2022 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER
ELISA FERREIRA
Hearing on 25 October 2023

Questions concerning errors

1. What are the main actions, which the Commission has undertaken to mitigate the risk of errors and irregularities in 2022?

Commission’s answer:

In 2022 the Commission services continued to support managing and audit authorities to improve their administrative capacity, methodologies and approaches to legality and regularity, including their capacity to prevent, detect and correct irregularities and report them. The Commission is using with audit authorities a common typology of errors to report irregularities detected at the level of operations under national and Commission audits. This allows the Commission to monitor the typology of the most frequently detected errors, to reflect on possible root causes of errors and to provide targeted feedback to individual programme authorities.1

In particular, several actions aiming at addressing the root causes of errors and of non-detection of errors are on-going and include the following:

- The Commission, through its the joint audit directorate for cohesion (DAC), reports its audit findings to the concerned audit authorities and makes targeted recommendations to address the weaknesses identified, including recommended remedial actions, as per audit standards. Such recommendations include the need to improve checklists, to better address certain areas (verification of public procurement or State aid files, of conflict of interest, of double funding, of methodologies to establish simplified cost options …), to reinforce the audit capacity or to train the existing auditors. The Commission then carefully follows up that the resulting remedial actions are appropriately implemented and that the respective recommendation can therefore be closed.

- The DAC makes syntheses of all its audit findings in the year and analyses the types of errors detected that demonstrate lack of detection in first instance by programme authorities. The DAC shares these with the ESI Funds audit community so that each audit authority can learn from errors detected in any

1 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 2022 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.
Member State, and can improve its own approach and procedures as considered necessary. Dedicated seminars and targeted workshops have thus been organised with all audit authorities (and video-recorded for further internal training use by programme authorities) since November 2020, and were repeated in November 2022 and September 2023 based on the most recent Commission audit findings, addressing the most frequent types of errors (public procurement, eligibility, State aid). 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 to avoid the recurrence of certain errors.

- The DAC also encourages audit authorities to follow a similar approach towards the programme managing authorities and intermediate bodies and to provide them each year detailed feedback on their own audit findings and types of errors they detected, which demonstrate a failure in management verifications in first instance. This allows managing authorities, in their turn, improving their risk assessments, verification strategies and quality of management verifications and being more preventive, for instance by putting in place further guidance or targeted trainings for their desk officers or for the beneficiaries.

The Commission also contributes to these efforts to improve first level management verifications. For example, the seminar on irregularities detected by the DAC addressed to managing authorities in November 2022 allowed to raise further the awareness of managing authorities on the need to strengthen their management verifications in some areas.

- In 2022 and 2023 the Commission also provided updated methodological support to programme authorities on different topics (criteria for system assessments, approach to risk-based management verifications, annual accounts, treatment and reporting of errors and audit opinions) at the start of the implementation and audit work for the 2021-2027 period. The Commission also adopted delegated Act 2023/67 for off-the-shell sampling methods, to help reducing misalignments or EU findings in this area and to further enhance legal certainty in the use of statistical methods in the audit work. Following thorough discussions and consultations with the programme authorities and stakeholders during technical meetings of the audit community on the Common Provisions Regulation (CPR) (in presence of services of the European Court of Auditors (ECA) who were invited to express their views) and CPR expert group meetings, these updated methodological notes were finalised and shared with all programme authorities. They concern: criteria to assess the effective and good functioning of management and control systems, also based on good practices identified in 2014-2020 (CPRE_23-0007-01, 24/05/23); the definition and audit of programmes annual accounts (CPRE_23-0012-01, 25/08/23); identification of good practices to ensure effective and efficient risk-based management verifications, a new provision under the 2021-2027 CPR (CPRE_23-0005-01, 24/05/23); treatment and reporting of errors to issue robust audit opinions...
More specifically, to address deficiencies in single market rules, public procurement and State aid, the Commission continues the implementation of its targeted “action plan on public procurement” in cooperation with Member States. This action plan has led to concrete outputs put at the disposal of programme authorities and contracting authorities to improve their practice in the area of public procurement: an e-library of good practices, a guide for practitioners on how to avoid the most common errors in public procurement linked to the management of the European Structural and Investment (ESI) Funds, as well as targeted training sessions for Member States’ officials.

Similarly, for State aid, the Commission has updated in 2023 its “action plan for a preventive and pro-active approach reducing the risk of irregularities and errors linked to State aid”, as another source of recurring errors (although their frequency has globally decreased over the years). In particular, this plan offers targeted training to programme authorities in close cooperation between REGIO and COMP.

On the implementation side, for 2021-2027 programmes, the Commission constantly and pro-actively encourages the use by programme authorities of the simplification measures foreseen under the common provisions regulation, in particular the use of simplified cost options (SCO) and financing not linked to costs (FNLC) schemes to tackle eligibility issues, reduce gold-plating and ease management verifications and control burden over beneficiaries. As a result of this effort, for the European Regional Development Fund (ERDF) and the Cohesion Fund for example, 120 SCO schemes at programme level were adopted so far in 11 Member States and for Interreg programmes (EUR 5.7 billion of total contribution) as well as 4 FNLC schemes in 4 Member States (for EUR 1.2 billion of total contribution). To achieve a successful uptake of SCOs, the Commission (REGIO and EMPL) work in parallel with all stakeholders (including with auditors) on methodological and assurance harmonisation, so that there is sufficient predictability for the beneficiaries on how those options are expected to be designed, implemented, documented and audited.

All these actions aim at ensuring that errors and irregularities are appropriately (or when needed better) tackled by programme authorities and that a common playing field is established to ensure a shared understanding at all regional, national and EU levels of implementation and audit. While fully respecting the independent role of the European Court of Auditors, the Commission also regularly associate it to such discussions to ensure a harmonised control system at all levels. The results of the Statement of assurance 2022 suggests that additional work is needed in that regard to reduce diverging approaches between the different audit institutions and bodies in certain areas and ensure that audits do not lead to further bureaucratisation of implementation and unnecessary
audit burden on beneficiaries and ensure the requisite legal clarity to reach the policy objectives on the ground.

2. In paragraph 6.16 of the Annual Report 2022, the ECA says that the financial impact of the expenditure where they have detected errors “should not be interpreted as being equivalent to the potential amount of financial corrections the Commission can impose in accordance with the applicable rules”. How does the Commission interpret this ECA statement? What legal basis could the Commission use to calculate and impose any possible financial corrections?

**Commission’s answer:**

The Commission notes the Court’s observation that its reported errors “should not be interpreted as being equivalent to the potential amount of financial corrections the Commission can impose in accordance with the applicable rules”. This clarification from the Court is important as it further confirms that the error rates reported respectively by ECA and by the Commission do not measure exactly the same things and therefore cannot be directly compared.

In the error rate it calculates, the ECA includes different types of breaches of EU or national provisions which may or may not give rise to a financial correction, neither by the programme authorities nor by the Commission. On the other hand, in the annual activity reports (AARs), the Commission reports error rates for each programme and overall for the funds (KPI5) that strictly refer to irregularities leading to financial corrections. In each case irregularities underlying these error rates are systematically pursued by the Commission as individual or extrapolated financial corrections.

To impose financial corrections the Commission needs to conclude that an irregularity within the meaning of the CPR (Article 2(36)) has occurred. Not all formal breaches and errors included by ECA as quantifiable errors in the error rate it calculates lead to ineligible expenditure, if they do not qualify as an irregularity as defined in Article 2(36) of the CPR: the breach of the law must be attributable to an economic operator and lead to an unjustified (ineligible) item of expenditure charged to the EU budget². In line with Article 143 of the CPR, the nature and gravity of the irregularities and the financial loss to the funds concerned have to be taken into account to identify and justify the error rate and apply a proportionate level of correction. The Commission’s assessment of facts and legal interpretation of EU and national rules leading to financial correction procedures should be defendable in the Court of Justice in case these are challenged in Court by Member States.

The Commission has to assess if it would have the legal basis to require financial corrections in all cases included by ECA in the calculation of its error rate. For example,

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² 'irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.
expenditure linked to major projects not yet notified to the Commission is not considered as ineligible expenditure by the CPR, despite a formal breach of the CPR provision (Article 102 (6) and (7)). In such cases, despite the quantification by ECA in its calculation of the error rate, the Commission would not be able to correct the corresponding amounts and would not report such expenditure as ineligible in its error rate. But in the event the Commission would have agreed with the qualification of the operation as a major project, which was not the case in the two cases reported by ECA in its 2022 annual report, it would require the Member State to address the formal breach and restore a fully legal situation by notifying the major project (for more details, see paragraph 6.25 of the 2022 ECA annual report and related Commission reply).

Accordingly, in its replies to chapter 6 the 2022 ECA annual report, the Commission has explained that it did not agree on 18 cases of errors quantified by the ECA (out of 48 for cohesion), considering that for 13 cases the reported facts do not qualify as an irregularity under the CPR or do not provide a legal basis to carry out financial corrections, and that in 5 cases ECA’s quantification (or additional quantification) is not appropriate, not providing the legal grounds to impose financial corrections (or additional ones to the corrections already applied by the Member State).

3. The ECA points to a number of hypotheses that would explain the rise in the error rate, including that during the COVID-19 period the effectiveness of controls and verifications by managing and audit authorities were reduced. Has the Commission found evidence of this possible weakening in Cohesion policy programmes and funds or in any other policy area?

**Commission’s answer:**

In its own audits (and through the results reported by audit authorities) the Commission did not find specific evidence that the effectiveness of controls and verifications by managing and audit authorities were reduced during the COVID-19 pandemic.

The Commission recognises that the accounting year 2020-2021 was still a difficult period in all Member States during which verifications and controls regularly had to be organised remotely. This imposed a new method of working to all programme authorities (and to the EU institutions accordingly).

However, in the Commission’s view, the COVID-19 restrictions did not decisively impact on the capacity of the programme managing and audit authorities to ensure compliance with applicable rules and to carry out the necessary verifications and audits. The Commission (DAC) had anticipated, in close coordination with the audit authorities, possible risks of incomplete audit results in the preparation of the assurance packages for the 2020-2021 accounting year. However, assurance packages were all received on time, with complete audit results and opinions, and the reported results per programme were similar to previous years (not showing an abnormal decrease in reported error rates that could indicate weaker verifications carried out).
The stable residual total error rate reported in the 2022 AAR of DG REGIO (1.9% up to 2.7%) is comparable to the one in the 2021 AAR (1.9% up to 2.5%), showing a limited impact, if any, of COVID-19 restrictions on control activities.

As regards other policy areas, the Commission notes that ECA’s annual report does not refer to an increase or marked increase in the error rate in other budget areas. The Commission therefore does not see why the COVID-19 pandemic would have affected the control system for cohesion policy in a more acute way than other spending programmes, under the same or different management modes.

4. According to the ECA’s findings, the eligibility of expenditure is the biggest contributor to the error rate in Cohesion policy. In its replies, the Commission reports that it does not agree with the assessment of 18 cases and that the errors found by the ECA are not irregularities within the meaning of the CPR and therefore does not exclude the eligibility of expenditure.

How has the Commission dealt with the errors or irregularities detected by the ECA? Could the Commission provide a summary of the amount and its contribution to the error rate?

**Commission’s answer:**

As a general rule, the Commission duly follows up on all errors and findings reported by the ECA and requests financial corrections, where appropriate and legally feasible. In addition to the assessment and follow-up of findings in individual cases, it also takes actions to further improve management and control systems, in particular by following up ECA recommendations agreed upon in the annual report by implementing the necessary actions, in cooperation with the Member States. The Commission accepted all recommendations in chapter 6 of the ECA’s 2022 Annual Report and is in the process of implementing the required actions to improve its or Member states’ systems.

In its 2022 Statement of Assurance audits and sample of transactions audited for cohesion, the ECA identified 48 additional errors to the 58 detected by audit authorities. The ECA reported that in its sample, ineligible expenditure was the largest contributor (73%) to the overall error rate of 6.4% it calculated for the area “cohesion, resilience and values”, together with ineligible projects (6%), and non-compliance in tendering procedure (14%) or with State aid rules (7%).

Out of the 48 quantified errors the Commission did not agree with the Court’s assessment for 18 errors. The reasons for a diverging assessment are as follows, as disclosed in the Commission’s replies to the annual report. For 13 errors, the Commission considered that, in line with the Common Provision Regulation (CPR), it could not conclude on an irregularity leading to ineligible expenditure. Furthermore, for five cases, the Commission considers that it is not able to apply and justify the level of quantification used by the ECA as it is not appropriate for the identified breaches, therefore the Commission has no legal grounds to impose financial corrections or
additional ones to those already applied by programme authorities in first instance. The Commission also refers to its reply to Question 2 above.

Without the 18 contested errors, the Commission estimates that the ECA error rate for cohesion would this year be similar to the results reported by ECA in previous years. Independently from the amount of each project affected by an error (ranging from a couple of thousands of euros to a few million euros per project), every project considered as 100% ineligible has a significant impact, according to the Commission estimate and based on its understanding of the ECA methodology, of roughly 0.4 percentage point on the error rate calculated by ECA. This concerns four cases in the contested projects. These cases include for example two operations considered by ECA to be parts of non-notified major projects, and for which the Commission confirms that the co-legislator did not establish in the CPR the rule to exclude the eligibility of early declared expenditure (see also Commission reply to Question 2 above). The ECA is better placed to clarify in more detail the impact on its reported error rate.

The Commission will therefore apply financial corrections for all errors found by ECA except for these 18 ones where it disagreed and is not in a position to impose financial corrections, or higher corrections than those already applied, including in 10 cases of eligibility issues raised by ECA. The Commission will also take further action to clarify applicable rules and audit work required with all stakeholders, including in close cooperation with the ECA, to limit these divergences in future assessments and quantification of errors and provide legal certainty to Member States’ authorities and to beneficiaries.

5. According to the ECA Annual Report 2022, Cohesion policy has by far at the highest level of error (6.4%), up from 3.6% in 2021. This is almost double compared to the previous year, which is very worrying at close to the closure of the programmes for 2014-2020. What are the risk for next years, particularly for 2024-2025, when payments for this MFF from cohesion will be most likely at cruising speed? Is this an effect of the focus that MSs have put on the RRF spending, while neglecting cohesion and the relevant procedures?

**Commission’s answer:**

The Commission presents in the reply to the question above a number of reasons for not agreeing with all errors reported by ECA in its 2022 annual report, with a significant impact on the increase of the calculated error rate this year.

The Commission is also aware and agrees that the overlap of programming periods, combined with the availability of additional funding instruments under NextGenerationEU (REACT-EU, Recovery and Resilience Facility - RRF), may have strained the administrative capacity of Member States in the programming and then start of implementation of their 2021-2027 cohesion programmes.
This is why the Commission has taken action to continue its support to Member States in view of the completion of the 2014-2020 programming period and the start of the current one, in particular by promoting the development of roadmaps for administrative capacity building (the Commission refers to its reply to question 23 below for more details on these actions).

For the 2014-2020 programming period, programmes have until the end of 2023 (eligibility end date) to deliver the remaining investment planned (at project level), while the final accounting year runs from 1 July 2023 to 30 June 2024, with the final payment claim due until 31 July 2024\(^3\). The implementation shift towards the end of the programming period may be partly attributable to the N+3 decommitment rule, as the Commission already commented on several occasions (see in particular the Commission’s reply to question 44 of the 2020 CONT questionnaire to Commissioner Ferreira). Consequently, the 2024-2025 accounting year will probably be more under strain due to the closure of the 2014-2020 programmes, which has been largely anticipated by the Commission by issuing early Closure Guidelines to the programme authorities as well as a comprehensive set of publicly available replies to over 400 Member States’ related questions, while 2021-2027 cohesion funds programmes will need to continue catching up from the delays in programme adoption for the reasons indicated above.

The Commission does not see a link between the increase in the error rate for cohesion policy, as calculated by the ECA, and the deployment of the RRF. The Commission is closely monitoring the situation in particular when RRF national coordinating authorities are the same as for cohesion policy funds (which is the case in many Member States) and insisted on having the sufficient additional administrative capacity and human resources affected to the different strands of EU funding (for example, for audit authorities, the Honourable Members are referred to the Commission reply to Question 23 below). The Commission has been providing continuous administrative support and advice to Member States to strengthen their administrative capacity in multiple ways, be it under the technical assistance in cohesion policy or the technical support instrument which assisted several Member States in the reinforcement of their audit and control systems. For cohesion policy programmes, based on all audit results available, including its own audits, the Commission confirmed a continued effective functioning of management and control systems for the vast majority of programmes (over 90%) in 2022/2023, as reported in the 2022 AAR of DG REGIO.

The reforms supported by the RRF are also expected to have positive spill-over effects on the appropriate implementation of other EU funds, including as regards the protection of the Union’s financial interests (e.g. reform of the judiciary and related to the rule of

\(^3\) The ongoing discussions with the co-legislator on the Commission proposal for a Strategic Technologies for Europe Platform (STEP) includes the extension by 12 months of the submission of the final payment application for the 2014-2020 period.
law, strengthening of control procedures on conflicts of interests or reforms related to public procurement).

6. Is this higher error rate in cohesion caused also by the emergence of new instruments as the CRII/ CRII+ initiatives, which added new categories of expenditure to the eligible ones and increased the co-financing rate?

Commission’s answer:
The Commission agrees that the new types of measures and flexibilities introduced by the adoption of the Coronavirus Response Investment Initiative (CRII) and the Coronavirus Response Investment Initiative Plus (CRII+) amendments to counter the economic and social disastrous effects of the outbreak of the COVID-19 pandemic could potentially have brought new risks to cohesion policy implementation. But it has not at its disposal audit evidence that would underpin this hypothesis of a significant impact overall on the programmes error rates, beyond individual cases detected.

The Commission took measures to minimize such emerging risks immediately after the adoption of the CRII/ CRII+ measures. The Commission has requested programme authorities to pay particular attention to new risks related to the flexibilities introduced with the CRII/ CRII+ initiatives, especially the risk of unjustified use of emergency public procurement procedures and insisted that the same level of scrutiny to legality and regularity was required despite the circumstances.

The Commission paid particular attention in its assessment of annual control reports for each programme received by 1 March 2022 whether such risks had been identified by the programme authorities and, if so, whether appropriate corrective measures were taken. The Commission and Member States closely cooperated during the period of the pandemic to ensure that the control and assurance framework continued to effectively address the identified possible risks that were discussed and shared with audit authorities, for an assessment of their national or regional risk registers. In some cases, this risk materialised, as reported transparently in the respective 2021 and 2022 AARs of DG REGIO and DG EMPL (for example, a case of fraud to procurement of masks in Italy, or excessively used negotiated procedures without launching transparent procedures in a Romanian programme with expenditure funded by REACT-EU or in a Spanish programme under CRII/CRII+ expenditure).

Overall, however, as regards the sample of transaction audited by ECA, the Commission has assessed that the impact on the overall calculated error rate of the quantifiable errors related to the CRII/CRII+ measures, or to operations benefitting from a temporary increased EU co-financing of 100%, is similar to the impact of errors identified in other types of operations audited under the 2022 Statement of assurance (see Commission reply in relation to the graphs under figure 6.8, page 229 of the ECA’s 2022 annual report). Therefore, the Commission cannot confirm ECA’s hypothesis to explain the rise
Questions concerning Performance in Cohesion

7. What are the main achievements of the Cohesion policy in 2022?

Commission’s answer:

In 2022, cohesion policy continued to deliver on its primary objective of supporting long-term convergence of Member States and regions in line with the EU priorities. Through ERDF and Cohesion Fund, investments were delivered in vital areas, bringing structural change and responses to the needs of the real economy, supporting job creation, competitiveness, growth, sustainable development and improving citizens’ quality of life. As 2022 was once again a challenging year in light of the post-pandemic recovery and especially because of Russia’s invasion of Ukraine, cohesion policy helped Members States in overcoming the impacts of the successive crises. DG REGIO proposed the Cohesion’s Action for Refugees in Europe (CARE) and the Flexible Assistance to Territories (FAST-CARE) initiatives to support those fleeing the war and the ones welcoming them on the EU territory. Over EUR 1.3 billion of cohesion resources have been mobilised to support accommodation, healthcare and employment, as well as medical, social and psychological support of the refugees. For instance, in Poland, the ERDF and CARE supported the creation of 10 separate housing units in the city of Zamość near the border with Ukraine. In Germany, EUR 15 million from the ERDF and the European Social Fund (ESF) were used for refugee support programme in Lower Saxony. Moreover, CARE sponsored German language courses for refugees in order to help them with integration.

DG REGIO further adapted its Cross-Border Cooperation (CBC) and European Neighbourhood Instrument (ENI) programmes to better reflect the new realities in the Eastern neighbourhood (blocking funding to Russia and Belarus, and taking note of the situation in some parts of Ukraine). The Commission also further proposed the Supporting Affordable Energy (SAFE) initiative to funnel unspent funds towards the SMEs and vulnerable households, addressing the consequences of skyrocketing energy prices as a result of the war. Since its entry into force earlier this year, EUR 3.3 billion are being mobilised for that purpose. For example, Bulgaria has reallocated EUR 24.3 million of cohesion policy funds for SAFE measures to support vulnerable households and Slovakia has already used more than EUR 650 million to top up its national energy support scheme. For more details on (FAST)CARE and SAFE, see the Commission reply under question 8 below.

Member States also further used in 2022 the flexibilities offered by the post-COVID-19 recovery initiatives CRII(+) and REACT-EU. Over 380 programme amendments related to CRII(+) have been processed by DG REGIO (not counting as well DG EMPL-led programme amendments), resulting in about EUR 24 billion from the cohesion policy.
funds being mobilised under CRRII(+). This includes EUR 9.4 billion for health actions, of which EUR 8.8 billion was re-allocated from other priorities; EUR 5.2 billion of direct support for people, including workers and vulnerable groups; and EUR 13.1 billion for business support, of which EUR 4.1 billion was re-allocated from other priorities. Additionally, EUR 50.6 billion has been programmed under REACT-EU and over 360 cohesion policy programmes were modified to include REACT-EU resources, at exceptional speed. Thanks to the quick support from the cohesion policy funds, as well as other instruments adopted at EU level, most regions had returned to their pre-pandemic GDP in 2023.

The key investments outputs achieved by the cohesion policy funds on the ground as of end-2022 include:

- Over 1 million projects worth over EUR 468 billion were selected, the average project selection rate stands at 125%;
- 2 million enterprises were selected;
- 310 000 new jobs were created;
- 60 million people benefitted from health service improvements;
- 6.3 million households benefitted from broadband;
- New renewable energy resources have been created in the volume of 6000 mW, equivalent of 3000 wind turbines;
- And 460 000 households enjoyed improved energy consumption.

Macroeconomic model simulations show that in the long-run all EU regions benefit from cohesion policy. Every 1 euro spent on cohesion policy generates a return of 2.7 euros in the form of additional EU GDP. By the end of 2023, it is estimated that the investment financed by cohesion policy will have increased GDP in some of the least developed regions in Europe by up to 5%.

The negotiations on all 2021-2027 programmes were completed before the end of 2022 (except for a few programmes adopted in 2023), paving the way for EUR 378 billion worth of investments in the key policy areas. Moreover, the Commission reviewed and approved 67 Territorial Just Transition Plans submitted by the Member States under the Just Transition Fund, the new instrument for 2021-2027.

DG REGIO also modernised its communication strategy, launching Kohesio to increase transparency and bring the policy closer to citizens. Kohesio has been serving as a comprehensive public platform for cohesion policy projects and beneficiaries published by programme authorities, aiming at increased communication, visibility and transparency of funded projects. The platform covers data from all 27 Member States and contains information on 1.8 million projects and over 500 000 beneficiaries supported by the cohesion policy funds. DG REGIO also provides a continuously updated overview of its policy achievements on the Cohesion Open Data Platform, which offers transparent and timely data on implementation and achievements of
Committee on Budgetary Control

8. Which are the main challenges in 2022 and what are the measures taken to answer them regarding the implementation on the coinciding programmes under MFF 2014-2020 and MFF 2021-2027? In which areas could progress be reported?

**Commission’s answer:**

2022 was the last-before-final year of implementation of the programmes of the 2014-2020 period (end of eligibility in 2023) and at the same time again a challenging year in terms of tackling the negative effects of the COVID-19 pandemic from 2020-2021 and the consequences of Russia’s invasion of Ukraine, as underlined in the Commission reply to question 7 above, which impacted the subsequent adoption of 2021-2027 programmes.

The main measures to tackle the challenges included the adoption of the first two CARE proposals, which included a retroactive eligibility, increased flexibility to use the ERDF and the ESF interchangeably, an off-the-shelf simplified cost option (SCO) to cover the basic need of the refugees upon their arrival in a quick and simple manner. In addition, a EUR 3.5 billion immediate increase of liquidity was provided to all 27 Member States at the end of April 2022 (as increased pre-financing related to REACT-EU 2021 tranche targeting the Member States under the biggest migratory pressure). Furthermore, 155 programmes (101 REGIO + 54 EMPL; across 18 countries and Interreg programmes, out of 416 programmes) opted for 100% EU co-financing for the accounting year from 1 July 2021 to 30 June 2022, with the total effect of top-up of EUR 6.6 billion in claims (of which ERDF EUR 3.8 billion and Cohesion Fund EUR 1.2 billion). This accelerated the payments in 2022. Due to capping, EUR 5 billion was paid in 2022, while the remaining balance was paid or cleared following the acceptance of the accounts in the first half of 2023.

In June 2022, the Commission proposed a third element complementing the previous two CARE amendments (FAST-CARE), allowing administrative simplifications, increasing to 15% the flexibility at closure between priority axes and more flexible rules for phasing, increased flexibility to use the three cohesion policy funds interchangeably under certain conditions, extended CARE off-the-shelf SCOs to cover the basic need of the refugees and offering additional liquidity through increased pre-financing from both periods – 2014-2020 as well as 2021-2027.

In addition, a special website addressing Ukrainian refugee crisis was set up in March 2022, accessible to the relevant programme authorities with access to all the interpretation replies on the use of all available EU resources, covering also the AMIF and the Union Civil Protection Mechanism.
The SAFE measures, which entered into force on 1 March 2023, have enabled Member States to use their 2014-2020 funds up to 10% of their 2014-2020 cohesion policy allocations to support vulnerable families and SMEs facing increased energy costs, as well as workers through short-term and equivalent work schemes. For such measures, SAFE offered the possibility to have 1) a 100% EU co-financing under dedicated priorities and 2) flexibility for using the remaining 2014-2020 cohesion policy funds, such as use of the three cohesion policy funds interchangeably, support from any category of region, retroactive eligibility from 1 February, possibility to select already completed operations and before the programme amendment is approved. The Commission provides support to programme authorities to seize these opportunities, and it organised a SAFE workshop for all interested Member States on 14 March 2023.

These regulatory changes led to challenging and urgent further re-programming of 2014-2020 programmes in 2022 and 2023. In total, until September 2023, around 488 DG REGIO programme amendments stem from the coronavirus pandemic or the Russian invasion of Ukraine. They are the so-called crisis-related amendments (including CRII(+), (FAST)CARE and SAFE amendments). The Member States have reprogrammed a total of EUR 1.2 billion for CARE-related measures (16 Member States, BE, BG, CZ, DE, DK, ES, FR, HU, IE, IT, LV, LT, PL, PT, RO and SK). Overall, the support of cohesion policy to displaced people from Ukraine could add up to EUR 1.5 billion.

SAFE is either planned or already used in 11 Member States (BG, CZ, EL, ES, FR, HU, IT, LV, MT, RO, SK), totalling EUR 4 billion of EU support (including EUR 2.3 billion ERDF and EUR 1.1 billion Cohesion Fund).

With all these flexibilities introduced for 2014-2020 funds in the last years of the eligibility period, the Member States had additional significant possibilities to finalise implementation successfully – allowing for full absorption of 2014-2020 allocations - as well as to address their most urgent needs. This also impacted the closure proceedings for 2014-2020 (revised Closure guidelines published in December 2022 to include the changes stemming from FAST-CARE as well as changes in response to Member States’ requests for more flexibility at closure in relation to non-functioning operations, as a result of shifting allocations to new priorities). The Commission has worked closely with programmes considered to be in difficulty, helped them tackle implementation issues and where necessary provided them with technical assistance and advisory support. For more details on administrative capacity measures put in place, please see the Commission reply to question 23 below.

In parallel with these measures and despite the continuing challenges in 2022 as a consequence of the various crises, the adoption of 2021-2027 cohesion programmes was completed in 2022 (early 2023 for a few remaining programmes, see also details in the Commission reply to Question 25 below).

9. In light of policy performance indicator number 4, which assesses household broadband access, and considering the Commission’s Digital Decade goal to provide Gigabit network
coverage to every European households, the reported 3% increase in achievements seems inadequate to meet the 2030 objective. Given the annual 3% increases are insufficient to achieve the Digital Decade objective of providing Gigabit network coverage to all European households, what specific changes are required in cohesion policy and related projects to expedite progress and meet the 2030 goal?

**Commission’s answer:**

The referred policy performance indicator is a snapshot of cohesion policy’s contribution to the EU’s connectivity objectives from the 2014-2020 funding period. While the year-on-year increase between the 2021 and 2022 AARs (latest report reflecting the situation at end 2021) is small, by end 2021, 53% of the target was already implemented, and operations were already selected with a forecasted achievement of 99% of the target once fully implemented and declared. The programme authorities concerned are therefore confident that their individual programmes will achieve the target at closure.

The EU’s digital targets were revised in 2021 with the new 2030 Digital Decade objectives, which now covers four areas:

- **Skills:** 20 million employed ICT specialists, 80% of adults able to use tech in everyday tasks;
- **Government:** Key public services 100% online, eID and health records accessible online;
- **Infrastructure:** Gigabit connectivity for everyone, high-speed mobile coverage (at least 5G) everywhere, EU produces 20% of world’s semiconductors, 10 000 cloud edge nodes, EU quantum computing by 2025;
- **Business:** 75% of companies using Cloud, AI or Big Data, doubling the number of unicorn startups, 90% of SMEs taking up tech.

These objectives are to be reached by all relevant investment sources, including an estimated contribution of EUR 26 billion from cohesion policy and others (EUR 6 billion from Horizon Europe, EUR 1.3 billion from CEF, EUR 117 billion from RRF, etc.).

Cohesion policy’s contribution towards the new objectives takes place in a coordinated manner with the other funding instruments and continues supporting digital transition and digital infrastructures in the current 2021-2027 period. The Commission specifically supports the EU-wide network of Broadband Competence Offices, addressing the digital divide and the lack of capacity in certain Member States to plan, manage and implement broadband projects.

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4 Information on estimated funding under the Implementation of the Digital Decade objectives and the Digital Rights and Principles
The objectives of the 2030 Digital Decade set the European digital ambition for fixed and mobile connectivity for all European citizens. Most investments into digital networks must be done by private telecom operators. The EU’s role is to incentivise private investments by a favourable EU regulatory framework that promotes investment into digital infrastructures (EU’s Electronic Communications Code), not to fully finance the connectivity targets. Moreover, cohesion policy funding is meant to help Member States and regional authorities fill investment gap in areas that could not be served properly by the market, for instance remote and rural areas, and is not intended to replace private investments. In addition to cohesion policy funding, other sources such as the RRF provide support to connectivity as one of its nine flagships.

Investments planned by the cohesion policy in the 2021-2027 programming period will continue supporting areas underserved by the market. The overall contribution to the digital transition targets amounts to EUR 40 billion. For the digital sector the investments include nearly EUR 13.6 billion of which EUR 11.2 billion envisaged for digital services and digitalisation of business and public administrations. EUR 2.3 billion earmarked for high-speed mobile and fixed digital infrastructures (this is further supplemented by similar investments via the RRF). Investment that help reaping the benefits of digitalisation foreseen by all Member States via some 144 national and regional programmes. Support to high-speed digital connectivity infrastructures is planned by 15 Member States via 35 national or regional programmes.

At the same time cohesion policy continues supporting measures that address digital divide by reinforcing demand for broadband by financing the adoption of applications and services as well as ability to use and exploit digital connectivity (eSkills, digital expertise, technology exploitation/data analysis and data handling) among the general population and in SMEs.

10. In consideration of the policy performance indicator number 6, which assesses the payment rate for 2014-2020 programmes, the 2022 outcome is regarded as subpar. As both the Commission and the European Court of Auditors have noted, the final year of funding programmes puts additional pressure on national structures to ensure the utilisation of all available funds. This extra pressure often results in increased rates of errors and unintended mistakes.

In light of the 2022 payment rate, what insights has the Commission gained, and what modifications can be made to the ongoing 2021-2027 program to prevent such low rates in the last-before-final year of programme implementation?

Commission’s answer:

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6 [Cohesion policy supporting the digital transition 2021-2027](https://data.europa.eu/qt/4.0/coh20212027) [Data | European Structural and Investment Funds (europa.eu)]
Performance and absorption issues are addressed throughout the whole programming period, and the Commission notes the catch-up in absorption since 2022 and until the end of 2023.

The implementation of the 2014-2020 cohesion policy programmes progressed well in 2022 (79.2%). The net payment rate has continued to increase throughout 2023 and currently stands at almost 86% of the combined ERDF and Cohesion Fund allocation for the 2014-2020 period (including newly added REACT-EU in 2021-2022). This rate of absorption is very close to that witnessed at the end September 2015, the final year of eligibility for the 2007-2013 programming period, when it was also some 85%. The concentration of claims in the last months of the year as well as the end of programming period is a usual occurrence. It is common that many projects (in particular major infrastructure) are finalised at the end of the period and large parts of commitments are paid out towards the end of the programming period. As previously mentioned in the Commission’s reply to Question 5, the eligibility period for these programmes runs until the end of 2023, but expenses will continue to be declared and paid during 2024 (or possibly 2025, if the STEP proposal is adopted).

The Commission works jointly with the Member States to identify implementation risks and to minimise them – during the daily work with the managing authorities, the monitoring committees, annual performance review meetings, ad hoc communication, possible action plans and road maps. The Commission is continuously monitoring the programmes at risk of delays to help prevent under-absorption and potential decommitment. Striving to ensure full absorption, the Commission also provides substantial support to Member States, including technical assistance and advisory services to improve their absorption capacities, and will continue doing so in the 2021-2027 period. The Commission refers to its reply to Question 22 below for more details on these actions.

Learning from the lessons of the 2014-2020 period, for the 2021-2027 period, the Commission proposed a series of simplification measures to facilitate and accelerate the implementation of cohesion policy. While most of those have been retained in the political agreement reached between the co-legislators, the Commission regrets that resuming to the N+2 decommitment rule has not been approved by the co-legislator. At this early stage of the new budgetary cycle, the Commission considers that the effects of keeping the N+3 decommitment rule, in combination with the late agreement on the legislation governing most of the funds in shared management, and the focus of national authorities on the implementation of NextGenerationEU in the next years given its more limited time frame, could lead to maintaining the trend of slow absorption and nominally growing RAL during the 2021-2027 MFF. In addition, the proposal from the European Parliament under STEP, supported by Council, to extend the eligibility period for 2014-2020 by 12 months (until the end of 2024) might further delay the implementation of the 2021-2027 period.

As regards the delayed implementation of 2021-2027 programmes, Member States need to step up implementation efforts to reduce de-commitment risks and cumulation of
delays in the years to come, and the Commission stands ready to support and help with any issues hindering the smooth implementation.

Based on all audit results reported by Member States and the Commission’s own audits, the Commission has no evidence that a potential risk stemming from the end-of-period pressure would have already materialised. The risk at payment for 2022 as reported in the AAR of DG REGIO is estimated to be in the range between 1.9% and a prudent maximum of 2.7%, which takes account of additional risks, ongoing audit contradictory procedures and a prudent approach for programmes never audited on the spot by the Commission. This estimated level of risk is in line with the previous year. As mentioned above, the Commission will continue its actions, together with programme authorities, to ensure a sound and efficient use of available resources.

Questions concerning absorption

11. As is the case for the last MFFs, we again see delays in the implementation of Regional policy at the beginning of the MFF. MSs are still focusing on ensuring that they do not lose money from the previous programming period. The latest monthly update of the Commission shows implementation rate (including pre-financing) for 2014-2020 at 87% while for 2021-2027 just 2.5% - mostly pre-financing. Can we expect close to 100% implementation/absorption rate in 2014-2020? What about 2021-2027, would you say that we are in a better/worse situation at this time compared to the last MFF?

Commission’s answer:

As previously mentioned in the Commission reply to previous Question 10, the net payment rate has continued to increase to 79.2% at the end of 2022, and currently stands at almost 86% of the combined ERDF and Cohesion Fund allocation for 2014-2020. This shows that the pace of absorption is now very close to that witnessed at the end September 2015, the final year of eligibility for the previous programming period when it was also at 85%. For individual programmes, the rate of payments might further accelerate due to the ongoing SAFE reprogramming where Member States are redirecting uncommitted amounts to priorities with EU co-financing rate of 100%.

The level of progress in implementation varies across Member States and programmes: many have already reached a high level of spending beyond 90% (detailed information by Member State is available on the Cohesion Open Data Platform, with EU payments statistics being updated daily). It is also expected that many projects (in particular major infrastructure operations) are finalised at the end of the period and large parts of commitments are paid out towards the end of the programming period.

Taking into account the current open EU amounts still to be covered by interim claims for ERDF and Cohesion Fund in 2014-2020 (some EUR 58 billion), and the Member States’ forecasts of payment claims for 2023 and 2024, the Commission is confident that
the absorption will improve further and reach 98.5%: the amounts to be decommitted and/or recovered at closure are provisionally projected to be close to EUR 4.4 billion or 1.5% of the total allocation for the ERDF and the Cohesion Fund. This risk of decommitment as it stands now is comparable to 2007-2013 when the decommitted amount was EUR 4.3 billion (or 1.6% of the total allocation for ERDF and the Cohesion Fund). Further factors may influence this indicative projection of the amounts at risk:

- accuracy and effective implementation of the Member States’ forecasts,
- possible impact of certain ongoing audits or, on the other side,
- the possible boosting effect on absorption of making full use of the flexibilities introduced to address the new challenges since 2020, in particular through the packages of CRII (to mobilise EU cohesion policy to face the crisis), CARE (to address the situation of people who are fleeing Ukraine as a result of the Russia’s invasion of Ukraine), as well as the SAFE initiative (to address the ongoing energy crisis).

The Member States have additional significant possibilities to finalise implementation of 2014-2020 programmes successfully – allowing for full absorption – as well as to address their most urgent needs due to these crises (and notwithstanding the on-going STEP proposal). Therefore, the Commission has reasons to believe that there will be less decommitments at closure at the end of 2014-2020 than for 2007-2013.

As mentioned under the reply to Question 8, the programming and implementation start of the 2021-2027 period was delayed (more than 18 months), similarly to the start of the 2014-2020 period. Currently, the project selection and payment rates should be assessed also taking into account the unprecedented crises coinciding with the start of the programming period. Comparing the first years when actual implementation started in the two periods, the current implementation situation of the 2021-2027 period (2%, or c. €9.4bn) is however very similar to the one at an analogous time in the previous MFF (3%, or c. €9.4bn).

**Questions concerning the relationship between Cohesion policy and the RRF**

12. What is the relation between regional funds and the RRF. Is there a competition between the 2 models? Would you say that the moment when the RRF was approved, led to MSs focusing more on the programming of this instrument, rather than cohesion funds?

**Commission’s answer:**

Complementarity (instead of competition) characterises the relation between the cohesion policy funds and the other additional EU financing instruments, notably the RRF. The availability of other resources, including the RRF, gives a way to a multitude of synergies and flexibilities to Member States. Both the Partnership Agreements for 2021-2027 cohesion policy programmes and the national Recovery and Resilience Plans (RRPs) include a description on the complementarities with other EU instruments. This
is a basis for further coordination arrangements between the different instruments to make sure that complementarities are used and synergies harnessed.

The RRF gives support principally to some key reforms and investments of a wider national scale, which may then be implemented across the whole country and complemented by the regional approach of Cohesion policy funds. For instance, the Portuguese RRP supports the digital transition of the national public administration, while the ERDF will support local administrations (including digitalisation).

The reforms included in the RRPs and the enabling conditions attached to Cohesion policy are also de facto mutually reinforcing and contribute to a more effective implementation of investments. Enabling reforms aimed at reducing investment bottlenecks, improving administrative capacities and speeding up permit-granting procedures may, for instance, help ensure that investment projects subsequently financed by the RRF or Cohesion are implemented in an efficient and timely manner.

Moreover, close cooperation between the different Commission services ensures synergy and knowledge about the Member States’ objectives under the RRF and Cohesion policy. For further details, please refer to the Commission reply to Question 13 below.

The COVID-19 crisis and the Russian invasion of Ukraine affected the spending needs of the Member States in the past years. The national and regional authorities had to shift their focus on reprogramming the 2014-2020 Cohesion policy programmes, including to introduce measures funded under CRII(+), REACT-EU, (FAST)CARE and SAFE, as well as programming the RRF (design of RRPs), in order to address different crisis, recovery and rescue measures. In the light of these past challenges, the need to prioritise and use the available flexible funding provided by the additional instruments, including the RRF with a more limited lifetime, led indeed to a delay in carrying out and wrapping up the negotiations on the 2021-2027 Cohesion policy programmes.

13. How is synergy between the RRF and Cohesion policy ensured? What are measures in place to avoid double funding between RRF and the Cohesion policy instruments?

**Commission’s answer:**

Synergies between the RRF and cohesion policy are ensured through close cooperation among relevant Commission services. For instance, DG REGIO and DG EMPL were fully associated to the assessment of the national RRPs under the RRF, thus ensuring full synergy and knowledge about the Member States’ objectives under both policy interventions, RRF and cohesion policy funds.

Both instruments explicitly foresee the possibility for complementary funding, such as in RRF Regulation Article 9: “Reforms and investment projects may receive support from other Union programmes and instruments provided that such support does not cover the same cost.” While concurrent support by RRF to that of cohesion policy could
theoretically increase the risk of double funding of projects, such risk is largely and proactively mitigated by several provisions and mechanisms.

Based on the legal provisions, pursuant to Article 63(9) of the CPR, expenditure in a payment application for one of the funds shall not be included elsewhere under the same fund, or under another instrument. This restriction is already enforced under the 2014-2020 CPR (Article 65(11)) and is – and will continue to be – closely monitored through Member States’ control and audit activities. This provision is also strongly emphasised in the selection criteria of the projects.

On the RRF side, measures aiming to prevent double funding are implemented at various levels. These measures are first implemented by the Member States who are primarily responsible, according to the RRF Regulation. In the design phase of national RRPs, Member States must clearly differentiate measure funded under the RRF and measure benefiting from other EU funds. When a measure is financed through the RRF and other EU funds, the estimated cost of projects under the RRF must exclude all actions financed by other EU funds. In the negotiation phase of the RRPs, all relevant Commission services cooperate to ensure that Member States have sufficient preventive mechanisms to avoid double funding. During the implementation of the plan, 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). In the management declaration accompanying its payment request, the Member State shall confirm the absence of double funding and the Commission carries out audits of national control systems to ensure these are adequate and functional to avoid double funding. Member States must also collect and report data on any investment or reform supported under their RRP which has or is receiving funding from any other Union programme. Moreover, as part of the Operational Arrangements signed with the Commission under the RRF, Member States also commit to jointly organise an annual event to discuss complementarity, synergy, coherence and consistency between the implementation of the RRP and the other EU programmes, including cohesion policy funds.

On the cohesion side, Member States have the obligation under the CPR to put in place an effective and efficient control system to prevent, detect and correct irregularities, including double funding. The audit authorities carry out system audits (including control testing) to confirm the effectiveness of management and control systems, including the system in place to prevent irregularities such as double funding. At the project level, audit authorities also cover the risk of double funding in their annual audits of representative samples of operations, for example by checking for each audited operation that the expenditure is kept in separate accounts or under a separate accounting code or by verifying the revenues of beneficiaries.

The supervisory role of the Commission is implemented through audits tailored to target high-risk areas. To the extent that a specific risk of double funding is identified for specific programmes and/or Member States, thematic or compliance audits can be implemented under either instrument, both at the level of the systems to avoid double
funding or at the level of operations and beneficiaries of the funds. Such audit results (audit findings and conclusions) and identified risks are systematically exchanged between the responsible Commission audit services for cohesion (DAC) and for the RRF to ensure that risks, including double funding, are effectively identified and mitigated. Formalising and expanding earlier cooperation, in April 2023, a Memorandum of Understanding was agreed between DG ECFIN, DG REGIO and DG EMPL for this purpose.

Regarding specifically the risk of double funding between the cohesion policy funds and other funds, including the RRF, the DAC organised in 2022, with all audit authorities, a session dedicated to exchanging good practices on measures and tools implemented at various levels aiming to prevent or detect double funding: data mining tools, checked self-declarations from final recipients, eligibility issues specific to each of the funds. Most Member States also use the same IT systems already in place for cohesion policy funds also for the RRF, which allows to identify any overlap. On the EU-level, IT tools can also be used to identify double funding (KOHESIO, Financial Transparency System, ARACHNE). In particular, a single integrated IT system for data mining and risk-scoring like ARACHNE (that contains data for cohesion programmes and RRPs) can be an effective tool to identify the risk of double funding and to implement appropriate control and audit procedures. Currently, 20 Member States use ARACHNE for cohesion and 19 Member States confirmed that they intend to use it for the RRF, while other Member States show interest for both policy areas.

In addition, the Commission has included in its internal control framework in the context of the RRF the following steps:

- The additionality of the support provided by the RRF with regard to other Union funds and programmes is part of the eligibility check in the assessment by the Commission of the initial RRP. The Commission can require that additional measures are implemented to improve the control systems by including additional milestones in the plan.

- The Commission checks the information on complementarity of EU funds reported by Member States in FENIX, and cross checks information on IT platforms such as ARACHNE, KOHESIO and the Financial Transparency System (FTS) in the framework of its ex-post audits on milestones and targets.

- During its ex-post audits on milestones and targets, the Commission verifies the absence of double funding based on a statistical sample of projects for the selected targets, at three levels: coordinating body, implementing body and final recipients.

- In addition, the Commission audits the national control systems, including the systems in place to avoid double-funding.

For both cohesion policy funds and the RRF, the Commission is empowered to recover funds or launch financial corrections if double funding is discovered and not corrected
by the Member States in first instance, or in case Member States commit serious breaches of the obligations included in the RRF financing and loan agreements.

14. To what extent is there coordination between the RRF investments and regional policy investments at national level? Do you see duplications or lack of coordination?

**Commission’s answer:**

As required by the respective regulations, investment planned and implemented under the two instruments must be coordinated and programming documents under both instruments must specify how the complementarity is envisaged. Therefore when developing (in parallel) their RRFs and their 2021-2027 Partnership Agreements and programmes under cohesion policy, Member States also developed at national level arrangements and methodologies to coordinate cohesion policy funds and the RRF to ensure complementarity between the two EU funding streams (for example: demarcation lines and mapping by programme priorities; thematic and time-wise demarcation developed at national, programme and project level). DG REGIO and DG EMPL assessed the complementarity of the negotiated 2021-2027 Partnership Agreements with the RRFs based on the section of Partnership Agreements referring to “complementarities and synergies between the funds covered by the Partnership Agreement and other Union instruments”.

Member States have, where needed, indicated the demarcation strategy, complementarities planned between the funding streams as well as governance arrangements to ensure exchange of information between authorities granting support from cohesion policy funds and the RRF.

While the two funds share, to some extent, similarities in terms of policy objectives, the Commission considers that overlaps and duplications between cohesion programmes and the RRF are largely avoided in view of the demarcations set out at national level and reflected in each instrument’s programming documents and in the RRFs.

As further detailed in the Commission replies to Questions 5, 12 and 13 above, several measures have been put in place to coordinate the simultaneous implementation of the RRF and of cohesion policy, to avoid the risk of double funding and to address issues related to the administrative capacity of the relevant national administrations.

From an operational point of view, Member States were requested to introduce strong coordination mechanisms for the programming and implementation of both instruments. In 12 Member States, the same bodies are responsible for designing and implementing both cohesion policy funds and the RRF, and audit authorities in all Member States but three are auditing both instruments, which contributes to ensuring a coordinated approach to the risk of double funding. An example of good practice is the obligation set in the Partnership Agreement of Italy to include a representative of the entity responsible for the implementation of the RRF in the monitoring committee of every programme co-financed by cohesion policy. The objective is to ensure permanent
dialogue with the managing authority of the relevant programme and thus avoid inconsistencies and exclude possible risks of double funding.

The Commission is currently carrying out a study on synergies and complementarities aiming at assessing the extent of use of options for coordination, demarcation and complementarities among CPR funds and complementarities and synergies between CPR funds and other EU funds and instruments, both at strategic and implementation level, in particular with the RRF. The study covers a specific assessment of strategic complementarities between cohesion policy funds and the RRF with a focus on the coordination mechanisms set up in Member States between the two instruments. The study will also assess the use of and justification for transfers and contributions as set out in the partnership agreements and in concerned approved programmes. The results of this study are expected to become available by end of December 2023.

15. Would you say that in terms of controls, audit, detecting fraud, the situation is better at the end of 2014-2020 programming period than the previous programming period? Do MS have adequate administrative capacity to ensure sound financial management for both RRF and cohesion funds?

Commission’s answer:

The parallel implementation of RRF resources and cohesion policy funds may put pressure on the Member States’ administrative capacity, as mentioned in the Commission’s reply to Question 23.

The Commission considers that the assurance model for 2014-2020 is strengthened compared to 2007-2013, thus ensuring overall lower error levels in each reporting year and an increased capacity to timely detect system deficiencies, (serious) irregularities and fraud. The strengthened process includes submission by the Member States’ authorities of their assurance package for each programme on an annual basis. Audit authorities audit both systems (346 audit reports provided to the Commission in 2022 with conclusions on the effectiveness of the audited part of the management and control systems) and representative samples of operations (using statistical methods), to ensure that the declared expenditures are compliant with all applicable rules. On this basis, audit authorities provide to the Commission each year in their assurance packages independent audit opinions on 1) the effectiveness of management and control systems in the year, 2) the legality and regularity of expenditure certified in the annual programme accounts and the completeness, accuracy and veracity of the produced programme accounts. All 2014-2020 programmes are thus covered by audit activities each year (when in 2007-20213 audit authorities were called to provide an audit opinion and cumulative residual risk rate only at the closure of the programmes).

The Commission undertakes each year various actions to support the programmes’ managing and audit authorities to improve their administrative capacities through specific guidance, targeted support, continuous training and professional development,
peer-to-peer exchanges of experience to share good practices, transnational networks to
simplify procedures and to avoid gold-plating and targeted audit recommendations to
implement the necessary remedial action when deficiencies are detected. The
Commission also promoted the development of roadmaps for strengthening of
administrative capacity and supported Member States in their efforts to develop such
roadmaps. By the end of 2022, roadmaps for administrative capacity building had been
finalised in 14 Member States. On the audit side, given the multiple funding sources
available, the DAC continued in 2022 to carry out specific audit capacity initiatives to
support audit authorities focusing on the main risks for the legality and regularity of
expenditure (exchanges of practices and audit tools, jointly established guidance and
methodological papers, discussions on additional errors detected by Commission or
ECA audits, lively community of auditors / practitioners). Multilateral meetings with all
Member States’ audit authorities as well as the annual bilateral audit coordination
meetings with each audit authority allow for exchanges of good practices, the design of
adapted joint methodological tools and clarification of problems raised during
implementation or audits. During such meetings, for example, the DAC shared and
discussed with audit and managing authorities their audit findings to exchange know-
how on detection, audit and control work in various areas (see Commission reply to
Question 1 above).

At the time of the design of RRPs, the DAC monitored if the audit authorities responsible
for cohesion policy funds were to take on additional responsibilities in relation to the
RRF. In cases where the DAC considered that the audit capacities in the Member States
might have been insufficient to tackle the additional tasks, the Commission sent out
letters to the relevant Member States, outlining the challenges ahead for the audit
authorities and the need to strengthen their human resources proportionally to the
increased tasks (e.g. France, Ireland, Luxembourg). This request was also brought
forward during annual bilateral audit coordination meetings with all audit authorities,
to enquire about the sufficient administrative capacity and related resources affected for
the management and audit of the increased funds.

As far as the RRF is concerned, the Commission (DG ECFIN and SG/RECOVER)
cooperates with national coordination bodies and audit authorities on an ongoing basis.
General support to the implementation is provided through bilateral discussions,
exchange in a dedicated informal RRF Expert Group, and through regular monitoring
and coordination. Written guidance was provided notably as part of the official guidance
on the preparation of the RRPs, and through written and oral exchanges during the
preparation and later implementation of the plans. Based on the initial assessment of the
RRPs and the deep engagement during this process, the plans themselves already include
a description of the relevant monitoring and control structures, which have been assessed
by the Commission. Member States integrated various measures increasing capacity or
otherwise fostering implementation in their plans. These concern for instance the set-up
of dedicated teams or the recruitment of experts to support the national authorities.
Reforms often have a wider impact and help to improve national processes and
procedures. Concerning the national audit authorities, the Commission supports their
work for example through bilateral meetings, or through joint events and meetings. Such meetings are used to discuss and share experiences gained during the audit work and to share information or clarifications on guidance and requirements. A technical meeting with RRF audit authorities took place on 23 October 2023. Upon request, Member States can also receive support from the Technical Support Instrument (TSI), the Commission's instrument for tailor-made technical expertise to Member States to design and implement reforms. Several Member States have for instance used it to improve their control systems and monitoring arrangements. The Commission also facilitates the exchange of good practices between Member States and encourages them to share their experience while implementing the RRP, including on audit and control.

Moreover, the Commission provides Member States with free-of-charge access to the data mining tool ARACHNE to increase their capacities to detect fraud suspicions, in cohesion programmes and RRPs. It encourages them to systematically use the tool and its newly released ex-ante module to better identify and prevent fraud and corruption, conflict of interest or double funding due to the increased funding available. In 2022, the number of connections and active users increased. In addition to the Commission’s daily assistance to the Member States on the use of the tool and provision of the necessary data, 91 Arachne presentations, trainings and workshops were performed in 2022, attracting hundreds of participants from the participating Member States.

**Questions concerning audit and control**

16. The implementation of which recommendations by the Court of Auditors and the Internal Audit Service in 2022 could be considered as most beneficial for improvement of the management and control of EU funds under your responsibility?

**Commission’s answer:**

The Commission welcomes system-related recommendations issued by both the ECA and the Commission’s Internal Audit Service (IAS) and generally accepts all of them as they aim at further improving management and control systems at all levels. The IAS recommendations by nature focus on the adequacy and strengthening of the Commission’s internal procedures and control systems, whereas the ECA has a larger scope through its mandate and provides audit results and recommendations at both Commission and Member States’ levels.

In its 2022 Annual Report, the ECA issued a recommendation on the need to continue planning and implementing focused thematic audits on conflicts of interest for the 2021-2027 programmes, based on the Commission’s own risk assessment. Such audits were already carried out during the 2014-2020 period and the Commission will build on its methodology and experience to continue such audits in the current programming period. The ECA also issued a recommendation to improve checks by audit authorities of self-declarations issued by beneficiaries of the funds. This recommendation calls on reflecting on the most appropriate methods to ensure the validity and reliability of those
declarations when other sources of assurance are not available, and on sharing good practices identified between Member States to improve their control procedures. Finally, the Commission stresses the strategic importance of the recommendation issued on the deployment of the single integrated IT tool for data mining and risk-scoring. The Commission shares the view that the use of such a tool should become mandatory (after a transitory period to allow Member States to adapt) to improve anti-fraud measures at all levels, and therefore calls on the European Parliament to support its proposal for an update of the Financial Regulation, as tabled in May 2022.

As regards the Internal Audit Service, it carried out in 2021 an audit on the procedures to manage interruptions, suspensions and financial corrections by DG EMPL, DG REGIO and DG MARE. The IAS recommendation to further improve the related monitoring procedures ensured that more timely corrective measures are implemented by Member States and that, this way, the functioning of the management and control systems is improved faster when deemed necessary. Moreover, the checklist filled in by desk officers before executing payments has been reviewed with a view to better clarify that no payment can be authorised to a non-functioning programme or authority.

17. How does the Commission assist Member States and their audit authorities to address the risk of fraud and to report suspicion of fraud?

**Commission’s answer:**

The Commission designed and implemented further key measures as part of the recently updated action plan to its Anti-Fraud Strategy, and based also on its Joint Anti-Fraud Strategy for cohesion policy, to help Member States authorities to systematically prevent, detect and report irregularities and fraud.

Under the CPR, one of the key elements of the monitoring and control systems in Member States is related to the effective implementation of proportionate anti-fraud measures which programme authorities need to put in place at the start of the programming period based on a fraud risk assessment, and to continuously operate and audit during the programme implementation. These measures are structured around four elements in the anti-fraud cycle: prevention, detection, correction and prosecution. As part of a guidance note on anti-fraud measures, the Commission has developed for the 2014-2020 period a fraud risk-assessment tool, that is still applicable and used by programme authorities for the 2021-2027 programmes.

In the last years, the Commission has also ensured that Member States put in place effective and proportionate anti-fraud measures, specifically following adoption of CRIIII/CRII+ and REACT-EU crisis response measures to mitigate the effects of the pandemic. In order to support the programme authorities in strengthening their work to identify and prevent fraud and corruption affecting cohesion policy funds, the Commission invited Member States to make systematic use in the project selection,
award and implementation phases, of the Commission data-mining and risk-scoring tool ARACHNE and in particular of its newly released ex ante module.

As a follow-up of to ECA Special report 6/2019, the Commission also introduced specific fields in its audit checklists for operations and system audit, and has shared these checklists with audit authorities who were encouraged to use them to better document the work done on detecting fraud indicators in their audits of operations. As a result, the audit checklists used by audit authorities include specific controls regarding fraud identification in the audited operations and measures taken.

This practice is given follow up as is confirmed by the recent findings of the Court. The ECA reports in paragraph 6.56 that audit authorities explicitly addressed the risk of fraud for 65% of the operations the Court audited, an improvement compared to the 38% reported by ECA in 2021. The Commission will continue to ensure that audit authorities appropriately document in their checklists how they covered the risk of fraud during their audits of operations. To encourage Member States to better and more systematically report fraud suspicions, the Commission also embedded in its audit procedures an additional check on whether the responsible Member State’s authorities duly reported in the Irregularity Management System (IMS) errors and irregularities detected through audits or controls at national level. The Annual Control Reports contain information on how the audit authorities considered covering the risk of fraud in their audits and if they have detected any fraud or suspected fraud in the context of their audit work, as well as if there are cases reported following the controls carried out by other national or EU bodies. The DAC verifies those aspects, as well as the effectiveness of measures taken in cases of reported suspicion of fraud, including the relevant information to OLAF and the EPPO where relevant. Based on DAC audit work, or any information that comes to its knowledge, information about suspicions of fraud and corruption is systematically transmitted to OLAF which has specific investigative responsibilities, powers and techniques to administratively investigate fraud or to forward the information for criminal investigation to the EPPO.

With the help of OLAF, awareness of all audit authorities was raised in 2022 and again in 2023 on the reduction in numbers of reported irregularities and fraud suspicions compared to the previous programming period. The Commission services, with OLAF in the lead, will continue to remind Member States of their obligations regarding fraud reporting. OLAF also intends launching a revision of the “Handbook of irregularities reporting in shared management” before the end of 2023. This process will involve experts from other Commission services and the Member States.

Finally, for 2021-2027 period, the CPR includes enhanced obligations for Member States on prevention of fraud and avoidance of conflict of interest, including collection in the Member States’ electronic management systems of data about beneficial owners of beneficiaries and their contractors. Furthermore, new requirements in relation to the prevention of any conflict of interest and transparency, apply for monitoring committees. Regarding financial instruments, the CPR explicitly requires that final
recipients are selected transparently and that their selection does not give rise to a conflict of interest.

18. What measures could explain the increase from 38% to 65% in transactions where audit authorities explicitly addressed the risk of fraud? Is it possible to reach 100% of transactions?

**Commission’s answer:**

As mentioned in the reply to question 17 above, in its 2022 Annual Report (paragraph 6.56), the ECA reported that audit authorities explicitly addressed the risk of fraud for 65% of the operations the Court has audited in the 2014-2020 period (145 of 222). The Court confirmed this is an improvement compared to the 38% it found in 2021.

During its annual assessment of assurance packages, the Commission verifies how the audit authorities have considered covering the risk of fraud in their audits and if they have detected any fraud or suspected fraud in the context of their audit work, as well as if there are cases reported following the controls carried out by other national or EU bodies. This is also checked by the Commission auditors during their audit missions. The Commission found that, while all audit authorities are systematically addressing the risk of fraud in their verifications for all the sampled operations, this work has not always been documented in an appropriate manner.

Following the related ECA recommendation two years ago, the DAC sent instructions to the audit authorities of the Member States to better document their work and to include in all their checklists clear information related to the risk of fraud identified during their audits of operation and measures taken. The objective is that in all operations audited, the risk of fraud is explicitly addressed and documented.

19. Why is the number of programmes under reservation for the 2014-2020 period in 2022 (81) higher than the number of programmes under reservation in 2021 (68)? Are there systemic reasons behind this increase?

**Commission’s answer:**

The figures on reservations referred to by the Honourable Members include both ERDF (DG REGIO) and ESF (DG EMPL). Reservations are made based on all cumulative audit results up to the submission of the assurance packages in February/March each year (including the most recent audit opinions and error rates submitted by audit authorities, and before DG REGIO/DG EMPL carry out their audits). Systemic reasons may appear behind the reservations made (e.g. in the case of HU for ERDF), but not always. In some cases, reservations may be made at subprogramme level (priority axis or implementing bodies) when the systemic deficiencies only affect a specific component of the management and control system, not used for the other activities under the same programme. In addition, reputational reservations are made for deficiencies of
a qualitative nature (e.g. significant systemic deficiencies or major control failures) which have a significant impact on the reputation of the Commission.

In its 2022 AAR, DG REGIO mentions a reservation concerning ERDF/Cohesion Fund management and control systems of the 2014-2020 period for 56 programmes (in 13 Member States and the UK, and including 11 European territorial cooperation and 1 ENI-CBC programmes), and a reservation concerning ERDF/CF management and control systems of the 2007-2013 period for six programmes (in three Member States). In 2021, DG REGIO put 46 programmes under reservation for the 2014-2020 period, and seven for 2007-2013 period in three Member States, and one IPA-CBC programme.

The main reasons for the 2022 reservations were:

- significant deficiencies at the level of key elements of the management and control systems with a material risk to the EU budget,
- a residual error rate >2%,
- material issues on the completeness, accuracy and veracity of the accounts.

The situation of reservations depends each year on specific audit results, detected deficiencies in the individual programme authorities, complexity of the management and control system (level of decentralisation and number of administrative levels involved), etc. For example, ten programmes in Portugal are grouped under a single audit sample per fund. Since undetected errors were identified in previous years by Commission and ECA audits in these grouped samples, any additional error raises the ERDF error rate above 2%, a reason for a reservation for all ten Portuguese ERDF programmes therefore collectively affected. For Hungary, a systemic issue detected in a 2022 DAC audit, linked to the absence of appropriate verification of public procurements by managing authorities has led to a reservation on the concerned seven Hungarian programmes under reservation. Where reservations are issued, the Commission has in all cases requested remedial actions which are being implemented by the Member States concerned.

In case of ESF programmes, the countries most affected by reservations in 2022 were again Hungary (six programmes for the same significant deficiencies related to the lack of corrective capacity in relation to public procurement red flags), but also Spain, France and Italy (four programmes each).

The Commission closely monitors the effectiveness of the corrective measures taken by the Member States to solve the issues which triggered the reservations. For example, for DG REGIO, 21 out of the 46 programmes under reservation in the 2021 AAR and 5 out of the 56 programmes under reservation in the 2022 AAR had been lifted by September 2023 following appropriate remedial measures taken by the Member States concerned.

20. For the 56 programmes from the 2024-2020 period under reservations, “the reasons for reservations are significant deficiencies in the functioning of the management and control
system (17 containing two cases of possible suspicions of fraud or corruption)“. What measures, including interruptions of payments, have been adopted?

**Commission’s answer:**

In 2022, the reasons for the 56 ERDF/Cohesion Fund programmes from the 2014-2020 period put under reservation are (reasons might be cumulative): significant deficiencies in the functioning of the management and control system (17 programmes including in two cases of possible suspicions of fraud or corruption) or in part of the system (14 cases). In addition, there are programmes with residual rate above the materiality level of 2% (12 cases) and deficiencies in the functioning of the management and control systems combined with residual rate above the materiality level of 2% (13 cases).

Annex 9 of the 2022 AAR for DG REGIO enumerates the full list of the 56 operational programmes put under reservation in 13 Member States, as well as the type and reasons for the reservation, the financial impact and the actions to be taken by the Member States (see also the examples provided in the Commission’s reply to Question 19 above).

As mentioned in this AAR Annex 9, the two cases where a suspicion of fraud or corruption had been identified referred to two Romanian programmes: the Regional operational programme (ongoing action plan on Integrated Territorial Instrument (ITI) of the Danube Delta, including on fraud suspicions, and deficiencies identified for 3 calls under one priority) and the Competitiveness operational programme (serious allegations of mismanagement and possible fraud/conflict of interest in the REACT-EU measures). The ITI Danube Delta case, under an interruption of payments, was subject of a thematic audit mission carried out by the DAC auditors in 2022, with a focus on the effectiveness of measures taken to avoid conflicts of interest in the specific context of integrated territorial investments. The final audit report identified weaknesses in the controls implemented by the programme authorities aimed at ensuring the compliance of selected operations with the State aid requirement of maintaining the investment in the ITI area. As regards the Competitiveness Operational Programme, the Commission requested the programme authorities to implement additional verifications to confirm the existence and extent of the suspected irregularities (IT equipment for teaching activities acquired with REACT-EU funding unused). If irregularities are confirmed, financial corrections will be applied. Additionally, these allegations are also verified by the DAC auditors as part of a thematic audit on the programme which is ongoing.

In both cases, payment requests will not be made until the necessary measures are implemented by the Romanian authorities.

For programmes under reservation, DG REGIO always requires targeted remedial actions to improve the functioning of the system or part of the system where deficiencies were identified with a view to prevent irregularities re-occurring in the future and requests the necessary additional financial corrections for past expenditure declared. Reservations are also generally accompanied by payment interruptions (if the risk is estimated above the 10% retention for Commission’s payments). For example, in case
of the ITI Danube Delta, the programme authorities have improved their controls and are monitoring the fulfilment of State aid requirements for the entire durability period. If conditions for support are not met in the operational phase, adequate financial corrections will be implemented.

21. On 15 December 2022, the Council adopted the implementing decision on measures for the protection of the Union budget against breaches of principles of the rule of law in Hungary. This included a suspension of 55% of the budgetary commitment to Hungary under three operational cohesion policy programs. Under the RRF, a total of 27 super milestones must be met by Hungary to ensure the effective protection of financial interests by the Union before any payment can be made under the RRF. This includes the effective implementation of all 17 remedial measures under the Rule of Law Conditionality Mechanism including those to combat corruption, measures to improve competition and transparency in public procurement, strengthen rules on conflicts of interest, increased audit and control requirements, measures to strengthen judicial independence, standard and control measures. As it currently stands, 21.7 billion EUR in cohesion funding cannot be reimbursed to Hungary since Hungary has not fulfilled the horizontal enabling condition on the Charter of Fundamental Rights of the European Union. It will be considered fulfilled once Hungary has taken the measures on the judiciary to which it has committed under the country’s Recovery and Resilience Plan. The Commission has stated several times that it will only release funds if all conditions are fulfilled. In the report of the delegation of the CONT Committee to Hungary there were several breaches of Rule of Law and European legislation described including strong weaknesses of the audit and managing authorities. Furthermore, the impartial access to European funds is not guaranteed as the Hungarian Government seems to prohibit access with arbitrary decisions and decrees against companies and NGOs. A lot of evidence about this situation was sent to the Commission.

- How does the Commission assess the fulfilment of the horizontal enabling conditions on the Charter, particularly taking into account the recent media reports on the Commission unfreezing EUR 13 billion of funds?

**Commission’s answer:**

The CPR sets out thematic and horizontal enabling conditions that have to be fulfilled by Member States throughout the whole programming period. This constitutes a major difference with the system that was applicable in 2014-2020 programming period, where “ex-ante conditions” had to be met only at the start of the programme.

One of these enabling conditions is the horizontal enabling condition on the “Effective application and implementation of the Charter of Fundamental Rights” (‘Charter
Committee on Budgetary Control

It applies to all programmes and all funds under the CPR and the assessment of its fulfilment is made by programme and specific objective.

Member States are required to ensure the continuous fulfilment of the Charter HEC, like all other enabling conditions, throughout the entire programming period and to inform the Commission of any new elements that may have an impact on its fulfilment. In addition, the Commission may also at any moment, on its own initiative, based on new elements which come to its knowledge and which have an impact on the fulfilment of the enabling condition, consider that it is no longer fulfilled. Commission’s reimbursements of expenditure possibly declared by Member States to the Commission under the specific objectives affected by the non-fulfilment of the Charter HEC are not possible.

In order to fulfil the enabling condition on the Charter, Member States have to put in place effective mechanisms to ensure compliance with the Charter, which include:

1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter;
2. Reporting arrangements to the monitoring committee regarding cases or complaints of non-compliance with the Charter affecting operations supported by the Funds.

The Member States provide the Commission with a self-assessment to this end. In its self-assessment of 2022, the Hungarian Authorities considered that they fulfilled all horizontal enabling conditions, including the one on the Charter of Fundamental Rights.

On 22 December 2022, on the occasion of the adoption of the 2021-2027 Partnership Agreement and all related Hungarian programmes, the Commission disagreed with Hungary’s self-assessment and considered that the implementation of the funds risks violating the Charter in several key areas:

- First, the right to academic freedom is at risk. This is due to the transfer of organisational and operational competences in formerly public universities to a Board of Trustees. These trustees are appointed by the government for life and have considerable influence on issues like selection of teachers, definition of curricula and research projects.
- Second, the amendment in June 2021 of several Acts for the protection of children notably risks violating the principle of non-discrimination.
- Third, the restricted access to asylum in Hungary risks violating the Charter, in several areas. These include access to international protection, reception conditions, detention and return, as well as the measures to effectively allow for the prevention and/or detection and remedy of potential practices/actions.

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7 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT
• In addition, as regards deficiencies concerning the independence of Hungary’s judiciary, the enabling condition on the Charter will be considered as fulfilled, once:
  o Hungary has met the four ‘super-milestones’ in the country’s Recovery and Resilience Plan and
  o the related amendments have entered into force and start being applied and
  o the Commission has assessed them positively.

In its decisions approving the Hungarian programmes under the CPR, the Commission set out in detail these concerns as well as the measures Hungary needed to put in place to allow the Commission to consider the HEC as fulfilled.

This meant that Hungary could start implementing the programmes and receive the pre-financing payments for them, however, in accordance with the legal framework, the Commission cannot reimburse related expenditure claimed by Hungary, with the exception of expenditure for technical assistance and for operations leading to the fulfilment of the enabling condition.

The dialogue with Hungary is currently ongoing. On 18 July, the country submitted a revised self-assessment on its fulfilment of the Charter HEC, following the adoption of judicial reform package. This revised self-assessment relates only to judicial independence and does not contain any information on the three other areas for which the Commission considered that the implementation of the funds risks violating the Charter. Following its analysis of the information transmitted by Hungary, the Commission requested additional information from the Member State, on 26 September. On 19 October, Hungary sent the replies to these questions. The Commission services are now assessing these in detail.

Furthermore, and independently from the above, the suspension of 55% of the commitments for three programmes in cohesion policy linked to the risk on public procurement expenditure stemming from the Council implementing decision under the conditionality procedure remains in place, until Hungary demonstrates that it has remedied the situation that led to its adoption. For that purpose, Hungary must formally submit the relevant information and evidence to the Commission, which is responsible for assessing it and making a proposal to the Council, if appropriate. The Council is responsible to decide whether adapting or lifting the measure. Hungary has not submitted any such formal notification so far. The Commission continues its dialogue with the Hungarian authorities with the objective to remedy the risks for the Union budget identified in the Council Implementing Decision.

Finally, as regards restricted access to European funds, the Commission is committed to follow up on reported cases of Hungarian arbitrary decisions and decrees against companies and NGOs, through both a close monitoring of the selection criteria to be decided by programmes monitoring committees (where the Commission and NGOs are
represented) and that should ensure equal access to funds and co-financed operations to companies and NGOs, and the country-specific recommendation issued to Hungary in May 2023\(^8\) under the European Semester process.

- How does the Commission guarantee interservice communication about the breaches against Rule of law and European Legislation?

**Commission’s answer:**

In all areas of activities, close cooperation and effective coordination between all Commission services concerned is essential to the quality and consistency of the Commission's work and to ensure a collegial decision-making process. Interservice coordination runs from the conception of an initiative to its presentation to the College of Commissioners for decision. Formal interservice consultation is compulsory for all initiatives to be adopted by the Commission and for staff working documents. The Commission services consult each other regularly on the application and possible breaches, by Member States, of Union legislation. That includes the assessment of issues that may be relevant for the application of the general regime of conditionality, as regards breaches of the principles of the rule of law that affect or seriously risk affecting the Union budget, or compliance with the EU Charter of Fundamental Rights insofar as the relevant horizontal enabling condition under the CPR, governing several Union funds, is concerned.

With a view to ensure consistency and coherence of initiatives and actions related to the rule of law, the Commission services keep each other regularly informed, in particular in the framework of the Interservice Steering Group on the Rule of Law, and after consultation of all concerned services make a proposal to the College of Commissioners for a political decision to be taken and submitted to the Council (competent under the General conditionality Regulation).

22. In comparison to the last MFFs, we see even stronger delays in the implementation of regional policy at the beginning of the MFF. Member States are still focusing on ensuring that they do not lose funds from the previous programming period and try to implement the easier accessible funds of RRF. The latest monthly update of the Commission shows implementation rate (including pre-financing) for 2014-2020 at 87%.

- What measures have you taken to ensure full implementation/absorption for the 2014-2020 period?

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\(^8\) Extract of the concerned CSR3 2023: "Improve the regulatory framework and competition in services by avoiding selective and arbitrary administrative interventions and the use of tailor-made legislation providing undue advantage or disadvantage to specific companies, by applying competition scrutiny systematically to business transactions and by reducing the use of emergency measures to what is strictly necessary, in line with the principles of the single market and of the rule of law."
The Commission refers the Honourable Members to its replies to Questions 8 and 11 above.

The Commission and in particular services in DG REGIO provide support to the national and regional authorities, including through technical assistance and advisory support, to ensure full implementation of the 2014-2020 programmes. In particular, DG REGIO works more closely with a few programmes considered to be in difficulty (low absorption, identified bottlenecks) to help them tackle significant implementation issues. A close dialogue associated with proposed targeted actions is in place with the Member States and programmes concerned to maximise absorption and performance of EU funds.

With the flexibilities introduced for 2014-2020 funds in the last years of eligibility period, in particular through CRII/CRII+, CARE, as well as the SAFE initiative, the Member States had major opportunities to finalise implementation successfully – allowing for full absorption – as well as to address their most urgent needs as a result of these crises.

In addition, the STEP (Strategic Technologies for Europe Platform) proposal includes a proposed extension of deadlines for submission of final payment claim and closure documents by one year to ensure robust controls at closure and to help the Member States facing additional workload linked to the revision of the operational programmes for the purpose of the STEP.

- The spending of the 2014-2020 period increased drastically in 2021. How did the accelerated spending of cohesion funds influence the error rate and the quality of projects? How do guarantee the effectiveness of the very quick increase of spending in the last moment?

The concentration of payment claims at the end of the programming period is a recurrent feature under cohesion policy implementation. Investments (in particular major infrastructure projects) take time to be designed, decided and then implemented over the 10-year implementation period of cohesion programmes. This means that implementation of such projects is finalised at the end of the period when large parts of commitments are also paid out (and if the projects cannot be completed in the programming period, they are phased out to the next programming period). This programming period is not different compared to previous ones, in this regard.

Assurance on legality and regularity remains a joint commitment with Member States, and the Commission will continue its close monitoring to ensure that EU funds available are used in the best way and in respect of all applicable rules. Audits of samples of operations using internationally accepted statistical methods (independently from the
size of expenditure population as from a certain threshold) continue to be performed and to provide representative results showing the quality and effectiveness of management verifications (substantive testing), through the reported error rates. Appropriate financial corrections, extrapolated as necessary if the reported error rate is above 2%, are then applied before submitting the annual programme accounts to the Commission. The Commission also refers to its replies provided to Questions 10 and 11 in that respect.

- Can you provide us with a detailed overview of the amounts spent in 2022 per member [State], the purpose they were spent for, as well as the amount of repurposed funds?

**Commission’s answer:**

Under cohesion policy, payment declarations made to and reimbursed by the Commission are made by programme, aggregated by fund and category of region. The total amounts of payments by country and programme made under the ERDF and Cohesion Fund under 2014-2020 programmes can be found on the Cohesion Open Data platform, where they are regularly updated. During 2022 the total amounts of EU budget payments were as follows:

- For ERDF (including Interreg) – EUR 36 162 million
- For the Cohesion Fund – EUR 8 796 million,

with the following detailed overview per Member State (where applicable for the Cohesion Fund):

<table>
<thead>
<tr>
<th>2022 (EUR million)</th>
<th>ERDF</th>
<th>CF</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT</td>
<td>232.4</td>
<td>-</td>
</tr>
<tr>
<td>BE</td>
<td>141.2</td>
<td>-</td>
</tr>
<tr>
<td>BG</td>
<td>575.0</td>
<td>257.2</td>
</tr>
<tr>
<td>CY</td>
<td>50.5</td>
<td>49.1</td>
</tr>
<tr>
<td>CZ</td>
<td>2,053.9</td>
<td>728.2</td>
</tr>
<tr>
<td>DE</td>
<td>1,779.3</td>
<td>-</td>
</tr>
<tr>
<td>DK</td>
<td>42.9</td>
<td>-</td>
</tr>
<tr>
<td>EE</td>
<td>432.7</td>
<td>68.0</td>
</tr>
<tr>
<td>ES</td>
<td>5,391.8</td>
<td>-</td>
</tr>
<tr>
<td>FI</td>
<td>121.4</td>
<td>-</td>
</tr>
<tr>
<td>FR</td>
<td>1,543.5</td>
<td>-</td>
</tr>
</tbody>
</table>
Under Article 52 of the CPR, the Commission produces an annual report on the thematic progress based on the thematic objectives defined for 2014-2020 for all ESI Funds. The 2022 annual summary of implementation report (implementation to end 2021) was adopted on 29 January 2023. In this report, the Honourable Members can find all details on the destination of the EU payments for the specific thematic objective.

The report on implementation to end 2022 is planned for publication in December 2023. With regard to the cohesion policy repurposed funds in relation to the war in Ukraine, the Commission refers to the table in its reply to Question 22 (cohesion repurposed amounts are implemented only in the EU territory).

| Country | EL  | HR  | HU  | IE  | IT  | LT  | LU  | LV  | MT  | NL  | PL  | PT  | RO  | SE  | SI  | SK  | Interreg | UK  | Total  |  |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|-----|---------|-----|
|         | 1,489.3 | 483.1 | 1,665.7 | 34.8 | 4,393.5 | 660.2 | 28.3 | 381.1 | 44.3 | 106.2 | 6,563.3 | 1,485.5 | 2,707.4 | 120.0 | 249.6 | 1,085.5 | 1,493.0 | 806.5 | 36,161.8 | 8,796.3 |

European Structural and Investment Funds 2022 Summary report of the programme annual implementation reports covering implementation in 2014-2020, COM(2023) 39 final {SWD(2023) 22 final}
What is your analysis, when it comes to controls, audit procedures, and identifying fraudulent activities? Has the situation improved during the 2014-2020 programming period explicitly in member states with a lot of high risk areas compared to the previous programming period?

**Commission’s answer:**

The Commission refers the Honourable Members to its detailed reply to Question 15 above, where it considers that the assurance model for 2014-2020 is strengthened compared to 2007-2013.

The Commission ensures a close monitoring of management and control systems per programme (including the effective functioning of both managing and audit authorities for each programme) in each Member State, as reported transparently every year in the AARs of DG REGIO and DG EMPL (see for example the assessment of the effective functioning of management and control systems in the AAR of REGIO on page 43, showing 88% of programme systems functioning well or sufficiently well; the list of 36 programmes with serious deficiencies in annex 7C, page 108 of 219; and the list of reservations for 2014-2020 programmes in Annex 9, pp.190-196 of 219). Deficiencies and weaknesses identified always lead to remedial actions and corrective measures where necessary, the implementation of which is systematically followed up by the Commission.

These well-functioning systems include effective anti-fraud measures, that are regularly audited by the audit authorities or the Commission. Compared to the previous programming period, such anti-fraud measures constitute a reinforcement of management and control systems and Member States are under constant supervision on how they address signals of fraud or corruption, either under the sectorial legislation (system audits) or more generally under the Commission’s monitoring of the rule of law (see annual reports on the state of the rule of law in Member States issued by the Commission). However, the sectorial legal framework in place cannot capture nor address all rule of law issues related to fraud and corruption. The conditionality regulation provides a complementary legal tool for possible Commission action (as was the case for Hungary to address, between other things, repeated breaches of public procurement rules previously identified and subject to financial corrections under the CPR of both the 2007-2013 and 2014-2020 programming periods).

Were the funds of 2014 – 2020 repurposed to support Ukraine in response to the Russian aggression? How much money was reallocated from cohesion for Ukraine in 2022 and how did you make sure the funds served the original cohesion objectives?

**Commission’s answer:**

Funding from mainstream cohesion policy programmes can only be used inside the programmes’ areas, e.g., in the EU and not in Ukraine or towards Ukrainian beneficiaries.
To help Member States and regions support persons fleeing the Russian military aggression against Ukraine, the Commission proposed the CARE packages, adopted in 2022 by the co-legislators, allowing more flexibility, liquidity and simplified procedures to support refugees on the territory of the Union. So far, 16 Member States have used the proposed flexibilities and are mobilising around EUR 1.35 billion of cohesion policy funds to support those seeking shelter in the EU territory. The table below presents the amounts re-programmed by each of these Member States under the CARE and FAST-CARE initiatives.

<table>
<thead>
<tr>
<th>Member State</th>
<th>Reprogrammed amount under CARE and FAST CARE (EUR million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BE</td>
<td>35.7</td>
</tr>
<tr>
<td>BG</td>
<td>75.1</td>
</tr>
<tr>
<td>CZ</td>
<td>10.7</td>
</tr>
<tr>
<td>DE</td>
<td>64.2</td>
</tr>
<tr>
<td>DK</td>
<td>3.8</td>
</tr>
<tr>
<td>ES</td>
<td>260.0</td>
</tr>
<tr>
<td>FR</td>
<td>15.6</td>
</tr>
<tr>
<td>HU</td>
<td>13.7</td>
</tr>
<tr>
<td>IE</td>
<td>52.0</td>
</tr>
<tr>
<td>IT</td>
<td>50.0</td>
</tr>
<tr>
<td>LT</td>
<td>0.6</td>
</tr>
<tr>
<td>LV</td>
<td>1.8</td>
</tr>
<tr>
<td>PL</td>
<td>89.6</td>
</tr>
<tr>
<td>PT</td>
<td>14.0</td>
</tr>
<tr>
<td>RO</td>
<td>100.0</td>
</tr>
<tr>
<td>SK</td>
<td>559.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1346.2</strong></td>
</tr>
</tbody>
</table>

Most measures introduced under CARE cover the inclusion of people arriving from Ukraine in mainstream social integration programmes, provision of healthcare, food or basic assistance and orientation for the job market. Funding is provided to the cohesion policy programme authorities and their beneficiaries, including local authorities on the EU territory. The scope of these measures is not new for cohesion policy programmes.
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per se, as even before the Russian war in Ukraine, cohesion policy was already addressing the integration of third country nationals, by facilitating solutions for accommodation, providing training, language courses, employment orientation, medical, social and psychological support to the new arrivals.

The proposed measures are nonetheless subject to obligations for adequate management and control systems and sound financial management, laid down in the CPR as amended and applicable to cohesion policy funds. For example, where unit costs are used, Member States will need to demonstrate that they have an accurate and reliable record of numbers of Ukrainian refugees or that there is no double financing of the costs covered by the unit cost and other costs declared to the Commission under cohesion policy or under other EU funded instruments.

23. Can you give us a detailed overview of the situation of administrative capacity per member state? How do you evaluate these capacities in the light of the spending of the cohesion funds 2014 – 2020, the RRF and the start of the spending of the funds in the MFF 2021 -2027? Do you think that member states profiting of the biggest amounts in these 3 types of spending are able to guarantee high quality, effectivity, and European added value?

**Commission’s answer:**

A parallel implementation of RRF resources and cohesion policy funds puts pressure on the Member States’ administrative resources and has repercussions on implementation of the 2014-2020 programmes (especially those already in difficulty and at risk of decommitment) and of the 2021-2027 programmes. This problem affects not only Member States with the largest allocations, but also smaller Member States where a single managing authority often deals with all EU funding streams. It is also worth noticing that the implementation of high-quality investments is not solely linked to absorption capacity, but other factors such as technical capacity to deal with particular types of investments or implementation issues, e.g. selection criteria to translate negotiated programmes into high-quality investments, timely organisation of calls, respect of compliance with State aid issues etc.

For both programming periods, the Commission regularly monitors the progress of implementation, including through monitoring committees, annual review meetings and at working level. The Commission also provides transparent information on the absorption capacity of each Member State through its Cohesion Open data platform, as well as on its assessment of the management and control systems of programmes and audit authorities (list of programmes and audit authorities where deficiencies or weaknesses have been identified are reported in Annexes 7C and 7D of the 2022 AAR of DG REGIO), which allows to give an overview of the situation of the administrative capacity of each Member State.

The Commission shares the opinion that efficient administrative capacity in Member States is key to ensure that the absorption of available EU funds is secured in the best
way and in compliance with all applicable rules. This is why in view of the 2021-27 programming period, the Commission services continue to actively support Member States to ensure they have the required additional resources and administrative capacity to be mobilised to ensure high quality, effectivity, and European added value of implemented programmes. For example, DG REGIO provided managing authorities a self-assessment instrument to help them analyse their capacity building needs and assess progress over time. Moreover, a competency framework developed by DG REGIO helps them identify competency gaps. A practical toolkit provides support to Member States on how to develop strategic roadmaps for administrative capacity building; it analyses capacity building needs and addresses such needs through action plans with responsible actors, indicators to measure progress and timelines for implementation.

A number of Member States (Bulgaria, Croatia, Czechia, Hungary, Latvia, Portugal, Romania, Slovenia, Slovakia and Spain) were recommended to develop roadmaps for administrative capacity building in the 2019 Country Reports of the European Semester (in Annex D under Factors for effective delivery). National Roadmaps have been finalised in most of these countries. Work is still ongoing in Bulgaria and Spain. Romania is also planning to develop a national roadmap as well as seven additional regional roadmaps, one of these being finalised at regional level. In addition to the above Member States for which a European Semester recommendation was issued, roadmaps have therefore also been developed in Estonia, Lithuania and in Italy with its Administrative regeneration plans for cohesion 2021-2027 in 21 regions.

Within a pilot action preparing for 2021-2027, five programme specific roadmaps were also developed in Bulgaria, Croatia, Greece, Poland and Spain. Experiences from the pilot have been widely disseminated to all Member States.

All other Member States were encouraged to develop roadmaps as it is considered good practice to further improve administrative capacity.

24. To what extent did and do cohesion funds contribute to the resilience of Member States, their economic competitiveness and social welfare? Could you provide us with indicators of the development of the cohesion member states?

**Commission’s answer:**

European cohesion policy funds play and have played a significant role in enhancing the resilience of Member States, boosting their economic competitiveness, and improving social welfare. Cohesion policy funds has contributed to these goals in several ways and the main results and channels are analysed in great detail and by policy area in the 8th Cohesion Report (2022)\(^\text{10}\). The report also recalls that the effectiveness of these funds

depends on various factors, including strategic planning, policy coordination, and the efficient use of resources by the Member States.

The following reflect a few recent achievements representative of how the policy contributes to enhancing resilience of Member States, boosting their economic competitiveness and improving social welfare through different angles of the policy:

- At least 610 000 enterprises have been supported through cohesion funding. Projects selected indicated that this number will rise to over 1 million by the end of the programming period in 2023.

- Evaluations show that the support to enterprises produced tangible results. In the Czech Republic, for example, 90% of the companies supported by the “Knowledge Transfer Partnerships” programme have introduced product or process innovations.

- By the end of 2019, already 7.7 million people had benefited from the flood protection measures co-financed by cohesion policy. When all selected projects are completed an overall 39.8 million would be better protected.

- Thanks to cohesion policy, 1 250 km of railway lines had been laid or upgraded by the end of 2019 and a further 3 350 km will be by 2023, once the projects selected are completed.

- Investment in the construction of new roads and the upgrading of others have increased road safety and reduced the number of accidents – in Poland, for example, by 54% in Poznań and 74% in Lublin – while reducing journey times and air pollution in cities.

- By end of 2019, programmes helped 36.4 million participants with labour market integration, education and training and 4.5 million people had been helped to find a job.

- Up to the end of 2019, the new healthcare facilities constructed with the support of the ERDF, mainly in the central and eastern Member States, provided an improved service for 38.7 million people.

- Under the European Trans-National Cooperation Objective, 3 600 research institutes were involved in cross-border collaboration up to the end of 2019.

In addition, macroeconomic model simulations show that in the long-run all EU regions benefit from cohesion policy. Every 1 euro spent on cohesion policy generates a return of 2.7 euros in the form of additional EU GDP. By the end of 2023, it is estimated that the investment financed by cohesion policy will have increased GDP in some of the least developed regions in Europe by up to 5%.

In the context of the ongoing 2014-2020 evaluation of ERDF/Cohesion Fund, the thematic work packages are examining the impact of EU investment across all thematic objectives set for 2014-2020 programming. In addition, there is a specific study looking
at the effects of the crisis response measures and the REACT-EU programming. The 2014-2020 evaluation is ongoing and will be finalised by end-2024.

25. What is the state of play of the implementation of the cohesion funds for the period of 2021 – 2027 as there are only 2,5% of spending as prefinancing? Have all member states already notified their programs?

**Commission’s answer:**

All 2021-2027 programmes have been approved in 2022 and early 2023 (except for one Interreg programme and the Bulgarian Just Transition Fund allocation). As mentioned in the reply to Question 8 above, the reasons for the delay in the late adoption of 2021-2027 programmes include the fact that reprogramming needed to be done due to the COVID-19 pandemic, the war in Ukraine and the energy crisis, and the need to programme and implement the crisis and recovery instruments in place, in particular RRsPs, following the late adoption of the underlying legal basis for the 2021-2027 period).

All Member States but one have launched their first calls for projects and, based on the latest information submitted by the Member States (data as of the end of August), 23 of them have selected operations amounting to more than 5% of the total policy allocation. The payment claims to the Commission remain however to come (see the Cohesion Open Data Platform for constantly updated data on the payments situation as well as the Commission reply to Question 11 above).

26. Have all Member States adopted anti-fraud strategies and are these strategies effective? In which areas and member states do you see a higher risk? What are the indicators to define the risk level?

**Commission’s answer:**

As part of a structured policy approach, anti-fraud strategies have been introduced by the vast majority of the Member States. By the end of 2022, 15 Member States had adopted National Anti-Fraud Strategies (NAF Strategies) (Austria, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Portugal, and Slovakia). Another six (Belgium, Luxembourg, the Netherlands, Romania and Spain, and recently Finland) are preparing their NAF strategies. Moreover, four Member States (Cyprus, Germany, Slovenia and Sweden) have anti-fraud strategies of a different scope - other than national - in place (sectoral, regional or focussing on anti-corruption) and therefore do not intend to develop national ones. Only two Member States (Ireland and Poland) have no NAF strategy in place nor the intention to develop one.

Introducing a NAF Strategy is not a legal obligation, but the Commission has constantly pushed for the widespread adoption of such strategies to protect the EU’s financial interests, e.g. as a recommendation to Member States in the most recent (2022) Annual
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Report on the protection of the EU's financial interests (PIF Report). Moreover, with its new anti-fraud strategy action plan, adopted in July 2023, the Commission confirms its commitment to encourage Member States to put in place effective and proportionate anti-fraud measures, including anti-fraud strategies, and provide guidance and support in this respect. The effectiveness of the strategies depends on several factors like training, capacity building, reporting and cooperation with OLAF and EPPO, all aspects on which the Commission is actively providing support and guidance to the member states.

In the context of cohesion policy, implemented through regional or sectorial operational programmes presenting different priorities and different levels of risks, a ranking of risks at Member State level would be misleading. The identification of risky fraudulent areas based on detected financial amounts and the reported number of fraudulent irregularities provides better indicators. Whereas the level of reported fraudulent irregularities remains overall below 1% of declared cohesion expenditure, fraud risks seem to be relatively higher in the areas of environmental protection and transport and healthcare infrastructure – taking into account the financial amounts involved, as well as in the areas of research, technological development, innovation, promotion of employment and active inclusion – according to the relative frequency of fraudulent irregularities declared.

27. How much money has actually been spent under CARE and FAST-CARE in total? Has any of the funds been spent in 2022 by Ukraine? How much did each member state spent under the CARE and FAST-CARE initiatives and how do you guarantee that the protection of the financial interest of the Union?

**Commission’s answer:**

To help Member States and regions to support persons fleeing the Russian military aggression against Ukraine, the Commission proposed the CARE packages in 2022 allowing more flexibility, liquidity and simplified procedures to support refugees. So far, 16 Member States have used the proposed flexibilities to mobilise around EUR 1.3 billion of cohesion policy funds to support those seeking shelter. The Commission refers to its reply to Question 22, which presents a detailed breakdown of the amounts reprogrammed by each of those Member States under the CARE and FAST-CARE initiatives and measures being implemented on the EU territory by Member States to help those fleeing from the war. The CARE package measures in mainstream cohesion policy programmes are implemented on the EU territory, not in Ukraine.

The proposed measures under CARE / FAST CARE are subject to the same obligations concerning adequate management and control and sound financial management, laid down in the CPR (as amended) that is applicable to any cohesion policy funds. For example, where unit costs are used, Member States will need to demonstrate that they have an accurate and reliable record of numbers of refugees or that there is no double
financing of the costs covered by the unit cost and other costs declared to the Commission under cohesion policy or under other EU funded instruments.

DG REGIO is also responsible for five territorial (cross-border and transnational) cooperation programmes implemented between various Member States and Ukraine. The purpose of these programmes is to provide support for joint projects implemented in Ukraine and in the relevant Member States. As a response to the war of aggression of the Russian Federation against Ukraine, the Commission proposed a regulation, adopted on 9 November 2022 (2022/2192), which created flexible conditions to allow the programmes to continue. For example, it was made possible to address some consequences of the war of aggression such as support for emerging migratory challenges and investments in border crossings. For these territorial cooperation programmes, management and audit is under the shared responsibility of the EU partners and Ukrainian authorities under the programmes.

In line with the regulation mentioned above, assurance on ENI-CBC expenditure incurred on the Ukrainian territory is based on management verifications and management declarations during the period of the disruption, due to the impossibility to carry out audits of operations on the spot. Nevertheless, some authorities still succeeded in carrying out system audits and audits of operations in Ukraine despite these challenges. This concerns audits performed last year on the Hungary-Slovakia-Ukraine-Romania programme and this year on the Poland-Belarus-Ukraine programme.

Furthermore, Ukraine is subject to an action plan on implementing adequate antifraud measures concerning the management and control of EU funds. This action plan has triggered several significant anti-fraud legislative changes in Ukraine. As part of this action plan, on 30 June 2021 the Government of Ukraine adopted a decree laying down the procedure for verifications of legality and regularity of expenditure incurred by lead partners and/or partners during the implementation of projects in the framework of the joint operational programs of the ENI 2014-2020. According to the decree, anti-fraud verifications are performed by the joint working group with the representatives of Ministry of Finance and State Audit Service for projects subject to administrative and on-the-spot verifications. The process of verifications of legality and regularity of expenditure may include actions related to the monitoring and verification of procurements, audit on selected issues, documentary audit, actual audit, cross verification, interview etc. It is stipulated in the decree that in case of fraud detection, the Ministry of Finance will immediately send the notification to the managing authority, national authority, Representative of Ukraine in the ENI-CBC Group of Auditors, National Contact Point for cooperation with OLAF and ESA (State Audit Service) and to the relevant law enforcement authorities.

Another decree of 7 July 2021 “Some issues of cooperation with the European Agency for the Prevention of Abuse and Fraud (OLAF) and the European Court of Auditors (ECA)” introduced changes in the country’s governance as concerns cooperation with these two bodies. According to these amendments, the responsibilities of cooperation
with OLAF and ECA have been transferred from the Ministry of Internal Affairs to the State Audit Service of Ukraine.

28. The Court observed a 6.4% error rate in cohesion of which, according to the Court 3% can be attributed to 100% co-financed priorities (CRII+) that allowed for a more flexible spending (ECA Annual Report 2022, p. 229). According to your written replies to these findings, the Commission disagrees with ECA’s assessment. Yet Commissioner Hahn indicated during a CONT hearing (5th of October) that there could be a link between increased flexibility and the increase of the error rate. What is your position and what lessons can we learn from the increased flexibility? What lessons have you drawn from the increased flexibility under the CRII+ for the protection of the EU financial interest? Do you see a higher risk in this new flexibility? Please provide us with a detailed overview of the differences between the Commission and the ECA.

**Commission’s answer:**

It cannot be excluded that the specific situation and flexibilities given during COVID-19 may have played a role in increasing the risk of irregularities due to the need to find alternative (remote) ways to control expenditure. However, this risk has not necessarily materialised (except for individual irregularities detected by national or Commission audits, without significant impact on error rates reported, overall): the conclusions and assessments on error levels and effectiveness of management and control systems in the 2022 annual report, based on audit results reported by audit authorities and on its own audit results, are similar to the ones reported last year.

Concerning the risk due to the temporary increased of the EU co-financing to 100% or new types of measures introduced by CRII/CRII+ measures, from the data presented by ECA in its annual report, the Commission has assessed that the frequency and impact on the overall calculated error rate of the quantifiable errors identified by ECA which affect expenditure related to the CRII/CRII+ measures or to operations benefitting from a temporary increased EU co-financing of 100%, is similar to the impact of errors identified in other types of operations audited by ECA in its 2022 sample (see published Commission reply to figure 6.8, page 229 in the ECA annual report). In addition, the Commission notes that although the Member States could increase the co-financing rate up to 100% for priorities labelled as CRII/CRII+ measures, this increase of the co-financing rate at project level remained a voluntary decision from managing authorities. Therefore, not all transactions audited under those priorities benefitted from a 100% co-financing.

This being said, and as previously mentioned in the Commission’s reply to Question 6, the Commission is aware of the risk linked to the emergence of new instruments as the CRII/CRII+ initiatives, which added new categories of expenditure to the eligible ones and introduced flexibility measures in programmes implementation. The Commission took measures and since 2020 constantly raised awareness of audit authorities regarding the possible risks associated to these new instruments and the need to maintain high
control standards to minimize these risks. Audits regarding CRII/CRII+ expenditure carried out so far by several Member States or by the DAC have identified issues in some cases (see examples provided in the 2021 and 2022 AARs of DG REGIO, related to delivery of masks in Italy related to fraud suspicion, detected by the Italian audit authorities or emergency procedures incorrectly used for public procurement in Spain or Romania).

The risks and irregularities identified are not as such stemming from the 100% co-financing or working restrictions during the peak period of the COVID-19 (reduced number of on-spot verifications) but are rather linked to the type of actions implemented during the COVID-19 period or to the implementation or understanding of the flexibility introduced in public procurement rules. Despite these instances of irregularities found in some programmes, there is no clear evidence, so far, that these types of expenditure have a higher intensity of errors than normal expenditure, nor that the 100% co-financing leads to a higher error rate.

The Commission auditors will therefore continue to carry out specific audits regarding CRII/CRII+ expenditure or to pay particular attention to such expenditure during their compliance audits, and to work closely with the audit authorities to ensure that the control and assurance framework continues to effectively address any possible related risks. Based on further concrete audit results to be collected, the Commission will continue to assess the possible impact, if any, on legality and regularity of the 100% financing flexibility.

The Honourable Members are invited to refer as well to the answers provided on Questions 3 and 6 above.

As regards the high error rate reported by the ECA in the 2022 Statement of Assurance, in its written replies to the ECA report as well as in the reply to Question 4 above, the Commission refers to 18 cases involving divergent factual assessments and legal interpretations of applicable rules or quantification of individual cases with the ECA. Without these contested errors, the Commission estimates that the error rate would be similar to the ones of previous years.

29. The ECA observed persistent shortcomings in the audits of national audit authorities. This can be due to various factors including inadequate scope, unclear documentation of audits and sample filtering performed by national audit authorities, as well as resource issues including inadequate funding and a lack of skilled workforce within national audit authorities. In addition, Assurance Packages" submitted by member states actually often have a higher "TER/RTER" error rate than reported by member states (with an error rate higher than 2%). In contrast, the Commission is more positively inclined towards the single audit approach than ECA. Could you provide us with data demonstrating the reliability of the work conducted by audit authorities in the Member States and under which circumstances does the Commission judge an authority as not reliable?
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**Commission’s answer:**

The Commission continuously assesses and reports on the reliability of audit authorities, taking into account the cumulative audit work performed by the Commission’s auditors which includes compliance audits with a re-performance of the work carried out by audit authorities and desk reviews of assurance packages reported by audit authorities, leading to the Commission’s assessment and recalculation where relevant, of the reported error rates.

The audit authorities are assessed based on several key requirements (KR) which are defined in the CPR and Regulation 480/2014.\(^1\)

The Commission assesses the work of audit authorities on a number of criteria, reported error rates being one of them but not the only one since in some cases the error rates reported by audit authorities can be influenced by individual errors having an important statistical impact without however pointing to a systemic deficiency in the work of the audit authority concerned. Therefore, the impact above 2% of one error (four cases in the assessment of the ECA) is not, in the Commission’s view, a sufficient reason to consider the audit authority as being unreliable. More substantial weaknesses in the work of the assessed audit authority are taken into account to conclude that it is not reliable.

The Commission has reasonable assurance that the work carried out by the 116 audit authorities in charge of ERDF, Cohesion Fund, ESF/YEI and Fund for European Aid to the Most Deprived (FEAD) programmes is reliable, except for a few of them, where deficiencies are identified and addressed year on year. More specifically, in 2022, deficiencies were identified in the work of 7 audit authorities or their control bodies (Austria, Germany, Spain, France, Luxembourg, Poland, UK), in charge of auditing 2.1% of the ERDF/CF allocations, and of 7 ESF/YEI audit authorities or their control bodies (2 in Spain, 1 in France, 2 in Italy, 1 in Luxembourg, 1 in Poland) in charge of auditing 8% of ESF/YEI and FEAD expenditure (more details are provided in the Annexes 7D of the 2022 annual activity reports for both DG REGIO and DG EMPL).

The Commission requested remedial actions in all cases. These few authorities with deficiencies are not all the same as the ones previously reported on in the 2021 AARs. This shows the effectiveness of the follow-up and monitoring of the cases at stake, but also the need for constant monitoring, since situations can change year on year.

It should be also mentioned that implementing the single audit principle is crucial for the Commission to obtain audit assurance year on year on all programmes. The audit

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11 The criteria are:
- KR 14 - Adequate separation of functions and adequate systems for ensuring that any other body that carries out audits in accordance with the programme audit strategy has the necessary functional independence and takes account of internationally accepted audit standards,
- KR 15 - Adequate systems audits,
- KR 16 - Adequate audits of operations,
- KR 17 - Adequate audits of accounts,
- KR 18 Adequate procedures for providing a reliable audit opinion and for preparing the annual control report.
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authorities have the capacity each year to ensure significant audit coverage for each and every programme, which would be unrealistic for the Commission to achieve with its limited resources and number of auditors. Last year, audit authorities audited around 11% of the declared expenditure—more than 5,800 operations, or parts of operations covered for all ERDF/Cohesion Fund programmes and nearly 5,000 for ESF programmes, and reported several thousand irregularities. For 94% of the expenditure, the audit authorities are using representative statistical sampling methods, which is fully in line with auditing standards. No sample filtering is used by audit authorities, as confirmed by Commission and ECA audits.

However, non-detection of errors is a well-known risk in the audit profession and auditing standards refer to the need to take measures to reduce it to the minimum. The Commission only relies on audit information received after having thoroughly reviewed the reported results of the audit authorities. The Commission has a long experience of cooperation with audit authorities, building on the expertise and audit results accumulated over time and can assess the quality of their work overtime. In the case of ERDF/CF and ESF programmes, the Commission bases its assurance on audit results obtained from programme authorities every year for each programme and complements such audit information by its own audit results. Following the reception of the assurance packages by 1 March each year (accounts from the previous accounting year), the DAC auditors carry out a thorough desk review of the Annual Control Reports (ACRs) and assess the reported total and residual error rates and audit opinions against all cumulative audit information in view of deciding on reservations qualifying the assurance declaration. And they re-perform audit work on the spot for audit authorities or programmes considered at risk of under-reporting or non-detection.

The Commission also refers to its reply to Question 1 above on the dissemination of the Commission audit results to the entire audit community, for learning purpose and exchange of expertise and as a mitigating measure to reduce the risk of non-detection.

Audit evidence and information accumulated by the Commission (DAC) since the start of the programming period therefore allows to conclude on the general reliability of the work conducted by audit authorities in the Member States, with the exceptions quoted each year in the AARs.

30. In the 2023 ECA report “EU financing through cohesion policy and the Recovery and Resilience Facility: a comparative analysis”, ECA warns of the risk of potential double funding of projects with the cohesion fund and the RRF. ECA’s Annual Report 2022 on the implementation of the EU budget for the 2022 financial year reports a case of double funding in Slovakia between the RRF and a different fund, the European Social Fund. Could you give more details from your side on this case of double funding? What concrete measures has the Commission implemented to keep track of what the RRF in order to pre-emptively avoid double funding? How many cases has the Commission found of double funding, within which funds, in which programs and in which countries do they occur?
Committee’s answer:

Under the RRF, payments are made by the Commission to the Member States based on the satisfactory fulfilment of pre-defined sets of milestones and targets. Both the disbursement amounts and the milestones and targets are set for each Member State by a dedicated Council Implementing Decision. During the original assessment of the RRP, the Member States provide for each measure a cost estimate, indicating what parts of the measure they intend to finance with RRF support. The aggregate of these cost estimates is the ‘estimated cost of the plan’, which justifies the financial allocation provided to the Member State. These costs can include the entire estimated cost of the measure, a partial cost (e.g. when there is national financing or another EU fund intervenes for clearly delineated parts), or no cost at all to the RRF. In case a measure has no cost under the RRF, it means that the Member State does not receive financial support from the RRF for that measure.

The measures in the plans consist of both investments, for which there is generally a cost which is covered by the RRF, but also reforms such as legislative changes or administrative actions. Such reforms often have no costs under the RRF but may actually require some financing to implement, such as staff salaries, research, the setup of new institutions, etc. Such financing may come from national sources (e.g. staff salaries) and in some cases may also come from other EU funds (e.g. research, administrative support through the Technical Support Instrument, etc).

As stated in its reply to the 2022 ECA Annual Report, the Commission does not consider there is evidence of double funding in the case reported by ECA. The Commission disbursed the first payment to Slovakia based on a set of 14 milestones. One of these milestones concerned the implementation of a no cost transport reform by the Slovak authorities. The ECA concludes that double funding occurred because a specific report provided for this milestone was produced with support from another Union fund. The ECA expressly recognises however that zero estimated costs were included in the Recovery and Resilience Plan put forward by Slovakia for this reform.

The RRF Regulation provides that “Support under the Facility shall be additional to the support provided under other Union programmes and instruments. Reforms and investment projects may receive support from other Union programmes and instruments provided that such support does not cover the same cost” (RRF Regulation, Article 9). Synergies between other EU funding and the RRF are possible, provided the same costs are not covered twice.

The Commission refers to its detailed replies to the ECA Annual Report (p.454) on this specific case. The Commission considers that the approach taken by the ECA to this ‘case of double funding’ is counter to the text of the RRF Regulation, which provides that Union support for a single measure can come from multiple instruments provided that they do not cover the same costs. By definition, if the Member State indicated that a specific reform or investment would be fully funded without RRF contribution, there
cannot be “double funding”, even if another fund finances its implementation in part or in full, as the RRF has not covered any costs. Outside of legal considerations, this would imply that there could be no complementarity between the RRF and other Union instruments as allowed for by the Regulation and lower the impact of Union budget expenditure, which the Commission would find deeply regrettable. The fact that a RRP may include targets or milestones linked to ‘zero-cost’ measures does not mean that the RRF covers costs related to these measures.

As for concrete measures implemented by the Commission to pre-emptively avoid double funding in general, the Commission refers to its reply to question 13. The Commission has not identified any case of double funding related to the RRF in the course of 2022.

31. A project can receive financing by both the cohesion policy instrument and by the RRF as long as the same cost is covered only once, and the funding received from the RRF does not cover the mandatory national co-financing of a cohesion policy project. Which concrete mechanisms have you implemented to guarantee that obligatory national co-financing of a cohesion project is not being paid for by RRF funds? Have you identified cases where this has occurred, and if so in what kind of projects, and in which country? Which concrete steps have you taken to improve inter-service cooperation and coordination to avoid RRF funds being utilised to cover mandatory national co-financing in cohesion projects?

**Commission’s answer:**

The Commission did not identify any cases where the obligatory national co-financing of a cohesion project was paid for by RRF funds in the 2022 RRF disbursements, nor did the ECA.

Regarding concrete mechanisms, the Commission refers in particular to its replies to questions 13 and 30.

32. Are there any indicators that in cohesion policy member states try to use cohesion money for national recurring costs because of the financial restraints after the Corona Crisis?

**Commission’s answer:**

According to the principle of additionality, programme authorities must ensure that support from the cohesion policy funds shall not replace public or equivalent structural expenditure by a Member State (Article 95 of the CPR - Regulation (EU) No 1303/2013), with the exception of some recurrent costs that can be supported under the specific allocation for outermost regions under REACT-EU.
In addition, operations are not eligible for cohesion support if they have been physically completed or fully implemented before the application for funding (Article 65(6) of the CPR). The respect of these rules is checked by programme authorities.

Based on its own audit work, the Commission does not have indications that Member States would use the funds to cover national recurring costs following the COVID-19 crisis.

33. Cohesion policy funding spent on projects should contribute to European added value. The Commission working document “Performance, Monitoring and Evaluation of the European Regional Development Fund, the Cohesion Fund and the Just Transitional Fund in 2021-2027 (SWD 2021, 198 final)” states that ‘in assessing EU added value we look for changes that can reasonably be attributed to the EU intervention’. This is not the case if cohesion funding is used to replace already present national recurring costs (for example national recurring budgetary expenditure).

**Commission’s answer:**

The direct outputs and results attributed to cohesion policy interventions are captured through numerous common performance indicators in the annual performance reporting by programmes and then published on the Cohesion Open Data platform. The assessment of the overall impact and EU added value is a task for evaluation. EU added-value can take different forms and therefore different quantitative and qualitative approaches can be used. In the 2014-2020 ex post evaluation of ERDF/Cohesion fund programming, currently ongoing, the Commission is following the Better Regulation Guidelines and looking at the evidence of impacts in line with five criteria, including the European added-value.

As cohesion policy has a wide area of action and it is meant to address very diverse local needs, the measurement of added-value of its investments needs to be carried out according to a variety of methodologies. For instance, in the case of infrastructural investments, the assessment of added-value focuses on whether the investment in question would, or would not, have been carried in absence of cohesion policy co-financing. The final report and the Commission Staff Working Document summarising the findings of the 2014-2020 ex-post evaluation will be published in 2025.

As for the last part of the question, the Commission refers the Honourable Members to the Commission reply to Question 32 above.

34. In the last year the European Parliament criticized strongly the lack of cross border projects? In the new MFF will Commission give a stronger support to cross border projects in the Cohesion funds?

**Commission’s answer:**
In 2021-2027, cohesion policy invests circa EUR 10 billion in its second objective “European Territorial Cooperation”, also known as Interreg. This includes EUR 1 billion from external financing instruments. Projects are financed throughout the EU and its neighbours and support a wide range of themes, Greener Europe and More Social Europe being the most prominent ones. They support joint activities/development of joint public services or (mostly cross-border) infrastructures or exchange of experience and learning. Cross-border cooperation (CBC) focuses on cooperation between immediate neighbours (NUTS3 regions) separated by national borders, transnational cooperation focuses on regions belonging to a larger geographic space with shared features such as mountains, rivers or sea basins. Interreg also finances interregional cooperation and cooperation for the outermost regions with their neighbours. Interreg brings Europe closer to citizens as it showcases the added value of working together to meet key challenges and exploit common opportunities. The EUR 10 billion envelope for 2021-2027 is spread across 86 programmes, with every region of the EU eligible to take part in one or the other programme. Cooperation on the EU’s external borders is also part of Interreg, with EUR 400 million from the Instrument for Pre-accession Assistance and EUR 600 million from the Neighbourhood, Development and International Cooperation Instrument being spent to these programmes.

In addition, the Commission contributed 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. This was complemented with several mappings of cross-border interactions and obstacles that provide useful knowledge for Member States and regions to enhance cross-border interactions. Inter alia this includes: Study on providing public transport in cross-border regions – mapping of existing services and legal obstacles (2022); Analysis of the economic impacts of border-related measures taken by Member States in the fight against COVID-19 (2022); Cross-border public services - CPS inventory analysis and policy recommendations (2022). 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 the Western Balkan 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. The border focal point has been providing direct support to entities in
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border regions to identify the causes and possible solutions for cross-border obstacles. At least 140 cases have already been addressed with this methodology. 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.

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 the European Cross-Border Mechanism - ECBM). In 2021, at working level, the Member States decided to close the discussion on ECBM. This was never confirmed at political level. At the same time, the European Parliament has always voiced its support for the ECBM proposal. More recently (14 September 2023), the European Parliament has adopted a Legislative Own Initiative – thereby tabling a new draft regulation. The Commission has three months to react to that resolution and will do its utmost to have adopted a revised proposal by 13 December 2023.

Concerning specific obstacles to cross-border employment, the Commission organised 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.).

Finally, Interact continues to support the 2021-2027 programming period, and in particular the Interreg and wider cooperation community.

35. Concerning Arachne system what was the result of consultations with the member states to ameliorate the digitalisation in the area of audit and control? What concrete measures has the Commission undertaken to use digitalisation and other measures for the decrease of bureaucratic burden?

**Commission’s answer:**

As part of its commitment to digitalisation, the Commission continuously endeavours to improve the digital tools for the management and control of the funds and for preventing and detecting irregularities, fraud, and conflicts of interest. In this context, the functionalities of its integrated data mining and risk scoring tool Arachne, were enhanced based on feedback received from users (Members State and Commission).

The tool, provided free of charge to the Member States programme authorities, indeed provides a large number of possible redflags. Member States are free to set their own parameters in line with e.g., their fraud risk assessment analysis and their internal management and control procedures. Depending on the nature of the risk identified, the Member State needs to organise the appropriate checks. Arachne does not oblige
Member States to follow up on every red flag, and a programme authority can decide its own actions based on the specific circumstances of a given case.

There is a growing interest and adoption of the Arachne tool by Member States, including those who were not previously using it, thanks also to efforts made by the Commission to promote it and to overcome difficulties found by some Member States. With an increase volume of programmes data being available in the system, both Member States and Commission services have significantly increased their use of the Arachne tool. This suggests a notable growth in the adoption and use of the tool across different entities. Hungary, specifically, has experienced a significant increase in the utilisation of the Arachne tool, as a result of the conditionality measures.

Arachne is currently used on a voluntary basis by 20 EU Member States and the UK for at least one cohesion policy programme or RRP. In addition, three Member States (Cyprus, Greece, Sweden) test Arachne in a pilot phase and four Member States (Germany, Denmark, Poland, Finland) are not yet using Arachne but are already in contact with the DG EMPL/DAC Arachne team (in particular Germany and Finland). The Commission will keep doing its utmost to encourage the Member States to use the tool and it will continue to provide training and to offer support and technical assistance, with a view to promoting Arachne’s generalised application. The Commission will also continue developing the tool to include new features and functions, based on feedback provided by users and with a view to ensure further interoperability with other data bases (EDES, FTS, KOHESIO).

Arachne has the potential to identify risky projects / contracts as well as situation of irregularities. For example, a recent IT development allows to automatically upload projects data, instead of a manual upload up to recently. The Commission has proposed to make the use of a datamining tool compulsory and remains ready to work on developing an updated version of the tool to facilitate its integration in management and control systems, based on difficulties encountered and reported by Member States so far. Such an updated tool could also include elements of artificial intelligence and be more focused on a limited number of indicators and red flags, to simplify the use of the tool by national administrations.

Arachne was also adapted to be able to collect data on beneficial owners of beneficiaries and contractors (requirement under 2021-2027) and develop risk indicators on this basis, allowing for improved control and audit in this area (undue concentration of funds, risk of conflict of interest).

Furthermore, the Commission services have initiated analytical reflections and discussions on the use of artificial intelligence (AI) in the audit field, together with programme authorities. AI approaches could be useful in predicting the identification of errors in the declared expenditures and identifying methodologies that may complement/improve the efficiency of the audit process. There are currently two pilot projects integrating artificial intelligence for EU funds auditing, carried out by audit
One of the most important measures to reduce administrative burden on Member States and beneficiaries of ESI Funds is the use of simplified cost options (SCOs) and Financing Not Linked to Costs (FNLC), which are also effective in reducing the error rate, facilitating access of small beneficiaries to the CPR funds thanks to simplified management process and allowing organisations to focus on the achievement of the objectives while maintaining a high level of assurance of legality and regularity. The 2021-2027 regulation includes a radical simplification of delivery and control methods while ensuring an overall continued accountability of programme authorities and a consolidated assurance model. The Commission refers to its reply to Question 1 above, in that respect.

The Commission is also working with Member States in other areas where administrative burden and costs of beneficiaries and programme authorities can be reduced. In the framework of the REGIO Transnational Network for Simplification, Member States identified good practices with regard to the selection of procedures (16 practices), digitalisation of process (74 practices), risk-based management verifications (40 practices) and cooperation between authorities and beneficiaries (64 practices).

E-cohesion is another important tool towards simplification, inter-operability of data and less administrative burden in cohesion policy. The main objective of introducing e-cohesion systems for the 2014-2020 programming period was to simplify and streamline the implementation of the programmes by reducing the administrative burden for beneficiaries and authorities. E-cohesion became compulsory for 2021 – 2027 programmes, in order to better contribute to the joint efforts of the Commission and Member States towards simplification and reducing of the administrative burden in the implementation of the CPR Funds.

In addition, an improved external communication contributed to simplification and reducing the administrative burden by making key information available to the external stakeholders, e.g., with the creation of the RegioWiki or Kohesio, offering a comprehensive public platform for cohesion policy projects (both ERDF and ESF) and beneficiaries (it covers data from all 27 Member States and contains information on 1.8 million projects and over 500,000 beneficiaries supported by cohesion). The use of Kohesio is also helpful from an audit and control perspective.

Last, in their audits, the auditors of the DAC and of audit authorities verify if there are any rules, processes and procedures that constitute an excess administrative burden and cost (“gold plating”), or that can be simplified without undermining the overall assurance and effectiveness of the management and control system. When such instances are detected, specific recommendations are issued towards programme authorities to simplify the concerned processes.
36. ECA reports that cohesion funds were used to pay for an Italian Cultural Centre, which is still not open to the public after three years (ECA Annual Report 2022, p. 240). ECA reports that while the supplies were delivered, it was not a good value for money because it had not been in use yet. Why is the cultural centre not open to the public? What kind of problems appeared? Has the Commission imposed sanctions about this project? Why did the Commission not identify this misused Would you provide us with a list of cohesion projects that are very delayed?

**Commission’s answer:**

The cultural centre mentioned by ECA consists of the Diocesan museum and the library in the municipality of Castellaneta (Puglia). While the project was not yet in use by the time of the Court’s visit (October 2022), the project is currently fully operational.

Both premises are currently open to the public since March 2023. In addition, the centre has organised and hosted regular events (in particular cultural talks 2-3 days per month covering different topics) targeted to school groups (morning sessions) and the general public (evening sessions), to foster community participation and interaction on cultural activities. Five additional cultural talks (10 sessions) are programmed for the last quarter of 2023. The project and its EU funding are publicised, among other means, on the internet, in particular on the website MU.BI.CA. – Museo Diocesano Biblioteca Mediateca Castellaneta (mubica.it), which presents both the museum and library premises, their activities, discloses that the project received funding from the EU and displays the EU flag, Fund (ESF) and the operational programme in the website entry page.

The regulatory framework requires that “operations should be physically completed or fully implemented and contribute to the achievement of the objectives of the relevant priorities at the time of submission of the closure documents”, i.e. by 15 February 2025 (or by 1 March 2025 at the latest) pursuant to Article 138 of Regulation (EU) 13030/2013 and Article 63(5) and (7) of the Financial Regulation. Therefore, given that the project in question is already completed and functioning (well ahead of the regulatory deadlines for the submission of the operational programme’s closure package by 15/02/2025 or at the latest by 01/03/2025), the delay reported by the Court cannot be subject to any ‘sanction’ (financial correction) given there is no breach of the provision of the Regulation by the Member State, nor implies that the project and/or EU funding was misused.

Moreover, the Court quantified a 14% public procurement error on this project. This pertains to the 18 instances where the Commission disagrees with the Court’s quantification of the issue and contribution to its calculated error rate, and on which the Commission has no grounds to require corrective measures.

The completion and functioning of the projects are a matter of particular attention for the closure of the operational programmes, and consequently the national authorities.
have planned specific monitoring and control activities during 2023-2024 (as preparation for the closure), as well as in the context of the closure of the programme. In this respect, during the last years the Commission services have issued comprehensive guidance for the closure of the 2014-2020 operational programmes\(^\text{12}\) and such guidelines address, among many other topics, the treatment of non-functioning operations at closure (i.e. “operations that are not physically completed or fully implemented and/or do not contribute to the objectives of the relevant priorities”). This is a key and mandatory issue to be monitored by the programme authorities and the Commission services in the last assurance packages and implementation report, in order to ensure the appropriate closure of the programmes. At closure the Commission will be able to provide detailed information on such projects, for programmes that the Honourable Members would have selected and are interested in.

37. Could you provide us with a list of best performance projects of Cohesion policy in 2022? What lessons can be learned by other member states of these best practice examples and how do you guarantee an exchange of member states?

**Commission’s answer:**

In 2022, DG REGIO ran a special 15 years’ anniversary edition of REGIOSTARS Awards, where it looked back at 15 projects for 15 years financed in the 2007-2013 and 2014-2020 programming periods, looking at what was their state of play, impact and achieved results in 2022. During a panel discussion with Commissioner Ferreira, these projects had a chance to pass the message about their lasting impact to the community of the Member States’ INFORM EU network communicators covering CPR funds and RRF. Projects were diverse but some recurring lessons can be learned when analysing them: firstly, they made a local impact in the life of citizens living in the regions they were implemented. Secondly, they changed for the better some of the development dynamics of those regions, being it in the economic sector, in the environment sector or in the social or cultural and touristic sector. Finally, in many cases the beneficiaries of such projects had the possibility to further implement their development plans, creating a positive spill over effect. This exercise therefore allowed to highlight impactful projects but also to make them network throughout the competition phase. The projects were coming from all over the EU.

A list of these projects with a short description can be found at the following link: [https://ec.europa.eu/regional_policy/projects/regio-stars-awards/2022_en](https://ec.europa.eu/regional_policy/projects/regio-stars-awards/2022_en).

\(^\text{12}\) In particular, the Communication from the European Commission C(2022) 8836 final of 7 December 2022 (which replaces the previous Commission Communication of October 2021) on the ‘Guidelines on the closure of operational programmes adopted to benefit from assistance from the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Maritime and Fisheries Fund and cross-border cooperation programmes under the Instrument for Pre-accession Assistance (IPA II) (2014-2020)’. 

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Other lists of 2007-2013 EU co-financed investments were showcased as part of the 2007-2013 ex-post evaluation of ERDF/Cohesion Fund and are available – the list of related projects is published at this link:


The 2014-2020 ex-post evaluation, which also includes case studies of EU projects cofounded under cohesion policy, is on-going and will be finalised by end-2024.