always optimal, what do you think of technical assistance at the national level? Should it be improved? And if so, should the commission not provide additional budget to train agents at national / local / regional level? What are the means implemented to improve this capacity?

Commission's answer:

Improving absorption capacity requires a comprehensive – and tailored set of measures, for which technical assistance is only partially contributing. Governance shortcomings, gold plating or various enabling framework conditions (addressed in several sectors through enabling conditions) are also at stake.

The amounts of technical assistance provided for 2021-2027 programmes are proportionate and sufficient to cover management costs, as evidenced by the study carried out in 2018[4]. Furthermore, Member States can also make use of an additional type of technical assistance for which payments from the Commission are based on fulfilment of conditions or achievement of results (Article 37 CPR) and for this type of TA the financial ceiling foreseen n Article 36 do not apply.

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[4] https://ec.europa.eu/regional_policy/en/information/publications/studies/2018/new-assessment-of-esif-administrative-costs-and-burden

The Commission is supporting Member States' administrative capacity by making available several tools (see detailed Commission reply to question number 40 above).
A variety of technical support available calls for a coordinated approach to its programming and implementation. The key priority lies in upfront work to provide a clear link to key Union priorities and reform needs identified in Country Reports, country specific recommendations, cohesion policy programmes etc and to ensure complementarities between various sources.

The Catching-up Regions Initiative (CuRI), implemented with the JRC and the World Bank in Poland, Romania and Slovakia, can serve as a good example of such coordinated support. Funded from Commission's TA, CuRI has provided hands-on answers to some of the challenges highlighted in the Country Reports i.e. lack of business science-cooperation in Poland and Romania, dysfunctional vocational education and training (VET) in Slovakia etc. It has also provided political and administrative advice combined with strong capacity building measures and concrete project design and contributed as such to the efficiency of national, regional and EU funding.

The CuRI also allowed for testing innovative policy approaches. For example, the technology transfer mechanisms developed in Romania and Poland facilitate cooperation between the academia, public bodies and business in scientific services and practical applications of research findings in the local economy. In the case of Slovakia, the development of alternative solutions for water supply and wastewater management allowed for tourism development in remote areas and the improved VET is vital for training students in future-oriented jobs.
During the implementation, TAIEX PEER 2 PEER support was also used to facilitate peer advice and exchange of experience on specific topics.

Many successful pilots are now being implemented under cohesion policy programmes. In some cases, the roll-out to other regions or their upscale was facilitated thanks to the use of national technical assistance.
The Honourable Member is also referred to the reply to question number 40 above.

43. The number of companies that have received Regio funds is increasing but still remains very low compared to your ambitions. What steps do you plan to take to remedy this? what measures are in place to encourage small SMEs or start-ups to apply for REGIO funds?

Commission's answer:

Over EUR 57 billion is allocated to improving **business environment and entrepreneurship**. The DG REGIO 2020 Annual Activity Report provides an insight into the number of enterprises receiving support (reporting on the last figures available at the time of the 2020 AAR, at end 2019). Key Performance Indicator 2 of the 2020 AAR shows that progress is rather good and the reported achievements grew by 48% in comparison with the previous year. Since then, the number of enterprises receiving support increased to more than 1.4 million (the final 2023 target is approx. 1.7 million enterprises, a two and a half times annual increase). Moreover, 49.000 firms have already benefited from ERDF schemes for cooperation with research institutes (76% of the target and representing a 44% increase from 2019) and around 235.000 direct jobs have already been created from business support (66% of the target and representing a 36% increase vis-à-vis 2019)

For further information on the role of Cohesion policy in job creation and support for SMEs, the Honourable Members are referred to the replies to questions 8 and 11, which outlines the additional flexibility provided to Member States to increase support to SMEs during the COVID-19 crisis, e.g. by supporting working capital.

Simplifications introduced in the 2021-2027 CPR, including the use of simplified cost options of financing not linked to costs, also aim at simplifying access to the funds and easing implementation for beneficiaries, including SMEs or start-ups.

44. What are the biggest problems in Cohesion Policy when it comes to execution and absorption of funds?

Commission's answer:

The performance orientation has increasingly been one of the distinct features of Cohesion policy throughout the different periods. The Commission is of the opinion that the 2014-2020 performance framework for Cohesion policy, one of the most advanced performance-oriented EU budget spending system, has introduced a real performance culture change in Cohesion policy implementation.

The focus on performance will be fully maintained in the 2021-2027 programming period through different elements of the policy. In its proposal for the new Common Provisions Regulation (CPR) 2021-2027, the Commission has built on the positive experience with the previous performance instruments accumulated in the past, while introducing the necessary adaptations.

Performance does not only depend on the actual implementation of projects but also on outputs that are conducive to concrete achievements. Results - as captured by result indicators as defined by the Common Provisions Regulation - take longer to materialise. Outputs, as captured by output indicators and key implementation steps, provide a good indication whether an investment is on track to achieve its objectives and deliver expected results.

Some delays in the execution of the 2014-2020 programming period were observed during the first years of the period for a certain number of reasons: late adoption of the Common Provisions Regulation compared to previous period resulting in delay in the adoption of programmes; need for many delegated and implementing acts; overlap of the two periods; complexity of the rules; capacity and time needed for authorities to set up an effective programme delivery system and put in place new provisions to increase quality and compliance - such as designation and ex-ante

conditionalities; combination of higher pre-financing amounts (compared to the 2007-2013 period) and the introduction of the n+3 automatic decommitment rule (instead of n+2); introduction of annual accounts and the threat of net financial corrections. However today the implementation of the programmes is clearly progressing well. The level of project selection by the Member States and the absorption rate have continued to increase in 2020-21 with a sharp rise in expenditure under ERDF and CF during the first semester of 2021, therefore narrowing the gap of execution for the same year between both programming periods from 4.5 p.p. to 2.5 p.p for these two funds. The 2021-2027 CPR has drawn the lessons from this slow execution at the start of the previous period and has adapted accordingly certain aspects of the rules, such as the level of pre-financing and seamless transition between periods (roll-over of well-functioning management and control systems). In addition, the swift adoption of the legal framework and the continuation of the Commission's actions to help Member States selecting valuable projects and improving their administrative capacity will contribute to a smooth launch of the new period. The Honourable Member is referred for further details to the Commission replies to questions 40 and 42 above.