2021 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER ELISA FERREIRA

Hearing on 1 December 2022

Questions concerning horizontal issues

1. What are the main achievements in 2021 reached through the EU budget under your responsibility?

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

The mandate of Commissioner Ferreira covers cohesion, reforms and a just transition. She is supported in her work by the Directorate-General for Regional and Urban Policy (DR REGIO) and the Directorate-General for Structural Reform Support (DG REFORM). The Honourable Members are referred to the 2021 annual activity reports of DG REGIO and of DG REFORM that provide a detailed overview of activities carried out in 2021.

Last year saw the continuation of the challenging socio-economic conditions arising from the pandemic. Regional policy responded quickly to the important new challenges raised to the economy and society by the crisis, with additional resources from NextGenerationEU (NGEU) allocated to the regional policy through the 'Recovery Assistance for Cohesion and the Territories of Europe' (REACT-EU) in 2021, in addition to the measures taken in 2020 under the Coronavirus Response Investment Initiative CRII/CRII+. Funding from the ERDF, the CF and the EUSF played a central role to reduce the impact of the COVID-19 crisis, foster convergence and make sure no one is left behind. Exceptional flexibility was offered under CRII(+), resulting in around EUR 23 billion being mobilised from the 2014-2020 programmes' budget not yet allocated to projects. Moreover, EUR 50.6 billion of additional NGEU funding was allocated to finance crisis repair and recovery measures until 2023, through further programme amendments of the Cohesion policy programmes – REACT-EU – finalised in record time in 2021, helping to bridge the gap between first crisis response measures and longer term recovery. Measures in reaction to COVID-19 demonstrated the capacity of Cohesion policy to adapt quickly to new circumstances, helping people and businesses on the ground (healthcare, business support, employment retention schemes and supporting vulnerable groups).

In parallel, ERDF and CF investments under existing programmes continued to deliver in key priority areas, to bring structural change and to respond to the needs of the real economy by supporting job creation, competitiveness, growth, sustainable development, and by improving citizens' quality of life. As of end-June 2022, nearly 1 million projects (988 000) were selected on the ground. Payments accelerated significantly in 2021, allowing to reach an expenditure rate of about 75% at end November 2022 (67% at end 2021).

The key investment outputs achieved as of end-2021[1] by ERDF and CF include:

1 Key performance indicators reported in the 2021 annual activity report of DG REGIO refer to achievements by end 2020, as assessed by DG REGIO based on implementation reports provided by programme authorities

- 6.3 million households access to broadband of at least 30 Mbps
- 2 million enterprises supported
- 307 000 jobs newly created in enterprises supported
- 15 800 researchers employed in supported institutions
- 7.2 million tons of GHG (CO^2 equivalent) saved
- 2 600 gigawatt hours of annual primary electricity saved through energy efficiency measures (equivalent to the annual electricity consumption for a city like Barcelona)
- 59 million people benefitting from health service improvements.

Moreover, REACT-EU was the first NextGenerationEU Instrument channelling effective support to the European economy, businesses and workers on the ground (pre-financing of EUR 800 million under ERDF paid on 28 June 2021 to 16 Member States). By the end of 2021, EUR 4.9 billion of ERDF was paid under REACT-EU (21% of the total committed ERDF amount) and EUR 9.8 billion (35%) as of 18 November 2022. It provided, amongst others, over EUR 4.6 billion in SME grant support to working capital, for over 754 000 SMEs, EUR 4.4 billion as targeted support to the healthcare sector to combat the coronavirus pandemic, of which EUR 2 billion specifically to purchase medical equipment for hospitals. This essential financing provided 13 200 ventilators and 12 500 hospital beds for Intensive Care Units. When vaccinations became available, the cohesion policy funds financed EUR 372 million for all vaccination costs, including 133 million COVID-19 vaccine doses and the necessary refrigeration infrastructure. The detailed overview of achievements can be found on the Cohesion Data Portal - Overview of cohesion policy coronavirus indicators.

At the same time, DG REGIO continued to work with Member States towards the adoption and launch of the 2021-2027 programmes. As of 21 November 2022, 24 out of 27 Partnership Agreements were adopted (89%). Good progress was also made in 2021 and 2022 allowing the adoption of 224 Cohesion policy programmes (59%) as of 21 November 2022. Another 142 programmes (37%) have been submitted and are expected to be adopted by the end of 2022 (or under the carry-over procedure at the latest), while only 14 programmes (4%) still have to be submitted.

This work was underpinned by the continuous technical assistance and advisory services provided to Member States by the two Directorates-General REGIO and REFORM, which lay a solid foundation to increase implementation capacity on the one hand and support comprehensive reforms on the other hand. DG REGIO and DG REFORM continued to work hand in hand in 2021, with DG REGIO working with Member States to speed up programmes' implementation and promote good governance, and DG REFORM supporting Member States' efforts to design and implement resilience-enhancing reforms.

In order to help Member States address their reform challenges, DG REFORM continued to steer, coordinate and implement technical support projects through the Structural Reform Support Programme and provide new tailored technical support – on demand - through the Technical Support Instrument (TSI) for the design and implementation of institutional and administrative reforms. In 2021, implementation started for almost all the technical support projects selected for funding under the Structural Reform Support Programme 2020 (100%) and TSI (80%). The projects in the spotlight and the 2021 country factsheets, published since 2021 on the Europa website, offer practical examples of the achievements made in the context

in 2021. These indicators and outputs are updated in this reply based on the latest implementation reports received in 2022, allowing to provide an updated situation at end 2021.

of the technical support provided to Member States. In 2021, 99% (EUR 146 million) of the total annual credits for commitments and 97% (EUR 121 million) of payment credit appropriations were used for the implementation of its two programmes, namely the TSI and the Aid Programme.

The TSI is also an important pillar of the Recovery Plan for Europe providing support to Member States in the preparation and implementation of their national recovery and resilience plans (RRP) in the context of the Recovery and Resilience Facility (RRF). Twenty-four technical support interventions in 17 Member States concerned capacity building for preparing/implementing RRPs. Additional 128 requests for support under the TSI related to the implementation of thematic reforms or investments in the RRPs were also approved.

In 2021, TSI support for the green transition in the Member States also continued. Under the TSI 2021, 1 in 3 projects, or over 100 projects in total, contributed to the European Green Deal objectives. In particular, 18 Member States received support for the preparation of their territorial just transition plans. For the digital transition, TSI provided support to Member States in a number of projects in line with the Europe Fit for the Digital Age Action Plan and the Digital Compass communication.

The high satisfaction feedback provided by Member States' coordinating authorities is a recognition of DG REFORM's work. Moreover, based on the feedback mechanism established to learn from the Member States about the effectiveness of the technical support provided, 83% of the technical support projects produced the expected results, according to beneficiary authorities in the Member States.

2. 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:

The indicators presented in DG REGIO's annual activity report 2021 are based on outputs reported by the end of 2020. The number of enterprises receiving support from ERDF and CF by the end of 2021, over 2 million, demonstrates good progress towards the target of 2.3 million enterprises supported by all concerned programmes by the end of the programmes' implementation (i.e. 87%). In addition, 307 000 new jobs were created in supported enterprises.

Cohesion policy plays a key role in supporting SMEs competitiveness. During the 2014-2020 programming period, under the thematic objective "enhancing SME competitiveness" the ERDF has helped SMEs to forge links with research centres and universities to promote the exploitation of new ideas and the creation of new firms, including incubators; develop and implement new business models, in particular related to internationalisation of their activities; develop new products and services and exploit new opportunities to grow in regional, national and international markets. In addition, under other thematic objectives, SMEs have been receiving ERDF support for further important purposes such as research and innovation, digitalisation and the shift towards a low-carbon economy.

Especially in the COVID-19 crisis and in the current context of high energy prices, supply bottlenecks and inflation, support to SMEs from Cohesion policy funds continues to be indispensable both for the firms and for the regions where they operate. The two Coronavirus Response Investment Initiatives (CRII and CRII+) adopted in spring 2020, contributed to the re-allocation of Cohesion policy funds to support the business sector and keep SMEs afloat during the lockdowns caused by the pandemic. Out of EUR 23 billion thus re-allocated in the context of the pandemic from cohesion policy funding, almost half of this amount - EUR 12.5 billion - were reallocated specifically to support the business sector. Many of these investments were channelled to productive investments in SMEs, their further development and entrepreneurship.

The entry into force of REACT-EU with renewed financing possibilities meant that businesses could be supported even further. In fact, business support is the second largest sector to receive support, after labour market measures, receiving EUR 8 billion in additional financing. Part of this funding also consists of digitalisation efforts which have received EUR 3.1 billion. Together, these measures are contributing to the green and digital transition put forward as the top priory of the Commission.

In the 2021–2027 programming period, Cohesion policy will continue supporting SMEs competitiveness and helping them in their transition towards more sustainable and digital models. All efforts are now focused on completing the negotiation process with Member States so that the new programmes can be launched and start investing in projects on the ground as quickly as possible. Once programmes are approved, the Commission will support Member States with the design of calls for SMEs, by discussing the selection procedures and selection criteria to be applied on a case-by-case basis, in particular for the first calls of the programming period. This Commission support will be carried out in the frame of the programme monitoring committees, where the Commission participates and has been provided under the regulation an enhanced possibility to contribute by requesting upfront the draft criteria to be used for the selection of operations.

Finally, the Enterprise Europe Network (EEN), service carried out under the lead of DG GROW, provides a wide range of advisory services to SMEs, including advice on access to EU programmes. Its main target audience are SMEs with international growth and innovation potential. Each EEN regional consortium is fully embedded in the regional SME support environment, and is expected to be fully aware of the full range of funding opportunities for SMEs. They are also expected to develop close relations with regional authorities responsible for structural funds to gain a deeper understanding of the available support. The EEN access to finance group supports the network for strengthening its capacities in this area. As a result, the EEN helps SMEs to identify EU funding opportunities best suited to their business needs, including support provided by ESI Funds, and supports them throughout the process of devising projects, applying for funding and project implementation.

Questions concerning absorption and related issues

3. How did the Commission assist member states in 2021 to speed the absorption of the remaining budget for cohesion from the previous MFF in order to avoid decommitments and risk of errors and irregularities?

Commission's answer:

Year 2021 was the best year of the programming period in terms of absorption, EUR 56 billion of ERDF/CF having been paid from the EU budget compared to EUR 40.6 billion on average in previous years. This demonstrates that programmes, after a phase of design and adoption of appropriate operations, now deliver investments at full speed on the ground. Moreover, measures taken to counter the negative effects of the pandemic and of the war further contributed to boosting implementation in 2021.

In 2021, the Commission continued its efforts in close cooperation with Member States' authorities to speed up implementation on the ground, especially for programmes considered to be in difficulty to help them tackle significant implementation issues. A close dialogue with targeted actions is in place to identify bottlenecks and investment priorities and to ensure timely absorption and performance of EU funds. The Commission moreover provided early guidance to Member States to ensure an adequate preparation for closure of the programming period, allowing for example the phasing of implementation of unfinished projects over the two programming periods to maximise implementation of the funds and ensure a smooth continuation of large investments over programming periods. The Closure Guidelines were adopted and published in October 2021 and were disseminated through webinars and trainings to Member States throughout 2022.

Substantial support was provided to Member States over the years, making available a wide range of concrete tools to improve the Member States' implementation capacity. DG REGIO cooperates with other Directorates-General, the Joint Research Centre, the European Investment Bank, the European Investment Fund, the World Bank and the OECD to provide, through the Commission technical assistance moneys, **technical assistance and advisory services,** and administrative capacity building measures to programme authorities to improve their absorption capacities and capacity to achieve the expected results . Such actions include for example:

- REGIO Peer 2 Peer communities and exchange under TAIEX-REGIO (730 participants joined 26 virtual events in 2021).

- Integrity Pacts, etc. (for more details, the honourable Members are referred to the reply to Q5).

- In 2021, **JASPERS** continued providing advisory support to Member States to help them to prepare quality projects that can improve absorption for 2014-2020 and 2021-2027, including on JTF and RRF.

-FI-compass.eu, the advisory platform / knowledge hub for the financial instruments, delivered jointly by the Commission and the EIB, has been set up to support managing authorities and other stakeholders by providing practical know-how and learning tools and disseminating good practices among Member States.

-DG REGIO (in partnership with DG AGRI and DG CNECT) ran the **European Broadband Competence Offices (BCO) Network and Support Facility** helping regional and local authorities in designing and implementing broadband connectivity projects, in particular in areas with market failures.

- DG REGIO also continues to promote greater uptake of **Simplified Cost Options (SCOs)** and **Financing Not Linked to Costs (FNLC)** mainly through the Transnational Network of ERDF/CF SCO practitioners and numerous bilateral meetings with Member States. As a result of all these actions, Member States submitted 148 SCO methodologies with programmes (informally and formally). To date, 74 methodologies have already been adopted and 35 are ready to be adopted (i.e. pending programme adoption). Member States have developed methodologies in a large number of intervention areas but, most importantly, we note a clear shift towards output-based SCOs comparing to the past years where Member States were choosing the “low-hanging fruit” offered by the use of flat rates. With regard to FNLC, Member States submitted a total of 9 methodologies, out of which 1 is adopted and 2 are in the process of being adopted.

All these efforts contribute to creating the necessary capacity in the programme authorities to adopt the right project pipeline and to ensure increased absorption on the ground, after the induction phase of programmes.

Moreover the Commission has proposed extraordinary measures to help Member States cope with the coronavirus related crisis, including the legislative changes under the Coronavirus Response Investment Initiatives (**CRII/CRII+)** , which were adopted by the co-legislators in record time. These amendments provided for additional flexibility and liquidity to deploy Cohesion policy support rapidly and were aimed at reducing the administrative burden to ensure a fast implementation of the most needed support measures. An immediate EUR 7.6 billion increase of liquidity was provided to Member States (as 2020 pre-financing unrecovered from the national budgets). The possibility offered under CRII+ to opt for 100% EU co-financing between July 2020 and June 2021 was used by 179 programmes, with an impact of EUR 12.9 billion increase in ERDF, CF, ESF and YEI payments in that accounting year. This accelerated the payments in 2021 significantly.

Further acceleration of Cohesion allocations also occurred thanks to the significant reprogramming effort made under the CRII (+) in 2020-2021. DG REGIO only rapidly processed over 300 programme amendments related to CRII(+) in record time, resulting in the redirection of around EUR 23 billion (in current prices) of so far unspent Cohesion policy funds, of which EUR 17.2 billion from ERDF and CF, to short-term measures to counter the crisis caused by COVID-19. Other flexibilities and simplifications under CRII(+) having an impact on the faster absorption of funds are available and used by the Member States such as full flexibility to transfer resources between Funds and categories of regions for 2020 allocations, flexibility on thematic concentration and on the financial instruments with simplification concerning ex ante assessments, retroactive reimbursement of COVID-related expenditure back to February 2020 when the pandemic stroke.

Measures introduced in the “The Recovery Assistance for Cohesion and the Territories of Europe (**REACT-EU**)” Regulation will also further contribute to speeding up of implementation, providing the required flexibility: retroactive eligibility from 1 February 2020, high levels of pre-financing (11%), possibility for 100% EU co-financing , wide enough scope of support to cover the needs, and removal of restrictions related to categories of regions and thematic concentration specifically for the REACT-EU allocation in order to direct funding to the sectors most in need of support, thus also simplifying implementation. As the Member States are channelling REACT-EU resources into the existing delivery system for Cohesion policy, it should ensure smooth implementation by end 2023. REACT-EU proved to be one of the fastest NextGeneration|EU instrument to reach the ground – the first payments were made on 28 June 2021, less than a month after the Own Resources Decision was ratified to set in motion NextGenerationEU support. In that regard, the further measures under CARE, FAST CARE and SAFE, taken or expected to be taken soon to address the consequences of the Russian aggression against Ukraine and resulting in high energy prices, will also expected to contribute to the full absorption of the remaining available allocations under the 2014-2020 period (see reply to question 4 below), while long term investments will continue under the 2021-2027 programmes in synergy with the Recovery and Resilience Facility (RRF).

Flexibility offered by the new instruments is without prejudice to compliance with the rules. Throughout the pandemic the Commission reminded programme authorities to apply all provided flexibilities while remaining vigilant on compliance with the rules to avoid the risk of regularities and fraud, and to continue addressing the root causes of the most frequent irregularities identified so far. Programme and Commission auditors remain attentive against the background of the increased pressure on absorption at the end of the period. In 2021, the Joint Audit Directorate for Cohesion (DAC) already conducted several audits covering CRII+ measures and REACT-EU expenditure. While some weaknesses in the depth and timing of management verifications carried out were detected, these had limited impact and remedial measures were recommended to reinforce the controls. Similarly, some audit authorities reported irregularities detected for some emergency measures, whose correction is monitored by the Commission. Commission audits continue in 2022 and 2023 and reports will be reported in the 2022 Annual Activity Report. The Commission also maintains a continuous dialogue with programme authorities, in particular audit authorities, to share audit findings, root causes of most frequently identified irregularities and to continuously improve risk assessments and the targeting of management verifications and audits to the main sources of errors.

4. 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:

Programme implementation is clearly at full speed now, as demonstrated by the record payments made from the EU budget for Cohesion policy in 2021 (see also reply to question 3 above). However, it is important to note that progress in implementation varies across Member States/programmes and implementation still needs to accelerate in certain programmes to ensure full absorption by the end of the 2014-2020 eligibility period (December 2023). Detailed information by Member State is available on the **Open Data platform**. The gap between the overall implementation (comparison between claims and allocation) of the 2014-2020 period and 2007-2013 period is 4% at the end of October but is expected to decrease to around 3% by end December 2022.

It is a common feature to Cohesion policy investments that many projects (in particular infrastructure) take time to be designed, decided and then implemented. Such large projects are usually finalised at the end of the programming period (and if not are phased out to the next programming period), and thus each programming period under Cohesion policy witnesses an acceleration towards the last years of implementation. This programming period is not different compared to previous ones in this regard. The national and regional programmes have until the end of 2023 (the eligibility period for the 2014-2020 programming period) to deliver all investment planned on the ground.

In addition to the general support provided to all Member States to support their absorption capacity and delivered results under **technical assistance and advisory services**, including administrative capacity building measures, (see details under reply to questions 3 and 5), DG REGIO continues to work more closely with the few programmes considered to be in difficulty to help them tackle the significant implementation issues they may be confronted with. Drawing lessons from the Task Force for Better Implementation (set up for the 2007-2013 period), which has been mainstreamed for all programmes in difficulty in the 2014-2020 period, a close dialogue accompanied by targeted actions is in place with the concerned Member States to ensure timely absorption and performance of EU funds.

Efforts continue to speed up implementation on the ground and ensure that the required funding goes as speedily as possible to the planned investments on the ground (see also reply to question 3). It is important to make swift and good use of the remaining Cohesion policy funds under 2014-2020, both to generate growth and create jobs, and also to address the direct and indirect impact and new needs generated by the crises linked to the pandemic and the Russian aggression in Ukraine. The required investment and support to European economies to address these new needs have an important impact on the further absorption capacity of the 2014-2020 programmes, including of the additional allocations under REACT-EU, and of the new funds available under the 2021-2027 programmes, in addition to the financing possibilities offered under NextGenerationEU.

For example, further to the continuous technical and capacity-building support the recent adopted CARE amendment of the CPR to address the challenges resulting from the war in Ukraine should also put forward further extraordinary measures to help Member States and regions allowing the best use of remaining 2014-2020 Cohesion policy. The measures include retroactive eligibility as of the date of the invasion, special cross-financing between the ERDF and the ESF (subsequently extended to Cohesion Fund), an optional temporary 100% co-financing rate for the accounting year 2021-2022, an increased pre-financing related to the REACT-EU 2021 tranche targeting the Member States receiving the biggest number of refugees fleeing Ukraine, and finally an off-the-shelf simplified cost options to cover in a quick and simple manner the basic needs of refugees upon their arrival on the EU territory . Furthermore, the Commission proposed a third element of the CARE package - Flexible Assistance to Territories to address the consequences of the Russian military aggression against Ukraine (FAST-CARE) – on 29 June 2022 (entry into force on 26 October 2022), complementing the previous two CARE amendments by allowing further flexibilities (including for 2014-2020 programme closure) and offering additional liquidity from both periods – 2014-2020 as well as 2021-2027. This may further help to accelerate implementation.

Another example of the additional instruments to respond to the current crisis and new needs that will contribute to a full absorption of the 2014-2020 allocations is the Repower EU amendments to CPR 2014-2020, foreseen to be adopted by end of 2022, which includes **SAFE “Support for affordable energy**”. This proposal responds to a request from the co-legislators to provide for possible support from 2014-2020 Cohesion policy resources to the most vulnerable households and firms in the context of the energy crisis. If adopted, , the changes would enable support for vulnerable households strongly affected by the current energy crisis and for working capital to SMEs, as well as for short-time work schemes, and would contribute to full implementation of the 2014-2020 allocations, allowing flexible spending of uncommitted funding to address the energy crisis. For such measures similar flexibilities are foreseen to ease implementation: a 100% co-financing possibility under dedicated priorities, a special cross-financing between the Funds, support from any category of region, retroactive eligibility from 1 February, and possibility to select operations already completed before the programme amendment is approved.

5. 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:

The need to boost the administrative capacity in Member States to manage and implement the EU funds more efficiently has gained in importance. Technical assistance funds, both for Member States and at the disposal of the Commission, are already actively mobilised under 2014-2020 to ensure the necessary teams and means are in place to manage programmes (appropriate staff, initial and continuous training in particular to address staff turn-over during implementation, operational means, offices etc.) and to boost the administrative capacity of programme authorities to identify, select and manage the best operations (see detailed reply to question 3 above). As described in the reply to question 1, DG REGIO and DG REFORM provided continuous technical assistance and advisory services to Member States to help them to increase implementation capacity on one hand and support comprehensive reforms on the other hand. For further details we refer to our reply under question 1.

Even more emphasis is placed on capacity building in the regulations for the 2021-2027 programming period to encourage a more strategic use of funding for this purpose. Ample technical assistance means are at the disposal of Member States to support capacity building of programme authorities, beneficiaries and relevant partners and more options are available to them as they can make use of two types of technical assistance (Articles 36 and 37 CPR). Member States can also support capacity building of programme authorities and sectoral and territorial actors as part of or linked to the supported investments (Article 3.4 of the ERDF and Cohesion Fund Regulation). Another new feature for 2021-2027 is the possibility for Member States to develop **roadmaps for administrative capacity building**, which are strategic documents outlining comprehensive measures for building capacities in managing and making use of funds. At least ten Member States have developed roadmaps and will be implementing in 2023 the capacity building actions included in the roadmaps.

DG REGIO has established a specific competence centre to support administrative capacity building related to implementation of the cohesion policy programmes. As a result of this DG REGIO has been able to develop a number of actions and initiatives, using technical assistance at its disposal, which should help Member States to further improve their administrative capacity. Most of these have been funded under the 2014-2020 period with the aim of ensuring that they can continue to be used in the 2021-2027 period and some actions have been designed to help Member States to prepare for the new period. These actions are focusing on: 1) sharpening professional competences, including through provision of targeted training for programme authorities and support for peer exchange of good administrative practices; 2) continuous improvement in the organisation and functioning of the administrations managing and implementing the funds, and 3) meaningful participation of stakeholders and citizens in programme design and implementation.

<u>DG REGIO has made available the following tools for programme authorities:</u>

Actions/Initiatives to help Member States to prepare for 2021-2027

- **Deliverables following a pilot action with the OECD on Frontloading of Administrative Capacity Building** that supported five managing authorities to develop roadmaps for administrative capacity building;

    - **A Practical Toolkit - Roadmaps for Administrative Capacity Building** that explains step-by-step how to develop a roadmap. Ten Member States that were recommended by the Commission to develop roadmaps, and three additional ones on their own initiative, have developed or are in the process of developing such roadmaps;

    - **OECD Synthesis report 'Strengthening Governance of EU Funds under Cohesion Policy' and Factsheet** summarising the key findings and recommendations of the pilot action with OECD;

    - **An Administrative Capacity Building Self-assessment instrument** for managing authorities, allowing managing authorities to assess their strengths and weakness, as well as to develop targeted solutions to address administrative capacity gaps;

    - An event **'Forum for Managing Authorities: Good Governance for EU Regional Policy'**, in February 2022.

- The pilot project **'Integrity Pacts – Civil Control Mechanism for Safeguarding EU Funds'** covered 18 projects in 11 Member States in the 2014-2020 programming period. The results and experiences will feed into a toolkit on setting up Integrity Pacts and lessons learned in order to assist Member States to set up Integrity Pacts. Mainstreaming of Integrity Pacts in 2021-2027 programmes is strongly encouraged by the Commission. 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*." The project was also included in the special G20 Compendium as a global good practice for promoting integrity and transparency in infrastructure development. It was also recognised as a best practice by the prestigious Stanford Social Innovation Review;

- **Citizens engagement**: two pilot projects involving 5 managing authorities and 18 civil society organisations across the EU have been implemented. Such projects show the way for cooperation in design and monitoring of investments;

- A **study on selection of operations** and a **handbook for managing authorities** with the aim of identifying and disseminating good practice;

- A **Study on technical assistance** providing a better understanding of the use of technical assistance for administrative capacity building in 2014-2020 and a mapping of TA-funded capacity building measures.

<u>Actions developed for 2014-2020 that will continue for 2021-2027:</u>

- TAIEX-REGIO PEER 2 PEER, offering short-term peer learning and knowledge exchange for administrations managing or implementing the ERDF, Cohesion Fund and the JTF through study visits, expert missions, multi-country workshops or webinars;

- REGIO Communities of practitioners, a network of staff from administrations managing the ERDF/Cohesion Fund/JTF providing opportunities for debate on shared issues, exchange of experience and joint development of solutions/tools – both remotely and in person;

- A competency Framework and self-assessment tool for administrations managing the ERDF/Cohesion Fund to help them identify and address potential competency gaps. Using the tool can also trigger reflections on the organisational structure and distribution of tasks;

- An online **'EU Funds Anti-fraud Knowledge and Resource Centre'** makes available tools/materials that will make it easier for Member States to prevent, detect, report and prosecute fraud and corruption. It includes 8 video modules, a library of good practices and case studies, links to useful tools that can help to reduce the fraud risk, information on guidance and legislation, judgement and multiple-choice tests;

- A strategic training programme for staff in programme authorities: eight different training modules have been developed. Key topics include state aid, public procurement, identification and prevention of fraud and corruption, development of roadmaps for administrative capacity building and Integrity Pacts;

More specifically on **Public Procurement**, the following tools were made available to programme authorities to increase their capacities in this complex area**:**

- **E-library of good practices** linked to the management of ESIF;

- **Guide for practitioners** on how to avoid the most common errors in public procurement linked to the management of ESIF;

- A specific training module on public procurement within the strategic training programme.

Questions concerning error and audit related issues

6. The error rate estimated by ECA in this area remains very high, especially when compared to the Commission's own error rate estimates. Could you please clarify what measures are in place to address the high error rates in this field?

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

The Commission and the ECA use different methodologies for the estimation of the risks as they have different roles in the assurance process. Therefore the outcomes of the respective approaches present differences and cannot be directly compared. While the Commission provides assurance on each programme in each Member State, based on the assessment and audit work performed by each audit authority as complemented by its own assessment and audit work, in order to ensure a residual risk of error below the materiality threshold (2%), the ECA provides assurance on the overall level of error across the EU budget based on a sample of transactions, extrapolating its audit results over the entire cohesion funding.

The Commission’s assurance model is based on the responsibility of authorising officers (Directors general) who need to assess the level of assurance they have on the good functioning of management and control systems for each operational programme, based on both national authorities’ and Commission’s audit work and results, to decide if they can authorise payments, and where relevant whether they have to issue reservations, impose further additional financial corrections or ask for specific and targeted remedial actions when deficiencies are detected. Such assessment thus needs to be individualised to provide the exact situation for each programme (or even sub-parts of programmes), and is then aggregated so that the Commission services can provide the overall Commission estimate (Key Performance Indicator 5 – KPI5) in DG REGIO’s and EMPL’s Annual Activity Reports (AARs). For the 2021 AAR of DG REGIO, KPI5 was based on thorough and exhaustive desk review for each of the operational programmes and assurance packages assessing the results coming from system audits and samples of operations, based on statistical methods for 96% of expenditure, and totalling more than 5.600 audited operations (or part of operations) carried out by Member States’ audit authorities on 16% of expenditure entered in the 2019-2020 accounts. Further to these desk reviews of audit results reported in annual control reports for all cohesion policy programmes, the Commission assessment of the Member States’ results was also based on the further compliance audits it has carried out on the spot to re-perform the audit work for some audit authorities or programmes (including considered more at risk or not monitored on the spot for some time, see further reply to question 7 below).

The ECA delivers an overall assurance on implementation of the budget based on an extrapolation of a sample of around 220 cohesion transactions, selected among a great diversity of over 400 Cohesion policy programmes implemented in all Member States by hundreds of administrations at national or regional level. The objective of ECA is to estimate if its aggregate error rate is below or above the materiality threshold of 2%, to conclude whether errors remain material in the specific EU budget area as a whole.
Despite the differences in the respective methods and results, it is nevertheless important to underline that over the years the ECA and DG REGIO/DG EMPL calculate error intervals overlap to a great extent, which demonstrates that despite using different methodologies the effective error rate is somewhere within these intervals (Commission 1.8% with a maximum 2.5% for Cohesion as a whole, ECA’s error range estimate 2.1 %- 6.1 %). Moreover, the ECA confirmed that there is no material error in 60% of the audited assurance packages. The Commission also notes the positive assessment given by the ECA on its methodology to calculate its maximum risk, as reported in its 2021 AARs, which was completed in view of the 2021 AAR to take account of some of the risks raised by ECA in its special report on regularity of spending in EU Cohesion policy n°26/2021. Further details on this revised methodology are given in the reply to Question 7 below.

Both the Commission and the ECA audit results show that a majority of programmes present well-functioning management and control systems with satisfactory levels of residual error (below 2%, 83% of ERDF/CF programmes as reported in the DG REGIO AAR 2021), and also agree that the reported error rate of some programmes may be still material (50 programmes for ERDF/CF in DG REGIO’s AAR) and targeted action is needed to address the concerned programmes. The Commission, through its detailed assessment of individual programmes, can therefore identify which programmes present weaknesses and a remaining level of error above materiality (2%) and thus need to carry out the necessary remedial actions and additional financial corrections.

The Commission is working closely with the Member States' programme authorities to improve the management and control systems in order to reduce the risk of irregular expenditure below the materiality threshold of 2% for all programmes and each year. This includes both preventive and corrective measures that aim to:
- stop payments and request remedial action until the necessary improvements to the systems have been implemented, as these improvements aim to avoid future irregularities.
- review past expenditure in order to correct all expenditure that is affected by systemic problems and apply the necessary additional financial corrections.

Moreover, when error rates are found to be above 2% due to individual issues having a material impact through the statistical extrapolation of audit results (but without pointing to a system deficiency), the Commission services ensure that the necessary additional financial corrections are implemented by the concerned programmes to ensure that the residual error rate is brought back below 2% ('risk at closure' as reported in the AAR).

In parallel, the Commission services continue to support all managing and audit authorities to improve their methodologies and administrative capacities, including programme authorities' capacity to prevent, detect and correct irregularities (see also reply to question 5).

In addition, several actions aiming at **addressing the root causes of errors** together with programme audit authorities are on-going, including the following:

- The Commission auditors designed and agreed with audit authorities a common typology of errors, which is now regularly used to report all audit issues raised under national and Commission audits. This allows the Commission to monitor the root causes of errors and to provide targeted feedback to individual programme authorities. Details of the overall audit findings by both the Commission and the audit authorities aggregated at EU level for the last accounting year are available in Annexes 7I of the 2021 REGIO and EMPL AARs. It shows that ineligible expenditure and public procurement remain the most risky areas in the implementation of the Cohesion policy funds (see also replies to Question 8 below on how the Commission addresses these risks).

- The Commission regularly shares with audit authorities its audit findings and analysis of errors detected during its own audits (example: detailed seminars were held in November 2020 and repeated in November 2022 with all audit authorities in order to discuss errors found by DAC audits and not detected in first instance by the concerned audit authorities). Such analysis of concrete cases of additional DAC audit findings has proven to be a good basis for mutual learning, better shared understanding of certain complex regulatory points and further improvements in the detection capacity of audit authorities.

- The Commission (DAC) also encourages audit authorities to provide each year detailed feedback to all managing authorities to allow them improving their risk assessment and quality of their management verifications and being more preventive. The ECA acknowledged such example of good practice in Bulgaria in Chapter 5 of its 2021 Annual Report (box 5.8). DG REGIO also reported further examples of such good cooperation between audit and managing authorities to improve prevention and detection of irregularities in its previous AARs (e.g. PT, PL and ES, pages 41 and 42 of DG REGIO’s 2020 AAR). A seminar addressed to managing authorities about the Commission audit findings of the joint audit directorate for Cohesion is also scheduled on 29 November 2022 to raise further awareness of managing authorities on the need to strengthen their management verifications in some areas.

However, the policy remains complex, with a great variety of investment instruments, rules, beneficiaries and public authorities at national, regional or local levels involved in implementation. Therefore implementation of all simplification measures foreseen under the common provisions regulation, namely simplified cost options and financing not linked to costs, are actively encouraged by the Commission in the design of the 2021-2027 programmes, since such simplified schemes are less error prone, as confirmed by ECA and Commission audits over the years.

Eventually, the error rate estimate of the ECA for Cohesion policy was considerably reduced over time (from a starting point above 12% in the first years of ECA’s calculation of an error rate, to a rate of 3-4% nowadays), at a high administrative cost. Further progress does not necessarily require more controls, but smarter controls to prevent errors in the first instance. This is what motivated the requirement in the 2021-2027 common provisions regulation to have first level management verifications now more targeted to specific risks, with many provisions simplified compared to the past, and continuous supervision of systems by audit authorities through system audits and audits of statistical samples of operations, the results of which should be systematically discussed with managing authorities through feedback mechanisms to allow them continuously adjust their risk assessments and target better specific errors. Further digitisation of audits, notably by using IT tools such as Arachne, should further improve audits and controls, and the Commission has introduced notable improvements on the collection and use of beneficial owner’s data in the CPR 2021-2027 as well as the obligatory use of risk-scoring tools in its proposal for a revision of the Financial Regulation.

7. What are your services approaches to desk reviews, in the light of the Court findings that they may fail to detect and correct irregular expenditure and that they are of limited value in confirming the validity of the residual error rates reported by the audit authorities? Could you provide information on the number of desk reviews carried out in the last 5 years, and your approach on future use? Are any changes based on the Court findings being implemented?

Commission's answer:

The Commission seeks to strike a balance between its objectives to provide assurance, the means at its disposal such as resources and time available to achieve this objective and the number of programmes to be reviewed - 416 programmes concerned each year.

The Commission underlined in its replies to the ECA report the usefulness of the exhaustive desk reviews it carries out for each and every programme each year. This approach is particularly efficient for programmes that report reliable, low error rates year after year as confirmed by the ECA and the Commission over time. For such programmes, repeating on the spot audits beyond desk reviews would not be an efficient use of the Commission audit resources.

The Commission's desk review is systematic for each annual control reports and audit opinions received from audit authorities each year (covering each of the 416 Cohesion policy programmes). Such desk review takes account of cumulative knowledge and previous audit work carried out on the audit authority and programmes concerned (including Commission's own audits, ECA audits, and national system audit reports). It comprises a thorough assessment of the quality and completeness of the information provided in assurance packages, statistical methods and parameters used in drawing the audit authorities' samples, detailed audit results and irregularities reported, treatment of errors and the correctness of the extrapolated results and of the calculation of error rates. This desk-review also entails communication with the programmes audit authorities to clarify information received in the annual control reports. Therefore, this process may, where doubts occur or information is not sufficiently clear or detailed for some programmes, include a review of some working papers of the audit authorities and desk re-performance of some elements of the reported audits of operations. The desk review allows the Commission to adjust the reported error rates when needed, whatever the source of the mistake is (quantification of errors, projection of detected errors, level of reported corrections, treatment of some errors etc.). All such identified issues and combined findings allow the Commission to re-calculate a more accurate error rate than the reported one, where necessary. This is being done each year, in a number of programmes, and is transparently communicated in the respective annual activity reports.

Therefore, the Commission confirms that the exhaustive desk reviews it carries out each year for every annual control report of the audit authorities covering all Cohesion policy programmes are a useful and efficient tool to gain assurance on the effective functioning of management and control systems and on the level of errors in the annual certified programme accounts.

As described above, the desk review is not designed to review all underlying supporting documents for all audits covering 416 programmes. Being aware of this inherent limitation, the Commission complements this desk review with further audit work focusing on substantive re-performance work at the level of operations and expenditure items for a sample of assurance packages and programmes, selected mainly based on risks (and to ensure a continued monitoring of the audit results of all main audit authorities over time in line with the Single audit approach). Altogether, in addition to the exhaustive desk review for all assurance packages and programmes, the DAC re-performed the audit work carried out by audit authorities for 25 assurance packages submitted in 2021, allowing it to identify further irregularities and to recalculate the error rate in 16 cases (including above 2% in four cases, see page 36 of the DG REGIO AAR for 2021).

For the accounts accepted in 2021, based on its assessment and all audit results available, DG REGIO confirmed a residual total error rate below materiality for 243 programmes (83%, including in some cases adjustments without a material impact), and above materiality for 50 programmes. For these programmes but three reported by the audit authorities, the residual total error rate above 2% is the result of DG REGIO's re-calculation or re-assessment at flat rate due to identified systemic weaknesses not yet definitely quantified, pending all necessary audit information.

Following the ECA's recommendation in its special report 26/2021 on regularity of spending in EU Cohesion policy that 'The Commission should strengthen the main elements of the regularity information provided in the AARs, the joint audit directorate for Cohesion (DAC) has further upgraded its method to estimate a prudent maximum error rate to take into account potential additional risks (including a conservative approach estimated at flat rate, when only desk audit work was carried out over the period for a low risk programme, as recommended by the ECA, or when additional audit work is still required under ongoing contradictory procedures). This conservative approach duly considers additional risks that may be present in that part of the audit sample of the audit authority that was not covered by the DAC re-performance audit, as well as additional risks identified during the DAC desk reviews or during ECA audits but not yet communicated, all these points being addressed in the ECA special report. This maximum error rate, calculated in the 2021 AARs at 2.5% for DG REGIO and 2.4% for DG EMPL, now also includes a possible top-up as follows:

- for programmes not audited on the spot by the DAC or by ECA, but for which the audit authority was audited for another programme, the programme error rate is topped up by the average increase of the error rate resulting from Commission or ECA audits for the other audited programmes of the same audit authority;

- for programmes only subject to a desk review since the start of the period, the risk of potential undetected errors is estimated at flat rate: 2% for confirmed error rate below materiality, 5% for error rate above the threshold, increased to 10 % for error rate above 5%.

The Commission estimates that this KPI5 (1.9% up to 2.5% for DG REGIO, 1.7% to 2.4% for DG EMPL) reflects a robust, reasonable and fair estimate of the overall risk at payment for all programmes taken together, following the programme by programme conservative analysis and taking into account all audit information available cumulatively over time and in the last year under reporting.

8. The Court of Auditors has found that controls currently in place do not yet sufficiently offset the high inherent risk of error, and that managing authorities verifications are still partly ineffective for preventing or detecting irregularities in the expenditure declared by beneficiaries. What actions are your services implementing to address these shortcomings?

Commission's answer:

Management verifications are the first line of defence against error.

As reported in the respective REGIO's and EMPL's AARs, the Commission can obtain a detailed picture on how management and control systems perform for each programme, through conclusions of hundreds of system audits and substantive testing through audits of operations carried out each year, and identify the programmes for which managing authorities should be more effective in preventing and detecting errors.

The Commission notes that the situation has improved over the years. Based on all audit results it can be concluded that management and control systems function well or sufficiently well for 91% of programmes (covering also 91% of expenditure certified) and the number of programmes that present serious deficiencies has been constantly decreasing over the past three years (to 9% today).

The Commission services constantly support managing authorities in improving their administrative capacities through several initiatives, which are on-going, such as the pilot action 'Frontloading administrative capacity building' implemented in close cooperation with the OECD and 5 managing authorities (Bulgaria, Croatia, Greece, Poland and Spain, see reply above to question 5).

The Commission also further encourages the exchange of experiences between programme authorities (for example the Technical Assistance and Information Exchange instrument (Taiex) Peer-to-Peer exchanges, as detailed above in the reply to question 5), and promotes feedback by audit authorities to managing authorities based on the joint typology of errors in place (see details in the reply to question 6). This allows managing authorities to address in a targeted way the gaps they may have. The Commission welcomes the good practice identified by the ECA from the Bulgarian audit authority (Box 5.8 in the ECA 2021 annual report), showing how cooperation between managing and audit authorities can improve the quality of checks and, as a result, reduce the number of errors. DG REGIO has reported further examples in its previous AARs (e.g. PT, PL, CZ, ES) and shares the most common errors its audits have detected with managing and audit authorities, for example during workshops organised with audit authorities in October 2022 and within the CPR experts group meeting in November 2022 (See more details in the reply to question 5 above).

The Commission also addresses the root causes of errors:

o In public procurement we note a decreased frequency of errors reported by ECA and our audits. The Commission considers this reflects the impact of its action plan and strong cooperation developed with Member States in the last few years (examples of concrete outcomes put at the disposal of programme authorities and contracting authorities to improve their practice in the area of public procurement: E-library of good practices, Guide for practitioners on how to avoid the most common errors in public procurement linked to the management of the ESIF, see reply to question 5 above);

o On eligibility issues, the increasing use of simplified cost option schemes will further contribute to reduce this main source of errors.

For programme authorities not working up to standards, e.g. managing authorities or their intermediate bodies or audit authorities when they do not sufficiently detect irregularities not prevented/detected in first instance by managing authorities and their intermediate bodies (15 ERDF and/or ESF/YEI audit authorities or bodies in charge of audits out of 116 audit authorities in total as reported in the 2021 AARs of DG REGIO and DG EMPL), the Commission requests detailed remedial action plans to address and correct the identified weaknesses; it provides targeted advice, guidance and discussions on identified issues; it suggests specific training and professional development for the staff of the concerned implementing authorities / bodies found to have deficiencies, with internal or external experts; and it requests improved tools, for example based on its shared checklists (see also reply to question 6 above).

Questions concerning the interaction between funds managed by DG REGIO and the RRF

9. We note from the Court's report (page 63) that delays in the adoption of the sectoral regulations slowed down the launch of new programmes, particularly for the eight shared management funds under the CPR. We note that the use of commitment appropriations for the three biggest funds (the European Regional Development Fund, the Cohesion Fund and the European Social Fund) was less than 1 %. We consider this to be a very low figure and that this will result in limited investments coming from these funds in the short term.
    - How serious is the situation?
    - Apart from the late adoption of the MFF, what caused the delay in the adoption of the sectoral regulations?
    - How is the simultaneous preparation for the implementation of the NextGenerationEU programme related to the delays?
    - What is being done by the Commission to remedy the situation?

Commission's answer:

The Commission started quite early with the preparations for the 2021-2027 programming period: the legislative proposals for the sectoral regulations (May 2018) and 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. Events marking the launch of the informal dialogue on programming with all Member States took place in the spring 2019. Based on the ambitious roadmaps sent by the Member States in the summer 2019, mature draft programming documents were already expected in the first half of 2020 and the documents ready for adoption by the end of 2020. However, the emergence of the pandemic and the need to overhaul the MFF proposals to provide a robust response to the crisis, led to a late adoption of the 2021-2027 Cohesion policy regulations (June 2021). The delay was principally due to a late MFF agreement which took until November 2020. An additional 6- months for finalising the sectoral legislation was not 'circumventable' considering that the pandemic led to some further slow-down in the legislative process.

The Commission services have put in place a procedure to facilitate a smooth and fast adoption of programming documents, providing feedback on a rolling basis on those documents each time they were submitted and meeting Member States where relevant to discuss areas needing improvement, before the formal submission. The limited number of programmes which are currently still delayed are carefully monitored to ensure adoption still in 2022 or at least under the carry-over procedure, thus minimise the risk of losing the 2022 allocation. The Commissioner also sent letters to the authorities concerned by the most problematic programmes in order to recall the importance to have all programmes adopted by the end of 2022 and to avoid losing the 2022 allocation.

Moreover, the shift in planning was also due to the COVID-19 crisis and the focus on the preparation and implementation of crisis and recovery measures with new instruments:

- the Commission proposed the two CRII packages on 13 March and 2 April 2020 respectively to finance investment needs triggered by the Coronavirus outbreak. The co-legislators adopted

both packages in less than three weeks. This is considerably faster than the average of 7 months to adopt any other CPR amendment.
- On 27 May 2020, the Commission launched its ambitious recovery plan with NextGenerationEU, aiming at ensuring a sustainable recovery for all Member States, and EUR 50.6 billion were added to the 2014-2020 Cohesion policy programmes via REACT-EU, in addition to the creation of the Resilience and Recovery Fund and increased borrowing capacity at EU level.

Therefore, in 2020 and 2021, characterised by unprecedented crisis context, therefore, Member States gave priority to the planning an (re) programming of the rescue and recovery instruments adopted to address the short-term and longer-term effects of the pandemic and the new funding made available under NextGenerationEU.

These urgent and unexpected legislative procedures, necessary to address the pandemic and its negative effects on the European economy, ran in parallel to the adoption of the 2021-2027 sectoral legislation.

Finally, Cohesion programme authorities were largely involved in the preparation of Resilience and Recovery Plans (RRP) from the RRF designed in the Member States – at least initially - by the same public administrations and staff as the ones working on the measures to address COVID and the consequences of the war in Ukraine (CARE and FAST CARE leading to further re-programming exercise). While this strong involvement of the same Cohesion policy services at EU and national level - thanks to the strong coordination arrangements put in place by the Commission - allowed to ensure good complementarities and synergies and to limit the risk of double-funding between Cohesion policy and the RRF in the programming of the RRPs, it unavoidably led to delays in the preparation of the 2021-2027 Cohesion policy programmes by the concerned authorities.

The implementation of these new measures and instruments was indeed challenging for all parties. Due to CRII(+), REACT-EU and CARE, the number of programme amendments under the 2014-2020 period have significantly increased in order to allow Member States to attend to the most urgent needs: each programme has been amended by average nearly 6 times throughout the programming period so far, compared to 2.5 times for the entire 2007-2013 period. Overall, Member States have submitted close to 1.700 programme amendments for Commission approval. It also led the Commission to put in place a faster approval procedure of programme amendments (based on an agreement being reached ahead of the formal submission).

By November 2022, the situation has considerably improved for the adoption of the CPR Partnership Agreements and programmes:
- All 27 Partnership agreements have been submitted and only three remain to be adopted (for which there are no further outstanding issues, which allows to anticipate that they will be approved in the next few weeks).
- 366 Cohesion policy programmes have been submitted (96% of all programmes expected) and 224 out of them were adopted (59%). The Commission expects to adopt all programmes by the end of the year (and for a handful of them under the carry-over procedure), with a couple of exceptions, for which programming negotiations continue until the Commission is satisfied that its observations are addressed.

Since October 2022 the planned investments and indicator targets from adopted programmes are published and visualised on the Cohesion Open Data Platform - **link.** The full picture of planned cohesion policy investments will be available in early 2023 once all 2021-2027 programmes are adopted. Nevertheless, the Commission expects that with facilitated phasing of projects from the 2014-2020 period and the adoption of 2021-2027 programmes finalised, investments will pick up as of next year, also aided by technical assistance and capacity building efforts supporting Member States administrations (see answers to questions 3, 4 and 5 above).

In particular, the eligibility of expenditure started on 1 January 2021 so the Member States can start implementing their programmes already (without prejudice to the final text of the programme and the regulatory requirements concerning the selection of operations), i.e. Member States could prepare a stable project pipeline already before adoption which would ensure a steady flow of funds from the moment the programmes are adopted.

As a conclusion, Member States continue to invest in the real economy based on existing 2014-2020 programmes and are expected to still receive significant amounts under the 2014-2020 Cohesion policy allocation (EUR 104 billion, 26% of the total initial + REACT- EU allocation). Therefore, the cash-flow for investments is expected to be steady for most Member States until the new programmes are up and running.

10. The RRF Regulation, Article 22 c (i), mentions double funding under the 'Facility and other Union programmes'. We consider that, within the 'other Union programmes', the ERDF and Cohesion fund have a potential for double funding with funds disbursed under the Facility.
    - What is the Commission doing to mitigate this risk?

Commission's answer:

The availability of EU instruments and resources, such as the Recovery and Resilience Facility (RRF) and the Cohesion policy funding provides for synergy and complementarity making possible that more ambitious investment objectives are achieved, addressing both post-pandemic economic recovery as well as long-term regional convergence and investment-driven social, economic and territorial cohesion. The risk of double funding in this context is mitigated by several mechanisms and provisions at various levels in the respective regulatory and control frameworks for both RRF and Cohesion policy.

Under the provisions of the RRF regulations, Member States are responsible to carry out the investments and reforms agreed in their RRP, including the requisite control and audit framework and measures to prevent double-funding.

Both DG REGIO and DG EMPL services were duly associated to the assessment of the National Recovery and Resilience plans (RRPs) proposed by the Member States under the RRF, thus ensuring full synergy and knowledge about the Member States' objectives under RRF and Cohesion policy funds. The Commission assessed the measures to avoid double-funding presented by Member States in their RRPs, the existing or planned investments and the additionality of the support provided by the RRF with regard to other Union funds and programmes, as well as the estimated cost of every measure included in the RRPs to establish whether it is reasonable and plausible.

Moreover, as part of the operational arrangements signed with the Commission, Member States commit to jointly organise an annual event with stakeholders to discuss complementarity, synergy, coherence and consistency between the implementation of the RRPs and the other EU programmes. The Commission guarantees this complementarity also within the European Semester where it coordinates and promotes the integration of programming of the Cohesion policy funds, including the JTF, for the period 2021-2027 with other EU instruments and in particular the Recovery and Resilience Facility.

During the implementation of the RRPs, Member States are responsible for monitoring the use of funds and avoiding double funding, taking corrective action where double funding is discovered (i.e. recover the related amounts from the final recipient). At the level of Member States' implementing bodies, measures to prevent double-funding can include the use of databases of projects, data mining tools, self-declarations from final recipients and their verification, the application of demarcation lines between various sources of funding. At the level of the coordinating body, these controls can be complemented by information exchange systems on funding streams towards beneficiaries. National authorities are encouraged to use data-mining tools – in particular ARACHNE - and carry out own audits based on risk assessments and reporting of irregularities. In the management declaration accompanying its payment request, the Member State must confirm the absence of double funding. Member States are also obliged to collect and report data on any other EU funds received for measures under the RRF.

In the context of their RRF audit strategy for the current programming period, some Member States have already planned to perform thematic audits that will focus on the risk of double funding with the aim of identifying (and correcting where relevant) such occurrences and also making recommendations for the managing authorities to put in place appropriate checks at their level to prevent and detect double funding. The national authorities can use in-built preventive controls and in any case they will use all available reports from their IT tools (not only but including the Commission data-mining tool designed for Cohesion, ARACHNE, also made available to Member States under the RRF) to prevent and/or identify possible double funding cases. Given the importance of this area, there will be a strong cooperation between the audit authorities and the EC auditors on this issue.

The Commission also checks the presence/absence of double funding during its RRF-related audits, both audits on specific milestones and targets, and audits on the protection of the financial interest of the EU, where the Commission confirms that the necessary national control systems are in place, including controls to detect double funding. It does this, inter alia, by using all available databases containing EU project funding.

As far as Cohesion policy is concerned, pursuant to Article 63(9) of the Common Provisions Regulation, expenditure included in a payment application for one of the Funds shall not be included elsewhere under the same Fund or under another EU instrument. This prohibition is already enforced under 2014-2020 and is – and will continue to be – closely monitored through implementation, control and audit activities. This provision is also strongly underlined in the programming phase and projects selection criteria applied by Member States.

The Joint Audit Directorate for Cohesion has raised awareness of the national audit authorities and initiated fruitful technical discussions to design an appropriate methodological approach in that respect. The DAC will also carry out thematic audits under its Single Audit Strategy for 2021-2027 to ensure that appropriate mitigating mechanisms are in place when risks of double-funding are identified.

- Could the Commission provide us with an overview of Member States who use ARACHNE for both REGIO funds and the RRF?

Commission's answer:

Despite efforts to introduce the mandatory use of ARACHNE, it remains a voluntary support tool. Nevertheless, the number of interested users is increasing. By now, 19 Member States plus the UK have used Arachne for one or more programmes under ERDF/CF and ESF/YEI (IT, PT, CZ, RO, HR, BE, AT, LV, LT, LU, BG, HU, ES, FR, SK, MT, NL, SI, IE). EL and CY are in 'pilot' phase, while DE, PL, SE and DK are in discussions for a potential use in the near future.

The data-mining tool is also currently used by 5 Member States who have uploaded data for the RRF implementation (CY, BE, EL, PT, HR) and 5 Member States showed interest in using it for RRF, attending or requesting a 'general introduction to Arachne' workshop (IT, PL, RO, SI, EE).

ARACHNE is thus one of the IT tools which can help identifying the projects drawing on several EU funds where a potential risk of double funding exists. It shows beneficiaries, and for 2021-2027 new mandatory data will cover beneficial owners of beneficiaries and contractors /subcontractors showing when such natural persons are involved in multiple supported projects. In particular, the tool provides as one of its project risk indicators the "Concentration risk" under beneficiaries (and as from 2021-2027 under beneficial owners or contractors as well) that can be further analysed, where necessary, by programme authorities in charge of RRF or Cohesion programmes implementation, or during audits.

The Commission has reiterated its proposal for the mandatory use of digitised data-mining and risk scoring tool for audits and controls of EU funding in its proposal for a revision of the Financial Regulation, subject to negotiation and adoption by the co-legislators.

- How is the use of ARACHNE reflected in the control arrangements expected from the Member States? e.g. if a Member State uses ARACHNE, is there a different regime for audit and control applied?

Commission's answer:

The fact that ARACHNE is used by some programme authorities for their controls and audits does not per se entail a different regime for audit and control arrangements. It may however be relevant for the purpose of the Commission risk assessment, for example on the effective implementation of proportionate anti-fraud measures in the Member States.

The ARACHNE tool assists national authorities in first instance in detecting and identifying risky projects and beneficiaries, in particular due to the concentration of funds or risks of inter-linked structures or individuals. As both the usefulness and the efficiency of the tool depend on the amount of data provided by the Member States, as ARACHNE is currently used on a voluntary basis, it has not reached its full potential yet, and a more systematic use is continuously encouraged towards programme authorities by the Commission.

The Commission audit services currently use the tool in the audit planning phase, once operations have been selected for audit, to identify any possible "red flag". The tool can also be used to clarify the possible links between beneficiaries and/or contractors, for instance in case of risk of conflict of interest, or to understand the possible exposure of a beneficiary in different programmes and possibly Member States, before operations are selected by managing authorities (ex-ante module).

Questions concerning other issues

11. The legislative framework for the current period 2021-2027 was adopted too late in mid-2021, after the start of the period. As DG REGIO reports, only one Partnership Agreement was adopted before the end of 2021. How many Partnership Agreements have been adopted until now? What measures has DG REGIO undertaken to speed the process of absorption of the funds under its responsibility for the period 2021-2027 and to assist member states?

Commission's answer:

The Honourable Member is invited to take note of the Commission replies provided under Question 9 about the progress achieved for the adoption of programmes.

The negotiation and adoption of Partnership Agreements and programmes was delayed, due to the delayed agreement on the Multiannual Financial Framework 2021-2027 and consequently the late adoption of the cohesion policy package, as well as mainly other external factors which hindered the preparatory work at Member State level, in particular the COVID-19 pandemic and the conflicting priorities in the implementation of crisis and recovery measures through the new instruments at their disposal (CRII(+), REACT, RRF, CARE).

However, the situation has significantly improved in 2022 and 24 of the 27 Partnership Agreements have been adopted so far by the Commission for the 2021-2027 period. The Commission expects to adopt the remaining Partnership Agreements by the end of the year. 366 Cohesion policy programmes have been submitted (96% of all programmes expected) and 224 out of them were adopted at the time of writing (59% of all expected programmes). The Commission expects to adopt all programmes but a few ones by the end of the year.

The delayed programmes are carefully monitored. The Commission has been constantly reminding the Member States concerned about the urgency of the situation and it has been fully engaged with Member States in intense cooperation for the preparation and adoption of their programmes since 2019. The Commission services provide feedback on the programming documents on a rolling basis. Once the Member State submits a document, an observations letter is issued on the areas needing improvement and meetings take place with the Member State. If the Member State updates the documents accordingly before the formal submission of the programme, this contributes to a smoother and faster subsequent formal adoption process.

The Directorates general invite the Member States to review their programmes and resubmit them as soon as possible so that the adoption procedure can be finalised in due time.

The eligibility of expenditure started on 1 January 2021 so the Member States can start implementing the programmes already (of course without prejudice to the final text of the programme and the regulatory requirements concerning the selection of operations). Therefore, the Commission estimate at this stage that the start of implementation of the 2021-2027 programmes will not encounter any larger delays than in 2014-2020.

The Member States and regions with weak institutions may have more difficulties in absorbing available EU funds and using them in the best way. Therefore, the Commission provides substantial support, including technical assistance and advisory services, to improve their absorption capacities and the results achieved. The Honourable Members are invited to also take note of the replies provided under Question 5 about the measures and technical assistance provided by the Commission to support the national authorities in enhancing their administrative capacity to the benefit of improved absorption capacities.

12. How has the implementation of the Just Transition Fund started in 2021? What is the role of the Commission for ensuring that Member States coordinate and complement their interventions under the Just Transition Fund and other funds in order to boost its performance?

Commission's answer:

A political agreement on the Just Transition Fund (JTF) proposal was reached in December 2020. The formal adoption was however delayed together with the overall legislative package of the cohesion policy for 2021-2027.

Specific programming requirements have been carefully foreseen with this new instrument to ensure that a clear diagnostic is established for the concerned regions before programming any transition measures. Member States thus need to establish the Territorial Just Transition Plans (TJTPs)[2] in order to access the support of JTF and those will be adopted as programmes (stand-alone JTF programme or as part of ERDF, CF and/or ESF+ programmes, depending on the choice of each Member State).

Cohesion policy programmes and the corresponding TJTPs are assessed by the Commission services. The Commission ensures that the transition process, as outlined in TJTPs, is aligned with the EU's climate and energy targets and the programmed support measures correspond to the transition challenges identified in JTF territories should they be economic, social or environmental ones. The Commission also verifies the complementarity and coordination between the various EU and national sources of funding as well as with the second and third

[2] Territorial Just Transition Plans outline the transition and its impacts in regions. Each TJTP should contain a description of the transition process at national level, including a timeline for key transition steps towards the 2030 climate and energy targets and towards the 2050 climate neutrality target. These steps should be consistent with the National Energy and Climate Plans and National Long-Term Strategies, notably the planned investments, the timeframe of the key transition steps, contribution to national targets, the objectives to be achieved and the actions to be taken for the just transition. The TJTPs need to demonstrate clear evidence of a transition process and its impact at the level of the concerned territory in the near future (by 2030 or before).

pillar of the Just Transition Mechanism, i.e. Invest EU scheme and the Public Sector Loan Facility. The access to the Just Transition Mechanism pillars is unlocked with the approval of the TJTP.

The Commission has been fully engaged in an intense cooperation with Member States for the preparation and adoption of their programmes and corresponding TJTPs through informal dialogue on the draft programming documents and formal dialogue on the officially submitted documents. To address the risk of late submissions, the Commission intensified its work with the concerned Member States at both political and technical level, clarifying the regulatory requirements and deadlines for JTF programming.

As of 21 November 2022, 18 Just Transition Programmes from 9 Member States out of expected 45 JTF programmes were approved (40%). Those programmes are linked to 23 TJTPs (of a total of 70 expected), covering around EUR 6.9 billion. More will be approved in the coming days and weeks. Two programmes have not yet been submitted with JTF (for BE and BG). The Commission services are working continuously with all Member States to finalise the remaining programmes as soon as possible.

There is a new comprehensive website with all information related to the JTF, which represents a single access point for all stakeholders involved in just transition process: - Regional Policy - European Commission (europa.eu). The website contains a map displaying the JTF territories and distinguishing in colour code those for which TJTPs have been adopted. The map is updated in real time as soon as the TJTPs are approved. It contains also links to all approved TJTPs on the Managing Authorities websites.

As of 2020 the Just Transition Platform (JTP) has been set up providing support to all Just Transition Fund regions. The main support provided within the JTP consists of setting up four Working Groups on steel, cement, chemicals and stakeholder engagement, organising bi-annual JTP Conferences to exchange knowledge and good practices among stakeholders, and knowledge capitalisation. There will be additional JTP technical assistance (EUR 2 million) at EU level as from January 2023 provided by the Commission to the JTF regions for the technical assistance on the ground (workshops, advisory support, exchange programmes for experts, etc.).

13. 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?

Commission's answer:

Cohesion policy plays an important role in contributing to the EU's climate and energy goals, with its objective of reducing disparities in Europe and fostering economic, social, and territorial cohesion.

Cohesion policy is expected to invest more than EUR 100 billion in projects related to climate and environment over the 2021-2027 programming period. In addition, it will finance research into greening of the economy and support smart economic transformation. The overall target for climate mainstreaming is set at the level of 30% of resources for the 2021-2027 MFF and the Next Generation EU, an increase from the current 20% for the 2014-2020 MFF. In particular, at least 30% of the European Regional Development Fund (ERDF) and 37% of the Cohesion Fund 2021-2027 investments will contribute to climate objectives. The EUR 19.2 billion planned under Just Transition Fund (as reported in the 2021 AAR p.6) will complement these efforts (for more details, the Honourable Members are referred to answers on Question 12). It will provide targeted support to people and places hardest hit by serious socio-economic challenges in moving towards climate neutrality, especially by supporting upskilling and reskilling of people, economic diversification and SMEs.

Specifically, the EU funds will support the deployment of energy efficiency and renewable energy, development of sustainable mobility as well as investments into circular economy, water management and biodiversity. The supported projects will, for instance, target building renovation, innovation in renewable energy technologies, production of renewable based hydrogen, boosting resource efficiency in SME's, increasing recycling and circular economy approaches or protection of natural areas and biodiversity. Cohesion policy investments will help reduce the negative externalities of current transport patterns, thus making transport more sustainable by, for example, supporting the uptake of zero-emission vehicles and renewable low-carbon fuels, developing public transport and cycling infrastructure, greening freight transport by increasing rail and inland waterways freight traffic and climate proofing of the TEN-T core network. The related investments will not only contribute to the European Green Deal and help the EU to meet its climate, energy and environmental targets but also create jobs and new economic activity across the EU while boosting our energy and raw material security.

For instance, in Latvia EUR 839 million under the ERDF and the Cohesion Fund will be invested in renewable energy sources, such as wind and solar, to increase the country's energy security, energy efficiency and resilience to climate change. Moreover, EUR 1.2 billion will support integrated territorial development, sustainable multimodal urban mobility, such as trams, cycling paths and electric vehicle charging infrastructure.

In another example, 35% of Germany's ERDF investments for the 2021-2027 period will be devoted to energy efficiency, renewable energy and smart energy systems, among other sustainability and climate actions. With Just Transition Fund, North Rhine-Westphalia will receive EUR 680 million to move from a coal-based industry to an industry based on renewable energy. Investments will focus on creation of new small and medium businesses (SMEs) and start-ups in the green sectors like resource efficiency, circular economy, bio-based alternative raw materials, but also land rehabilitation.

Croatia, with EUR 2.5 billion of EU funds will support the green transition towards a net zero economy. EUR 1 billion from EU Cohesion Policy will support investments in different modes of sustainable transport, including improvements to the national rail infrastructure. And 244 million euros will be invested in the “blue economy”: from sustainable fisheries and aquaculture to marine biodiversity to protect the environment and promote the economy of coastal regions (see the Cohesion Open Data Platform - **link)**

Next to clean energy, green infrastructure and clean mobility, Cohesion policy also supports sustainable and circular built environment. With a dedicated ERDF budget of EUR 450 million, the European Urban Initiative (EUI) is a new instrument supporting the urban dimension of Cohesion Policy in 2021-2027. A minimum of 8% of the ERDF resources in each Member State must be invested in priorities and projects selected by cities themselves and based on their own sustainable urban development strategies.

Among other activities, DG REGIO continues to work on sustainability transitions. In September 2022, a call for tenders was launched to provide technical assistance and expert support at regional level to implement the European Green Deal with Cohesion Policy investments, known as “Cohesions for Transitions Platform” (C4T).

Progress towards the EU’s climate-neutrality objective is monitored using emissions submitted in Member States’ annual greenhouse gas inventory reports and greenhouse gas projections reports. In 2021, EU greenhouse gas emissions continued the 30-years descending trend. EU-27 domestic greenhouse gas (GHG) emissions, including international aviation, amounted to 3525 MtCo2-eq, below the 2019 level of 3735 MtCo2-eq, despite the strong rebound in emissions following the unprecedented fall in 2020 due to the pandemic. This translates into a reduction in GHG emissions of 28.1% compared to the 1990 base year (or 28.7% when international aviation is excluded). The data reported shows that overall greenhouse gas emissions remain on a downward trend, nevertheless, more effort is needed to reach the EU’s long-term targets – the efforts will have to be more than doubled in order to reach climate neutrality by 2050.

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

Commission's answer:

Cohesion Policy invests circa 10 billion EUR in its second objective "European Territorial Cooperation", also known as Interreg. Projects are financed throughout the EU and its neighbours and focus primarily on cooperating with each other, either to develop joint activities/services or infrastructures or to exchange experience and learn from each other. CBC focuses on cooperation between immediate neighbours separated by national borders, transnational cooperation focuses on regions belonging to a geographic space with shared features such as mountains, rivers or sea basins. Interreg brings Europe closer to citizens as it showcases the added-value of working together to meet key challenges and exploit common opportunities. The 10 billion EUR envelope is spread across circa 90 programmes, with every region of the EU eligible to take part in one or the other.

The Commission has invested considerable resources to identify the obstacles that may exist in transnational and cross-border projects and to ease them in the future. A first study on 'Easing legal and administrative obstacles in EU border regions' in 2017 analysed the different categories of border obstacles emerging from local, regional national or EU legislations as well as from different administrative practices and presented an inventory of over 200 cases of legal and administrative obstacles as well as 15 case studies. In 2021, the 'Analysis of Cross-border obstacles between European Union (EU) Member States and Enlargement Countries' reviewed existing external cross-border obstacles and identified obstacles that could impact the relevant policy objectives of the 2021-2027 programming period. This study also provided orientations on how 2021-2027 Interreg Instrument for Pre-Accession programmes can address these obstacles. The geographic focus of the study was on the borders between EU Member States and candidate and potential candidate countries.

The work on removing border obstacles in cross-border programmes is coordinated by the **Border Focal Point** established in DG REGIO, implementing multi-sector and multi-level actions in strong coordination within the Commission and with external stakeholders. As many as 118 pilot projects are supported under the Border Focal Point's flagship project "**b-solutions**". Border obstacle cases are prepared to give wider visibility to border barriers and to provide inspiration for solving these bottlenecks. In 2021, the report on 'EU border regions: Living labs of European Integration' was adopted, providing an assessment of the actions that have been taken up by the Border Focal Point since 2018 and giving orientations for future actions across four clusters: governance, labour markets, public services and green transition. Furthermore, the Commission has also worked on building knowledge on border obstacles and potential solutions for such obstacles. This has led to pan-European inventories of cross-border interactions, notably cross-border public transport and public services.

On the legislative side, the Commission has adopted in 2018 a proposal for a Regulation to implement a legal mechanism to address legal obstacles in cross-border context (also known as ECBM). This regulation proposal is still in the legislative process, which has been recently gaining new momentum, but Member States expressed strong reservations on its adoption.

Finally, concerning specific obstacles to cross-border employment, the Commission is organising a conference on 18-19 January 2023 to examine all the different facets of such

obstacles (education, recognition of skills, rights and obligations of cross-border commuters, cross-border telework, etc.).

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