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# The EU Recovery and Resilience Facility: a jump to a resilient Europe?

EUROPEAN COURT OF AUDITORS

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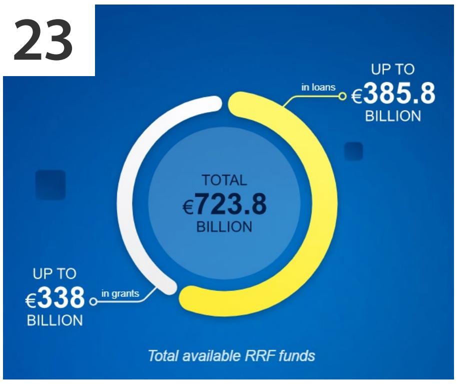


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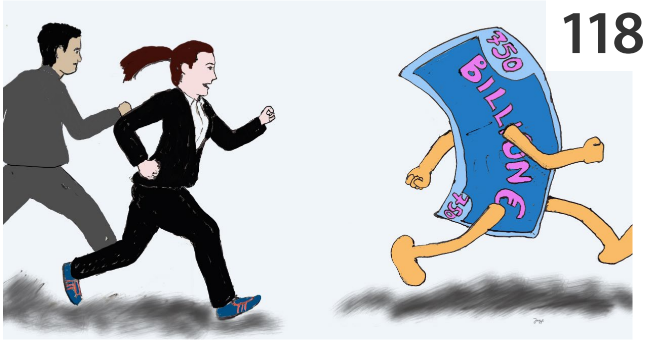


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## The RRF – all hands on deck

In times of crisis, the European Union's ability to find solutions is nothing short of impressive. It may take a while before the EU decision makers reach agreement, but the EU usually springs into action, e.g., take the 2008 financial crisis. For the EU, this was a crisis on many levels: banking, sovereign debt, euro, economic and a crisis of confidence. Most of these crises gave rise to a specific action: a banking union, financial support mechanisms, a fiscal union, the Euro 2020 growth strategy, and a specific political agenda. Alternatively, take this year's crisis, starting with Russia's invasion of Ukraine, triggering sanctions against Russia, financial support for Ukraine and even military support from the EU, something that many analysists would not have believed the EU capable of providing.

At the risk of being accused of overusing the word 'crisis', I'd like to mention a previous crisis, one that affected everyone in the EU and also across the globe, relating to something that affects us all, namely health. Of course, I'm talking about the COVID-19 pandemic, which caused severe financial, economic and social fall-out. This also explains the scale of the EU's reaction, embodied in the NextGenerationEU initiative, with the Recovery and Resilience Facility (RRF) as its beating heart; for non EU experts, this is also known as the COVID recovery funds. Reaction response time to the 2008 crisis was measured in years, but the time it took to agree on the RRF was measured in months, starting in May 2020, and achieving agreement across the board in December 2020. This is an agreement that stands out for several reasons, specifically: size – almost €724 billion; speed – financing reforms and investments through to 2026; delivery mechanism – focusing on performance as a condition for financing, and other conditions, such as those relating to the rule of law; coverage – six pillars to address various policy areas, notably greening and digitalisation; and financing – under the EU umbrella, allowing the EU to operate as a sovereign lender, with the EU budget as guarantee.

Altogether, it was the successful combination of bold steps because the easiest way forward would have been a 'business as usual' approach. This, however, would not have gone far enough to deliver a sufficiently resilient EU. One aspect that makes public auditors' work particularly challenging with regard to the RRF and related national plans is its delivery mechanism. Beneficiaries (strictly speaking the EU Member States themselves) deliver on milestones and targets as the condition for payment. How will it be possible to assess the delivery on the overall policy goals set out in the RRF – not only those policy goals relating to reforms and investments, but also the extent to which they have contributed to a more resilient society? As the resilience part of the acronym indicates, the overall policy goes beyond recovery, aiming for resilience, to improve a society's ability to quickly bounce back after a crisis. This requires a focus that goes beyond efficiency and includes a degree of flexibility to deal with unprecedented scenarios, as Concepción Campos Acuña explains in her contribution (see page 12).

Fulfilling RRF milestones and targets form the European Commission's payment condition for RRF funds, making it very different from previous core EU instruments, e.g. those for agriculture. Here, payment conditions relate to what a farmer owns in terms of their agricultural area. Another example is cohesion funds, where payment conditions relate to the incurred project costs. When reading more about the RRF and discussing it, the RRF concept brought to mind a discussion with a former colleague, Jan Pieter Lingen, 20 years ago. Philosophising about new EU solutions, he suggested replacing cohesion funds with a system to reward past and proven performance, instead of paying for ongoing or future actions. The RRF delivery mechanism is a move in that direction, although there are still national 'envelopes' that need to be used by a certain deadline. The combination of such national allocations and tough deadlines runs the risk that money start looking for projects, rather than projects looking for money, which could lead to less effective projects still receiving public funds. The RRF's focus on performance could go a step further, as suggested by Jorge Nunez Ferrer and Tomas Ruiz de la Ossa from the CEPS, if the EU provided loans that could be transformed into grants only if the objectives were achieved (see page 118).

Implementation seems to be on track, as highlighted in this Journal by Valdis Dombrovskis, the Commission's Executive Vice President responsible for coordinating the RRF, in comments he made to the European Parliament and the Council in September 2022, reporting that over 280 milestones and targets had already been met. He sees the RRF as a means to enhance institutional ownership in Member States for the reforms that the RRF should trigger and finance, with a view to decreasing the need for future EU support (see page 17). Moreover, Mikula Bek, Minister for European Affairs and the Chair of Council meetings during the Czech EU Presidency, has emphasised, the RRF is a great opportunity for modernising Czechia. He envisages a key role for the Commission and the Council when giving their final approval for RRF implementation (see page 45).

The key role for Member States is underscored by Céline Gauer, European Commission Director-General and head of its Recovery and Resilience Task Force, particularly regarding implementation and the need to involve all stakeholders in Member States to warrant the performance focus that makes the RRF instrument so unique (see page 23). Other contributions from her Commission colleagues focus on the conditions that need to be fulfilled to keep the RRF on track. Gert Jan Koopman hones in on the RRF's innovative financing, through borrowing funds (see page 29). Manfred Kraff highlights the need to have a convincing control and audit strategy in place, both in the Commission and Member States (see page 34). Renate Nikolay describes the various rule of law instruments introduced by the Commission, including the General Conditionality Regulation that is also applicable to the RRF expenditure (see page 40). How these conditions are translated at national level is explained by Susana Climent del Castillo, who provides insights into the Spanish control arrangements (see page 49).

With its focus on milestones and targets instead of costs, the RRF seems to be about the what and less about the how. Public auditors are the first to stress the importance of outcomes. However, their daily bread and butter tasks also relate to how an outcome is reached, a key element in ensuring citizens' trust in the system. For the ECA, one of its core products is its annual Statement of Assurance, in which it examines the legality and regularity of EU payments, including the systems in place to prevent irregularities, fraud and corruption. With the RRF set-up, the question as to how potential fraud and double-funding risks can be examined without covering the costs that are reimbursed to the final recipients of the RRF funding by Member States becomes rather pertinent.

While appreciating the innovative character of the RRF, ECA Member Ivana Maletić highlights this question as one of the challenges the RRF poses for the ECA and other public auditors (see page 54). Together with other ECA experts, she asserts that various principles that have been underlined by the ECA in the past – scrutinising accountability, transparency, compliance with rules, principles of sound financial management – apply to all EU public monies, including the RRF. ECA experts provide insights on strategic issues, the implications for compliance audits, performance audits, training needs, operational consequences and potential scenarios, all thrown into the spotlight by the RRF (see pages 66, 72, 77, 87, 90, and 139). In Member States, this aspect relating to the question 'how' surfaces in terms of the RRF, including national audit experts pointing to issues like changing circumstances – something typical of a volatile environment – and the sustainability of RRF financed actions (see pages 94 and 98).

This dual RRF quest – whether the RRF deliverables will be achieved, and also how they will be achieved – is shared by Parliament stakeholders, at least by MEP Siegfried Mureșan, one of the Parliament's rapporteurs who provided a positive report on the RRF overall, but nevertheless raised several concerns (see page 104). One key concern is being properly informed, about the what and the how of the RRF delivery, a concern that is shared by his colleague at national level, Douglas Hoyos-Trautmansdorff, MP and Chair of the Court of Audit Committee of the Austrian Parliament (see page 110). MEP Mureșan appeals for more attention to reforms and the observance of the rule of law as a sine qua non condition. This clearly comes across in the contribution from Professor Dan Kelemen, who signals a lack of real application of the rule of law conditionality, despite the fact that serious breaches have emerged (see page 114).

The RRF's reform orientation is also a yardstick when assessing reform progress, as Member States are encouraged to do through the European Semester. ECA Member Mihails Kozlovs identifies the RRF as a critical governance challenge, enabling an integration of the two instruments (see page 61), although discussions may arise on what constitutes the carrot and what constitutes the stick in terms of reforms in Member States (see page 136). What about the RRF's own capacity for reform? Is it flexible enough to be able to adapt to new circumstances, such as the energy crisis (see page 82, the undesired substitution effects as CEPS experts have identified (see page 118), or the early lessons that we can draw at this stage? These include those pointed out by Alessandro d'Alonso (see page 125) and Zsolt Darvas (see page 130), especially for issues such as continued relevance, getting the funds where they're needed, and promoting cross-border projects to address pan-European challenges.

Under the pressure of urgency, many things have a tendency to become fluid. An instrument like the RRF was unthinkable (at least in any real sense) pre-pandemic. The influence that the implementation and impact of the RRF will have for future policy-making depends on its success – but measured against what? How can we assess progress linked to resilience, which in itself depends not only on investments, but also on reforms to move to a society that values solutions that can address 'just in case' scenarios instead of merely economic growth? This requires a change in mindset, both for policy makers, and for those who put them in power. This is a leap into the unknown, where the RRF can serve as a stepping-stone. A good year after its operational jump-start, it's still too early to tell, but for various reasons such as the money involved, citizens' trust and the crises looming just around the corner, failure is not an option.

# What's in a name? – Resilience as key concept in the RRF

By Gaston Moonen

*Source:* Blasbike/Depositphotos

Pulling together to overcome challenge

The EU has many policy instruments, identified most frequently by acronyms that can be puzzling for people working outside the EU environment. The Recovery and Resilience Facility (RRF) is one such instrument, albeit – in so many respects – a huge one. Outsiders may know it better as the COVID recovery programme. While 'recovery' is easy enough to understand, 'resilience' is relatively new as a label for an EU scheme. What does it mean, and how does it translate into action for people and society at large?

## The pandemic as trigger

When the consequences of the COVID-19 pandemic emerged, it became clear that it had affected society in various ways: medically, through the millions of casualties around the world; financially, through severe impacts on people and businesses; economically, through diminished growth; and socially, through repercussions on human wellbeing. More than anything else, the pandemic revealed the high subsequent costs of being ill-prepared for a crisis on this scale. Hence there was a strong awareness among policymakers of the need not only to effect recovery to the medical, financial, economic and social status quo ante, but also to prepare and prime societies better for future crises and shocks. As the war in Ukraine has shown, similar disruptions are never far away.

Another word for this last aspect, that of better preparedness for future unknowns, is 'resilience'. Policymakers almost certainly included this term in the RRF to reflect the idea that no post-pandemic EU action can now afford to overlook the proactive design of better mechanisms for coping with future shocks. At the same time, however, 'resilience' has become something of a buzzword, and over-use has perhaps diluted its force. So what does it actually mean, both in general terms and, more specifically, in relation to the RRF? To find out more, I looked at how the word is commonly employed, what it means in the context of the RRF Regulation, how it has been used in other EU documents, and, finally, how the experts interpret it.

## The common meaning of resilience

Although the literal meaning of resilience might not always work in the EU context, the dictionaries give some pointers as to how it should be understood in the phrase

'Recovery and Resilience Facility'. Two possible technical definitions are:

- the ability of a substance to return to its usual shape after being bent, stretched, or pressed (Cambridge Dictionary);
- the capability of a strained body to recover its size and shape after deformation, caused especially by compressive stress (Merriam-Webster).

A second, more human or social, meaning might be:

- the ability to be happy, successful, etc. again after something difficult or bad has happened (Cambridge Dictionary); or
- an ability to recover from or adjust easily to misfortune or change (Merriam-Webster).

Merriam-Webster further specifies that 'resilience' derives from the present participle of the Latin verb *resilire*, meaning 'to jump back' or 'to recoil.' In turn, *resilire* is based on *salire*, meaning 'to leap'. The Cambridge Dictionary gives some examples in context, including 'Resilience is likely to be tested during the coming weeks and months in the millions of people who witnessed the terror of last week' and 'What we are starting to see is the resilience of the U.S. economy'.

The term 'resilience' clearly refers to the capacity to rebound, which sets it apart from robustness. The latter can also mean inflexibility, while resilience is the ability to bend but not to break, even under strong pressure, combined with returning quickly once the pressure is gone. While the word 'recovery' focuses on going back to the situation that existed before the pressure arrived – with the idea of repairing something broken – resilience relates to the ability to bounce back without needing to be repaired.

### Definition and use in the RRF Regulation

The best way of determining which meaning the legislators had in mind when adopting the RRF must be the RRF Regulation itself (Regulation (EU) 2021/241). Paragraph 6 of the preamble places resilience in its economic, financial and societal context:

'The COVID-19 crisis as well as the previous economic and financial crisis have shown that developing sound, sustainable and resilient economies as well as financial and welfare systems built on strong economic and social structures helps Member States respond more effectively and in a fair and inclusive way to shocks and recover more swiftly from them. A lack of resilience can also lead to negative spill-over effects of shocks between Member States or within the Union as a whole, thereby posing challenges to convergence and cohesion in the Union. […] Sustainable and growth-enhancing reforms and investments that address structural weaknesses of Member State economies, and that strengthen the resilience, increase productivity and lead to higher competitiveness of Member States, will therefore be essential to set those economies back on track and reduce inequalities and divergences in the Union.'

Paragraphs 9 ('Reforms and investments under the Facility should help make the Union more resilient and less dependent by diversifying key supply chains and thereby strengthening the strategic autonomy of the Union […]') and 10 ('Recovery should be achieved, and the resilience of the Union and its Member States enhanced, through […] institutional resilience with the aim of, inter alia, increasing crisis preparedness and crisis response capacity […])' clearly distinguish resilience as a separate aspect and objective beyond mere recovery.

Article 2(5) of the Regulation specifically defines resilience as 'the ability to face economic, social and environmental shocks or persistent structural changes in a fair, sustainable and inclusive way'. Further references to resilience in the Regulation have a more generic character. For example, 'recovery and resilience plans' are expected to have a lasting impact on the Member States concerned.

The meaning of resilience, as used in the Regulation, clearly relates to long-lasting effects that will enhance the ability of society to bounce back in any future crisis. In that sense, it aligns well with the way the word is used in earlier EU documents.

## Use in EU documents

The term resilience has appeared in many EU documents, especially since the RRF proposals, which began in spring 2020. I have examined two such documents, one each from the European Commission and the ECA.

The Commission defined the term clearly in its 2020 Strategic Foresight Report *Charting the course towards a more resilient Europe*, which it published in September 2020. The report identifies resilience as 'a new compass' for EU policies. According to the Commission, the COVID-19 crisis has exposed a number of vulnerabilities in the EU and the Member States. At the same time, though, it has stimulated cooperation between the EU and the Member States: the pandemic has 'underlined Europe's capacity to act in the face of adversity'.

In the report, resilience refers to 'the ability not only to withstand and cope with challenges but also to transform in a sustainable, fair and democratic manner'. Given the transition-led political agenda, Europe needs to further strengthen its resilience and 'bounce forward' – meaning that, by intensifying the necessary transitions, it can not only recover but also emerge stronger. The report also emphasises that the right balance needs to be struck between the wellbeing of current and future generations, and proposes analysing the EU's vulnerabilities and capacities for resilience in the light of relevant megatrends. This might seem now to be the logical approach to policy, but the 2020 report was the first in which the Commission identified megatrends to stimulate the development of forward-looking policies to strengthen the EU's resilience.

The report goes on to make a 'four-dimensional analysis of resilience'. It examines each of the four dimensions (social and economic, geopolitical, green, digital) for its capacities, vulnerabilities and opportunities.

The ECA embedded resilience in the vision statement for its 2021-25 Strategy: 'We aim […] to contribute to a more resilient and sustainable European Union which upholds the values on which it is based.' Accordingly, it took resilience as a key element for its special report 18/2022 on COVID-19 and the EU institutions, the audit objective for which was 'to assess the resilience of EU institutions: their level of preparedness, how they coped with the COVID-19 pandemic, and what lessons they drew from it'. In the context of that report, resilience is identified as the institutions' capacity to absorb the negative impacts of a disaster, or to recover afterwards. The report concludes that resilience allows organisations to become stronger. This perception of resilience also stands out in the press release accompanying the report: 'Resilient organisations are ones that have the capacity to learn from a crisis and emerge stronger. We think that EU bodies have proved their resilience of the past two years of crisis.'

Again, it emerges from the two reports I have examined that the key characteristics of resilience are the ability to come relatively unscathed through a crisis, and to emerge stronger rather than weaker in terms of, among other things, lessons learned. Opinions may differ as to whether EU documents *themselves* are resilient. Some of them seem to remain relevant for a long time, bouncing back into topicality precisely at times of crisis.

## The academic vision of resilience as a vehicle for societal change

Many articles have been written on recovery and resilience. From the societal perspective, including financial and economic aspects, one book that stands out is *The Resilient Society* by Markus Brunnermeier, a professor at Princeton University, which was published in 2021[1]. A key question the book raises is that of reshaping societies to face inevitable severe shocks with resilience. Brunnermeier defines resilience first as the ability to rebound, distinguishing it from robustness. He refers by analogy to the oak and the reed in Jean Lafontaine's eponymous poem (see also page 12), in which the reed says 'I bend but do not break' and the robust oak breaks when the storm becomes too severe. And, once it has fallen, no recovery is possible.

Brunnermeier applies the metaphor to societies, particularly modern societies organised around efficiency and the 'just in time' principle. He advises switching to a 'just in case' approach to establish the ability to recover swiftly after a shock. However, for him

1 Markus K. Brunnermeier, *The Resilient Society*, Colorado Springs, 2021.

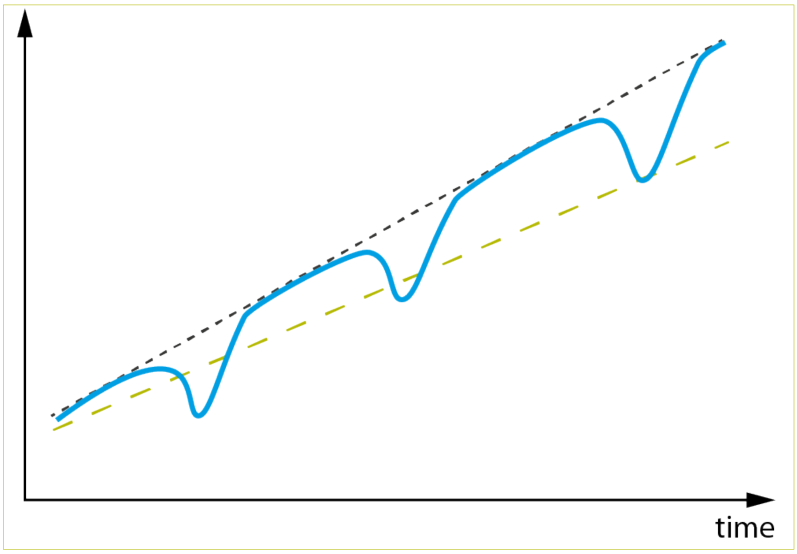
resilience is independent of risk; it is about the ability to react after a shock hits, or, as he labels it, to 'mean-revert'. He considers resilience also as an essential component of sustainability: in the absence of resilience, severe shocks might push a society over the edge, where it is at the mercy of adverse feedback loops.

Brunnermeier builds on the COVID-19 crisis to argue that more crises will arrive, in multiple forms, each successive crisis triggering others. He brings up the volatility paradox, which means learning to be resilient through exposure to minor risks in order to learn how to deal with larger ones and acquire the ability to bounce back. How does this translate to societies? The 'just in case' rapid recovery logic posits the need to accept certain redundancies that can be deployed flexibly. He pleads for a new resilience mind-set, with new ways of looking at cost-benefit calculations.

This last argument also applies to concepts that go beyond individualistic thinking, so that society is also seen as a network of interactions between people, including the recognition that individual conduct will create what economists call 'externalities' that will impact others. Brunnermeier argues for a new social contract that better addresses negative externalities than those currently in place. Additionally, he says, a different social contract would provide at least partial insurance against shocks. On this basis, resilience can serve as the 'guiding North Star for designing a post-COVID-19 society'. In the resilient society, people would not become trapped or fall into poverty but would instead have the ability to rebound and try again after they have learned from their failures.

The main message of Brunnermeier's book is that resilience, not risk, should be the compass for society: how quickly can an individual, a group of people, a business, or society as a whole, bounce back from a shock? Risks are most dangerous where resilience is lacking. But risks accompanied by resilience are less worrying. The mind-shift he envisages is to switch away from focusing on risk, and instead to focus on resilience as a means of addressing risk (see **Figure 1**). Brunnermeier realises that, while redundancies and buffers are important, they cannot be arranged for every possible scenario. He also argues that a society's outlook – autocratic or democratic – affects the possibility of exploiting resilience. He models the resilient society approach in multiple areas – public health, innovation, public debt, inflation, inequality, climate change, and challenges to the global order.

**Figure 1 – Resilient path versus risk avoidance path**




Risk avoidance path is the green line (stripes), vs. a volatile but resilient path (blue line).

Source: Markus K. Brunnermeier, The Resilient Society, Colorado springs, 2021

## Resilience as concept for crisis preparedness

Although in common usage resilience might appear to mean something close to recovery, even then there is a notion of quick recovery, expressed in the ability to 'bounce back'. In the societal context resilience means more than recovery, more than just going back to the same regular growth pattern as before the crisis. It includes an ability to dampen the effects of crisis so as to recover more quickly. What one might call 'sustainable recovery ability'. All of which makes the aspect of reforms in the RRF, alongside the massive investment, all the more important.

The key feature of resilience is its future orientation; an approach that looks beyond risk to envisage flexible solutions 'just in case'. Because the assumption is that, in a volatile world such as ours, shocks, crises and disasters are inevitable, whether natural or man-made. Both the war in Ukraine and the effects of climate change show that enhancing resilience in our societies is not a luxury but a necessity.

# An innovative approach to public policy-making: resilience as a central pillar of the RRF

By Associate Professor Concepcion Campos Acuña, Rovira i Virgili University

*Source:* Depositphotos/simonalvinge

Over the years, the EU has launched numerous initiatives to address policy concerns and disruption, as well as crisis situations. The most recent example is the Recovery and Resilience Facility (RRF), whose major objective is to ensure resilience. How new is this instrument, how does it differ from earlier ones, and what is its purpose from a governance and audit perspective? Concepcion Campos Acuña, Associate Professor of Administrative Law at Rovira i Virgili University in Tarragona and expert in public management, has studied the management and governance conditions relating to the RRF extensively, including in relation to her work as editor and co-author of the book La gestión de los Fondos Next Generation, in which she analyses RRF management in terms of its management concept. Below she provides the context in which the RRF was created, and describes how its governance model differs and the possible implications when the implementation and operation of the RRF are assessed.

## A historical challenge triggering new solutions

The European Union's adoption of the Recovery and Resilience Facility (RRF) in 2020 gave rise to a new scenario in the development of European policies, particularly in the approach under financial instruments intended to support and encourage Member States to move towards investment and reform. In this context, on 21 July 2020, the European Council agreed on an exceptional temporary recovery instrument known as NextGenerationEU for the amount of €750 billion. This instrument was initially conceived to guarantee an EU response, coordinated with the Member States, to the economic and social consequences of the pandemic. However, it will also demonstrate its effectiveness through the response to the demands that have arisen since the outbreak of the armed conflict in Ukraine, and the emergence of a serious energy crisis, which will redirect and shape the manner in which this instrument is implemented, particularly as regards the climate dimension.

The instrument is presented as constituting a historic opportunity to carry out the necessary investments and reforms, and so promote a transformative recovery in Europe. The underlying idea is also that, beyond the aggregated efforts of Member States, recovery will proceed in line with a single vision of Europe in terms of a productive and economic model based on management aligned with the ecological and digital transition, and founded on inclusive and egalitarian principles. This model is also built around the concept of resilience, which, although not new, is presented as an innovation in the field of public policies.

In this context, we must take into account that the governance model of the Member States using RRF funds offers different projections establishing multilevel and multilateral governance that relate mostly to:

- Member States' internal arrangements, based on their territorial organisation, as well as social and economic factors;
- Member States' arrangements with the European Commission;
- European citizens: a new model cannot be implemented in the Member States without the support of and ownership by EU citizens, and all the more so in view of the reforms envisaged.

Governance in the EU is an outstanding issue that was first addressed just 20 years before the outbreak of the COVID-19 pandemic, in 2000, in the European Commission's White Paper on European Governance (2001). In this paper the Commission sought to resolve the apparent paradox between citizens' expectation that the European institutions would resolve society's greatest problems, on the one hand, and their diminishing confidence or even lack of interest in the institutions, on the other.

The COVID-19 pandemic first caused a health emergency, followed by a social and economic emergency. The way the pandemic evolved and spread to the Member States called for an innovative model, compared to traditional European financing mechanisms. One of the effects of this model, among various others, is that it is achieving such resolution by restoring trust and bringing about authentic governance that is tested through the RRF.

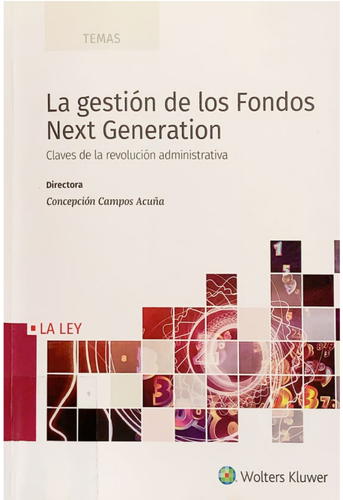
This model challenges us, as we shall see, because of the need to incorporate new metrics of efficiency and clear effects, both socially and economically. Returns that allow us to approach with seriousness and rigour, and a projection towards the future, the definition, execution and audit of these new public policies must mark the European Union of the 21st century.

### Innovative management geared towards effectiveness

The different approach of the NextGenerationEU initiative is characterised by a series of conditioning factors which highlight the drive for modernisation in Member States, addressing transition objectives in the area of climate and digitalisation. Commitment to these transition objectives should be demonstrated by obligatory appropriation of a percentage of the funds, and the promotion of social and territorial cohesion, the ultimate aim being to prepare European economies and societies for recovery and resilience. This demonstrates the need to approach the present and the future with a VUCA vision (Volatility, Uncertainty, Complexity, and Ambiguity) when faced with a scenario of uncertainty that is clearly much more volatile, uncertain, complex and ambiguous than when this concept was first formulated.

The new philosophy and approach of the RRF have been integrated into National Recovery and Resilience Plans (NRRPs) and establish an accreditation system based on milestones and objectives. With regard to fund allocation, the related qualitative milestones and quantitative objectives will need to be certified, and the progress of the reforms and investments provided for in the respective NRRPs will need to be evaluated. Disbursements will depend directly on achievement of both milestones and objectives, in accordance with the agreed terms.

We can thus confirm that the reconstruction the RRF was intended to bring about following the COVID-19 crisis does not seek to consolidate the previous model, but to promote and support the transformative process that was seemingly kick-started upon the arrival of the 21st century. However, this process failed to progress at the rate required of society in order for it to keep pace with this dizzying evolution. This new and very real situation was precipitated by the extraordinary events that characterised the course of the second decade of this century.




Recent publication (in Spanish) by Concepcion Campos Acuña on the management of NextGenerationEU funds (Marcial Pons, La Ley, 2021, ISBN: 9788418662188).

## Paving the way towards open government in EU reconstruction efforts

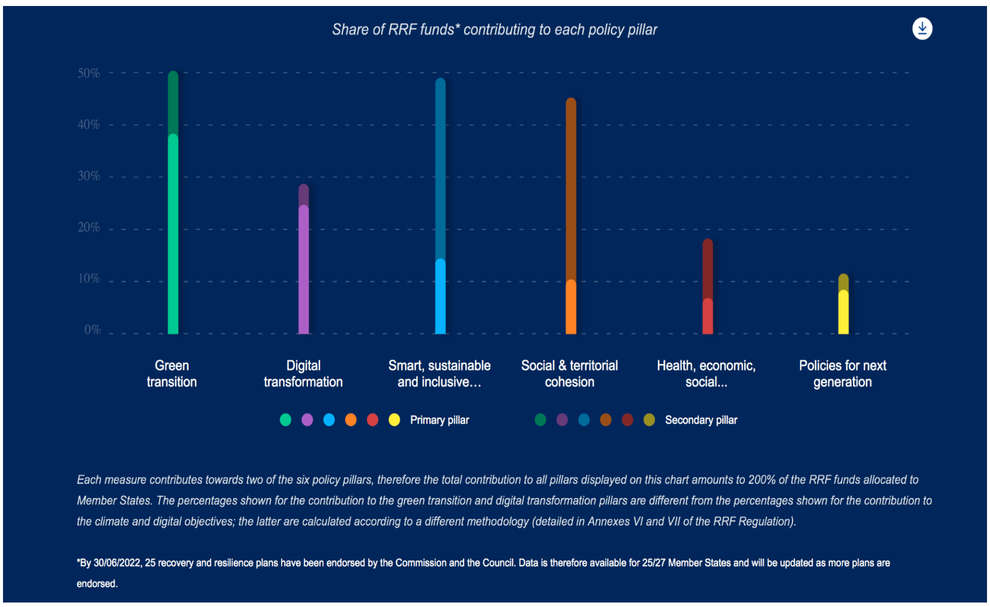
One of the keys to guaranteeing compliance with the above-mentioned milestones and objectives is to have constantly updated information on the status and evolution of the RRF. To facilitate the monitoring of its implementation, the European Commission has established a table of indicators, which also serves as a tool for providing EU citizens with information on the RRF's implementation in a transparent manner. This constitutes an exercise in accountability without precedent that should be viewed in the context of progress towards open government at EU level. In addition to this external dimension, the indicator scoreboard also serves as a basis for preparing the Commission's annual reports on the implementation of the RRF, and the review report submitted to the European Parliament and the Council, as well as the report on the Dialogue on Recovery and Resilience conducted between the Parliament and the Commission.

In keeping with the innovative RRF model, the Recovery and Resilience Scoreboard is structured around:

- sections dedicated to the achievement of milestones and objectives and to RRF disbursements;
- specific data compiled by the Commission, such as spending by policy area and a breakdown of green, digital and social spending under the Facility;
- qualitative information compiled through thematic analysis of the implementation of plans in specific policy areas.

The RRF Regulation sets out six policy areas of European relevance structured in six pillars. The Recovery and Resilience Scoreboard displays the impact of the RRF on these six policy pillars (see **Figure 1**).

**Figure 1 – The six policy pillars and expected impact of the RRF**




*Source: European Commission*

The system's purpose is to collect two types of information:

a) data collected by the Commission during its monitoring of the implementation of recovery and resilience plans;

b) data collected by Member States on 14 common reporting indicators.

### Auditing resilience – moving towards the Van Halen clause?

In the wake of the pandemic, Member States have suffered different social, economic, and even governance impacts. We can view their reactions as constituting an exercise in social leadership that also demonstrates their capacity to react in an agile and flexible manner in the face of rigid and poorly suited approaches. Those who have managed to overcome the complex and changing scenarios with greater success are those that have shown a greater capacity for resilience. Resilience, as defined by the Sendai Framework for disaster risk reduction, is the ability of a system, community or society exposed to a hazard to resist, absorb, adapt, transform and recover from its effects in a timely and efficient manner. It considers risk management an important tool, particularly for the preservation and restoration of their basic structures and functions.

Resilience is thus presented as a tool with which to strengthen Member States' management and capacity to react in the face of unprecedented scenarios, be they as a result of a health crisis or a military conflict or, as we currently see, when faced with a serious energy crisis. Resilience comes into play in particular when it has been verified that it is impossible to avoid all contingencies. The correct response strategy is to reinforce organisations so that, under an adaptive and flexible model, they can react appropriately to any situations that arise. The building of such organisational capacity must also take into account the need to prevent fraud, corruption and conflicts of interest, given the high risk inherent in disbursing considerable public resources, as in the case of the RRF.

The need to adopt this new approach entails changing the model comprising the rather formal approach that would hitherto have been taken to the audit and control of RRF implementation. The set-up of the facility requires going beyond a mere formal audit of compliance and moving on to an audit of results and objectives connected with its purpose. To do so it is necessary to turn to innovative and new models, where creativity generates a real X-ray of the short-, medium- and long-term effects of the economic injection that this new EU financial support is to deliver.

*Source: Pixabay*

An example of managing a high-risk indicator through creativity is the renowned 'Van Halen Clause', a classic in business studies. What is this clause all about? The rock group, faced with the complexity of assembling and disassembling their equipment at the different venues in which they had to perform, decided to include 'Article 126', i.e. the 'Van Halen Clause', in all their contracts, the aim of which was to guarantee that the contracting parties had read the entire contract and that the group could therefore rely on compliance with the necessary safety standards.

The clause stipulated that there should be a bowl of m&m's (yes, the sweets) in the dressing room, but under no circumstances any brown ones. This could only be achieved by removing them individually by hand. This meant that if they saw any brown m&m's in the bowl when they arrived in the dressing room, they knew that the contract had not been read and, consequently, that the condition of the installations would have to be checked. In fact, in the event of non-compliance, the Van Halens could freely cancel the contract and claim their fees in full. In contrast with the whim of a rock group, we are confronted with a real need for quality control in the face of a high-risk indicator. Could we have a Van Halen clause in the RRF?

## Bending towards a sustainable future instead of breaking away from it

Prior to the pandemic, sustainability and resilience were terms used infrequently. Today they are part of the vocabulary used daily in the lives of citizens and by the pillars of public management. They form the backbone of EU policy making, and not least under the RRF, whose general objective is none other than to promote the economic, social and territorial cohesion of the Union, thereby improving the ability to overcome adverse situations, and enhancing preparations for a future crisis. The idea is that an improved capacity to adjust, combined with optimal use of economic resources, will promote Member States' growth potential in various circumstances, and reinforce the European pillar of social rights.

In this context, compared to a traditional spending-verification model, the audit approach must also be reinvented. It must change from a mere formal justification of payment requests, based on verification of the actions carried out, to an assessment of whether projects have been carried out in line with the milestones and objectives set, and whether their results are the most satisfactory in terms of the development of the Member State concerned, and society overall. This will, at last, give rise to progress towards a different model of European governance, and the RRF comprises a first-level test in this area.

*Source*: Pixabay

It is about prospecting towards the future, from uncertainty to perspectives, turning flexibility into robustness, and using the capacity to react to effect proper adjustment and readjustment, just as in Jean Lafontaine's fable, The Oak and the Reed. It is important for Member States in certain situations *not* to bend but be able to stand tall soon, even in the worst possible conditions. It must be ensured that it has the capacity to be resilient and bounce back, thereby guaranteeing social and economic cohesion, and a just digital and climate transition. If this is to be achieved, the challenge is to approach the audit from an innovative angle, focusing on the objectives and values that are to be supported, on which the success of the RRF and its governance will undoubtedly largely depend, and so it must resemble a reed rather than an oak.

# ‘The mere creation of the RRF is a sign of resilience [in itself]’

## Interview with Valdis Dombrovskis, Executive Vice President of the European Commission for an Economy that Works for People

By Gaston Moonen

Source: European Commission

Valdis Dombrovskis

While the Recovery and Resilience Facility covers many policy areas, ranging from greening requirements to education and skills policies, for many people its main aim is to mitigate the economic and social impact of the COVID-19 pandemic and make European economies more resilient to future shocks. When the RRF was presented in summer 2020 as the centrepiece of the NextGenerationEU initiative, it was clear that those responsible for financial and economic issues at the European Commission would play a substantial role in setting it up and carrying it out. This has proved to be the case. Valdis Dombrovskis is Executive Vice President of the European Commission, chairing the Commissioners’ group on an Economy that Works for People, and also Commissioner for Trade. Putting the RRF into effect falls within his responsibilities. As he explains, this task not only has economic and social aspects, but also requires flexibility and stamina to meet commitments and anticipate developments in current affairs in order to bring about recovery and strengthen resilience.

### Assessments done, implementation on track

If you look at Valdis Dombrovskis’ portfolio on the European Commission website, you will see a long list of tasks for which he is responsible. So as well as being very busy, he is also active at many different meetings. Valdis Dombrovskis drily acknowledges that there is a lot of work going on at the moment. ‘I would say that with the Russian aggression against Ukraine and dealing with the various elements related to that, things have even become busier. But that's how the work is organised in the European Commission – the executive vice presidents have broad policy areas to cover. And for me this also includes responsibilities regarding the Recovery and Resilience Facility, the RRF.’

Setting up the RRF was a rather challenging task, he says: ‘Challenging but also very interesting to create, in many ways, such a coordinated European response to the COVID-19 crisis, including for the first time doing large-scale EU common borrowing to finance such a common response. And an instrument that is totally performance-based, linking reforms and investments. I am glad that we managed to set up the RRF and now it's already – one can say – up and running and our focus is now on the implementation.'

Part of his role as coordinator was to present the RRF with the related national recovery and resilience plans (NRRPs), to the College of Commissioners. But that was far from all: 'Also, I was the one doing the *trilogues* [with the European Parliament and the Council] during the legislative phase on setting up the RRF Regulation. Regarding the organisation of work within the Commission on individual plans, there is a steering board with the President of the Commission, myself and the other two Executive Vice Presidents, Commissioner for the Economy Paolo Gentiloni, and the two Directors-General of ECFIN and RECOVER. In this steering board, we discussed matters and also divided responsibilities for individual Member States. So each member of the steering board had a certain number of Member States to deal with, with "more hands on." But all in a flexible way, because often enough it happened that a minister from a Member State wanted to talk with me or with the Commissioner for Economic Affairs.'

All in all, Valdis Dombrovskis sees the RRF assessments and implementation as moving forward at a good pace. 'As the European Commission, we have already positively assessed 26 out of 27 NRRPs. The only outstanding one is from Hungary, where the work continues. Now we have already endorsement of 26 plans by the Council, the latest one being the Dutch NRRP. We have disbursed pre-financing to a number of Member States and have received by this time 14 payment requests. So, all in all, we have already disbursed – by end of October 2022 – €115.5 billion, out of this overall RRF envelope of €723.8 billion at current prices.' He concludes that the implementation is on track and progressing well.

> *…all in all, we have already disbursed – by end of October 2022 – €115.5 billion...*

He adds that he has not seen any major setbacks regarding the RRF. 'Of course, no misunderstanding here: it's a challenge. There is a lot of work with the Member States, first on setting up the plans and now on checking that the milestones and targets are met before doing disbursements.' He explains that a new stage will be coming when many Member States will prepare 'adjusted plans'. 'A number of Member States are receiving additional grant allocations and we need to see how those allocations are going to be used. And we have also proposed this REPowerEU initiative, our plan to rapidly reduce dependence on Russian fossil fuels. If it is adopted, it would mean that Member States would also need to prepare dedicated REPowerEU chapters in their recovery and resilience plan to address the immediate security of energy supply issues in Member States related to Russia's war against Ukraine and disruptions in Russia's fossil fuel supplies.'

Besides external factors, internal and more nationally related factors might also trigger changes, or at least change a Member State's commitment to executing the plan. When asked whether, for example, a change of government in a Member State – as we recently saw in Italy – might be a good reason to change an NRRP, Valdis Dombrovskis is not convinced. 'What we emphasised a lot to Member States is that, once the recovery and resilience plans are approved, it's important to focus on their implementation. Of course, there is the possibility, as we discussed previously, for Member States to come with addendums to the plans – if the grant allocation has changed or there is work to be done to focus on REPowerEU elements. But we do not expect that those addendums should lower the overall ambition of the plans, also in terms of structural reforms.'

As he explains, the RRF regulation allows Member States to submit amendments to their plans, provided they can justify that certain milestones and targets are no longer achievable due to objective circumstances. 'But we will be assessing also very carefully whether they are really objective circumstances which actually prevent Member States from implementing relevant reforms and investments.' So, he does not consider a mere change of government as grounds for completely re-working an NRRP. 'In such a case, the whole process starts anew and, given the tight implementation deadlines, it would not be very practical. We really strongly advise Member States to focus on implementation and delivering reforms and investments foreseen in these plans.

## Audit and control procedures embedded in various RRF stages

The Commission has said that it has a residual responsibility regarding the implementation phase of the RRF. When discussing what this means regarding the protection of the EU's financial interests, the Executive Vice President points out that all NRRPs contain assurances on the robustness of national control and audit systems. 'These assurances, that is something the Commission is considering and has been considering when giving assessment of the plans. As the Commission, we need to come to the conclusion that relevant control and audit systems are adequate before we can provide positive assessment. So that's already one check.' He refers to the actual audits that the Commission then carries out regarding the structure, function and capabilities in the Member States. 'So: review the control and audit systems and the data management systems of authorities in charge of the NRRP implementation. Furthermore, the performance-based nature of the RRF means that disbursements are only possible upon satisfactory fulfilment of milestones and targets, again something which we are checking.'

> *As the Commission, we need to come to the conclusion that relevant control and audit systems are adequate before we can provide positive assessment.*

Another important check relates to assessing the payment request. 'This includes a check on the summary of audits carried out nationally and a management declaration made by national authorities on the absence of conflict of interest, prevention of fraud, corruption and double funding.' To clarify, Valdis Dombrovskis says that these checks continue after the payment has been made. 'The Commission also carries out dedicated audits on achieved milestones and targets. I would say there is a quite strong system of control, of audit to ensure that the financial interests of the Union are protected.'

For the Commission, the management declarations are an important factor in its decisions on RRF payment requests from Member States. 'If there is fraud taking place and this has led to a milestone or target not being met, we would issue a negative assessment of this milestone or target.' Valdis Dombrovskis refers to where these checks normally start: with the Member State. 'So if authorities in a Member State are detecting irregularities, they themselves must take action, they must investigate the situation and they must take corrective measures. This can mean recovering funds, cancelling relevant contracts, then informing the Commission of those irregularities in their management declarations and also in their summary audits.' If Member States themselves do not act, he says, then the Commission will recover the funds instead of the Member States. 'We think that with the way the system is structured, there is a clear incentive for a Member State to ensure that all irregularities are corrected.'

> *So if authorities in a Member State are detecting irregularities, they themselves must take action (...) and they must take corrective measures.*

In the event that a Member State does not report irregularities, the Executive Vice President explains that the Commission also carries out system audits as part of the RRF audit strategy. 'In these audits, we also focus on the measures national authorities are taking to prevent, detect and correct any irregularities. This is done by the Commission. But there is also the EU's anti-fraud office - OLAF, the European Public Prosecutor's Office, but also the ECA – all having in some way the right to look into any possible irregularities and take action as needed.'

## Clear and measurable milestones and targets

One of the key elements that distinguishes the RRF from other EU instruments relating to (most of) cohesion policy or agriculture is its focus on performance as a key criterion for EU disbursement. As Valdis Dombrovskis explains, from the start of the discussions on the NRRPs, this performance-based approach translated into a focus on milestones and targets. 'When we were discussing with Member States the NRRPs drafted by them, we were putting a lot of attention on having clear and measurable milestones and targets. We have also operational arrangements to further clarify all those elements. Therefore our assessment of performance is whether Member States have been meeting the relevant milestones and targets.'

He clarifies how this works in practice. 'We, as the Commission, actually do the assessment for whether those milestones and targets are satisfactorily fulfilled. This assessment is the basis for the decisions to provide financing. So it was therefore very important for us to make sure that these milestones and targets are *clear* and *measurable*, so that there is a clear basis for the decisions we take. But also for Member States themselves, when they are submitting the payment request.' He points out that Member States have some flexibility regarding when they submit their payment requests. 'We really encouraged Member States to submit the payment request only when the relevant milestones and targets for that payment request are clearly met.'

In its special report 21/2022, published last September, the ECA reviewed the Commission's assessment of the NRRPs and found the assessment to be generally appropriate. One of the ECA's concerns related to the comparability between the NRRPs regarding, for example, the number of milestones and targets to be achieved for each instalment – some NRRPs showed a strong correlation between instalment level and milestones to be reached, while others did not. The Executive Vice President explains that when the Commission was deciding how to distribute the payments, it also took the planned fulfilment of milestones and targets into account. 'Here indeed, one can say some Member States' plans are more front-loaded, especially in terms of reform parts. And some plans are more back-loaded. Generally speaking, we were encouraging Member States to do more front-loaded plans, also, so that if there are any slippages, they are not falling behind implementation deadlines.'

> *... some Member States' plans are more front-loaded, especially in terms of reform parts. And some plans are more back-loaded.*

Measures might continue beyond 2026, even if the milestones and targets could only be met before then. Valdis Dombrovskis indicates that this is natural, since large-scale investments can take time to be implemented and Member States often use own funding in addition to the RRF funds. 'But we were careful in designing these last milestones and targets to provide sufficient assurance that implementation of the relevant measure is indeed on track and will indeed take place.'

As for implementing milestones and targets, Valdis Dombrovskis reported the Commission's findings to the European Parliament on 12 September 2022. More than 280 milestones and targets had been fulfilled, and the Commission had received 13 payment requests and made payments for eight of them. When discussing whether the Commission had found issues with milestones and targets that should have been met but were not, he says that this was not the case, mainly for two reasons. 'We are constantly working with Member States, as I indicated, also when they are preparing their payment requests. Generally, our advice to Member States is, in a sense, *not* to put forward a payment request *unless* milestones and targets are fully fulfilled - because that then gives us a basis for arriving at a positive assessment of the payment request and making the payment.'

The second reason that he identifies relates to where we are in the process. 'As to not meeting milestones and targets at this stage, I think we are still in the early stages of implementation. I think the crunch time on this could be more towards the end of the implementation period because currently if the milestone target is not met, a Member State can delay and come back later with a payment request. But once we approach our RRF-related deadlines, that option will not be there.'

### The reflection of RRF reforms: country-specific recommendations

Executive Vice President Dombrovskis is also responsible for various economic issues, including leading the work on deepening the Economic and Monetary Union. When discussing how well the RRF plans reconcile with the principles and objectives of the internal market and warrant a continued level playing field between Member States, he points out that this reconciliation was very much a part of designing and assessing the NRRPs. 'The good functioning of the internal market is very prominent in the RRF scope! Within the RRF, we have the six pillars structuring how the plans are to be organised. In those pillars, the internal market is referred to in one way or another. In the third pillar - on smart, sustainable and inclusive growth – it is specified, saying "a well-functioning internal market with strong SMEs." So it is explicitly there in Pillar 3 of the RRF.'

> *The good functioning of the internal market is very prominent in the RRF scope!*

He explains that when the Commission assesses measures that Member States are carrying out, it makes sure that the plans are compatible and do not disrupt the functioning of the internal market. 'Actually, we think that there are a number of specific projects that contribute to the better functioning of the single market, for example reducing the regulatory burden, improving business requirements or public procurement. Or containing investments to support key industry sectors, also tourism and SMEs.' The EU's state aid rules also apply under the RRF, he points out. 'So clearly, also from the angle of state aid, we are watching that there are no distortions to the internal market.'

Another key element of the RRF that might help improve the functioning of the internal market is its focus on reforms. For Valdis Dombrovskis, these reforms are clearly linked to country-specific recommendations (CSRs), which are part of the European Semester – and an important element of the RRF. 'Because these CSRs form one of the 11 assessment criteria – I think it is the second criterion – when we are assessing the NRRPs. One of the assessment criteria is exactly whether the country is addressing all or a significant subset of relevant CSRs. So it's very much there.'

As to why such a criterion is based on the CSRs, the Executive Vice President explains that there is a clear logic. 'Because CSRs have been there as a part of the European Semester and are recommendations which the Council, upon a proposal from the Commission which is based on an assessment of Member States' national reform programmes, their stability and convergence programmes, is providing to Member States. Clearly that was a basis for us also to use them in the case of the RRF. Discussions were held on how to better link reforms with EU financing, long before the RRF was set up: 'Actually, the RRF is providing this link in very direct way because Member States need to address all or some subset of CSRs to be able to benefit from EU refinancing.'

> “ *…Member States need to address all or some subset of CSRs to be able to benefit from EU refinancing.*

**Rule-of-law conditionality present in old and new EU legislation**

While it is not among the 11 assessment criteria, another issue that has received a lot of attention in relation to the RRF is the General Conditionality Regulation, which aims to protect the EU budget if there are breaches of the rule of law. There have been discussions on whether the Commission has made sufficient use of this regulation; the Executive Vice President thinks it does – and explains why.

'As is well known, the Commission has a responsibility to protect the EU budget and enforce this overall conditionality, assessing all cases in an objective, impartial and fair manner. The Commission can also start a procedure under this General Conditionality Regulation, as we, by the way, did last September. That is, if the Commission considers that other procedures set out in Union legislation do not allow more effective protection of the Union's budget.'

Valdis Dombrovskis points out that, regarding the rule of law, the Commission looks at other elements too. 'There is already Union financial legislation, there are applicable sector-specific rules, there are many procedures already available, protecting the Union's budget. In a sense, the General Conditionality Regulation is something which comes on top, more like a last resort. Under this procedure, the Commission may propose to the Council to adopt measures like interrupting or suspending payments or making financial corrections.' All this is already covered by existing financial rules, he says: 'But now, in addition, there is this conditionality regulation and, as I said, we are also using it.'

> “ *[on protection the Union's budget]… the General Conditionality Regulation is something which comes on top, more like a last resort.*

As to the ECA's role regarding this new conditionality regulation, the Executive Vice President welcomes a future audit from the ECA on the rule of law in the EU. 'So the ECA may then examine whether this new general regime of conditionality is an effective tool to protect the EU's financial interests if the rule of law is breached. It must be said

> “ *…the ECA may then examine whether this new general regime of conditionality is an effective tool to protect the EU's financial interests…*

that currently we are only at an early stage, with a first case under that conditionality regulation ongoing.' He observes that it will probably require some time to take stock of how it is working and what lessons can be learned. 'But in any case, we are also looking forward to the ECA's audit findings in this regard.'

## Enhancing institutional ownership for reform at various levels to stimulate future resilience

Recently the Executive Vice President announced that he would soon offer some new ideas to strengthen the EU's economic governance, including on strengthening democratic accountability, and highlighted two elements. 'One important point that we outlined is simplification. So basically, simpler rules that all can follow.' He observes that the rules are now very complex and require experts to dive deep to take account of all the nuances. 'Having a simpler rule framework will help with transparency and make it easier – for citizens, for EU and national institutions – to scrutinise the operation of economic governance framework. We also think that the national public opinion will feel more involved in a way to protect citizens against the consequences of unsustainable fiscal policies.'

On the second element, he refers to the fiscal policy guidance for 2023: the subject of a Commission communication in early 2022. 'We consider moving towards an approach that would provide more leeway for Member States to set their adjustment path. This will then give Member States' institutions a stronger role in setting their commitments for meeting the requirements of the EU government framework.' He adds that reforms could also envisage a stronger role for national fiscal institutions, 'For example, for monitoring a Member State's compliance with their fiscal adjustment path. And this would also help towards a more inclusive and active debate on these issues at national level.'

Finally, on the RRF, Valdis Dombrovskis concludes that 'the mere creation of the RRF as such is a sign of resilience in itself. The very fact that we had a coordinated response to the COVID-19 pandemic – created together in a spirit of European solidarity – actually helped us to emerge stronger from the crisis.' Before Russia invaded Ukraine, the EU was seeing strong economic recovery, he says, with economies already exceeding pre-crisis levels. 'I think that the very fact that we had this response helped in this regard and it provided Member States with strong tools to have additional investments now and to undertake the necessary structural reforms to strengthen their resilience.'

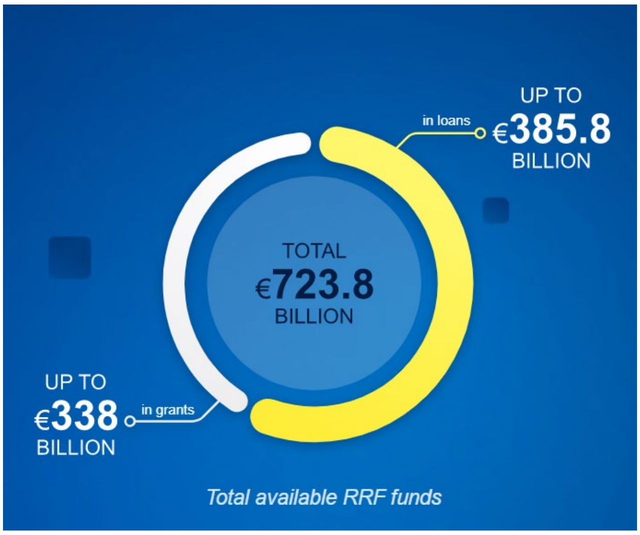
> *The very fact that we had a coordinated response to the COVID-19 pandemic (...) actually helped us to emerge stronger from the crisis.*

For now and the upcoming period, he identifies a new urgent aspect that needs to be addressed. 'One could call it the resilience of our energy supply, starting with the strategic decision to move away from supplies of Russian fossil fuels. It is no secret that Russia is using its supplies as a weapon of blackmail and manipulation. Also there, the RRF and the new REPowerEU - once adopted, of course - will help to strengthen the resilience of our economies and our society as a whole.'

> *It is no secret that Russia is using its supplies as a weapon of blackmail and manipulation (…) the new REPowerEU (…) will help to strengthen the resilience of our economies…*

# The Recovery and Resilience Facility – an instrument built for performance

By Céline Gauer, Director-General of the European Commission




*Source:* European Commission

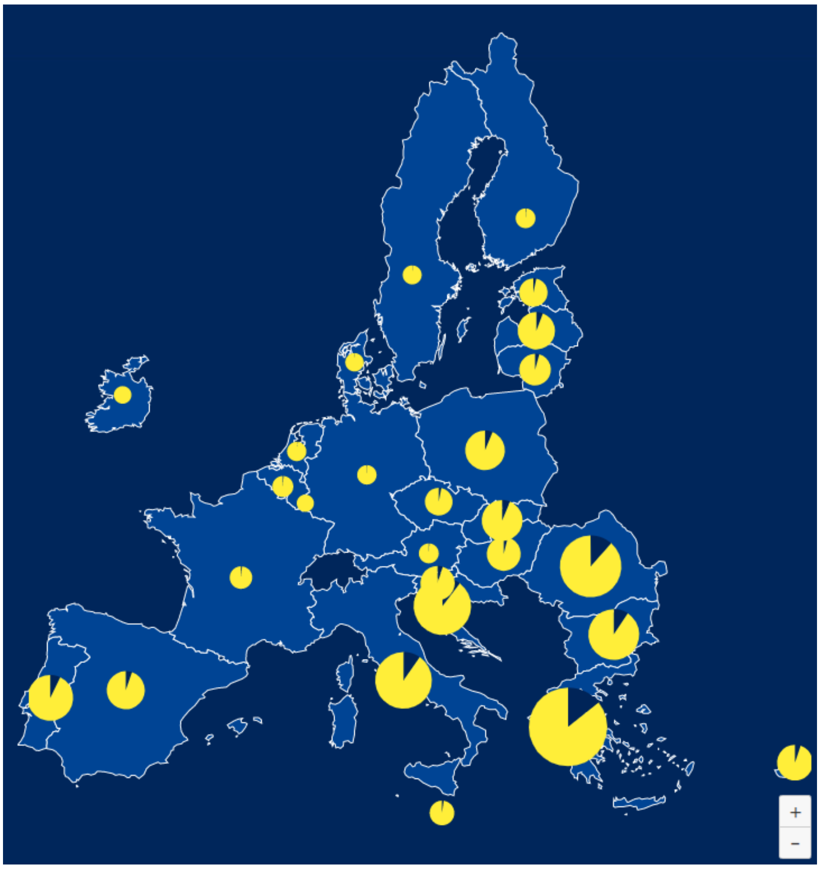
In view of the size, coverage and specific set-up of the Recovery and Resilience Facility (RRF), the European Commission set up the Recovery and Resilience Task Force (RECOVER) in August 2020. Céline Gauer, a Director-General at the European Commission, is Head of RECOVER, and below she covers its focus on performance, its rollout, the respective roles of the Commission, the Member States and other authorities, also as regards compliance with EU rules, and how the RRF could serve as a model of performance for EU policies.

## A performance-based instrument unlike any other previous EU instrument

The Recovery and Resilience Facility (RRF) was adopted in February 2021 to help the EU recover from the economic crisis resulting from the COVID-19 pandemic. The EU has the ability to borrow up to €723 billion to grant Member States up to €338 billion, or lend up to €385 billion. This is unprecedented in the EU's history.

The RRF was conceived as a performance-based instrument implemented by the European Commission under direct management, whereby payments are made to the Member States on the basis of results achieved in terms of reforms and investments, with no link to the costs actually incurred by the Member States. Member States are the beneficiaries of the RRF funds, which, once disbursed, enter into the national budget (see **Figure 1**). This necessarily means that Member States have primary responsibility for ensuring that the RRF is implemented in compliance with relevant EU and national law, in particular regarding the prevention, detection and correction of fraud, corruption, conflicts of interest, and the avoidance of double funding, as explicitly laid out in Article 22 of the RRF Regulation.

**Figure 1 – RRF fund allocation per Member State**



*Source*: European Commission

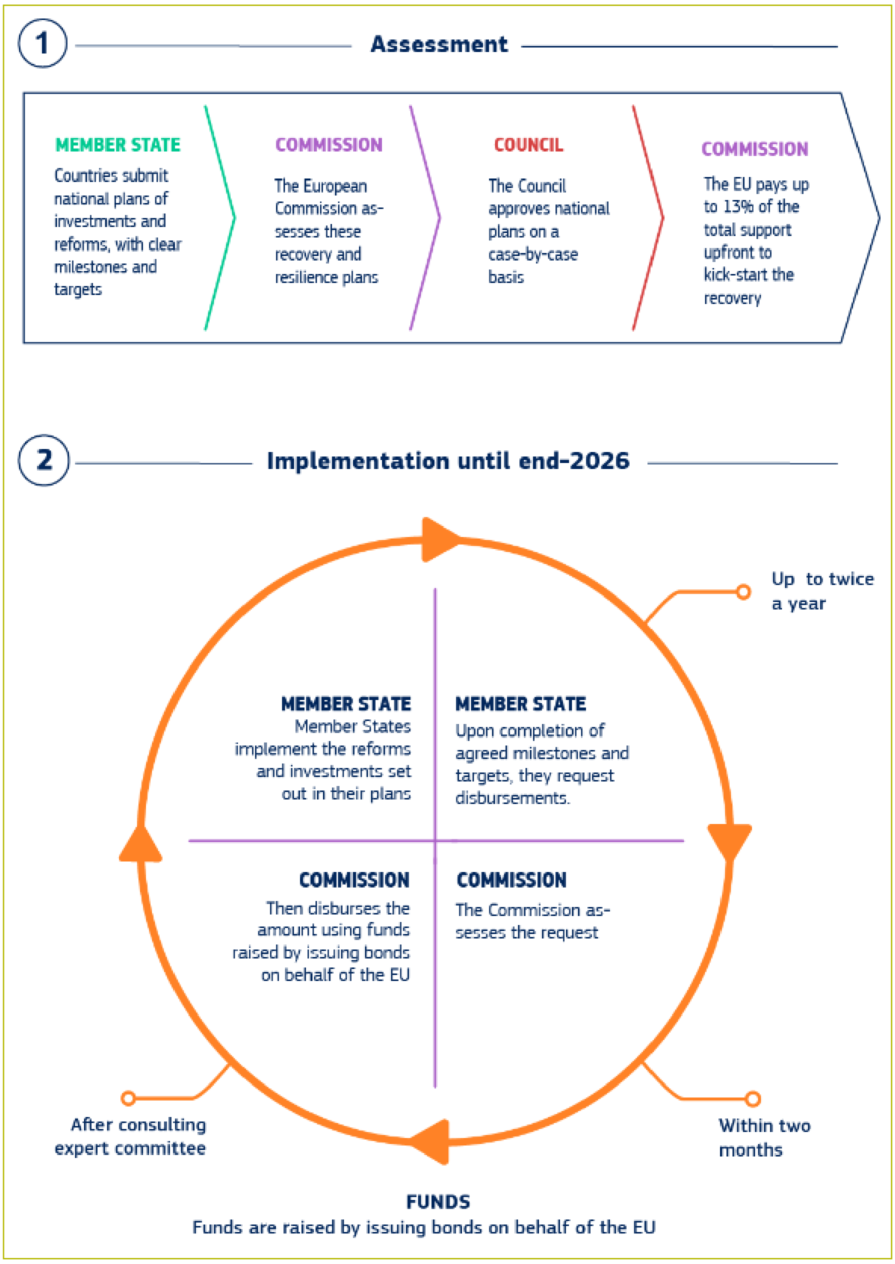
*Notes*: This map displays the funding allocated to each endorsed recovery and resilience plan (RRP) to date, and what this represents as a share of each Member State's GDP (yellow pie charts). For those Member States whose RRPs have not yet been endorsed, the amount displayed is the maximum allocation in grants according to the RRF Regulation. GDP information is based on 2021 data.

The RRF is rooted in decades-long lessons that the EU has learnt from its spending, the aim being to deliver results effectively while protecting the EU's financial interests. The successful roll-out of the RRF owes much to the work of the European Court of Auditors, which has advocated linking the disbursement of EU funds more closely to actual results, as well as the need to establish closer links between the country-specific recommendations of the European Semester and the EU funds.

Implementation of Recovery and Resilience Plans is now in full swing, as Member States have quickly seized the unique opportunity that the RRF offers. Following the Commission's assessment of the plans that were submitted, the Council has now adopted 26 Council Implementing Decisions approving national plans.

In addition, 16 payment requests have already been submitted by the Member States, and eight of them have now been fully processed. This shows that Member States are implementing their planned milestones and targets, thereby creating the necessary conditions for a positive assessment by the Commission. Overall, including the 13 % pre-financing for 21 Member States, this has enabled the Commission to pay out €113 billion to the Member States under the RRF. See **Figure 2** for the RRF implementation cycle.

**Figure 2 – The RRF: from plans to implementation**



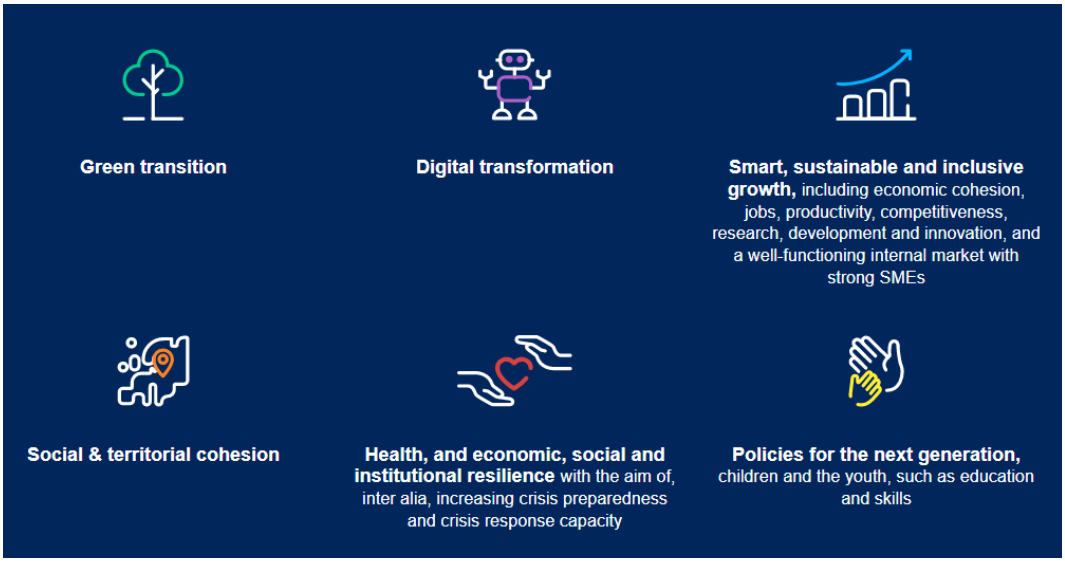

*Source:* European Commission

## Opportunities and challenges linked to the performance-based nature of the instrument

One of the main novelties of the RRF compared to other EU instruments is that investments are combined with reforms. As such, the RRF provides a unique opportunity for Member States to deliver on long-standing reform needs, in particular those highlighted as part of the European Semester. Thanks to the political momentum offered by the RRF, those reforms not only make the Member States more resilient in the long term, but also create the right conditions for the successful delivery of investments.

The RRF is a multi-policy instrument that contributes to the six pillars established by the Regulation: green and digital transitions, smart, sustainable and inclusive growth, territorial and social cohesion, health, and youth (see **Figure 3**). As such, the RRF is not only one of the main instruments which supports the delivery of the *Fit-for-55* and the *Digital Decade* objectives, but also an instrument which enhances social and territorial cohesion across Europe.

**Figure 3 – The six policy pillars of the RRF**



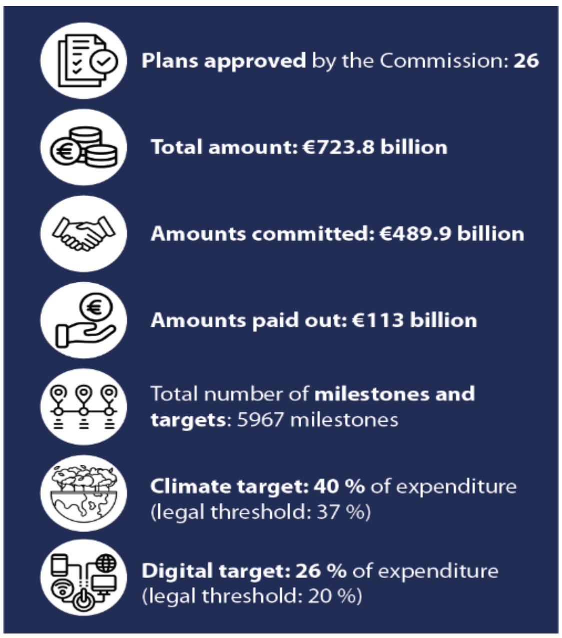

*Source:* European Commission

The way the RRF is delivered gives Member States flexibility in designing and implementing the measures in a way that best suits their national circumstances. Milestones and targets are designed individually to fit the specific investments and reforms which the Member States commit to implement; this gives them full ownership to ensure successful delivery. In contrast with most EU programmes, the RRF is characterised by the absence of co-financing requirements, therefore limiting its budgetary impact.

Given these many features, and also the strong emphasis which existing recovery and resilience plans place on measures contributing to the accelerated decarbonisation of Europe, in May 2022 the Commission proposed that the RRF should be used to implement the objectives of REPowerEU, a national-level plan to rapidly reduce dependence on Russian fossil fuels. This recognises not only the RRF's flexibility, but also its ability to deliver EU support in an efficient way.

The fast delivery of support under the RRF (see **Figure 4** ) necessarily comes with increased pressure on Member States. Milestones and targets under the RRF have to be implemented by 2026, whereas Member States have more time to implement investments under cohesion policy. This more ambitious timeframe has repercussions for how the instrument is implemented, a point well illustrated in Gert-Jan Koopman's recent article in the ECA Journal: Cohesion policy and the Recovery and Resilience Facility: not just two sides of the same coin.

**Figure 4 - The RRF in numbers**




*Source:* European Commission

The Commission provides Member States with support for implementing the milestones and targets (see **Box 1**), but ownership ultimately has to remain with the Member States. Given the major impact of the RRF, this creates additional strains on the administrative capacity of the Member States, which have had to adjust to the different nature of the RRF which is itself different from the other EU instruments they were more familiar with. All of this comes in a fast-changing economic environment with soaring energy and construction prices, which has an impact on the Member States' ability to implement the milestones and targets as initially planned.

**Box 1 – Recovery and Resilience Task Force (RECOVER)**

Established on 16 August 2020 within the Commission's Secretariat-General, RECOVER is responsible for steering the implementation of the RRF and for coordinating the European Semester. RECOVER reports to Commission President Ursula von der Leyen.

RECOVER works in close cooperation with the Commission's Directorate-General for Economic and Financial Affairs to:

- coordinate support for the Member States in drawing up their recovery and resilience plans;
- engage with the Member States to ensure that the stated plans comply with regulatory requirements, and that the proposed reform and investment initiatives deliver on the objectives not only of the twin green and digital transition, but also of recovery and resilience;
- prepare the necessary implementing acts for approving the plans;
- assess the Member States' progress on implementing the plans, and analyse the periodic reports for which the legislation provides; and
- coordinate the European Semester during this period of time.

## EU assessment of the achievement of milestones and targets

The RRF is a performance-based instrument where all disbursements depend on the satisfactory fulfilment of milestones and targets, as set out in the Council Implementing Decisions approving each Member State's plan. For instance, assessing the satisfactory fulfilment of milestones and targets is *not* about checking the actual costs of each measure. The Commission assessed the reasonableness and plausibility of costing when each plan was submitted, and Member States receive the benefits of more cost-effective implementation, as well as bearing the burden of possibly higher costs. This is an incentive for efficiency and effective implementation.

Furthermore, assessing milestones and targets is *not* about checking compliance with EU law – e.g. on public procurement or state aid – and national law. According to the RRF Regulation, Member States have primary responsibility for ensuring that their measures comply with applicable EU and national law. This needs to be confirmed as part of each payment request, by submitting a management declaration certifying that Member States' internal checks provide sufficient assurances that RRF funds have been managed in accordance with the rules. The Commission will check compliance with EU or national law only to the extent that this is included in the conditions attached to the milestone or target. This will then be reflected in the Commission's assessment of satisfactory fulfilment.

The milestones and targets represent a commitment entered into by the Member States towards the EU in exchange for receiving the RRF funds. Assessment of these commitments is based on clear conditions, and also requires a degree of judgment in order to conclude that the actions taken by the Member States meet these conditions. As set out in the RRF Regulation, this is the role of the Commission, which also relies on the opinions of the Member States as expressed by the Economic and Financial Committee. We have deliberately chosen to be transparent and open about our assessment, and publish our detailed preliminary assessment.

The RRF Regulation stipulates that responsibility for protecting the EU's financial interests lies primarily with the Member States. Member States must therefore take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interest, and double funding. They must also establish an effective and efficient internal control system, and recover amounts that have been wrongly disbursed or incorrectly used. This is why it was essential for the recovery and resilience plans submitted by the Member States to include sufficient assurances about their respective control and audit systems. In many cases, the Commission insisted on improving the proposed control systems, with relevant aspects captured in dedicated audit and control milestones which must be fulfilled and verified as part of the first payment request.

During the implementation process, Member States must take corrective action if they detect any irregularities. If they do not take action themselves, then the Commission will recover funds from the Member State concerned. To ensure that this is the case, the Commission carries out system audits focusing on the anti-fraud measures the national authorities have put in place to prevent, detect and correct potential fraud when the RRF is being implemented, and performs targeted audits where there is suspicion of fraud.

## Ensuring transparency and accountability

Successful implementation of the RRF will only be possible by involving all relevant stakeholders. This goes well beyond the national authorities, and involves regional and local authorities, both sides of industry, and other stakeholders. The Commission insists on such outreach with the Member States on every possible occasion, and also organises dedicated events to exchange views with the largest possible audience. In the same vein, transparency towards citizens is also essential to demonstrate the added-value generated by the EU. This means not only displaying the EU logo on projects, but also providing a comprehensive overview of RRF implementation on the Recovery and Resilience Scoreboard. To this end, continuous dialogue, reporting and exchanges of information with the European Parliament are essential; the RRF will succeed only if EU institutions and Member States share a common goal.

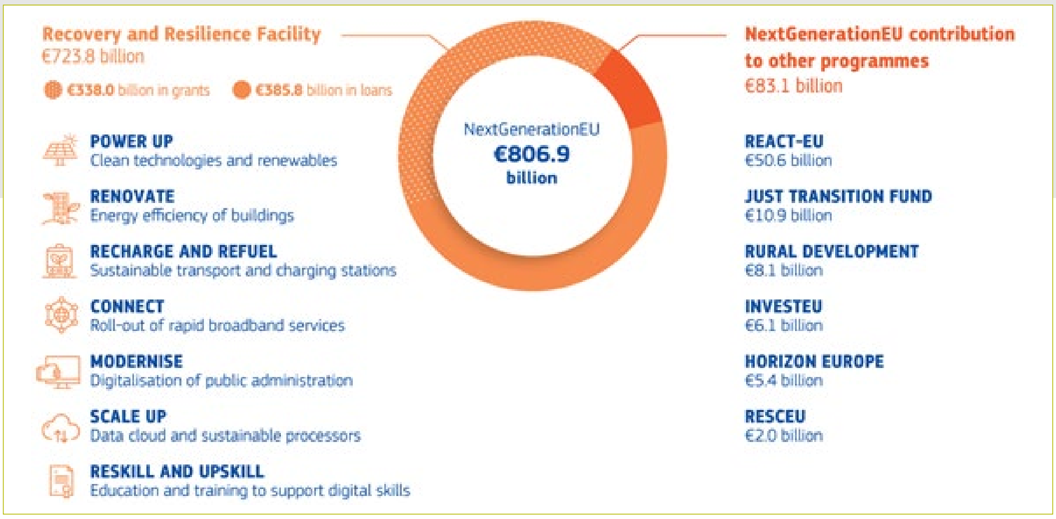
## The role of the European Court of Auditors

In this connection, the European Court of Auditors plays a central role in the success of the RRF. The ECA has become a vital partner in the RRF family, showing how the RRF has become a central component of EU funding. The RRF was an important topic in the discussions between Commissioners and ECA Members. On various occasions, my colleague Maarten Verwey and I have had the pleasure of exchanging views with ECA Members about the implementation of the RRF. Together with the ECA, we have an important responsibility in laying the foundations of robust performance-based instruments to deliver EU investment and reform policies. This performance-based aspect has already been instrumental in setting up the proposed Social Climate Fund, and has also been proposed for implementing the REPowerEU objectives. If performance-based instruments are well designed, they will then be used elsewhere.

We are at the beginning of a long journey. The Commission and the ECA will work closely together on the RFF in the years to come. As for any major project, time is short and administrative resources are scarce. We should collectively make the best use of both. There is no doubt that we will also be counting on the ECA to help make the RRF a real success for European citizens.

# The European Commission's actions to finance NextGenerationEU

By Gert Jan Koopman, Director-General of DG Budget, European Commission




*Source:* European Commission

While the European Commission has been borrowing funds on behalf of the Union for over 40 years, the past 18 months has seen a profound transformation of the EU's presence in and use of European capital markets as it implements the NextGenerationEU (NGEU) programme – with the Recovery and Resilience (RRF) accounting for almost 90 % of it. To finance NGEU, the European Commission raises funds through regular and large-scale bond issuances. Since the start of the NGEU issuance programme in June 2021, almost €150 billion has already been raised. As part of this programme, the EU has also launched the world's largest Green Bond issuance programme with €28 billion outstanding. These borrowing operations are executed by the Commission's Directorate-General for Budget. As Director-General of DG Budget and Authorising Officer by Delegation for the NGEU borrowing operations, Gert Jan Koopman oversees this process and authorises the borrowings. In this article he describes the framework that the Commission has put in place to enable this borrowing and takes stock of how the Commission has been delivering in the first year of this new mandate.

## From a relatively small bond issuer to one of the largest issuers in Euro … almost overnight

With NGEU the EU has broken new ground: backed by the EU budget[1] it allows the Commission to raise, through bond issuances, up to €806.9 billion between mid-2021 and 2026 – of which up to €250 billion in the form of green bonds – to finance Europe's green and digital recovery.

Before the start of NGEU, the Commission was a relatively small issuer, raising funds to finance programmes such as the European Financial Stabilisation Mechanism (EFSM), Macro-financial assistance (MFA), the Balance of Payments Facility. This changed with the launch of the SURE programme (Support to mitigate Unemployment Risks in an Emergency) in October 2020 for which €90 billion has been issued to date. SURE marked the arrival of the EU as a regular and large-scale issuer and provided a valuable training-ground for the design of the much larger NGEU funding programme.

For all of the pre-NGEU programmes the Commission issued bonds and transferred the proceeds directly to beneficiary countries on the same terms (i.e. interest rate and maturity) that it received (known as a 'back-to-back' funding approach. The timing, volume and maturity of issuances were hence determined entirely by the needs of

1 The EU budget underwrites the contingent liabilities, against the temporary and dedicated Own Resource ceiling (0.6 % of EU GNI) that has been created for this purpose.

the beneficiary. This method was sufficient in addressing small funding needs, but it reached its limits with the SURE programme, where 19 Member States had to be served by a single funding programme of up to €100 billion.

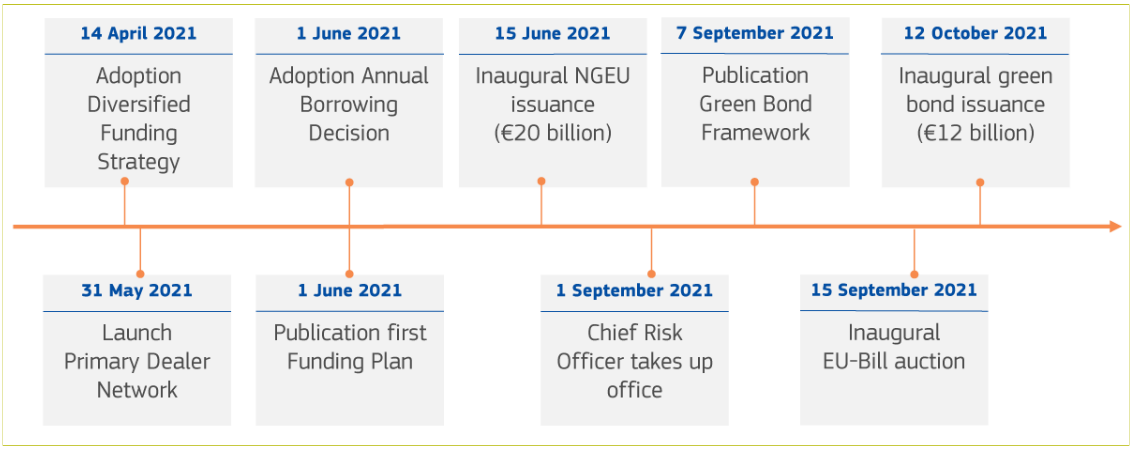
NGEU required a funding approach that enabled significant scaling up of issuance in a very short amount of time. It also required a system that could cope with multiple disbursements of loans and grants to Member States at high speed and frequency and with uncertain timing given their dependence on the implementation of related plans. As Commission, we needed a completely new playbook to finance NGEU successfully, in the form of a diversified funding strategy of the type implemented by the largest euro-area sovereign issuers.

### The Diversified Funding Strategy: the core of the NGEU funding programme

At the heart of the Diversified Funding Strategy is the decoupling of the funding transactions from specific disbursements. As bond issuances were now no longer strictly tied in amount or time to individual disbursement needs, the Diversified Funding Strategy enabled the execution of borrowing in the required volumes with maximum flexibility, minimum execution risk and optimal cost of funding.

The blueprint for this strategy was defined in a Communication[2] and a set of Decisions adopted on 14 April 2021, which laid the foundations for the NGEU funding programme (see **Figure 1**).

**Figure 1 - Milestones in building the diversified funding strategy**




*Source:* European Commission

The NGEU funding programme is based on five key enablers:

1. *transparent communication*. The Commission uses 6-monthly funding plans to communicate to the markets (and to peer issuers) its expected issuance volumes and the timing of the planned syndications and auctions.

1. *a 40 plus bank-strong Primary Dealer Network* that supports, via a system of obligations and privileges, the execution of funding operations and the placement of EU debt with a wide range of international investors. The network also supporting the liquidity of EU-Bonds and EU-Bills in the secondary market and provides advice to the Commission as an issuer.

1. *a diverse range of instruments and funding techniques* aimed at providing liquidity on all parts of the yield curve via: (i) medium and long term debt issuance across different maturities (3, 5, 7, 10, 15, 20, 25 and 30 years) through EU-Bonds; and (ii) short term debt (below one year) through EU-Bills. With the use of syndications and auctions (set up specifically for the NGEU funding needs with the help of a tailor-made auction platform provided by Banque de France) we are able to attract efficiently the necessary funding, even under difficult market conditions.

2 Communication COM(2021)250 on a new funding strategy to finance NextGenerationEU (published on 14 April 2021).

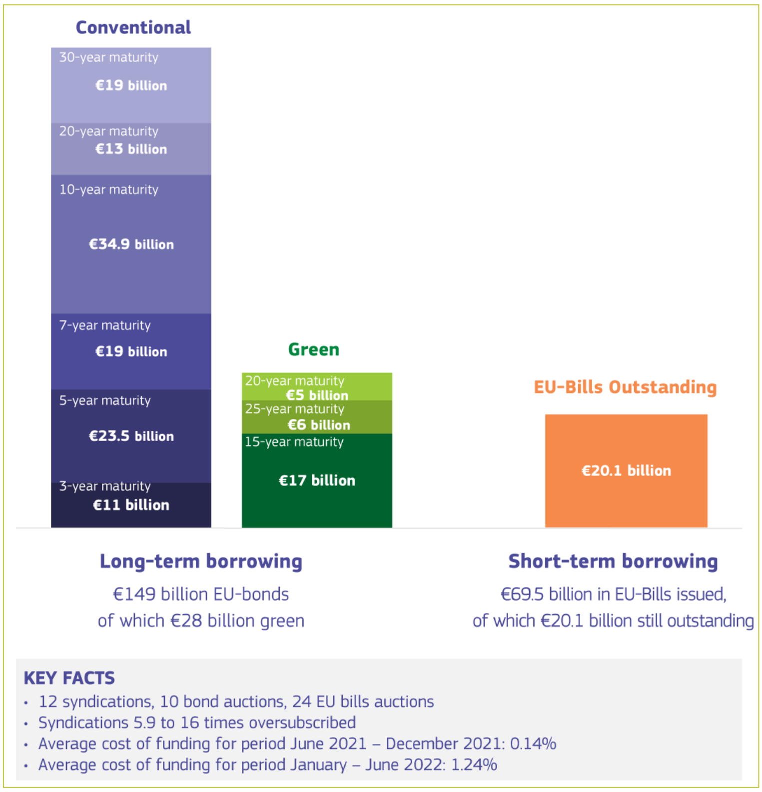
4. *a strong governance framework* to oversee the sustained execution of funding operations in a manner that minimises key risks and ensures full transparency and accountability. This includes a dedicated Chief Risk Officer (CRO) tasked with providing independent oversight of all aspects of the NGEU funding programme; and

5. *the NGEU Green Bond Framework* to ensure that fund raised through NGEU green bonds are exclusively used for green and sustainable investments across the EU. The framework is based on the Resilience and Recovery Facility Regulation that requires that all spending respects the do-no-significant harm principle[3] while also integrating many aspects of the EU Green Bond Standard and the Taxonomy[4]. The framework is accompanied by a unique transparency tool that provides investors and the public with real-time information on the use of proceeds of NGEU green bonds.

## How the Commission has been delivering on its issuance mandate

Following the six-month long sprint to put the Diversified Funding Strategy in place in time for the launch of NextGeneration operations in June 2021, the NGEU funding programme is now well established. As of 30 September 2022 the Commission has issued €149 billion in NGEU bonds, of which €28 billion in the form of green bonds. We have also issued 3-month and 6-month EU Bills to meet short-term funding needs, with €20.1 billion in EU-Bills outstanding at 30 September 2022. See also **Figure 2**.

**Figure 2 - NGEU funding at 30 September 2022**



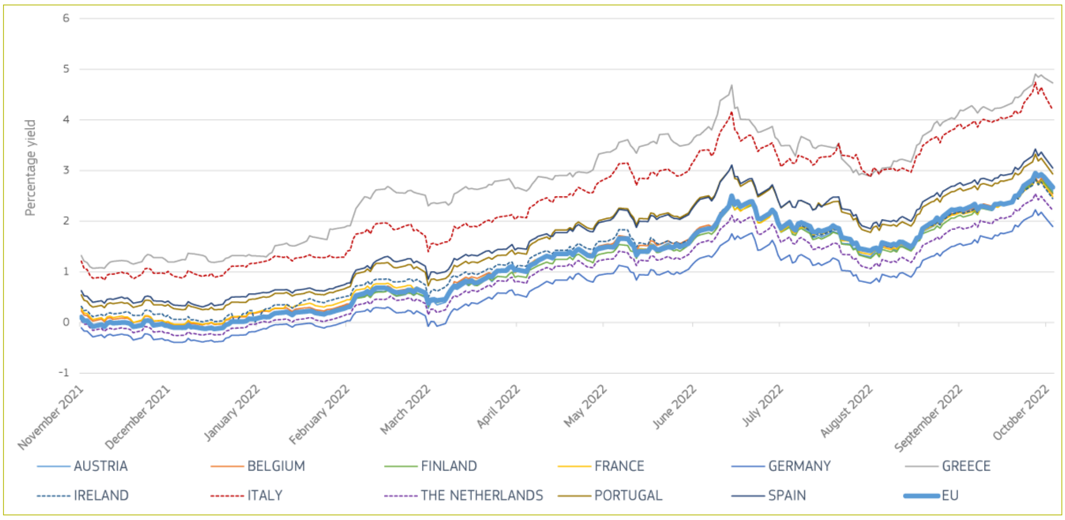

*Source:* European Commission

3 To achieve this, Member States agree in the Finance and Loan Agreements to regularly report on expenditures linked to green investments.

4 The EU taxonomy is a classification system, establishing a list of environmentally sustainable economic activities. In this way, it creates security for investors, protects private investors from greenwashing, helps companies to become more climate-friendly, mitigate market fragmentation and helps shift investments where they are most needed.

NGEU transactions have seen a very high level of investor demand[5] anchored by the EU's strong credit rating, which is higher than the rating of 22 out of the 27 EU Member States. Syndicated transactions have been between 6 and 16 times oversubscribed. This has helped the Commission to achieve a competitive cost of funding for the Member States seeking support under the programme while also becoming one of the largest issuers in Euro, straight after France, Germany, Italy and Spain. EU issuances have also continued to price comparatively well despite the recent volatile market conditions which have affected issuers across the board (see **Figure 3**).

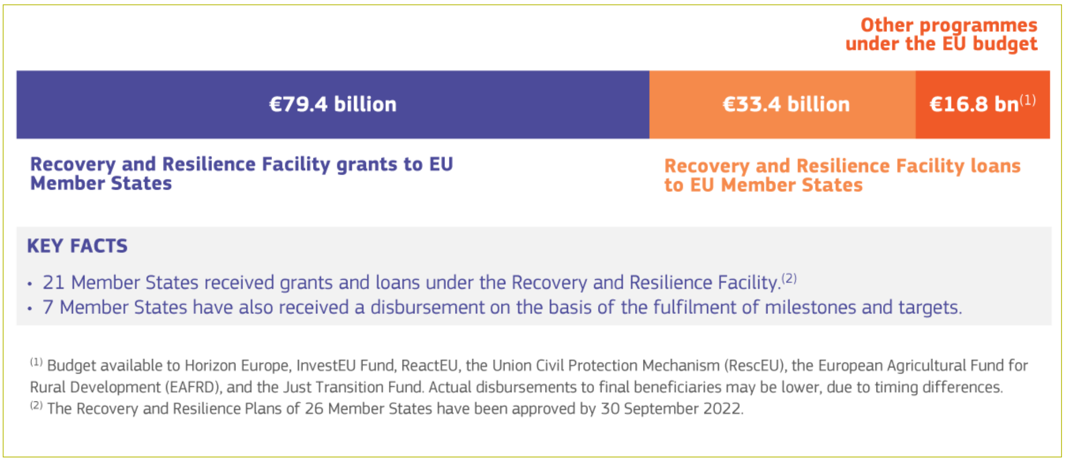
**Figure 3 - Yields of 10 year EU Bonds and selected euro issuers**




*Source: European Commission*

As a result of these successful funding operations we have been able to make all disbursements to Member States under the RRF and to the EU budget as soon as they fell due. Between the start of NGEU in the summer of 2021 and 30 September 2022, the Commission has disbursed €112.8 billion to Member States under the RRF: €79.4 billion in the form of grants and €33.4 billion in the form of loans. In addition, over €16.8 billion has been disbursed to NGEU-funded programmes such as Horizon Europe, InvestEU Fund, ReactEU, the Union Civil Protection Mechanism (RescEU), the European Agricultural Fund for Rural Development (EAFRD), and the Just Transition Fund. See also **Figure 4**.

**Figure 4 - Use of proceeds at 30 September 2022**




*Source: European Commission*

5 To date, EU issuances have in total attracted more than 1 000 different investors from 70 different countries. More than 60 % of investors are located in the EU and about 25 % are international investors operating from the UK. More than 70 % of the issued EU bonds have been going to buy-and-hold investors (i.e. fund managers, insurance companies, pension funds and central banks). There is also a good representation of investors demanding different maturities, with central banks and bank treasuries (which usually prefer to invest in maturities up to 10 years) accounting for 36 % of purchases of EU bonds in the primary markets and pension funds and insurance companies (which prefer maturities above 10 years) accounting for around 20 %.

### How will the NextGenerationEU borrowing be repaid?

The issuance of new NextGenerationEU debt will take place between mid-2021 and 2026. After 2026, any NextGenerationEU issuance will consist solely of refinancing the share of maturing debt to smoothen the repayment needs over time, and will be limited in scale. Repayments will start as of 2028 at the latest and all outstanding debt will be fully repaid by 2058.

The grants will be repaid by the EU budget. Therefore future EU budgets will need to contain adequate resources to make repayments when they fall due. The Commission has proposed new own resources to repay part of the NextGenerationEU borrowing6.

The loans will be repaid by the borrowing Member States. The repayment dates are fixed in the loan agreements. On this basis, Member States will start making annual repayments of 5 % of the principal, after an initial 10-year period when principal repayments are suspended. The first repayments by borrowing Member States will therefore start in 2031.

In structuring its debt issuances, the Commission takes into account the need for an overall maturity profile that delivers a steady and predictable decline of NGEU liabilities over the period to 2058. This is crucial in facilitating a regular repayment of NGEU liabilities from future EU budgets.

### The diversified funding strategy has been a key element in the successful delivery of the NextGenerationEU

Financing NGEU through joint EU issuances required a significant expansion of the Commission's debt management architecture. We have built on our previous experience as an issuer and brought in the support of debt management experts across Member States (including support in the form of experts from national administrations, the European Investment Bank, European Stability Mechanism but also technical support from other public institutions, such as the European Central Bank and the Banque de France). As a result, we were able to establish in a short period of time a state-of-the-art borrowing and lending programme, underpinned by a reliable payments, settlement and accounting infrastructure in a short period of time. The programme is embedded in a robust governance and risk mitigation framework.

The success of the NGEU funding programme to date is reflected in the strong investor confidence in the credit strength of the EU as an issuer as well as investor interest in EU bonds, including green bonds. As a result the Commission has been transformed from a small supranational issuer to a large sovereign-scale issuer, raising the required funds in time and at a competitive cost of funding. While market conditions have become steadily more challenging as 2022 progresses, and interest rates have been rising sharply, NGEU debt transactions continue to attract strong investor interest. This is critical in ensuring the implementation of the recovery programmes.

The Commission's priority for the coming years will be to build on the successful establishment of the EU as a recognized and trusted issuer, and to continue to execute the NGEU funding operations in a transparent, flexible, and cost-efficient manner.

6 More information on these new own resources can be found here: The next generation of EU own resources | European Commission (europa.eu).

# The European Commission's Internal Audit Service: evolving to meet the challenges of today

By Manfred Kraff, Internal Auditor and Director-General of the Internal Audit Service, European Commission


*Source:* Depositphotos/johnkwan

Faced with unprecedented challenges, in recent years the European Union has needed to innovate and adapt in order to meet the changing and fast-moving policy needs of the day as effectively as possible. Performance and demonstrating added value have become ever more crucial, and the European institutions have had to become more nimble. Internal auditors have also had to adapt in their role as trusted advisors to their organisations, helping management to anticipate and mitigate the highest risks and prompting improvements where needed. Manfred Kraff has been Internal Auditor and Director-General of the European Commission's Internal Audit Service since 2017, and is also mandated as the Internal Auditor of some 50 EU agencies and other bodies. Here, he explains the service's role and how it has evolved to continue to provide effective advice and recommendations in a context of emerging policy challenges and new instruments such as the Recovery and Resilience Facility.

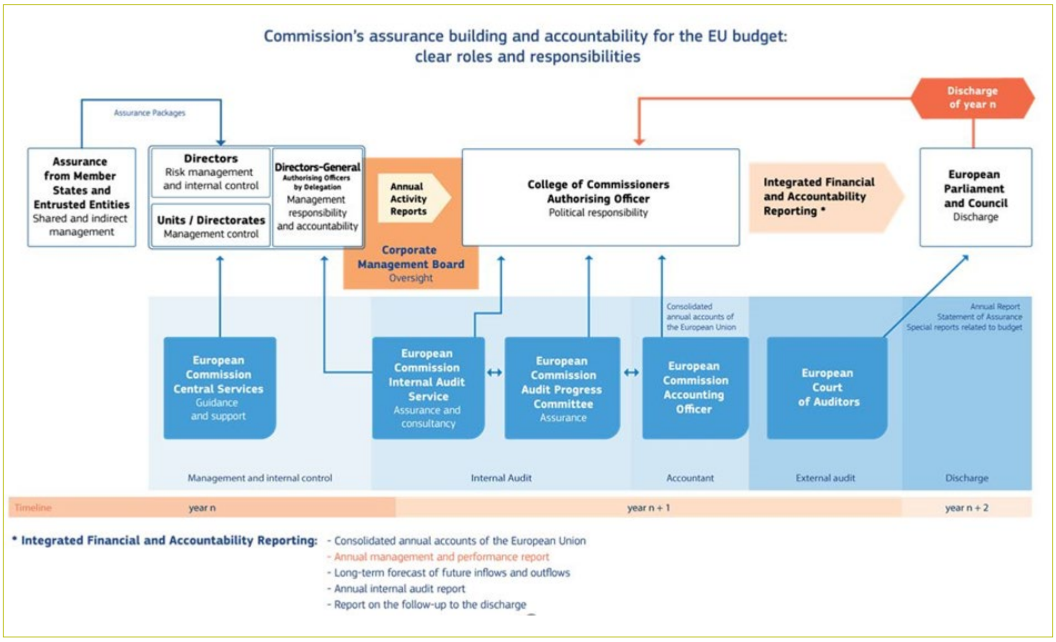
## An internal service to provide trusted advice to management

The European Commission's Internal Audit Service (IAS) was created in 2000 in the context of the institution's wider governance reform. The IAS works with Commission departments and EU agencies and other bodies to provide independent opinions, advice and recommendations on the quality and functioning of internal control systems, and increasingly on how to enhance performance.

The IAS plans its audit engagements on the basis of an in-depth risk assessment, which is discussed with auditees and is regularly updated to take account of emerging high risks. Our service's independence is guaranteed by the Financial Regulation(s), while the Mission Charter granted to the Internal Auditor by the College of Commissioners details our tasks, rights and obligations. The most recent external quality assessment in 2021 gave the IAS the highest possible rating, and we were assessed as a lead/advanced internal audit function in the vast majority of areas – a tribute to the professionalism of our staff.

Over time, as the Commission's internal control system and performance framework have matured, and with oversight from the Audit Progress Committee, the extent to which Commission auditees accept and implement internal audit recommendations has steadily risen to reach a level consistently over 99 % in recent years.

**Figure 1 – The Commission's assurance and accountability chains**



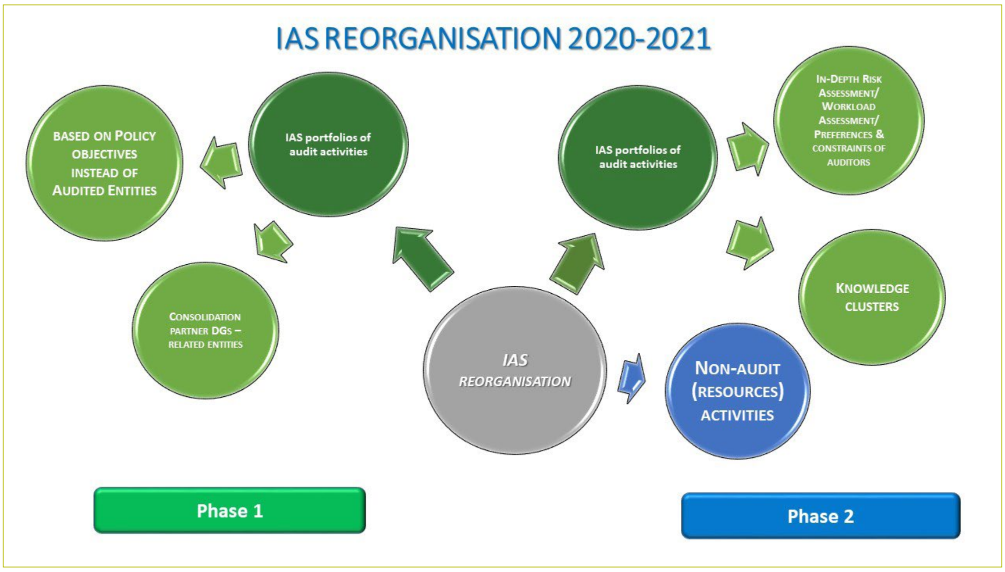

*Source:* European Commission.

As Internal Auditor, I issue an annual Overall Opinion to the College of Commissioners, focusing on the state of the Commission's financial management and providing assurance that issues flowing from audit findings are being addressed. In recent years I have been able to give a positive Overall Opinion qualified only by the specific reservations issued by the Directors-General in their published Annual Activity Reports. At the same time, I have used Emphases of Matter to draw attention to points which require particular attention going forward, such as the implementation of the EU budget in the context of the COVID-19 pandemic, including various aspects relating to the Recovery and Resilience Facility (RRF).

The Internal Audit Service has evolved over time to remain fit for purpose. There have been two major structural changes in the last eight years. In 2014, all internal audit work for the Commission was centralised within the IAS. This led to a significant improvement in the relevance, coherence and added value of internal audit work by focusing on the highest risks. It also resulted in economies of scale: our service still has fewer than 160 staff despite our ever-increasing mandate.

The second major development came in 2020. Reflecting both the increase in the number of Union agencies and other bodies and their importance in delivering EU policies, we decided on a significant reorganisation. Instead of being structured according to the entities audited (Commission departments on the one hand, EU agencies and other bodies on the other), the IAS is now organised by policy area (see **Figure 2**). The new structure gives us a more holistic view and allows us to bring additional added value by auditing in parallel the various actors involved in delivering key EU policies.

**Figure 2 – IAS reorganisation 2020-2022**




*Source:* European Commission.

## Internal audit in unprecedented times

Europeans are living through unprecedented challenges, from the return of pandemic and war on our continent, to the climate change emergency, soaring food and energy prices, and technological advances, all of which are fundamentally changing Europe's economic and societal models. In addition to crisis management, the EU is mobilising and adapting all of the tools at its disposal in response. This includes investing through the new multiannual budget, which is practically doubled by NextGenerationEU with the Recovery and Resilience Facility as its centrepiece. A range of other innovative financial instruments, together with the increasing role for the EU agencies and other bodies in delivering on Union objectives, also form an important part of the landscape. Auditors – both internal and external – need to keep pace, adapt, and evolve accordingly.


*Source:* European Commission.

IAS 2022 Conference poster.

Our 2022 international conference, with over 750 participants from around the globe, explored the various challenges facing the profession in the years to come. The contribution by ECA Member François Roger Cazala was particularly well received.

Although auditors have traditionally been known for going in after the event, in a world where the only constant is constant change, auditors – and perhaps especially internal auditors, given our role as trusted advisers – need to be up to speed and sensitive to the changing and complex environment in which our auditees are working. We need to shift from an approach based on hindsight to providing insight and foresight in the form of recommendations that focus on actions and improvements which appropriately address the highest potential upcoming risks.

In a context where human resource levels are frozen or even falling across the Commission, in the IAS we are constantly looking for ways to make our work more efficient. Digitalisation, data analytics and artificial intelligence have the potential to bring new opportunities, as well as challenges. Our 2018 annual conference focused on these issues (IAS Conference 2018 - *Internal Audit: Embracing the challenges of the future* | European Commission (europa.eu)). Recruiting and retaining expert auditors who are well versed in these areas remains a priority.

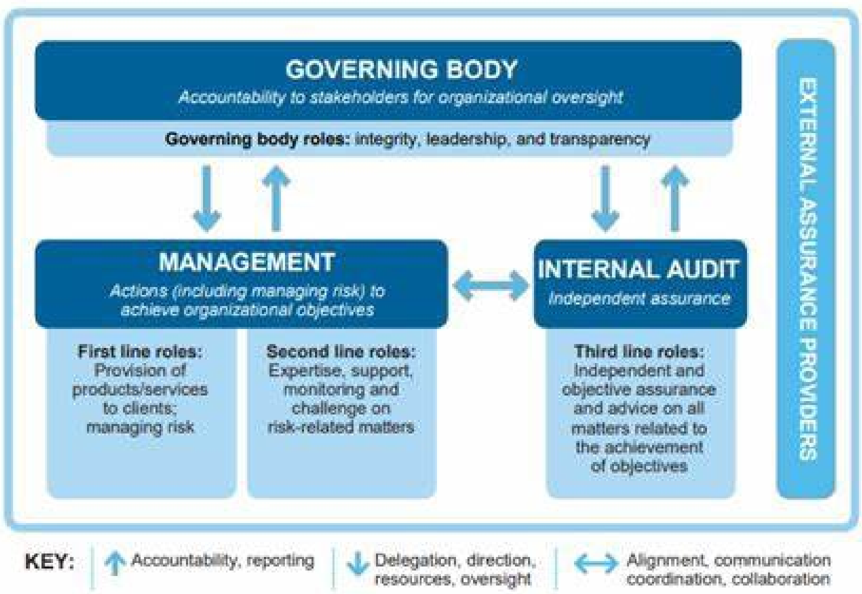
We must also be aware of the resource constraints of our auditees, especially those on the front-line tackling crises, who can least afford an ill-advised or ill-timed audit. In this ever faster-moving environment, auditors' interventions should be well coordinated and based on a sound risk assessment. They should also be discussed both among assurance-providers and with auditees, to ensure that there is no duplication of effort and that the key risks are addressed in the most timely and effective way.

This can sometimes mean that internal auditors in particular need to come in as trusted advisors at an earlier stage in the process. For example, our recent audit plans have prioritised preparedness – with a particular focus on the design of systems and governance aspects – to implement the programmes under the 2021-2027 Multiannual Financial Framework (MFF).

### The IAS as trusted advisor on the RRF

Given the political importance of the RRF and the sheer scale of the financial envelope, the IAS has closely followed the evolution of the legal framework and the new performance-based implementation method from the very start. In accordance with the Institute of Internal Auditors' (IIA) 'Three-lines model' (see **Figure 3**), we, as the Commission's 'third line', had regular exchanges of views with the operational DGs (the 'first line'), and central departments (the 'second line'), with a view to ensuring a consistent and shared understanding of the legal requirements and the necessary steps concerning the design and implementation of control systems at the level of the Commission and the Member States.

**Figure 3 – The three-lines model**



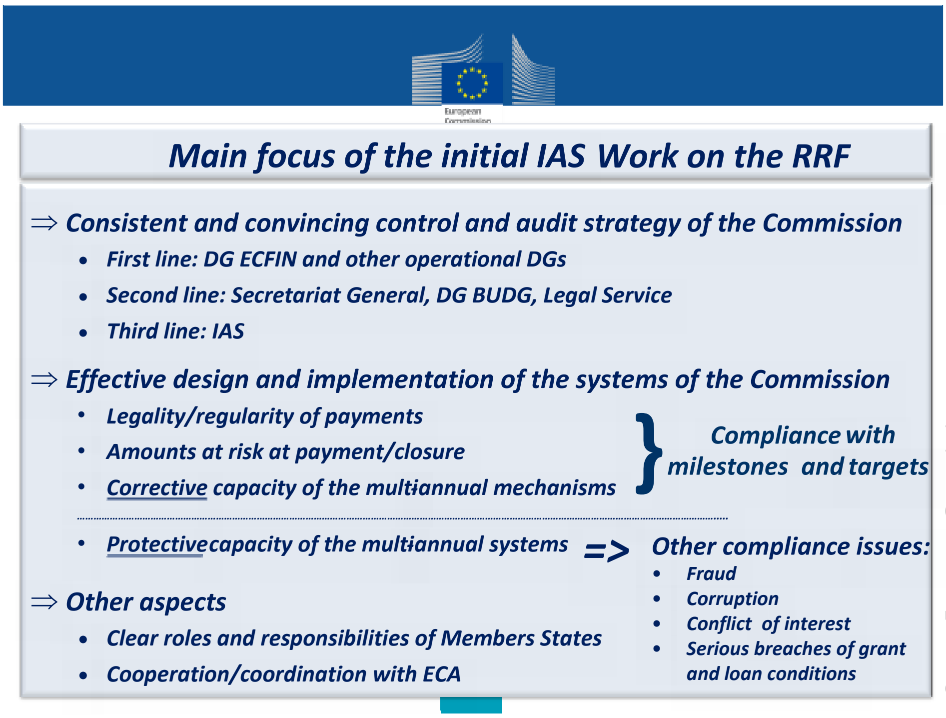

*Source:* European Commission.

Under the RRF, payments are made when the milestones and targets set out in the national plans have been achieved, and *not* on the basis of expenditure incurred. The legal framework sets out that responsibility for protecting the Union budget lies primarily with the Member States, and the Commission's key task is to ensure that national control systems are effective. As the 'third line', the IAS provided informal input to management about potential risks linked to the performance-based payment process and emphasised the need for clarity in the roles of the different actors involved in protecting the EU's financial interests. This included both the question of how to ensure that the Member States' control systems are effective, but also the application of the residual responsibility of the Commission for certain elements of compliance, such as the protection of the Union's financial interests in cases of fraud, corruption and conflicts of interest which are not corrected by the Member States' own systems, or where a Member State seriously breaches its obligations under the loan and financing agreements.

The RRF Regulation does not set out in full detail how protective mechanisms should be implemented in this new performance-based environment. For example, one area left open is how potential fraud and double-funding risks can be examined by the Commission without covering the costs that are reimbursed by the Member States (as beneficiaries of RRF payments) to the final recipients of RRF funding. Similarly, the Regulation does not define procedures for suspending payments and reducing support in cases where milestones and targets have not been achieved or have been achieved only in part.

As IAS, we engaged at a very early stage with both the central services and with the departments responsible, stressing the need to define an approach which clarifies these aspects (see **Figure 4**). I highlighted this in an Emphasis of Matter in the Overall Opinion for 2021. As trusted adviser, the IAS thus helped to ensure that management was in a position to identify and start building mitigating measures into the control and audit strategy as early as the very design stage.

**Figure 4 – Main focus of initial IAS work on the RRF**




*Source:* European Commission.

## The RRF shows the importance of cooperation between internal and external auditors

We have also been in regular contact with our colleagues at the ECA to share information and coordinate activities relating to the RRF. At a time of intense pressure on resources both at operational level and within the IAS, and a sense of audit fatigue among many auditees, sound coordination between external and internal auditors is ever more important – even if we sometimes apply different methods, especially concerning an annual versus a multi-annual audit approach.

Such cooperation is particularly relevant as regards the RRF. Due to the RFF's political and financial significance, the ECA will carry out a considerable number of audits on various aspects of this new instrument, and it has received a substantial allocation of additional human resources to that end. In the context of the ECA's work on its Statement of Assurance, it can be expected that due to the use of Monetary Unit Sampling the ECA will audit all – or at least a very large proportion of – individual payments to Member States.

The IAS has therefore started to assess how far it can rely on the ECA's work with a view to avoiding not only double audits and overlaps, but also audit and assurance gaps, in particular concerning the Overall Opinion for which strict coverage requirements have to be respected. The increasing interest of the IAS in drawing assurance from the work of the external auditor is also driven by the fact that our human resources are fixed, and even declining, despite the ever-increasing number and complexity of the entities and programmes we are tasked with auditing.

IIA Standard 2050 on 'coordination and reliance' makes it clear that the internal auditor can rely on the work of other assurance providers, including the external auditor – in our case, the ECA. The implementation guide for the standard refers to coordinating the internal and external auditors' activities at the planning stage (e.g. using assurance maps to avoid duplication of work) and equally at engagement level (including the possibility of co-sourcing an engagement). However, the standard and the accompanying interpretative and implementation notes provide limited guidance on concrete requirements and how drawing assurance from external audits should be implemented in practice.

Given this context, it is useful to note that the IIA is currently embarking on consultations with a view to reviewing the profession's international standards. Anthony Pugliese, President and CEO of the IIA, kindly presented this work at the IAS conference in May 2022. As IAS, we hope that the question of cross-reliance and coordination between internal and external auditors will be one of the items on the agenda in those discussions. The European Confederation of the Institute of Internal Auditors (ECIIA) and the European Organisation of Supreme Audit Institutions (EUROSAI) have also launched a very interesting joint initiative for this year and next, the aim being to promote cooperation between internal and external auditors, facilitate a common 'language', and share knowledge and best practices.

Against this backdrop, the IAS welcomes the prospect of even closer engagement with our colleagues in the ECA, and we are confident that strengthening coordination and cooperation between the Commission's internal audit function and the ECA as external assurance provider can bear fruit. In addition, it is also most welcome that Tony Murphy – whom I warmly congratulate on his recent election as President of the ECA – has publicly signalled the ECA's readiness to engage with the Commission in a dialogue to establish a common understanding of and shared reference framework for the control and assurance approach to be taken on the novel issues related to the RRF, as discussed above.

## The biggest room in the world

The biggest room in the world is always the room for improvement. This is the very ethos of the European Commission's IAS. On this, we are without doubt fully aligned with the ECA, despite the differences in the respective roles each of us play.

As the case of the RRF (to cite just one example) shows, the world of audit needs to keep moving as quickly as the world around it. The focus on performance as the defining factor not only for European funding programmes but also for policies is only set to increase going ahead. This requires us all to adapt and to seek further synergies – and, at a time of limited resources, efficiencies – in our work.

The professionalism and effectiveness of the European public audit community is a shared responsibility. In the years to come, the IAS will continue to work in tandem with the ECA to promote the most appropriate use of the Union budget to deliver on the EU's shared values and objectives.

# Rule of Law in the European Union – a fundamental principle in evolution

By Renate Nikolay, Deputy Director-General for Communications Networks, Contents and Technology, European Commission

*Source:* Depositphotos/JaneUK

With the Recovery and Resilience Facility (RRF), the EU's rule of law toolbox was provided with an extra dimension by means of a new Budget Conditionality Regulation that entered into force in January 2021. Breaches of the principles of the rule of law can become a barrier to the flow of EU funds to Member States if there is a direct link and these breaches pose a risk to EU financial interests. The European Commission is responsible for identifying and taking action with regard to such breaches. The Regulation has already been applied to concrete actions in the case of Hungary. Following a notification earlier this year and intensive discussions with Hungary, on 19 September 2022, the Commission decided to propose to the Council that EU funds for Hungary be suspended, should concerns with regard to corruption and conflict of interest not be adequately remedied. Renate Nikolay, until recently Vice-President Věra Jourová's Head of Cabinet and currently Deputy Director-General in the European Commission, analyses how the rule of law has evolved from a mere Article 2 Treaty on the Functioning of the EU (TFEU) principle to a veritable EU pillar to which Member States are held accountable in several ways, with various instruments at the disposal of the multiple stakeholders involved.

## A sine qua non condition for mutual trust

Over the last couple of years we have seen significant developments regarding the rule of law in the EU. Two things are significant here, namely the toolbox available to the European institutions to address rule of law matters, and also the different conversations on rule of law issues that are taking place in various European forums.

Article 2 TFEU clearly stipulates that the EU is founded on values such as the rule of law[1]. Over the last decade, rule of law issues have increasingly become a subject for jurisprudence both from the Court of Justice of the EU (CJEU) in Luxembourg and from the European Court of Human Rights (ECHR) in Strasbourg. In addition, over the last few years, in its role as 'guardian of the Treaties', the European Commission has launched additional infringement procedures in the area of rule of law, including new steps such as requests for interim measures and penalty payments[2].

1 The founding values of the EU, common to all Member States, contained in Article 2 of the Treaty on the Functioning of the EU (TFEU), include respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, in a society in which, inter alia, non-discrimination, justice, solidarity and equality between women and men prevail.

2 On 27 October 2021, the CJEU imposed a daily €1 million penalty on Poland for as long as the interim measures order of 14 July 2021 had not been fully complied with. This particularly related to the functioning of the disciplinary chamber of the Polish Supreme Court.

Rule of law is also a condition for mutual trust in the EU. Without mutual trust, it will for instance, be increasingly difficult to fully rely on instruments developed in the common area of justice such as the European Arrest Warrant. Such matters require confidence and trust in the authorities of other Member States, and mutual trust also lies at the heart of the internal market. Without it, economic players will be reluctant to invest because they will want assurance, including before impartial courts, that their investment will be protected.

Beyond infringement proceedings, we have also seen the activation of the Article 7 procedure under the Treaties, which was launched by the European Commission against Poland in 2017 and by the European Parliament against Hungary in 2018[3]. Whereas the Article 7 procedure in the case of Poland is focused on issues surrounding the judiciary, the case related to Hungary is broader and also addresses issues relating to the freedom of the media, civil society, and the fight against corruption.

These Article 7 procedures have led to a system of regular updates and hearings in the General Affairs Council. This is not to be underestimated. The rule of law is a shared responsibility, and the Commission cannot and must not be the 'lone sheriff' in these matters. Article 7 has brought rule of law questions before the Council, and the Council is addressing them. In regular hearings, Member States ask questions, and as such these debates have value. However, so far, they have not yet produced any concrete progress on the issues addressed. Moreover, the Council has not yet moved to the next step in the procedure under Article 7 TFEU, which could include a vote on basis of a 4/5 majority.

### Rule of law reports as an incentive for reform

Even though the European institutions did not shy away from using the tools at their disposal, some years ago there was a feeling that overall we were not fully equipped to deal with rule of law matters in a holistic way.

First, it is important to note that not all rule of law matters can be dealt with through infringement procedures. So far, the European Commission has not lost a single case on rule of law matters that has been brought before the CJEU. However, this is also because the cases are well-chosen and well-prepared. Furthermore, the overall principle of institutional balance should not be overlooked.

Second, there was a need to obtain a better overview of rule of law matters in all 27 Member States. Too often, concerns regarding discriminatory treatment were raised and comparisons were drawn on issues relating to the judiciary in other Member States, without any common basis for discussion.

Against this background, in 2019, Commission President von der Leyen announced a Rule of Law Report covering all 27 Member States. Since then, three editions of this report[4] have been published. The approach taken in the Rule of Law Report is broad, as it covers the independence and efficiency of legal systems, anti-corruption frameworks, media freedom and pluralism, as well as institutional issues related to checks and balances in all Member States. It follows a common methodology that has been agreed with Member States, and which is the result of an inclusive process, including many country visits and discussions with respective government authorities and other stakeholders. All Member States are treated in an equal and non-discriminatory way.

The exercise has returned very specific results. It raised the level of knowledge regarding other Member States' legal systems everywhere in the EU. We have 27 unique legal systems in the EU born out of national history and tradition, but bound by common principles such as Article 2 TFEU. In order to have informed debates based on a common methodological assessment, we need to ensure that everybody possesses a comparable level of knowledge.

3 Article 7 TFEU provides for the possibility of instigating a procedure against a Member State in the event of a serious breach of EU values, or where there is a clear risk of such a breach.

4 The third edition of the Rule of Law Report has been adopted and was published on 13 July 2022.

Furthermore, we have now regular debates on rule of law matters in various forums. The issue of the rule of law has moved away from being something purely for experts and has landed squarely on the table of politicians, as well as being present like any other standard EU political issue in other circles. Moreover, this debate takes place both at European and national level.

At European level, the General Affairs Council holds regular debates on rule of law matters. Each Presidency foresees a debate on five current rule of law reports from five Member States in alphabetic order[5]. This 'peer review' has proven to be a very constructive and useful exercise as it shows that no system is perfect, that many common challenges exist, and that an exchange on best practices can produce a win-win outcome for all parties. Common challenges include, for instance, access to justice or the digitalisation of justice.

At national level, Vice President Jourová and Commissioner for Justice Reynders engage with Member States' national parliaments every year on the Rule of Law Reports for the Member States in question. Never before have there been systematic debates with national parliaments on these matters. They are crucial debates, as no national justice reform or policy to combat corruption can be developed without active support from national parliaments. As a follow-up to the Conference on the Future of Europe, the Commission is considering ways of further broadening the scope of its rule of law work to involve citizens more directly, as citizens themselves have requested. There are also regular debates in the European Parliament on rule of law matters, which are often followed by resolutions adopted by the European Parliament.

*Source*: European Commission

Commission Vice President Jourová and Commissioner Reynders presenting the third Rule of Law Report on 13 July 2022.

And the exercise has led to concrete progress and has worked as a catalyst for reform. We have seen specific reform steps in the judiciary in several Member States. We have seen the start of debates about necessary reform in other Member States. We have seen breakthroughs on certain deadlocked issues once these have been made more visible in the report. Subject matters for reform include, for example, the role and status of National Councils for the Judiciary, the independence of the Prosecutor's Office, and modern conflict of interest rules. The preventive nature of the exercise therefore works, and helps address issues with Member States prior to these issues becoming real problems.

The Rule of Law Report is a dynamic instrument. And, as announced by President von der Leyen in the 2021 State of the Union address, for the first time the 2022 edition contains specific recommendations for all Member States. The objective of these recommendations is to support Member States in their efforts to take forward ongoing or planned reforms, to encourage positive developments and to address systematic challenges. Overall, the response to these recommendations has been constructive, and dialogue and discussions will continue on the basis of the recommendations.

### Other tools to address serious breaches

However, as important as this preventive instrument is, it will not help address severe deficiencies in the rule of law area. There was therefore also a need to further develop the tools at our disposal for an effective response in the case of serious breaches.

*European Public Prosecutor's Office*

In 2013, the European Commission proposed the creation of the European Public Prosecutor's Office (EPPO)[6], a crime fighter at the European level to protect the financial

5 The most recent debate in the General Affairs Council (May 2022) covered the following Member States: Luxembourg, Hungary, Malta, the Netherlands, and Austria.

6 Following Article 86 TFEU.

interests of the EU. However, since no unanimity could be reached for this project in the Council, enhanced cooperation was sought in April 2017. In October 2017, the Council adopted the Regulation on the EPPO. So far, 22 EU Member States have decided to join the EPPO[7].

*General Conditionality Regulation*

As the protection of the EU's financial interests remains incomplete, in 2018, the European Commission proposed the General Conditionality Regulation. It became part of the negotiations on the next Multiannual Financial Framework and was adopted as part of that package in December 2020[8]. This is less a rule of law instrument as such, since it is based on Article 322 TFEU. Its role is to protect both the sound financial management of the EU budget, and the financial interests of the EU, from breaches of the principles of the rule of law. The Regulation therefore aims to protect the EU budget from the effects *resulting* from these breaches, and not to impose penalties for these breaches as such. Neither does it circumvent other procedures such as the Article 7 TFEU procedure. There is a key interest in protecting European taxpayers' money from fraud, corruption and other rule of law issues, especially given the huge financial responsibility deriving not only from the current Multiannual Financial Framework, but also from the Recovery and Resilience Facility.

Following challenges brought against the Regulation by Hungary and Poland, the CJEU ruled on the Regulation's conformity with the EU Treaties in judgments handed down earlier this year[9]. The European Commission has been monitoring the situation in all Member States since the General Conditionality Regulation became applicable in January 2021, in order to ensure that no case would 'get lost'. As foreseen under the Regulation, the European Commission has also issued guidelines on its application[10]. This was deemed necessary to clarify important concepts such as proportionality, equal treatment, legal certainty and the protection of the final beneficiaries.

As a result of the monitoring, in April 2022, the European Commission launched the formal procedure under the Regulation for the first time in the case of Hungary[11]. A necessary condition for triggering the procedure is to establish a sufficiently direct link, showing that the breaches of the principles of the rule of law either affect or seriously risk affecting the sound financial management of the EU's budget or the protection of the EU's financial interests. The European Commission expressed serious concerns about the use of the EU budget in Hungary, and about breaches of the principles of the rule of law. These related to issues such as the use of public procurement, financial control and audit, the prevention of fraud and corruption and the constant failure to implement the recommendations that had been addressed to the Hungarian authorities over the course of several years.

Hungary replied to the notification in June, and on 20 July, the European Commission sent a second letter to Hungary as its reply had not remedied the situation. Following the procedure established under the General Conditionality Regulation, in this letter the European Commission has also indicated further steps to be taken regarding the possible suspension of funds if no remedial measures are presented. Hungary replied on 22 August and offered a set of concrete remedial measures to address these concerns. These measures included setting up new structures and adopting legislative changes. However, these welcome political commitments have yet to be implemented. Following the strict deadlines under the Regulation, on 18 September, the Commission decided to present an implementing decision to the Council to suspend funds for Hungary since,

7 Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, and Spain.

8 Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020, OJ L 433I , 22.12.2020, p. 1.

9 See judgements of the CJEU C-156/21 and C-157/21.

10 Communication from the Commission C(2022) 1382 final of 2 March 2022, Guidelines on the application of the Regulation (EU, EURATOM) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

11 On 27 April 2022 the Commission sent a written notification to Hungary following Article 6 of the Regulation.

thus far, the concerns raised had not yet been adequately addressed. The Council will now have up to three months to decide on this, taking into account how Hungary will put its political commitments into practice. The Regulation has therefore already proven that it has an impact.

The European Parliament had launched legal proceedings against the European Commission for inaction under the General Conditionality Regulation, but decided to drop the case in May 2022.

*Common Provisions Regulation*

Furthermore, in the area of social and cohesion policy, as part of the horizontal enabling conditions, the Common Provisions Regulation requires Member States to put in place effective mechanisms to ensure the compliance of the programmes supported by the funds. It also requires this for their implementation, with the rights and principles enshrined in the Charter of Fundamental Rights, including the right to an effective remedy and the right to a fair trial by an independent and impartial tribunal previously established by law. This provision has been strengthened in the context of the current Multiannual Financial Framework and builds on experience with Member States, for instance that of the so called 'LGBTI free zones'. Member States have to ensure that the horizontal enabling condition is fulfilled when preparing a programme, and that it remains fulfilled throughout the programme period. Specific discussions are ongoing with Member States on the fulfilment of this enabling condition.

*European Semester*

Finally, it is worth noting that rule of law issues are also part of the European Semester to the extent that effectiveness of legal systems, the fight against corruption, and inclusiveness of the law-making process are of macroeconomic relevance, with an impact on the business environment and on investments. In that context, and building on country-specific recommendations derived from the European Semester process, concrete milestones on reforms in the area of the judiciary or the fight against corruption, are included in the framework of certain national recovery plans under the RRF, which were subsequently formally approved by the Council.

## Towards a real rule of law culture both inside and outside the EU

There are now more instruments available to the European institutions in order to effectively deal with rule of law matters, both in a preventive and in a responsive way. The instruments follow distinct and parallel rules and procedures, but they all matter. And the institutions have already shown their resolve to act if the necessary conditions are met. If all of these instruments are used properly and work hand in hand in a coherent way, a huge contribution will be made in terms of nurturing and protecting a real rule of law culture in the EU.

Rule of law remains a matter of dialogue and action. It is important for the EU to deal with home-grown rule of law concerns. Otherwise, the EU will have a lesser impact when dealing with partners in third countries on rule of law matters. Given the recent developments in launching accession negotiations with Albania and North Macedonia, in offering candidate status to Ukraine and Moldova, and in offering a European perspective to Georgia, the EU's credibility for dealing with rule of law matters in the partner countries in the Western Balkans or in the Eastern Neighbourhood will also depend on how effectively we address rule of law matters *within* the EU.

Rule of law is far from a marginal matter, but rather lies at the heart of what the European project stands for. Therefore, all institutions, including the ECA, when looking into the implementation of the national programmes under the Recovery and Resilience Facility or the enabling conditions under the Common Provision Regulation, will have to play their part to ensure we all protect and nurture this fundamental principle for the European Union of today and tomorrow.

# ‘A constructive approach is needed to make the RRF a success story in every Member State’

## Interview with Mikuláš Bek, Minister for European Affairs of the Czech Republic

By Gaston Moonen

Source: Czech Ministry of European Affairs

Mikuláš Bek

As a new EU instrument, many aspects of the Recovery and Resilience Facility (RRF) stand out, such as the financial amounts involved, its emphasis on performance as a disbursement criterion, and its limited disbursement period. A common thread in many RRF aspects is the role of Member States in the submission of the national plans, in their implementation, in monitoring adherence to EU rules, and when it comes to the Council’s final approval of payment requests. During this second half of 2022, the Czech Republic holds the Presidency of the Council. In this capacity, the Czech government, and particularly the Czech Minister for European Affairs Mikuláš Bek, deal with RRF-related issues on an almost daily basis, including how to use RRF resources to tackle ongoing energy concerns. We asked Mr Bek about his views on the RRF and which RRF-related issues are currently on the Council’s agenda.

### The RRF – a great opportunity for modernisation

*As Minister for European Affairs, what does the NextGenerationEU initiative, and particularly the RRF, mean for you and your country?*

**Mikuláš Bek**: The RRF and National Recovery and Resilience Plan are a key priority for the Czech Republic, through which we want to implement, among other things, important reforms and a number of projects in the field of digitisation and green investments. I see the RRF as a great opportunity to significantly modernise the Czech Republic.

> *I see the RRF as a great opportunity to significantly modernise the Czech Republic.*

*You currently have the EU Presidency. What are the core issues going on at the Council regarding the RRF, which RRF topics have you recently had to deal with, and what are the key RRF issues coming up during your Presidency?*

**Mikuláš Bek**: We very much welcome the fact that the European Commission has come up with the REPowerEU initiative. In particular, the proposed REPowerEU amendment to the RRF regulation is key to enabling the Member States to financially foster reforms and investments directly contributing to the implementation of the REPowerEU plan, to a total of €20 billion.

> *…the RRF regulation is key (…) to the implementation of the REPowerEU plan…*

As the Presidency, we strive to reach agreement, especially in sensitive negotiations, on the allocation key and the source of funding. That is why we are very proud that on 4 October at the ECOFIN Council we managed to achieve the General Approach of the Council. According to this General Approach adopted by the Council, financial support intended exclusively for the measures of the specific chapter devoted to REPowerEU should be obtained by transferring some of the resources from the upcoming Innovation Fund and also by frontloading the auction of emission allowances under the ETS system. Grants should be distributed between Member States according to a new allocation key that takes into account population indicators, nominal GDP per capita, the share of fossil fuels in the energy mix of gross domestic consumption, and inflation of investment costs.

We believe that this General Approach is a good basis for negotiations within the *trilogues* with the European Commission and the European Parliament. We will strive to have the final version of the RRF regulation ready by the end of this year.

*The concept and the rollout of the RRF are very different from other EU programmes, such as those related to cohesion, agriculture or research. Do you think the RRF approach can serve as a model, as input for future EU initiatives regarding investment and reform support?*

**Mikuláš Bek**: In general, the Czech Republic perceives the RRF as a positive tool, and it is already clear that this tool can bring the necessary investments and reforms to the Member States. However, I believe it is premature to suggest that the RRF should be a model for other funds. For example, cohesion funds work very well from the point of view of the Czech Republic, and our country has had a very good experience with them.

> *… I believe it is premature to suggest that the RRF should be a model for other funds.*

*The RRF is built around six EU policy pillars, such as the green transition and the digital transformation. One of the discussion issues has been the comparability of the milestones and targets set between Member States, for example different Member States having rather different milestones regarding the green transition in terms of what is considered green. Is this an issue of concern within the Council and how do you think this comparability and a harmonised approach on this can best be addressed?*

**Mikuláš Bek**: Currently, in relation to the RRF, the main topic at the Council is the proposal to revise the relevant regulation in connection with the REPowerEU initiative. At the same time, the Council continuously approves Council Implementing Decisions and payment requests from individual Member States. Achieving comparability and a harmonised approach is of course very difficult given that each Member State has different conditions.

> *Achieving comparability and a harmonised approach is of course very difficult given that each Member State has different conditions.*

## Significant risks need to be addressed in every Member State

*What do you think will be a major issue of concern for the realisation of the National Recovery and Resilience Plans in Member States?*

**Mikuláš Bek**: I believe that the implementation of National Recovery and Resilience Plans is a challenge for all Member States. Clearly significant risks are the limited length of the RRF period as well as sufficient personnel capacities within the public administration. The current enormous inflation - especially in some sectors - is also proving to be a significant challenge. A constructive approach by both the Commission and the Member States is needed to make the RRF a success story in every Member State.

*The European Parliament has expressed some concerns regarding fraud and corruption and conflict of interests with RRF funds. How do you see the role of the Member States vis-à-vis the Commission in this area? Have Member States, for example the Czech Republic, taken specific measures to certify RRF expenditure on this issue and can you give examples of measures taken?*

**Mikuláš Bek**: We take the European Parliament's concerns about fraud and conflict of interest very seriously. The Czech Republic has an independent audit body for the RRF under the Ministry of Finance and we have deployed a robust control and audit system to prevent the risks.

*One of the new elements in the RRF, beside of course performance orientation, is the General Conditionality Regulation, linking financing to the rule of law conditions in Member States. This is currently a topical issue in view of payments having been suspended for one Member State. What, in your view, are the key issues to be observed from a Council Presidency perspective?*

**Mikuláš Bek**: We consider the issue of the rule of law to be very important and we take the role of the Council in this context very seriously. We welcome the fact that the European Court of Auditors plans to develop an analysis of compliance with the rule of law.

*“We welcome the fact that the European Court of Auditors plans to develop an analysis of compliance with the rule of law.*

*How does the RRF instrument align with the principles of the EU single market? Do you see any risk that it may interfere with these principles and cause some disruption in this respect? What kind of relationship do you observe between the RRF and the European Semester, in particular the Country-Specific Recommendations?*

**Mikuláš Bek**: From our point of view, the single internal market is a tool to increase and maintain economic prosperity, by removing obstacles that prevent the use of the economic potential of its participants.

The Czech Republic generally considers the European Semester to be a useful and established mechanism for coordinating economic and social policies. The Czech Republic is ready to continue actively participating in dialogue with the Commission within the framework of the Semester, which is integrated with the dialogue on the implementation of national recovery and resilience plans. However, it is important to make every effort to avoid duplication and to make the best use of existing synergies in order to avoid unnecessary administrative burdens.

*“The Czech Republic generally considers the European Semester to be a useful and established mechanism (…) However, it is important to make every effort to avoid duplication...*

## Key role for Commission and Council

*In September 2022, the European Commission reported that it had assessed over 290 milestones and targets as fulfilled. What role and action do you see for the Council if the Commission assesses some of the milestones and targets agreed upon as not being fulfilled and withholds disbursement to a Member State when the Member State disagrees with the Commission on this?*

**Mikuláš Bek**: In general, we believe that such situations should ideally not occur. This should be preceded by an ongoing constructive dialogue between the Member States and the Commission. According to the regulation, the final approval of the payment request is within the competence of the Council.

*Where do you see a particular role for the European Parliament regarding the RRF instrument? Who do you consider ultimately responsible for the implementation of the RRF – the Member States or the Commission? And how and where do you consider that the European Court of Auditors can provide the most added value?*

**Mikuláš Bek**: We are aware that the binding document for the implementation of the Recovery and Resilience Plan is the Council Implementing Decision, from which the obligation for the Member State to fulfil milestones and targets by a certain date results. However, it is necessary to keep the European Parliament updated on the latest developments of the RRF implementation. I personally see the European Court of Auditors not only as an important player to protect European taxpayers' money and point to any risks for fraud. I also acknowledge the value of the European Court of Auditors through its reviews, reports and opinions, which can provide us with inspiration on how to adjust our management, control and audit systems designed for RRF implementation.

“ *... the binding document for the implementation of the Recovery and Resilience Plan is the Council Implementing Decision ...*

# Spanish control arrangements for the Recovery and Resilience Facility

By Susana Climent del Castillo, Ministry for Environmental Transition and Demographic Challenge, Spain

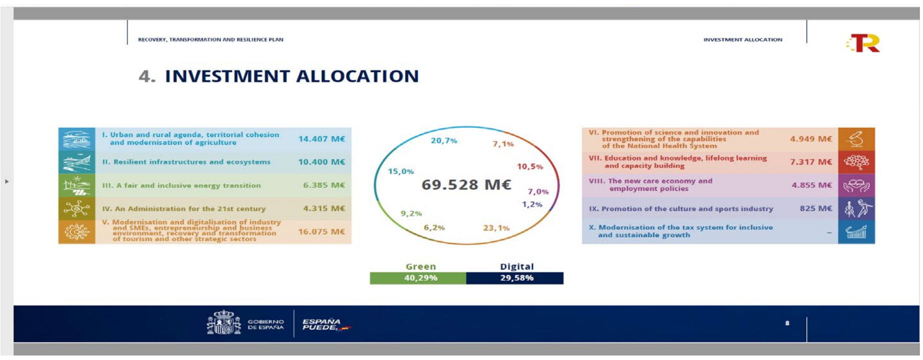

*Source:* Spanish RRF Plan official website

For implementation, the Recovery and Resilience Facility (RRF) depends – more than any other EU instrument – on the Member States' administrations. What do the RRF, and its related National Recovery and Resilience Plan (NRRP), mean for a Member State like Spain, a major RRF recipient with an expected RRF transfer to Madrid of over €77 billion? How has Spain (re)organised its management and control arrangements to deal with such an amount to be both effective and compliant with the conditions for protecting the EU's financial interests? Susana Climent del Castillo, Senior Advisor to the Spanish Under-Secretary for Environmental Transition and Demographic Challenge, has broad experience of EU fund implementation in Spain, and of EU control provisions. She explains what the Spanish control arrangements entail, the various levels of controls carried out, and the focal points expected to be covered. She identifies this area not only as a big challenge but also as an opportunity for Spanish public administration to increase its focus on performance and accountability.

## The Spanish RRF Plan – a historic challenge

The Spanish Recovery, Transformation and Resilience Plan ('the Spanish RRF Plan') is one of the biggest challenges in the history of Spanish public administration, and possibly the biggest in the history of European Fund management. The current Spanish RRF Plan has a volume of more than €69.5 billion in transfers, distributed in 10 big policy areas (see **Figure 1**), with 212 measures (110 investments and 102 reforms). The measures are clustered into 30 components.

**Figure 1 - Distribution of Spanish RRF grant resources in 10 policy areas**




*Source:* Spanish RRF Plan official website

The Spanish RRF Plan is expected to increase to more than €77.2 billion as a result of the June 2022 update of the RRF's maximum financial contribution in grants. There is also political will to increase the Spanish RRF Plan for programming RRF loans. The Plan will also be enhanced by additional investments from REPowerEU (currently being negotiated between the Member States).

The Plan is also challenging because it brings together an unprecedented number of public administrations at different levels as implementing bodies, and implementation comes in several forms, e.g. public calls for aid, public procurement, collaboration agreements between different public institutions, and other less traditional forms such as pre-commercial public purchases.

Below, I focus on the management system of the Spanish RRF Plan, particularly the control arrangements to be applied by implementing bodies.

### Spanish control arrangements for the RRF – what is required?

Article 22 of the RRF Regulation lays down the provisions for protecting the financial interests of the Union in implementing RRF Plans. It stresses the prevention, detection and correction of fraud, corruption, and conflict of interests. Double funding is mentioned in other parts of the Regulation. Article 22 also states that 'Member States may rely on their regular national budget management systems'.

To fulfil these requirements, the Spanish authorities have chosen to reinforce and adapt the public administration's existing control system – which is based on legality and sound financial management – to the RRF's specific characteristics. It is noticeable that, unlike in the case of the EU Structural Funds, the RRF Regulation does not employ a designation procedure to define a set of Fund authorities (such as Managing Authorities, or the former Certification Authorities for the EU Structural Funds), or the types of controls Member States must deploy, such as administrative verifications and on-the-spot checks.

The Financing Agreement for the Spanish RRF Plan lays down the six key requirements of the control system in Spain, i.e.:

- an effective and efficient internal control system. This includes a coordination authority and an appropriate separation between implementation and audit functions;
- proportionate anti-fraud and anti-corruption measures, and effective measures to avoid conflict of interests. This requirement includes avoidance of double funding;
- procedures for drawing up the Management Declaration and summary of national audits;
- procedures for checking the attainment of milestones and targets and compliance with sound financial management;
- independent audits, such as those covering systems and support for investments and reforms; and
- audit trails of data on the financial recipients of funds, and access to such data for external controls.

The European Commission has adopted several guidance documents to assist Member States in *drafting* their recovery and resilience plans. However, as far as implementation is concerned, the Commission, unlike in the case of the Structural Funds, has no specific EU guidance for *implementing* the RRF, besides the 'Technical guidance on the application of 'do no significant harm' under the Recovery and Resilience Facility Regulation', which focuses on the programming phase rather than the implementing phase. When it comes to conflict of interests, there is also the European Commission's 'Guidance on the avoidance and management of conflicts of interest under the Financial Regulation'.

### Three levels of control in the Spanish control arrangements

In order to protect the EU's financial interests, the Spanish RRF Plan deploys three levels of control:

- level I: the implementing body's internal control;
- level II: the independent body's internal control, and
- level III: audits and ex-post controls at Member State level

Level I is defined by Ministerial Orders HFP/1030/2021 ('Management system of the RRF Plan') and HFP/1031/2021 ('Information system' known as CoFFEE-MRR – MRR being the Spanish abbreviation for RRF). These lay down key requirements for all implementing bodies in all measures, whether reforms or investments.

The second level of control is independent of implementing bodies, and thus independent of their internal controls. Legal services and audit units perform this second level, and are separate from the implementing bodies. They issue mandatory and binding administrative acts without which the implementing units cannot manage public funds. This entails an ex-ante control of legality checks and preliminary budget controls, and in the case of ministries and other public bodies is known as *fiscalización previa* in Spanish, which takes place both prior to and in parallel to expenditure. This second level of control is common to all public expenditure in Spain. However, there are some specific features for RRF expenditure in public calls for proposals and public tendering.

As far as control level III is concerned, responsibility lies with the Control Authority for the RRF Plan (equivalent to the Structural Funds' Audit Authority). For this purpose, the National Audit Office (Spain's *Oficina Nacional de Auditoria*) has created an RRF division. The types of audits to be performed can cover:

- monitoring systems;
- management systems;
- fraud prevention and conflict of interest;
- milestones and targets (including verification of the management declaration); and
- legality and regularity of expenditure.

### Setting a minimum national standard for managing and checking the Spanish RRF Plan

Ministerial Order HFP/1030/2021 establishes the management system for the Spanish RRF Plan. It aims to provide guidelines to guarantee compliance with the RRF Regulation when implementing the RRF Plan, and to do so in a coordinated way. It targets implementing bodies and bodies responsible for measures (reforms and investments), and the ministries responsible for a set of related measures listed as 'Components' in the Spanish RRF Plan.

The Ministerial Order establishes the following specific management principles that apply to the Spanish RRF Plan:

- defining the concepts of 'milestone' and 'target';
- green and digital tagging;
- 'do no significant harm' (DNSH);
- preventing, detecting and correcting fraud, corruption, and conflict of interests:
- State aid;
- double funding;
- identifying final recipient of funds; and
- communication.

The Order also sets out the minimum standard for compliance required of implementing bodies and bodies responsible for measures. These bodies can in turn broaden these requirements. The Order also stipulates a set of monitoring and reporting requirements. In addition, it states that implementing and responsible bodies must fulfil the following requirements which are set out in the Financing Agreement[1]:

- checking that milestones and targets have been attained (see below);
- checking that there are no serious irregularities.

As regards the specific management principle about preventing, detecting and correcting fraud, corruption and conflict of interests, the Order specifies that the bodies responsible for measures and the implementing bodies must have mandatory anti-fraud plans. This is considered as a measure to reinforce existing measures, specifically for the RRF. The Order specifies the areas to be addressed by the anti-fraud plans, and so the Spanish authority responsible for the RRF (the coordination authority required by the Financing Agreement) and the National Antifraud Coordination Service (Spain's equivalent of OLAF) have both produced guidelines covering fraud, conflict of interest, and double funding. They include a risk matrix tool for fraud. In other words, the EU Structural Funds' guidance on fraud has been adapted to the RRF in Spain.

All implementing and responsible bodies for the RRF Plan in Spain must perform an annual self-assessment of their capacity to manage/implement it and to comply with its specific management principles. Annex II of the Ministerial Order includes the necessary self-assessment tool. It consists of 51 questions, 42 of which use a scale from four (maximum compliance) to one to assess if the bodies have the necessary resources and procedures, and are not at risk of failing to comply with the RRF's specific management principles. Implementing and responsible bodies must achieve a result of at least 90 %, which is considered low risk (thus providing sufficient compliance with the RRF management principles). Figures below 90 % mean that the implementing or responsible body in question must reinforce its procedures.

### Milestones and targets as a singular distinctive requirement

Lastly, Annex III of the Ministerial Order includes references and guidelines for implementing some key requirements, such as monitoring milestones and targets, applying the 'Do No Significant Harm' principle, State aid, double funding, and preventing, detecting and correcting fraud, corruption and conflicts of interests. Of all these requirements, milestones and targets are specific to the RRF, thus setting it apart from any other European Fund, and making it deserving of particular consideration. The closest previous experience was with the Structural Funds when using simplified cost options (SCOs), where disbursement is based on proving that an activity has taken place or results have been achieved, rather than on documenting the real cost incurred. Control arrangements at all levels must consider this specific feature where the new requirement is concerned.

The RRF's milestones and targets are described in the Country Implementing Decision, and the Operational Arrangement lays down the mechanism for verifying attainment. Some milestones and targets refer to the costs incurred, and their verification mechanisms are more traditional, meaning that the audit trail can cover the traditional documentation of the real costs incurred. However, most of the milestones and targets refer to activity that has taken place, or results achieved (they are descriptive), and the verification mechanisms include the information needed to prove this.

Thus, the audit trail's focus is on documenting the different elements describing the milestones and targets, and on the various aspects of the verification mechanisms. This is a challenge for implementing bodies, especially for those that do not have previous experience of working with EU Funds. However, it is also a challenge for any other body with a role in the RRF: the bodies that are responsible for supervising and monitoring the implementing bodies' achievement of milestones and targets; coordinating authorities; or audit authorities. From a control perspective (at all levels), it is a challenge not to focus on expenses based on invoices or equivalent accounting documents. The focus is naturally on what has been done or achieved and, specifically whether achievement has been satisfactory, according to its description and the verification mechanism. In addition, there is more than one type of audit trail in this case, and it changes according to the nature and purpose of the activity.

1 See Annex I, paragraph 4, of the Financing Agreement.

Is there a risk of resorting to subjective and debatable opinions about the degree of achievement, for example? Is it now more important than before that control and audit bodies should understand the nature of what is being financed? Do we appreciate that by verifying and auditing the achievement of milestones and targets we are also protecting the EU's financial interests? If so, does it provide the same protection as controlling and auditing expenses? Are these interchangeable approaches or are they separate actions on top of the verifying actions that trigger disbursement?

In due course, we will discover the extent to which this new perspective of performance-based policies through milestones and targets is indicative of a paradigm shift in programming, managing, controlling and auditing EU funds.

### The potential silent administrative revolution

Europe's response to the current crises – the COVID-19 pandemic and Russia's invasion of Ukraine – is very different from its response to the financial and economic crisis of 2008. With its current RRF Plan, Spain expects to receive an unprecedented amount of EU funds within a short time span. The current Plan's Operational Arrangement (see page 5) envisages the presentation of five out of eight payment requests representing almost 75 % of the current RRF allocation before the end of 2023, and that is without taking pre-financing into consideration.

The RRF's impact on the functioning of Spanish public administration is yet to be felt. So far, Spain has been making a major effort to implement the RFF even before specific control and audit levels have been set. EU funds have attracted more attention than ever from the media, politicians, and senior civil servants. Lastly, experience of managing EU Funds has become an asset and a sought-after profile both inside and outside public administration.

The RRF provides an opportunity to expose a large swathe of Spanish public administration to the management of EU funds, which is quite different from managing the national budget. In particular, it offers an opportunity (and a challenge!) to implement procedures to protect the EU's financial interests through performance-based policies. Transparency, access to information, and accountability play a major role in such policies, and the history of EU Funds also shows their increasing importance. This focus will surely also affect other public policies, regardless of the origin of their funding.

Plan de Recuperación,
Transformación y Resiliencia

# Obtaining a full picture of the RRF – a multidimensional puzzle requiring various ECA efforts

## Interview with Ivana Maletić, ECA Member

By Gaston Moonen

Ivana Maletić

When, in the spring of 2020, the European Commission presented its first proposal regarding the Recovery and Resilience Facility (RRF), it became clear to the ECA leadership that the proposal, if adopted, would have major policy consequences. These would inevitably affect the work of the ECA as the EU's external auditor, as already indicated in our 2021-2025 Strategy. ECA Member Ivana Maletić has been involved in both the internal and external discussions regarding the RRF, and has served as rapporteur for ECA publications on the topic, starting with opinion 6/2020 on the Commission's proposal for the RRF Regulation. Below, she shares her experience of working on this topic – even before the 2020 proposals – and some of her concerns, while reflecting on RRF-related ECA projects in the pipeline.

### RRF involvement *avant la lettre*

Ivana Maletić's interest and experience in relation to initial efforts regarding an 'RRF-type' instrument date back to her time as a Member of the European Parliament (MEP) and even earlier during her time as a cohesion policy expert in Croatia. 'As an MEP I was a member of the Economic and Monetary Affairs Committee – ECON – and the Regional Development Committee – REGI – a combination I very much liked. Already in 2017, the European Commission launched a three-year pilot project called the Structural Reform Support Programme to boost reforms in the Member States. In the new multiannual financial framework – the MFF 2021-2027, it should have been succeeded by the Reform Support Programme, worth €25 billion, intended to address both investments, like we know from cohesion policy, and reforms as were stipulated in the European Semester. I closely followed the implementation of the SRSP and was a rapporteur in the Regional Development Committee on the RSP at the time. I very much supported the idea of such an instrument, which would encourage and accelerate structural reforms in order to strengthen the effects of investments financed from the EU budget.'

She explains that with the COVID-19 crisis, however, this project, initially conceived as a pilot, received an enormous boost. 'In the wake of the COVID-19 crisis in 2020, the RSP was put aside and got replaced by the almost 30 times larger RRF. The Commission rather suddenly proposed this huge one-off facility, worth €723.8 billion, primarily to boost country-specific reforms stemming from the European Semester. Because they had problems in the European Semester. An issue I studied in more detail, as together with some colleagues I even published a book on the challenges related to the European Semester.' She recalls that implementation of country-specific recommendations was continuously low. 'The RRF was introduced to boost the reforms and to overcome the negative effects of the crisis on the public investments due to the huge increase in public deficit and debts all over Europe. For everybody it was clear that without reforms we could not, and actually cannot, recover from the sudden economic shock nor move forward.'

> *… without reforms we could not, and actually cannot, recover from the sudden economic shock…*

## Crisis instrument…crisis deadlines, including for the ECA

Given the need to address the economic consequences of the pandemic, the RRF proposal from the Commission came fast and the ECA had to keep pace in giving its opinion 6/2020 on this proposal. 'We got the request from the European Parliament in June and worked right through summer, postponing holidays to finalise it in August 2020. We had to get the right people with the right knowledge, review the design, identify potential weaknesses and risks for implementation, and in that sense also had to make alternative or additional suggestions to improve the text. It was very challenging to agree on a joint position in a few weeks. But looking back I have to say we managed to detect many of the main deficiencies of the proposal.' Ivana Maletić recalls the team's awareness of the relevance of their work. 'We had to assess rather quickly a proposal on the largest EU instrument to date, which was completely new to us. We saw that a huge amount of money would be involved in a six-year implementation period, and we had to react fast.'

Size, urgency and political agreement in the European Council ensured that the heat was on, including for the ECA to write its opinion. 'Take for example the allocation formula, based on the size of the population, GDP and unemployment rate, elements which we said were not clearly linked with the objectives of the RRF, which were very broad in themselves, and even risk contradicting impacts. We pleaded for a clearer link between the RRF proposals and the EU objectives, all the more since it is not only about reforms at economic level but also about related investments covering greening, digitalisation, cohesion policy, etc.'

When discussing how much of an impact the ECA's recommendations can actually have, the ECA Member is rather positive. 'We can indicate the risks, raise design concerns, suggest changes that would ultimately improve the implementation, etc., and this is exactly what we did. An important aspect was that the European Parliament was also involved in the process as one of the co-legislators and took our observations very seriously, ultimately significantly changing the proposal.' She gives an example relating to transparency and audit. 'The proposal did not define the audit rights of the ECA or the roles of the European Anti-Fraud Office – OLAF – and of the newly established European Public Prosecutor's Office – EPPO. Even the role of the Parliament itself was not clear in the Commission's proposal. So this is what we emphasised also in our opinion and what was followed up by the European Parliament…successfully, fortunately, with the inclusion of what is now article 22.'

Not that this article solves everything. Ivana Maletić points out that the ECA, OLAF and EPPO have the right to audit or investigate the funds up to the end users and beneficiaries. 'But the Commission sees RRF funds as Member States' money and identifies them as final beneficiaries and focuses at that level when they execute payments, putting aside the main principles of the Financial Regulation. Payments in the RRF are only linked to the satisfactory fulfilment of milestones and targets, that is to say qualitative and quantitative outputs. So payments will be made regardless of whether applicable sound financial management criteria were implemented or respected or not by the Member State concerned.'

> *… the Commission sees RRF funds as Member States' money …*

> *...payments will be made regardless of whether applicable sound financial management criteria were implemented…*

She observes that Member States are expected to report such issues in their management declaration accompanying the payment request. 'But this only relates to the "four sins", namely fraud, corruption, conflict of interest and double funding. The Commission may also do ex-post checks but there is still some uncertainty on how it defines its responsibility beyond checking the fulfilment of milestones and targets. At our end, we think that the RRF Regulation cannot be interpreted in isolation but the RRF needs to be implemented in line with the direct management rules, and in conjunction with the provisions of the Financial Regulation.'

> *… the RRF Regulation cannot be interpreted in isolation but the RRF needs to be implemented (...) in conjunction with the provisions of the Financial Regulation.'*

**Auditing the RRF – not only by choice but in line with Treaty obligations**

The nature of the RRF also poses several challenges for the ECA in view of the work for the annual Statement of Assurance (SoA), relating to financial compliance and the legality and regularity of the underlying transactions, as stipulated in the EU Treaty. According to Ivana Maletić, there is currently a discrepancy between what the ECA does for the RRF and what it normally has to do, which is visible in the pilot Chapter 10 of the ECA's 2021 annual reports for 2021. 'Regardless of the nature of an instrument, our Treaty obligation is to check the financial compliance and regularity and legality of the payment. Given that in the RRF payments depend only on the satisfactory fulfilment of milestones and targets, the Commission limited itself to checking that the fulfilment of a milestone or a target had actually taken place before it paid the money. However, to ensure regularity and legality in terms of the Financial Regulation, we need to be very careful about limiting our assessment to the fulfilment of milestones and targets rather than going beyond and tracing the funds to the end users.'

She explains that the ECA's work for the SoA in relation to the first payment under the RRF – made to Spain – is rather different from what the ECA normally does regarding cohesion policy payments, where it checks if the money was spent according to the Financial Regulation rules relating to public procurement, eligibility criteria, etc. 'For the RRF the question for us will be how much we can do and how deep we can go, also in view of the size of the RRF instrument, the new approach and the limited resources we have. As we are in the process of defining our approach to auditing this new instrument, given these limitations, our first pilot for our SoA audit focused on re-performing the Commission's checks on the satisfactory fulfilment of milestones. Simultaneously we did our audit on the Commission's assessment of the national recovery and resilience plans. For future payments we will need to continue working in parallel on our Statement of Assurance work and on special reports on the compliance and performance of the RRF, covering also proper use of the EU money at the level of the Member States and end users.'

Ivana Maletić adds that it was quite doable for 2021, with one RRF payment, but 2022 will be different. 'For 2022 the number of payments might not be that high yet but the amount of milestones and targets will be huge and our sample size has its limitations. As I mentioned, for the RRF we have to do compliance and performance reports. Apart from the report on the Commission's assessment of the national recovery and resilience plans – the NRRPs which we published last September – I am leading two additional audits on the subject – one on the RRF performance monitoring framework and another on the RRF absorption capacity. In addition, the ECA is finalising a report on the Commission's control system for the RRF and is planning a number of RRF-related audits for the next year as well.'

She emphasises that the European Parliament is keeping a close eye on the RRF, and is very interested in how the money allocated to Member States has been spent on the ground, and on what exactly. This information forms part of the Parliament's assessment for the annual discharge. 'Here again there is this overall risk: can we realistically expect that this huge amount of money will be implemented in such a short time, while respecting the Financial Regulation and all sound financial management principles, preventing any irregularities, fraud and corruption? Do the Member States and the Commission have the resources to warrant this? Do we have enough resources to review this?' She says that the European Parliament has already asked the ECA whether it can provide assurance that everything was properly done, and not only regarding the fulfilment of the milestones and targets. 'They are keen to know about financial management and the proper application of the Financial Regulation. We can see that already.'

> *They [the European Parliament] are keen to know about financial management and the proper application of the Financial Regulation.*

She explains that within the ECA there has been a lot of discussion over how to tackle the operational audit challenges relating to the RRF. 'We have to audit this new instrument and we have to be innovative on how to do that. But it is also clear that we have only received very limited resources to audit the RRF in the way we would like to. And would be expected to!'

> *… we have only received very limited resources to audit the RRF in the way we would like to.*

## Performance aspects to be tackled at design phase

The first performance audit results relating to the RRF were published in special report 21/2022 reviewing the Commission's assessment of the NRRPs, which the ECA considered appropriate overall. 'For this audit we did not assess the individual NRRPs, but the way the Commission assessed them. We also did not audit the Commission's methodologies for tagging of the six pillars, such as the green and the digital aspects, but actually assessed how the Commission applied this tagging to the measures we sampled. In this respect we did not find any loopholes.'

Ivana Maletić explains that in this audit the ECA detected weaknesses in the area of Country-Specific Recommendations (CSRs), the application of the 'do no significant harm' principle, milestones and targets, as well as national control and monitoring systems. 'The RRF was supposed to create an incentive for Member States to implement the structural reforms addressed by the CSRs of 2019 and 2020. As the 2020 CSRs correspond to the broad objectives of the RRF, the six NRRPs that we sampled covered them very well with corresponding reforms and investments. However, we found that not all parts of the 2019 CSRs have been tackled, especially those for which Member States have been postponing implementation for years (e.g. pension system, health, taxation, etc.). In our sample, this was the case in the four Member States with the largest allocations from the RRF.'

In general, Ivana Maletić is concerned that no systematic comparative analysis was done of the RRPs. 'Instead the Commission just assessed each RRP on its own merits rather than looking across NRRPs, as we indicated in our report, to be able to assess progress towards the overall targets set at the EU level and ensure a level playing field. On the "do no significant harm" principle, the Commission insisted on mitigating measures where Member States proposed measures that are likely to do harm to the environment.'

> *… the Commission just assessed each RRP on its own merits rather than looking across NRRPs…*

As to these mitigating measures, her concern is that they were not quantified and covered by a milestone or a target, which means that their implementation may not be checked. 'For example, if a measure consists of building several kilometres of road, which is included in the RRP as a target, that will be mitigated by the planting of a certain number of trees, which is not included in the RRP as a target. Consequently, only the former will be checked by the Commission, but not the latter, as it is not a payment condition.' In addition, Member States could decide to finance measures that are incompliant with the 'do no significant harm' principle from their national budget. 'This openly contradicts the whole concept of the principle.'

Ivana Maletić emphasises that her main point of concern is how the milestones and targets have been set up, as they are the basis for payments. 'Apart from the non-harmonised approach across Member States in defining them, we already see difficulties in their implementation, to which we pointed already in our special report. Some of them lack clarity, which may cause discussions between the Commission and the Member States on their fulfilment. Some cover only one aspect of implementing a measure or indicate the implementation of measures after the deadline of 31 August 2026, etc.'

She gives an example regarding the timing. 'You can find targets such as "we will start the purchase of buses or construction works in the third quarter of 2026". Be aware, by the end of 2026, the RRF should be finalised. This target might be formally fulfilled but the question is whether the purchase of buses or construction will ever actually happen, while the money has already been paid. Some plans do have and some do not have such elements, which allow them to continue implementation after the official RRF implementation period.' She observes that it is ultimately also a question of the impact of fulfilling the milestones and targets. 'In the report, we stressed that the milestones and targets are limited to measuring output or even input, so it will be very difficult, if not impossible, to assess, on the basis of such milestones and targets, the real impact of measures and the RRF as a whole.'

> *… it will be very difficult (…) to assess, on the basis of such milestones and targets, the real impact of measures and the RRF as a whole.*

Ivana Maletić also stresses another important challenge, or rather weakness, of the RRF. 'Since milestones and targets are, in most cases, steps of the implementation, their flexibility is limited and in reality many things may turn out different from what was planned. Therefore, the crucial question will be, where and how can or should we allow for some flexibility in implementing the RRF?'

The quality of milestones and targets is also one of the core elements of a performance audit that Ivana Maletić is currently working on as rapporteur. 'We will look at whether the RRF performance framework is actually working well, including the Commission's scoreboard mechanism and data behind it.' She explains that in itself this audit is still an audit of design, looking at the performance characteristics the Commission is using. 'At this stage, we want to examine the quality of the Commission's performance measurement system. Because milestones and targets should be more than saying "we will start building 40 km of railway".'

In this respect, she observes that these milestones and targets should aim even higher. 'In our opinion 6/2020 we were pleading for common indicators for better monitoring and performance measurement of the RRF. This to measure the higher EU objectives of the RRF as compared to the national plans, but also to compare the RRF to other "traditional" policy instruments. 'We should not forget that the RRF was designed as an answer to a crisis. But we have to be careful to propel it as the future solution for EU policy making in the long term before carefully reflecting on a number of weaknesses.'

According to Ivana Maletić, regarding the latter it will be very interesting to see the upcoming ECA review comparing the European Structural Investment Funds and the RRF. 'In this non-audit product we analyse the design of the two instruments, which will also contribute to the debate on the performance nature of the RRF.'

Coming back to the special report on the NRRPs, she also mentions that some national control and monitoring systems were approved by the Commission before they were actually in place and were thus based on commitments. She refers back to the system in place for cohesion expenditure, which includes accreditation mechanisms and a clearly defined framework of audits and controls. 'This is not the case in the RRF, where some of the Member States decided to create new systems. In cohesion payments, we see an estimated error rate well beyond the 2 % materiality level we set. Can we reasonably expect that for the RRF everything will work well? On top of this one should be aware of an inherent conflict of interest present in the RRF, because the Member States are getting the money, and they have to provide the management declaration that everything is spent according to the rules.'

> *… one should be aware of an inherent conflict of interest present in the RRF…*

Ivana Maletić also points to the rather low number of cross-border projects included in the NRRPs. 'While areas of greening and especially energy are very much cross-border.' She hopes that this kind of project will prevail at least in the new REPowerEU chapters, based on a recent Commission proposal commented upon by the ECA in its opinion 4/2022, for which Ivana Maletić was the reporting ECA Member. She is however concerned about how the new chapters will be tailored and the impact they will have, especially given that the revised NRRPs are not going to be submitted at the same time. It is also possible that the Member State that actually needs to implement an energy-related measure might not necessarily be the Member State that is going to benefit from it the most. 'Why would, for example, France ask for a loan to finance the gas pipelines so that Spain or Germany can benefit from it?'

Besides those risks, she is concerned about comparability and identifying the initiatives that will provide the most added value. 'For energy-related measures, you need the cross-border aspect if you want to make a change. Maybe with five or six capital projects in a few Member States one can solve 60 % of the energy problems in the whole EU. But if we have small individual plans with small allocations then this aspect may be overlooked.' She is concerned that on these issues sometimes the action counts more than the actual impact. 'Of course the invasion of Ukraine, triggering an "energy war" in the EU, is quite relevant here. But nevertheless, if you have limited resources you should try to use them strategically, there where they have most impact.'

The ECA Member laments the fact that the whole energy crisis shows the lack of built-in resilience when it comes to energy. 'With the war's disrupting effect on markets and economies this energy dependency translates directly to households and businesses.' She observes that Member States, if not the EU, should have thought of this energy dependency a long time ago and explains that, as an MEP, she protested against the Nord Stream 2, which, as she puts it, 'did not make everyone happy'. She also wonders whether the amounts allocated for REPowerEU will do the trick. 'Support for households and businesses, implementation of strategic projects, short-term and long-term – will it be drastic enough to change the situation for real, already for the next winter?'

She refers to the ECA's key observation on REPowerEU, namely design flaws. 'The RRF is not that well suited to REPowerEU. If the EU wants to have a quick response to the current energy crisis, it should opt for a more truly EU-oriented solution instead of national ones.' Ivana Maletić is very much aware that such a pan-European solution might, politically speaking, not be that popular. 'But we need to realise that consequences of decisions taken today will be visible in the lives of people tomorrow. You need to be courageous enough to look ahead and try to help citizens instead of prolonging a challenge into the future.'

> *The RRF is not that well suited to REPowerEU.*

### RRF poses a wide range of (audit) challenges

The RRF instrument poses several challenges, including for the ECA as the external auditor. 'We will learn on a case-by-case basis. Our performance work and our compliance audits for our Statement of Assurance on the RRF will feed each other, based on the risky areas we detect along the way. They are inevitably intertwined.'

For the short term, the audit challenge for the ECA regarding the RRF relates to its SoA work. 'In our 2021 annual report we basically have the RRF separated from the chapters on the multiannual financial framework – the MFF – and this is likely to be the case in the future years. It is true that also the European Parliament deals with them separately, with a separate discharge procedure for the MFF and the RRF, including two different rapporteurs. However, only for the MFF part they received from us estimated error rates.' Ivana Maletić points out that for the RRF the situation is very specific. 'Regarding reforms, they may be relatively straightforward but for the investment part, that is a different story. For example, if we say that in our work underlying the Statement of Assurance we found irregular payments at the level of the Member States, such as not respecting public procurement rules, this will not affect payments by the Commission. Because as long as the target has been achieved and thus the project implemented, the payment condition has been fulfilled.' She emphasises that the ECA already warned of this in its opinion 6/2020.

She explains that the ECA will use compliance and performance audits to cover these issues as much as possible. 'This might require also audits on the systems of the Member States because we cannot do that much at the level of individual projects. And we need to share a lot of knowledge in-house, to work together on this.'

An aspect that also characterises the RRF is the General Conditionality Regulation relating to the rule of law. According to Ivana Maletić, how concrete the ECA can be here also depends on how concrete the Commission is with its requirements in relation to RRF payments. Here, she also makes the link to the CSRs from the European Semester. 'Everything the Commission put in these CSRs in relation to the rule of law is traceable and since these CSRs are often translated into RRF reforms it makes these rule-of-law aspects more concrete. If milestones and targets are not clear, you are in a difficult situation as an auditor, as is the

> *If milestones and targets are not clear, you are in a difficult situation as an auditor...*

Commission when assessing their achievement.' Here she refers to the RRF observation made by the ECA in its 2021 annual report, in relation to Spain. 'The discussion there was whether Spain should only design an information system – as Spain thought – or have it operational – as the Commission thought.'

Another aspect that she brings up relates to the RRF disbursement schemes in relation to the implementation of NRRPs, which were a result of a negotiation between the Commission and the Member States. 'Our audit showed that reforms are mostly frontloaded. So in the beginning you do not have many costs. Such activities relate to starting a procurement procedure, adopting a law or publishing a call for expression of interest. These activities do not cost that much. You nevertheless will receive EU funds. This way, Member States will accumulate surpluses in the first few years. If you look at for example the payment plans of Italy and France, they will receive roughly 50 % of their allocation in the first two years. While in reality they might not have costs corresponding to the received funds.' She identifies that as a risk, particularly for those cases where the final disbursements contain a higher number of milestones and targets for a relatively small instalment. 'Member States can decide not to request the last instalment and not to fulfil the last targets for which the costs can be very heavy.'

She explains that the significant heterogeneity in disbursement profiles again speaks of the lack of a comparable and harmonised approach by the NRRPs in general. 'It is worth mentioning that the Commission is still working on the methodology for the reduction of payment in cases of partial fulfilment of milestones and targets, while several payments to Member States have already been made. We are looking forward to see what the methodology will look like, especially as milestones and targets, and therefore the instalments to Member States, are not linked to any costs.'

### Aiming to optimise exchange to address the challenge of proper RRF implementation

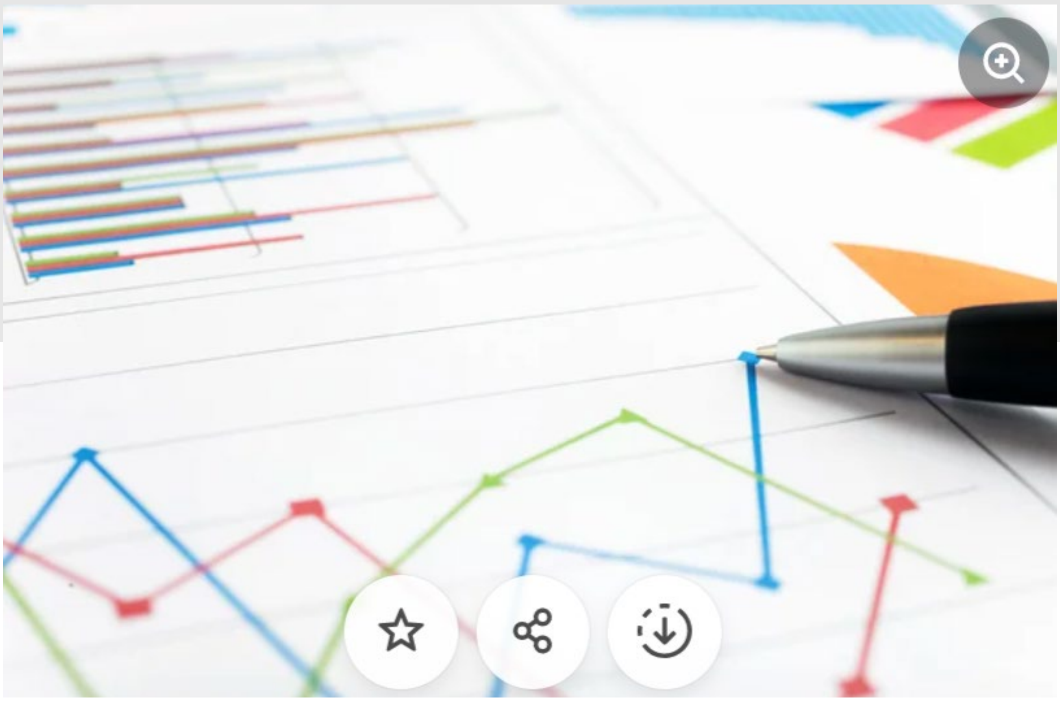
In order to encourage in-house discussions on the RRF, share knowledge and exchange ECA findings and experiences in auditing the RRF with external experts, representatives of national audit authorities and other relevant stakeholders, Ivana Maletić is launching 'RRF exchanges of views' in the form of webinars, starting in November 2022. 'The aim of this initiative is to complement the ECA's current work on the RRF, and give guidance and ideas for our future work on the RRF.' The ECA Member indicates that it is important for her to get feedback from experts and policy practitioners. 'So not only from research institutes analysing the RRF, but also from audit authorities from Member States. I think it is important to speak with them, with experts from Member States, either directly or through conferences, to raise awareness of the control and other dilemmas we face.'

She concludes with a remark that is perhaps typical for an auditor. 'In the end people rely on us to make the score. Because in the beginning, when the RRF was presented as complete novelty in various respects, not the least its focus on performance, everybody was enthusiastic. But what looks nice on paper also needs to prove itself in reality. What are the merits, what are the drawbacks? Here we need to be both sceptical and constructive, also to see what can be improved for the future. In that respect, the RRF is a big challenge, not only for those executing it but also for us as auditors.'

> “*… what looks nice on paper also needs to prove itself in reality.*

# The RRF – a hitherto missing element in economic and structural policy co-ordination under the European Semester?

By Mihails Kozlovs, ECA Member and Chair of the ECA audit chamber 'Regulation of markets and competitive economy'



*Source:* DepositPhotos

The COVID-19 pandemic and its financial and economic consequences have been a test for many EU Member States when it comes to economic and financial resilience. For many, it is the most challenging test of this kind since the 2008/2009 financial crisis, which triggered multiple measures at EU level to change the EU's financial and economic governance model. The ECA's audit chamber 'Regulation of markets and competitive economy' carries out audits on EU financial economic governance issues. ECA Member Mihails Kozlovs has chaired the chamber since September 2021. He has led and contributed to various audits assessing EU financial and economic measures, ranging from state aid to banks to anti-money-laundering measures. Below, he analyses the connections between the European Semester and the Recovery and Resilience Facility, an instrument to reinforce financial and economic reform efforts that Member States committed themselves to several years ago.

## The European Semester, triggered by a crisis for surveillance and reform purposes

The financial, economic and sovereign debt crisis that began in 2008 led to architecture of EU economic governance being broadly revamped with a view to strengthening its various pillars. Lack of national compliance with Stability and Growth Pact (SGP) rules and a lack of attention paid by the Member States to macroeconomic imbalances were brought to light by the crisis. In the years that followed, the SGP was enhanced and the European Semester was introduced to streamline and deepen the process of economic coordination, a 'matter of mutual interest' as stated in the EU Treaty.

The purpose of the European Semester is threefold:

- to strengthen the oversight of individual Member States' policies by having a continuous circle of coherent and more integrated surveillance, including on planned reforms;

- to link the surveillance of financial risks to the surveillance of macroeconomic and structural risks; and
- to provide a cross-cutting assessment of the outlook and risks faced by the Economic and Monetary Union (EMU) as a whole.

The European Semester process is broadly comprised of the SGP, the Macroeconomic Imbalance Procedure (MIP) and broader economic and structural policies. It also incorporates the Sustainable Development Goals (SDGs). Only the SGP has enforceable obligations. Breaching a rule (on deficit or macroeconomic imbalance) can trigger corrective action and possibly sanctions. Enforcement mechanisms do not exist in relation to the economic policy recommendations. The European Semester centres on country-specific recommendations (CSRs), a yearly set of Member-State-specific recommendations concerning Member States' policies in a wide variety of areas. The ECA has extensively analysed various elements of this complex system – ranging from the economic adjustment programme for Greece (special report 19/2015) to the effects of CSRs (special report 16/2020) – and we identified challenges and weaknesses, and made recommendations for improvement.

Mihails Kozlovs

Mihails Kozlovs speaking on economic consequences of money laundering during a seminar on this topic hosted by him on behalf of the ECA on 16 September 2022 (see page 158 for more details).

## RRF – boosting the EU's economic governance framework…

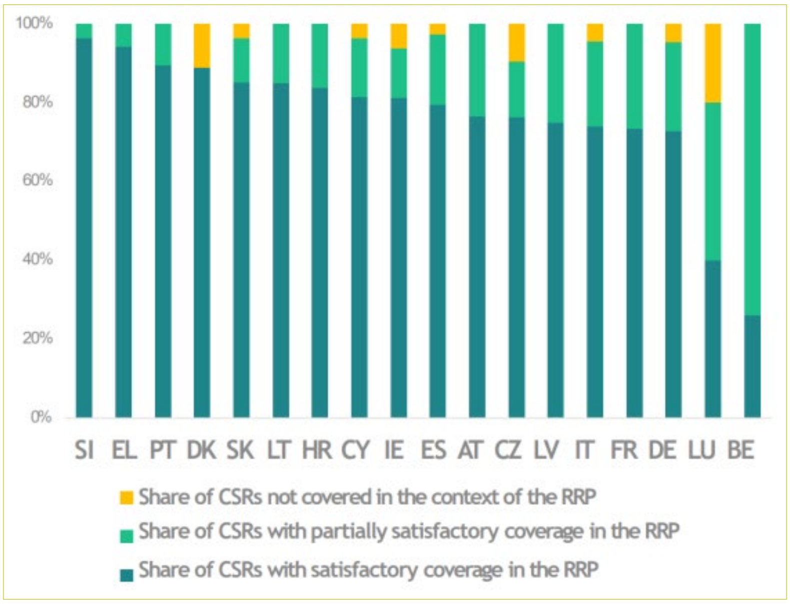
The Recovery and Resilience Facility (RRF) was introduced in 2021 as a response to the COVID-19 pandemic (as a part of a temporary support system known as *NextGenerationEU*) with the purpose of providing effective and significant financial support to step up the implementation of sustainable reforms and related public investments in the Member States. It constitutes an important innovation in the EU's economic governance framework – important in the sense that there are now significant financial incentives available to Member States to comply with the CSRs.

Clearly, this had not been the case before, even though the underlying rationale of the RRF is not new. Surely, we have had at our disposal the EU Technical Support Instrument (TSI), with a current budget of roughly €0.9 billion for the 2021-2027 Multiannual Financial Framework, as well as the European Structural and Investment Funds (ESIF). The use of these funds was to be linked to the objectives of the European Semester and to the CSRs in particular. However, the size of the TSI was not significant, nor was the link of the ESIFs with the European Semester/CSRs sufficiently strong. For example, the European Commission itself has found that the links between the ESIF programming documents and structural reforms tend to be broad and general[1].

To access the RRF, Member States need to submit detailed national Recovery and Resilience Plans (NRRPs). These plans should contain measures that provide a comprehensive and adequately balanced response to the economic and social situation of the Member States, as well as an explanation of how they contribute to effectively addressing all or a significant subset of the challenges identified in the relevant CSRs. The link to the CSRs underlines the common interest in various structural reforms (some of them long overdue) being finally designed and implemented in the Member States. See **Figure 1**.

1 See ECA special report 16/2020, paragraphs 41-44.

**Figure 1 - Overview of relevant 2019 and 2020 CSR coverage in NRRPs (September 2021)**




*Source: European Commission.*

To be granted payments from the RRF, Member States need to prove to the Commission and the Economic and Financial Committee of the Council that they have achieved progress in implementing reforms and investments based on set targets and milestones (specifying a stage to be reached by a certain date) as set out in their NRRPs.

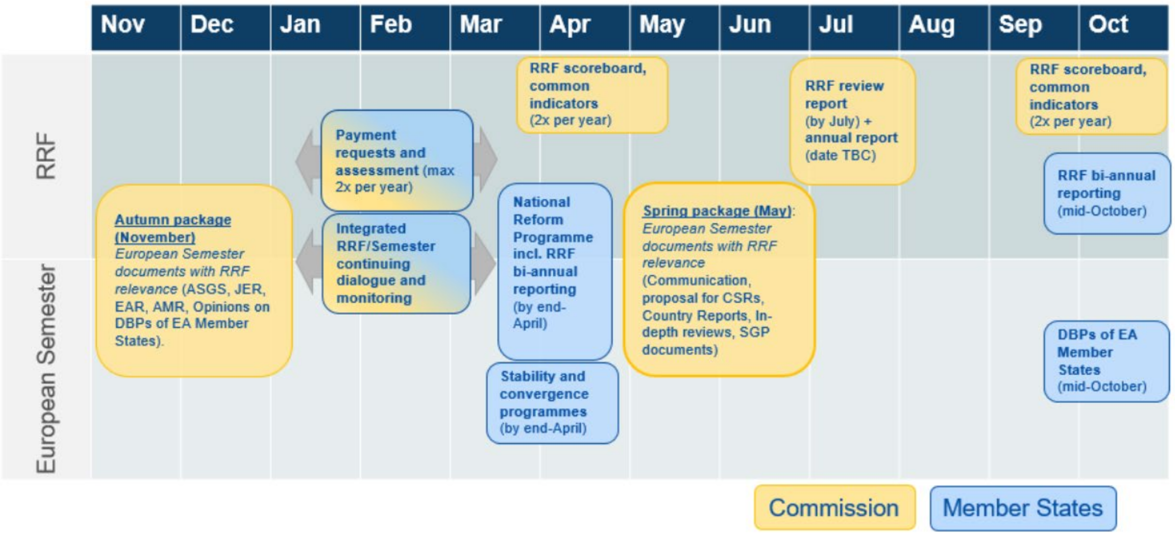
Integrating the European Semester and the RRF (see **Figure 2**) was considered a good solution for various reasons.

- first, both pursue the same objectives, especially in the long-term, including sustainable and inclusive economic growth, which is key to achieving genuine convergence.
- second, experience has shown that investment is often drastically cut during crises. During the 2008/2009 financial crisis, no instruments of a similar magnitude were available. Investment is recognised as essential for supporting investment in this particular situation, to speed up recovery and strengthen long-term growth potential (see **Box 1**).
- third, integration should make the European Semester more enforceable. It is a rules-based framework that has been relatively effective in combating politically motivated fiscal policy distortions. Empirical analysis shows that the SGP has contributed to fiscal discipline in many EU Member States. Also, it is a forum where strong political pressure at the highest level can be applied. Combined with significant financial incentives from the RRF, the European Semester framework has good potential to reinforce domestic ownership of recommended reforms. The RRF can also give teeth to the European Semester, as the Commission can suspend and reduce payments from the RRF if they deem that Member States' implementation of milestones and targets is not satisfactory. Such a suspension or reduction will trigger sizable and immediate financial losses for a Member State.

**Box 1 – Investments for recovery: experiences in Latvia**

The Member State I know best, Latvia, experienced these long-term investment needs first hand. A facility such as the RRF was not available at the time, so Latvia, for the survival of the state's solvency and investment in the economy, had to rely on loans from the EU's Balance of Payments facility, the European Investment Bank, the European Bank for Reconstruction and Development, the World Bank, and Member States. Those loans came with very drastic conditions, especially from the IMF, designed to promote national ownership of strong and effective policies. The problem was (and is) that these policies of structural adjustment and macroeconomic intervention can make difficult economic situations worse in the short term. In Latvia's case, as difficult as it was, it worked, and Latvia was able to join the Eurozone in 2014. But it is hardly a situation where a 'one size fits all' argument can be applied.

**Figure 2 - Integrating the European Semester and the RRF**




*Source: European Commission.*

In addition, we should also not forget the political considerations surrounding the European Semester. The Member States with the largest economies tend to be more self-directed, being reluctant to take any external advice, as far as CSRs are concerned. Furthermore, they have less of a sense of ownership than do smaller Member States, perceiving more strongly that reforms are being *imposed* by the EU. With the RRF and the strong financial incentives linked to it, that perception might change.

### …but will this work in practice?

However, there are issues that might hamper the success of this 'union'. The ECA has detected several of these issues in the audits it performed in this area.

*Implementation record for the CSRs*

So far, the implementation of the CSRs leaves much to be desired. In our special report that I referred to earlier, ECA special report 16/2020 *The European Semester – Country Specific Recommendations address important issues but need better implementation,* we found that in accordance with the Commission's own data over the 2011-2017 period, only 1.6 % of CSRs were deemed to have been 'fully implemented' within a year of been issued. 'Substantial progress' was achieved in only 4.6 % of the CSRs. The multi-annual assessment showed a better picture: Member States implemented 26 % of the CSRs substantially or fully over the 2011-2018 period.

The emphasis on the multiannual dimension is important for structural reforms as it acknowledges that they take time – usually more than one year – to be adopted, implemented and, most importantly, for their effects to be seen on the ground. The RRF is different in this sense, as it was built with fast action in mind. It expects that all the non-repayable financial support for reforms and investments will be legally committed by the end of 2023 and used by the end of 2026. There is no longer this visible link – in terms of time, as is the case with the ESIFs – between the invested EU funds and the reforms/investments carried out.

*Two modus operandi under one roof*

Effectively, we now have two modus operandi combined under one roof. How well will it work? Disbursement of RRF money is intrinsically linked to the implementation of the CSRs included in the NRRPs. Questions will (and should) certainly be asked, as €338 billion in grants – a slightly smaller amount than the entirety of EU Cohesion funding for seven years – will be committed by the end of 2023 and used by 2026. Expectations are that the Member States will implement serious reforms (and significant investments) quickly, as they have been granted new funds for that purpose. For auditors, this signals a high risk of waste and misdirected investment, and many of our earlier reports confirm this.

Will the payments be made – and thus the success of the RRF declared – based on a number of implemented milestones and targets whose quality we questioned in our recent special report 21/2022 on the Commission's assessment of NRRPs? The Council's Economic and Financial Committee will have very little time to qualitatively assess achievement of milestones and targets (and apply peer pressure, which is a rather strong feature in the ECOFIN Council as far as CSRs are concerned). It is not fully clear *how* and, perhaps more importantly, *when* we will be able to assess the implementation of the reforms and the effectiveness of the integrated European Semester/RRF.

Once such an assessment can be done, the important questions will be: will the success of the RRF automatically mean success for the European Semester, and with that a full implementation of the CSRs[2] in the medium term? I am not yet certain of this. To encourage the idea, not to mention the hope, that the RRF could become a more permanent feature of the EU budget, we need to have the answers to such questions.

*Formulation of CSRs matters, particularly from an accountability perspective*

In our audit regarding the European Semester, we also found issues with the formulation of the CSRs. In certain cases they contained a combination of issues, while more generally they had no clear timeframes. Neither costs or prioritisation of the CSRs were explained clearly enough. If we see the CSRs as a point of reference in the reform process in the Member States, and there is a risk that it is even partly flawed (either because the CSRs are not clear or not 'owned' by the Member States), what confidence does it give us for the success of the RRF and national reforms in general? The CSRs need to be better formulated and focused. Another related and no less important issue: how many CSRs per Member State are effectively manageable? How many high-level priorities can a country take on in a relatively short time?

*Focus diverges*

Another aspect we should not forget is that over the years, the focus of the CSRs has changed. Soon after the financial crisis of 2008, the CSRs were more focused on fiscal policies and financial stability. In pre-COVID-19 times the emphasis was more on making economies more flexible and productive. Now it is about economies and societies becoming more sustainable, inclusive, resilient and fit for the green and digital transitions. I would argue that enforcement of fiscal policy-related CRSs was easier, due to the threat of possible sanctions. With CSRs being broader and more focused on economic reforms, their implementation might become even less certain. Some of the CSRs have been left out of the NRRPs, which does not contribute to overall confidence.

*Enforcement in case of non-compliance*

If we look at the *enforcement power* for the RRF, there are no guarantees that non-compliance will be followed by suspension of payments. There have been quite a few requests for payments from the RRF, and many have been granted. Up to now, we have not heard of any suspensions. Suspensions of payments will not be easy for the Commission to justify, as the RRF does not ask for full compliance and leaves room for interpretation. It will take some time to see whether the Commission will use its enforcement powers effectively.

### RRF as EU governance litmus test

To sum up, implementing the RRF will be seen as one of the EU's critical governance challenges. If it is successful, it may lead to permanent changes in the EU budget, as well as in the economic governance framework. The question is: will it be truly successful, based on real, properly assessed results? Or will it merely be presented as successful?

Perhaps you conclude, as I do, that there are currently more questions than answers. The ECA can surely play a significant role in clarifying the mechanism which governs the RRF and the European Semester , helping to detect problems hampering the effectiveness of this mechanism at an early stage and, more importantly, hopefully helping to prove that it has brought added value to the EU and European taxpayers.

2 Not all CSR are covered by the NRRPs.

# ECA and the RRF - where did we start, where are we now and… where are we heading ?

By Michele Zagordo, Directorate of the Presidency

Source: ECA/Special report 21/2022

The Recovery and Resilience Facility (RRF) has, in practice, doubled the EU's budget for investments and reforms. When the plans for the RRF surfaced in 2020, the ECA identified it as a potentially large area of audit work, with various accountability aspects that had to be covered in a limited amount of time. Michele Zagordo, Strategy, Foresight, Planning, and Performance Management Officer, has followed the creation of the RRF from the outset, particularly with regard to its accountability aspects. Within the ECA, he is involved in coordinating the work of the NextGenerationEU (NGEU) task force. Michele Zagordo is also an expert, linking together various aspects of this new instrument, from its new performance set-up to compliance, and from coordination challenges to timing constraints. Below, he presents some insights, concerns and possibilities in terms of the multiple audit challenges related to the RRF.

## Where we started

The approval of the Recovery and Resilience Facility (RRF) back in February 2021[1], as part of NextGenerationEU (NGEU), can be considered as one of the most important, if not the most important, of the EU's actions to address the economic fallout from of the COVID-19 crisis. The size of the RRF - more than €700 billion - and its ambitious objectives mean that a proper implementation is vital for Member States and implicitly gives an important role to the European Court of Auditors (ECA) as one of the key players.

The ECA's role is brought into focus if we consider accountability. The ECA has a full audit mandate for auditing the NGEU, including both the non-repayable support and the loans under the RRF (based on Article 287 of the TFEU and Article 129 of the EU Financial Regulation). Furthermore, the RRF Regulation itself (Article 22.2 (e)) requires Member States to expressly authorise the ECA to exert its rights as provided for in the EU Financial Regulation, and to impose similar obligations on all final recipients of funds. NGEU funds, similarly to Multiannual Financial Framework (MFF) funds, will be recorded and disclosed in the EU's consolidated accounts.

## A strategic response to new challenges

The RRF bring with it a series of important challenges. These include a significant amount of EU spending – almost doubling the MFF envelope – a focus on the achievement of milestones and targets with no direct link to cost, a high level of diversity between Member States and quick disbursement (by 2026 at the latest).

1 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

These elements required a strategic response from the ECA in the form of a comprehensive multi-annual NGEU audit strategy. The NGEU-related work started with the publication of two opinions in early 2020: opinion 04/2020 on REACT-EU and opinion 06/2020 on the RRF Regulation. In January 2021, in its newly approved 2021-2025 ECA strategy, the ECA recognised the need for it to focus on NGEU. The new strategy indeed 'commits the ECA to ensure a good coverage of new initiatives such as the management of the Next Generation EU' (Goal 2). It also 'recognises that the NGEU initiative will be far-reaching and affect the financing and use of the EU budget, including new forms of own resources and a potential shift from eligibility rules to performance-based aspects for the main policy areas. Following these changes very closely will thus allow us to adapt and develop our assurance audit approach' (Goal 3).

### Comprehensive, well-timed, balanced and forward-looking audit approach for the RRF

The ECA's response to the RRF peculiarities implied comprehensive coverage in terms of the financial and compliance aspect (covered by the Statement of Assurance – SoA), together with a range of NGEU performance audits, particularly for the RRF. However, the RRF's spending method (with payment linked to the achievement of milestones/targets, and not to the incurred costs) poses various challenges to the ECA's standard audit approach, from both the SoA and performance angles.

When considering the strategic audit approach for the RRF, we acknowledged that in as far as possible, it needed to be:

- *comprehensive*: covering NGEU (and thus the RRF) as comprehensively as possible, addressing key issues based on a risk-based approach;
- *well-timed*: identifying the topics/areas to be addressed initially and those that could be audited at a later stage;
- *balanced:* taking into account the context and the constraints under which the RRF was established, therefore needing to be cautious when attributing responsibility for flaws in the design of instruments or missed objectives; and
- *forward-looking*: the RRF is a temporary instrument, but lessons learnt from crisis management and our recommendations should help to make the EU better prepared and more resilient when faced with future crises.

Bearing these elements in mind, we had to think internally about how best to address the challenges that the RRF and its delivery method bring. The starting point was considering how to properly cover the new instrument, the type of audit work we needed to perform (financial, compliance or performance audit), when to carry out the audit, and what resources we needed.

### The RRF - a challenge for the ECA's internal organisation

One of the challenges the ECA had to face after NGEU's approval and particularly in terms of the RRF, was if and how to (re)structure its internal organisation in order to best cover the new facility. Indeed, the nature of NGEU has implications for the supervision, management and execution of related audit work within the ECA, namely:

- an *additional workload* relating to NGEU for most audit chambers, not least because NGEU's cross-cutting and thematic issues require skills and input from various audit chambers;
- a *comprehensive coverage* of NGEU audits demands the rapid building of new capabilities, ensuring consistency between audit approaches, and achieving potential efficiency gains;
- due to *potential overlaps* between compliance and performance audits, particular attention has to be paid to *consistent audit approaches* and ensuring close collaboration between compliance and performance auditors; and

- the current legislative framework provides that *NGEU is time limited*, therefore, the organisational response should also be temporary and reversible, while not disrupting the overall long-term structure of the ECA.

Taking into account the above factors, the approach considered the most appropriate has been to continue working with the current internal organisation. Nevertheless, in July 2021, the ECA decided to create a light coordination structure, an NGEU task force to bring together all of the audit teams working on NGEU tasks.

The NGEU task force is coordinated by the Directorate of the Presidency (DOP) and gathers together colleagues from all directorates and chambers that work on NGEU-related tasks. The task force meets once or twice a month and aims to facilitate information sharing among the different ECA teams working on NGEU tasks, many of which of course relate to the RRF. The NGEU task force facilitates the internal dissemination of knowledge and helps to identify audit ideas and the provision on cross-cutting knowledge.

## Where are we now – a holistic audit approach

The ECA's overall RRF audit approach strives to be *holistic*, therefore the SoA work should be complemented with selected compliance and performance audits. These tasks should assess the RRF 'performance basis', how RRF funding interacts with other EU funding, and whether there is compliance with selected rules and conditions.

*Statement of Assurance (SoA)*

Regarding the *Statement of Assurance* (SoA), the RRF Regulation sets out the conditions for RRF payments to be legal and regular (regularity), and for the ways in which the EU's financial interests will be protected. The Commission's assessment of the legality and regularity of RRF payments depends on two conditions being fulfilled:

- Member States achieving the milestones and targets set out in their National Recovery and Resilience Plans (RRPs). Member States may request disbursements twice a year, if they provide sufficient justification for the satisfactory fulfilment of the related milestones and targets.

- Prior achievements of targets or milestones must not have been reversed.

There are multiple challenges for the ECA in terms of measuring compliance against these criteria:

- the RRF disbursements and checks are detached from incurred eligible costs;

- a vague definition and quality of milestones/targets may lead to challenges in auditability;

- the question as to how to define an error (non-compliance) for RRF expenditure;

- the way in which to measure the financial impact of non-satisfactory fulfilment of one or several milestones/targets underlying the payment;

- the fact that there is no regulatory definition of what constitutes 'satisfactory fulfilment'.

We issued an audit opinion on the legality and regularity of the 2021 RRF expenditure as part of our Annual Report on the EU budget (see also Chapter 10 of the ECA 2021 annual report).For more information on the ECA's work and challenges regarding its Statement of Assurance work concerning the RRF, see page 72.

*Compliance audits*

Selected *compliance audits* should cover the Commission and Member States' systems to protect the EU budget, and be complementary to the SoA. In an ongoing audit, the ECA is already focusing on the Commission's control system. The objective of this audit is to intervene at an early stage of the new delivery mechanism under the RRF, and assess whether the Commission's control system has the potential to ensure the regularity of

RRF payments and the protection of the EU's financial interests. In a separate audit, the ECA will assess the design or the effectiveness of Member States' control systems.

*Performance audits*

Selected *performance audits* complement the work carried out for the SoA, in addition to selected compliance audits. When designing our approach, we considered it relevant for the ECA's performance audits to focus on:

- the overall *performance of each or selected RRPs*, including coherence;
- the *performance of the individual (thematic) components* in the RRPs such as green transition, digital transition, labour market, public finances etc.;
- the *coordination of the different components within the plans* as well as synergies, coordination and harmonisation with other EU instruments at national level; and finally
- *the performance of the RRF* in relation to absorption, additionality and complementarity, double funding, and synergies.

### NGEU in the ECA 2023+ Work Programme

The different dimensions and horizontal aspects of the RRF audit require a particular focus on timing, because optimal timing differs depending on the focus theme of each audit. The sequence of the audits is also relevant to ensure that audits can build on each other, thereby maximising the impact and efficiency of our work. For these reasons, the ECA's 2023+ Work Programme included nine NGEU audit tasks and set a specific timing for their start. While preserving its flexibility regarding the exact focus of its planned tasks, the ECA has already started work on seven audit tasks related to NGEU, and one of them – special report 21/2022 – has already been completed , while six are still ongoing (see **Box 1**). In the next two years, we plan to publish 12 audit reports examining the NGEU (see ECA's 2023+ Work Programme), mainly covering the RRF. Other relevant aspects of the RRF will and need to be addressed in the coming years, after the implementation phase has reached full speed and even once it has finished (after 2026).

**Box 1 – Ongoing and planned audit tasks regarding NGEU/RRF**

Ongoing tasks:

- Coronavirus Response Investment Initiative (CRII/CRII+) and React-EU. Audit to examine whether the Commission effectively adapted the 2014-2020 cohesion policy through the Coronavirus Response Investment Initiatives and REACT-EU and rapidly mobilised ESI funds to respond to the COVID 19 pandemic.
- Recovery and Resilience Facility – design of the Commission's control system. Audit to assess whether the Commission's control system has the potential to ensure the regularity of RRF payments and protect the EU's financial interests.
- European Structural Investment Funds and the Recovery and Resilience Facility. Review to analyse the risks and opportunities in coordinating the European Structural and Investment Funds and the RRF in relation to the funding of public investments.
- RRF performance framework. Audit to assess the appropriateness of the Commission's mechanism for monitoring the completion of agreed milestones and targets set in the Member States' recovery and resilience plans (RRPs) to measure the facility's performance.
- RRF absorption. Audit to assess one of the key objectives of the RRRF: disbursement speed. To what extent was RRF funding actually frontloaded and used by Member States for reforms and investment?
- Debt management at the Commission. Audit to assess whether the Commission has developed effective systems to manage debt financing for the NGEU.

In September 2021, we launched the first audit task with regard to NGEU, which concluded with the publication of special report 21/2022 in September 2022. The special report (see also page 77) assesses the approval process of the national recovery and resilience plans (NRRPs) submitted in the framework of the RRF. Our main conclusion is that the Commission generally did a good job in assessing the national recovery plans. We found that its assessment was appropriate overall, in particular in light of the complexity of the process and the time constraints. We nevertheless identified certain weaknesses and issued recommendations.

Potential future tasks might take the form of performance audits on *each NRRP – country-specific special reports* on all Member States' RRPs, or performance audits on the *six thematic pillars of the RRF*, thereby addressing some of the general conditions as shown in **Figure 1.** Besides, there are *horizontal aspects* (cross-cutting issues) that the ECA could cover in future selected audits (through dedicated tasks or as part of larger tasks), such as:

- *overall (holistic) reporting on the RRF*: its added value, alignment with the country-specific recommendations, success of reform programmes, synergies, coordination, and harmonisation with other EU instruments and eventually the overall impact of the RRF;
- further audits on the *own resources/revenue/debt/treasury management* of the RRF as a follow-up to the ongoing task on debt management;
- further *national and Commission management and control frameworks* (in addition to the task already included in the WP 2022+); and
- effective *compliance with horizontal principles*, such as those relating to gender equality, rule of law and 'do no significant harm'.

**Figure 1 – General conditions for National Recovery and Resilience Plans**

*Source: Concil.*

Given the relevance of auditing the RRF, we cooperate and exchange extensively with OLAF (the last joint workshop took place on 21 September 2022), the EPPO (joint workshop in February) and supreme audit institutions (SAIs). Our mutually beneficial exchanges with the SAIs are consolidated and take place on a regular basis. On the training side of things, we have an internal course for auditors on NGEU elements (see also page 87). Our directorate delivered the first training course, providing an overview of the ECA's strategic audit approach to NGEU and on the different tasks that are surfacing as a result.

## Where are we heading – accountability for RRF actions

There are still points that need further clarification and (ongoing) internal reflection, regarding:

- our approach on the SoA for the RRF. This relates to partial payment for milestones/ targets and how to address the scenario of a Member State regressing on milestones/targets they had already achieved, bearing in mind that in both cases the Commission has not yet defined a methodology to address these issues.
- How should we assess the overall 'performance basis' of the RRF? Is the RRF to be considered as a performance-based instrument - as the Commission claims? Alternatively, in practice, is it more of a budget support instrument that paves the way for other similar instruments in the future? This question becomes even more pertinent considering a statement of Maarten Verwey, Director General of DG ECFIN[2] , according to which Member States are the final beneficiaries of RRF money. Once a Member State received funding from RRF, money becomes national fund, thus raising the issue on the real nature of the instrument.

Another important aspect that we need to continue working on is the cooperation with the Commission, particularly regarding data sharing relating to national plans. The Commission created a new tool, the FENIX portal, to gather data from Member States on the RRF. So far, the Commission has only granted the ECA limited access to this database. Full access to the database would guarantee the ECA a quicker access to data, access to data that would in any case be possible if this were to be requested during the various audits, and it would result in less effort and administrative work for the Commission when providing the separately requested information. For instance, this is the approach that has been taken for the European Structural and Investment Funds (ESIF) via the SFC database; having full access to the FENIX database would only bring benefits for both the ECA's and the Commission's work on the RRF.

Although the ongoing audit tasks and those still in the pipeline for the 2023+ Work Programme do address several aspect of NGEU/the RRF, there are still many questions we may need to address in our current and future work, in addition to those mentioned above. Meanwhile, it is important to continue our (internal) reflection on all of these issues, based also on the conclusions of the audit tasks that are ongoing and those already planned.

The current efforts on auditing the RRF properly could result in a 'competitive' advantage should future similar instruments be implemented after 2027 - or even before. The very fact that a Social Climate Fund with similarities to the RRF is making its way to the scene (see COM(2021) 568 final) is a clear sign that the direction set by the RRF might be applied to other funding instruments soon, and perhaps also have an impact on the next MFF. Hence, our current efforts may pay off in the long run. In the shorter term, our efforts could serve to address the accountability needs of EU citizens when they wonder: what was the final result of all those RRF funds?


*Source:* Depositphotosiqoncept

2 During a European Parliament's Budgetary and Control (CONT) Committee meeting on 25 October 2022.

# The ECA's Statement of Assurance audit of the RRF

By Nikolaos Kylonis and Judit Oroszki, Financing and Administering the Union Directorate

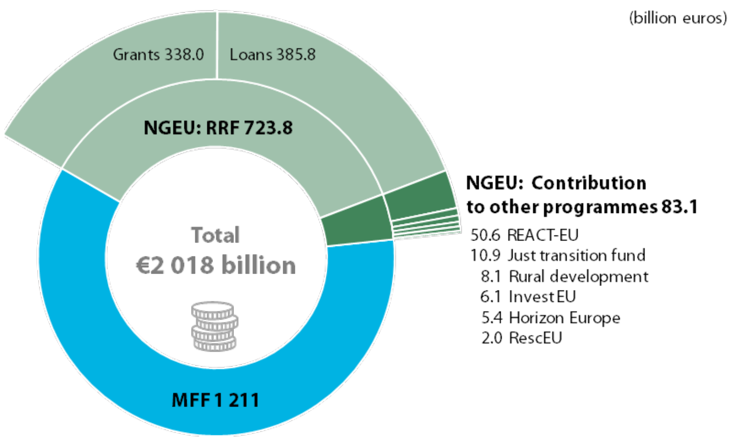

*Source*: freeimages-2019.blogspot.com

Over one year ago, in our ECA journal on strategy development, three ECA colleagues responsible and involved in developing an audit methodology for the ECA's Statement of Assurance (SoA) on the Recovery and Resilience Facility (RRF), provided insights into first reflections on how to design the compliance audit of the RRF. During the time that has passed since the publication of that article, the ECA has issued its first opinion on 2021 RRF payments and is in the process of carrying out its SoA audit of 2022 RRF payments. Based on this experience, Judit Oroszki, Principal Manager, and Nikolaos Kylonis, Head of Task, provide further insights into reflections and challenges in the process of designing a methodology for the ECA's SoA for the RRF. They also cover some key features of the RRF and how these impact on the ECA's methodology for its compliance audit work.

## RRF is part of NGEU but is distinct in its spending model

The NextGenerationEU (NGEU) is the EU's temporary fund worth €806,9 billion (current prices) to support to Member States in reducing the socio-economic impact of the COVID 19 pandemic and getting back on track to sustainable growth. The Recovery and Resilience Facility (RRF), established in February 2021 by Regulation (EU) 2021/241, is the main implementing tool of the NGEU. It is composed of €338 billion of non-repayable support (grants) and €385.8 billion of loans. As a result of the adoption of the NGEU package, and in particular the RRF, over the period 2021-2027 EU spending will nearly double (see **Figure 1**).

**Figure 1 – Total EU spending foreseen for 2021-2027**



The NGEU package, besides the RRF, also encompasses so-called top-ups to existing Multiannual Financial Framework (MFF) funds. The five top-up of existing MFF funds under NGEU totalling around €83 billion (Rural Development, Just Transition Fund, Invest EU, RescEU and Horizon Europe) as well as the REACT-EU (Recovery Assistance for Cohesion and the Territories of Europe), will be spent in line with the sector specific rules. Accordingly, the ECA will audit these expenditures in the framework of its 'standard' SoA audit approach it applies to expenditure under the MFF.

The RRF has a distinct spending model as compared to funds disbursed under the MFF. Key features of this model important for our SoA audit are the following:

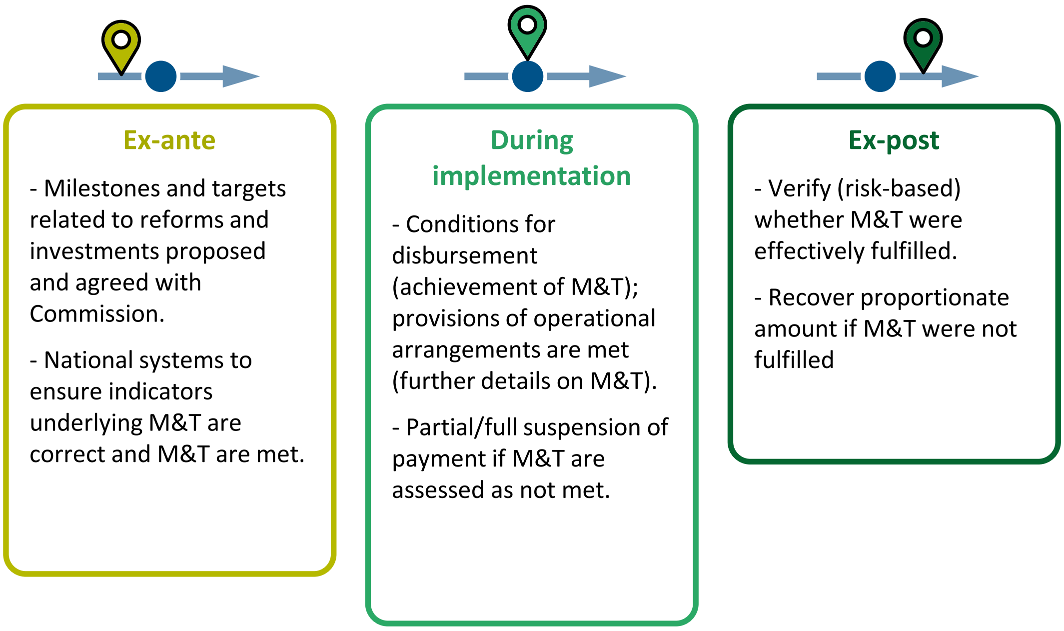
- to receive RRF funding, Member States are required to draw up *national recovery and resilience plans* (NRRPs) comprising of a coherent package of public investments and reforms which respond to the country-specific recommendations made in the framework of the 2019 and 2020 European Semester. Once the Council has approved its NRRP, the respective Member State may ask the Commission to release pre-financing up to 13 % of the financial contribution of the approved grant, or of the amount of loan;
- after the pre-financing payment, *RRF payments are conditional on the 'satisfactory' fulfilment of predefined milestones or targets set out in the annex to Council Implementing Decision (CID)* approving the Member State NRRP. The satisfactory fulfilment of these milestones and targets is the *principal condition* for a payment to be considered regular under the RRF. A further condition is that earlier achievements of targets or milestones must not have been reversed;
- *compliance* of investment projects with EU and national rules, such as procurement or state aid rules or provisions defining eligible reimbursable costs *are not a condition* for the Commission when making the payment to a Member State;

Member States may request disbursements twice in a year, if they provide sufficient justification for the satisfactory fulfilment of the related milestones and targets. However, the amount of instalment laid down in the Council Implementing Decision *is not necessarily based on the estimated costs* for achieving the milestones and targets included in the payment request, but rather a result of the *negotiations* with the Member State in question.

In our special report 21/2022 we highlighted that the fact that the instalment amounts were the result of negotiation might later pose challenges for the Commission to decide on the reduction it should apply in case it finds that a milestone or target was not satisfactorily fulfilled; and the Commission manages RRF spending directly, with Member States as beneficiaries. This means that, as opposed to EU funds implemented under shared management, where responsibility is shared between the Commission and Member States, *the Commission is directly responsible for ensuring that RRF payments meet the payment conditions laid down in the RRF regulation.*

The Commission has set-up a system that provides for ex ante verifications of all Member State payment requests and all milestones and targets included therein. It assesses payment requests on the basis of data and information provided by Member States and provides its preliminary assessment to the Council's Economic and Financial Committee (EFC) for its opinion (see **Figure 2**). The Commission takes the final decision on whether to authorise the disbursement of funds, after taking into account the EFC opinion.

**Figure 2 - The Commission's control framework for checking the satisfactoryfulfilment of milestones and targets**




## The ECA's Statement of Assurance approach for RRF expenditure – key methodological aspects

Through our SoA, and in line with international auditing standards, we provide our independent assessment of whether *transactions underlying the accounts* are *legal and regular* in all *material respects*. A main goal of the ECA's 2021-2025 Strategy is to *continue providing strong assurance, based on our Treaty mandate and in full accordance with international public-sector audit standards*. Our SoA on the legality and regularity of MFF expenditure provides reasonable assurance (a high level of assurance) – this means obtaining sufficient appropriate audit evidence to reduce audit risk (i.e. the risk of providing an inappropriate conclusion) to an acceptably low level.

Against this background, we have planned our 2021 and 2022 SoA work on the RRF with the objective to provide reasonable assurance. However, due to the specific model of the RRF, we needed to define how to gather sufficient appropriate audit evidence on the legality and regularity of RRF expenditure. Additionally, we also needed to determine what the concepts of *transactions underlying the accounts*; criteria to assess the *regularity of RRF payments*; definition and assessment of the *impact of an error*; *materiality* and *sufficient appropriate evidence* mean in the framework of the RRF.

*Timing and gathering of sufficient and appropriate evidence*

For our SoA audit of the 'traditional' MFF expenditure, in line with our long tested assurance model, our assurance mainly comes from the checking a large enough sample of randomly selected transactions for the different MFF headings and extrapolating the sample results to our audit population. Due to the specific characteristics of the RRF delivery model – Member State specific milestones and targets decoupled from costs - statistical sampling and subsequent extrapolation of the results was not considered as an appropriate approach.

For the RRF, the Commission verifies ex-ante the satisfactory fulfilment of every target and milestone included in a payment request. Due to the extensive work already performed by the Commission, the ECA decided that at least in the first years of RRF implementation our assurance will mainly come from our review of the Commission's ex-ante verifications for a significant number of RRF payments, combined with on-the-spot checks. In practice, this means covering all payments made in 2021 and 2022 and to select a minimum sample of 30 milestones and targets per payment based on our assessment of risks. This work performed at the level of the Commission will be complemented by on-the-spot checks and systems work at the level of Member States.

For the MFF, in line with our definition of *transactions underlying the accounts,* we examine expenditure at the point when final recipients of EU funds have undertaken activities or incurred cost – this means that we check pre-financing payments at the moment they are cleared and not when they are paid. This implies that the underlying transaction relevant for the RRF would therefore be a grant payment to the Member State (the beneficiary) or a clearing of a previously made pre-financing'.

*Compliance – to what extend going beyond milestones and targets*

In line with the RRF regulation, the key condition for the Commission to make payments is the satisfactory fulfilment of milestones and targets. In addition, measures related to previously fulfilled milestones and targets must not have been reversed. As a result, these are the main criteria to assess whether *RRF payments* were made in compliance with the payment conditions laid down in the RRF Regulation, i.e. they *are legal and regular*. Member States have to make sure that RRF spending complies with all relevant EU and national rules and declare it in their management declaration accompanying the payment request. However, non-compliance with EU or national rules, with the exception of fraud, corruption, conflict of interest or double funding (so-called serious irregularities) will most likely not have an impact on the amount of RRF funds paid out through the application of financial corrections by the Commission.

An *error* in our SoA approach for MFF expenditure means that money paid out was not in compliance with the applicable rules and regulations. We focus on those *errors, which have a direct financial impact on the payment*, i.e. where the Commission's or other bodies' decision on the amount of payment would have been different if the correct rules would have been applied. For the RRF this means that demonstrated non-compliance with the main condition for payment – the satisfactory fulfilment of milestones and targets – will result in errors impacting our audit conclusion and opinion.

Although through our audit of RRF payments we may come across obvious cases of non-compliance with EU or national rules (such as for example the 'do no significant harm' principle or public procurement rules), we will report on these 'compliance issues', but these will not have an impact on the condition for making an RRF payment. On the other hand, if we detect individual cases of fraud, corruption, conflict of interest or double funding, we will assess how these 'serious irregularities*'* impact on the RRF payments.

*Clarity of milestones and targets is essential*

Key for our assessment of whether a milestone or target is satisfactorily fulfilled is the *precision of the definition* of the milestone or target provided in the Council Implementing Decision (CID) approving the NRRPs. Milestones and targets have been set so that the Commission (and ultimately the European Parliament and Council) is able to follow-up on progress made in implementing the NRRPs and disburse RRF money based on the progress achieved. As the CID annexes (including the list of milestones and targets) were approved under time pressure, there is a risk that in some cases milestones or targets were defined in a way giving rise to several interpretations.

We draw the attention to this risk in paragraph 82 of our special report 21/2022 where we say that 'The absence of clear milestones and targets implies the risk that these milestones and targets are difficult to assess and the related risk that the initially aimed at objective was not fulfilled.' From a compliance audit point of view, this may result in situations where, based on our understanding and interpretation of the requirements laid down in the milestone or targets, we would come to a conclusion that the milestone or target was not satisfactorily fulfilled irrespective of the Commission's positive preliminary assessment.

A further complex element in our checks is the concept of 'satisfactory fulfilment'. The RRF regulation requires the Commission to assess the *satisfactory fulfilment of milestones or targets*, which implies a certain materiality threshold at the level of every milestone/target. On the other hand, the RRF regulation does not further define this concept. As a result, the Commission has discretion for laying down the detailed implementation rules for how it will apply this concept across the board. Although for targets with underlying quantitative indicators, this is more straightforward there can still be some discretion on the number of the achieved indicators. Moreover, for milestones with qualitative aspects to be fulfilled it entails an interpretation of what are the substantial and relevant elements defined in the measure and relevant milestone. Through our checks we will have to provide our own independent view of whether the Commission's interpretation for 'substantial and relevant elements' for the given milestone is well justified.

*Establishing a 'price tag'*

The audit objective of a compliance audit is to determine whether the subject matter – in our case RRF payments – is legal and regular in *all material aspects*. Thus, in order to come to a conclusion on the legality and regularity of RRF payments in a given year, we need to assess whether the overall impact of non-compliances affecting payment conditions we have identified through our checks – i.e. milestones and targets which have not been satisfactorily fulfilled - exceeds the materiality threshold. In line with auditing standards, the concept of materiality can be defined on a quantitative (material by amount) or qualitative (material by nature or context) basis. For the auditor it implies 'identifying the level of non-compliance that is likely to influence the decisions of the intended user(s)'.

When approving the NRRPs and defining the amount of individual disbursement, the Commission did not define a 'price tag' for every individual milestone or target. Nevertheless, for its own assessment, the Commission will have to establish a methodology to define the amount to be suspended in case it identifies that a milestone or target has not been satisfactorily fulfilled. In chapter 1 of our 2021 annual report, we recommended the Commission to develop a methodology to determine the amount to be suspended in accordance with Articles 24.6 and 24.8 of the RRF Regulation. If, based on our assessment, the Commission's methodology will be adequate, we will consider to use it also for our own assessment.

### Independent assessment of satisfactory fulfilment of RRF conditions

In our 2021 annual report we have issued a separate opinion on the regularity of the RRF expenditure as part of our Statement of Assurance on the EU budget. The main reason for separating the RRF expenditure from the 'normal' MFF expenditure in our Statement of Assurance was to take account of the different delivery model of the RRF and that it is a temporary instrument.

In summary, our Statement o Assurance approach for the RRF has to follow the payment conditions laid down in the Regulation. Instead of checking compliance with relevant EU and national rules to assess whether projects or beneficiaries are eligible and supported by eligible incurred costs, our main audit work will consist of assessing whether the Commission has gathered sufficient and appropriate evidence to justify the 'satisfactory' fulfilment of milestones and targets. The RRF regulation provides a large margin of discretion for the Commission in particular when it comes to defining the concept of 'satisfactorily fulfilment'. We, as independent external auditors, will have to make our own independent assessment. This is also the expectation of our institutional stakeholders - the European Parliament and the Council – and our overall stakeholder, the EU citizen.

# Was the RRF set on the right track? Reviewing the European Commission's assessment of the National Recovery and Resilience Plans

By Giuseppe Diana, Regulation of Markets and Competitive Economy Directorate

*Source:* Depositphotos/ lightsource

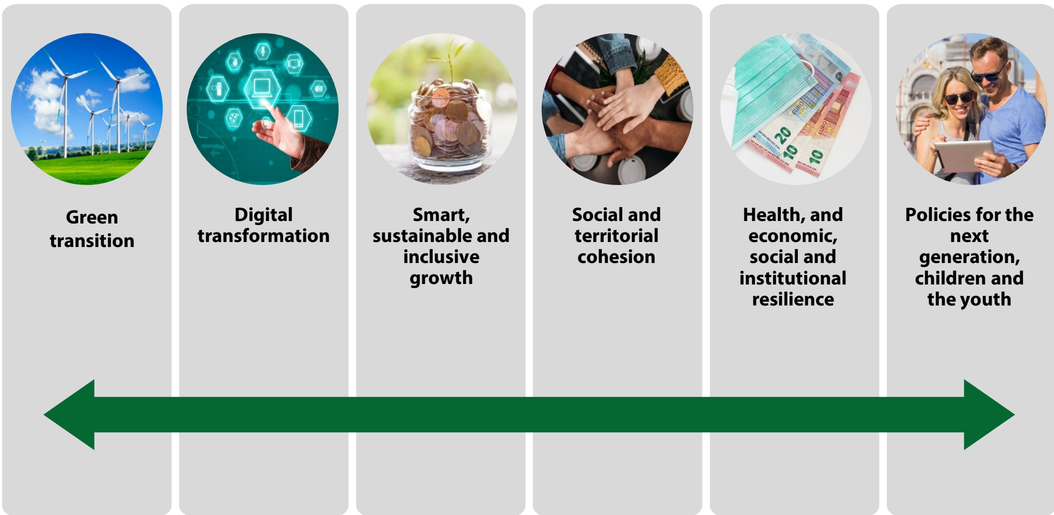
The Recovery and Resilience Facility (RRF) has some very specific characteristics. It is a new instrument developed in response to an EU-wide crisis, for which the EU has issued common debt and developed a specific performance-based approach unlike that of any previous EU instruments. It is also the largest EU instrument to date by value. For these reasons alone, it is of the utmost importance that the RRF succeeds. To give it the best chance of doing so, proper assessment of the Member States' national recovery and resilience plans (NRRPs) by the Commission was crucial. In September 2022, the ECA published a special report evaluating the quality of this assessment. Giuseppe Diana, who was head of task, shares his experience and impressions from the audit, providing some insights into the report and the challenges the audit team faced.

## Member States' plans submitted to Commission's scrutiny

In July 2020, in response to the COVID-19 pandemic, the European Council agreed a temporary recovery instrument worth more than €800 billion (in current prices) – NextGenerationEU. Its centrepiece is the Recovery and Resilience Facility (RRF), established by Regulation (EU) 2021/241 (hereinafter referred to as 'the RRF Regulation'). Amounting to a maximum of €723.8 billion in total (in current prices), the RRF provides grants (up to €338.0 billion in grants) and loans (up to €385.8 billion) to Member States to mitigate the impact of the COVID-19 crisis, sustain their post-pandemic recovery and make them more resilient for the future. The RRF is equivalent in value to about two thirds of the 2021-2027 multiannual financial framework and is the largest EU instrument to date.

To benefit from RRF support, Member States had to submit their national recovery and resilience plans (NRRPs) to the European Commission, as a rule by the end of April 2021, for assessment based on certain criteria and conditions. NRRPs comprise a set of measures, either investments or reforms, grouped into thematic components (e.g. climate-friendly mobility or digitalisation of education) which have to contribute appropriately to six policy areas or 'pillars' of EU-wide relevance (see **Figure 1**).

**Figure 1 – Policy areas addressed by the RRF (six pillars)**




*Source:* ECA based on the RRF Regulation.

Following submission, the Commission had two months to assess the plans and make a proposal for an implementing decision to the Council. The Council then had four weeks to make a final decision based on the Commission's proposal. The first plans were thus adopted at the end of June 2021.

Article 19 of the RRF Regulation governs the Commission's assessment of the plans. Annex V to the RRF Regulation provides additional assessment guidelines to ensure a fair, equitable and transparent process. Together, these provisions formed the core basis for the ECA's examination of the Commission's assessment of the NRRPs, which was based on the 11 criteria stipulated in Article 19(3) of the RRF Regulation. These 11 criteria are split into four categories: *relevance*, *effectiveness*, *efficiency* and *coherence* (see **Table 1**).

**Table 1 – RRP assessment criteria**

| Category | Criteria |
|---|---|
| Relevance | **Criterion 1** – contribute to all six pillars; |
| | **Criterion 2** – effectively address the challenges identified in the European Semester, in particular the 2019 and 2020 country-specific recommendations; |
| | **Criterion 3** – contribute to strengthening growth potential, job creation and resilience; |
| | **Criterion 4** – contain only measures that comply with the "do no significant harm" principle (DNSH); |
| | **Criterion 5** – contribute to the green transition (minimum 37 % of the total estimated cost for climate spending); |
| | **Criterion 6** – contribute to the digital transition (minimum 20 % of the total estimated cost); |
| Effectiveness | **Criterion 7** – through its measures the NRRP will have a lasting impact; |
| | **Criterion 8** – provide arrangements to monitor their implementation, including milestones, targets and related indicators; |
| Efficiency | **Criterion 9** – provide a reasonable and plausible justification of their total estimated costs; |
| | **Criterion 10** – provide control systems and arrangements that prevent, detect and correct corruption, fraud, irregularities, conflict of interest and double funding; |
| Coherence | **Criterion 11** – contain measures that represent coherent actions. |

*Source*: ECA based on the RRF Regulation.

The Commission assessed NRRPs in close cooperation with Member States. During the preparation of the NRRPs, Member States submitted draft plans and the Commission provided them with guidance and support to ensure they met the 11 criteria set out in the RRF Regulation.

Once the NRRPs had been officially submitted, the Commission had two months to resolve any remaining issues together with the Member States and request further information or changes, before finalising its assessment and issuing its official proposal for a Council decision.

### First audit results in a series relating to the RRF

Our audit, culminating in special report 21/2022 *The Commission's assessment of national recovery and resilience plans* (see **Box 1** below for the main conclusions), was the first in a series of ECA audits on the RRF. Its main objective was to examine whether the largest EU instrument to date was on the right track. To this end, we selected a sample of six Member States and examined the appropriateness of the Commission's assessment of their NRRPs. We examined whether the assessment process and guidance for Member States were managed effectively, and whether they resulted in NRRPs that were relevant to the RRF's objectives and met the conditions defined in the RRF Regulation.

We examined the appropriateness of the European Commission's assessment of the RRPs from the start of the process, i.e. from the submission of the first draft plans. The audit work started in mid-June, two weeks after the Commission had issued its first assessments of the NRRPs. Firstly, we checked whether the Commission managed the process itself effectively and whether it provided appropriate and adequate guidance to Member States on preparing their plans.

Secondly, we checked whether the plans addressed the RRF's objectives and met the criteria set in the RRF Regulation:

- we selected six Member States: the four with the largest grant allocations in absolute terms (Germany, Spain, France and Italy) and the two with the largest grant allocations relative to their respective 2020 gross domestic products (Greece and Croatia);
- we selected 42 measures (seven per Member State) and assessed in detail whether they met specific criteria (criterion 4 on the 'do no significant harm' principle, criterion 5 on the green transition, criterion 6 on the digital transition and criterion 9 on costing). The seven measures in each of the six Member States in our sample were selected on the basis of materiality (highest cost) and from the following thematic areas: 'transport', 'green transition', 'digital transition', 'health' and 'other' for investments, and 'fiscal' and 'social' for reforms; and
- we assessed the nature and timeframe of the milestones and targets in the six sampled NRRPs, as well as the Member States' approach to defining them.

**Box 1 – Main conclusions and recommendations of ECA special report 21/2022**

The main message of ECA special report 21/2022 *The Commission's assessment of national recovery and resilience plans: Overall appropriate but implementation risks remain* is that the European Commission generally did a good job in assessing RRPs. We found that its assessment was appropriate overall, particularly given the complexity of the process and the time constraints.
We also found some weaknesses and risks that could jeopardise the RRF's success and made the following recommendations to the Commission:

- improve its internal procedures;
- support Member States by promoting the exchange of good practices;
- closely monitor the NRRPs' contribution to addressing country-specific recommendations;
- improve transparency and monitoring in relation to the 'do no significant harm' principle;
- ensure that milestones and targets have clear verification mechanisms and are defined adequately, since some of them had weaknesses (e.g. lack of clarity, incomplete coverage of implementation);
- finally, as the Commission's assessment was to some extent based not on monitoring and control systems that the Member States already had in place but rather on agreed milestones relating to the implementation of such systems, we recommended that the Commission verify Member States' achievement of these milestones and encourage them to use its data-mining and risk scoring tool to reduce the risk of fraud.

## Commission's assessment process makes audit challenging

The purpose of the audit was not to re-perform the Commission's assessment of the NRRPs or assess the quality of the plans themselves. Although we did re-perform specific aspects of the Commission's assessment, such as the plans' contribution to addressing country-specific recommendations, the focus of the audit was the Commission's assessment process.

This process was based on continuous dialogue, which started even before the official submission of the NRRPs. Member States had to cooperate with the Commission during the preparation and assessment of their NRRPs and provide it with any additional information requested. Member States submitted draft plans or parts thereof to the

Commission as early as the end of 2020, and the Commission commented on them and requested additional information where necessary. The Member States then replied to the Commission, which in turn made new comments. This was done in different ways: letters, emails, phone calls, meetings, etc. This iterative process resulted in a massive quantity of supporting documents (thousands of emails, meeting minutes, letters, etc.), which made it difficult for the audit team to obtain, in a timely manner, the evidence needed to support the Commission's final assessment. Although such documents were available and recorded, they were not always easily traceable.

Another challenging aspect of the audit was that the assessment of the 11 criteria was, by its very nature, qualitative and prone to discretion and subjectivity. We nevertheless managed to obtain a good picture of the quality of the Commission's assessment, not least thanks to fruitful and constant dialogue with the auditee.

### Identifying future risks now

To conclude, although our report focused primarily on the Commission's assessment, it also highlighted risks and challenges that might affect the implementation of NRRPs, particularly in relation to the lack of clarity of some milestones and targets and to Member States' proposed monitoring and control arrangements. Even though our audit work did not directly address all such issues, it is nevertheless important to highlight the challenges that lie ahead, since the success of the NRRPs will also be affected by risks that neither the Commission nor we can fully identify yet. These include, in particular:

- operational and governance risks: the multi-layered management, governance and control structures, and the potential lack of political consensus on certain reforms being planned;
- implementation risks linked to:
  - operational issues such as weak administrative performance, procurement processes being challenged, or scarcity of certain infrastructural materials;
  - the complexity and novelty of many measures;
- residual risks: the 5-year term of the RRF exposes the RRPs to market, economic and other risks not factored into planning scenarios (security, inflation and cost volatility, etc.).

For all these reasons, the implementation of the RRPs and the effectiveness of the RRF will require further ex post scrutiny. The ECA has already started this work and, as indicated in the ECA's 2022+ Work Programme, various reports on the RRF will be published in the coming months, including in relation to other EU instruments.

# REPowerEU – the ECA's opinion questions whether the plan will secure the desired results

By Giorgos Tsikkos, Chamber IV, Regulation of markets and competitive economy


*Source:* pictograph/ Depositphotos

Unlike many other supreme audit institutions, the ECA can, and in some cases is obliged to give its opinion on EU draft legislation. Opinion 06/2020 concerns the regulation establishing the Recovery and Resilience Facility (RRF), and the ECA has also given its opinion on the most recent proposals directly related to the RRF package. One of these is the European Commission's REPowerEU proposal, under which up to €275 billion would be made available to finance the REPowerEU proposals aimed at achieving a more resilient energy system. In July 2022, the ECA published its opinion 04/2022 on this proposal. Auditor Giorgos Tsikkos was one of the main authors of this opinion. Here he explains the key issues of the REPowerEU plan, the ECA's main observations, and how the ECA came to draft this opinion.

## The REPowerEU plan – An ambitious proposal requiring the ECA's opinion

The Russian invasion of Ukraine has increased energy security concerns and brought to the fore the EU's overdependence on gas, oil and coal imports from Russia. As an immediate response, the Commission presented the REPowerEU plan on 18 May 2022. The plan established a roadmap towards achieving a more resilient energy system and a true Energy Union, by ending the EU's dependence on fossil fuels and fast-forwarding the clean energy transition.

Using the Fit for 55 package of proposals as a basis, and complementing the actions to secure energy supply and storage, the REPowerEU plan put forward specific measures to be implemented in the context of the Recovery and Resilience Facility (RRF), through:

- energy savings;
- the diversification of energy supplies;
- the accelerated rollout of renewable energy to replace fossil fuels in homes, industry and power generation; and
- the production of clean energy.

If effectively implemented, these measures would structurally reform the energy market in the EU and contribute towards a truly secure energy system for European citizens.

As part of this roadmap, the Commission published a proposal for a European Parliament and Council regulation to amend Regulation (EU) 2021/241.. The legal basis of the Commission's proposal meant that consultation with the ECA was mandatory. In this context, both the Council and the European Parliament contacted the ECA President's Cabinet officially, requesting an opinion as soon as possible on the general approach of the proposal.

### Getting it right – How we approached the legislative proposal

Building upon the experience we had gained from our first opinion on the establishment of the RRF (opinion 06/2020), we expected the work organisation dimension to be easier this time. In analysing the legislative proposal, we decided to: assess its substance, logic and clarity, looking for potential issues that could be misinterpreted or misunderstood; examine its consistency with other relevant pieces of legislation; and consider whether or not the proposal adequately covers the issues it seeks to address.

Last, but not least, we considered it essential to highlight any risks to sound financial management. In particular, whether the proposal as it stood at that point included any risks that – if materialised – could potentially act as hurdles in achieving the proposal's objective: to increase the EU energy system's resilience through decreasing its dependence on fossil fuels and diversifying its energy supplies.

Our main goal was to report in relation to the overall design of the REPowerEU, comment on the appropriateness of the proposed amendments, and highlight the implementation risks. We therefore decided to split the work into four separate areas:

- design and objectives;
- funding and financial allocation;
- REPowerEU chapters; and
- reporting and monitoring.

### Overall design and objectives jeopardised by the limited RRF timeframe

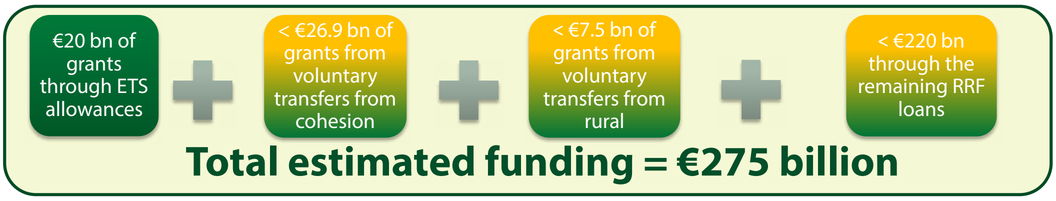
The first area we examined relates to the overall design of the proposal and its objectives. We observed concisely that even though the objective had been set at EU level, each Member State would have the final say on which measures to choose and implement. This would entail a risk in the sense that Member States could fail to quickly identify and implement EU strategic projects having an immediate and a maximum impact on the EU's energy security and independence, thus jeopardising the potential of achieving the REPowerEU objectives.

Furthermore, the limited timeframe of the RRF (due to end in 2026) restricts the achievement of the REPowerEU objectives, especially the long-term objectives. The fact that the proposal was not subject to a dedicated impact assessment implies that no formalised comprehensive analysis was carried out in terms of the advantages and disadvantages of the different options available for the design and the implementation of REPowerEU.

### Funding and financial allocation – Too many uncertainties surrounding the availability oft sufficient RRF funds

Our next step was to analyse the sufficiency of the funds earmarked to finance REPowerEU, as well as the mechanism for distributing these funds to each Member State. This area ended up as the focus for our main concerns in terms of the risks it posed to the effectiveness of the proposal. We noted that the funding sources could not ensure that the identified investment needs would be covered. Based on the proposal, the total funding could range from €20 billion to €275 billion, to cover an immediate investment need of approximately €210 billion. See **Figure 1** for different sources of funding.

**Figure 1 – Sources of funding proposed to finance REPowerEU**



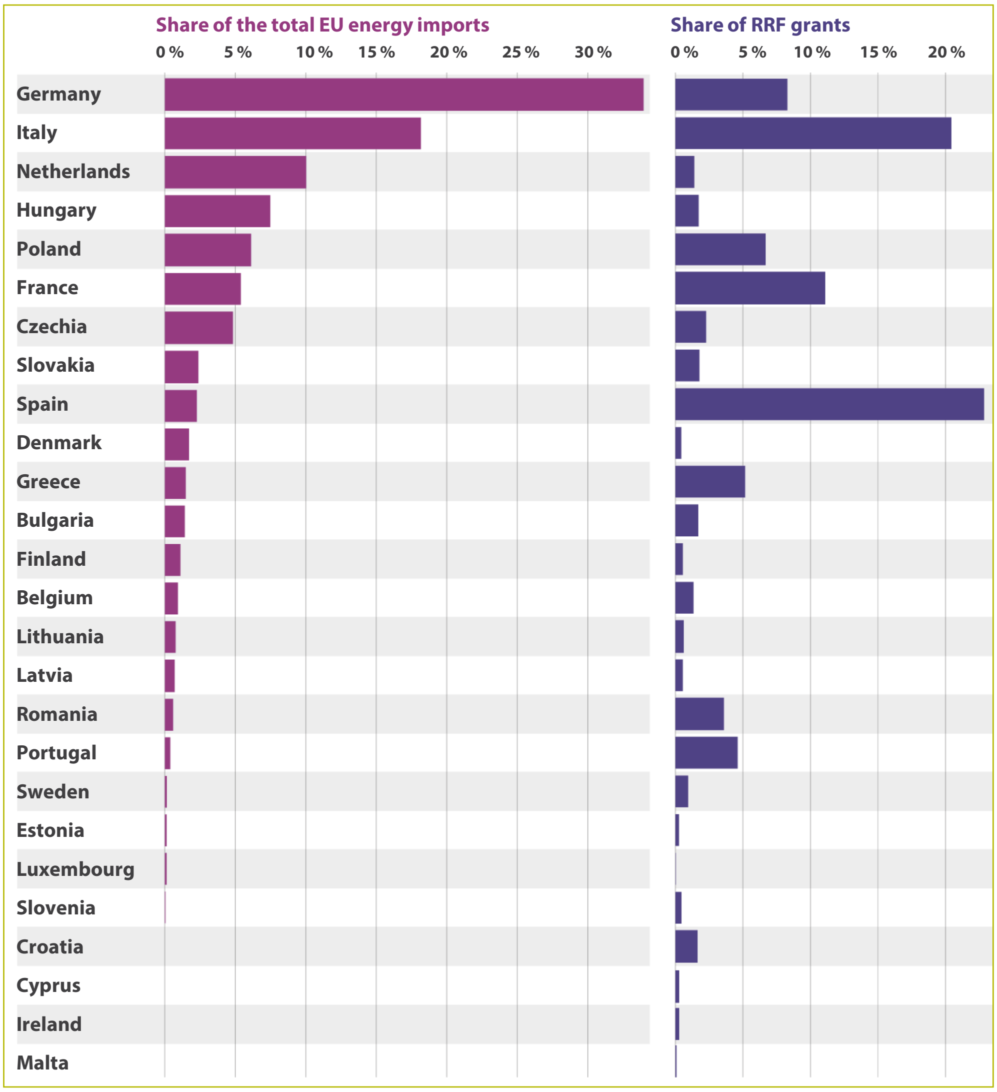

The main point of uncertainty derived from the unused part of the RRF loans, amounting €220 billion, since it is likely that the final amount of the loans required to finance REPowerEU will not be known before Q3 of 2023 – which is relatively late for such an immediate crisis. This was because only seven Member States had requested their loan share from the traditional RRF and the other Member States can still do so until 31 August 2023.

At the same time, the incentives for Member States to request loans from the RRF are limited for those countries whose national financing conditions would be more favourable than the EU. For example, at the time of preparing the opinion, this was quite apparent for Germany, whose financial needs were one of the highest, but which had better financing conditions than loans from the EU. Moreover, it is unclear how the actual remaining RRF loans would have been distributed, as the proposal only included guiding principles (equal treatment, solidarity and transparency), and stopped short of providing further guidance on how these would be put into practice.

Furthermore, the voluntary nature of the transfer of funds from both cohesion and rural development policies cannot ensure that such a transfer would definitely occur, not to mention that such transfer could hinder the achievement of those policies' specific objectives as such.

Another issue related to funding was the mechanism established for distributing the grants. The proposal neither establishes a new allocation key that would take into account the investment needs of each Member State, nor does it consider the objective of reducing fossil fuel dependency and diversifying energy supplies. For example, it does not account for each Member State's rate of energy dependency on Russia, or the rate of renewables in each Member State in their energy mix. See **Figure *2*** for the share of total EU energy imports from Russia vis-à-vis the estimated grant share using the RRF allocation key.

**Figure 2 – The share of total EU energy imports from the Russian Federation versus the estimated grant share using the RRF allocation key**




*Information not available for Austria

*Source:* ECA based on https://ec.europa.eu/eurostat/cache/infographs/energy/bloc-2c.html?lang=en and https://ec.europa.eu/info/files/updated-member-states-grant-allocation-based-eurostatoutturn-data-2020-and-2021_en

Instead, the proposal maintains the allocation key originally established in the RRF Regulation. We considered that this was a significant drawback, as Member States with a high rate of energy dependency on Russia would not benefit proportionally from the grant allocation, since such elements were not factored in for the allocation key. This can have a negative impact on the adequacy of secured funds provided to Member States.

### The inclusion of strategic cross-border is hindered by the lack of a specified submission date for REPowerEU chapters

The third area we assessed related to the REPowerEU chapters that Member States should include in their revised RRF plans. In relation to the process of submitting the REPowerEU chapters, we saw that the proposal did not specify a submission date. This could impair the timeliness of REPowerEU funding, but also the possibility of a coordinated identification, inclusion and prioritisation of strategic cross-border projects and projects of common interest in the plans. This is because different Member States could decide to submit their plans at different time intervals, according to their national interests.

Strategic cross-border projects are also relevant in view of their potential to effectively mitigate the already known bottlenecks that currently exist in the energy market. Therefore, we think that the proposal could do more to incentivise Member States to include such measures in their RRF plans. Furthermore, the proposal left a gap in the sense that if a Member State decided not to make a request to modify its plan, it could then simply avoid submitting a REPowerEU chapter, in this way undermining the achievement of the REPowerEU objectives.

### Exempting certain measures from the 'do no significant harm principle' risks sending out the wrong signal

In terms of content, the proposal allowed for some measures – mainly related to oil and gas – to be exempted from the 'do no significant harm principle'. This principle was of paramount importance and had to be complied with when Member States were deciding which measures they should finance under their initial RRF plans. We understand the logic behind this provision, but in the absence of any obligation to at least indicate the impact of potentially harmful measures compared to the added value of the REPowerEU objectives, this could jeopardise one of the RRF's core values and objectives, which focused on green targets.

### Reporting information to the Commission on fraud cases is still not guaranteed

Finally, our main point in relation to the fourth area we examined was the fact that the proposal did not make it mandatory for Member States to report suspicions of fraud funded from the RRF to the Commission in the same way as under other EU schemes. In the absence of an effective fraud reporting system, the EU's financial interests could be jeopardised without appropriate supervision and monitoring. In addition, we highlighted the fact that the proposal did not quantify the expected results for reducing dependence on fossil fuels and diversifying energy supply, other than providing a quantified estimate for reducing Russian gas.

### REPowerEU could fall short of expectations

Overall, our main concern is that the proposal in its original form may fall short of expectations. In a period where EU citizens' quality of life is under threat – with soaring energy prices – I was concerned whether this proposal would immediately mitigate the impact of the war on each EU citizen.

In order to ensure that we got things right, we met the Commission's departments on three different occasions. It is true that we obtained many clarifications on certain points, and for this reason, we had to reconsider various points that we had included in the initial drafts of our opinion. However, our main worries had still not been resolved.

We still see that the proposal could face several practical challenges. Its success will depend on complementary actions and on securing the necessary financial resources to cover the investment needs. It could also fail to quickly identify and implement EU strategic projects with an immediate impact on EU energy security. Notwithstanding the fact that we were cautious in reporting in such a manner, we felt the need to at least highlight those risks that the proposal entailed. Always keeping in mind that EU citizens should not be on the front line when it comes to bearing the burden caused by the unprecedented situation that we are facing.

Finally, we fully understand the urgency in terms of reaching an agreement on the REPowerEU proposal as soon as possible, as the Commission's Executive Vice President Dombrovskis highlighted during the 7th Recovery and Resilience Dialogue with the European Parliament in September 2022. However, for this plan to work, certain provisions should be reflected upon further, to ensure the plan's effective implementation. We were therefore glad to see that during our presentation to the Council on 12 September in Brussels, our opinion was very much welcomed and several representatives in the Council supported our observations. We are eagerly waiting to see to see how the final draft of the proposal will look.

# Knowledge sharing to add value - ECA professional training activities on NGEU and the RRF

By Andrej Minarovic, Human Resources, Finance and General Services Directorate

At the end of 2020, following swift decision making by the Council and the European Parliament, the regulation establishing the NextGenerationEU (NGEU) initiative was adopted. This led to an exponential increase in the need for knowledge sharing on the initiative and particularly its centrepiece, the Recovery and Resilience Facility (RRF), not least given the short deadlines set by the regulation. At various levels – EU, Member State and regional – there was an urgent need to know how to deal with the design, implementation and monitoring of national recovery and resilience plans, including possible audit approaches. But where to find this knowledge and how to share it? Andrej Minarovic, principal manager of the ECA's Professional Training team, explains what the ECA has done and will continue to do to address this need for knowledge sharing and training on the various new aspects NGEU/RRF entails.

## A constant search for new knowledge on policy fields and audit methodology

The ECA Professional Training team is constantly striving to provide a rich range of training for its staff. We pay particular attention to core-business (i.e. audit-related) training. This led to the introduction of a number of new courses in 2022, such as a case study on corruption in public procurement, courses on scenario-based auditing, interview techniques for auditors and process mining in public audit. These training courses are delivered by policy specialists in the field, experts from other institutions or internally by our experienced auditors.

One of the key priorities this year is to build and enhance knowledge of our audit fields (i.e. EU policies), in cooperation with our audit chambers. We collected a list of priority areas from our audit chambers and approached relevant stakeholders – such as various Commission directorates-general, the European Parliamentary Research Service (EPRS), other EU institutions and the European Institute of Public Administration (EIPA) – to deliver interactive presentations/discussions covering topics relating to EU policies and/or audit. A new area that received most of our attention was NextGenerationEU (NGEU), and the Recovery and Resilience Facility (RRF) in particular.

## Flagship training on the RRF entering its 6th edition

NGEU, including the RRF, represents a revolution in EU funding. The initiative provides an additional €750 billion in expenditure to be channelled through new EU budgetary instruments and financed by funds borrowed by the Commission on the capital markets. It is therefore of critical importance for our institution to develop in-depth knowledge of these innovative instruments.


Our flagship training initiative is a two-day training course on the RRF, which we deliver in cooperation with EIPA. Since January 2022, we have already held five editions of this online course, with 92 participants in total. It is designed to help participants understand the details and specifics of the RRF Regulation and the implementation of Member States' national recovery and resilience plans (NRRPs). Participants go through the key elements of the RRF Regulation, including the process of approving NRRPs and disbursing funding and the RRF's governance and delivery mechanisms.

The course gives particular focus to the audit and control arrangements for the NRRPs. Several national plans are presented as case studies to help participants identify and understand the appropriate control and audit mechanisms in place to protect the EU's financial interests and prevent fraud and conflicts of interest.

The trainers have various backgrounds and include policy experts from EIPA but also various national experts (e.g. from Croatia, Ireland, Italy, Latvia and Spain) with experience at regional and national level, who share their approaches to the audit and control frameworks.

**Box 1 – Participant comments on the ECA's NGEU/RRF course**

Understanding the risks involved and seeing both an analysis of the regulation and the perspective of the supreme audit institutions in auditing the facility helped me in getting a grip of the challenges involved in auditing this area from an EU perspective.

It was a really good practical training!

The course offered an insight view into the subject by including the Croatian audit authority. This allowed for an exchange of views not only limited to the EU level, but covering the wider perspective of policy implementation at national level.

Opening session of the 2022 ECA Training Days

### RRF as focal point during the annual ECA Training Days and other training events

The training provided in cooperation with EIPA is not the only NGEU/RRF-related initiative we are currently offering. The RRF was the main topic of the annual ECA-OLAF workshop, held on 21 September 2022. This workshop gave our auditors an excellent opportunity to discuss control arrangements and fraud risks with their OLAF colleagues. It was a second official opportunity this year to explore the new EU instruments together with our colleagues from OLAF. As mentioned in the previous edition of the Journal, last February the ECA contributed to a one-day training event organised by OLAF for the EPPO on the RRF. Around 70 colleagues participated, giving the initiative a high score and asking for follow-up events.

On 19-21 October 2022, we held our internal annual ECA event for our staff to celebrate training and learning – the *ECA Training Days*. The centrepiece of this event is an *audit fair*, which focuses on one particular audit-related topic each year. This year's topic was NGEU, from both the ECA's and the Member States' perspectives, the latter being provided in particular by experts from national supreme audit institutions (SAIs). Colleagues from four SAIs – those of Romania, Latvia, France and Spain – presented their work on NGEU, covering various aspects such as audit-related challenges, completed/ongoing/planned audits, lessons learnt and discussions with stakeholders.

## More to come

We will be holding the 6th edition of the EIPA course on the RRF on 23-24 November 2022. This edition will be specifically designed for audit newcomers joining the ECA this autumn to work on NGEU. This course will be complemented by an internal training session given by our experts from the dedicated ECA Task Force on RRF audit. Earlier that month, on 14-16 November, ECA speakers and participants will attend an RRF seminar co-organised with EIPA and the Romanian Court of Auditors. A practice-sharing session on ECA special report 21/2022 on the Commission's assessment of NRRPs is also in the pipeline. We are also planning to hold monthly RRF discussion forums with external speakers.

As you read this article, our team is preparing new initiatives for the coming year. We are already looking forward to a presentation by our EPRS colleagues on NGEU from a climate perspective in January 2023. Any suggestions for other topics to cover are most welcome. Because there is clearly great interest in knowledge sharing and training on NGEU-related topics, and this is expected to persist in the years to come. The ECA Professional Training team is eager to satisfy this interest, so watch this space for more training to come!

Director's Cut

# A versatile RRF requires a versatile audit capacity

## Interview with Ioanna Metaxopoulou, ECA Director

By Gaston Moonen

Ioanna Metaxopoulou

At the ECA, the task of auditing the Recovery and Resilience Facility (RRF) has landed on various sets of shoulders, across all the audit chambers. Since the RRF touches on multiple policy areas, this is no surprise. And so the ECA's Regulation of Markets and Competitive Economy Directorate has already undertaken several RRF-related audit activities, drawing on its experience of auditing financial and economic governance matters – which are relevant to the RRF's financing of reforms in Member States. For Ioanna Metaxopoulou, who previously worked for the European Commission and is currently the responsible Directorate, the RRF creates new opportunities. But at the same time it brings challenges. In her view, improving the EU's financial and economic governance continues to be fundamental.

### An audit directorate with a wide range of responsibilities

Ioanna Metaxopoulou is professionally stimulated by dealing with a wide variety of topics. With a smile, she emphasises that 'our audit chamber deals with topics of high public importance, important to the stakeholders but not necessarily linked to a high level of spending of EU money. Yet, the implementation of these policies has tangible effects on the day-to-day lives of citizens.' She explains that, while around half of the directorate's auditors work on financial and compliance audit tasks, which includes the audit of the EU agencies, joint undertakings and other EU bodies, the remaining staff are assigned to performance audit work. 'We cover very different policy areas, such as banking, finance, economic policy, trade, customs, taxation, internal market and research.' She mentions in passing the recent opinion 4/2022 on REPowerEU, which was also a product of her directorate.

She gives another example to show that, even where little direct money is involved, her directorate has its finger on the pulse. 'When you look at reliable statistics, there is no budget behind that. But their reliability is important because they inform us and serve as input for policy making. Currently we are finalising an audit on Eurostat, and hopefully it will be published in November 2022.' Other examples of audit products she is responsible for relate to the capital markets union and money laundering. 'Again, little spending of EU money – but if something goes wrong the impact for EU citizens is huge. Perhaps even more than in other areas.'

### A major new audit responsibility

Ioanna Metaxopoulou observes that audit tasks regarding NextGenerationEU (NGEU), and particularly the RRF, are of major importance both for her directorate and for the ECA as a whole. 'We are talking about a stimulus package amounting to two thirds of the multiannual financial framework envelope. It is limited in time – going until 2026 – and it has a different implementation mechanism than most of normal budgetary spending. Payments are conditional on the fulfilment of the agreed milestones and targets for investments and reforms, rather than the reimbursement of costs, as has traditionally been the case for other instruments.'

She explains that, given the importance of the RRF to the short-term wellbeing of the EU, and the considerable amounts at stake, the chamber considered it important to reprioritise its work. 'Already back in 2021 our audit chamber took the decision to divert resources from other areas in order to build a team that can audit the performance of the RRF.' This was inevitably at the cost of audit work on other topics, and especially the chamber's 2022 work programme. She adds that additional resources have since been made available. The ECA was granted 20 additional audit posts, and there was an extensive call for new recruits. 'We have selected the people and we are in the process of welcoming them to our audit chamber.'

> *Already back in 2021 our audit chamber took the decision to divert resources from other areas in order to build a team that can audit the performance of the RRF.*

To respond effectively to this new challenge, the directorate can draw on its experience with the 2008 financial and economic crisis. 'Back then we built the financial and economic governance team. This helped a lot in creating the new team for the RRF. Our staff have experience of and expertise in structural reforms, including with the European Semester process, which is pertinent to the work on the current facility. Some RRF actions are similar to the macroeconomic assistance programmes.'

Expanding on this theme, Ioanna Metaxopoulou explains that one of the specific objectives of the RRF is to incentivise Member States to implement the country-specific recommendations that come out of the European Semester. She points out that the Commission's monitoring of the RRF will be at the core of the European Semester and economic governance up to 2027. 'From this point of view, the RRF is a game changer, as the Commission makes payments conditional on the implementation of reforms and investments.'

The ECA has been critical of the complexity of the European Semester and the lack of strong enforcement tools, as reflected in special report 16/2020. The ECA has also commented, in special report 18/2021 , on the overlap between different surveillance mechanisms. 'In addition to these different mechanisms, the RRF brings yet another layer of surveillance. We are currently working on a review of economic governance and will include this aspect too.'

In the context of the RRF, an issue of concern is the comparability of different plans and milestones. 'We raised this in our special report 21/2022 regarding the Commission's assessment work. These are national recovery and resilience plans. The Member States' plans address specific challenges in order to come out stronger and build resilience. The challenges may differ, but there should be some common denominator. We need comparable data to be able to assess the impact of the instrument. Good calibration of milestones and targets is a key part of any project.'

> *… challenges may differ, but there should be some common denominator. We need comparable data to be able to assess the impact of the instrument.*

### Internal market issues are also part of the RRF audit loop

Her directorate also covers internal market issues. 'The internal market is a crucial element of the European Union. All EU actions have potential direct or indirect implications for it.'

Ioanna Metaxopoulou refers to recent audits of intellectual property rights, state aid for banks and e-governance, and an upcoming report on the energy union, which looks at integration of the electricity market.

The internal market has made a significant contribution to the prosperity and integration of EU economies. For Ioanna Metaxopoulou, the RRF has great potential to transform our economies and support the green and digital transformation. 'Therefore, it is interesting to note how the RRF is helping to further deepen the internal market, keeping a watchful eye, however, on any negative spillover effects.'

One example is the energy sector, for which, under REPowerEU, Member States can now include a specific chapter in their RRF plans. 'This is a very sensitive issue, as was illustrated by the recent German case: a €200 billion plan to protect households and businesses from skyrocketing energy costs.' 'You can hear negative vibes on that from other Member States because of the potential negative spillover effects.'

Overall, Ioanna Metaxopoulou thinks that reforms in any one Member State may have an impact on the internal market, especially in the eurozone. 'So the RRF is very relevant for the internal market. But its impact will only be measurable later. Usually you see the effects with a delay.'

> *… the RRF is very relevant for the internal market. But its impact will only be measurable later.*

## Cooperation is key, both internally and externally

For Ioanna Metaxopoulou it is clear that, just like in the Union itself, cooperation will be essential to auditing the implementation of the RRF. 'The RRF has great potential to strengthen cooperation internally and externally. Cooperation is very close to my heart. And most often we could do more of it.'

Cooperation will thus be important in respect of the work done by Member States. 'When you dig into a new area, it is new to everybody and we all face similar challenges. We should avoid duplicating the work if it is not necessary.' She explains that the ECA has established a task force that is contributing to enhancing cooperation across the ECA, and has established a network of supreme audit institutions to exchange their experiences of the RRF. 'Some supreme audit institutions are more advanced than others. Our teams have already held various meetings. We discuss the approach taken and share experiences and lessons learned on planning an audit of the RRF and related issues.'

In line with the NextGenerationEU Strategy, which was adopted in July 2021, the ECA has already published a number of reports in this area. 'We moved quickly to get audit work done. With our special report 21/2022, we audited the design of the plans. We were among the first to come forward on this as an audit institution.' Of course, a great many studies have also been published by think tanks. 'Researchers from CEPS and Bruegel for example, they can work fast … but our added value stems from our independence and the depth of our evidence-based audit work.'

> *… our added value stems from our independence and the depth of our evidence-based audit work.*

She raises one area in which she thinks the ECA has an advantage over national audit institutions. 'We look at some or all Member States and can give an opinion on the overall performance of the facility. For example, in our 2023+ annual work programme we will undertake an audit on the digital transformation and two audits relating to reforms under the RRF. We will select for example one reform area, visit different Member States and see the reforms that each Member State has undertaken. And then compare between them, so our aggregated level audit can provide a more representative picture.'

## Ultimate responsibility for RRF spending

The Commission has indicated on several occasions that, under the RRF governance model, primary responsibility for ensuring the compliance of RRF expenditure with EU and Member State legislation lies with the Member States, labelling its own responsibility as *residual* responsibility. Ioanna Metaxopoulou is very much aware of this position. 'The Commission has said, in simple words: once the money is transferred, it becomes part of the national budget. I personally think that we will still have to see what are the gaps, in terms of governance and accountability.'

> *… we will still have to see what are the gaps, in terms of governance and accountability.*

On this matter of legislative compliance, Ioanna Metaxopoulou thinks that it is important to measure the impact on the ground and on the real economy. 'We are going through difficult times, so it is all the more important that this money is spent correctly, to help the Member States recover and become more resilient. We need to consider that, when eurobonds are issued, that money is warranted by the whole EU.'

## Various RRF audits in the pipeline … in a rapidly changing world

Looking forward, Ioanna Metaxopoulou names one important upcoming audit that will cut to the chase, as it focuses on the performance management of the RRF. 'In this audit – what we have labelled for the moment the "RRF performance audit" – we look at whether the performance monitoring framework put in place by the Commission and the Member States is appropriate to measure the performance of the instrument. We are also about to start an audit on RRF absorption. Here we will assess whether the RRF allows for the timely absorption of its funds following the satisfactorily fulfilment of milestones and targets.' Publication of the RRF performance audit report is scheduled for the second half of 2023.

> *… we look at whether the performance monitoring framework put in place by the Commission and the Member States is appropriate to measure the performance of the instrument.*

Another forthcoming audit under her responsibility will look into whether the reforms and investments supported by the RRF have contributed significantly to the European digital transformation. 'The ECA will also be starting an audit on energy tagging, focusing on the energy transition. This, together with the audit on RRF digital transformation, means we will already have covered two of the main components of the RRF.'

Looking even further ahead, she mentions plans for two audits on RRF reforms. 'We have not selected the reforms yet, because we need to do an analysis and see which are most relevant to Member States and which are sufficiently advanced.' In this regard, the challenge for the auditor is to choose the right moment: start too early and you risk auditing a moving target, but at the same time avoid starting too late. 'Because then the audit findings may have less impact. This is a dilemma we have to live with.'

Discussing the design of the RRF and the implications for its implementation, Ioanna Metaxopoulou believes that, while being critical, the ECA should also look at the overall environment. 'The Council and the European Parliament had to decide under extreme urgency. The RRF, as the centrepiece of the NGEU recovery plan, is an extraordinary response to an extraordinary event and its dramatic consequences, the pandemic. According to the Commission, it is a once in a lifetime chance to emerge stronger from the pandemic and transform Member States' economies and societies.' She thinks that there is a strong possibility, through the recovery and resilience plans, the RRF will drive the EU's reform and investment agenda for years to come.

If the RRF is to serve as a model for the future, Ioanna Metaxopoulou thinks it could be useful to plan the ECA's work from a wider perspective, with an overall review in order to obtain a global picture of the lessons learned. 'For example, under the European Semester we had the reform proposals but not the incentive to do the reforms. Now we have to see whether having the incentive actually works or not. So whether having the carrot *and* the stick actually pays off.' She is concerned that, when the RRF was designed, it was based on economic conditions and assumptions which might now need to be reassessed. 'And we don't know what the next months will bring, with the war in Ukraine, the energy crisis … Times are really different today.'

> *… we have to see whether having the incentive actually works or not. So whether having the carrot and the stick actually pays off.*

# France’s recovery plan: multifaceted, and a challenge for auditors

By Lionel Vareille, France’s *Cour des comptes*


*Source:* FrenchGovernment

The NextGenerationEU initiative and the RRF instrument in particular have a major impact on the audit activities not only of the ECA but also of the Member States’ audit institutions. The National Recovery and Resilience Plans (NRRPs) include a major EU financing component, as well as a substantial national component. In addition, for most auditors from the national audit institutions, the delivery and governance set-up of the RRF and the NRRPs may require new audit approaches to provide the best possible information for accountability purposes. Lionel Vareille is a senior official at France’s Cour des comptes and is currently responsible for the overall audit of France’s state budget, as well as being his institution’s Rapporteur-General for the report on the ‘Preparation and implementation of the French Recovery Plan.’ Below, he provides insights on some of the challenges his audit team have faced and on some key conclusions published by the Cour des comptes.

## Economic contraction triggering substantive measures

The COVID-19 pandemic and the related work and travel restrictions led to an unprecedented 8 % contraction of GDP in France in 2020. Faced with this economic shock, and after implementing emergency measures to limit the reduction in activity during the crisis, the French government set up a recovery plan – *France relance* – to enable economic activity to return rapidly to its pre-pandemic level. *France relance* (see **Box 1**), which was announced on 3 September 2020, is therefore devoting €100 billion to economic recovery, including €39 billion refinanced by the European Union, mainly through subsidies from the NextGenerationEU programme. With resources amounting to 4.1 % of GDP in 2019, the plan is on a scale equivalent to the plans of countries that are comparable to France in the euro zone (see **Table 1**).

**Box 1 – *France relance* and the French National Recovery and Resilience Plan (NRRP)**

*France relance* is the French national recovery plan, involving €100 billion of expenditure, financed primarily through the French State’s budget (€86 billion) and other national entities.

The French NRRP (€39 billion), refinanced through the European Recovery and Resilience Facility (RFF), is fully included in *France relance*. The NRRP can therefore be seen as the European component of *France relance*. Both plans (*France relance* and the NRRP) rely on the same execution mechanisms, the main difference lying in the specific performance targets and milestones associated with the NRRP.

**Table 1 – Financial comparison of European countries' recovery plans (percentage of 2019 GDP)**

| | France | Germany | Italy | Spain | UK |
|---|---|---|---|---|---|
| **Amount of the recovery plan** | 4.1 % (€100 billion) | 3.7 % | 12.4 % | 5.6 % | 3.9 % |
| **Amount of European funding - grants** | 1.6 % (€39 billion) | 0.8 % | 3.8 % | 5.6 % | n/a |
| **Amount of European funding - loans** | 0 % | 0 % | 6.9 % | 0 % | n/a |

*Source*: Based on information from the Recovery Plan Evaluation Committee (France), October 2021

In 2021, the French Senate asked France's *Cour des comptes* to audit the preparation and implementation of the plan. In this article, I present the main findings and recommendations set out in the *Cour des comptes'* report, which was published in March 2022. I also elaborate on the challenges faced by the audit team.

## A recovery plan with several objectives and a wide range of measures

*France relance* is structured around two objectives: ensuring the recovery of economic activity in the short term, and transforming the French economy in the medium term, on the basis of three priorities:

- an 'ecology' component with a total budget of €30.4 billion, which brings together measures to support the 'ecological transition';
- a 'competitiveness' component with a budget of €34.4 billion, which aims to transform production structures and strengthen the sovereignty of national production in certain strategic areas; and
- a 'cohesion' component with a budget of €35.7 billion, which aims to strengthen social and regional cohesion.

In many cases, *France relance*, which was designed over a very short period in the summer of 2020, extends existing arrangements by allocating funds to measures already in force (e.g. aid for the energy renovation of private homes) or to measures awaiting funding (e.g. investments in the railway network). However, *France relance* also supports new measures, such as aid to develop the hydrogen industry, funds to transform derelict urban and industrial land, and aid for employing young people.

*Source*: DepositPhotos/gstockstudio

The *Cour des comptes* noted that as *France relance* overlaps with other plans and financing programmes that are currently being implemented, this makes its measures more difficult to understand. Some are not related to recovery, and others are more like emergency measures to offset the effects of the pandemic. Lastly, incorporating measures included in the new 'Investments for the future' programme into *France relance* creates confusion between the two initiatives.

*France relance* comprises a very large number of measures which benefit many economic sectors. One major difficulty in analysing the plan is the fact that no exhaustive, updated and shared list of measures was available at the time of the *Cour des comptes'* audit.

## Refinancing of €39.4 billion from the EU, subject to conditions

*France relance* is partially funded by the European Union, from which it receives €39.4 billion. However, EU funding for certain measures, which are grouped together under the 'National Recovery and Resilience Plan' (NRRP), is contingent on structural reforms – most often referred to as 'milestones' – being achieved, and on quantitative targets for certain measures being met. The *Cour des comptes* notes that these requirements are a source of risk for EU funding in the event of non-compliance with the milestones or failure to meet targets. Furthermore, the system for auditing and checking the implementation of the measures that is required by the EU imposes management costs on the French State, and may be difficult to apply to decentralised measures (i.e. those implemented by the regions) because of the large number of intermediaries. Of the €39.4 billion, France received €5.1 billion in 2021 and €7.4 billion in 2022, with the remainder expected between 2023 and 2026 (see **Table 2**).

**Table 2 – Disbursement schedule for the European Recovery and Resilience Facility – France**

| Indicative disbursement schedule | | Associated targets and milestones | | Expected amounts |
|---|---|---|---|---|
| | | Number | % | In billion € |
| **2021** | 13 % pre-financing | | | 5.1 |
| **2022** | Targets and milestones 2021 | 38 | 22 % | 7.4 |
| **2023** | Targets and milestones 2022 | 65 | 37 % | 12.7 |
| **2024** | Targets and milestones 2023 | 35 | 20 % | 6.9 |
| **2025** | Targets and milestones 2024 | 17 | 10 % | 3.3 |
| **2026** | Targets and milestones 2025 + 2026 | 20 | 11 % | 4.0 |
| **Total** | | **175** | **100 %** | **39.4** |

*Source: Cour des comptes française*

## Implementation is swift but complex

A large number of stakeholders are involved in implementing *France relance*, primarily central State administrations, various decentralised ministerial departments, operators and agencies, prefectures, and local authorities. The measures have different allocation arrangements: simple public procurement; one-stop-shop arrangements, which allow aid to be distributed quickly; and calls for projects, possibly preceded by calls for expressions of interest, which are used to select beneficiary projects, but require deadlines.

In all cases, the measures were subject to rapid decision-making processes, but with the risk of the quality of the selected projects being lower and priority being given to projects that were already prepared at the expense of those that actually needed to be designed. The fact that specific engineering was required to develop certain projects may have disadvantaged those stakeholders that did not have such resources (e.g. very small companies or rural municipalities).

Implementation of the plan is monitored at several levels. The recovery plan's general secretariat, a small department in the Ministry of Finance, monitors the measures' progress on the basis of targets set in advance by the ministries. However, at the time of the *Cour des comptes*' audit, the monitoring tool provided an imperfect view of the plan, as the targets are fairly conventional and not all the measures are covered by the tool, which is not accessible to the public: monitoring of only about 30 measures (out of 300 measures monitored at budget level) is made public via the *France relance* 'scoreboard'.

Overall budgetary monitoring of the plan is carried out using the State's budget and accounting application. However, this is limited to the consumption of appropriations by the State, and so does not provide information on the amount of appropriations actually paid out to final beneficiaries as far as appropriations whose management is entrusted to operators are concerned. In general, administrations have set up very detailed monitoring of the measures they implement, but there is no centralisation or linking of this detailed information.

Under *France relance*, just over €10 billion is devoted to measures for which allocation is decided at regional level. Regional implementation of the plan was largely decided by France's prefects, who had a role in coordinating all the local stakeholders (local authorities, decentralised State departments, local operator departments, etc.) and who had the power to choose beneficiaries for some measures. However, the *Cour des comptes* noted a lack of coordination between the State and local authorities in drawing up contracts. Furthermore, not all local authorities benefited from *France relance* under the same conditions, with some remaining outside the contracting procedure or not having the engineering resources needed to present a project. Lastly, the *Cour des comptes* noted that the way the recovery plan is monitored meant that, at the time of its audit, it was unable to identify all the beneficiaries of all the measures in a given region. Overall, we saw that implementation is swift but complex due to the large number of measures and stakeholders involved.

### Questions about the continued implementation of the recovery plan

Assessing the plan at the end of 2021 led to difficulties as regards how much an auditor can say, even though it is important to identify issues as early as possible. The *Cour des comptes* noted that the Government's objective of using up €70 billion in commitments by the end of 2021 was achieved. For 2022, the aim is to use up all commitments by the end of the year.

Consumption of payment appropriations was necessarily slower, i.e. €42.1 billion at the end of 2021. Disbursements should continue well beyond 2022, and at least until 2026. Given the scale of the plan, and the staggering of disbursements linked to certain measures, detailed progress reports should be published at regular intervals.

Lastly, the *Cour des comptes* noted that continuing to implement the plan beyond 2021 raises several questions:

- although the objective of *France relance* was to help economic activity to return to its pre-pandemic level by mid-2022, this was actually achieved by the end of the third quarter of 2021. However, the recovery has created tensions in certain sectors. In order not to exacerbate these problems, the remaining credits should now be implemented more selectively;
- evaluating the effectiveness of the *France relance* measures, as the Government planned to do from the outset, will need to take account of the related objectives, i.e. reviving activity, transforming the economy, and developing the regions; and
- lastly, making certain measures permanent, if deemed desirable, can only be envisaged by keeping to a trajectory for public finances that is compatible with the sustainability of public debt.

Moreover, a new situation has emerged since the audit, i.e. the economic impact of Russia's invasion of Ukraine (inflation, tensions on the energy markets, and effects on growth). This situation will necessarily have to be taken into account by the evaluation of *France relance* which the *Cour des comptes* has called for.

### How do we audit a €100-billion stimulus package that is already being implemented?

The audit team was faced with several challenges, relating not only to the scope but also to the timing of the audit.

Auditing a €100-billion plan comprising several hundred measures and involving all ministries over a very short audit period (less than three months for the actual investigation phase) means that choices have to be made in terms of:

- prioritising the measures to be audited (on the basis of the financial stakes and risks involved);
- setting up a multi-disciplinary audit team with sound knowledge of French budgetary organisation and ministries, so that financial and operational information on the implementation of the plan can be easily found; and
- drafting a report that necessarily provides both a summary and an overview, as requested by the French Senate, with a focus on certain subjects.

Lastly, one particular difficulty is the timing of the audit: following the request by the French Senate, the audit was carried out while *France relance* was still being implemented. As a definitive evaluation of the effects of the plan was therefore not possible, the *Cour des comptes* recommended that the plan should be evaluated only once it has been fully implemented.

# Implementation of the National Recovery and Resilience Plan: assessment by the Italian Court of Auditors

By Mauro Orefice, Italian Court of Auditors

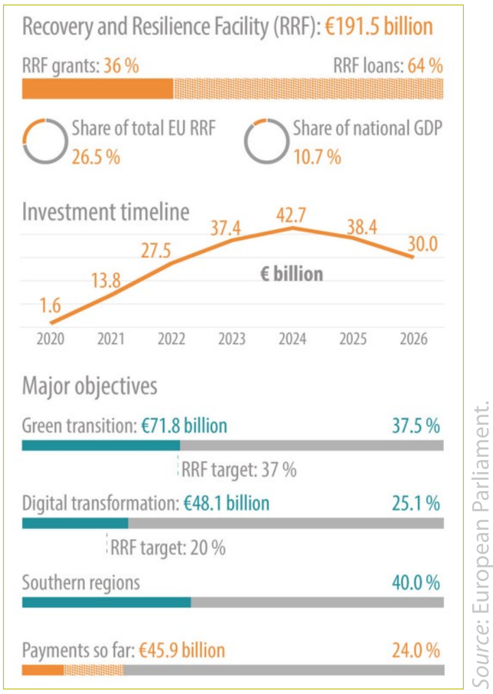

*Source:* European Parliament.

With an allocation of EUR 191.5 billion from the Recovery and Resilience Facility (RRF), Italy will receive the largest share of the RRF by far in absolute terms (26.5 %). What are the main investment and reform actions planned in Italy? What are the main consequences of the RRF for the work of the Corte dei conti, the Italian Court of Auditors? And what are their initial findings regarding the rollout of the National Recovery and Resilience Plan (NRRP) in Italy? Mauro Orefice, President of the Chamber for the Performance Audit on the Management of the State Administrations and Head of the International Affairs Office at the Italian Court of Auditors, provides insights on the key focal points of the Italian NRRP, his institution's main tasks in assessing the implementation of the plan, and its findings relating to the first half of 2022.

## Italian Court of Auditors tasked with assessing the Italian recovery plan

Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (RRF) requires implementation at national level. The Italian national government has overall responsibility for the implementation of the National Recovery and Resilience Plan (NRRP), in force since 19 February 2021, and has specific duties regarding national monitoring (see **Figure 1** for amounts allocated under the plan). Various administrations also have their part to play, including the Italian Court of Auditors, whose broad involvement is envisaged, if not required.

**Figure 1 - Italy's National Recovery and Resilience Plan: overall resources**




State of play: 14 July 2022.

The Italian Court of Auditors carries out audits on the NRRP at two levels:

- at *national level*, through its central chambers:
  - o at 'macroeconomic' level (joint chambers);
  - o on state administrations (central Chamber for the Performance Audit on the Management of the State Administrations);
  - o on the use of EU funds and EU-related activities (central Audit Chamber for EU and International Affairs);
  - o on the financial management of public companies and public economic bodies (Audit Chamber for Public Bodies and State-owned Undertakings), and 'preventive' legal control on the acts issued by the central administrations (appropriate central chamber); and
- at *regional and local level*, through the regional control departments in coordination with those of the local authorities[1].

Legislative Decree 77/21[2] provides that '*The Court of Auditors shall control the management referred to in Article 3, paragraph 4 of Law No 20 of 14 January 1994, in particular evaluating cost-effectiveness, efficiency and effectiveness regarding the acquisition and use of financial resources from the funds referred to in the NRRP. These audit tasks are based on the criteria of cooperation and coordination with the European Court of Auditors, in accordance with Article 287(3) of the Treaty on the Functioning of the European Union. The Court of Auditors shall report to Parliament at least every six months on the implementation status of the NRRP, by way of derogation from the provisions of Article 3, paragraph 6 of Law No 20 of 14 January 1994*'.

Within the scope of its duties as outlined above, the central Chamber for the Performance Audit on the Management of the State Administrations has approved a control programme for the year 2022[3]. This programme features a specific, detailed framework of audits aimed at examining NRRP implementation management, with the production of regular reports at least every six months. Checks have been carried out,

1 The Chamber for Local Authorities represents the Regional Audit Chambers for the purpose of coordinating public finance. It reports to the Parliament, at least once a year, on regional and local financial matters.

2 See Article 7, paragraph 7 of Legislative Decree 77/21.

3 See resolution no. 3 of 1 March 2022.

and will continue to be carried out, on the progress of the NRRP interventions, using specific methods to meet the timing requirements concerning the programme progress evaluations. Specific attention is paid to issues such as environmental protection and health, labour policies, sustainable development, digitalisation, education, inclusion and social support. The Italian NRRP includes six missions divided into 16 components (see **Table 1**).

**Table 1 – Components of Italy's NRRP**

| Mission (M) | Component (C) | RRF resources (€ billion) | Share |
|---|---|---|---|
| Mission 1: Digitalisation, innovation, competitiveness, culture and tourism | M1C1. Digitalisation, innovation and security in the public administration | 9.7 | 5.1 % |
| | M1C2. Digitalisation, innovation and competitiveness in the production system | 23.9 | 12.5 % |
| | M1C3. Tourism and culture 4.0 | 6.7 | 3.5 % |
| Mission 2: Green revolution and ecological transition | M2C1. Circular economy and sustainable agriculture | 5.3 | 2.7 % |
| | M2C2. Renewable energy, hydrogen, grid and sustainable mobility | 23.8 | 12.4 % |
| | M2C3. Energy efficiency and renovation of buildings | 15.4 | 8.0 % |
| | M2C4. Protection of land and water resources | 15.1 | 7.9 % |
| Mission 3: Infrastructures for sustainable mobility | M3C1. Investments in the rail network | 24.8 | 12.9 % |
| | M3C2. Intermodality and integrated logistics | 0.6 | 0.3 % |
| Mission 4: Education and research | M4C1. Strengthening the provision of education services: from crèches to universities | 19.4 | 10.1 % |
| | M4C2. From research to business | 11.4 | 6.0 % |
| Mission 5: Inclusion and cohesion | M5C1. Employment policies | 6.7 | 3.5 % |
| | M5C2. Social infrastructure, households, the community and the third sector | 11.2 | 5.9 % |
| | M5C3. Special interventions for territorial cohesion | 2.0 | 1.0 % |
| Mission 6: Health | M6C1. Local networks, facilities and telemedicine for local healthcare | 7.0 | 3.7 % |
| | M6C2. Innovation, research and digitalisation of the national health service | 8.6 | 4.5 % |
| | **Total** | **191.5** | **100.0%** |

*Source:* European Commission

In view of the social and economic difficulties arising from the COVID-19 pandemic, the interventions covered by in-depth analysis include incentives to companies and support measures for workers and the public in general. For such measures, the choices made by the legislator require timely intervention. In addition, the NRRP aims to make the public sector a more efficient, more digitalised administration that is better equipped to provide both citizens and businesses with services adapted to their needs. This requires constant verification of digitisation processes, the latter being an important objective of EU and national policy documents.

## NRRP operational arrangements as a gateway to assessing achievements

For the first half of 2022, the NRRP was expected to achieve objectives with respect to 45 interventions (15 reforms and 30 investments). The related milestones and targets were assessed in the light of Operational Arrangements (OA) shared on a technical level with the individual ministries affected by the NRRP. The OAs were signed by the European Commission and Italy on 22 December 2021. These documents define the periodic verification mechanisms (valid until 2026) relating to the achievement of the milestones and targets necessary for the six-monthly disbursement.

The Italian Court of Auditors carried out an audit following the specific time intervals envisaged for the implementation of the interventions connected to the NRRP, with specific attention to the policy areas referred to earlier. For the control programme for 2022-2024, the Court of Auditors envisages audit activities concerning 90 NRRP interventions. In 2022, we focused our audits on 31 investments, mainly with deadlines (including intermediate deadlines) during the two-year period 2021-2022. In addition, some of the interventions we examined relate to the use of a Supplementary Fund to the NRRP[4]. The activities undertaken by our audit chamber were carried out in accordance with the provisions of the aforementioned Legislative Decree No 77/2021. In addition, as referred to earlier, the audit work must comply with the provisions for cooperation and coordination with the ECA.

The general framework of the controls carried out in the first half of 2022 specified how the respective audit chamber had selected the audited interventions, taking into account their socioeconomic relevance, as well as the timing of the implementation of the individual implementation programmes, with particular attention paid to innovation profiles. In the period examined, these programmes were activated through the administration's 16 'special accounts', set up in the name of the 16 project promoters implementing the NRRP interventions.

## Initial implementation of NRRP looks positive, but some critical issues surfaced

Cover of the first report regarding the implementation of the Italian NRRP published by the Italian Court of Auditors on 1 August 2022.

Based on the 31 interventions examined, we observed that most of the objectives set for the first half of 2022 were achieved by central government, while the financial data for the others may be recorded in a subsequent assessment at the end of 2022. We audited a total of about €607 million out of a total of almost €953 million in 2022 expenditure relating to the NRRP interventions.

The overall assessment of the formal results achieved by the central administrations is generally positive. However, from a substantive point of view we identified some critical issues, which were pointed out in the individual reports.

Despite the formal data being positive, critical issues of a substantive nature emerged in the sectors examined. The current economic context has changed the economic and financial framework since the initial forecasts. The resulting uncertainty will unavoidably cause costs to rise, affecting the realisation of some projects. This uncertainty is particularly linked to the increase in the price of raw materials, which, combined with the rise in the cost of electricity and gas, is having direct consequences for the implementation of the NRRP. These aspects cause project implementation costs to rise, having been estimated at a substantially lower level during the planning and approval phase.

This state of affairs should be considered in tandem with the need to accelerate the administration's ability to disburse in order to finance the projects envisaged by the plan. This is supported by the Parliamentary Budget Office analysis highlighting how, in 2021, implementation of the NRRP interventions was lower than anticipated, with expenditure of just 37.2 % of the budgeted amount. This critical aspect also emerged in the aforementioned initial reports.

The dialogue and the adversarial procedure we held with the Italian central administrations also showed an absence of connection between the influx of new EU resources and an improvement in the administrations' own administrative and spending capacities. In addition, a comparison of the administrations involved has shown that greater availability and increased use of resources does not automatically correspond to development capacity. At the same time, it should be noted that, in view of the short time span since the launch of the plan, it is currently too early to make predictions about the real impact of the NRRP interventions on the Italian GDP.

Moreover, in view of the availability of resources, there was a need to strengthen administrative structures. Specific 'NRRP offices' were established within branches of the Italian administration dealing with the NRRP, managing upstream and downstream

4 As established by Decree-Law No 59 of 6 May 2021, converted with amendments by Law No 101 of 1 July 2021.

activities related to the individual investments. To meet the tight deadlines set in the NRRP, it was necessary to recruit experts. Since capacity aspects (number of people available, specialist skills and recruitment costs) are essential for the completion of the actions, the Italian Court of Auditors has requested regular and timely information on this issue.

We pointed out that constant monitoring was necessary to ensure rapid use of financial resources, regardless of whether or not the milestones and targets set out in the NRRP were achieved. For the reasons explained above, this was necessary in order to adjust the prices of new tenders to market values by compensating companies for price increases.

Overall, our report highlighted the provision of information to the Court of Auditors and to the authorities responsible for NRRP governance and the progress of its individual measures, including the monitoring of results relating to the adequacy of the financial and human resources assigned for the purpose of achieving the objectives. We therefore also highlighted the importance of careful management of tenders by the authorities involved, in particular regarding the criterion of reasonableness in setting deadlines. The aim was to prevent potential future disputes that might impede the achievement of the objectives.

In this context, one issue that came back from the central administrations involved in the NRRP relates to the need for technical assistance activities, specifically in relation to preparation, monitoring, control, audit and evaluation. Assistance relating to analysis, administrative support for operational structures, information and communication actions, consultation of stakeholders, and expenses related to IT resources for the processing and exchange of information were also highlighted. The difficulty reported by the administrations in this field lay in the fact that these activities could not be financed with the resources of the NRRP.

An attempt has been made to remedy the above deficiency by means of agreements between the Ministry of Economy, the Italian government body for executing public policy mandates (*Cassa depositi e prestiti*) and *Invitalia*, Italy's National Agency for Inward Investment and Economic Development. However, given the particularly tight deadlines required by the EU, the Italian Court of Auditors called on the administrations concerned to act quickly at both central and regional level so that resources can be made available to provide operators with specialist technical support.

### Testing 'Capacity Italy'

For the Italian Court of Auditors, one of the next steps in its assessment of the NRRP will be to test the functionality of 'Capacity Italy', a new portal that came into operation at the end of June 2022. The portal should ensure that the necessary technical expertise is available in all key disciplines, with the support of a task force of 550 experts, and encourage active participation by local authorities.

Concerns have also emerged regarding NRRP actions at regional level. In some areas of the country in particular, action is required to ensure uniform, homogeneous supervision and service provision. Action is also needed to enhance more effective controls on flows of resources and on the achievement of the final objectives of the actions undertaken with support from the NRRP.

As mentioned earlier, at regional level too the greater availability of resources does not in itself appear sufficient to ensure that the ultimate objectives are promptly achieved. This also depends on the availability of complementary interventions for the functioning of the structures designed to provide services to citizens, particularly urban regeneration interventions aimed at reducing marginalisation and social degradation.

### Sustainable flow of resources: cause for concern

Another critical point emerging from our assessment concerns the process of stabilising the resources available. Our analysis of the investments selected for our audit made it possible to examine how the influx of new resources over time determined changes or adjustments to the business strategies of the companies involved as the end users of the loans. This was particularly visible in sectors with a high entrepreneurial component, for instance with regard to investments aimed at promoting the 'internationalisation' processes of companies. Regarding this aspect, we noted that companies generally innovated to improve their cost/revenue balance. However, at the same time, innovation often led to cost increases. In this sense, for example, the retraining of staff entails costs.

In addition, we observed that innovation did not always involve a 'dimensional' increase, as it can lead to cutting back 'dead wood', i.e. eliminating less cost-effective aspects, enhancing innovation in the remaining segments and determining new products/services with different production factors. All this brings its own costs and prices. In this case, the objective shifts from realising economies of scale to a different cost/revenue system with a better outlook.

Strategic changes that go beyond the company skills, however, can involve enormous risks. Scenario analysis is particularly useful for identifying threats and opportunities by developing strategic options, helping to identify the most robust strategies. The competitive challenge then goes beyond an organisational transformation, a re-engineering process or competing for a larger market share. A redefinition of strategies can also trigger the transformation of the sector concerned, competing for the exploitation of new opportunities. Our report therefore highlighted how important it is, in the context of the use of the funds in question, to ensure stability in the availability of resources. This decreases the risk of strategy implementation failing to reach completion, which would limit the effects of the funds invested and the effectiveness of the NRRP, hence – in view of the substantial RRF amounts reserved for Italy – limiting the realisation of the milestones and targets of a significant portion of the RRF itself when it comes to investments and reforms. After all, the changes envisaged for the EU, including various developments outside the EU, do not happen overnight. But hopefully our assessment will reveal that they generally meet the deadlines set by the RRF regulation.

The NRRP is therefore first and foremost a tool to make Italy more digital and infrastructural, greener, more attentive to research training, and more socially and regionally balanced. However, some aspects of the Plan will have to be changed. The invasion of Ukraine, and even before that the increase in the cost of energy and raw materials, is weighing heavily on many measures and will continue to do so. The introduction by the EU of a new chapter of the Energy Plan is only a first step in this direction.

At the same time, however, it must be possible and necessary to work in such a way that, even maintaining the targets and deadlines as anticipated, the NRRP truly becomes the heritage of the EU. A plan in alignment with the EU targets set and from which Member States receive the resources needed for recovery. Companies, the third sector[5] and citizens must all become cognizant, playing a proactive role in championing the NRRP and its content, the resources at stake and the corresponding potential for change. Without shying away from the critical issues. But at the same time, especially in small communities, opening up routes to involvement and co-design. Such involvement is essential, as only this can mitigate the anxiety of being unable to address the present challenges.

Thus, a national plan born from EU assistance to Italy could lead to significant, fruitful reflection and influence how Italy sees itself in the future. A challenge we must take up now, an opportunity not to be wasted.

5 Part of the society comprising non-governmental and non-profit making organisations or associations, including charities, voluntary groups and cooperatives.

# 'Make sure RRF is well spent, because there will be no second chance'

## Interview with Siegfried Mureşan, Member of the European Parliament

By Gaston Moonen


Source: European Parliament.

Siegfried Mureşan

It takes three to tango. At least, that is the case for EU legislation, which is proposed by the Commission and approved by the European Parliament and the Council. Hence the term trilogue to refer to the talks held between the three institutions before they come to an agreement. The regulation establishing the Recovery and Resilience Facility (RRF), which entered into force on 19 February 2021, was no exception. One of the four Parliament rapporteurs was Siegfried Mureşan, Member of the European Parliament (MEP), who was also one of his institution's three rapporteurs for the first report on the implementation of the Recovery and Resilience Facility, adopted in June 2022. He explains the Parliament's role in the RRF legislative process, focusing in particular on the significant changes it was able to introduce. He also shares his views and concerns on the further rollout of the RRF.

### Parliament was able to change several RRF provisions…

When we speak with Siegfried Mureşan, the issue of energy shortages and how to address the EU's energy needs is very topical. For Siegfried Mureşan this ties directly into the design of the Recovery and Resilience Facility (RRF). 'The RRF is the largest package of economic support ever created by the EU. This is why it is essential that money is well spent, and why we, from the European level, have decided on very clear rules on how money can be spent, and which types of investment we can finance. But in the framework of these precise rules, we also allow for certain flexibility for Member States, simply because different Member States have different priorities.' He explains that, while the COVID 19 crisis affected all Member States economically, the social consequences and challenges to medical systems varied from one country to the next. 'The shortcomings of bottlenecks were different, and this is why we have designed a structure with six pillars. Six areas in which investments can be financed by the RRF, allowing for a certain degree of flexibility for Member States.'

That flexibility was tested on 24 February 2022. 'At the beginning of this year, the unjustified and illegitimate invasion of the Russian armed forces into Ukraine took place, multiplying the challenges that Member States of the Union are facing. The scope of our report on the implementation of the RRF of last June was, firstly, to assess how the European Commission has evaluated the national recovery plans, because most of the plans received a positive recommendation from the Commission, then were approved by the Council and implementation started. So our first aim was to assess how the Commission has fulfilled its duties and assess the start of the implementation phase.' He underlines that there was also a second objective. To reflect on if and how, in view of the war in Ukraine, the RRF can support the new challenges arising in Member States.'

Siegfried Mureşan recalls what the main motivation was behind setting up the RRF in the first place, and how the European Parliament managed to extend the instrument's scope. 'The European Commission said the money should go into helping those affected by the COVID 19 crisis and by its socioeconomic consequences. But also to improve our resilience, basically to make sure that never again in the future would a crisis like that occur and find us unprepared as COVID 19 had found us.' He adds that the Commission essentially wanted to channel RRF funding in just two directions: greening and digitalisation. 'We, as a Parliament, said priorities in Member States are more diverse than this. And we, as the European Parliament, came up with the structure of six pillars, six areas in which each investment should take place.'

> *…[on the RRF] to make sure that never again in the future would a crisis like that occur and find us unprepared as COVID 19 had found us.*

He lists the six pillars. Firstly, the transition to a green economy, including energy efficiency, thus reducing pollution and CO2 emissions. Secondly, the digital transformation. Thirdly, economic cohesion to improve competitiveness and support industry, private investment and SMEs. As the fourth pillar, he mentions territorial and social cohesion to ensure support for the most vulnerable and soften discrepancies within and between regions. The fifth pillar relates to institutional resilience, health and medical capacity, and crisis preparedness. 'And the sixth pillar is linked to youth. Primarily investment in the right skills for the new generation, enabling them to work in a more digital environment.'

He emphasises that this structure comprising six pillars – instead of the original two – was an important contribution by the Parliament. 'And also the fact that we had advocated for an increase in pre financing. We convinced the Council and the Commission to increase the pre financing from 10 to 13 %. This may sound like a technical detail. But in fact it is something which allowed Member States to receive a larger amount of money from the beginning.' He explains that this eased the pressure on Member States' public finances throughout 2021 and enabled them to launch projects and investments more quickly. 'Through this change in pre financing levels Member States were able to have a more decisive impact upon economic growth and employment levels.'

Siegfried Mureşan sees another key area in which the European Parliament's input was instrumental. 'We also advocated very strongly for control provisions. Just taking the EU budget and the RRF together, we can already conclude that, over the next years, the EU will spend more money than ever. And the more we spend, the more we need to make sure that money really reaches its intended beneficiaries. The more we spend, the better the control needs to be. This is why we made this a main priority for the Parliament.' He lists some specific provisions. 'Firstly, by making sure that the rule of law conditionality applies to the RRF as it applies to the multiannual financial framework for 2021-2027. Secondly, a strong role for the European Public Prosecutor's Office, for the European Anti Fraud Office, and of course for the European Court of Auditors.' Another aspect he finds very important relates to ensuring transparency when it comes to the level of final beneficiaries. 'Very often we need to push the Member States here. They were not really allies of the European Parliament when it came to the role of the ECA, or to fundamentally increasing the transparency of the funds allocated from the RRF and the transparency relating to information on the final beneficiaries of EU funds.'

> *… the EU will spend more money than ever (…) The more we spend, the better the control needs to be.*

### …but did not succeed in everything it wanted

Regarding this issue of information on final beneficiaries, Siegfried Mureşan explains that the Parliament did not get as far as it wanted. 'We wanted a compulsory common database in which all Member States should fill in details of all final beneficiaries, but the Member States had opposed this throughout the negotiations. However, we managed to impose on the European Commission the creation of a common data mining system, a common database, and the Member States were invited to contribute to it. We now know that not all Member States are contributing to it, are filling in data, but the vast majority of Member States do so.' In his view, although the Commission is trying its best, its hands are tied by the voluntary nature of the database. 'Even governments which had some suspicions when it came to, for example, the use of EU funds in Hungary, were not ready to disclose their final beneficiaries in an effort to find out which are the final beneficiaries in the Member States and show where suspicions of fraud and corruption were perhaps greatest.'

> *'Even governments which had some suspicions when it came to, for example, the use of EU funds in Hungary, were not ready to disclose their final beneficiaries…*

Another point on which the Parliament did not achieve as much as it wanted was in assessing the consultation processes in Member States. Siegfried Mureşan explains that, with the RRF, a lot of money needs to be absorbed in a very short period of time. 'All investments need to start by the end of 2023 and need to be concluded by the end of 2026. Time is short. So Member States will only be successful if there are joint efforts between the national, local and regional levels, between the private and the public sector. Furthermore, national recovery plans should not be a political instrument in the hands of governments, but should really be drafted and implemented in a wide, comprehensive manner with the participation of many stakeholders in each Member State.'

This is why many MEPs wanted a comprehensive range of stakeholders – including regional authorities, trade unions and private sector associations – to be involved in the drafting and implementation of national recovery plans. 'In several Member States our evaluation was that the consultation with local and regional authorities was a mere formality. In Poland, for example, the regions proposed many excellent projects, fulfilling all legal requirements of the RRF, which were completely disregarded by the central government. This is exactly what we want to prevent.' He stresses that it is important too that money reaches the beneficiaries who are in direst need. 'Very often the local and regional levels know more. Who has been affected by COVID 19, which categories of people – by age, social categories, in which regions, which professional categories –need support? Which enterprises, which types of infrastructure need to be modernised, etc.' He emphasises that involving local and regional authorities is not just a whim of the Parliament. 'It is actually an additional guarantee to make sure that money really reaches the people in need. Parliament has been pushing for this, and we will continue to do so.'

> *Very often the local and regional levels know more. (…) an additional guarantee to make sure that money really reaches the people in need.*

Within the RRF framework, Member States are obliged both to consult regional and local authorities and to report back to the Commission. Siegfried Mureşan explains that the Commission was not allowed to assess these consultations because the Member States did not give their agreement when they adopted the RRF regulation. 'Even though the Parliament wanted the European Commission to have the right to assess the involvement of the local and regional levels, and grade these consultations, the Council did not want this. We managed to obtain the obligation for the consultations to take place and for the Member States to send summaries to the Commission.' Regrettably, however, the Parliament could not persuade the Council to permit the Commission also to evaluate how consultations took place. 'And allow the Commission, if necessary, to ask a Member State to enlarge its consultation or better take on board the input received.'

## ECA opinion helped justify the call for stronger controls

When discussing to what extent the ECA's opinions – most recently on REPowerEU (opinion 04/2022) – helped the Parliament to take a position on the RRF, Siegfried Mureşan refers in particular to opinion 06/2020. 'This opinion was very useful for us because it outlined some of the missing elements of the RRF and of the initial proposal. It helped the European Parliament in pushing for stronger control mechanisms and also for a stronger role of the ECA.' In his view, it was very useful during the negotiations as a tool with which to advocate, giving the European Public Prosecutor's Office, the EU's Anti Fraud Office and the ECA a greater role in respect of the RRF. 'In the initial proposal made by the European Commission, the auditing role of the ECA was not clearly defined. After the negotiations between the Parliament and the Council, we feel that the ECA's role is now clearer. The ECA opinion was also important to raise awareness at the level of Parliament regarding the need for a strong control mechanism and what this should look like.'

> *The ECA opinion was also important to raise awareness at the level of Parliament regarding the need for a strong control mechanism…*

**First implementation report is generally positive but highlights need for more attention to reforms**

Parliament's first report on the implementation of the RRF contains several positive observations about the RRF's impact on boosting GDP and mitigating some of the effects of the COVID 19 pandemic. However, the report also expresses some concerns and highlights a number of setbacks. For Siegfried Mureşan, one important setback relates to the RRF's capacity to trigger and support new reforms. 'We have deliberately allowed for the principle of greater retroactivity in applying the RRF, so the Member States can present project investments which were already in place at the beginning of the COVID 19 crisis, but which fulfil all of the requirements of the RRF Regulation.' The idea behind retroactivity was to allow the financing of eligible relevant investments.

'What happened was that Member States also retroactively put forward reforms. We believe that too many of the reforms were actually retroactive work from the past.' He explains that the Commission accepted this for the first tranche of payments. 'But the scope of the RRF is to incentivise new reforms. The Commission should not accept retroactive reforms anymore, because now the start of the COVID 19 crisis lies more than two years back. The Member States should proceed to new additional reforms, and target new investments. The fact that too many of the reforms were already from the past was a setback.'

> *We believe that too many of the reforms were actually retroactive work from the past.'*

He considers the reform component to be just as important as the investment component. 'Too many people talk about the RRF only in terms of investments, or budgets. But the reform component is also very important. We have known for more than ten years what reforms Member States need. But the Commission did not have the tools to really incentivise these reforms, and Member States were implementing only a very small proportion of the country specific recommendations which the Commission presented every year in the context of the European Semester.'

For Siegfried Mureşan, the RRF is the most effective tool the Commission has ever had for making sure that Member States implement the necessary reforms. 'Before, the Commission had hardly any tools. Now we can see that all of the national recovery and resilience plans contain reform components. As I said, unfortunately, some with retroactive reforms, but now there will be more current and future reforms.'

In his view, the rules do not allow the Commission to grant disbursement of the second tranche of payments unless the investment and reform calendar is adhered to. It is crucial, if reforms are not implemented, that the Commission can hold back amounts in proportion to the importance of the milestones and targets which were not met. 'We feel this is an effective tool, and we as Parliament will scrutinise very precisely whether and how the Commission makes use of it'. He feels that the message to governments needs to be very clear. 'All milestones and targets need to be met for all of the funds to flow to Member States. Any failure to meet milestones and targets will automatically lead to a reduction in disbursements, based on the importance of the milestone or target which was not reached.'

> *Any failure to meet milestones and targets will automatically lead to a reduction in disbursements…*

He identifies the labour market, and particularly youth employment and education, as essential areas of reform. 'Flexible labour markets, relevant curricula, making sure that students learn in school what they need to find a job, are essential. Reform of the education system and labour markets are important to increase the employability of young people. And, of course, education needs investment, including in digitalisation and vocational training. This is something which the sixth pillar of the RRF allows for.'

### Rule of law as condition sine qua non

For Siegfried Mureşan, reforms should include, if necessary, safeguards on respect for the rule of law. 'What is key here is that, if EU money is flowing, European values need to be observed. It is essential that Member States make sure that RRF and EU budget funds are used in compliance with the legislation. That in Member States the rule of law functions and corruption is actively tracked. And that the reform of the judiciary, where needed, also goes ahead.' He makes clear that all of this needs to happen in a given Member State before the Commission can disburse EU funds there. 'What we expect is for the Commission to apply the item of legislation which was agreed by the co legislators – Council and Parliament – for both the EU budget and the RRF. We expect the Commission to apply legislation in an effective manner, without any further delays.'

> *It is essential (…) That in Member States the rule of law functions and corruption is actively tracked.*

He adds that the Parliament also expects the ECA to be an ally in regard to the rule of law. 'We see the ECA as an ally in making sure that money is well spent, checking that money only flows if conditions are met, and whether the rule of law is in a way under attack. And, if fraud and irregularities are found, whether they are being tackled.' For him, this includes the need for the ECA to assess accurately whether the conditions are in place for resources to flow, and what the situation is on the ground in terms of the quality of the spending of EU funds. 'Any opinions, any recommendations from the ECA concerning how to identify potential threats to correct spending and the rule of law, would and will be very useful. Any facts that the ECA might give the European Parliament will encourage the Commission to apply the rule of law criterion.'

> *We see the ECA as an ally in (…) checking that money only flows if conditions are met, and whether the rule of law is in a way under attack.*

Looking beyond the rule of law, Siegfried Mureşan sees a substantial general role for public auditors in relation to the RRF, both in the EU and nationally. 'Any budget which is not well spent by governments and local or regional levels in Member States is funding that will be missing somewhere else in that very same Member State. National auditors have a responsibility, have a role as well in making sure that the resources are well spent at national level.' He believes that national SAIs should work together with EPPO, OLAF and the ECA to ensure that governments are properly spending the resources made available to them. 'RRF resources are limited, because there will not be a second RRF, this instrument will not become permanent. It is the obligation of Member States to spend money in compliance with all of the rules, in compliance with the EU legislation, and also to work in such a spirit that money is being spent for those projects which have the biggest needs. So I see a strong role for national auditors as well, working in conjunction with the ECA.'

### New EU own resources needed to cover RRF debt

Siegfried Mureşan is very conscious that the RRF's uniqueness lies in the way it is financed, which has implications for the future when the underlying Commission bonds will need to be repaid. 'We should be aware what the debt which the EU has run up over the past two years means. Never before has the EU entered into more debt than now, up to €750 billion. This is a significant amount.'

> *Never before has the EU entered into more debt than now…*

Another point he emphasises is that the manner in which this amount will be repaid needs to be fully clarified. It is clear to him that the loans component will be paid back by the Member States. 'But, regarding the grants component, the Member States have made very clear that they will not pay this back, which is understandable because these are grants.' He goes on: 'And the EU budget is in no way in a position to repay the grants component. For the European Parliament, the own resources of the European Union are the only possible solution. And there, unfortunately, Council and Commission are not respecting the binding calendar agreed by the Council, Commission and Parliament before the implementation of the 2021-2027 multiannual financial framework. We see delays when it comes to the launch of own resources for this.'

He clarifies what he expects on this issue. 'Firstly, we expect the calendar for the introduction of own resources to be respected. Secondly, as I said, the RRF has to remain a one time instrument for an exceptional crisis. It cannot be prolonged and it cannot become a permanent instrument. Simply because the EU does not have the revenue to ensure repayment. This risks endangering the proper financing of other priorities at the European level.' The MEP considers both what he calls the old traditional priorities of the EU budget (cohesion and agriculture) and the new priorities (research, innovation, Erasmus, border control, security, defence) to be important. 'They should not be jeopardised by the fact that the RRF cannot be paid for. We should be aware that there is increased debt now at EU level, which limits our capacity to act.' He argues that this is why Member States have to make the most of this instrument now. 'They need to make sure that RRF money is well spent, because there will be no second chance, and no extension. Simply because the EU has insufficient resources to fund another RRF.'

> *They [Member States] need to make sure that RRF money is well spent (…) the EU has insufficient resources to fund another RRF.*

**Aiming for an EU decision-making process that is fit for the future**

As an MEP, Siegfried Mureşan has been heavily involved in the discussions that have been held as part of the Conference on the Future of Europe, which gives citizens an opportunity to share how the EU can best meet their needs. When talking about this and other issues, starting with man made disasters such as the war in Ukraine, he observes that the challenges now seem to be increasingly diverse. 'This is a natural process, and it's clear that we need to equip the EU with new tools, with new instruments to provide solutions to the challenges people are facing.'

For him this means that, just as countries are constantly striving for greater performance, and businesses need to research, invest and innovate in order to stay competitive and relevant, so the EU too should be in a permanent state of reform and modernisation in order to find solutions to the new challenges facing EU citizens. 'We have seen, particularly in the area of healthcare, that more could be done so that the EU can respond in times of crisis.' Whenever there is a crisis in the EU, people expect solutions from the EU institutions. 'Over the past 15 years, we have faced three major crises in the European Union. First, 12 to 13 years ago, the economic and financial crisis. Second, six to seven years ago, the migration and refugee crisis. And third, two years ago, COVID 19. None of these crises was generated in Europe, and none was generated by the institutions of the EU. But all three crises, imported into the EU, affected people – and people expected solutions from the institutions.'

Siegfried Mureşan concludes that, if it is to provide appropriate solutions, the EU clearly needs new tools. 'We need to improve the functioning of the institutions so we have the capacity to react quicker. For example, by enlarging the qualified majority system for making decisions. Because, yes, unanimity is justified for fundamental questions, but it should remain the rule only for fundamental questions. For the rest, we should be able to decide with the qualified majority. Otherwise, any single Member State of the Union can hijack the Union.' This is obviously not in the EU's best interests. 'That would only mean that we can only move forward at the speed of the slowest Member!'

> *We need to improve the functioning of the institutions (...) Otherwise, any single Member State of the Union can hijack the Union.*

For Siegfried Mureşan, making the EU future proof means also making the EU's decision making process fit for the future by providing new tools, for example in the area of healthcare. 'But also making sure that our economy stays strong and competitive. Because people rightly expect high social standards, high levels of income. However, for this to be possible we have to make sure that our economy stays competitive, which is only possible if we reform, if we invest in research and innovation, and if our goods are in demand on global markets.' He explains that this was expressed clearly in one of the conclusions of the Conference, as the expectation of higher standards of living. Together with another conclusion: 'The fact that this is only possible if the Union remains a Union based on innovation and competitiveness. The RRF instrument should help us realise this.'

# ‘Our Parliament should be provided with more information’

## Interview with Douglas Hoyos-Trauttmansdorff, Chair of the Court of Audit Committee of the Austrian Parliament

By Gaston Moonen

*Source:* Austrian Parliament.

Douglas Hoyos-Trauttmansdorff

With the Recovery and Resilience Facility Member States are the initial beneficiaries of EU funds. Once a Member State receives funding from RRF, these EU funds become - through their national recovery and resilience plan (NRRP) - part of their national budget. This makes the role of national parliaments even more important, since national parliaments can thereby exercise direct public scrutiny - monitoring, reviewing and possibly amending national plans. Douglas Hoyos-Trauttmansdorff is Member of the Austrian Parliament (Nationalrat) and is as Chair of the Court of Audit Committee involved in many policy areas, including those benefitting from RRF funds. In the interview below, he shares his views on the Austrian Parliament’s involvement regarding his Member State’s NRRP, the possibilities for reviewing its implementation and some of his concerns, such as relating to information provision and to what extent RRF projects in Austria are really new.

### RRF funding also to projects already well on track

*When the Recovery and Resilience Facility (RRF) was initiated in 2020, the main focus was on the agreement in the European Council, so between Member States, regarding the package. To what extent were the Austrian Parliament and you as Member of Parliament involved in this negotiation process?*

**Douglas Hoyos-Trauttmansdorff**: As the negotiations concerning the RRF were held on government level at the European Council, the Austrian Parliament was not involved in negotiations. As part of an opposition party – New Austria and Liberal Forum (NEOS) – I, personally, nor any of my NEOS colleagues were playing any role in the negotiation process. In the framework of a Council decision on the system of Own Resources of the European Union Member States need to give their approval. As part of the Austrian Own Resource Decision 2021 for the years 2021-2027 we approved the financing of the instrument. The Austrian Parliament gave its approval on the 19th of may 2021, all NEOS Members of Parliament voting pro. This decision did not involve any details concerning projects or funds.

*You are Chair of the Court of Audit Committee in the Austrian Parliament. Can you elaborate on what your Committee does and in which way your work is affected by the RRF and the Austrian National Recovery and Resilience Plan (NRRP)? Would you consider the Austrian NRRP to be well-known among Austrian citizens?*

**Douglas Hoyos-Trauttmansdorff**: I want to start by explaining what the Court of Audit and the Committee are and also talk a little bit about their functions. The Court of Audit in Austria is responsible for examining if Austria's administration is working lawfully, economically, efficient as well as expediently. It is an independent Court choosing their audits based on necessity. The Court of Audit Committee in the Austrian Parliament is a Committee representing all parliament parties, in which the Court of Audit's reports are discussed. As the Committees Chair I do work closely together with the Court of Audit. Especially in my role as member of the opposition party and Austrian citizen the Courts work is important as the audit's results are often concerning governmental work and projects and the use of our tax money. As far as the RRF and the NRRP is concerned that means that the Court of Audit can decide to examine if the project plans in the course of the RRF are expedient as well as if the funds received are spent economically.

In my perception, the RRF is definitely not very well-known among Austrians . This may be due to the fact that envisaged funds for Austria are not very high (€4,5 billion) but it more likely is a result of the government not making any effort to inform Austrian citizens.

> *…, the RRF is definitely not very well-known among Austrians…*

*The Austrian NRRP is, compared with other NRRPs, one of the plans spending most on climate related issues but also on digitalisation. One of the issues you particularly work on is digitalisation. In which way does the RRF funding make a difference for digitalisation in Austria?*

**Douglas Hoyos-Trauttmansdorff**: Don't get me wrong - most of the NRRP projects are sensible projects that we expect to increase Austria's growth potential. All projects are therefore necessary and relevant. Especially digitalisation in education and administration, sustainable mobility concepts, broadband expansion. The only thing concerning me is that most of these projects have been in the pipeline for a certain time now and also been budgeted nationally already. Ideally, there would have been more 'new, additional' projects – yet many projects have been well on track already before being earmarked for RRF-funding. Broadband expansion is a perfect example: The government has been budgeting €2 billion for broadband expansion already and still – the project is moving extremely slow; we are still way behind other European countries. Still, this is one of the projects funded by the RRF but it is unclear, whether the money we already budgeted will be still used on top of that. The problem we face in Austria is not so much a problem of too little input moneywise but the ratio between input and output. We are not using existent funds economically because we spend way too much on administration we don't need, for example on task forces. So my concern is that this will also be the problem with EU funded projects.

> *… most of the NRRP projects are sensible projects (…) yet many projects have been well on track already before being earmarked for RRF-funding.*

## More information needed to exercise parliamentary scrutiny

*The European Commission says it has assessed each NRRP on its own merits. Do you think attention should also go between the differences between Member States regarding the milestones and targets set, both in timing (for some well beyond 2026) and in contents? For example, the Austrian plan sets in on renewables for climate action while a neighbouring Member State labels a fossil fuel as green. A concern for you as Austrian MP?*

**Douglas Hoyos-Trauttmansdorff**: The NRRP is part of the NGEU as EU-wide project. The success of these projects does not only depend on single Member States' action plans but also on obtained synergetic and spill-over effects. In my opinion, it definitely does make sense to also compare the plans concerning content and timing . It is also about certain standards and the possibility to learn from other Member States as well.

> *… it definitely does make sense to also compare the plans concerning content and timing.*

*What do you think will be a major challenge in the roll-out of the RRF in the Member States and particularly in Austria? What is a major concern in Austria regarding the NRRP and the RRF?*

**Douglas Hoyos-Trauttmansdorff**: We can already see that especially NRRP projects not funded through the RRF will be delayed. This came already to our attention and we are pointing it out to the government as well. One of the problems we are facing is that the Austrian Parliament is not involved in the implementation of the NRRP projects – so the government is not bound to any reporting obligation. As I mentioned earlier, most of the projects have been in the pipeline for a while now and all the government seems to do is to install one task force after the other. As opposition party, or the parliament in general, there is only so much we can do – we can point out what the government is doing with the funds provided and how they could work more resourcefully.

*Concerns have been expressed to what extent the RRF Regulation provides sufficient tools to protect the financial interests of the EU, including regarding fraud and corruption and conflict of interests. Is this also an attention point for the Austrian Parliament and which measures would you consider to mitigate these risks?*

**Douglas Hoyos-Trauttmansdorff**: As we all know, the Austrian government is an expert concerning fraud and corruption. Jokes aside, awarding public funds will always offer the possibility for fraud and corruption – this is a problem for EU funds but also for public funding in the Member States. It's the government's duty to ensure that RRF funds are used efficiently and according to their purpose. This is where particularly national Courts of Audit and their committees/public accounts committees and parliaments in general play a crucial role. Sadly enough it is difficult to prevent it – transparency is not one of our government's strengths but one of the pillars of NEOS.

*Something that sets the RRF and the related NRRPs apart is that it focuses on the achievement of milestones and targets as criteria for disbursement, instead of for example cost declarations. Do you think that the NRRP has enough control arrangements to provide you as MP with sufficient information on its realisation and effects and what kind of information do you consider necessary to get sufficient assurances that the Austrian NRRP is in fact performing as planned? What role do you see for the Austrian Court of Auditors in this?*

**Douglas Hoyos-Trauttmansdorff**: No, I do not think that the Austrian Parliament receives enough information concerning realisation and effects. Especially when it comes to goals, status of implementation as well as payment flows, our Parliament should be provided with more information – or any information at all. This is exactly what I meant talking about transparency. When it comes to projects involving a lot of money, our government is not very good at being transparent. When it comes to the Austrian Court of Auditors, for them it will be possible to audit all payment flows regarding funds paid as part of the RRF. This will only be possible afterwards, though.

> *… when it comes to goals, status of implementation as well as payment flows, our Parliament should be provided with more information…*

## RRF – long-term project requiring long-term action to pay back loans

*The war in Ukraine is impacting needs and priorities, also in EU Member States. One of the proposals now is to allocate RRF funds to REPowerEU, addressing energy needs. What do you think of such flexibility and what consequences could this have for your work as MP assessing the realisation of the Austrian NRRP?*

**Douglas Hoyos-Trauttmansdorff**: For the RRF it is the same as with every other plan made for a longer period of time as well as plans that involve this kind of financial funds – it is always important to be flexible enough to be able to adapt the plan according to changing circumstances and developments.

*The amounts involved in the RRF are substantial and obtained through the EU taking loans, with long-term consequences since they need to be paid back, also through the EU budget – particularly when it comes to the EU grants. What is your main concern regarding the repayment of the RRF funding? And do you think that new EU resource instruments need to be established to address this extra EU budget need?*

**Douglas Hoyos-Trauttmansdorff**: The RRF funds are to be paid back until 2058. The instrument, indeed as far as the grants are concerned, will be financed via the EU's budget, which was already increased. If it concerns additional EU funds, a pan-European CO2-pricing would make sense. Ultimately, the Member States will have to pay those debts back via higher EU contributions as well – which makes it even more important to use the RRF funds to ensure growth in the future.

> *…[on debts resulting from the RRF] the Member States will have to pay those debts back (…) which makes it even more important to use the RRF funds to ensure growth in the future.*

*Which opportunities do you see for public auditors, be it at the national level and the EU level (ECA) to add value to the implementation of the RRF projects, be it in Austria or elsewhere in the EU?*

**Douglas Hoyos-Trauttmansdorff**: The Court of Audit Committee will be authorised to audit all RRF funds used in Austria - where did they flow into and whether they have been used purposefully.

Perspectives from abroad

# Why the EU should freeze more funds to encourage the rule of law

By Professor R. Daniel Kelemen, Department of Political Science, Rutgers University

*Source*: Blasbike/Depositphotos

Connecting EU funding to the rule of law as potential tool is not new in EU policy making. With the recent advice of the European Commission conditioning funds flowing to one of EU's Member States to the implementation of specific measures, the actual use of this rule of law tool becomes more realistic than ever before, pending a Council decision. R. Daniel Kelemen, Professor of Political Science and Law at Rutgers University and department chair, has written various articles relating to the rule of law in the EU and provided studies on this topic to Members of the European Parliament. In this article, he gives his personal views on the application of rule of law provisions in the EU, or the lack of it.

## What's the writing on the wall?

Will they, or won't they? As the clock winds down on 2022, observers of the rule of law crisis have been left wondering whether the European Union will suspend the flow of some EU funds to the government of Hungary in response to its brazen violations of EU rule of law norms. In September 2022, the European Commission proposed the suspension of €7.5 billion in EU funds to Hungary under the so-called Rule of Law Conditionality Regulation (Regulation 2020/2092). On October 12, the Council announced that it would postpone deciding whether to follow the Commission's recommendation for two months. So we can expect a final decision from the Council in December. Most indications suggest that those who value the rule of law and democracy in the EU will get a lump of coal in their stocking just in time for Yuletide. The Council seems inclined to appease Budapest, to accept its Potemkin anti-corruption 'reforms', and to sustain the flow of EU funds that fuel the Orbán government. While one should always remain hopeful in the holiday season, a sober assessment suggests the Council is charting a course for the rule-of-law nightmare before Christmas.

I begin this article by offering a legal analysis of how much of Hungary's funding should, as a matter of law, be suspended under the Rule of Law Conditionality Regulation. Next it reviews the current state of play with regard to the application of the Regulation and assesses what EU leaders are, in practice, likely to do next. I explain why EU leaders are refusing to make more use of the powerful fiscal levers at their disposal to defend the rule of law. I show that their lackluster application of the Rule of Law Conditionality Regulation reflects a much broader reluctance to use the many tools at the EU's disposal to defend the rule of law.

## Should the EU suspend funding to Hungary?

Legally speaking, it is clear that the EU should suspend funding to Hungary. Indeed, it should suspend all EU funding to Hungary. While that might seem radical, it is a conclusion that flows from a rather straightforward reading of the law. Professor John Morijn from the University of Groningen, Professor Kim Lane Scheppele from Princeton University, and I explain this in two reports on the Rule of Law Conditionality Regulation that we were asked to prepare by MEP Daniel Freund on behalf of the Greens/EFA Group in the European Parliament.

Our first study, which was released on 7 July 2021, addressed the question of whether the Rule of Law Conditionality regulation should be triggered against Hungary. We argued that the situation in Hungary did meet the legal criteria for triggering the Regulation, because serious violations of rule of law principles in Hungary fatally undermined the transparent management of EU funds, the effectiveness of the national prosecution service, and the independence of the judiciary and that those conditions put at risk the EU budget and financial interest.

After the Commission finally did trigger the Regulation by sending Hungary a formal notification in April 2022, we were asked by the Greens to prepare a second study focusing on precisely how much EU funding should be suspended based on the legal requirements of the Regulation and the situation in Hungary. That study was released on 6 July 2022 and endorsed not only by the Greens, but by representatives of the other largest mainstream party groups - the EPP, the Renew Group, and the Socialists & Democrats.

In the second study, we explained that given the nature, duration, gravity, and scope of the rule of law breaches in Hungary, the regulation - and the (totally unnecessary) guidelines issued by the Commission concerning the regulation - required that 100% of Hungary's EU funds be suspended. We explained that because the rule of law breaches in Hungary were so fundamental, widespread, and longstanding:

- they represented a complete failure of the budgetary implementation and monitoring system;
- they put at risk the legality and regularity of all EU expenditure in the country; and
- in light of this situation, the only measures that could be considered both appropriate and proportionate as required by the Regulation would be suspensions, reductions and interruptions of 100% of the flow of EU funds.

We offered an analogy with poisonous plumbing: all drinking water that flows through lead pipes must be deemed contaminated. Delivery of that water for human consumption should be suspended until the poisonous lead pipes are replaced. When there are systemic rule of law breaches of the sort observed in Hungary, they function like lead pipes, contaminating any EU money flowing through them until those breaches are rectified.

Importantly, we emphasized that our interpretation was not in fact novel, but followed from a reading of instruments, guidelines and criteria of existing EU financial law (such as the Financial Regulation, the Common Provisions Regulation, and policy guidance for implementing European structural investment funds - ESIFs) that include the possibility of 100% suspensions in similar scenarios.

In any event, the Commission did not take our advice. Instead of recommending the suspension of 100% of EU funds to Hungary as the terms of the regulation would have demanded, it recommended the suspension of only €7.5 billion. What percentage is that? Well, officials at the European Court of Auditors would be better placed than I to say precisely, but it is a small fraction. Budget Commissioner Hahn tried to frame it as 65% of EU funding under three Cohesion programs. That is not false, but it obscures more than it reveals. In fact, since Hungary is set to receive close to €50 billion in the 2021-2027 multiannual financial framework, the proposed suspension would be closer to 15% of Hungary's EU total EU funding. Worse still, when announcing the proposal, Commissioner Hahn pointed toward a potential 'compromise' - what I would rather deem a surrender - in which Hungary might avoid having any of its funds suspended. He praised seventeen supposed anti-corruption reform measures that the Hungarian government had proposed, and indicated that if they were implemented this year the suspension could be avoided altogether.

## State of play and next steps

As noted above, on 12 October the Council kicked the can down the road, postponing any decision on funds suspension under the rule of law conditionality regulation for two months. Though the outcome remains uncertain, early press reports suggest that the most likely scenario is that the Commission will accept Hungary's reforms as adequate and withdraw its recommendation for a suspension of funds, such that member of the Council never need to take a vote on it in December and the Orbán government can continue receiving all of its EU largesse. This would likely apply also to Hungary's funding under the Next Generation EU COVID-19 recovery fund; Hungary's COVID-19 recovery plan has not yet been approved by the Commission but likely would be as part of the same decision to lift the funding suspension under the Rule of Law Conditionality Regulation. It seems likely that the Commission might then take an approach to Hungary's recovery plan similar to the profoundly flawed approach it has taken to Poland's - approving the plan but then setting out further 'milestones' that Hungary should achieve in order to receive the recovery funds[1].

One thing that is clear already is that the so-called reforms that Hungary is putting in place are a sham. Leading Hungarian anti-corruption NGOs, and distinguished legal scholars Kim Lane Scheppele, Petra Bárd, and Gábor Mészáros have published damning analyses demonstrating the emptiness of the so-called reforms - including the creation of an Integrity Authority, an Anti-Corruption Task Force, and new procedures for anti-corruption cases - being instituted as part of the Orbán government's effort to satisfy the Commission's demands and unlock all of its EU funding. As the Hungarian Helsinki Committee, K-Monitor, and Transparency International Hungary put it in their collective report, none of the so-called reforms, 'introduce changes that would shake the institutional and procedural fundaments of the captured, illiberal state.'

## The roots of appeasement

The European Commission and the Council's reluctance to suspend funding to Hungary (and likewise its reluctance to suspend EU funding to Poland[2]) raises a vexing question: why are EU leaders so reluctant to deploy the powerful fiscal tools at their disposal to defend the rule of law? Indeed - as painful as it is for a Europhile like myself to admit it - the EU is currently most likely the largest funder of democratic backsliding in the world. Anyone who takes umbrage at that observation should consider that according to the leader scholarly body rating regime types - the University of Gothenburg-based V-Dem Institute - between 2010 and 2020 the EU was home to the two most rapidly autocratizing countries in the world - Poland and Hungary - and that two EU candidate countries – Turkey and Serbia – were also among the top five backsliders worldwide in that decade. Indeed, as I have written, EU funding is one of the key factors sustaining the 'authoritarian equilibrium' in the EU.

Why then does the EU refuse to uphold the rule of law? I have explored this question in depth in previous works[3], so I will summarize quickly here. First, with regard to Member State governments in the Council - due to strong norms of intergovernmental deference and the high sensitivity of issues surrounding democracy and the rule of law, most governments have simply been loath to enforce the EU's rule of law norms against states that violate them. Relatedly, some may fear that if they push too hard, Poland and Hungary

1 This approach was so flawed that four pan-European associations representing thousands of judges from across Europe filed an annulment action challenging the legality of the Council's decision to approve Poland's plan. Similar legal challenges should be expected should the Council approve Hungary's plan.

2 Bard, Petra, and Dimitry Kochenov (2022), 'War as A Pretext to Wave the Rule of Law Goodbye?,' *European Law Journal* 27: 39-49.

3 Kelemen, R. Daniel (2017), 'Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union,' *Government and Opposition*, 52(2), 211-238; Kelemen, R. Daniel (2020), 'The European Union's Authoritarian Equilibrium,' *Journal of European Public Policy* 27 (3): 481–99; R. Daniel Kelemen (forthcoming, 2023), MacGyver, Rube Goldberg, 'Europe's Unused Tools,' *Journal of European Integration*.

will follow through on their threats to block EU agreements in other fields - from tax to foreign policy - where they wield national vetoes. Secondly, for many governments, questions concerning backsliding on the rule of law and democracy are simply not a priority. While they may find these developments disturbing, they see them as problems that Hungarians and Poles (and others) must sort out for themselves and they do not perceive them as much of a direct threat to their own national interests.

The Commission has its own reasons for passivity in addition to those mentioned above. As Tommaso Pavone and I have shown in our research on the dramatic decline in the European Commission's use of infringement proceedings, the Commission has become more and more reluctant to enforce EU law since 2004. As Pavone and I explain, the Commission adopted a strategy of relaxing enforcement in the mid 2000s in response to concerns over mounting Euro-skepticism. Commission leaders became worried that vigorous enforcement was jeopardizing government's support for the integration project and for the Commission's policy agenda. Then-Commission President José Manuel Barroso and other leaders chose to relax enforcement in hopes of rekindling governments' support the Commission and the EU and instituted reforms to that end. Ultimately, the process went further than even its creators had anticipated, leading to a steep decline in infringements.

## A rule of law instrument creation cycle

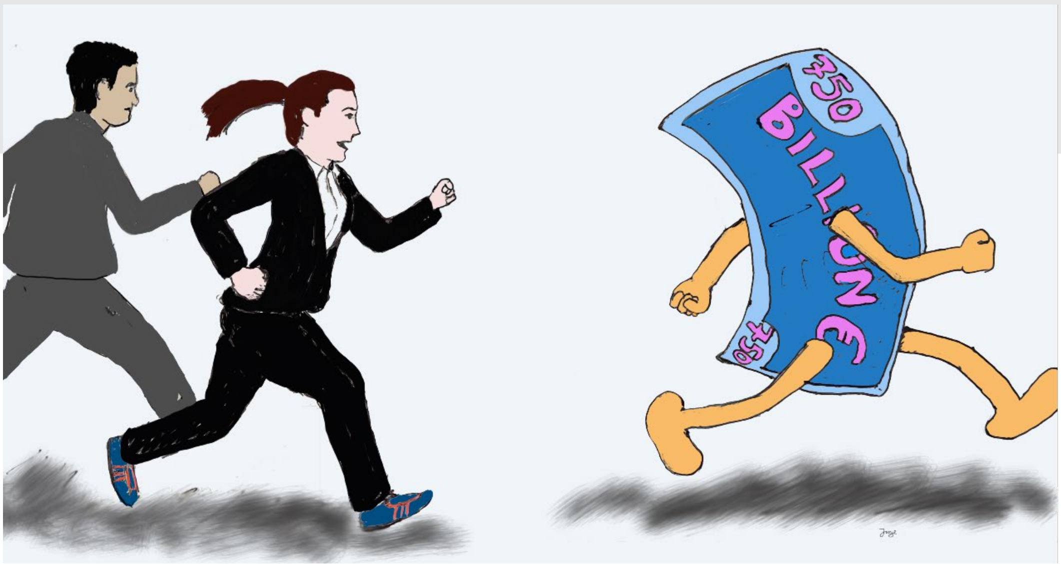
Unfortunately, these changes took root just a few years before the Orbán government began its attack on the rule of law and democracy - which then set the example that the PiS government followed in Poland a few years later. The Commission's broad reluctance to bring enforcement actions across all policy domains clearly affected its approach to the rule of law crisis, where it also proved reluctant to bring infringement actions - or to use other powerful tools at its disposal such as the Rule of Law Conditionality Regulation discussed above.

Instead, the Commission wasted valuable time engaging in what Professor Laurent Pech has called the rule of law instrument creation cycle in which it reacts to new attacks on the rule of law by calling for the creation of new tools, rather than using tools already at its disposal[4]. This cycle has led us to the present situation where the EU has a powerful arsenal of tools - from infringements to rule of law conditionality - which are used only rarely, and even then only after great delays and with little vigor.

4 Pech, Laurent (2020), *The Rule of Law in the EU: The Evolution of the Treaty Framework and Rule of Law Toolbox,* SSRN Scholarly Paper. Rochester, NY.

# Substitution effects, delays, constraints and administrative capacity risk considerably reducing actual investments under cohesion policy and NGEU/RRF

By Jorge Núñez Ferrer and Tomás Ruiz de la Ossa, Centre for European Policy Studies (CEPS)




Source: ©Jorge Nunez Ferrer

The economic crisis triggered by the COVID-19 pandemic and the war in Ukraine have led to changes being made to several EU instruments, and a number of new ones being created, most notably the Recovery and Resilience Facility (RRF). This has led to what some analysts have described as a plethora of funds, raising questions whether all the different EU means available will, or even can, actually be absorbed by the authorities involved for their purposes intended. Will bottlenecks occur? Will delays and substitution effects cause the EU's overall budgetary support to be much lower than planned? Will the pressure to absorb the funding pose a risk to effective spending on projects that really have an impact? Jorge Núñez Ferrer, Senior Research Fellow, and Tomás Ruiz de la Ossa, Research Assistant at the Centre for European Policy Studies (CEPS), have taken a close look at the available data relating to commitments and payments. Considering programme approvals and implementation delays, they have drawn a number of preliminary conclusions on how the "new kid on the block", the RRF, complements other EU funds, particularly those related to cohesion policy. They also look at the implications of the RRF for the future of the cohesion policy.

## Late adoption leading to late operationalisation of funds…what are the consequences?

In October 2020, an agreement was reached at the Council about the Multiannual Financial Framework (MFF) and NextGenerationEU (NGEU) support. This agreement led to the adoption of a Regulation on the Recovery and Resilience Facility (RRF) in February 2021, and to the adoption of other Regulations governing the EU Funds, such as the Common Provisions Regulation in June 2021, governing cohesion policy. This is very late for the Funds to start operating, as can be easily observed from the delays in the adoption of cohesion policy partnership agreements. At the time of writing, five[1] EU Member States had not yet adopted their partnership agreements. For 2021-2027 cohesion policy, however, breathing space has been provided by REACT-EU[2] as part of the NGEU, adopted on 23 December 2020, offering 100% EU-financed grants under the 2014-2020 cohesion policy rules.

1 Ireland, Latvia, Luxembourg, Malta, Spain and Sweden.
2 REACT-EU stands for Recovery Assistance for Cohesion and the Territories of Europe.

We are writing in autumn 2022, at a time when it is beginning to be possible to check the status of the different funds and gain a first view of the challenges ahead. In this article we present data on outstanding commitments and payments under the 2014-2020 cohesion policy, and data on the implementation of REACT-EU and the RRF. Our objective is to identify the impact of the delay in the regulations, and the impact of difficulties in absorption capacity. Early analyses (even before the final agreement of the MFF and NGEU) already indicated that there would be a substitution effect between cohesion policy support and NGEU funding, due to there being large amounts to absorb, and due to access to NGEU funds being easier[3].

To understand the impact of the delay, it is necessary to master some jargon, particularly commitment and payment 'appropriations' in the EU budget. See **Box 1**.

**Box 1 – EU budget jargon**

*Commitment appropriations*:

the EU budget offers a maximum amount of funds to be committed every year. The EU will co-finance projects committed in a given year up that level over the year and the next three years (n+3 rule). The funding not allocated to programmes by the end of the year is lost (de-committed). Committed funds have also to be spent by the end of the third year after their allocation to a project or will also be decommitted. The EU has to honour the commitment when a project is realised.

*Payment appropriations*:

actual expenditure by the EU on the programmes and projects during a specific year.

## Key aspects to look for

Determining whether the delay in the adoption of partnership agreements has had an impact on financial flows from the EU budget to Member States and regions is not straightforward. This is especially true for the past three years due to COVID-19, the n+3 rule, and the substantially different method of support provided under the cohesion policy and under NGEU. What indicators can give some insight?

*Outstanding payments under the 2014-2020 cohesion policy*

The past MFF has closed its commitment period, i.e. the time in which projects can be approved. This gives an indication of how much of the 2014-2020 MFF will ultimately be spent compared to the original allocation. The level of committed but as yet unspent funding can also give an indication of the capacity of the Member States to absorb the different funds. A large amount outstanding indicates difficulties in using funds, which will affect the Member States' capacity to commit and use the new funds for the 2021-2027 period, particularly for cohesion policy, leading to substitution effects with NGEU and funding losses.

*The implementation of REACT-EU*

REACT-EU was created as a quick lifeline for cohesion policy beneficiaries until the end of 2022, allowing regions easier access to funds (100% EU-financed through central national budgets instead of between 60 to 85% for European Structural and Investment Funds). The funding is distributed based on the funding programmes and plans for the 2014-2020 MFF period. The use of the funds can help identify any absorption capacity problems. Have Member States been able to accelerate spending under the past cohesion policy and top it up with REACT-EU funding? Is REACT-EU adding or substituting for uncommitted and therefore lost funding from the previous MFF?

*The implementation of other NGEU funds, and in particular the RRF*

The implementation of this EU initiative and instrument is more complex to assess. This due to the delays in the adoption of the rules and the 'refinancing' nature of the RRF, as funds are not linked directly to programmes, instead *de facto* refinancing governments' budgets for the expenditure they incur when implementing national programmes. However, the delays themselves open a number of questions on the timeline for spending the funds. It is by now clear that either substantial amounts of the NGEU/RRF will not be used, or that the timeframes will need to be reassessed. A number of

3 See for example Alcidi C., D. Gross and Corti F, *Who will really benefit from the Next generation EU Funds*, CEPS Policy insights, PI2020-25, October 2020. https://www.ceps.eu/wp-content/uploads/2020/10/PI2020-25_Next-Generation-EU_funds.pdf

programmes have not yet been even approved, in some cases due to national elections with long, drawn-out coalition negotiations. In some cases, more serious delays have been caused by rule of law breaches.

### Cohesion policy 2014-2020 numbers

The implementation figures up to 31 December 2021 (see **Table 1**) show that some Member States are struggling to implement their planned expenditure for cohesion policy (European Regional Development Fund, European Social Fund, Cohesion Fund) for the 2014-2020 period. It identifies the Member States lagging furthest behind in payments, which include Spain and Italy, the two largest beneficiaries of the RRF, with 57% and 48% of the funds committed still not claimed.

The first column shows the level committed for the period. The second is the *spent* amount vs the *available* funds for commitments that the EU covers. If more projects are funded than the commitment level allows, the national authorities cover the shortfall with national funds. The third column shows the remaining percentage of commitments that can be realised by 2023; the fourth shows the same figure expressed in millions of euros.

**Table 1. Commitments, spent and outstanding in % by 31/12/2021**

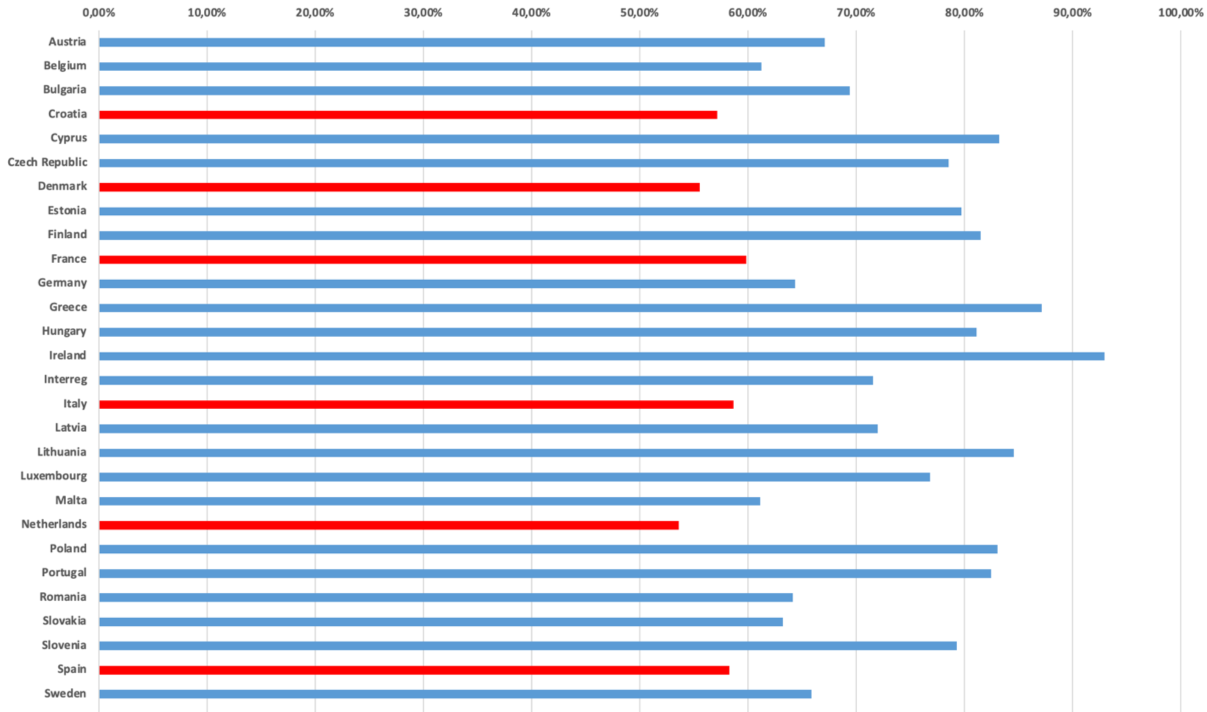
| Member State | % committed | spent vs planned | outstanding in % | Outstanding in EUR m |
|---|---|---|---|---|
| Austria | 113,43% | 62,15% | 37,85% | 1.297,39 |
| Belgium | 102,53% | 55,80% | 44,20% | 2.171,47 |
| Bulgaria | 97,64% | 69,96% | 30,04% | 2.739,63 |
| Croatia | 141,12% | 63,26% | 36,74% | 3.847,79 |
| Cyprus | 122,92% | 70,95% | 29,05% | 286,19 |
| Czech Republic | 114,85% | 69,51% | 30,49% | 8.940,25 |
| Denmark | 101,35% | 55,53% | 44,47% | 440,75 |
| Estonia | 104,26% | 68,82% | 31,18% | 1.520,82 |
| Finland | 110,89% | 72,64% | 27,36% | 781,16 |
| France | 116,71% | 70,30% | 29,70% | 9.414,37 |
| Germany | 105,95% | 69,35% | 30,65% | 9.951,42 |
| Greece | 149,33% | 69,81% | 30,19% | 6.717,69 |
| Hungary | 124,34% | 77,64% | 22,36% | 5.859,52 |
| Ireland | 86,11% | 70,59% | 29,41% | 608,00 |
| Italy | 95,39% | 52,22% | 47,78% | 29.535,10 |
| Latvia | 101,61% | 65,28% | 34,72% | 1.886,24 |
| Lithuania | 124,40% | 81,95% | 18,05% | 1.473,37 |
| Luxembourg | 106,61% | 61,00% | 39,00% | 88,89 |
| Malta | 101,08% | 69,85% | 30,15% | 293,60 |
| Netherlands | 127,08% | 72,37% | 27,63% | 848,73 |
| Poland | 104,04% | 67,86% | 32,14% | 29.612,84 |
| Portugal | 132,15% | 78,13% | 21,87% | 6.399,30 |
| Romania | 151,94% | 54,62% | 45,38% | 12.726,10 |
| Slovakia | 101,20% | 53,02% | 46,98% | 8.307,88 |
| Slovenia | 125,27% | 75,01% | 24,99% | 1.027,97 |
| Spain | 98,08% | 42,90% | 57,10% | 30.723,48 |
| Sweden | 93,41% | 66,85% | 33,15% | 1.244,68 |

Data source: European ommission Cohesion database https://cohesiondata.c.europa.eu/2014-2020_cohesion_verview, period until 31/12/202 1. UK has been removed from the table.

However, the figures show combined EU and national spending, and do not reveal the amount of EU funding used. For that, we have to look at **Figure 1** instead. This figure reveals the level of EU cohesion policy funding allocated for commitments to the Member States that had been spent by 14/09/2022. In **Figure 1,** the countries with an expenditure below 60 % of the available funding have been highlighted in red, since it is there that the risk of failing to use the resources is highest (i.e. de-commitments). Some of the funds 'paid' are transfers to organisations or financial institutions that implement programmes, so some unused 'spent' funding may be recovered in 2023. This makes the results more concerning, as the picture may overstate the level of expenditure.

Italy and Spain are the Member States which pose the highest concern in this respect, because their difficulties in using the EU funding imply a lack of capacity to manage the level of funding, while both countries are major beneficiaries of the Recovery and Resilience Facility (RRF) and REACT-EU from NGEU. While the amounts are less significant in absolute terms, Croatia is among the largest beneficiary countries of the RRF in relation its national GDP, therefore, a failure in implementation would be a missed opportunity for the country.

**Figure 1 – Payments from the EU as percentage of the allocation for commitments in each Member State, 2021**




Data source: European Commission Cohesion Policy database https://cohesiondata.ec.europa.eu/2014-2020_cohesion_overview

## Implementation of REACT-EU

One way to identify the capacity of Member States to provide eligible projects and to implement them is to look at REACT-EU. With an exceptional 100% EU co-financing rate, fast commitments and expenditure should be expected. However, the results are surprising for the extreme heterogeneity in the use of the funds (see **Table 2**). A number of Member States have managed to commit most of REACT-EU funds quickly, and some have even managed to spend a large amount in the first year and a half. The most revealing factor is to see that Spain has neither been able to commit many projects nor to spend the funds. Italy seems to have a better capacity to commit and implement, even if performance is still below average.

The surprising speed of commitments and payments in some Member States raises some questions worth exploring, such as the kind of projects approved, their relevance and expected impact. It is unclear what makes for the wide absorption capacity differences in some Member States where similar results could have been expected. Hungary has committed 67,5 % of its funds, which is a good but not exceptional score. However, in the same year, it has also spent 98 % of the funding committed under REACT-EU, more than any other Member State. The reason is unclear, but it could be linked to the fact that Hungary did not use administrative resources trying to implement RRF programmes, as the process of approval stalled due to concerns over the rule of law. Some Member States have committed all of their funds, but not implemented any of the REACT-EU projects, as no funds have been spent. The figures give no indication of either the quality or the value added by the projects that countries have committed funds to or implemented, and a lot of work will be required to better understand the differences.

**Table 2. Commitments and payments per country, EU 27, year 2021**

| Member State | Committed (EUR) | Planned (EUR) | Spent (EUR) | Planned/ committed | spent |
|---|---|---|---|---|---|
| Austria | 460.390.340 | 513.046.918 | 12.682.317 | 89,74% | 2,47% |
| Belgium | 98.912.885 | 216.217.478 | 5.900.063 | 45,75% | 2,73% |
| Bulgaria | 384.530.743 | 416.415.118 | 209.780.581 | 92,34% | 50,38% |
| Croatia | 297.034.836 | 561.498.663 | 1.487.331 | 52,90% | 0,26% |
| Cyprus | - | 111.426.890 | - | 0,00% | 0,00% |
| Czech Republic | 1.104.240.517 | 825.929.873 | 3.103.373 | 133,70% | 0,38% |
| Denmark | 124.678.244 | 174.556.052 | - | 71,43% | 0,00% |
| Estonia | 165.089.427 | 222.022.501 | 645.320 | 74,36% | 0,29% |
| Finland | 265.756.890 | 225.845.833 | 7.632.712 | 117,67% | 3,38% |
| France | 1.306.353.747 | 3.263.230.929 | 96.643.039 | 40,03% | 2,96% |
| Germany | 822.576.309 | 2.040.197.141 | 76.297.363 | 40,32% | 3,74% |
| Greece | 1.713.426.440 | 1.707.882.353 | 1.043.785.397 | 100,32% | 61,12% |
| Hungary | 446.742.857 | 662.017.261 | 436.629.964 | 67,48% | 65,95% |
| Ireland | 88.334.963 | 88.334.963 | - | 100,00% | 0,00% |
| Italy | 5.451.159.801 | 10.709.984.576 | 2.191.261 | 50,90% | 0,02% |
| Latvia | 1.063.482 | 239.842.161 | - | 0,44% | 0,00% |
| Lithuania | 360.777.792 | 273.699.350 | 80.773.437 | 131,82% | 29,51% |
| Luxembourg | 139.124.758 | 139.124.758 | 69.687.379 | 100,00% | 50,09% |
| Malta | 111.196.276 | 111.196.276 | 70.959.339 | 100,00% | 63,81% |
| Netherlands | 720.191.266 | 628.742.612 | 21.237.915 | 114,54% | 3,38% |
| Poland | 423.653.197 | 1.446.427.264 | 66.770.366 | 29,29% | 4,62% |
| Portugal | 1.136.914.448 | 1.596.314.013 | 952.458.509 | 71,22% | 59,67% |
| Romania | 585.169.959 | 1.140.471.557 | 3.321.298 | 51,31% | 0,29% |
| Slovakia | 452.160.984 | 588.737.846 | 136.040.654 | 76,80% | 23,11% |
| Slovenia | 185.020.951 | 296.643.859 | 11.321.535 | 62,37% | 3,82% |
| Spain | 1.827.077.137 | 10.609.885.695 | 148.553.303 | 17,22% | 1,40% |
| Sweden | 188.919.473 | 282.749.196 | 2.719.333 | 66,82% | 0,96% |
| Total | 18.860.497.722 | 39.092.441.136 | 3.460.621.789 | 48,25% | 8,85% |

Data source: European Commission Cohesion Policy database Source: https://cohesiondata.ec.europa.eu/2014-2020_cohesion_overview

## 2021-2027 Cohesion Policy numbers not promising

The analysis of the cohesion policy 2021-2027 implementation in its first year is relatively simple: it is close to zero in terms of commitments and zero in terms of expenditure. This is due to:

- the very late adoption of the implementing legislation (essential for the Member States to start approving and implementing projects);
- the subsequent very delayed approval of national strategies (the signing of partnership agreements); and
- the need to approve operational programmes.

Based on information published by the European Parliament in resolution 2022/2527(RSP) of 6 April 2022, only 0,2% of the funds for 2021 had been committed. Based on the normal budgetary rules, this means that 99,8% of the allocation for commitments for 2021 should be decommitted. In simple words, the MFF has officially lost around €45,3 billion on this policy alone. This has been caused by the difficulties in transposing the rules nationally and in getting projects ready in time to be approved and, most probably, the need to manage REACT-EU and RRF in parallel.

Some other losses should be expected in other budget lines. For rural development, a transitional period for 2021-2022 was agreed to allow the implementation based on 2014-2020 rules, which should cushion the beneficiaries from the impact of delays. The implementation data of what *de facto* is a 2014-2022 programming period shows that only 66 % of rural development funding under the European Regional Development Fund had been spent by the fourth quarter of 2021, as had 6 % of the additional NGEU rural development funding.

The European Parliament Resolution calls for a reprogramming of commitments, allocating them over the following years as was done in the past. However, given the difficulties seen in the implementation of the RRF and REACT-EU, it is questionable whether rescheduling of the funding would be accepted unanimously by the Council. As a consequence of the war in Ukraine, the numerous new challenges the EU faces poses new financial challenges and redistributing funding which Member States appear to be unable to absorb, seems to be a questionable priority.

Programme approval and implementation delays are reaching a new record in the MFF, extending well into 2022. This will probably lead to additional large under-commitments for this year, also because those Member States with limited administrative capacity would be inclined to prioritise the more flexible RRF projects. However, good projects cannot be 'rushed' either. It is not outlandish to expect a third or more of cohesion policy funds to be lost, with more than €100 billion in decommitments over the MFF period. Other shared-management funding such as rural development funding is also likely to be underspent.

### Implementation of the RRF

By the end of August 2022, €79,41 billion in grants had been released to Member States, mainly for pre-financing, some for the first financing after milestones were achieved, and €33,37 billion in loans. According to the European Commission's implementation database, 5 % of the 3 700 projects and 2 000 reforms of the RRF have been completed[4]. The link between the funding released and the investments is not direct. The funding released is in tranches not fully linked to the cost of the milestones. This is reinforcing the need for clear monitoring systems in the RRF or methods for ex-post control and recovery of funds for unrealised investments.

Controls and monitoring are thus an area of concern. The European Court of Auditors is scrutinising the European Commission's monitoring of the implementation of the milestones and its set-up of appropriate financial control systems[5]. Member States are required to develop the necessary control systems to quantify the financial contribution to each milestone. Setting up control systems is in itself a milestone. Due to the complexity in setting them up, control systems are not required to be fully functional for the first set of milestones to be achieved.[6]

RRF funding has started with a delay, and some Member States have not yet started or had their plans approved yet. It is likely that the RRF commitment period and expenditure will need to be extended. More delays will probably occur, as the European Commission will probably prefer to delay payments than need to reject requests[7]. It is very likely that the delays will lead to a shift of the RRF schedule to the end of the MFF, and even to an overlap with the next MFF.

4 https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/milestones_and_targets.html?lang=en

5 As described in the annual report by ECA on the implementation of the 2021 financial year: ECA, *Annual report on the implementation of the EU budget for the 2021 financial year*, 13 October 2022.

6 As has been the case for Spain and reported in ECA (ibid,), para 10.30.

7 This is becoming clear from anonymised semi-structured interviews conducted by CEPS in the framework of Eurofound (forthcoming) *Explaining convergence-the geographical divide and impact of COVID-19*, Research report, Publications Office of the European Union, Luxembourg.

## RRF as impetus for cohesion policy reform

What is clear from previous sections is a growing probability that the RRF will be prioritised, to the detriment of other EU Funds. The difficulty faced by Member States in allocating cohesion policy support for 2014-2020 and REACT-EU funding points to a significant shortfall in the use of the available EU funds. It is also important to point out that if a Member State's administrative capacity is insufficient to use Cohesion Policy funds, the government will focus its administrative resources on spending RRF resources. Not only is the RRF less onerous to spend without national co-financing, but it is also in the political limelight.

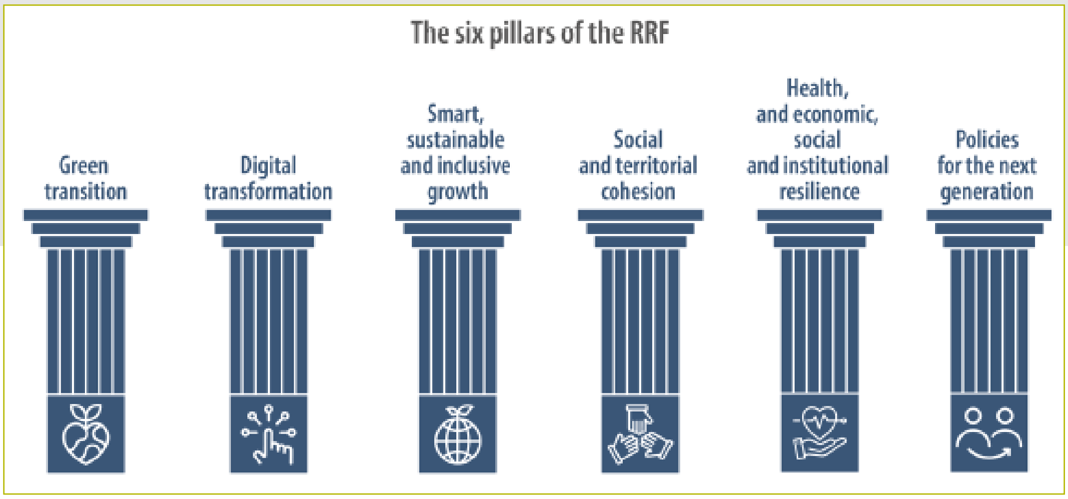
The instability created by the war in Ukraine will probably make it necessary for considerable additional financial resources to be made available to cushion the negative effects of the conflict, to continue to support Ukraine and, possibly, to help developing countries affected by the war. To do so, the EU needs to formalise the mechanisms it has to borrow to cover lending and grant operations. In addition, the EU's responses to crises have also been relatively slow, and its decision-making, monitoring and control systems seem to be unable to offer support at the speed required. For cohesion policy, deployment delays seem to be partially caused by excessive rules and restrictions that compensate for weak impact monitoring in the past and the present.

A partial compromise was found for the RRF by using milestones rather than ex-ante detailed project-based programming. However, the mistrust between Member States soon led to rigid ex-ante financial pre-allocation controls, which have delayed the approval of plans, slowed down deployment and reduced flexibility. The EU needs to move away from rigid pre-allocation and the 'specification' principle that ringfences funding for programmes and projects. It should focus more on achieving milestones, which would represent a move towards a system which covers expenditures as reimbursements, as is partially the case for the RRF.

In future, perhaps a system could be considered that provides EU loans which are eventually transformed into grants, but only if objectives are achieved. After all, NGEU was unconceivable only a few years ago. Therefore, a fundamental reform of the cohesion policy should also be achievable, a reform which gives national and regional authorities the right incentives while reducing administrative burdens.

# Analysing the delivery of NGEU/RRF – EPRS efforts to contribute to monitoring and transparency

By Alessandro D'Alfonso, European Parliamentary Research Service




*Source:* European Parliamentary Research Service.

The European Parliamentary Research Service (EPRS) is looking at various aspects of the NextGenerationEU (NGEU) recovery instrument, and in particular the Recovery and Resilience Facility (RRF). This ranges from covering various policy areas under the six pillars of the RRF to its financing, and from the implementation of the respective Member States' plans to the European outlook for recovery. Alessandro D'Alfonso, head of the NextGenerationEU Monitoring Service within the Members' Research Service of the EPRS, outlines why transparency and monitoring are crucial for such a groundbreaking instrument, while presenting the EPRS's contribution to meeting these objectives, and providing a flavour of the key elements that have emerged from the analysis so far.

## The European Parliament's focus on monitoring and oversight of the RRF

The NextGenerationEU (NGEU) recovery instrument and its Recovery and Resilience Facility (RRF), which the European Union created to boost the recovery from the pandemic across its Member States, are major innovations in EU finances, not least because of the unprecedented level of borrowing of resources[1]. The common aim of NGEU and the RRF is to focus their resources on investments and reforms, such as those relating to green and digital objectives, which are instrumental to making European economies and societies more resilient.

Progress on the implementation of the NGEU's RRF component needs to be closely and continuously monitored. This is because of the scale of the new investment – for example, NGEU almost doubles the EU's commitment appropriations in certain financial years – and because of the heavy focus on nationally generated projects that are outside the traditional methods of EU financial control.

The European Parliament, which was a strong advocate for the creation of a common recovery instrument, has repeatedly stressed the importance of appropriate monitoring[2]. Parliament has a crucial role in the scrutiny and oversight of the RRF implementation. In addition to its resolutions and plenary debates, Parliament voices its views on various aspects of RRF implementation through a range of channels, including those established by the RRF Regulation and the interinstitutional agreement on budgetary matters.

1 D'Alfonso A., Next Generation EU: A European instrument to counter the impact of the coronavirus pandemic, EPRS, July 2020; D'Alfonso A. et al., Economic and Budgetary Outlook for the European Union 2022, EPRS, January 2022.

2 European Parliament resolution of 20 May 2021 on the right of information of the Parliament regarding the ongoing assessment of the national recovery and resilience plans.

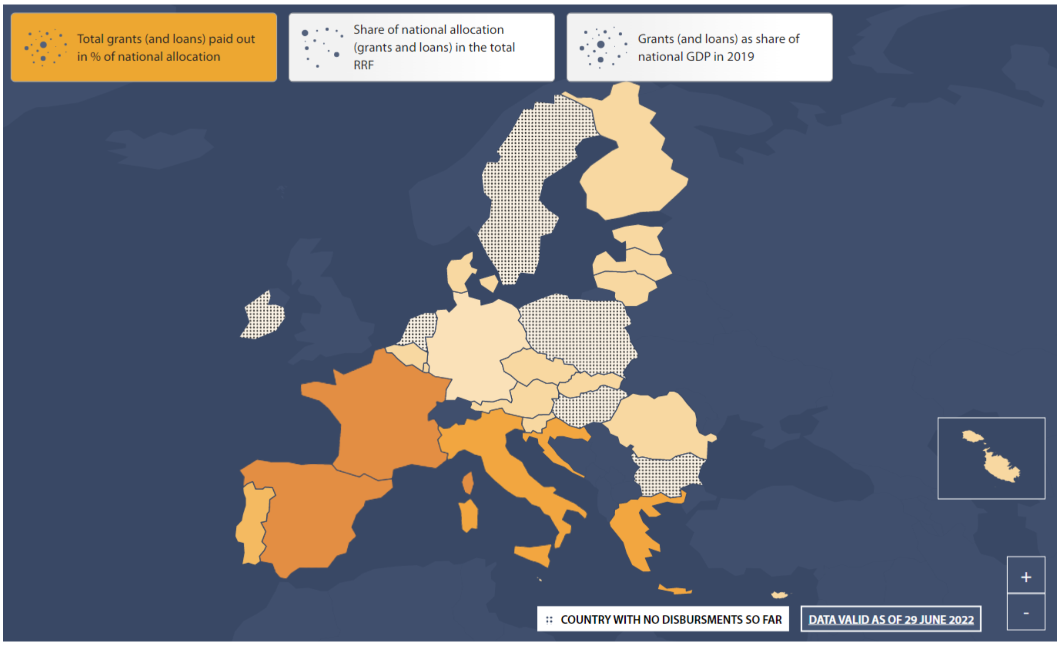
Channels for information transmission and the regular exchange of views include interinstitutional meetings on NGEU implementation and a recovery and resilience dialogue with the Commission, held in the joint Budgets (BUDG) and Economic and Monetary Affairs (ECON) committee, which are the lead committees on the topic. In addition, Parliament has established a standing working group on the scrutiny of the RRF, which has so far held 26 meetings with the European Commission.

Against this background, the European Parliament has repeatedly underlined that transparency is essential for strong monitoring and the successful implementation of the national recovery and resilience plans (NRRPs) through which Member States invest their RRF allocations. The European Parliament's Recovery and Resilience Facility webhub provides an overview of the way in which the European Parliament oversees the RRF.

### Insight through the EPRS briefing series

As a contribution to the objective of ensuring the NRRPs' transparency and visibility, the European Parliamentary Research Service (EPRS) established a series of briefings entitled 'NextGenerationEU delivery – How are the Member States doing?'. The series aims to provide a clear, accessible and informative overview of what are essentially complex plans, usually running to many hundreds of pages. Each briefing is devoted to one single NRRP, and in just twelve pages the briefing sets out its main features, the challenges and recommendations it seeks to address, the state of play in terms of its implementation, and provides a flavour of the debate it has triggered at national level and beyond. The briefings are complemented by an interactive infographic, which allows the easy comparison of key data for all Member States (see **Figure 1**).

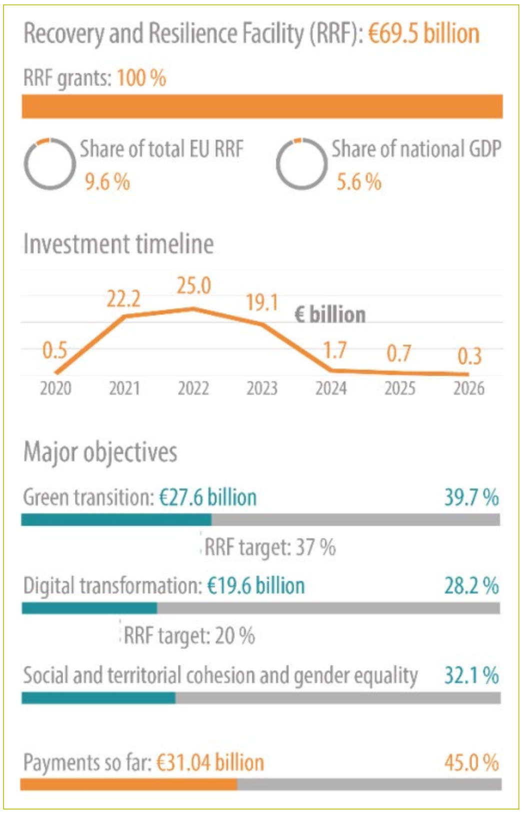
**Figure 1 – Snapshot of the EPRS interactive infographic for the RRF**




*Source:* European Parliamentary Research Service.

Various visuals in each briefing (see **Figure 2**) help to capture snapshots of key data, such as the breakdown of measures and resources by area of intervention, the main implementation steps, and the envisaged instalment schedule. Each briefing is available in English and in the official language(s) of the Member State covered, which facilitates their use by Members of the European Parliament (MEPs) in their constituencies, and by European Parliament Liaison Offices (EPLOs) in the Member States.

**Figure 2 – Example of one visual shown in the September 2022 briefing on Spain**




*Source:* European Parliamentary Research Service.

One year on since its launch, the series has triggered interest and appreciation both within and outside the European Parliament. In September 2022, it covered all 25 NRRPs that had been approved thus far. The completion of the first set of briefings led to a new phase in our analytical work on NextGenerationEU, since each publication will be regularly updated at key stages throughout the lifecycle of the relevant national plan. At the same time, this is a good opportunity to take stock of some elements that have emerged so far, both arising from our analysis and from the work of others. Without aspiring to be exhaustive, given the breadth of the plans, I would like to highlight five points relating to:

- diversity;
- cross-border aspects;
- cost estimates;
- relevance; and
- timely implementation.

### United in diversity

The EU's motto, 'United in diversity' fits well with the NRRPs. The RRF sets common objectives to be addressed in six areas of European interest, but is flexible enough to enable Member States to tailor-make their plans to their own specific needs in each area. The Commission expects all approved plans to exceed the compulsory climate and digital targets (at least 37 % and 20 % of the national allocation respectively), but the sectoral focus may differ significantly from one Member State to another. For example, 47.4 % of Bulgaria's investments relate to energy, Estonia has decided to devote around one third of its plan to strengthening its health system, while both Austria and Germany have allocated more than half of their resources to the digital transformation through a wide range of measures, including enhanced connectivity and the promotion of digital skills.

In addition, the level of variety in the plans goes beyond their content and can be observed in other features such as the envisaged disbursement calendar – which can have an impact on the reporting workload – and the milestones and targets to be met. Many Member States (e.g. Belgium, Italy and Slovenia) have scheduled ten instalments but others (e.g. France, Germany and Ireland) have scheduled only five, with a range of intermediary options (e.g. Estonia, Malta and Spain). As noted by the European Court of Auditors in its special report 21/2022 regarding the Commission's assessment of national recovery and resilience plans, a harmonised approach has not been used to set milestones and targets. The plans' diversity can help respond to different country recommendations, but challenges may emerge in terms of monitoring and comparability.

### Cross border in impact, but only to a certain extent in projects

According to various economic analyses, including by the European Central Bank[3] and the European Commission[4], NGEU and the RRF have positive spillover effects. This means that each Member State not only benefits directly from its own NRRP, but also indirectly from RRF investments (and reforms) in other Member States. Spillover effects are expected to be particularly important in small and open economies. At the same time, the Commission sought to encourage the development of multi-country projects for common challenges that require coordinated investment and reforms. However, overall, Member States appear to devote a relatively limited share of their allocations to such projects.

The European Parliament was disappointed that the NRRPs did not include a higher number of cross-border projects, noting in particular their importance with regard to energy transmission across Member States. However, in its opinion 04/2022, the European Court of Auditors concluded that the recent Commission proposal for REPowerEU chapters in the NRRPs 'does not include any specific action to incentivise such projects'. In addition, the proposed financing for REPowerEU, mainly through loans, could adversely affect the development of further multi-country projects.

### The question of costings

Unlike other EU instruments, the RRF does not link disbursements to the verification of costs incurred, but rather to the achievement of milestones and targets. The Commission has given all the approved plans a B-rating (reasonable to medium extent) for the assessment criterion that looks at the total cost estimates underpinning the plan. Various reasons lie behind this rating, not least that a number of investments are innovative and cost estimates cannot be based on past experience. The complexity of costing carries with it a number of implications, including the fact that it is not always easy to identify the breakdown of cost estimates for individual measures based on publicly available information.

In June 2022, the European Parliament reiterated its regret that the Council had rejected the creation of an online platform on which final beneficiaries would feature, calling on the Commission and the Member States to periodically publish up to date data on final beneficiaries and transferred funds, in the interest of public trust and transparency. The Commission was asked to ensure that costs are plausible and that a proper cost analysis is conducted in order to tackle potential fraud and corruption[5].

In addition, cost analysis may prove useful for monitoring the plans' actual contribution to the climate and digital spending targets, since the current figures for these targets are calculated on the basis of the cost estimates. In the same resolution, Parliament called on the Commission to assess whether the green and digital spending targets are likely to be reached as planned during the implementation phase of the RRF, and simultaneously called on the Member States to take appropriate remedial measures where they anticipate that these targets risk being missed.

3 Bańkowski K. et al., The economic impact of Next Generation EU: a euro area perspective, Occasional Paper Series No 291, European Central Bank, April 2022.

4 Pfeiffer, P., Varga, J. and in 't Veld, J., Quantifying Spillovers of Next Generation EU Investment, European Economy Discussion Papers, No 144, European Commission, July 2021.

5 European Parliament resolution of 10 June 2021 on the views of Parliament on the ongoing assessment by the Commission and the Council of the national recovery and resilience plans.

### Continued relevance

Economic data show that, thanks to rapid and resolute responses at Member State and EU level, the economic impact of the pandemic was less severe than initially forecast. NGEU and the RRF were important components of these responses. The economy seemed to be on the way to recovery at least until early 2022, but forecasts have now worsened in the wake of new challenges, both external (such as Russia's war in Ukraine) and internal (such as inflation).

Two features ensure that NGEU and the RRF remain relevant and crucial against an evolving backdrop. On the one hand, their link to the country-specific recommendations under the European Semester has resulted in the plans being geared towards measures that should address structural challenges, with a view to making EU economies and societies more resilient. On the other, the RRF has started to make its positive contribution felt, with less than one quarter of the approved allocations having been disbursed so far. This means that the bulk of the resources and of the related benefits is yet to come, provided that the plans for implementation are carried through.

### Timely implementation is of the essence

All of the RRF measures must be completed by 2026. Given the ambitious scope of the plans and the level of resources still to be disbursed, this poses a challenge in terms of the absorption of the RRF resources at national level, when looking at the Member States' track record with other EU budgetary instruments. In order to reap the plans' full potential, it will be crucial to prevent delays from building up. Underlining that the benefits of reforms go beyond their associated costs, Parliament's resolution of 23 June 2022 noted that public administration modernisation features prominently in many of the NRRPs, stressing that the plans themselves could contribute to increasing the capacity of public administrations to manage EU resources effectively at national, regional and local levels.

### NGEU/RRF progress covered in various EPRS publications

These five points provide just a flavour of the analysis so far, but the EPRS's work on NextGenerationEU goes beyond the series on the NRRPs, which is part of a broader project on 'Analysing delivery of NGEU'. The latest development is the launch of the first version of the above-mentioned interactive infographic on the EU recovery instrument, which will be enriched over time as implementation of the plans advances. This follows the inclusion of a dedicated NGEU chapter in the flagship annual EPRS economic and budgetary outlook, the production of six-monthly infographics to monitor progress in terms of the European economy's recovery, and the launch of briefings on sectoral aspects of the NRRPs such as those on their digital, energy, gender and transport dimensions.

The small and committed Next Generation EU Monitoring Service is responsible for the 'Analysing delivery of NGEU' project. However, these publications and deliverables are a collective endeavour involving many colleagues across the EPRS, without whom all of this would simply not be possible. I would like to thank each and every one of them for their crucial contributions to our publications so far, and for the work to come. Our service will continue to contribute to the Parliament's goal, namely monitoring and providing transparency relating to the innovative initiatives that the NGEU and the RRF represent, with regular publications on their implementation. Transparency is indispensable to ensure a better understanding of these instruments.

# Five lessons from the Recovery and Resilience Facility for future crisis response instruments

By Zsolt Darvas, Bruegel and Corvinus University, Budapest

Source: Depositphotos/hofred

As NextGenerationEU (NGEU) and particularly its key instrument, the Recovery and Resilience Facility (RRF), are different from most previous EU instruments, EU actions in response to the COVID-19 crisis have attracted a lot of attention, especially from scholars and think tanks. Not least of these is Bruegel, a European think tank focusing on economic policy developments. Zsolt Darvas, a Senior Research Fellow at Bruegel and Corvinus University in Budapest, is one of the think tank's principal researchers into the new EU instrument, and has published various articles on the NGEU/RRF. He explains below which key lessons can be drawn for designing future crisis response tools as regards their purpose, timeliness, redistribution, conditionality, and evaluation.

## Learning curve for a new EU instrument?

The COVID-19 pandemic, an extraordinary external shock that claimed millions of lives and led to the deepest economic contraction in decades, gave birth to NextGenerationEU (NGEU), the European Union's landmark financial instrument. The Franco-German recovery fund proposal of 18 May 2020, and the subsequent European Commission proposal for NGEU, were rightly hailed as a defining moment in the European Union's history. For the first time, the EU is borrowing from capital markets to finance expenditure throughout the Union. The boldness of the recovery facility proposal and its subsequent implementation has boosted confidence, and had a positive impact on the economy.

The largest component of the €750 billion (in 2018 prices) Next GenerationEU is the €672.5 billion Recovery and Resilience Facility (RRF), which is composed of €312.5 billion in grants and €360 billion in loans. At current prices, RRF grants amount to €338 billion. To request funding from the RRF, EU countries had to submit national recovery and resilience plans (NRRPs), explaining the investment and reforms they wish to implement and how these fit with the priorities and criteria set out in the RRF Regulation. An important new feature compared to other EU programmes is that the RRF is performance-based: payments are conditional on meeting milestones and targets rather than on submitting invoices. The actual cost of implementation does not matter.

While the current energy crisis resulting from Russia's invasion of Ukraine differs from the pandemic crisis in many respects, both events represent external shocks with an asymmetric effect across EU countries. There would be a case for an EU fund to address certain aspects of the energy crisis, in particular to ensure that public support results in energy savings and increased energy supplies (such as expanding local gas production or extending the life of nuclear plants) and not just lower energy prices, which would otherwise boost energy demand to the detriment of other countries.

New crises might emerge which could be different again. Whether there will be justification for a new EU fund will depend on the specific circumstances of any new crisis. Nevertheless, in this article, I draw five specific lessons from the RRF for the design of future instruments.

## Lesson 1 - A clear purpose is needed

The conclusions of the [17-21 July 2020 special meeting of the European Council] stated about NGEU that:

- *The plan for European recovery will need massive public and private investment at European level to set the Union firmly on the path to a sustainable and resilient recovery, creating jobs and repairing the immediate damage caused by the COVID-19 pandemic whilst supporting the Union's green and digital priorities* (point A2); and
- *The Union shall use the funds borrowed on the capital markets for the sole purpose of addressing the consequences of the COVID-19 crisis* (point A5).

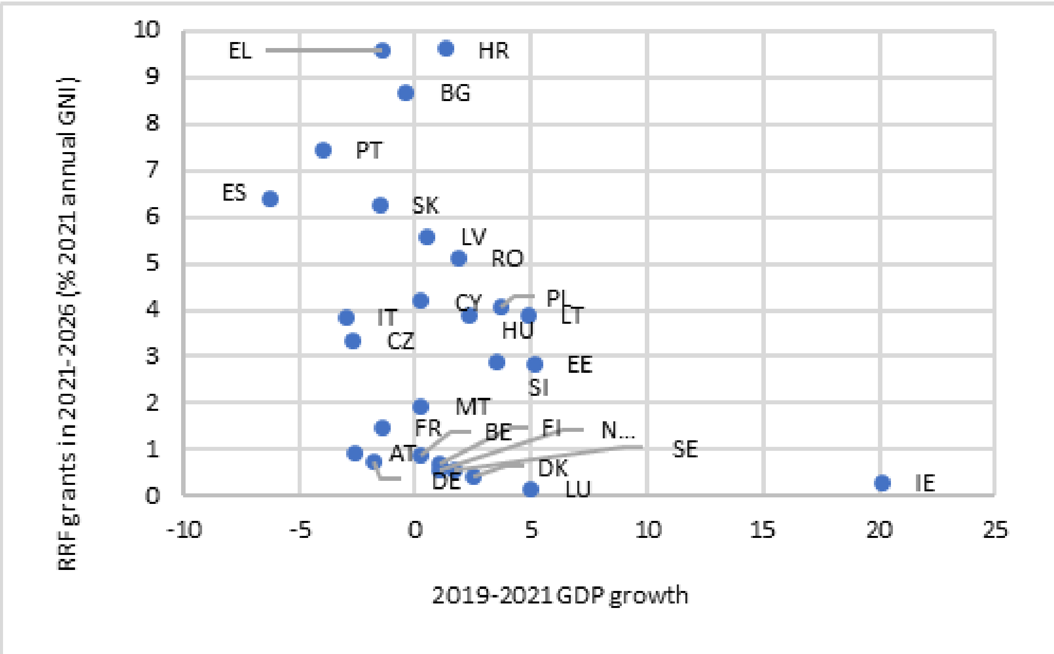
These statements suggest that the primary purpose of NGEU was to support the immediate recovery from the pandemic.

However, the cross-country distribution of grants from the RRF is hardly associated with the size of the economic shock, measured either as growth from 2019-2021 or the revision of this growth rate from the pre-pandemic forecast (panels A and B of Figure 1). It is primarily and strongly associated with GNI per capita (panel C of **Figure 1**). For example, Austrian GDP fell more than Greek GDP, yet Greece receives almost 10% of its annual GDP from RRF grants, while Austria gets only 1%. In this respect, the RRF is similar to the EU's standard multiannual financial framework (MFF), which involves redistribution from richer to poorer Member States to foster their structural transformation. Including an unspecified element (strong redistribution to poorer countries) in a crisis response tool could make the instrument less efficient and blur its purpose.

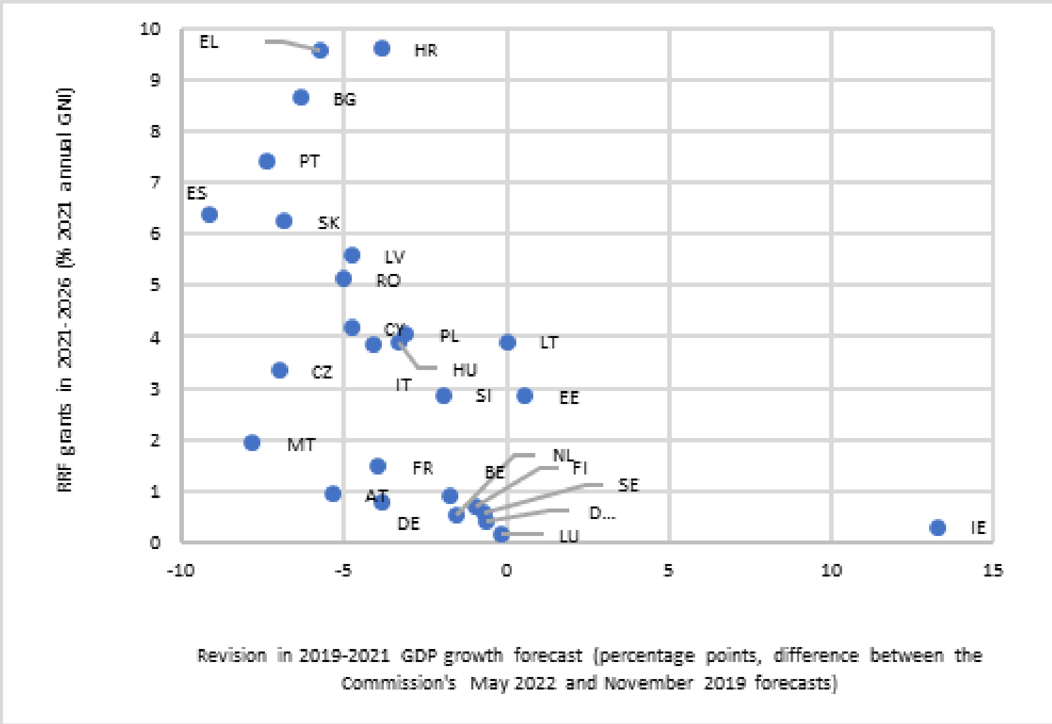
Any new EU crisis response tool should allocate funds to reach the stated purpose.

**Figure 1 - Allocation of RRF grants (% of 2021 GNI)**

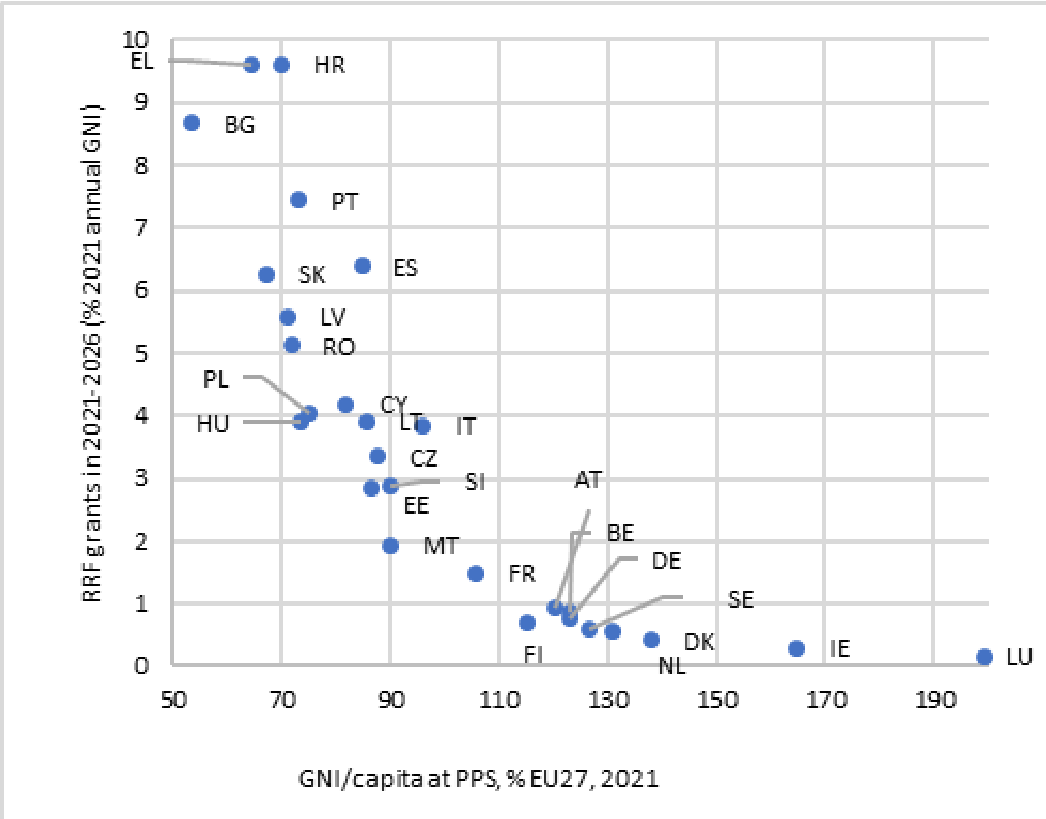
**A) 2019-2021 growth**



**B) 2019-2021 growth surprise**




**C) GNI per capita**




*Source*: Bruegel based on the European Commission's June 2022 update of the maximum RRF financial contribution, and the May 2022 and November 2019 AMECO datasets.

## Lesson 2 - Timeliness should be aligned with purpose

Even though the NGEU's stated purpose was to help economic recovery from the recession caused by the pandemic, disbursements from the RRF were made after most Member States had already recovered. The delayed disbursement is understandable, given that:

- EU leaders had to agree on the concept (July 2020);
- a new regulation had to be proposed, negotiated and legislated for (it entered into force in February 2021, a year after the pandemic hit Europe);
- countries had to prepare and submit recovery plans (the first plan was submitted in April 2021);
- the European Commission had to evaluate the plans and make proposals for Council decisions (the first recommendation was made in June 2021);
- the Council had to decide, based on the Commission's proposal (the first decision was made in July 2021); and lastly
- the EU had to issue bonds and arrange the technicalities of the first disbursements (the first was made in August 2021).

Initially, Member States receive pre-payments amounting to 13% of the total amount. Subsequent disbursements depend on meeting certain milestones and targets. Between August and December 2021, €46 billion in grants (out of €338 billion) were disbursed, and an additional €36 billion between January and October 2022. Thus, three-quarters of RRF grants will be disbursed in 2023 and later, as I noted in June 2020.

To be fair, NGEU had an immediately positive impact when the proposal was made in May 2020. In all likelihood, along with European Central Bank supporting measures, such as the Pandemic Emergency Purchase Programme (PEPP), NGEU improved confidence in the government bonds of highly indebted Member States, leading to lower borrowing costs. This in turn allowed these countries to implement greater national fiscal support measures already in 2020. More generally, the NGEU proposal itself could have improved trust in the EU's crisis response capacity, by demonstrating that EU Member States can act together and offer solidarity to each other when an exceptional crisis hits.

Nevertheless, given that the first RRF grant disbursements were made 1.5 years after the pandemic hit Europe and three-quarters of RRF grants are to be disbursed in 2023-2026, by which time all Member States will have recovered from the pandemic recession, the timeliness of RRF funding was not aligned with the purpose of immediate economic recovery.

Thus, my first two lessons suggest that NGEU fosters the medium-term structural transformation of EU countries and is essentially an add-on to the MFF. Any new EU crisis response facility should stand ready to react much faster. This will not be achieved if the facility has to be established after a shock first hits.

### Lesson 3 - Clear principles for redistribution are needed

In my view, fiscal policies and cross-country redistribution of fiscal resources within the EU rest on four main principles:

- sound national fiscal policies controlling about 98% of public spending (the remaining 2% comes from the EU budget), allowing Member States – among other things – to stabilise their own economies in a crisis;
- supporting the convergence of poorer regions (although for political reasons, even the richest regions get some EU funding);
- financing pan-European projects and exploiting synergies, such as research funding, which leads to cross-country research cooperation and hence the diffusion of knowledge, and more intense research competition which boosts research efforts and outcomes; and
- acknowledging the inertia in agricultural subsidies, which allows only a gradual reduction of such EU spending which once dominated the standard EU budget, and still accounts for about 30% of it.

The last three principles involve persistent redistribution across EU countries, while the first one supposedly eliminates the need for redistribution in times of crisis.

When countries have low public debt and a good track record of controlling budget deficits, such as Bulgaria, Germany and Sweden, they can support themselves in the event of an adverse economic shock. The no-bail-out principle underlying EU treaties aims to ensure sound national fiscal policies so that countries do not expect help from others after following irresponsible policies.

However, the current status quo is different: several countries, especially in southern Europe, have high public debt and limited fiscal space. Thus, it is a sensitive decision whether, to what extent, and under what conditions to help fiscally vulnerable countries during an economic downturn. The COVID-19 pandemic – an extraordinary external shock that claimed many lives – was a situation in which cross-country redistribution was justified. A lack of EU-wide solidarity would have risked more human suffering and a new euro-area financial crisis, with adverse economic spillovers throughout the Union.

NGEU involves significant redistribution from northern and western EU Member States to southern and eastern ones. Redistribution to the south was justified by the extraordinary characteristics of the pandemic and the vulnerable fiscal, economic and social situations in southern countries. Eastern EU countries have much sounder fiscal positions than their southern neighbours, and in some cases even than many western EU countries. Redistribution to the east was probably needed to reach an agreement on redistribution to the south, because most eastern countries have lower per capita income than southern countries.

In the current energy crisis, the best thing a common EU fund could do is to encourage a reduction in energy consumption, which would benefit all EU countries via lower energy prices and less rationing in the event of energy shortages. The main beneficiaries of such an energy fund would be countries with a structurally high ratio of gas consumption by energy-intensive exporters to GDP, including Belgium, Germany, Italy, the Netherlands and Poland. Thus, the rationale for redistribution would not (only) be the usual north-to-south subsidy flow.

A further reason for redistribution via a special EU fund is to flout EU fiscal rules. The liability that EU countries have for repaying the EU debt borrowed to finance RRF grants is blurred. Eurostat concluded that 'In the case of the RRF funding, there is no match between the grants received from the RRF by the individual Member States and the amounts that potentially will have to be repaid by each individual Member State'. The financing of RRF grants does not appear in national debt and deficit statistics, and is thus exempt from EU fiscal rules. This 'trick' can also be useful in the future if EU fiscal rules cannot be reformed properly.

Any new EU crisis response tool should carefully define the guiding principles of cross-country redistribution.

### Lesson 4 - Conditionality should be aligned with purpose

For an immediate crisis response tool, conditionality might not be needed: EU money could be channelled – based on certain criteria (e.g. a fall in GDP) – to countries that need financial support.

I consider RRF conditionality as 'light' because it resulted from a proposal by national governments, and there was no yardstick to assess whether the level of ambition is the same across countries. For a medium-term structural transformation instrument such as NGEU, light conditionally has useful features. National ownership increased because the initial plans were proposed by national authorities, but the Commission had a strong role in tailoring those plans, both before they were submitted and afterwards, thus facilitating some cross-country consistency.

Nevertheless, plans became very different across countries, including the cost of actions, as the ECA also reported in its special report 21/2022 on the Commission's assessment of the NRRPs. The Commission concluded that it was not possible to make a proper comparison of cost efficiency across countries, so such an evaluation has not been made (or at least has not been published). This poses a risk to uniformly good value for EU money.

Strong conditionality could be another option. For example, climate funding could be disbursed only if certain emissions-reduction targets are met. Or in the current energy crisis, EU funding could be disbursed only if certain energy savings targets are met.

Any new EU crisis response tool should carefully align the type of conditionality (none, light, strong) with the stated purpose.

### Lesson 5 – An independent impact evaluation would be beneficial

The European Commission has a crucial role in all stages of RRF governance: making proposals for priorities and criteria, negotiating the plans with national authorities, evaluating the plans before the EU Council approves them, and assessing the achievements of milestones and targets. Due to its intense involvement, the Commission has a strong interest in portraying the RRF as a success.

This raises questions about the objectivity of the Commission's assessment. Of the 25 plans that have been assessed so far, 22 obtained exactly the same assessment (see Table 6 here): the best 'A' grade for all criteria except the cost justification criterion, which was graded 'B', implying 'medium-quality'. The remaining three plans also obtained a 'B' grade for cost justification (and one or two more 'B's for other criteria). Identical Commission assessments that the cost justifications for EU countries' recovery plans are 'medium-quality' undermine trust in the assessments, and raise questions about whether recovery money will be well spent.

Independent evaluation of RRF plans and their implementation is needed, as well as for any new EU crisis response tool.

### Useful lessons to be drawn

NGEU, and its main instrument, the RRF, are historical achievements which benefit EU citizens, companies, and institutions in many ways. While still in its early stages, I think that some useful lessons can already be drawn from the RRF for the design of any future EU crisis response tool. In short, such tools should:

- allocate funds to reach the stated purpose;
- stand ready to react much faster;
- define the guiding principles of cross-country distribution;
- carefully align the type of conditionality with the stated purpose; and
- provide, from the outset, for an independent evaluation of the plan and its implementation.

# The RRF: giving country-specific recommendations teeth to enhance the European Semester's standing

By Jules Bracke, Leiden University, and Luka Raaijmakers, Ministry of Economic Affairs and Climate Policy of the Netherlands

*Source:* European Commission.

With the RRF instrument – gloves on for the European Semester reform measures?

One thing that stands out in EU policymaking is that policy areas are connected and communicating vessels: for example, activating one policy instrument to mitigate climate change may have unintended consequences in the area of competitiveness and social cohesion. The war in Ukraine has only underlined the linkage between numerous policy areas. In this respect, the Recovery and Resilience Facility (RRF), an instrument to mitigate the socioeconomic consequences of the COVID-19 pandemic, has clearly affected other EU policy tools. Jules Bracke, a lecturer at Leiden University, and Luka Raaijmakers, a policy advisor at the Dutch Ministry of Economic Affairs and Climate Policy, previously worked as interns in the cabinet of late former ECA Member Alex Brenninkmeijer. Taking the interdependence of policy measures as their starting point, they look at how a new instrument like the RRF may influence another EU instrument created after an earlier crisis: the European Semester.

## Global crises as catalysts

The 2008 financial crisis had a major impact on the highly globalised European economy. In response, the EU Member States agreed on the need for more economic and fiscal coordination to induce reforms in order to prevent them – and Eurozone members in particular – from suffering a similar future economic and financial crisis in the future. In a concerted effort, a new instrument in the EU's economic toolkit was created: the *European Semester*. Through this cycle of economic, fiscal, labour and social policy coordination, the European Commission monitors the situation in all Member States, putting forward various recommendations.

Formally endorsed and published by the Council, Member States would subsequently be expected to implement these recommendations, also known as country-specific recommendations (CSRs). Although, in theory, all CSRs are expected to be neatly implemented, in its special report 16/2020 *The European Semester – Country Specific Recommendations address important issues but need better implementation*, the ECA signalled to EU policymakers and the general public that the CSR implementation rate was low. This has been corroborated by others: according to the European Parliament

Research Service, the proportion of CSRs having been at least partially addressed fell from 71 % in 2012 to a startling 39 % in 2019. The decreasing rate of implementation has prompted some to claim that the European Semester does little more than pay lip service to reforms, with no stick to enforce them.

In response to another crisis, the COVID-19 pandemic, the EU came up with an unprecedented response, creating the NextGenerationEU (NGEU) recovery package with its flagship instrument, the Recovery and Resilience Facility (RRF). Will NGEU, and in particular the RRF (considering the performance conditions attached to reforms) result in a substantially higher CSR implementation rate under the European Semester? Will it foster a shift from friendly recommendations to ones that must be achieved in order to unlock funding?

## The first decade of the European Semester – thriving on peer pressure and 'naming and shaming'

Every year in May, under the European Semester procedure and in accordance with Articles 121 and 148 of the Treaty on the Functioning of the European Union, the European Commission presents CSRs for every Member State to improve the EU's economic and social sustainability and coordination. In July, the Council formally endorses these CSRs, thereby putting the onus on the Member States to implement them. CSRs can include a wide variety of recommendations on matters such as on fiscal policy, macroeconomic imbalances, productivity, competitiveness, climate, energy and sustainability. As a tool increasingly used for surveillance, the European Semester has been streamlined, resulting in a notable decrease in the number of CSRs issued, from 138 in 2012 (157 in 2015) to 104 in 2020[1], with most relating to fiscal and budgetary matters.

However, CSRs are not legally binding and, generally speaking, cannot be legally enforced. This has been the case since the introduction of the European Semester in 2010. While some interest groups or individual citizens can sue a Member States' government, for example, for not implementing certain EU environmental regulations, this is not the case with CSRs. Nor does the Commission have the power to enforce its CSRs through the Court of Justice of the European Union (CJEU). Member States' own motivation to implement CSRs and peer pressure from other Member States are therefore important factors in the implementation of CSRs. This is where 'naming and shaming' kicks in[2].

## Creating a 'carrot and stick' approach

In 2020, when the RRF was not yet formally established and remained surrounded by a fog of uncertainty, the ECA examined the European Semester and recommended strengthening the link between EU funding and CSRs. Interestingly, the RRF addresses this problem by linking payments directly to the reforms and investments stipulated in CSRs, which Member States must address in their national recovery and resilience plans (NRRPs). Responsibility for implementing CSRs lies exclusively with the national authorities. As reflected in its *Recovery and Resilience Scoreboard*, the Commission monitors the Member States' implementation of the NRRPs and hence also their compliance with the CSRs. If Member States do not implement the reforms recommended, they may lose access to EU funding. Clearly, linking reforms and CSRs to funding gives Member States a strong incentive to implement them.

This explicit link between the CSRs and the RRF affirms the prominence of the European Semester. Vanhercke and Verdun have described this change as a powerful opportunity for Member States to overcome domestic barriers to implementing tricky CSRs: '…the RRF upgrades the Semester'[3]. This is because it turns CSRs from urgent but friendly advice into a stricter and – in financial terms – more painful instrument to push reforms through, thereby potentially increasing the implementation rate substantially. It replaces the soft power of peer pressure with direct financial conditionality.

1 European Parliament Research Service, *Country-specific recommendations: An overview*, European Union Briefing - September 2020.

2 Bekker, S, *Hardening and Softening of the Country Specific Recommendations in the European Semester*, West European Policics, 2020, Vol. 44, No. 1, pp. 114-133.

3 Vanhercke, B., & Verdun, A. *The European Semester as Goldilocks: macroeconomic policy coordination and the recovery and resilience facility,* in: JCMS: Journal of Common Market Studies, 60(1) (2020), 204-223.

## Changing dynamics of the EU economic and financial coordination landscape

It appears that the strengthening of the European Semester has shifted the balance of power towards the Commission. The Commission's assessment of Member States' progress on their CSRs (which is key in order to unlock forthcoming rounds of RRF funding), gives it a potentially powerful means of making sure they implement their CSRs by offering them financial rewards for doing so[4]. However, the Commission's power is not final in this respect. Member States have significant autonomy in drafting their own NRRPs and, according to the RRF Regulation, the final approval of payment requests is ultimately in the Council's hands. Nevertheless, under the umbrella of the RRF, the Commission has raised the stakes for Member States for not following CSRs, thereby increasing the European Semester's *potential* as EU's economic toolkit. We stress the word *potential* here since the real proof will be the actual achievement of the milestones and targets – the crucial element of the RRF from an accountability point of view.

*Source:* Markus Winkler/Unsplash.

This potential shift of the European Semester's effectiveness places increased responsibility on the ECA, too. As its audit work on special report 16/2020 showed, assessing the Commission's monitoring of CSRs means examining many aspects. Reviewing the Commission's work on NRRP milestone achievements and what Member States are doing to implement their reforms, let alone the impact of those reforms, creates various other challenges from an audit point of view – scope, methodology to be used, access issues, data and also resources. While expectations may be there, considering the words of Commission President Von der Leyen when she underlined that 'the Court of Auditors plays a vital role as the guardian of EU finances [...] all the more important now that we have been entrusted with managing the largest financial package ever financed through the EU budget, with our recovery plan NextGenerationEU'[5].

We have argued that the RRF may create impetus to bring the European Semester back to the forefront of policy coordination thus fundamentally transforming the leverage of CSRs. Irrespective of implementation rates, the design of the RRF also brings the Commission back into the limelight when it comes to the European Semester. Its mandate is still to provide CSRs in the annual cycle of the European Semester, which not only need to be carefully assessed but also valued against the then prevailing implementation of National Recovery and Resilience Plans. Of which the impact differs substantially per Member State, already visible in the fact that RRF grants and loans as share of national GDPs differ substantially among Member State. It might be interesting to undertake further research on the correlation between the number and type of CSRs and these GDP shares and further analyse the actual impact of combining the carrot with the stick method for EU wide economic and fiscal policy coordination.

5 European Commission, European Commission and European Court of Auditors: College to College meeting, 2020. Retrieved from European Commission's press corner.

# What if… the future of EU funding is the RRF on steroids? – Scenarios for future EU expenditure and audit

By Andreas Bolkart, Directorate of the Presidency

Source: Depositphotos/ Hipatia

A figurative 'black swan' is an unpredictable or unforeseen event, typically one with extreme consequences. EU High Representative Josep Borrell told EU ambassadors at their annual conference on 10 October 2022 that in the future all swans seem to be black.

Many observers have called the advent of NextGenerationEU and its most important component, the Recovery and Resilience Facility (RRF), a watershed moment for EU revenue and expenditure, a 'revolution' or 'point of no return'. It is now two years since the initial excitement, and we have seen the first year of the new instrument's implementation. Andreas Bolkart, a principal manager in the ECA's Presidency and responsible, among other things, for planning and foresight, takes a fresh look at the future of EU expenditure and audit by building some scenarios around present features and risks of the RRF. While this is certainly intellectually stimulating and entertaining, it can also help our minds get used to unusual and unexpected outcomes and developments, which have become more frequent in recent history. Below he presents five 'what if' scenarios.

## Getting real about performance – what if… EU expenditure becomes 'results-based '?

Source: Depositphotos/djv

By 2025, it becomes apparent that the Recovery and Resilience Facility (RRF) 'is working', meaning that the legislators – the Parliament and the Council – are sufficiently happy with its efficiency in bringing about the reforms and investments needed. In fact, they find the RRF more efficient than the multiannual financial framework (MFF) funds. Experience with the CAP strategic plans is also largely positive. However, the legislators make the criticism that the RRF's milestones and targets are inputs rather than results, and that the instrument is therefore not really results-based and is too weakly linked to the European Semester. The Parliament and Council decide to take performance-based funding to the next level and the Commission designs the next MFF to be largely conditional on actual results and impact. National plans are completely synchronised with the European Semester's country-specific recommendations and are thus revised annually.

This has enormous implications for the way funds are paid out and managed. For example, climate expenditure is no longer simply paid out for – say – energy efficiency projects; rather, payments depend on the actual reduction of energy consumption achieved. Objective setting is suddenly taken very seriously and control systems now focus entirely on reliable result indicators. Payments are either provisional for years or only made once results can be measured. The Commission restructures entire directorates or even directorates-general (DGs) to respond to the new challenges. However, expected resource savings are not achieved as monitoring results takes just as much work as monitoring compliance did previously.

**EU audit in this new reality…?**

Suddenly all audit is performance audit. But the consequences of shortcomings are much more serious. Auditors become experts in result indicator systems and data analysis, or hire such expertise. Audit access rights now need to go deep into the Member States' data reporting systems in almost all sectors, which is only accepted after some Member States lose lawsuits before the Court of Justice of the European Union. Concerns soon surface about, for example, some performance targets providing perverse incentives, less focus on compliance undermining public trust, and performance assessment focusing on box-ticking instead of impact.

## Anti-fraud crack down – what if… protecting the EU's financial interests takes centre stage ?

In late 2023, a local whistle-blower uncovers a major fraud case concerning an energy efficiency investment programme included in a national recovery and resilience plan (NRRP). Hundreds of projects by a conglomerate of financially connected small and medium enterprises (SMEs) were fake, meaning undue payments were received. For months, national authorities engage in a blame game about whose control systems should have detected the fraud. Both the European Commission and the ECA are heavily criticised for having placed 'blind faith' in Member States' declarations. Legal uncertainty as to how and from whom money should be recovered leads to a legal battle lasting years.

*Source:* Depositphotos/ hchjjl

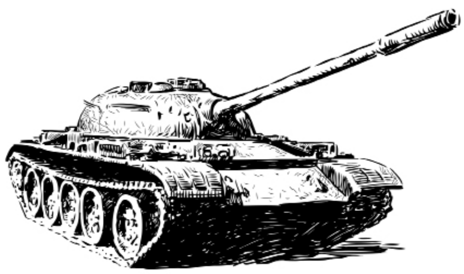
In the run-up to the 2024 European Parliament elections, public opinion of EU funding deteriorates significantly. Under pressure from 'frugal' Member States, new legislation is enacted that leads to much stronger controls for the remaining payments. Under the new rules, the Commission has to divert significant resources away from other policies to the running of the RRF.

**EU audit in the new reality…?**

From 2024 onwards, the ECA's Statement of Assurance audit for the RRF is aligned completely with the MFF method. The ECA also carries out fraud prevention system audits concluding on all 27 Member States individually. This obviously requires considerable resources and the ECA's performance audit output shrinks to a level not seen since the nineties.

## Resilience reloaded - what if… the RRF is followed by the MRF - the Military Resilience Facility ?

It is autumn 2024. The Russian war on Ukraine is formally still ongoing, but frontlines haven't moved at all since the last Ukranian offensive in summer 2023. Russia seems to be trying to only hold its ground while focusing fully on a massive rearmament campaign designed to – in Putin's own words – 'show all of America's vassals who Europe's only superpower is'. At the same time, Ukraine cannot strike a decisive blow as popular support for military aid has dwindled in Europe and the US.



*Source:* Depositphotos/ alekseimakarov

In the early hours of 6 November 2024, Donald Trump is declared the winner of the US presidental elections. In one of his first statements, he repeats his campaign promise to withdraw all US military from Europe to focus on a looming confrontation with China in the Pacific. According to him, 'Russia is Europe's problem'.

With American protection gone and in light of a rising threat from Russia, the EU sets up a Military Resilience Facility (MRF) worth €1.5 trillion, available between 2025 to 2035. All Members States must reform their militaries and invest in military capability according to Military Resilience Plans approved by the Commission and Council. If they implement these reforms and investments, they receive funding from the MRF.

**EU audit in the new reality**

The ECA faces the completely new prospect of auditing military expenditure, which poses challenges in terms of expertise and audit access rights. To address these challenges, it enters into close cooperation with national supreme audit institutions. Auditors from the ECA and from national audit offices form a joint MRF audit workforce that is managed by a shared board and has staff in Luxembourg and all EU Member States.

## A 'normal' budget– what if… the EU budget is funded by EU bonds paid back with the EU's own tax income ?

*Source:* Depositphotos/ toricheks2016.gmail.com


Europe in spring 2026: years of 'stagflation' have left European countries heavily indebted. Public debt in the Eurozone now stands at a staggering 125 % of GDP and the interest rate spread between Italian and German bonds is at 5 %. In mid-2026, to make the final RRF payments, the European Commission issues the last NextGenerationEU (NGEU) bonds at an interest rate more favourable than most EU Member States can obtain on the market.

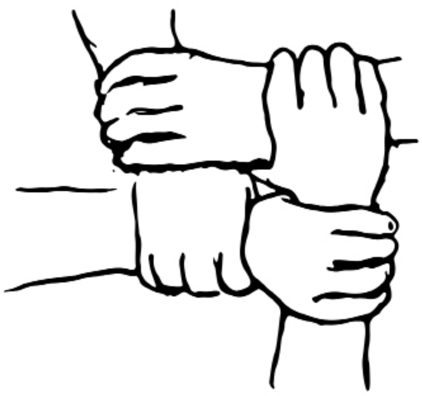
At the same time, the 2028-2034 MFF is being negotiated. The EU's tasks keep expanding, but nobody wants to put more money on the table. At some point, the Commission states the obvious: financing the MFF with national contributions is more expensive overall than using EU bonds directly. The Council decides to model the revenue of the future MFF on the NGEU, only this time fully financed by EU taxes, introducing new EU own resources to fund the repayment of the EU bonds.

**EU audit in the new reality**

The new rules effectively create the need for the ECA to audit parts of Member State budgets in some form. This is legally challenged by a number of Member States. But the bigger problem is one of expertise on national budgets and human resources. The pragmatic solution is for national supreme audit institutions to provide audit opinions based on an commonly agreed assurance model, but this model takes years to define, agree upon and implement.

## Bittersweet budget transfers – what if… a future RRF leads to more fiscal and budgetary oversight by the EU ?

In 2025, Member States and Parliament see the need to create a successor to the RRF, potentially merging it with parts of the MFF. This is not so much because they believe the RRF works very well, but simply due to ever-increasing EU policy objectives, paired with tightened national budgets. The reforms under the NRRPs are found to have not been implemented adequately. In some Member States, enacted laws are not implemented or are later blocked by contrary legislation introduced by new governments. Even investment programmes fall significantly behind schedule. The Commission is unable to trigger any significant recoveries due to legal challenges and political factors.



At the 2025 Spring European Council, one of the 'frugal' heads of state puts it bluntly: 'This is nothing more than a glorified budget transfer.' The European Parliament, too, continues to be very unhappy. In late 2024, the chair of its Budgetary Control Committee states: 'This is the third discharge of the RRF and for the third time we are asking: what is all this money being spent on and whom can we hold accountable for the things that aren't working?'.

**EU audit in the new reality**

The new rules effectively create the need for the ECA to audit parts of Member State budgets in some form. This is legally challenged by a number of Member States. But the bigger problem is one of expertise on national budgets and human resources. The pragmatic solution is for national supreme audit institutions to provide audit opinions based on an commonly agreed assurance model, but this model takes years to define, agree upon and implement.

To remedy these shortcomings in the new 'RRF 2.0', the Commission's and the ECA's access rights for the control and audit of national expenditure are significantly extended to all parts of national budgets that include RRF funds. The new rules lead to significant changes in the Commission's control strategy, as fiscal surveillance merges with expenditure control to form a new type of oversight.

# 'Budgets are my life' – a passion for budgets and reviewing them

## Interview with Jorg Petrovič, ECA Member since 7 May 2022

By Gaston Moonen

Jorg Petrovič

With several Member States having joined the EU in May 2004, May is also a month that sees some ECA Members leave office – normally after a six-year term – and new Members take up their duties. On 7 May 2022, Jorg Kristijan Petrovič succeeded Samo Jereb as the ECA Member from Slovenia. New though he may be to Luxembourg and to the ECA, Jorg Kristijan Petrovič is by no means new to audit. He has worked almost his whole life as an auditor in the public sector and is keen to put his knowledge and experience to good use for the ECA and the EU.

### From auditor to auditee

When we meet in his office, Jorg Kristijan Petrovič apologiszes for his relatively empty office, which is even accentuated by the light colours. 'Our office was up for its periodic renovation and some of the furniture taken away has not been replaced yet. But it will come soon.' It does not affect the relaxed atmosphere in which we discuss his early days at the ECA and what he did before coming to Luxembourg. On the contrary: he is very positive about his first few months in Luxembourg, having 'landed' with his family in the city and occasionally walking from home to the office. 'It's a good workout too, taking the stairs down to Neudorf and going up to the Kirchberg' [where the ECA is located]. He reveals that keeping fit is important both to him and to his wife and children. They all love skiing, a sport that was always popular in his family.

From a professional point of view, he has another passion: finance and audit. In fact, during his hearing as an ECA Member nominee in the European Parliament, he expressed this by saying 'Budgets are my life!', specifying that for more than 20 years he has been involved in either preparing or revising budgets. His professional experience started, having obtained an economics degree from the University of Ljubljana, as an audit assistant at the Court of Audit of Slovenia. 'I chose the Court of Auditors because, back then in the nineties, Slovenia was a new country. There were many new institutions being built from scratch and the Court of Auditors was one of them, something completely new. Everybody had their own vision of what it was actually going to be like and I wanted to give it a try, to see how it would develop. So I started practically in the second year of its existence.'

Jorg Kristijan Petrovič says that he started as an apprentice and, through the years, climbed up through the system. In 1999, however, he took a leave of absence for what would amount to five years. 'I went over to "the other side", as we say; not being an auditor, but an auditee. I worked as a financial officer in a local community and was responsible for the budget. That is how this love for the budget came in.' He recalls it was a new local community and there were community reforms back then. 'I had this complete freedom to build all the community's systems in the area of finance: all the programs, IT systems, the platform for accounting and everything. I'm happy to say we ended up as a financially very well organised local community. The financial information that the mayor got was of high value, knowing practically every day where we stood.'

### Towards participatory budgeting

These were also the days that, for him, triggered reflections on how to bring as many people as possible on board in the decision-making system, leading to what he calls 'participatory budgeting.' 'We have this indirect democracy where people elect representatives to sit on the local community council. Still, I've always had this feeling that maybe we don't get all the information on hat people really want. And that's how I came across the idea of participatory budgeting.' He explains that, in his view, this is the way to get more people involved in local issues. 'I just joined one of the platforms here in Luxemburg, called Hoplr. We got a leaflet last week. It is partly just an exchange of information in the neighbourhood, but we were also promised the to participate and exchange ideas with the local government on the local interests of our small community in the part of Luxembourg where I am living.'

> *… I've always had this feeling that maybe we don't get all the information on what people really want. And that's how I came across the idea of participatory budgeting.*

Expanding on the concept of participatory budgeting, he clarifies that the idea developed in South America and then migrated all around the world. 'It is actually the idea that the people compete with their ideas within their community. So, you have a first and second round of exchanging opinions and ideas, and people present their ideas when they see a need in the local community. These project ideas are put through a kind of voting system, and the project that gets the most votes then goes into the local community's budgetary process. It is a win-win situation for the councillors, because they get this information and if they deliver what the people want, they get re-elected. And people on the other hand get exactly what they want.' He describes it as 'indirectly direct democracy,' which is more than just representative democracy.

When we discuss how this would work at EU level, the conversation quickly turns to the Conference for the Future of Europe, set up to involve citizens more, and its outcome. Jorg Kristijan Petrovič sees possibilities but also some constraints. 'Involving the people at local community level is something completely different from national or even EU level. Of course, we all have interests at all of those levels, but the higher you go in the system, the less impact you have and the harder it is to imagine and understand what directly affects you as a citizen. At local level, you understand very well what affects you: the water supply, the local playground and so forth. The higher up you go, the more complex the system gets and the harder it is to understand it.' He points out that when it comes to the budget, you have to start at the lowest level. 'First you get people involved. If they get involved and see that they are getting results, they tend to take more interest in the local policy and budget, because budgets are complicated for most people, very technical.'

A way to address this challenge is what he calls 'enhancing budget literacy.' 'Then people educate themselves and start to seek the opportunities to be educated about the budget, about the procedures of the budget, about the logic of the budget and everything that's behind it. Even about accounting

> *Then people educate themselves and start to seek the opportunities to be educated about the budget (…) Only then, once they obtain this budget literacy (…) then can you move upwards*

and debt management, for example. Only then, once they obtain this budget literacy, once they educate themselves, can they understand everything. Only then can you move upwards, to national level and maybe later on to international level. It is a process; it is not something that happens overnight.' He recalls that when he came to this little local community in 1999, he had to learn a lot, in practical terms, virtually overnight.

Being on 'the other side' taught Jorg Kristijan Petrovič a lot: 'As an auditee, there are many obligations that you cannot simply postpone, and say you need more audit days. For example, people need their salaries on their accounts every month; you cannot just say "I couldn't do it today or this month, I will do it next month."' He emphasises that the budget process must follow its schedule, which requires discipline. 'So it is quite a different world from audit, where we have a bit more freedom.' He considers this important, since it provides an opportunity to look at things more deeply or broadly. 'To really look under the surface, to understand, to compare and to form ideas. Because , you don't have time for that.'

### Back to audit…with a focus on budget issues

'I was invited back to the Slovenian Court of Auditors and took over the department that was responsible for auditing local communities.' Explaining that in Slovenia, the Court of Auditors is responsible for auditing at both national and local level, he recalls that one of his predecessors at the ECA, Martin Cvikl, then President of the Slovenian Parliament's Budget Commission, was very much in favour of auditing local communities. So he and his team presented many findings relating to local communities, providing input for new legislation governing these communities. 'Because we could tell the legislator where the weaknesses were and where things should be improved.'

Given his expertise in budgets – rooted in local government – the Slovenian Court of Audit put him in charge of the 'Department Audit of the Budget, Justice and Political Parties. 'There I was made responsible for auditing the state budget, then it became even more interesting.' Throughout the interview, his interest and sheer enthusiasm in budget issues shines through. It is apparent even beyond the interview, in his many articles and presentations on capital flows, deficit considerations, balanced budget concerns, etc., which all relate to budget issues.

For Jorg Kristijan Petrovič, the relevance of budgets is self-evident. 'Because everything in the system is interconnected, of course. If something starts to go wrong at one point, then it is like a domino effect, it goes through the whole system.' He recalls the period right after the 2008 crisis as a very interesting one. 'We were all struggling to find solutions. Being responsible for the state budget in the Court of Audit meant that I was one of the best informed people about the state of public finances, besides the people at the ministry of finance.' This obliged him to do as much as possible to improve the situation. 'Earlier we spoke about being a public servant. It actually gives you responsibility, in the sense that if you have knowledge and information and you do not use it for a good purpose – to try and make things better – it would feel like a burden on my soul. I felt this responsibility.'

> *[On the relevance of budgets] If something starts to go wrong at one point, then it is like a domino effect…*

> *… if you have knowledge and information and you do not use it for a good purpose (…) it would feel like a burden on my soul.*

He explains that it made him reflect on how to come up with proper solutions and how to communicate them. 'That is why I started to act, writing articles, and then even started some civil initiatives, like the movement of citizens. We also started to promote this balanced budget idea, which was a very interesting idea back then, and not only in Slovenia: we also advanced it at EU level.' He adds that these ideas related not only to changing legislation, but also to the very foundations of that legislation: 'Changing constitutions, introducing this idea of a balanced budget in countries' highest-level legal acts. This process is still ongoing and many EU countries have introduced changes to their constitutions, Slovenia being one of them.' Jorg Kristijan Petrovič was one of the members of an expert group in Slovenia that prepared the corresponding text for the Slovenian constitution. 'From draft to adoption it took us three to four years.'

### A sustainable budget is a balanced budget

When it comes to balanced budgets, the new ECA Member must feel comfortable with the EU parameters because, in principle, the EU budget cannot have a deficit. Or at least it couldn't until recently – because the Recovery and Resilience Facility (RRF) has changed things in this respect. He points out that the RRF marks a major departure from usual EU practices. 'But these are exactly the topics that interest me the most. I hope that I may be given responsibility for one of the audits on sustainable financing or something related – sustainable debt, debt management, perhaps something related to the RRF.'

> *I hope that I may be given responsibility for one of the audits on sustainable financing…*

As a member of the 'Financing and Administering the Union' audit chamber, Jorg Kristijan Petrovič is well placed in this respect. 'I think this topic is most relevant, because we are still lacking the legislation on resources, on new sources of revenue. Such legislation should be on the way in the next couple of years. After all, we will have to start paying back all this debt that is now being taken on, from 2028 onwards.' He has been given responsibilities in this area, which he will work on together with his cabinet staff, who were mainly recruited from within the ECA. 'I wanted insiders because that makes for an easier transition. They know the topics, they know the people, they know the procedures. My head of cabinet, Martin Puc, has already participated in one of these audits.'

The roots of the new ECA Member's interest and concern about a balanced budget are not only professional. 'It is understandable that we don't talk about a balanced budget in annual terms. But having an unbalanced budget in the long term is unsustainable. What are we leaving for the next generation, for our children? I have three daughters. What kind of world, as a father, am I going to leave them with? What will I reply to my grandchildren when they ask me: "What did you do when you had some kind of control or influence, information to work with – did you do enough?" Now I am confident that I have done my  back home and now it is up to the next generations of auditors in Slovenia to follow up on these developments. But often with these issues it is not one person's story, it is the whole nation's story.'

> *… having an unbalanced budget in the long term is unsustainable. What are we leaving for the next generation, for our children?*

When discussing national and EU budgets, Jorg Kristijan Petrovič explains that he pretty much knows and understands the procedures in Slovenia. But then there is another budget: the EU budget. 'It is one of the biggest budgets there is. This is what I see as a challenge because I think that there is always room for improvement in any system.' He feels that with his knowledge and expertise in this area, he is, as an ECA Member, in a good position to contribute as much as possible in the public interest.

Another issue the new ECA Member finds very relevant is digitalisation and the use of IT tools. 'This is one of the reasons why I took Mirko Iaconisi, with all his IT experience, into my cabinet. With all the possible integration that we are experiencing now, there are still various parts of the EU budget that are, for example, on different IT platforms.' He finds this rather surprising. 'With so much integration and development in the area of IT, you would expect things like that to have been addressed.' He refers here to the RRF. 'To me it appears to be a missed opportunity that they have not introduced a common IT system for all the Member States. Then you would already have all the information necessary, not just for the executives who are working on the RRF, but also for us as auditors.'

> *[Regarding the RRF] To me it appears to be a missed opportunity that they have not introduced a common IT system for all the Member States.*

He recalls reforms in Slovenia at the end of the nineties. 'It was a big struggle to put everybody on the same platform. It was only once the minister of finance was in charge that they could prevent overspending, because then they had the IT capability to simply look at the state budget, and the rest of the ministers were no longer able to spend without permission from the minister of finance.' He remarks that it was only through this system that the budget was really brought under control. 'For us as auditors, it was much easier to audit because it was a single IT base and we could pick up all the data, using the same system as we use here at the ECA: monetary unit sampling.'

## Transparency in everything you do, including as an auditor

Beyond his role within the ECA and his audit chamber, Jorg Kristijan Petrovič sees a particular role for himself outside the ECA, not least in relation to Slovenia. 'I am following in the footsteps of my predecessors at the ECA, providing a link between the ECA and the Slovenian government institutions, the Slovenian Parliament and the Slovenian Court of Auditors; presenting ECA annual report findings, but also special reports that might be interesting for Slovenia.'

He emphasises the importance of coordination here, both within the ECA and with its sister institutions in Member States. 'Take for example the RRF, where the European Commission has highlighted the Member States' responsibility for implementation and providing assurance that EU funds are being spent in accordance with EU and national rules. What does this mean for auditors at national level? Of course, we are all independent institutions and there should be no interference. But to have at least some exchange of knowledge and information between EU and national audit institutions on their respective plans seems to me rather reasonable necessary.'

For Jorg Kristijan Petrovič, such exchange is more than just a matter of doing the best possible job. 'If, at the end of the day, something goes wrong with RRF expenditure – if it happens that some irregularities are noticed or something that was expected was not delivered – one would try to find out who is responsible. Then the European Commission would say that there are auditors who have been monitoring it. So, part of this responsibility could fall on us, and we should be prepared for that' – all the more reason why the ECA should monitor developments and be involved right from the outset. 'This is what the ECA College decided on almost two years ago: a hands-on approach. And why our recent annual report includes a chapter on the RRF, even though there was only one payment.'

> “*If, at the end of the day, something goes wrong with the RRF expenditure (…) part of this responsibility could fall on us, and we should be prepared for that...*

When discussing the matter of audit priorities in relation to the RRF – which he describes as 'enormous', from a financial point of view – he highlights aspects such as materiality but also the nature of the subject matter involved, referring to his experiences with auditing political party expenditure in Slovenia, often considered to be a rather sensitive issue. 'In Slovenia we did our job as transparently as possible. And this is the most important part of everything: if you do your work in a transparent way, if you present your findings according to the criteria that you use – usually the legislation that says what auditees can and cannot do – then there is no problem. If you have proper audit evidence, then the sensitivity of a topic is not your problem. Then it is up to the other party to change things before the next round of audits.' He concludes that transparency is essential, not only on the part of the auditee but also of the auditor.

> “*If you have proper audit evidence, then the sensitivity of a topic is not your problem.*

In relation to the RRF, he observes that it is not only enormous in scale but also presents a new 'audit universe', as he terms it, one in which transparency also plays an important role. 'It is something completely new, in its approach, how it deals with compliance, etc. It is also a challenge for us: what is there to be audited? That's why I think we can really add value to this new system if we can suggest introducing a system that we think makes it truly auditable.'

## Relating the ECA's work to global policy goals … with the help of participatory budget procedures

Coming from a national audit institution the work at the ECA has not presented any surprises yet for Jorg Kristijan Petrovič. 'At least not in the field of audit. The work is basically similar, maybe procedures are sometimes slightly different. The one surprise for me, though, is the close contact we have with the Commission. In my country, we never held meetings with the government, nor lunches or anything like that. We met ministers individually, perhaps to discuss certain topics, or at least state secretaries. But the whole government, no. Our main partner was always parliament.' He considers this a pleasant surprise. 'To see that they have an open ear to listen directly to our recommendations and expectations. This is important and gives the ECA the power to make our recommendations on policies, for a better impact, directly to the "EU government," i.e. to the European Commission.' It also provides an opportunity to listen to Commission's needs and expectations. 'But here we need to strike the right balance because we are an independent institution. So sometimes no matter what their expectations are, you have to tell your own story of course.'

*The one surprise for me, though, is the close contact we have with the Commission.*

Another aspect that he finds intriguing and well worth exploring is the UN sustainable development goals (SDGs). 'Take for example our recently published special report 20/2022 on illegal fishing. The SDGs relate directly to maritime life. Overfishing is a huge problem, and Europe's fish consumption is among the highest in the world. If we don't get overfishing under control, we are not going to achieve these SDGs. Europe is one of the biggest players globally, we should take this responsibility.' He fully understands that not all SDGs are in Europe's hands. 'There are SDGs relating to peace, justice and so on, and Russia's war in Ukraine means this target is definitely going to be missed. There is also the question of whether all goals are equally important for Europe. I think the most frequently discussed topics are the environment, perhaps also gender equality and some others.'

Jorg Kristijan Petrovič points out that all of these SDGs are important and he wonders what the ECA could do to better promote them. 'The ECA has carried out many audits in fields that are in some way connected to the SDGs. It would be nice to have some link on the front page of our reports so we can say "this audit was linked to thisSDG."' These could be, for example, pictographs signalling to people that the ECA uses and actually covers the SDGs. 'This wasn't originally my idea, but one that came out of discussions held in the context of the UN in one of the commissions responsible for the national audit offices and how they could promote the SDGs and be transparent on them.'

Overall, asked where he, as an ECA Member, particularly hopes to make a difference, Jorg Kristijan Petrovič comes back to his professional passion for budgets. 'I really hope to contribute on budget and IT issues. And maybe on top of that, if there were any way I could promote participatory budget procedures at all levels – something that cannot be done overnight – then I would be completely satisfied with my work.'

*I really hope to contribute on budget and IT issues. And maybe (…) promote participatory budget procedures at all levels…*

# Three weeks in Paris – reaching out through a performance award

By Marion Kilhoffer, Financing and administering the Union Directorate


The French Court of Audit is located on the same street as Chanel's historic birthplace. You can hardly get more French than that!

The ECA actively encourages the exchange of knowledge between staff members from different institutions, be it at EU, national, or regional level. This includes secondments from other institutions, national experts and interns (in addition to staff transfers between institutions), but the ECA also allows its staff to work in sister institutions for a specific period of time. Marion Kilhoffer, Senior Auditor at the ECA, decided to turn an opportunity that presented itself when she obtained an ECA Performance Award into a short-term secondment with France's Cour des comptes, reaching out to stimulate professional exchanges and promote greater understanding of each other's work, processes, positions, and roles. Read on to learn about some of her experiences.

## Optimal use of the performance award flexibility

In November 2021, I received an ECA performance award and decided to use it for a short-term secondment to another supreme audit institutions (SAI). There are currently few possibilities for ECA secondments to national SAIs, and this was something I had always wanted to do. I set my sights on the French *Cour des comptes*, partly for convenience (both from a language and accommodation point of view), but also because it is such a venerable and respected institution in France. I also had the opportunity of visiting it years ago during Heritage Days, and it was a fond memory.

Secondments under the performance award framework are supposed to be for two weeks, but I successfully argued that this was too short to benefit fully from the experience. Since the ECA would save on hotel costs because I was able to find free accommodation, it would not have cost the ECA any more to allow me to go for three weeks. Our liaison office took care of the initial contacts with their French counterparts, and within a couple of months, everything had been agreed.


My temporary service card.

## Similarities and differences in producing an audit report

I was assigned to the first *section*, which is similar to an audit team at the ECA, of the fifth Chamber, responsible for housing policy. When I joined, they were preparing a benchmarking guide on housing policies in Europe, where the aim was to help and encourage their auditors to conduct comparisons with European countries when assessing public policy. I knew nothing about housing policies in Europe and very little about those in France, so there was a lot to discover. The biggest advantage of being assigned to a specific task, as opposed to just being there on a study visit, was that I was able to be part of a team and actually produce something tangible. The colleagues in the first *section* were unbelievably friendly and welcoming, and it was a real pleasure to work with them.

In addition to working on the benchmarking guide, I was also able to attend two *délibérés*, which are deliberations, something akin to our audit chamber meetings. The first one was on draft preliminary observations, prior to the clearance procedure on the findings with the auditee. This meeting was something in between our audit chamber process, answering comments made by our quality reviewers, and our audit chamber adopting a draft report. It was interesting to see how the process was both more formal and yet also more informal than our way of proceeding. A 'counter-report' is prepared by someone external to the team, pointing out the different points in the observations that could be improved; the meeting itself is a formal deliberation. However, there is no need for the team to reply to the counter-report in writing, contrary to the way we reply to quality review observations made within the ECA.

The second deliberation was on a *note de cadrage* - an outline note - that loosely corresponds to our issue analysis stage, during which an ECA audit team formulates the main issues to be covered under the selected audit topic. There again, there was quite a contrast between the formality of the meeting and the more informal way we conduct an issue analysis. There was again a counter report, and the meeting was chaired by the President of the Chamber.

The *Cambaceres* room, prepared for a deliberation.

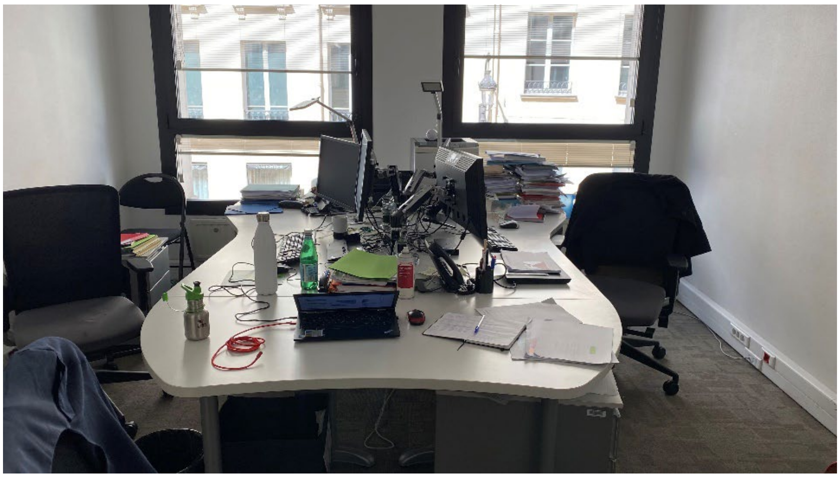
## Procedural court matters

The French Court of Audit has some jurisdictional powers, allowing it to judge public accountants who have been charged with failing in their duties. This part of their activity is currently under reform, but I had the opportunity of attending one such hearing, since they are open to the public. It was surprising for me to see an accountant in a sense being 'put on trial' for offences such as making a payment without having sufficient supporting documentation. In our EU audit environment, when we come across these situations we tend to count them as errors, and the European Commission then takes the necessary steps to recover any unduly spent amounts. Of course, at a higher level, Member States can contest the recoveries before the Court of Justice of the European Union, but individuals are not subject to these procedures.

During my three-week stay in Paris, there was also an *audience solennelle* or formal hearing, where the newly appointed magistrates were sworn in before the whole Court. It was quite something to behold. Magistrates in the French Court of Audit wear the trappings of their office including ermine-trimmed robes (a white fur trim which was originally sourced from ermine stoats, although I do not think it is made from real ermine fur anymore).


Article 15 of the *Déclaration des Droits de l'Homme et du Citoyen* (French declaration of human and citizens' rights), on which the Court is based.

The whole ceremony is very formal, including procedural salutations, answers to these salutations, and taking an oath. It reminded me of the images of the pre-1789 Paris Parliament, and it had a distinctly *Ancien Régime* flavour. Most of the offices, however, are modern. The historical building, the *Palais Cambon* dates from the beginning of the 20th century, and is a good example of what is known as the 'golden trappings of the Republic', *les ors de la République*. However, the other buildings are very functional, if a bit cluttered because of the piles of printed papers everywhere.



My not quite as grand, but still very comfortable office, which I shared with two other people during my visit.

## Coming full circle and providing feedback

I was in a bit of a grey area, somewhere between a trainee and a seconded official, but trainees at the French Court of Audit are invited to give a verbal *rapport d'étonnement* - literally 'astonishment report' - about what most surprised them during their traineeship. I was asked to do the same on a few occasions, and the people I was working with were eager to learn about how we do some things at the ECA. Apart from having a different balance between formal and informal discussions, a few other aspects surprised me during my time at the French Court of Audit, in particular the way that the independence of the magistrates is defined and understood (see **Box 1**).

**Box 1 – Independence of magistrates at the French SAI**

Independence of the magistrates is a fundamental principle at the French Court of Audit. Whereas at the ECA we define independence as meaning independent from national governments (according to our duty set out in the EU Staff Regulations), and independent from our auditees, in Paris the concept is much wider, and also means that certain laws governing the civil service do not apply to French Court of Audit magistrates. For example, this is the case for the law on gender equality in the public administration, which means that any change regarding gender equality has to come from within the Court, and cannot come from the outside. Independence also means more day-to-day autonomy for the auditors. Some audit stages (for example, the outline note, the draft observations and the adoption of reports) are decided collegially within a chamber, but the day-to-day work is solely dealt with by the audit team, with less middle management involvement.

Contrary to the EU civil service where most staff stay within one institution, except for the 5 % or so of interinstitutional mobility we have at the ECA every year, there is more movement into and out of the French Court of Audit. It was surprising for me to learn that magistrates can pursue a career in the private sector, while maintaining the possibility of returning to the Court at some point, depending on the circumstances, or a more political career, for example in a minister's private office. Once you get over the surprise of meeting a former French President's speechwriter, you may want to google the names of various people you meet, just to find out a bit more about who they are as far as their professional background is concerned. This also means that there is a wide variety of profiles at the French Court of Audit, with people arriving from different branches of the public service (such as the *fonction publique territoriale*, the regional public service, or operational staff from ministries). A few of the women I met were ex-military, and it was fascinating to hear them talk about their careers before they joined the French Court of Audit.

Overall, these three weeks have been a very positive experience. When I first arranged it, I had no idea I would be returning there for a longer secondment, and I thought it would be my only chance at seeing the inner workings of the French Court of Audit. In the end, it turned out to be a taster, and a good opportunity to take the time to discover what my work environment is going to be like for the next two years: from October 2022 onwards I am seconded to the French *Cour des comptes*.

**Box 2 - Some tips for a successful short-term secondment:**

- plan it in advance, at least five months before the start date you have in mind;
- make sure you are assigned to an actual task, so that you can actively contribute to something;
- ask your contact person there to help you define a list of people to meet that can explain how the institution works without taking up too much of their time;
- keep a fresh perspective on things, look for similarities as well as differences, and use the visit as an opportunity to share information and experiences about how the ECA works (be an ECA ambassador) while planning to do the same thing in reverse once you return to the ECA.

I can only encourage future ECA performance award laureates to consider doing a short-term secondment, in particular if they might be interested in a long-term secondment, but are unable to envisage it for family or other reasons. Personally, I think that three weeks instead of two is a more appropriate timeframe. It gives you enough time to settle in, and also enough time to actually contribute to a task. It also allows you to make up your mind as to whether you could imagine yourself working there for a longer period of time.

# Emerging technologies: ECA shows results at Interinstitutional Innovation Days

By Spyridon Pilos, Information, Workplace and Innovation Directorate

*Source:* Court of Justice of the EU

From virtual reality to reality…

With its aim of being at the forefront of public audit, the ECA has invested substantially over the years in exploring new technologies and methods to support digital audit. This involves searching for and finding inspiration also outside the ECA, in order to strengthen the institution's efforts to modernise public audit and share what it has been doing and intends to do in this area. One of the places it has done this is the Interinstitutional Committee on Digital Transformation (ICDT), and especially its Innovation Days. Spyridon Pilos, a principal manager in the Directorate of Information, Workplace and Innovation, is responsible for technology and innovation for audit. Below, he provides insights on the main issues presented during this year's Interinstitutional Innovation Day on 14 and 15 June 2022 in Luxembourg. He zooms in on the ECA's contributions to this event, covering innovations that are potentially also relevant for other EU institutions.

## Meeting again in person, not only virtually


On 14 and 15 June 2022, the Court of Justice of the European Union hosted the Interinstitutional Innovation Day at its premises in Luxembourg. The event formed part of the first face-to-face meeting of the Interinstitutional Committee for Digital Transformation (ICDT), which brings together the Chief Information Officers from all the EU Institutions and meets at least three times a year. Its mission is to synergise the digital transformation of the institutions. Magdalena Cordero, the Director for Information, Workplace and Innovation, represents the ECA on the ICDT. The topics discussed during the June meeting included digital sovereignty, the sharing of specialised resources, including in the field of artificial intelligence, as well as cybersecurity and common strategies for interinstitutional cooperation.

The Court of Justice's Innovation Laboratory organised a special half-day session where ongoing activities and projects using emerging technologies were presented by the European Parliament, the Council of the European Union, the European Commission, the ECA, the European Investment Bank, the EU Publications Office and, of course, the Court of Justice itself. The session took the form of an exhibition, with demos and posters set up around 30 stands devoted to different topics. Participants from different institutions had the opportunity to present their projects exploiting innovative technologies. These included prototypes that are more or less still under development in areas such as automatic analysis, summarisation and indexation of documents, chatbots, virtual visits and extended reality and blockchain. However, they also included solutions already used by the institutions, such as speech-to-text and machine translation.

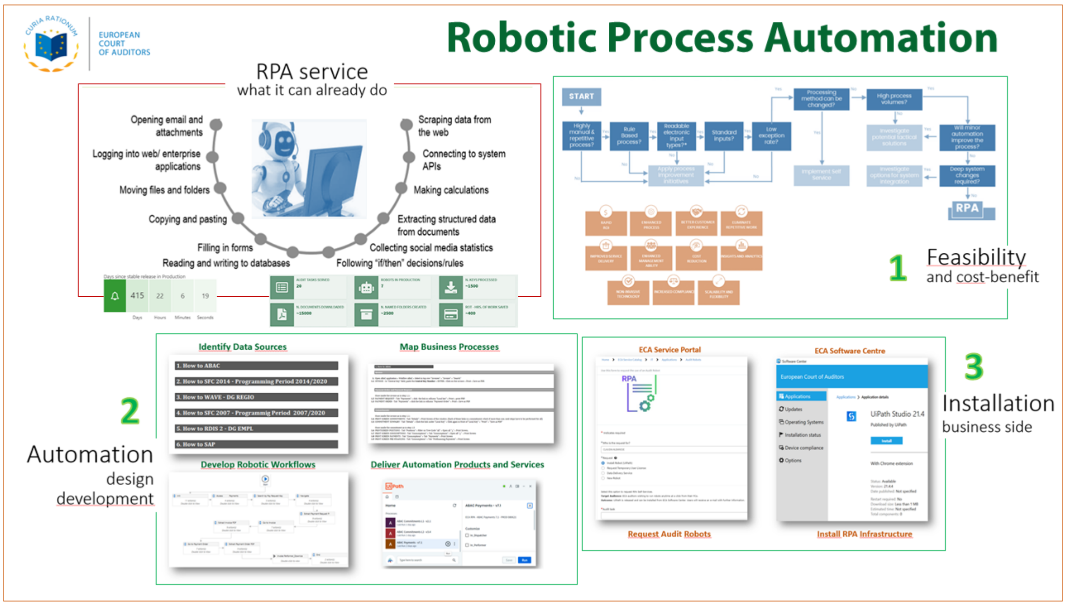
## ECA presents new and applied technologies

The ECA presented several of its own ongoing activities, ranging from established services to prototypes and proofs-of-concept, most of which originated from our own innovation lab, the ECALab.

### *Robotic process automation*

One of the technologies presented by the ECA that attracted a lot of attention was robotic process automation (RPA). The ECA is in fact the only EU institution at this stage to have an established RPA service, which gives auditors the possibility to use 'robots' i.e. programs that typically automate repetitive manual actions required to access information from external data sources, such as clicking, copying, pasting, creating folders and saving files in them (see **Figure 1**). It has already saved the teams using it a lot of time.

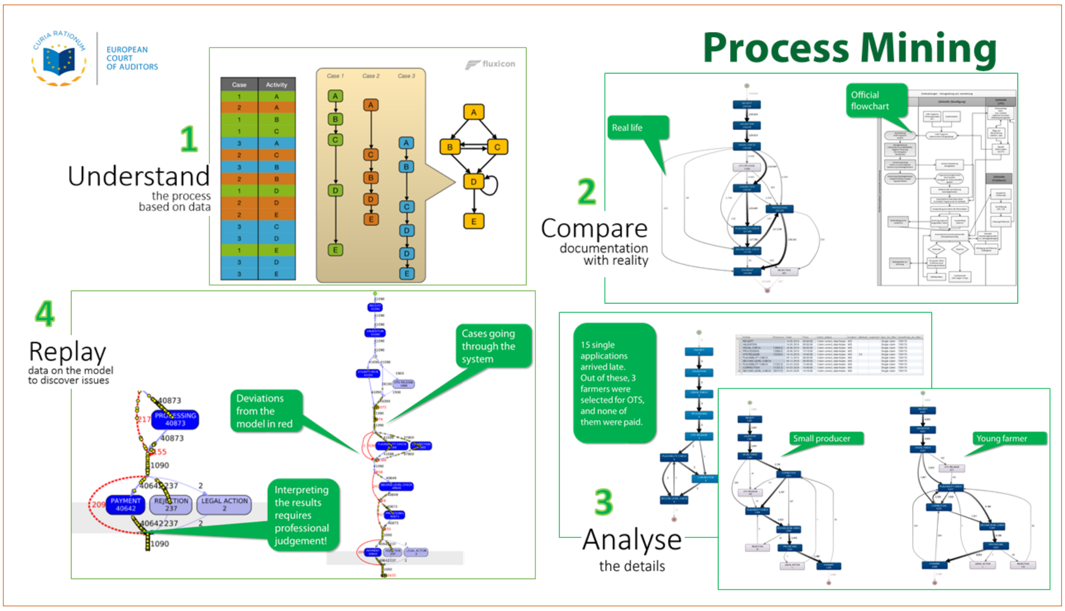
**Figure 1 – Robotic process automation**




### *Process mining*

Another innovative approach presented – one which the ECA has already been used for audit tasks and in which it is a front-runner – was process mining (see **Figure 2**). In this case, the logs of an information system are exploited using an algorithm to automatically calculate and visualise the way this system actually processes requests – identifying discrepancies between how it operates in reality and the way it was designed to operate – and to process the different requests based on its documented procedures.

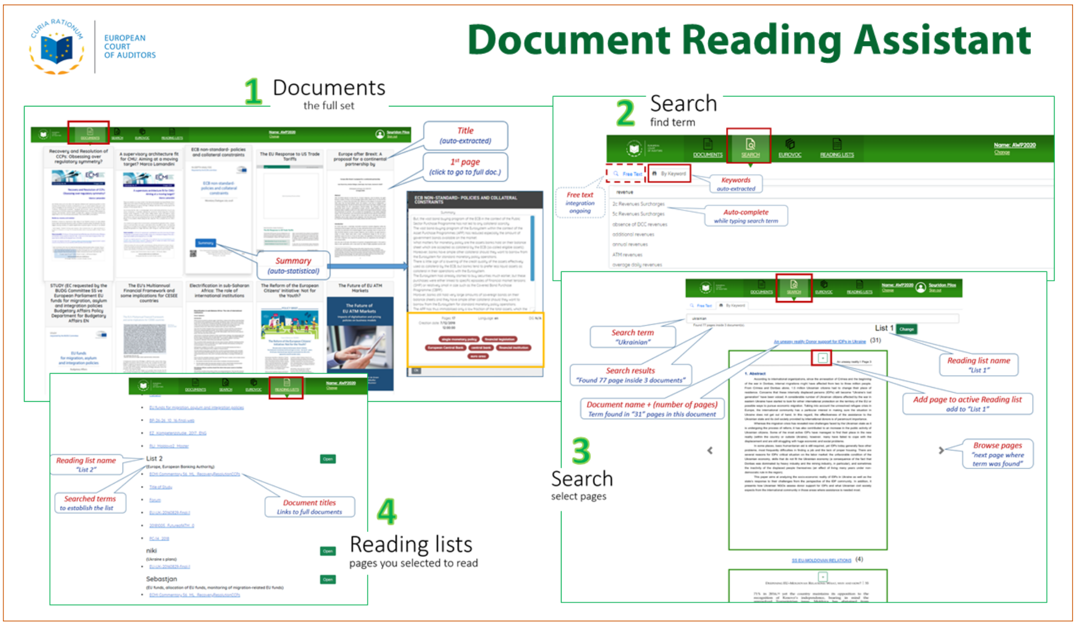
**Figure 2 – Process mining**




## *Document Reading Assistant application and chatbot*

The ECA also demoed two projects that involve text mining, natural language processing and document comprehension. The first one is DORA, the Document Reading Assistant (see **Figure 3**), which evolved out of the Document Navigator, a prototype built at the ECALab in 2017. DORA is intended to enable auditors and other users who need to go through big packages of potentially voluminous PDF documents to identify relevant information much more quickly and efficiently than by simply browsing through the documents. It allows users to search for keywords or free text in the full document set, finding the relevant pages and then adding them to a 'reading list', i.e. a PDF document comprising only the pages that have been identified by the user as relevant, which s/he can use and manage as a single independent PDF file. A first version of DORA should be available to ECA users before the end of 2022.

**Figure 3 – Document Reading Assistant**

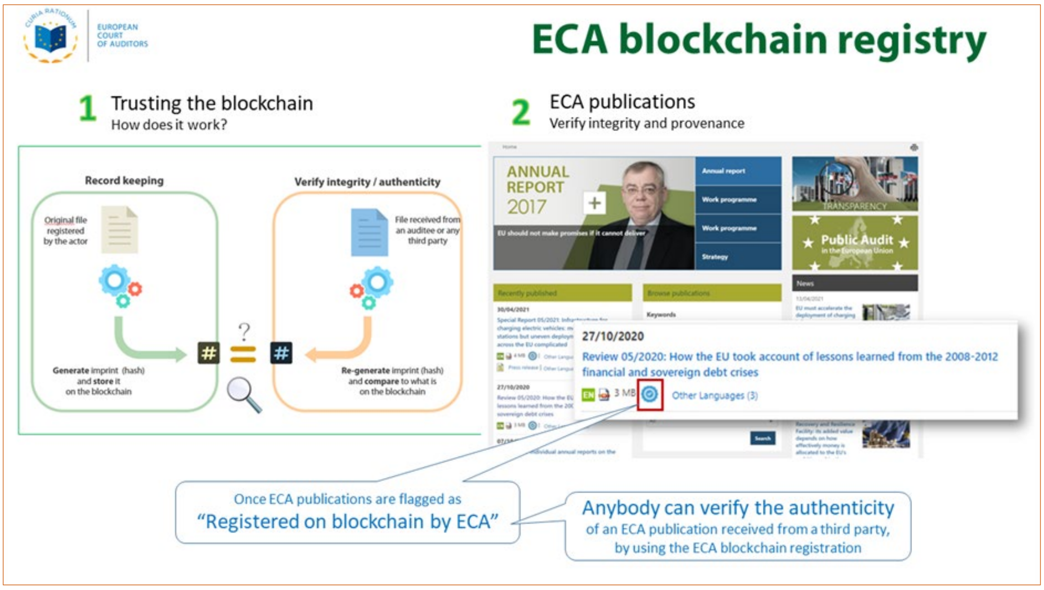



The second project was a prototype, which could become part of DORA in the longer term, offering the possibility of semantic question and answering sessions based on a set of documents. In this case, the user can 'consult' (instead of simply searching for) the information included in a set of documents by typing questions in natural language and getting relevant responses, i.e. a chatbot concentrating on the targeted document set.

### *Blockchain*

In the area of blockchain, the ECA presented its work on making the documents and actions involved in a process traceable, which started with the successful 'ECA registry' pilot in 2018. The approach used for the registry was promoted at EU level through the European Blockchain Services Infrastructure[1] as part of the notarisation use case[2] between 2019 and 2021, and then among EU institutions in 2022. A first potential implementation was demoed during the Innovation Days. It would allow visitors to the ECA's web site to verify the integrity and provenance of our reports and other products, which would be registered automatically on the blockchain as part of the regular process of publishing them on the ECA' website. Anybody receiving a document from a third party (i.e. not the ECA) purporting to be publication originating from the ECA would be able to confirm its authenticity through this immutable registration on the blockchain (see **Figure 4**).

**Figure 4 – ECA blockchain registry**




### *Data science architecture*

The ECA also presented the architecture and infrastructure being put in place to support the activities of the new 'Data and Technology for Audit' (DATA) team created in the Audit Quality Control Directorate of the ECA in 2021. The DATA team focuses on mainstreaming data analytics and automation activities in audit and on IT audit, and has more than ten staff members including several data scientists. The data science infrastructure integrates existing tools, such as the ECA Data Warehouse or eTranslation, as well as specific new tools for advanced data analytics, automation and data visualisation.

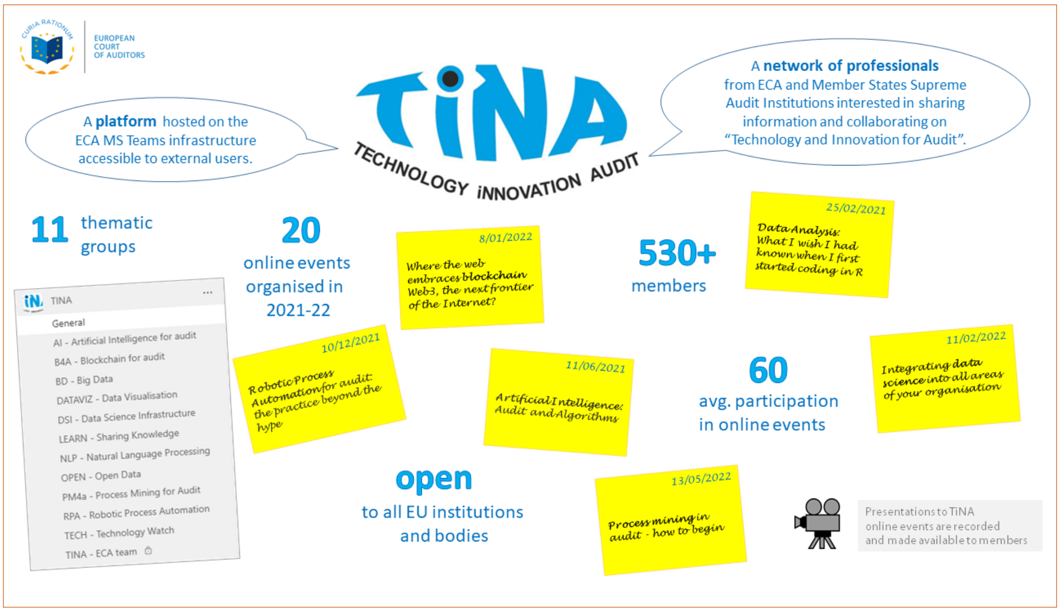
### *TiNA*

Last but not least, we presented TiNA, the platform set up, hosted and moderated by the ECA to support cooperation between colleagues from EU supreme audit institutions (SAIs) who are experts or are just interested in technology and innovation for audit (see **Figure 5**). The platforms are intended to be the place for audit practitioners to discuss emerging technologies and their use for audit.

1 https://ec.europa.eu/digital-building-blocks/wikis/display/EBSI/Home.

2 Information on the high-level scope of the EBSI traceability/notarisation use case is available at: https://ec.europa.eu/digital-building-blocks/wikis/pages/viewpage.action?pageId=555222715. Examples of potential user scenarios for traceability were demoed at the webinar "Notarisation with EBSI, explained" in February 2021: https://www.youtube.com/watch?v=gbRtzilgzlw.

**Figure 5 – TiNA platform to support cooperation between SAIs**



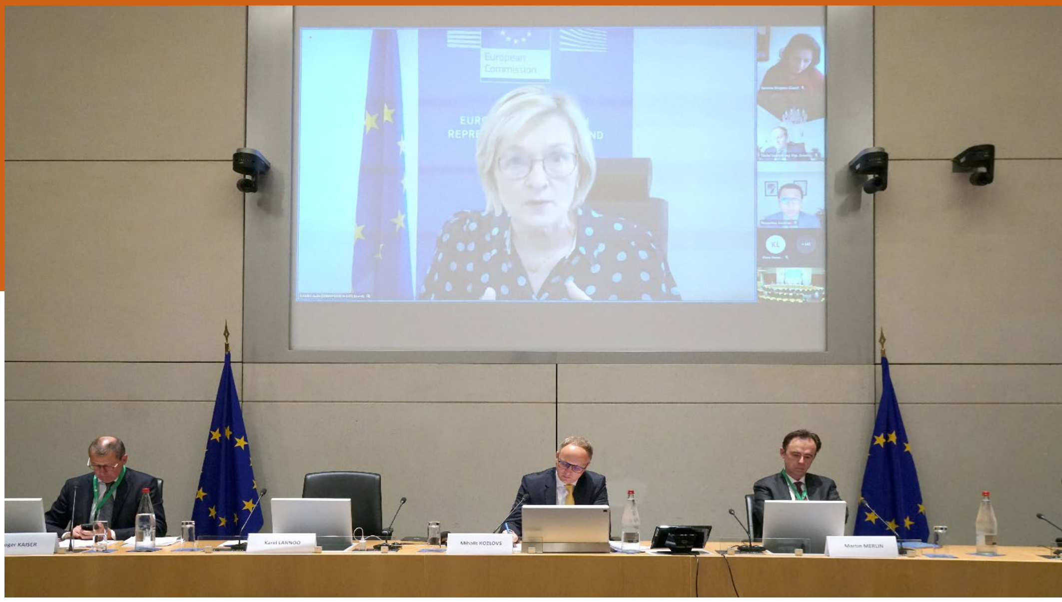

## Being a pioneer means exploring, practising and sharing

The Interinstitutional Innovation Days illustrated that the ECA is still a pioneer among EU institutions in emerging technologies, focusing on technologies that enable us to remain abreast of developments in audit. Cooperation with other EU institutions on technology and innovation through the ICDT and our Directorate of Information, Workplace and Innovation, as well as cooperation with other SAIs focusing on innovation for audit, are essential in order to rise to the challenges of using technology for audit in our rapidly changing world.

Magdalena Cordero (left) visiting the ECA stand at the 2022 ICDT Innovation Day exhibition, staffed by (from left to right) Claudia Albanese, Emanuele Fossati, Spyridon Pilos, Niki Stylianidou and Zsolt Varga.

# ECA seminar on anti-money-laundering supervision in the EU – experts call for loopholes to be closed

By Edite Dzalbe, cabinet of Mihails Kozlovs, ECA Member



The meeting took place in a hybrid format, with participants on the spot and online.

> The estimated value of suspicious transactions within the EU runs to the hundreds of billion euros. Efforts to prevent money-laundering and terrorist financing are mainly managed at national level, although the relevant EU bodies have a policy-making and coordinating role, as well as some limited direct powers. One year after publishing a critical ECA report on fighting money-laundering in the banking sector, the ECA recently organised a seminar on this topic. Here, Edite Dzalbe, head of the cabinet of Mihails Kozlovs, the ECA Member who hosted the seminar, describes the highlights of the discussion.

## Discussing legislative proposals addressing loopholes also surfacing in an ECA report

On 16 September 2022, the ECA organised a high-level seminar in Luxembourg: 'The new EU AML/CFT supervision model: expectations vs feasibility'. AML/CFT stands for anti-money-laundering/combating the financing of terrorism. Representatives from EU institutions, Member States, IMF, banking supervision and industry convened to discuss the new AML/CFT supervision model proposed by the European Commission and the progress achieved in the negotiations so far. Mihails Kozlovs, ECA Member and dean of audit chamber IV, 'Regulation of markets and competitive economy', hosted the seminar.

The seminar took place one year after the Commission published its legislative proposals to address weaknesses in the field of money laundering/financing of terrorism. The ECA had also analysed the existing EU AML/CFT supervisory setup. In ECA special report 13/2021 *EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient*, led by the reporting Member Mihails Kozlovs, we concluded that the fragmentation of EU action, a lack of clarity of roles, and poor coordination among EU institutions needed to be speedily addressed.

## Increased focus on Russian oligarchs underlines the need for improved EU action

At the seminar, participants discussed topics including expectations and feasibility of the new proposed AML/CFT supervision model, conditions for its effective implementation, the proposed governance arrangements, and the necessary level of cooperation among EU and national authorities.

Key speakers included EU Commissioner Mairead McGuinness, responsible for financial services, financial stability and Capital Markets Union, who highlighted that the renewed focus on Russian oligarchs, in the context of Russia's war in Ukraine, had served as a stark reminder of appalling crimes leading to money-laundering and dirty money easily moving through the EU's financial system. On behalf of the Czech Council Presidency, Stanislav Kouba, Deputy Minister for Taxes and Customs, underlined a shared sense of urgency in adopting the legislative package. Ramona Strugariu, Member of the European Parliament, hailed legislators' courage in finally putting the AML/CFT requirements into legislation, and stressed the importance of providing the proposed new Anti-Money-Laundering Authority (AMLA), part of the legislative proposals brought forward by the European Commission, and other supervisors with proper financing so as not to hinder their activities.

Participants in the seminar discussed the need for effective cooperation and coordination between the AMLA, national-level supervisors and financial intelligence units (FIUs). Some underlined the importance of carefully monitoring the behaviour of entities subject to supervision, as they would be looking for loopholes in the new system. They also underlined that violations of the rules by supervised entities would need to be followed up by proper sanctions. Others warned against overburdening the sector with additional requirements, calling for balance between of the need for the rulebook not to be overly prescriptive, and the need for the real risks to be addressed effectively.

Further incorporation of money-laundering/financing of terrorism risks into prudential supervision (the Supervisory Review and Evaluation Process), the current lack of quality information from financial institutions, FIUs and supervisors, as well as steps to improve that in the future, including the better use of data, were also discussed. The speedy establishment of the Single Supervisory Mechanism or the European Public Prosecutor Office was flagged as an encouraging example of the EU being able to take necessary decisions fast.

Under the Commission's plans, the AMLA will be established in 2023 and start its operational activities in 2024. Direct supervision of certain high-risk financial entities should start in 2026.

# Reaching out

## ECA hosting the INTOSAI Professional Standards Committee 21st Meeting

By Alan Findlay and Radek Majer, Directorate Audit Quality Control

Providing professional standards and guidance which are relevant, clear, principles-based and future proof is something which needs constant attention and work of public audit organisations. The ECA is vice-chair of the Professional Standards Committee of the International Organisation of Supreme Audit Institutions (INTOSAI). In that capacity, the ECA hosted the 21st meeting of this Committee, which took place in Luxembourg on 26 and 27 September 2022. Alan Findlay, senior administrator, and Radek Majer, assistant to the director, worked extensively on making this meeting a success and provide insights on the issues currently worked on in the Committee.

### PSC efforts to slim down to the essentials

The ECA hosted the 21st meeting of the Steering Committee of the INTOSAI Professional Standards Committee (PSC) on its premises on the 26 and 27 September 2022. The ECA, as vice-chair, welcomed over 20 delegates in person and a further 22 online representing 17 organisations, mostly supreme audit institutions (SAIs), but also including the Institute of Internal Auditors, the Forum for INTOSAI Professional Pronouncements (FIPP) and the INTOSAI Development Initiative (IDI).

The PSC Steering Committee coordinates the work of the PSC and ensures it supports the objectives and goals of INTOSAI (providing professional and clear standards and guidance, as mandated in Goal 1 of the INTOSAI Strategic Plan). It is also the governance body for the PSC and the FIPP. The work of the PSC is guided by the Strategic Development Plan for INTOSAI's standard setting. The central thrust of the current plan was to carry out a critical analysis (known as Component 1) of the standards framework (IFPP). This was based around the ambition to slim down the core framework to the essential by making it simple, principles-based and future-proof, while losing no substance, and, crucially, by not changing the way audits are currently carried out.

By so doing the PSC aims to make the framework more accessible and easier to maintain as it would require less updating. In addition, the content would be better understood, and therefore applied more easily and with greater confidence. In turn, this would free more time and resources to develop guidance and other implementation support, helping to ensure the standards are applied as intended. Reporting on the results of this analysis and how to react to it was the main focus of this year's meeting.

## Component 1 – a critical analysis

Based on its preliminary analysis, the PSC secretariat held a series of workshops in 2020/21, followed by a global survey of all members of INTOSAI, culminating in a lengthy series of post survey workshops to better understand and fine-tune the analysis. To help frame the review the PSC Secretariat identified four qualities the IFPP and its content should meet. **Table 1** below shows the main findings. Full details and further analysis can be found in the report here.

**Table 1 – Four qualities the standards framework (IFPP) should meet**

| Qualities the IFPP should meet | What we found |
|---|---|
| *clarity* - easily understood, unambiguous and not open to misinterpretation | • a lack of clarity in concepts, and consistency in their application;<br>• an excessive volume of repetition;<br>• elaborate and inconsistent drafting style; and<br>• inconsistent and sometimes illogical structure and presentation of material. |
| *relevance* - covers key organisational issues and professional tasks that many/most SAIs are required to undertake | • the ISSAIs present material only according to the three audit types, whereas in practice a large proportion of audits involve a combination of the different types of audit objective. Alternative sorting of the material is not possible;<br>• the IFPP does not cover the increasing amount of non-audit work many SAIs undertake; and<br>• the process for preparing and updating IFPP material takes considerable time. |
| *robustness* - technically strong, thereby leading to reliable results when implemented | • much technically solid material, but often difficult to identify and access in detail; and<br>• confusion about what it means to achieve and claim compliance with the ISSAIs (or the INTOSAI-Ps[1]), and how to measure and monitor progress. |
| *accessibility* - available to users at all levels in ways that suit their needs | issai.org has a large number of users, as it presents material in their national language or a language in which they can work;<br><br>the material is presented in static and not easily searchable documents; and<br><br>substantial and useful guidance material is prepared by INTOSAI bodies and presented outside the IFPP, which are often not known or easily accessible. |

On the particular topic of accessibility, the Steering Committee devoted several of its plenary sessions to an examination of the process of digitalisation of the IFPP. It focused on how to make the most of the opportunities offered by new techniques and technologies in presenting information.

1 INTOSAI Principles (INTOSAI-Ps for short) are pronouncements covering requirements for establishing the proper functioning of SAIs or the role of SAIs in the society. Examples include INTOSAI-P1 known as the Lima Declaration or INTOSAI-P12 on the value and benefits of SAIs.


From left to right: Minsiter Antônio Anastasia from SAI Brazil (Chair of the PSC), ECA Member Jan Gregor (Vice chair of the PSC), and Geoffrey Simpson, ECA Director.

## The next steps

The material in the Component 1 report provides suggestions which will serve as inspiration and input for the new Strategic Development Plan (SDP) for standard setting for the period 2023-2025. The SDP is a general strategy and working plan for the development of the framework towards a clear, consistent and adequate set of professional pronouncements which encourages an increased and consistent application of International Standards of Supreme Audit Institutions (ISSAIs).

Following a presentation by the chair of the FIPP (the SAI of Brazil) on the SDP outline and the challenges, delegates devoted considerable time to discussing the way forward and how to ensure the engagement of those responsible. Emphasis was placed on giving prominence in the next SDP to the following elements:

- reassess the content and presentation of the INTOSAI principles;
- clarity and consistency of the text and underlying principles across the framework, including the ISSAIs;
- ensure we get the most out of guidance, both within and outside the framework; and
- providing a digital platform to help the accessibility of the framework.

The PSC will meet again in 2023 to adopt the SDP, discuss projects to implement it, and discuss issues necessary to strengthen the standard-setting process.

# Reaching out

## Ukrainian seconded national experts at the ECA – a rapid yet long road to Luxembourg

By Tetiana Dniprova, Directorate of the Presidency

From left to right: Tetiana Lebedynets, Oksana Chorna, Valentina Pylypenko, Inga Kramarenko, Yuliia Myronenko and Tetiana Dniprova.

Following the Russian invasion of Ukraine in February 2022, various forms of assistance were given to the people in Ukraine and those fleeing from the war to EU countries, ranging from defence support to aid packages of food, clothing, etc. for parts of Ukraine. Peer organisations also reacted, with supreme audit institutions (SAIs) including the ECA declaring their support for the Accounting Chamber of Ukraine (ACU). But how could the SAIs demonstrate their support in practical terms? The ECA did so in various ways, including contributing to aid programmes and agreeing with the ACU how best to support its auditors in capacity-building. A key component in this was the secondment of Ukrainian national experts to the ECA, as well as the hiring of one Ukrainian expert on a temporary contract. National expert Tetiana Dniprova is working in the Directorate of the Presidency. Here, with input from her Ukrainian colleagues, she provides details of the secondment programme and shares experiences of the challenges encountered and overcoming them on the road from Ukraine to Luxembourg. Following the ACU Chair's visit to Luxembourg at the end of September 2022, some key points from his meeting with the ECA are also set out below.

### Fast track to formal arrangements…

This secondment is an unscheduled action, provided by the ECA to the Ukrainian SAI as an act of support and solidarity with Ukraine. The process of preparation started in March, soon after the invasion. Together with the letter of support condemning unprovoked Russian aggression, sent by the ECA President at that time, Klaus-Heiner Lehne, the Accounting Chamber of Ukraine (ACU) received a proposal from the ECA to take on board five Ukrainian seconded national experts (SNEs) to help develop the ACU's external audit potential (see also **Box 1**). An action in full alignment with the EU-Ukraine Association Agreement and Ukraine's recently awarded EU candidate country status. The aim is to support ACU auditors by developing their competence and professional skills, enabling them to act in line with EU practices, and to raise awareness within the ECA of the circumstances and conditions in Ukraine while conducting audits of EU funds allocated to Ukraine.

After the exchange of formal letters between Mr Lehne and ACU Chair Valeriy Patskan, and based on the ECA's requirements for SNEs, the ACU began its internal candidate selection process. The ACU leadership is paying particular attention to this arrangement in anticipation of potential future cooperation between the ECA and the ACU, including with regard to the restoration efforts by Ukraine and the EU with a view to Ukraine's recovery from the consequences of the war. The SNE candidates were examined and evaluated regarding their previous experience in the sphere of audit, their understanding of the EU context and their command of English.

**Box 1 – Earlier cooperation between the ECA and the ACU**

Cooperation between the ECA and the ACU has always been constructive and based on the principles of trust and support. For example, in the ACU there has always been great appreciation for the support offered by the ECA, which hosted the first meeting of the Working Group on the Audit of Funds Allocated to Disasters and Catastrophes (WGAFADC) in Luxembourg. The Ukrainian supreme audit institution (SAI) has chaired this Working Group since its establishment in 2014. Further active cooperation in the context of working groups and corresponding coordinated audits makes such interaction beneficial for our two SAIs.

Five SNEs were selected. In addition, a sixth colleague from Ukraine, Tetiana Lebedynets, became a staff member from 16 July 2022 onwards by passing a screening for temporary staff to work at the ECA (see **Box 2** for her road to Luxembourg). All of us have different backgrounds in the sphere of external audit – ecology and agriculture, local budgets, EU funds and international relations. We started the documentary phase, which appears quite complicated because this was an extraordinary case with unclear procedures for both sides, as we are Ukrainian experts and citizens of a country that is not a Member State of the EU, and were the first Ukrainian civil servants to be seconded to the ECA.

Thanks to the very constructive and effective cooperation between the human resources departments of the two SAIs, all challenges were overcome and formalities fulfilled by the end of June. At this stage, the Ukrainian side still needs to adapt some internal regulations to meet certain ECA requirements, for example concerning the possible length of secondment as an SNE.

### …but still a long road to Luxembourg

As a result, on the very day Ukraine was awarded the status of EU candidate country, we set out on the road to Luxembourg. Perhaps a coincidence, but we do see the symbolism in these two actions. That journey to Luxembourg was literally a long road. Due to the realities of war in Ukraine, the sky is closed to civil aviation. Consequently, we had to take a bus to Luxembourg, which is more than 2 000 km from Kyiv, and the journey took us more than two days (longer for some).

**Box 2 – The road to Luxembourg: Tetiana Lebedynets, ECA staff member since 16 July 2022**

Tetiana is not an SNE from the ACU, but worked in the sphere of internal control and audit. She has a strong background in the banking sector and in international organisations. 'Following the Ukrainian revolution of 2014, I was inspired by the positive changes and worked for the National Bank of Ukraine as a Head of the Inspection Department from August 2015 until January 2020. I was in charge of activities related to on-site supervision, which was a very challenging and exciting activity in a very difficult period of reform of the Ukrainian banking sector. With IMF assistance, we developed the "Stress-testing Methodology" for the banking system in Ukraine'.

Subsequently, Tetiana worked for three years for an international organisation as a member of the Audit Committee (AC) of the Organisation for Security and Cooperation in Europe (OSCE) and as President of the Institute of Internal Auditors (IIA), Ukraine. 'In Kyrgyzstan, on behalf of the IIA, Ukraine, and sponsored by the World Bank, we performed a project for the development of internal audit within the public sector. We also developed a long-term training and certification programme for the various levels of internal audit expertise, which we also provided to a number of ministries, the State Commission for the Regulation of Financial Services Markets, and the State Inspection Department in Ukraine'.

Then there was the awakening on 24 February at 5.00 a.m. with the cannonade outside. Tetiana recalls, 'For me this dispelled any doubts that the war had started outside my window. I urgently attempted to get out of Kyiv. Understandably, since inhabitants in a city with over five million people were trying to escape Kyiv in one direction, it was not possible for us to make it out. Then there were several weeks of sleepless life in the basement of our apartment buildings with curfews and endless sirens, and only bad news: the Russian armed forces were close to Kyiv and street fighting could be heard nearby in the city. During the first week of March, as Russian missiles were flying a few metres over my apartment building late at night, I placed a desperate call to my friend and audit committee colleague from the OSCE, Gary Eidet, asking for his intervention in obtaining assistance from the OSCE for our evacuation. Fortunately the OSCE Secretariat in Vienna was able to coordinate my son and I joining the last UN evacuation convoy out of Kyiv, which was departing in just a few hours. After several harrowing and exhausting days on dangerous roads out of Kyiv and heading west toward Uzhgorod, we crossed the Slovakian border and found a hotel where we slept for nearly two days. My son and I lived in our car and different hotels through various countries until we received a kind invitation to stay a while with a nephew of my close friend Anna in Luxembourg. My son and I decided to register for temporary protective status in Luxembourg and were kindly accepted. My daughter and her children live in Germany; her husband stayed behind in Kyiv'.

Tetiana was very pleased to find a position with the ECA, where she has signed a two-year employment contract. 'My son Dmytro continues his second year of study at the Kyiv National Economic University and simultaneously takes French and English courses at the National School for Adults (ENAD) here in Luxembourg. Fortunately, I was able to participate in a job interview with the ECA. At the ECA, I have experienced high procedural and ethical standards and a human approach towards every staff member. I was professionally interviewed by the ECA's HR department. Subsequently I was interviewed by various audit directorates and finally I am here – the proud auditor in the Financing and Administering the Union Directorate. My deepest thanks to all the ECA colleagues who supported me, I will do my utmost best to provide maximum added value for the ECA'.

Tetiana does not want to plan too far into her future. 'After reflecting back on my plans before the war, and due to the uncertainty that lies ahead, I have decided to no longer try to plan my future. However, I know one day I will return to Ukraine which I love. Together we went through two revolutions. We grew up with each other and became stronger against every adversity. Since the war started in 2014, my whole family, including my parents, who were alive at that time, volunteered. And just like many Ukrainians, I will never stop. After our victory we will all come back to help rebuild our beloved Ukraine'.

## A warm welcome and supportive work environment

Our secondment at the ECA started on 1 July 2022, and we were deeply touched by the warm welcome we received. The Secretariat-General was supportive in our onboarding process, efficiently providing all the necessary information concerning IT installations, HR issues and professional training.

During a personal welcome meeting with ECA Secretary-General Zacharias Kolias and ECA HR Director Veronica Ardelean, we had the opportunity to discuss our previous work and forthcoming commitments at the ECA. Among the topics discussed were the situation on the ground in Ukraine and the role and functioning of the ACU in conditions of war. We also shared stories of courageous actions by the Ukrainian people in their fight for independence and for European values.

For the initial period at the ECA, we were advised to immerse ourselves fully in the relevant exploratory tasks and training in order to start active work from September 2022 onwards. We are very grateful to our line managers and team members for supporting us during this adaptation period and providing us with all the necessary information (see also **Boxes 3 and 4**).

**Box 3 – Oksana Chorna on the welcome she received**

'In my memory, the first day in the ECA will forever be characterised by the warm acquaintance with Veronica Ardelean, Enrico Grassi, and Sara Pimentel of the ECA's HR department, who met me with a pleasant and friendly smile and introduced me to my colleagues. Our work at the ECA is done in a friendly atmosphere, with an effective internal organisation, a pleasant provision of services and good control of collective management processes and financial resources. I work as an internal controller. This work is different from what I did in Ukraine, because at the ACU I worked as an external auditor in the area of local and regional development. However, it is also exciting because I have the opportunity to be engaged in assessing the risks in managing the institution's funds and checks on the ECA's expenses. The experience gained will be an integral achievement of my secondment and contribute to the development of external audit in Ukraine in its European integration process and adaptation of its budget system'.

**Box 4 – Inga Kramarenko on the adaptation process**

Inga worked for many years as an auditor and as the head of the ACU's bilateral cooperation unit, where she and her team were responsible for conducting performance audits on environmental protection and cooperative audits on disaster prevention issues. In this context, she also participated in the EUROSAI Working Group on the Audit of Funds Allocated to Disasters and Catastrophes (chaired by the ACU), including international training sessions organised on this topic and long-term training on the same topic organised by the INTOSAI Development Initiative (IDI).

'After the first few weeks of different trainings compulsory for newcomers, we dived into the work in different areas. Most of us are involved in aspects which present new experiences, such as compliance audits for the Statement of Assurance, internal control or tasks related to communication with the Parliament. Undoubtedly, the ECA is a good example of a well-organised audit process. It is important for us to go through all the stages and to get hands-on experience of best practices from the planning stage to preparing the audit reports. Which means that we still have a long way ahead. Every day is full of new information, new meetings, new challenges as well as new knowledge, new experience, new skills. Every day we have met support from our ECA colleagues. Every day we take one more step towards the EU community and further auditing of the EU funds in accordance with EU rules and standards'.

From the very first days of our work, we were also deeply impressed by the multicultural and multilingual environment. It makes us really feel we are in the heart of the European Union and its democratic processes. It is manifested everywhere, starting from the structure of the ECA with its Members – one per Member State – and their cabinets, with different levels of decision-making, often taking place in conversations held in three languages or more, which is usual around the office. The ECA management pays attention to cultural differences but adheres to high professional standards and ethics, and demands the same of its staff (see also **Box 5**).

One of the pleasant surprises of our first days at the ECA was being invited to commemorate the Lithuanian Statehood and National Anthem Day. We were moved and honoured to be part of this occasion, at which ECA Member Rimantas Šadžius introduced all of us to the guests attending the event and expressed support for our country by flying the Ukrainian flag together with the Lithuanian and European ones. It was a welcome opportunity to meet the ECA President, at that time Klaus-Heiner Lehne, together with other ECA Members and ECA staff.

**Box 5 – Yuliia Myronenko and Valentina Pylypenko are keen to learn more**

Within the ECA, Yuliia and Valentina work in the External Action, Security and Justice Directorate, particularly on tasks related to the Statement of Assurance work. Being auditors with practical experience of about 18 years, they are keen to work with ECA auditors who have wide experience in auditing EU funds. In Ukraine, they did financial and performance audits and were members of the audit teams for the European Neighbourhood Instrument Cross-Border Cooperation programmes implemented in Ukraine. Yuliia was also one of the auditors conducting external audits of the Organisation for Security and Co-operation in Europe (OSCE) in 2009-2013 and has headed the ACU's Audit Methodology Unit for the last three years. They both have high expectations on the usefulness of their ECA experiences when they return to the ACU. 'Our time here gives us a great opportunity to experience the ECA approach to conducting audits, the modern audit methodologies and techniques, especially those that are and will be used regarding EU funds, considering that now Ukraine has been granted EU candidate status'. Yuliia stresses that now any new and in-depth knowledge relating to the management of the EU funds and its auditing is particularly relevant as Ukraine, still in a state of war, receives significant amounts of financial support from the EU. 'Under such circumstances, the ACU will need proper audit methodologies and experienced auditors even more to ensure proper auditing of the EU funds'.

## The ACU: working in exceptional circumstances

As for the activities of the ACU, it has not halted its activities since the first day of war. Under the leadership of Valeryi Patskan, the ACU started a campaign to suspend the current Chair of the International Organisation of Supreme Audit Institutions (INTOSAI), the SAI of the Russian Federation, from the INTOSAI Chairship (see **Box 6**).

With regard to operational activities, some planned audits were naturally suspended and employees were evacuated, especially from regions with active fighting. However, our institution continued its documentary work with audits that had already started and some resources for operational activities were redirected to training and institutional capacity development. In parallel, the majority of our staff were engaged in volunteer activities and several employees joined the armed forces voluntarily.

## From personal to institutional efforts to enhance accountability

This is the story so far of the initial experiences of Ukrainian SNEs at the ECA. We speak on behalf of all six Ukrainians at the ECA when we say that we are looking forward to the interesting work ahead, which will hopefully be beneficial for all parties. We are eager to make the most of the great opportunity that has been given to us.

Now that Ukraine has obtained the status of an EU candidate country, many prospects are opening up for our country in terms of its participation in EU actions and (re)building with the support of EU knowledge and funds. We consider our mission here at the ECA to be not only our personal professional development, but also bringing the two external audit institutions – the ECA and the ACU – closer to each other and supporting the consolidation efforts in the post-war restoration of Ukraine. The EU standards of transparency and accountability should be implemented in the process of restoring and building up the economic potential of Ukraine, and both SAIs can play an important role in achieving this!

**Box 6 – ECA visit by ACU Chair Valeriy Patskan on 26 September 2022**


On 26 September 2022, ACU Chair Valeriy Patskan was welcomed by ECA Member Rimantas Šadžius, who chaired a meeting with Valeriy Patskan attended by other ECA Members and staff. The ACU Chair made it clear that the secondment of ACU staff to the ECA was the result of good cooperation with former ECA President Klaus-Heiner Lehne. 'This agreement on secondment will create new experiences for our staff and help us for reforming and improving the ACU. The five SNEs told me they are very happy with their work at the ECA and we discussed a regularisation of these exchanges. I think it is important to promote exchange of information with the ECA on several aspects, such as IT, analytical methods, etc.'.

When discussing the current capacity needs at the ACU, Valeryi Patskan explained that these mostly pertain to compliance and performance audits. 'Currently 80 % of our work relates to performance and 20 % to financial audits. And we are doing our best to conduct as many financial audits as possible annually'. He found it very interesting to hear that auditors at the ECA can change their audit focus to move from financial audit to performance audit and vice versa. 'It is something I do for my own life, I like to change directions also in my career, having covered various areas ranging from politics to banking and human rights issues'. He indicated that the experience acquired by the SNEs will be used to reform the ACU. 'The knowledge they receive will be used in various areas. It is an investment in our future, from the basic exchange of experience to taking up management positions in the ACU in the future'.

Overall, the ACU Chair thinks that the ACU needs more expertise in compliance and audit. 'More training in compliance and performance audit will be most useful also in view of reconstruction work to be done. We have already started on this through cooperation with our partners from the UK, the US, from Baltic states, the Czech Republic, the Netherlands and others, for example on the assessment of damages and losses and on reconstruction needs for the Ukrainian economy. This reminds me of a proposal I did four years ago, during a conference of SAIs in Jerusalem, that is to create a task force within the International Organisation of Supreme Audit Institutions for audit approaches for the assessment of damages and losses as a result of a military conflict. It is like the EUROSAI Working Group on the Audit of Funds Allocated to Disasters and Catastrophes. This is also a disaster, but in the humanitarian sphere, caused by humans. All funds coming to Ukraine for reconstruction will have to be checked and we need to be a reliable partner, to conduct proper audits and assess how this money has been spent'.

Valeriy Patskan underlined the importance of taking further action, within the international organisations of audit institutions, to suspend activities involving the Russian SAI. 'During our recent visit to the EUROSAI Governing Board meeting in Portugal, we discussed with our European colleagues the issue of how to block any formal activities of the Russian SAI in INTOSAI. The INTOSAI Chairmanship of Russian SAI (which had chaired INTOSAI since 2019) was suspended and has been shared between the INTOSAI General Secretary and the first INTOSAI Vice-Chair, the Brazilian SAI. This resulted from joint efforts undertaken by the audit community, soon after 24 February 2022 on my call to stop the Russian aggression, circulating letters among various SAIs also to suspend membership in both INTOSAI and its European regional branch, EUROSAI'. He emphasized the widespread support he has encountered for this and expressed his gratitude to the ECA for supporting this suspension of the Russian chairmanship of INTOSAI.

# Profound media interest in the ECA's 2021 annual report

By Matthias Beermann, Directorate of the Presidency


ECA President Tony Murphy presents the ECA's 2021 annual report to the European Parliament during its plenary session in Strasbourg on 19 October 2022

The starting point for the accountability process concerning the implementation of the EU's preceding financial year – and an integral part of the European Parliament and Council discharge procedure – is the ECA's publication of its annual report. On 13 October 2022, the ECA's new President, Tony Murphy, presented the ECA's annual report to the European Parliament's Committee on Budgetary Control, followed by a presentation to the European Parliament during its plenary session in Strasbourg on 19 October 2022. Matthias Beermann, Spokesperson and Senior Editorial and Media Advisor, provides insights into the media's coverage of the annual report.

## Same product but different content, brought by new yet familiar faces

Another year, another annual report by the European Court of Auditors: the publication of our flagship product now occupies a permanent place in the media calendar. However, given the fierce competition for journalists' attention, it is much more interesting if we have something new to offer other than the usual statements on error and absorption rates. This year, we certainly did.

For the first time, the report included a separate opinion on the EU's temporary recovery instrument, the Recovery and Resilience Facility (RRF), the main component of the EU's €800 billion 'NextGenerationEU' (NGEU) package, which is intended to alleviate the economic consequences of the pandemic. The report was also presented by a new president, Tony Murphy – ECA President as from 1 October 2022. These two pieces of news made the headlines, together with the information that errors in spending from the EU budget had increased.

Communication on the annual report was intensively prepared in the weeks before publication: individual interviews were organised in advance and journalists were invited to press briefings. Registered participants received embargoed material shortly beforehand in order to allow an informed discussion during the briefings, and to help them prepare their reporting.

As in the previous two years, our press briefings took place virtually, by videoconference, the day before publication. They comprised the main briefing by ECA President Tony Murphy (who was also the Member responsible for this annual report), and eight individual briefings by ECA Members to national correspondents. In total, almost 80 journalists attended the briefings, an all-time record for the annual report.

## Extensive media coverage, from several angles

**Box 1 – 2021 annual report communication**

| | |
|---|---|
| 9 | press briefings held on the 2021 annual report |
| 78 | journalists attended our briefings |
| 819 | online articles published in the two days after publication |
| 624 | social media messages posted in the two days after publication |
| 53 | countries with news reporting on the 2021 annual report |

In terms of overall coverage, we see that our communication efforts have paid off: 819 news articles and 624 social media posts referring to the 2021 annual report were published in the two days following publication. As regards quality, media coverage was excellent. *Politico*, the most influential news outlet in Brussels, published an exclusive interview with ECA President Tony Murphy about the annual report, and several other ECA Members were interviewed by leading media outlets in their respective home countries. The press paid a great deal of attention to the annual report – in a week when there were strong competing news items (see **Box 1**).

Compared to previous years, news reporting on the annual report seems to be becoming more and more accurate. Only a few media sources still called errors in expenditure 'wasted' or 'misspent' money. The majority of the articles spoke quite accurately of money 'that had not been spent properly', and referred correctly to the auditors' findings: the level of errors in spending from the EU budget had increased to 3 % (2020: 2.7 %), and nearly two thirds of audited expenditure (63.2 %) was considered to be high risk, also an increase on 2020 (59 %). The Spanish media naturally focused on Spain's RRF payment that was audited for the annual report. Some media outlets also highlighted the fact that the auditors had identified risks to the EU's finances due to the war in Ukraine and its devastating consequences.

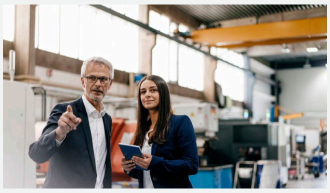
This year's annual report was published against a backdrop of major crises: the war in Ukraine, the energy shortage, the pandemic, and climate change. The ECA president addressed this situation during his press briefing. 'Such an environment', he said, 'creates increased risks and challenges for the EU's finances and makes it all the more important that the European Commission manage them soundly and effectively. Through our work, we play an important role in ensuring this'.

# ECA publications in June 2022

## Special report 8/2022

*Published on 01/06/2022*

## Small companies' competitiveness barely improved by EU support



Small and medium-sized enterprises (SMEs) are key to the EU's economy. But they have not really benefited from EU action aimed at enhancing their competitiveness. That is the conclusion reached by the European Court of Auditors in a special report published today. EU funds stimulated SMEs' willingness to invest, but their impact and effectiveness on competitiveness were rather limited, to the extent that most supported SMEs did simply not derive any real benefit from the EU support. The auditors urge the European Commission and the Member States to make better use of EU funding so that it effectively helps SMEs.

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## Special report 13/2022

*Published on 13/06/2022*

## Schengen border controls poorly scrutinised during the pandemic

Because it has limited tools at its disposal, the European Commission has not scrutinised enough the challenges that the COVID-19 pandemic posed to the right of free movement of people. This is the overall conclusion of a special report published today by the European Court of Auditors (ECA). The supervision of the internal border controls reintroduced by the Member States since March 2020 did not fully safeguard the Schengen rules that facilitate free movement in the EU. In addition, the auditors draw attention to the lack of coordination between Member States' travel restrictions, as well as inconsistencies with EU guidance and recommendations.

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## Special report 15/2022

*Published on 15/06/2022*

## Closing the EU's innovation gap: Member States must get more involved

To close the EU's persistent gap in research and innovation (R&I) and unlock excellence in countries lagging behind, the European Commission is applying special measures (known as 'widening' measures) to give those countries better access to key EU funding. In a report published today, however, the European Court of Auditors finds that a real shift depends largely on national governments, which must make R&I a priority in order to ramp up investment and reforms. Widening measures can only kick-start these countries' progress, but on their own lack enough power to create the changes needed in national R&I ecosystems.

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# ECA publications in June 2022

**Special Report 12/2022**

*Published on 20/06/2022*

## Not all investments for rural development deliver durable benefits

Since 2007, the European Commission has spent more than €25 billion of rural development funds on diversifying the EU's rural economy and improving infrastructure in rural areas. However, according to a special report published today by the European Court of Auditors (ECA), the success of these measures varied significantly across Member States and sectors. For example, weak economic performance and illegitimate private use affect the durability and viability of EU-funded projects in rural tourism. The auditors recommend that the European Commission should share information on the best ways to channel funds more effectively towards viable projects, to mitigate the risk of projects being repurposed for private use, and to harness the potential of large databases.

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**Special Report 16/2022**

*Published on 28/06/2022*

## EU agriculture policy: potential of big data analytics largely untapped

The European Commission has not capitalised on the potential of big data for analysing and subsequently designing the EU's Common Agricultural Policy (CAP), the European Court of Auditors has said in a report today. Although it holds large volumes of data relevant to the design, monitoring and evaluation of the CAP, its current tools and data do not provide certain essential information needed for well-informed policy-making at EU level. As a result, the Commission does not have enough evidence to comprehensively assess the CAP's needs and impact.

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**Special Report 17/2022**

*Published on 30/06/2022*

## EU auditors see potential risks in the Commission's use of external consultants

The way the European Commission hires and uses external consultants does not fully ensure that it maximises value for money or fully safeguards its interests, says a report published today by the European Court of Auditors. There are significant gaps in the framework governing the use of these services, with potential risks related to the concentration of service providers, overdependence and conflicts of interest which are not sufficiently monitored. The auditors also point out weaknesses in how consultants' work and its added value are assessed.

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# ECA publications in July 2022

**Special Report 14/2022**

*Published on 04/07/2022*

## EU needs to be more proactive in its fight against fraud in agricultural spending

The Common Agricultural Policy (CAP), the single largest component of expenditure under the EU budget, includes some spending schemes that are particularly exposed to fraud risks. This is according to a report published today by the European Court of Auditors (ECA) which provides an overview of the fraud risks affecting the CAP and assesses how the European Commission responds to fraud in agricultural spending. The auditors conclude that the Commission has responded to instances of fraud in CAP spending, but should be more proactive in addressing certain fraud risks, such as illegal 'land-grabbing'. Fraudsters may exploit weaknesses in Member States' checks, so the auditors also recommend that the Commission should monitor national anti-fraud measures better, provide more concrete guidance, and promote the use of new technologies for preventing and detecting fraud.

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**Special Report 10/2022**

*Published on 06/07/2022*

## Auditors question the outcome of the EU's community-led local development approach

Introduced in 1991, the LEADER programme – the EU's participatory and bottom-up policy for rural development – has helped to facilitate local engagement. But its approach is costly and its approval processes are slow. More than a decade after a first audit was carried out, a special report published today by the European Court of Auditors (ECA) concludes that there is little evidence to suggest that the benefits of the LEADER approach outweigh the costs and risks involved.

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**Opinion 2/2022**

*Published on 08/07/2022*

## Auditors issue Opinion on proposed new rules for managing EU fines and penalties

The European Court of Auditors (ECA) welcomes the European Commission's proposed new rules for managing the fines it imposes on firms that breach EU law and the penalties it imposes on countries that fail to apply it. In particular, the proposal is intended to ensure that firms and countries receive reasonable compensation if the Commission is ordered by the Court of Justice of the EU to reimburse a fine that has been cancelled or reduced, but provisionally paid up front. The auditors do, however, have some reservations about the proposal to enter the financial costs of compensation into the budget as negative revenue rather than as expenditure. Although it will give more flexibility in managing the EU budget, the Commission would not be required to follow the ordinary budgetary procedures applicable to spending.

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# ECA publications in July 2022

**Opinion 3/2022**

*Published on 15/07/2022*

## Auditors publish Opinion on proposed rules for managing new own resources to finance NextGenerationEU

To help pay back the money borrowed to finance the non-repayable financial support for Member States under the €750 billion NextGenerationEU recovery plan, the European Commission has proposed introducing three new categories of own resources. An Opinion published today by the European Court of Auditors (ECA) examines the Commission's proposed methods and procedure for making those new own resources available to the EU budget.

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**Opinion 4/2022**

*Published on 26/07/2022*

## REPowerEU could fall short of ambitions, EU auditors warn

REPowerEU, the EU's plan to rapidly reduce dependence on Russian fossil fuels, diversify energy supplies at EU level and accelerate the green transition, may face significant practical challenges, the European Court of Auditors warns in an Opinion published today. In particular, the success of REPowerEU will depend on complementary actions at all levels, and on securing financing of around €200 billion.

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**Opinion 05/2022**

*Published on /29/7/2022*

## EPPO Child allowance


Opinion 05/2022 (pursuant to Article 287(4), TFEU) concerning the European Public Prosecutor's Office proposal for an amendment to the Conditions of Employment of the European Delegated Prosecutors with a view to introducing the dependent child allowance in their remuneration.

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# ECA publications in September 2022

**Special Report 18/2022**

*Published on 01/09/2022*

## Auditors commend the resilience of EU institutions during the pandemic

The EU institutions demonstrated considerable resilience in the face of the COVID-19 pandemic, a report published today by the European Court of Auditors concludes. The European Parliament, the Council, the European Commission and the Court of Justice of the EU all responded rapidly and flexibly, and benefited from previous investments they had made in digitalisation. EU institutions nevertheless still have challenges ahead to make the best of the innovation and flexibility brought about by the crisis in the post-COVID world.

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**Special Report 21/2022**

*Published on 08/09 /2022*

## EU auditors identify risks to the successful implementation of national recovery and resilience plans

The Recovery and Resilience Facility (RRF) was established in 2021 to mitigate the economic and social impact of the COVID-19 pandemic. To receive a share of the more than €700 billion in EU financial support available under the RRF, Member States have to submit national recovery and resilience plans, which are examined by the European Commission. According to a special report published today by the European Court of Auditors (ECA), the Commission's assessment is generally appropriate, but there remain risks to the successful implementation of the national recovery and resilience plans, such as unclear milestones and targets.

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**Special Report 19/2022**

*Published on 12/09 /2022*

## EU COVID-19 vaccine procurement: lessons to be learned, say EU auditors

The EU's tailor-made centralised system for vaccine procurement succeeded in creating an initially diversified portfolio of vaccine candidates and in procuring sufficient doses of COVID-19 vaccines. However, the EU started procurement later than the UK and the US, and when severe supply shortfalls occurred in the first half of 2021, it became clear that most contracts signed by the European Commission did not include specific provisions to address supply disruptions. The performance of the procurement process was not sufficiently assessed, a special report published today by the European Court of Auditors (ECA) concludes. The auditors also note that the Commission has not yet scrutinised or benchmarked that process to draw lessons for the future, nor does it currently plan to test its pandemic procurement system through stress-tests or simulations.

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# ECA publications in September/October 2022

**Special Report 20/2022**

*Published on 26/09/2022*

## Member States need to step up fight against illegal fishing

Illegal, unreported and unregulated fishing is one of the greatest threats to marine ecosystems, undermining efforts to manage fisheries sustainably. The EU and its Member States have put measures in place to keep illegal fishing in check. But due to the uneven way in which checks and sanctions are applied by Member States, these measures are not as effective as they should be. This is the conclusion of a special report published today by the European Court of Auditors (ECA). The auditors recommend that the European Commission should monitor that Member States reinforce their control systems for preventing the import of illegal fishery products, and ensure that they apply dissuasive sanctions against illegal fishing both in EU waters and beyond.

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**2021 EU audit in brief**

*Published on 13/10/2022*

## Annual reports concerning the 2021 financial year

Every year the ECA audits the revenue and expenditure sides of the EU budget and provides its opinion on the extent to which the annual accounts are reliable and income and spending comply with the rules and regulations. EU spending totalled €181.5 billion in 2021, representing 1.3% of the combined gross national income of the 27 EU Member States. Taking into account spending for the Recovery and Resilience Facility (€46.5 bn) in response to the socio-economic impact of the pandemic, payments from the EU in 2021 totalled €228.0 billion. The EU budget is agreed annually – in the context of a seven-year framework – by the European Parliament and the Council. Last year, 2021, was the first year in the new multiannual framework.

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**2021 EU audit in brief**

*Published on 13/10/2022*

## A word on the '2021 EU audit in brief'

The '2021 EU audit in brief' provides an overview of our 2021 annual reports on the EU's general budget and the European Development Fund, in which we present our statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. This year, for the first time, through our work we also covered the Recovery and Resilience Facility and provide a separate opinion on the legality and regularity of its expenditure. The EU audit in brief also outlines our key findings regarding revenue and the main areas of spending under the EU budget and the European Development Fund, as well as findings relating to budgetary and financial management.

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# ECA publications in October 2022

**2021 ECA sustainability report**

*Published on 24/10/2022*

## 2021 ECA sustainability report

At the ECA, we are committed to being a sustainable institution, and for several years we have been gradually making efforts to minimise our environmental impact. However, sustainability is about more than just becoming greener. It is also about economic impact, ethics and governance, compliance with laws and regulations and, above all, people.

Sustainability reporting is the practice of measuring, disclosing and being accountable to internal and external stakeholders for organisational performance in pursuit of sustainable development.

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**2021 EU audit in brief**

*Published on 27/10/2022*


## 'Revolving doors': lax rules for EU agencies

EU agencies should tighten their rules and controls to minimise the risk that managers and other senior staff who leave may take up private-sector jobs that could lead them into conflicts of interest and put the integrity of the EU institutions at risk, the European Court of Auditors (ECA) has said in its annual report on the EU agencies, published today. At the same time, the EU's financial watchdog confirmed that the agencies' bookkeeping was trustworthy by signing off their 2021 accounts. The auditors also gave all 44 agencies a pass mark on how they collect income for their operations, and all but one agency obtained a clean bill of health on spending, despite persistent public procurement problems across most agencies.

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**Opinion 06/2022**

*Published on 31/10/2022*

## Opinion on proposed recast of the financial rules applicable to the EU budget

The European Commission has proposed to recast the EU's Financial Regulation to make it better aligned with the Multiannual Financial Framework (MFF) package. The Commission has also proposed improvements and simplifications to better respond to crises, to protect the EU's financial interests and to contribute to the achievement of EU policy objectives.

The auditors welcome several of the proposed changes. For example, further digitalisation will play an important role in fighting fraud and conflicts of interest affecting EU funds. They also welcome the Early Detection and Exclusion System being operated under shared management with Member States, as the ECA recommended in its recent special report on blacklisting.

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# ECA publications in November 2022

### 2023+ Work Programme

*Published on 08/11/2022*


## Recovery, energy, climate, security and many more topics under the scrutiny of EU auditors

The European Court of Auditors (ECA) today published its work programme for 2023 and beyond, listing its audit priorities for the near future. These will cover a broad range of issues, reflecting the EU's main challenges and key concerns in its response to the multiple crises it is facing. The auditors will continue to check whether the EU is making good use of taxpayers' money to achieve the intended results.

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### Special Report 22/2022

*Published on 09/11/2022*

## EU support for coal regions achieved little for climate transition

EU financial assistance for coal regions has had a limited impact on both jobs and the energy transition, says a report published today by the European Court of Auditors. Despite overall progress, coal remains a significant source of greenhouse gas emissions in several EU countries. The auditors therefore call for the new Just Transition Fund to be used effectively and efficiently to alleviate the socio-economic impact on coal regions of the EU's transition towards climate neutrality.

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### AR Performance 2021

*Published on 14/11/2022*


## Auditors call for improvements in anchoring overarching policy priorities in the EU budget

There are major differences in the extent to which the European Commission has incorporated the EU's overarching policy priorities of climate change, biodiversity preservation, gender equality, sustainable development and digital transition throughout the EU's spending programmes, according to a new report by the European Court of Auditors (ECA). Gender is the priority which is least well mainstreamed in the EU budget, the auditors conclude. In addition, there are significant differences in the way the Commission measures the EU budget's contribution to the five key cross-cutting policies and reports on their achievement.

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# ECA publications in November 2022

**AR on EU Joint Undertakings for the financial year 2021**

*Published on 15/11/2022*

## Auditors give a clean bill of health to the EU's public-private partnerships for research and innovation

The European Court of Auditors (ECA) has signed off the 2021 accounts of all the EU's Joint Undertakings (JUs), and confirmed the positive results reported in previous years. The new Horizon Europe research and innovation funding programme sets ambitious goals for the 2021-2027 budget period, and the auditors call for action to get the Horizon 2020 contribution targets over the line, to address remaining weaknesses in internal controls, and to prepare for new challenges, such as human resources planning and management.

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**Special Report 23/2022**

*Published on 21/11/2022*

## Insufficient coordination limits the impact of EU research and innovation funding

Synergies between the EU's multi-billion Horizon 2020 research programme and the European Structural and Investment Funds (ESIF) are not being fully exploited, according to a new report by the European Court of Auditors (ECA). Various building blocks needed to create these synergies were not yet in place in the 2014-2020 period. The European Commission and authorities which manage funds in EU countries do not cooperate thoroughly, and fund-managing authorities in the Member States often work in compartmentalised, silo-based structures that prevent them from using the funds in a complementary way. This limits the implementation and impact of research and innovation (R&I) related investments, and hampers efforts to close the R&I divide in Europe.

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**Opinion 07/2022**

*Published on 22/11/2022*

## EU auditors issue Opinion on a package of proposals including a new borrowing strategy linked to financial aid to Ukraine


In early November, the European Commission proposed amendments to the EU's Financial Regulation to diversify the EU's borrowing operations. In parallel, it has also made proposals to provide urgent financial help to Ukraine. These proposals will be discussed by the European Parliament at its plenary session on 23 November 2022. The law stipulates that the European Court of Auditors must be consulted in advance on any proposals which affect the EU budget..

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# NEXT EDITION

## Energy transition and the EU

The European Union has set itself a target of net-zero carbon emissions by 2050, and a reduction of 55% below 1990 levels by 2030. That date is just eight years away! Before 24 February 2022, the key driver for the energy transition was climate change, but when Russia invaded Ukraine another major argument surfaced: energy independence from an aggressive regime that has failed to respect a neighbour's sovereignty and repeatedly shown disdain for the values of the EU. But how resilient is the EU? How ready to take up the challenge?

*Source*: maxxyustas /carloscastilla/depositphotos

The 27 Member States account for 9% of global greenhouse gas (GHG) emissions, making the EU the third largest GHG emitter in the world. Acknowledging its significant role in combating climate change, the EU has committed to a shift from fossil-based systems of energy production and consumption to one based on renewable energy sources. While the energy transition poses challenges for the EU, it also offers opportunities in areas such as sustainable long-term economic growth, social inclusion, energy security, and improved health and biodiversity.

The current global energy crisis – caused largely by Russia's use of energy as a strategic weapon in its war against Ukraine – has brought energy shortages across the world and highlighted the EU's vulnerability in the energy sector. As a result, the energy transition has risen to the top of the EU's list of priorities. The main instrument at the EU's disposal for the energy transition is the *European Green Deal*, which comprises a range of policy initiatives to reach climate neutrality by 2050, most recently in the form of REPowerEU.

What does the energy transition mean for the EU and its citizens? What are the main challenges it will bring? What efforts are being made to ensure it is fair for all? How will the EU be helping citizens to cope with enormous price increases in the short term? How can long-term energy needs be assured when infrastructure and regulatory changes take a decade to be fully implemented? How is the EU planning to meet the Commission's target of reducing dependence on energy imports from 55 % to 20 % by 2050? How can energy providers be engaged and enabled to manage the transition? What are the geopolitical tensions that may affect the EU's energy security ambitions? How can decarbonisation be achieved in the most carbon-reliant industries? And what will the green European energy grid look like?

The next edition of the ECA Journal will try to answer all of these questions. In focusing on the many obstacles to the energy transition, we will also look at the current situation with regard to the EU's internal energy market and the production of renewable energy. We will examine the roles played by the Commission, the Council, the European Parliament, individual Member States and the energy sector itself. Finally, we will of course address the role of public auditors, at both EU and Member State level, in facing up to the energy transition and the challenges that lie ahead.

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