

Additional questions for Commissioners Hahn and Ferreira

- Following up on the hearings of Commissioners Hahn and Ferreira, could you please clarify what is the framework in place to prevent double funding at the level of the beneficiary owners, and in particular, the specific Commission's activities in this area, capabilities, information received from Member States and effective and specific actions carried out so far in order to prevent it? Do all Member States have effective measures in place at the level of the beneficial owners to prevent double funding, and has the Commission confirmed this? Has the Commission carried out any specific audits, or plans to do so, to address these concerns? And how do the auditors in DG ECFIN and the joint Audit Directorate for Cohesion cooperate in this matter?

Commission's answer: DG ECFIN/DAC

The Recovery and Resilience Facility (RRF) and Cohesion policy funds operate within their respective control frameworks, established in the relevant regulations as described in more detail below. These control frameworks are scrutinised by the Commission and implemented at the national level in accordance with the fund-specific requirements and management modes. The Commission performs audits and checks, ensuring coordination between its audit services as well as with Member States management, control and audit bodies. The collection and analysis of information on beneficial owners and final recipients of EU funding is an important element in audit and control work carried out to prevent the risk of double-funding, which is prohibited under the Financial Regulation and sector-specific provisions such as the Common Provisions Regulation (CPR) under Cohesion Policy.

The RRF is a performance-based instrument, where payments are made from the Commission to a specific Member State when that Member State achieves a set of clearly specified milestones and targets. The milestones and targets measure progress towards implementation of the reforms and investments which the Member State has committed to implement in its Recovery and Resilience Plan (RRP). The actual implementation of measures and payment to implementing bodies are made by the Member State itself in line with national budgetary rules and procedures and EU and national law. The RRF Regulation requires the Member States to put in place a dedicated control system for the RRF, to protect the financial interests of the Union and ensure implementation of measures in line with EU and national law, including the avoidance of double funding.

In case the Member State detects double funding, it is obliged to recover the affected amount. If Member States fail to put in place adequate control systems, including related to the prevention of double funding, this represents a serious breach of the financing agreement signed between the Commission and the Member State. The Commission may in the case of a serious breach suspend or recover (or ask for early repayment, in case of loan support), between 5% and 100% of funds allocated to that Member State's RRP. Alongside each payment request, the Member States must also submit a management declaration, confirming the absence of double funding and highlighting any issues identified, and a summary of audits implemented, which is considered by the Commission for its own risk analysis and possible own audit work.

The arrangements to avoid double funding, and for control more generally, are specific to each Member State and the administrative and organisational choices made. They often include for instance the involvement of control bodies that are already in place under national rules and have experience in implementing EU Funds and access to information and data from, for example Cohesion Policy programmes and relevant data bases. Member States' control systems for the Recovery and Resilience Plans (RRPs) were assessed by the Commission based on their description in the initial RRP. This assessment is described in the Staff Working Documents which accompanied the Commission's Proposal for a Council Implementing Decision on each specific RRP, available on the dedicated RRF website for each Member State. All Member States have also put in place dedicated audit strategies which have been discussed with the Commission.

Centralised databases at national/programme level for shared management funds, together with data mining tools to identify risks, are safeguarding measures to prevent double funding, notably in relation with the RRF.

As regards Cohesion policy, it is a standing requirement for Member States under the Common Provisions Regulation (CPR) to put in place an effective and efficient control system to prevent

irregularities, including double-funding, and to perform appropriate verifications to prevent double funding. Before any payment is made, information from beneficiaries concerning financing from other EU Funds or Union instruments is mandatory. This declarative information is cross-checked against available databases at national level, which are country-specific.

As of the 2021-2027 programming period, Member States are obliged to record and disclose data on beneficial owners and final recipients of EU funding. A single integrated IT system for data mining and risk-scoring like Arachne is an effective tool to identify the risk double-funding and appropriate control and audit procedures. 19 Member States (plus the UK for the 2014-2020 programming period) have used Arachne for one or more programmes under ERDF/CF and ESF/YEI on a voluntary basis, 5 Member States have uploaded data for the RRF implementation and 5 other Member States have shown interest in using it for the RRF.

Other measures to prevent double funding include ensuring that the expenditure is kept in separate accounts or under appropriate accounting codes. Management verifications are closely scrutinized by both national auditors and Commission auditors, who also perform their own verifications (for instance on different revenues for a specific beneficiary).

In terms of the audit activities for the RRF, the Commission has verified, in the RRP approval process, whether any contributions to milestones and targets from other funds were in place. If so, the value of the investment in the RRP has been adapted accordingly. Through audits on the Protection of the Financial Interests of the EU (PFIEU) and audits on Milestones and Targets, the Commission systematically verifies the absence of double funding. The latter is done by crossing data from the RRF with the databases FTS (Financial Transparency System) which contains all directly funded projects above 10.000 euro and with the Kohesio database which contains project data from ESF and ERDF. Additionally, auditors verify the absence of double funding through checks of the national authorities' databases on EU funding. The audit announcement letters and the final audit reports on both audits on the Protection of the Financial Interest of the EU (PFIEU) and audits on Milestones and Targets are systematically shared by the responsible audit unit in DG ECFIN with the Audit Directorate for Cohesion. To date, 16 Member States have been audited in the framework of the PFIEU and the remaining 11 will be audited in 2023.

As regards Cohesion policy, in the annual assurance packages Member States submit a management declaration confirming the expenditure incurred during the accounting period and the effectiveness and proportionality of anti-fraud measures, which are audited by the competent authorities. An important mitigating factor consists of the fact that the major part of national audit bodies are the same for Cohesion policy and the RRF. Should the Commission have doubts about possible double funding, the Commission may request further information and/or undertake fact-finding audit missions in relation to the reliability of assurance packages. The Commission performs early preventive system audits (EPSA) at the beginning of the programming period in order to confirm the effectiveness of the control systems in the Member States, including the system in place to prevent irregularities. The preventive role of the Commission is reinforced through yearly working sessions organised between the Commission and the national counterparts in the Member States to discuss and identify potential issues (in the framework of the last Homologues Group Meeting held in October 2022 with national audit authorities, a workshop was organised dedicated to Member States' presentation of good practices and methodologies on risk assessment and specific audit tools to detect double funding). The Commission will continue, together with all audit authorities, to ensure that the specific risk of double funding is well covered by national audits. The supervisory role of the Commission is executed through audits tailored to target high-risk areas. To the extent that double funding is identified as risky for specific programmes and/or Member States, thematic or compliance audits are added to the audit plan.

The Joint Audit Directorate for Cohesion (DAC) and DG ECFIN have already started to coordinate their respective audit activities in terms of planning, and reporting, for example, exchange of audit results when serious deficiencies are identified for bodies acting under both policy areas). There are ongoing discussions to systemise these coordination measures that would contribute, among others objectives, to reduce the risk of double funding. The measures cover:

- Mutual disclosure and harmonization of the planning of audit missions
- Sharing the results of the audit work (relevant audit reports)

- Sharing of major risks identified during audits of fraud, corruption, conflict of interest and/or double funding identified in audits and notified to OLAF
- Regular meetings to discuss and exchange experience.

See further the Commission's replies to the CONT written questions addressed to Commissioner Ferreira on 16/11/2022.

- Could you clarify the statement by Commissioner Ferreira that "massive progress" is being made in the context of the negotiations on the partnership agreement with Hungary?

Commission's answer: DAC

The Commission adopted on 22/12/2022 the Partnership Agreement and all cohesion and home affairs programmes for Hungary under the 2021-2027 period.

During the negotiations, the Commission insisted on strengthening the Management and Control Systems in Hungary, notably through a dedicated Administrative Capacity Building Roadmap expressly annexed to the Partnership Agreement. This detailed roadmap to improve the country's administrative capacity has close links with the [Recovery and Resilience Plan](#) (RRP) and the [Rule of Law Conditionality process](#). The specific measures in the roadmap pertain mainly to cohesion policy and include:

- the remedial measures required for the fulfilment of the conditionality regime (Rule of Law) with the aim to improve the transparency of and competition in public procurement, and to prevent, detect and correct fraud, corruption and conflict of interest as formulated in the RRP milestones;
- enhancing the transparency of the cohesion policy web portal and the whistle blowing platform;
- comprehensive training strategy for the delivery system (including on fraud, corruption and conflict of interest);
- several IT solutions, interconnection of databases for better transparency, reduce administrative burden and support fraud prevention;
- strengthening the capacity of beneficiaries and non-governmental partners;
- extended use of Integrity Pacts, a possibility to involve NGOs in monitoring of public procurement.

The implementing systems for the RRP and cohesion programmes will be combined, thus preventing double financing. The Partnership principle was strengthened by improving transparency and involving civil society.

In line with the Common Provisions Regulation (CPR), the Commission has assessed the content of the programmes, their compliance with the framework and fund-specific regulations, and their consistency with the Partnership Agreement. It concluded that the programmes fulfil the requirements set out in the CPR, notably by establishing a clear strategy for the programmes' contribution to the policy objectives. The programmes will also address relevant country-specific recommendations, challenges identified in the integrated national energy and climate plan, the principles of the European Pillar of Social Rights, recommendations in the context of the Schengen evaluation mechanism and the Vulnerability Assessment. Major changes undertaken at request of the Commission include, inter alia, a commitment to spend at least 65% of the total ERDF/ESF allocation in the 4 least developed regions as a way to reduce internal disparities, to finance measures increasing the attractiveness of the teaching profession, to concentrate on TEN-T network or traffic, to support energy efficiency in Budapest. In accordance with the Common Provisions Regulation, if the programmes fulfil the legal requirements, the Commission has to proceed with their adoption.

In parallel to the negotiations of the programmes, the Commission also undertakes an assessment of the fulfilment of the horizontal and sectoral enabling conditions. In the case of Hungary, the Commission considers that for the implementation of specific objectives of three cohesion programmes, Hungary is currently not fulfilling the horizontal enabling condition on the EU Charter of Fundamental Rights, because of the risks to the right to academic freedom, the amendment in June 2021 of several acts for the so-called protection of children, and the restricted access to asylum. The Commission's concerns can be lifted when Hungary has put in place the necessary arrangements that will ensure compliance

with the Charter, and provided that the Commission agrees that these arrangements remedy the identified deficiencies.

Another wider issue concerning the horizontal enabling condition on the EU Charter of Fundamental Rights is the judicial independence, which has a broader impact on all programmes. The Commission considers that Hungary is committed to remedy the deficiencies as the RRP submitted by Hungary includes reforms aiming at the strengthening of judicial independence. Therefore, the horizontal enabling condition on the Charter of Fundamental Rights will be considered fulfilled as regards judicial independence, once Hungary has taken the measures on the judiciary to which it has committed under the country's RRP, and the Commission has positively assessed their implementation.

As long as the enabling conditions remain unfulfilled, the Commission cannot reimburse payment claims introduced by Hungary for expenses incurred during the implementation of the programmes. This applies to the specific objectives of programmes concerned by the non-fulfilment of the enabling conditions. In accordance with the CPR the Commission may only pay pre-financings, and reimburse expenditure declared for technical assistance or for operations contributing to the fulfilment of the enabling conditions.

All enabling conditions need to remain fulfilled during the whole period and compliance will be closely monitored by the Commission.
