2023

Annual reports

- on the implementation of the EU budget for the 2023 financial year and
- on the activities funded by the 9th, 10th and 11th European Development Funds (EDFs) for the 2023 financial year

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EUROPEAN COURT OF AUDITORS

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NB: It should be noted that due to rounding, some totals in the figures in this document may not equal the sum of the individual items.

Pursuant to Article 287(1) and (4) of the TFEU, Article 258 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, and Article 43 of Council Regulation (EU) 2018/1877 of 26 November 2018 on the financial regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323, and Article 92(4) of the Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010.

the Court of Auditors of the European Union, at its meetings of 4 and 11 July 2024, adopted its

ANNUAL REPORTS for the 2023 financial year

The reports, together with the institutions' replies to the Court's observations, have been sent to the authorities responsible for giving discharge and to the other institutions.

The Members of the Court of Auditors at the time these reports were adopted were:

Tony Murphy (President), Nikolaos Milionis, Klaus-Heiner Lehne, Bettina Jakobsen, Jan Gregor, Mihails Kozlovs, Ildikó Gáll-Pelcz, Annemie Turtelboom, Viorel Ştefan, Ivana Maletić, François-Roger Cazala, Joëlle Elvinger, Helga Berger, Marek Opioła, Jorg Kristijan Petrovič, Stef Blok, George Marius Hyzler, Lefteris Christoforou, Laima Liucija Andrikienė, Keit Pentus-Rosimannus, Katarína Kaszasová, João Leão, Alejandro Blanco Fernández, Carlo Alberto Manfredi Selvaggi, Petri Sarvamaa, Hans Lindblad

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Annual report on the implementation of the EU budget for the 2023 financial year

Contents

General introduction

0.1. The European Court of Auditors (ECA) is an institution of the European Union (EU) and the external auditor of the EU's finances. In this capacity, we act as the independent guardian of the financial interests of all EU citizens, notably by helping to improve the EU's financial management.

0.2. In line with the Treaty on the Functioning of the European Union (TFEU)[1], our annual report on the implementation of the EU budget covers both revenue and expenditure. It presents our *statement of assurance* as to whether the EU's accounts are reliable and whether the EU budget has been used in accordance with the applicable laws and regulations. This statement is supplemented by specific assessments for major areas of EU budget spending. A separate annual report covers the European Development Funds.

0.3. The EU's general budget is adopted annually by the Council of the European Union and by the European Parliament. In May 2020, the Council of the European Union adopted NextGenerationEU (NGEU), a temporary instrument that was set up in response to the socio-economic impact of the COVID-19 pandemic and is financed through the issuing of bonds. NGEU provides funding for the Recovery and Resilience Facility (RRF)[2], accounting for about 90 % of NGEU funding, as well as for top-ups to existing 2021-2027 MFF programmes, which have to be spent in line with sector-specific rules. We present a separate opinion on the legality and regularity of RRF expenditure.

0.4. Both the EU's general budget and NGEU funding are subject to the *discharge procedure*. Through this procedure, the Parliament, acting on a recommendation from the Council, decides whether the European Commission has satisfactorily met its budgetary responsibilities. Our annual report, together with our other outputs, provides a basis for the discharge procedure. Upon publication, we forward our annual report to member states' national parliaments, the European Parliament and the Council.

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[1] Articles 285 to 287 of the TFEU.

[2] Regulation (EU) 2021/241 establishing the Recovery and Resilience Facility.

0.5. This annual report is structured as follows:

— ***chapter 1*** contains the statement of assurance, a summary of the results of our audit on the reliability of accounts and the legality and regularity[3] of revenue and expenditure transactions underlying the accounts, including the Commission's regularity information and a summary of our audit approach;

— ***chapter 2*** presents our analysis of EU budgetary and financial management;

— ***chapter 3*** presents performance aspects (i.e. the *economy*, *efficiency* and *effectiveness*) of the budget's implementation, focusing on our analysis and synthesis of key performance information from special reports adopted in 2023, the performance of spending programmes under MFF heading 4, and our follow-up of recommendations made in our 2020 report on the performance of the EU budget and in our 2020 special reports;

— ***chapter 4*** presents the results of our testing of the regularity of EU revenue transactions, our examination of elements of internal control systems for managing revenue and our review of the Commission's annual activity reports;

— ***chapters 5-10*** show, for the different headings of the 2021-2027 *multiannual financial framework (MFF)*, the results of our testing of the regularity of transactions and our review of the Commission's *annual activity reports*, elements of its internal control systems and other governance arrangements;

— ***chapter 11*** presents our assessment of compliance with the RRF payment conditions, as well as our review of the Commission's *annual activity reports*, our examination of selected supervisory and control systems and our audit approach for the RRF;

— ***Appendix 1*** reports on any contingent liabilities arising as a result of the performance by the Commission and by the Council, of their tasks under the Single Resolution Mechanism Regulation.

0.6. We aim to present our findings in a clear and concise way. We cannot always avoid using terms specific to the EU, its policies and budget, or to accounting and auditing. On our website, we have published a glossary with explanations of these

[3] Hereafter in this annual report, we use the term 'regularity' with the same meaning as 'legality and regularity'.

specific terms. The terms defined in the glossary appear in *italics* when they first occur in each chapter.

0.7. The Commission's replies to our findings (and, where appropriate, the replies of other EU institutions and bodies) are presented together with this report.

Chapter 1

Statement of assurance and supporting information

Contents

The ECA's statement of assurance to the European Parliament and the Council – independent auditor's report

Opinion

I. We have audited:

(a) the consolidated accounts of the European Union, which comprise the consolidated financial statements[1] and the budgetary implementation reports[2] for the financial year ended 31 December 2023, approved by the Commission on 25 June 2024;

(b) the legality and regularity of the underlying *transactions*, as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Reliability of the accounts

Opinion on the reliability of the accounts

II. In our opinion, the consolidated accounts of the European Union (EU) for the year ended 31 December 2023 present fairly, in all material respects, the EU's financial position as at 31 December 2023, the *results* of its operations, its cash flows and the changes in its net assets for the year then ended, in accordance with the Financial Regulation and with accounting rules based on internationally accepted accounting standards for the public sector.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue

III. In our opinion, the revenue underlying the accounts for the year ended 31 December 2023 is legal and regular in all material respects.

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[1] Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 966/2012 – OJ L 193/30.07.2018, p. 1, Article 243.

[2] Ibid., Article 244.

Expenditure

IV. For 2023, we continue to provide two separate opinions on the legality and regularity of expenditure. This reflects the fact that the *Recovery and Resilience Facility (RRF)* is a temporary instrument delivered and financed in a way that is fundamentally different to budget spending under the multiannual financial framework (MFF).

Adverse opinion on the legality and regularity of budget expenditure

V. In our opinion, owing to the significance of the matter described under 'Basis for adverse opinion on the legality and regularity of budget expenditure', the budget expenditure accepted in the accounts for the year ended 31 December 2023 is materially affected by error.

Qualified opinion on the legality and regularity of RRF expenditure

VI. In our opinion, except for the effects of the matters described under 'Basis for qualified opinion on the legality and regularity of RRF expenditure', the RRF expenditure accepted in the accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Basis for opinion

VII. We have conducted our audit in accordance with the International Federation of Accountants (IFAC) International Standards on Auditing (ISAs) and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions (ISSAIs). Our responsibilities under these standards and codes are described in more detail in the 'Auditor's responsibilities' section of our report. In that section, we also provide more information on the basis for our opinion on revenue (see paragraph ***XXXVI***) and RRF expenditure (see paragraph ***XXXVIII***). We have also met independence requirements and fulfilled our ethical obligations under the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinions.

Basis for adverse opinion on the legality and regularity of budget expenditure

VIII. Our overall estimated level of error for budget expenditure accepted in the accounts for the year ended 31 December 2023 is 5.6 %. A substantial proportion of this expenditure is materially affected by error. This concerns expenditure subject to complex rules, mainly reimbursement-based, in which the estimated level of error is 7.9 %. Such expenditure amounted to €103.8 billion in 2023, representing 64.4 % of our audit population[3]. The effects of the errors we

[3] We provide further information in our 2023 annual report, paragraphs ***1.18-1.23***.

found are therefore both material and pervasive to the year's accepted expenditure.

Basis for qualified opinion on the legality and regularity of RRF expenditure

IX. We found the following qualitative and quantitative elements:

- weaknesses in the design of measures and cases of vaguely defined milestones/targets that all contributed to a more discretionary assessment of their satisfactory fulfilment;
- persistent weaknesses in the member states' reporting and control systems;
- problems with the reliability of information that member states included in their management declaration;
- seven out of the 23 RRF payments to member states (and related clearings of pre-financing) were affected by quantitative findings. Six of these payments were affected by material error.

X. Based on these elements, we consider that the overall effects of our findings are material, but not pervasive to the year's accepted RRF expenditure.

Key audit matters

We assessed the liability for pension and other employee benefits

XI. The EU balance sheet includes a liability for pension and other employee benefits amounting to €90.8 billion at the end of 2023 (2022: €80.6 billion).

XII. Most of the liability for pension and other employee benefits relates to the Pension Scheme of Officials and Other Servants of the European Union, amounting to €82.7 billion (2022: €73.1 billion). The liability recorded in the accounts is an estimate of the present value of expected future payments the EU will have to make to settle its pension obligations.

XIII. The benefits paid under the pension scheme are charged to the EU budget. While the EU has not created a dedicated pension fund to cover the cost of future pension obligations, member states jointly guarantee the payment of the benefits, and officials contribute one third of the cost of financing the scheme. Eurostat calculates this liability annually on behalf of the Commission's accounting officer, using parameters such as the age profile and life expectancy of EU officials and assumptions about future economic conditions. These parameters and assumptions are also assessed by the Commission's actuarial advisors.

XIV. The increase in the pension liability in 2023 is mainly due to the decrease in the discount rate and the update of the actuarial life table relating to EU civil servants. The discount rate was influenced primarily by the evolution of interest rates and expected future inflation[4].

XV. The second largest part of the liability for pension and other employee benefits is the EU's estimated liability towards the Joint Sickness Insurance Scheme, which amounted to €6.3 billion at the end of 2023 (2022: €5.7 billion). This liability relates to EU staff members' healthcare costs payable during post-activity periods (net of their contributions).

XVI. As part of our audit, we assess the actuarial assumptions made for these schemes and the resulting valuation. We base our evaluation on work carried out by external, independent actuarial experts. We check the basic data underlying the calculations, the actuarial parameters and the calculation of the liability. We also examine the presentation of the liabilities in the consolidated balance sheet and the notes to the consolidated financial statements.

XVII. We conclude that the estimate of the overall liability for pension and other employee benefits is presented fairly in the consolidated annual accounts.

We assessed significant year-end estimates presented in the accounts

XVIII. At the end of 2023, the estimated value of incurred eligible expenditure due to beneficiaries but not yet claimed was €155.2 billion (2022: €148.7 billion). These amounts were recorded as accrued expenses[5].

XIX. The increase in the estimate across all programmes is mainly driven by the fact that the previous programming period is coming to an end and that the uptake of 2021-2027 MFF funds has been slower than anticipated. Thus, the value of actual claims submitted was lower than expected and a greater proportion had to be estimated at year-end. Accruals recorded in relation to the RRF, which are based on a forecast of future payments, decreased to €7.4 billion (2022: €22.6 billion).

XX. In order to assess these year-end estimates, we examined the system the Commission had set up for the cut-off calculations to ensure its correctness and completeness in the directorates-general where most expenditure was incurred. During our audit work on the sample of invoices and pre-financing payments, we

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[4] 2023 EU annual accounts, note 2.9.

[5] These comprise accrued charges of €76.2 billion on the liabilities side of the balance sheet and, on the assets side, €79.0 billion reducing the value of pre-financing.

examined the relevant cut-off calculations in order to address the risk of accruals being misstated.

XXI. We conclude that the estimate of the overall amount of accrued charges and other advances paid to member states is presented fairly in the consolidated annual accounts.

We reviewed the asset generated by the UK's withdrawal process

XXII. On 1 February 2020, the United Kingdom (UK) ceased to be an EU member state. Under the withdrawal agreement, the UK has committed to honouring all financial obligations under previous MFFs arising from its EU membership.

XXIII. Following the end of transition period on 31 December 2020, further mutual obligations on the part of the EU and the UK give rise to certain liabilities and receivables for the EU. These obligations must be reflected in the EU's annual accounts. The Commission estimated that, at the balance sheet date, the EU accounts showed a net receivable due from the UK of €15.5 billion (2022: €23.9 billion), of which it is estimated that €2.4 billion will be paid in the 12 months following the reporting date.

XXIV. As part of our normal audit procedures, we discussed with the Commission the timing, accuracy and completeness of the asset recognised and payments made. We recalculated the amounts concerned, reconciled them with the underlying records and checked the appropriateness of any assumptions used.

XXV. We conclude that the estimate of the total asset recognised in relation to the UK's withdrawal process is presented fairly in the consolidated annual accounts.

We assessed impact on the accounts of Russia's war of aggression against Ukraine

XXVI. On 24 February 2022, Russia invaded Ukraine. As the EU provides assistance to Ukraine in the form of loans and grants, we assessed the Commission's calculations concerning the EU's related financial exposure, as well as their underlying basis, to ensure that the actual and potential consequences were reflected appropriately in the EU accounts. We assessed the Commission's calculations against our own and other relevant data.

XXVII. We conclude that the treatment of the impact of Russia's war of aggression against Ukraine on the consolidated accounts is presented fairly in the consolidated annual accounts.

We assessed the impact of NGEU on the accounts

XXVIII. With NextGenerationEU (NGEU), the EU mobilised substantial resources to mitigate the pandemic's socio-economic impact. To fund NGEU, the European Commission raises debt in the capital markets. These funds are being made available to the member states in the form of non-repayable grants or loans up to a previously agreed allocation. These activities have a significant effect on the financial statements. The most significant part of NGEU is the RRF.

XXIX. As part of our normal audit procedures, we audited the assets, liabilities, revenue and expenses, including those related to NGEU. We conclude that they are presented fairly in the consolidated annual accounts.

Other matters

XXX. The Commission is responsible for providing 'other information'. This term encompasses the 'Financial highlights of the year', but not the consolidated accounts or our report on these. Our opinion on the consolidated accounts does not cover this other information, and we do not express any form of assurance conclusion on it. Our responsibility in connection with the audit of the consolidated accounts is to read the other information and consider whether it is materially inconsistent with the consolidated accounts or the knowledge we have obtained in the audit or otherwise appears to be materially misstated. If we conclude that the other information is materially misstated, we are required to report this accordingly. We have nothing to report in this regard.

Responsibilities of management

XXXI. In accordance with Articles 310 to 325 of the TFEU and with the Financial Regulation, the Commission is responsible for preparing and presenting the EU's consolidated accounts on the basis of internationally accepted accounting standards for the public sector, and for the legality and regularity of the underlying transactions. This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to *fraud* or error. Management is responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities (laws, regulations, principles, rules and standards) which govern them. The Commission is ultimately responsible for the legality and regularity of the transactions underlying the EU's accounts (Article 317 of the TFEU).

XXXII. When preparing the consolidated accounts, management is responsible for assessing the EU's ability to continue as a going concern, disclosing any relevant matters and using the going concern basis of accounting unless it either intends to liquidate the entity or cease operations, or has no realistic alternative but to do so.

XXXIII. The Commission is responsible for overseeing the EU's financial reporting process.

XXXIV. Under the Financial Regulation (Title XIII), the Commission's accounting officer must present for audit the consolidated accounts of the EU first as provisional accounts by 31 March of the following year and as final accounts by 31 July. The provisional accounts should already give a true and fair view of the EU's financial position. It is therefore imperative that all items of the provisional accounts are presented as final calculations, allowing us to perform our task in line with (Title XIII) of the Financial Regulation and by the given deadlines. Any changes between the provisional and final accounts would normally result from our observations only.

Auditor's responsibilities for the audit of the consolidated accounts and underlying transactions

XXXV. Our objectives are to obtain reasonable assurance as to whether the EU's consolidated accounts are free from material misstatement and the underlying transactions are legal and regular, and on the basis of our audit, to provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions. Reasonable assurance is a high level of assurance, but it is not a guarantee that the audit has necessarily detected all instances of material misstatement or non-compliance that may exist. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence any economic decisions taken on the basis of these consolidated accounts.

XXXVI. For revenue, our examination of the own resources based on gross national income, value added tax and non-recycled plastic packaging waste takes as its starting point the statistics and data from which these are calculated, and assesses the Commission's systems for processing these up to the point at which the member states' contributions have been received and recorded in the consolidated accounts. For traditional own resources, we examine the customs authorities' accounts and analyse the flow of duties up until the amounts have been received by the Commission and recorded in the accounts. Customs duties are at risk of either not being declared or being declared incorrectly to the national customs authorities by importers. The actual import duties collected will therefore fall short of the amount that should theoretically be collected. This difference is known as the "customs gap". These evaded amounts are not captured in member states' traditional own resources accounting systems and do not fall within the scope of our audit opinion on revenue.

XXXVII. For expenditure, we examine payment transactions once expenditure has been incurred, recorded and accepted. This examination covers all categories of payments at the point they are made, except advances. We examine advance payments once the recipient of funds has provided evidence of their proper use and the institution or body has accepted that evidence by clearing the advance payment, which might not happen until a subsequent year.

XXXVIII. For RRF expenditure, unlike other budget expenditure, the main condition for payment is the satisfactory fulfilment of predefined milestones or targets. Further requirements are that targets or milestones that have previously been satisfactorily fulfilled should not have been reversed, and that there is no breach of the double-funding principle. The eligibility conditions laid down in the Regulation include compliance with the eligibility period, the 'Do No Significant Harm' (DNSH) principle, and non-substitution of recurring national budgetary expenditure. Consequently, our audit focuses on whether these payment and eligibility conditions were met. As compliance of expenditure incurred by final recipients with EU and national rules is not a condition for RRF payments, our audit opinion does not cover the regularity of expenditure incurred by final recipients. The RRF Regulation does not stipulate further criteria on how to interpret the word 'satisfactory', and, therefore, leaves the Commission with broad discretion when assessing the satisfactory fulfilment of milestones and targets. The assessment of qualitative achievements requires several judgements to be made, leading to different possible interpretations. This risk is particularly present when milestones or targets are vaguely designed.

XXXIX. We exercise professional judgement and maintain professional scepticism throughout the audit. We also:

(a) Identify and assess the risks of material misstatement of the consolidated accounts and of material non-compliance of the underlying transactions with the requirements of EU law, whether due to fraud or error. We design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. Instances of material misstatement or non-compliance resulting from fraud are more difficult to detect than those resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Consequently, there is a greater risk of such instances not being detected.

(b) Obtain an understanding of internal control relevant to the audit in order to design appropriate audit procedures, but not for the purpose of expressing an opinion on the effectiveness of the internal control.

(c) Evaluate the appropriateness of the accounting policies used by management and the reasonableness of management's accounting estimates and related disclosures.

(d) Conclude as to the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, as to whether material uncertainty exists owing to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If we conclude that such material uncertainty exists, we are required to draw attention in our report to the related disclosures in the consolidated accounts or, if these disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our report. However, future events or conditions may cause the entity to cease to continue as a going concern.

(e) Evaluate the overall presentation, structure and content of the consolidated accounts, including all disclosures, and assess whether the consolidated accounts fairly represent the underlying transactions and events.

(f) Obtain sufficient appropriate audit evidence regarding the financial information on the entities covered by the EU's scope of consolidation to express an opinion on the consolidated accounts and the underlying transactions. We are responsible for directing, supervising and carrying out the audit, and are solely responsible for our audit opinion.

XL. We communicate with the Commission and other audited entities regarding, among other matters, the planned scope and timing of the audit and significant audit observations, including any significant deficiencies in internal control.

XLI. Of the matters discussed with the Commission and other audited entities, we determine which were of most significance in the audit of the consolidated accounts and are therefore the key audit matters for the current period. We describe these matters in our report unless law or regulation precludes public disclosure or, as happens extremely rarely, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh any public interest benefits.

11 July 2024

Tony MURPHY
President

European Court of Auditors
12, rue Alcide De Gasperi – L-1615 Luxembourg

Introduction

1.1. This chapter of the annual report:

(a) sets out the background to our *statement of assurance* and gives an overview of our findings and conclusions on the reliability of accounts and the regularity of the underlying *transactions*, including the Commission’s regularity information;

(b) includes information on our reporting of cases of suspected fraud to the European Public Prosecutor’s Office (EPPO) and the EU’s anti-fraud office (OLAF) and our audits on EU action to combat fraud;

(c) summarises our audit approach (see ***Annex 1.1***).

1.2. Considering that the *Recovery and Resilience Facility* (RRF)[6] is a temporary instrument delivered and financed in a way that is fundamentally different to budget spending under the *multiannual financial frameworks* (MFFs), the results of our work on RRF payments are presented in a separate chapter (***chapter 11***) and form the basis for a separate opinion on the regularity of RRF expenditure.

1.3. EU spending is an important tool for achieving policy objectives, but not the only one. Other important measures include legislative frameworks, policy strategies and the right to free movement of goods, services, capital and people throughout the EU. In 2023, member states’ total general government spending (€8 387 billion) represented 49.7 % of their *gross national income (GNI)* (€16 884 billion). EU budget spending amounted to €191.2 billion, representing 2.3 % of the EU member states’ total general government spending and 1.1 % of their GNI (see ***Figure 1.1***). Taking into account additional payments from *assigned revenue* for RRF grants of €48.0 billion (see paragraph ***2.24***) financed by EU debt, payments in 2023 totalled €239.2 billion[7].

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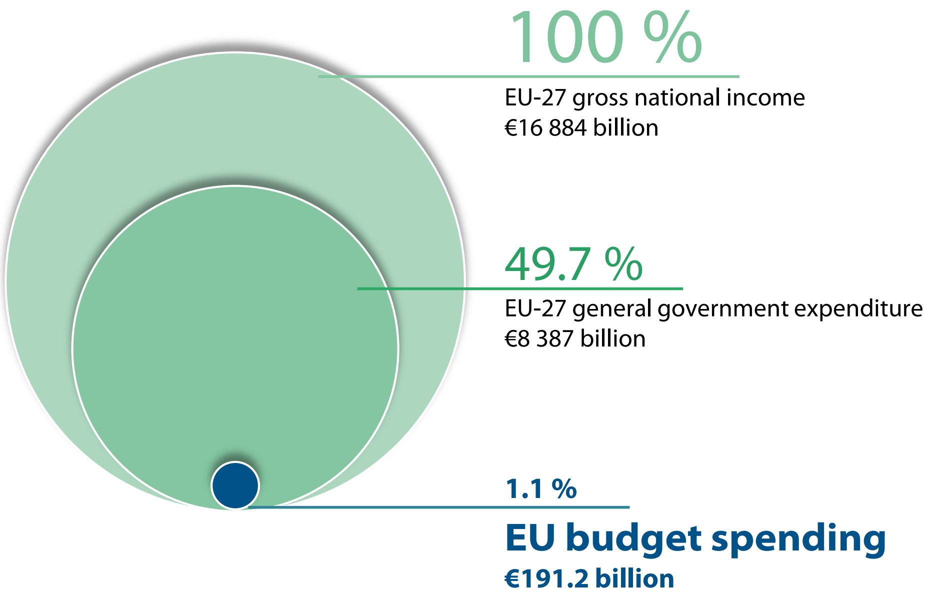
[6] Regulation (EU) 2021/241 establishing the RRF.

[7] 2023 consolidated annual accounts of the EU, budgetary implementation reports and explanatory notes, section 6.3 ‘MFF: Implementation of *payment appropriations*’.

Figure 1.1 – 2023 EU budget spending and general government expenditure as a share of GNI

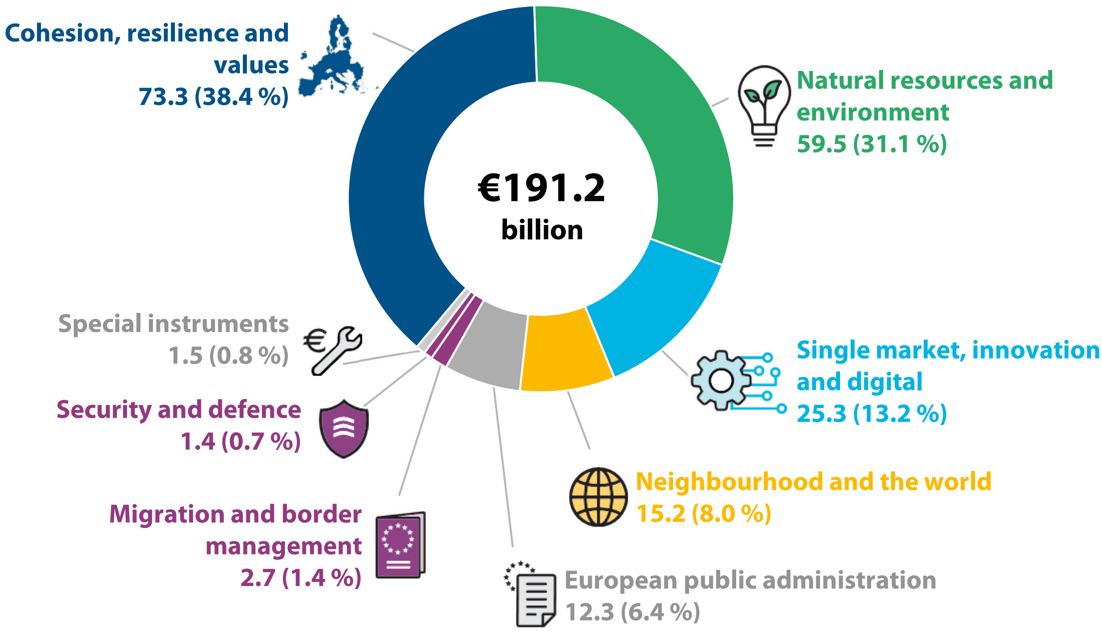


Source: ECA, based on data on EU-27 GNI from the 2023 consolidated annual accounts of the European Commission – Annex A – Revenue; EU-27 general government expenditure: Eurostat database — Government revenue, expenditure and main aggregates (data extracted on 22.4.2024); EU budget spending: European Commission - 2023 consolidated annual accounts of the European Union.

1.4. EU funds are disbursed to beneficiaries either through single payments/annual instalments or through a series of payments within multiannual spending schemes. Payments from the 2023 EU budget comprised €50.3 billion in pre-financing and €140.9 billion in other payments. As ***Figure 1.2*** shows, the largest shares of the EU budget went to ‘Cohesion, resilience and values’ and ‘Natural resources and environment’, followed by ‘Single market, innovation and digital’.

Figure 1.2 – 2023 EU budget spending per MFF heading

(billion euros)



MFF 1 (Chapter 5)	Single market, innovation and digital
MFF 2 (Chapter 6)	Cohesion, resilience and values
MFF 3 (Chapter 7)	Natural resources and environment
MFF 4 (Chapter 8)	Migration and border management
MFF 5 (Chapter 8)	Security and defence
MFF 6 (Chapter 9)	Neighbourhood and the world
MFF 7 (Chapter 10)	European public administration
Special instruments	(outside MFF)

Source: ECA.

Audit findings for the 2023 financial year

Reliability of the accounts

The accounts were not affected by material misstatements

1.5. Our findings concern the EU's *consolidated accounts*[8] (the 'accounts') for the 2023 financial year . We received them, together with the accounting officer's letter of representation, on 28 June 2024, before the final date for presentation allowed under the *Financial Regulation*. The accounts are accompanied by a 'Financial highlights of the year' section[9], which is not covered by our audit opinion. In accordance with auditing standards, however, we have assessed its consistency with the information in the accounts.

1.6. The accounts published by the Commission show that, on 31 December 2023, total liabilities amounted to €679.9 billion, compared with €467.7 billion of total assets. The difference of €212.2 billion represented the (negative) net assets, comprising reserves and the portion of expenses already incurred by the EU up to 31 December that must be funded by future budgets. The (negative) *economic result* for 2023 was €71.4 billion. The amounts expensed for *NextGenerationEU* (NGEU) have contributed significantly to the mentioned negative amounts.

1.7. Our audit found that the accounts were not affected by material misstatements. We present the results of our work on the financial and budgetary management of EU funds in ***chapter 2***.

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[8] Article 241 of Regulation (EU, Euratom) 2018/1046.

[9] Recommended Practice Guideline 2 (RPG 2) – 'Financial Statement Discussion and Analysis' of the International Public Sector Accounting Standards Board (IPSASB).

Key audit matters relating to the 2023 financial statements

1.8. Key audit matters are those matters that, according to our professional judgement, were of most significance in our audit of the financial statements of the current period. These matters were addressed in the context of our audit of the financial statements as a whole and in forming our opinion thereon, but we do not provide a separate opinion on these matters. We report on key audit matters in our statement of assurance.

Regularity of transactions

1.9. We examined the EU's revenue and expenditure to assess whether its resources had been collected and spent in compliance with the applicable laws and regulations[10]. Below we summarise our audit results, which are presented in detail for revenue in ***chapter 4*** and for expenditure in ***chapters 5-10***. The overview below does not include the results of our audit work on RRF expenditure, which are reported in ***chapter 11***.

Our opinion covers budgetary revenue and expenditure transactions

1.10. For revenue, we obtained reasonable assurance for our audit opinion by assessing selected key systems, complemented by transaction testing. The sample of 65 transactions examined was designed to be representative of all sources of EU budgetary revenue, which comprises revenue from own resources (customs duties and resources based on value added tax (VAT), non-recycled plastic packaging waste and GNI) and revenue stemming from other sources. Our sample also covered external assigned revenue used to finance the non-repayable (grant) component of the RRF, which includes the amounts borrowed by the Commission to provide non-repayable financial support to member states under NGEU. The EU will have to repay these amounts in the future (see paragraphs ***4.2-4.4***).

[10] Including transactions from the 2014–2020 MFF and previous MFFs.

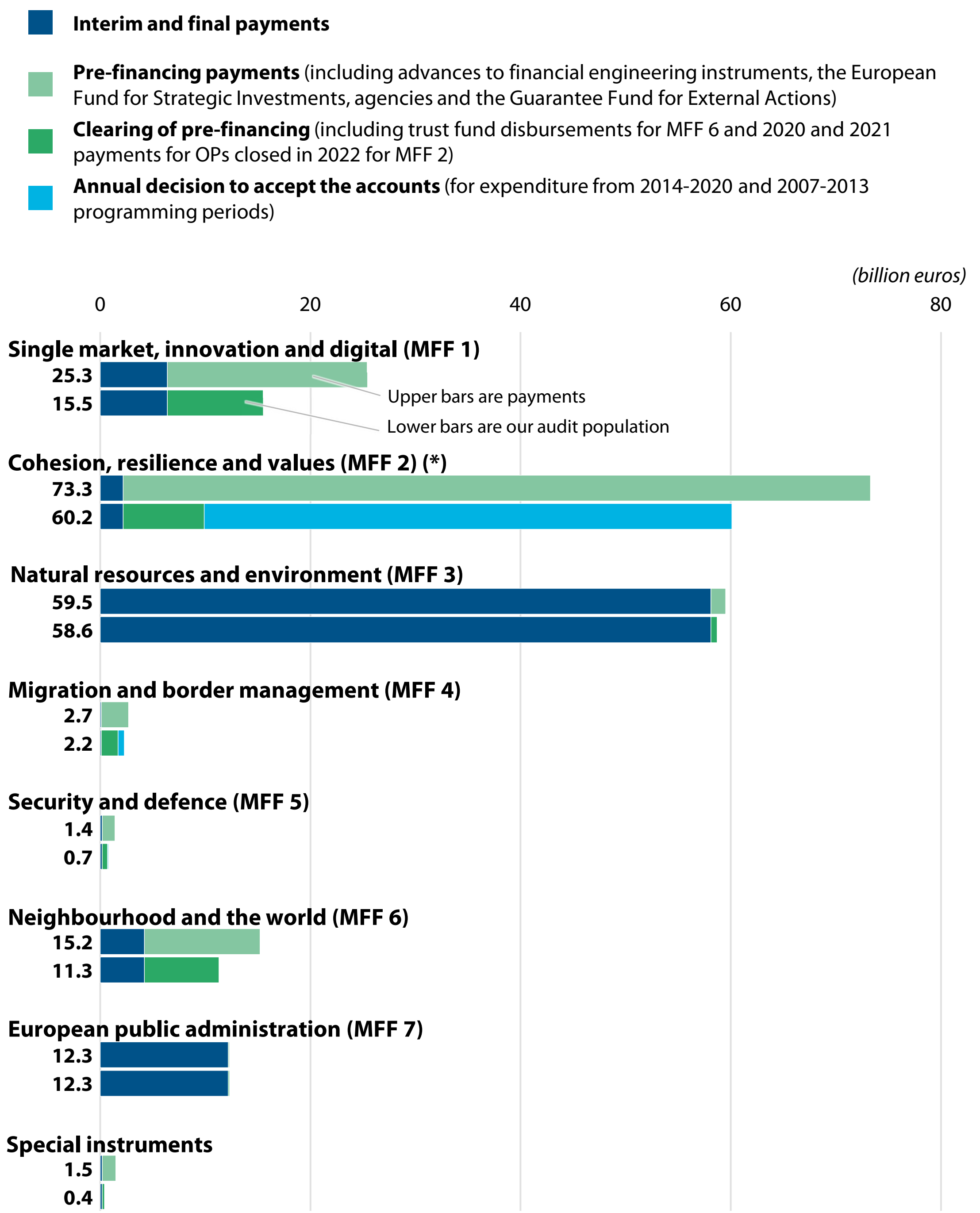
1.11. For expenditure, we selected a representative sample of 748 transactions, comprising transfers of funds from the EU budget to *final recipients* of EU spending. Our testing of these transactions contributed to our statement of assurance and to our estimate of the proportion of irregular transactions in the overall audit population, in high-risk and low-risk expenditure (see paragraph ***1.16***) and in each MFF heading for which we provide a specific assessment (headings 1, 2, 3 and 7). The transactions examined and the examples presented in this report do not provide a basis for drawing conclusions on the specific member states, beneficiary states or regions concerned (see paragraph ***(22)*** of ***Annex 1.1***).

1.12. In 2023, our audit population for revenue amounted to €248.4 billion (see ***Figure 4.1***). Our population for expenditure totalled €161.2 billion, including NGEU top-ups to existing 2021-2027 MFF programmes, which have to be spent in line with sector-specific rules. These amounts include both contributions from and payments to the United Kingdom, in line with the conditions outlined in the Withdrawal Agreement[11].

1.13. ***Figure 1.3*** shows our audit population for expenditure – broken down into interim and final payments; *clearing* of pre-financing; and annual decisions to accept the accounts – in comparison with EU spending per MFF heading (see paragraph ***(19)*** of ***Annex 1.1***).

[11] Articles 136 and 138 of the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

Figure 1.3 – Comparison of our audit population (€161.2 billion) and EU budget spending (€191.2 billion) by MFF heading in 2023



(*) See paragraphs ***6.8*** and ***6.9*** regarding our audit population of (€60.2 billion) for 'Cohesion, resilience and values'.

Source: ECA.

Error continues to be present in various types of spending

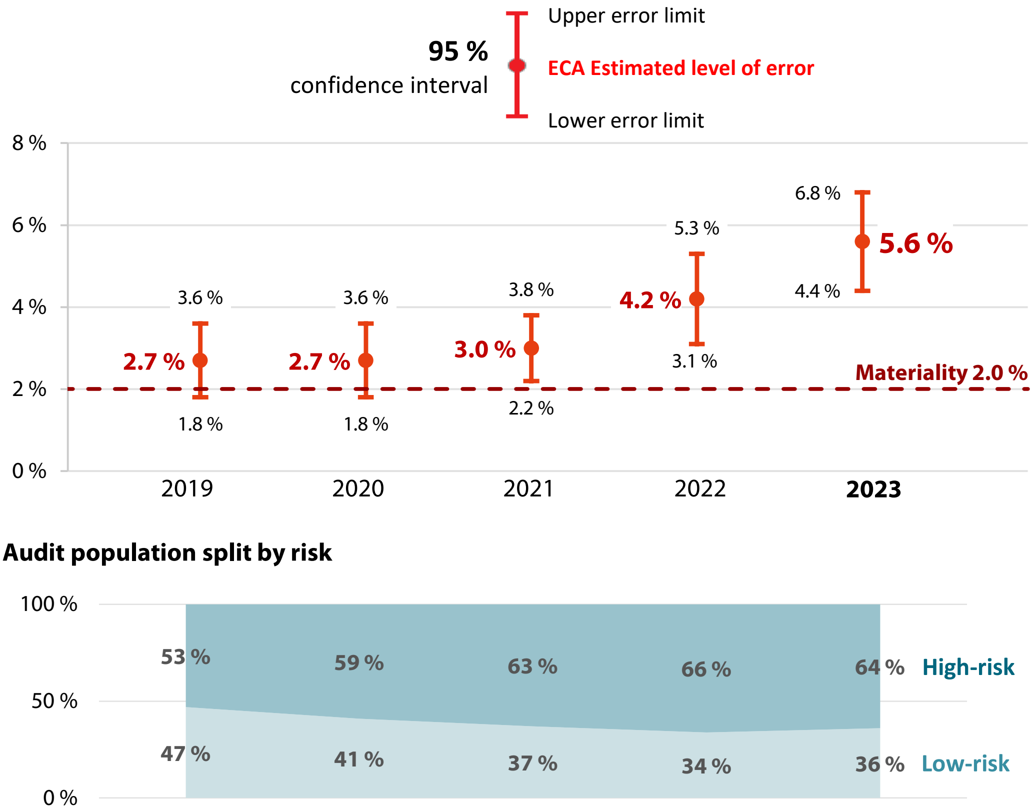
1.14. In relation to the regularity of EU revenue and expenditure, our key findings were:

(a) **Revenue:** the overall audit evidence indicates that the level of error in revenue transactions was not material. The systems for managing the revenue we examined were generally effective. However, some elements of the Commission systems for the management of reservations on GNI and VAT, points that remain open on traditional own resources (TOR), the key internal TOR controls we assessed in certain member states and the systems for ensuring the reliability and comparability of data used for the calculation of member states' contributions under the new plastic-based own resource were partially effective. We also found that some actions from the Commission's Customs Action Plan are lagging behind, in particular those linked to the implementation of the EU customs reform. However, these weaknesses do not affect our audit opinion on the regularity of revenue, as they do not concern the transactions underlying the accounts (see ***chapter 4***).

(b) **Expenditure:** our audit evidence indicates that the overall level of error[12] was material at 5.6 %. We have 95 % confidence that the *estimated level of error* in the population lies between 4.4 % (the lower error limit) and 6.8 % (the upper error limit) (see ***Figure 1.4***). The level of error is mainly driven by 'Cohesion, resilience and values', which was the biggest contributor to this rate (3.5 percentage points), followed by 'Natural resources and environment' (0.8 percentage points), 'Neighbourhood and the world' (0.8 percentage points) and 'Single market, innovation and digital' (0.3 percentage points). Material error continues to be present in high-risk expenditure, which is mainly reimbursement-based (see paragraphs ***1.16***-***1.18***). In 2023, such expenditure represented 64.4 % of our audit population.

[12] Definition of 'error' in ***Annex 1.1***, paragraph ***(25)***.

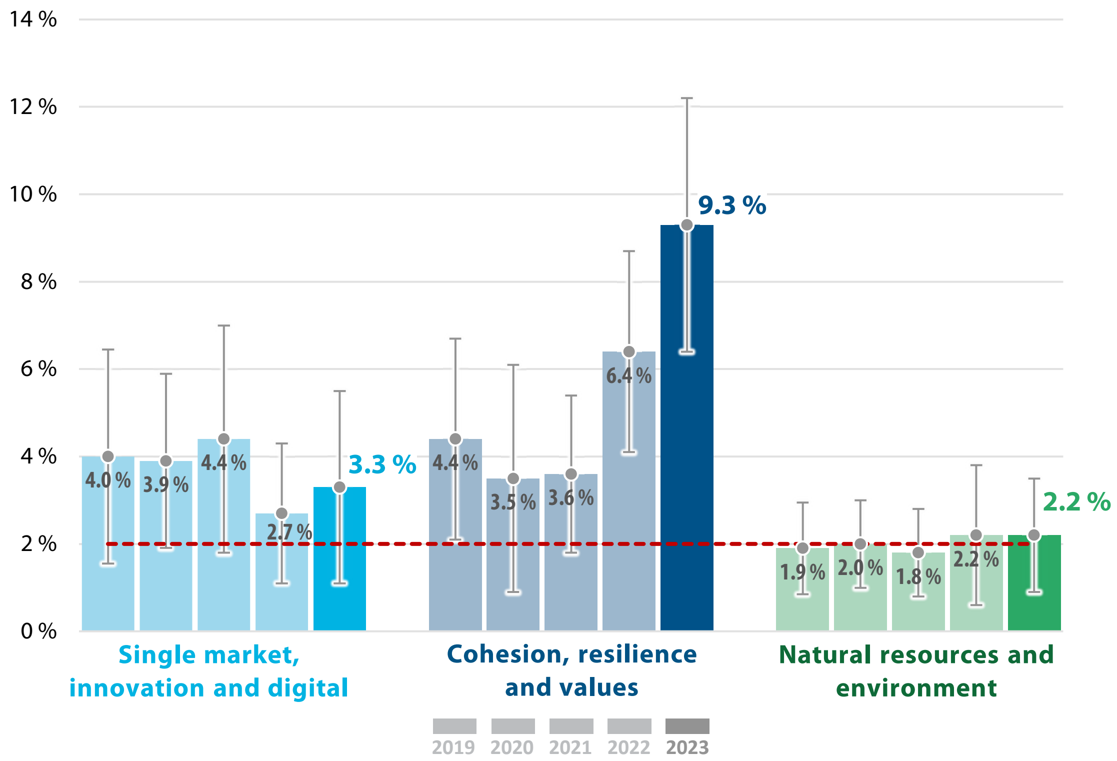
Figure 1.4 – Estimated level of error and audit population (2019-2023)



Source: ECA.

1.15. *Figure 1.5* compares our estimated levels of error for 'Single market, innovation and digital', 'Cohesion, resilience and values' and 'Natural resources and environment' between 2019 and 2023. Paragraphs *1.20-1.22* and ***chapters 5-7*** provide further information.

Figure 1.5 – Estimated levels of error for MFF headings 1, 2 and 3 (2019-2023)



Source: ECA.

The risk of error is higher for reimbursement-based payments than for entitlement-based payments

1.16. Following our risk analysis, which is based on the way funds are disbursed, our past audit results and our assessment of management and control systems, we divided our audit population of underlying transactions into high-risk and low-risk expenditure in order to select our representative sample. We consider that:

— the risk of error is lower for expenditure related to **entitlement-based payments** for which beneficiaries must meet certain conditions, as well as part of administrative expenditure (salaries and pensions of EU staff);

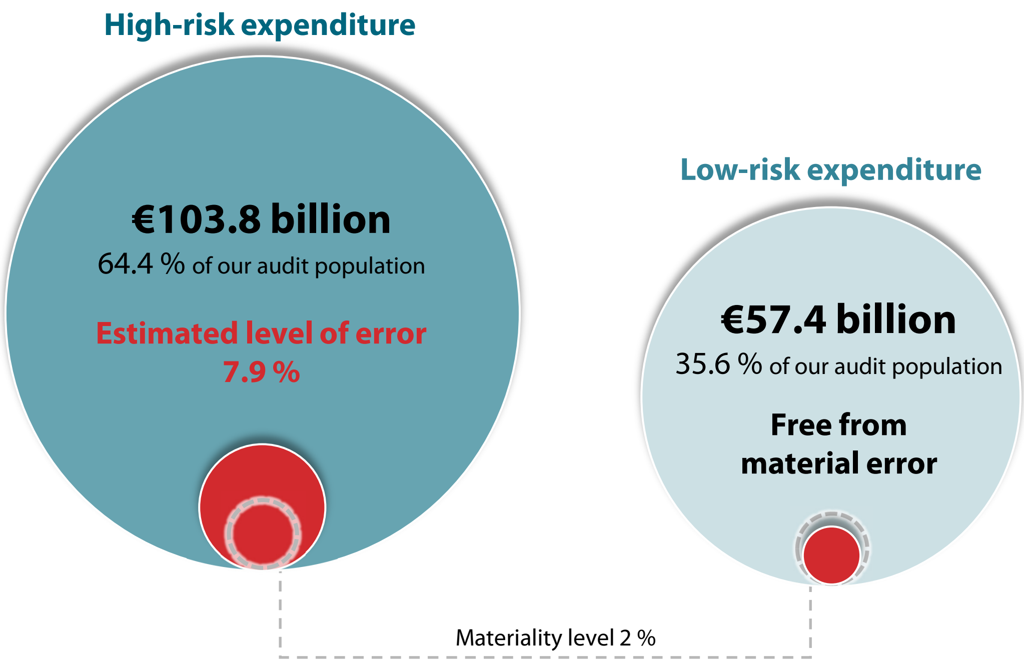
— the risk of error is high for expenditure subject to complex rules. This is mainly the case for **reimbursement-based payments**, where beneficiaries have to submit claims for eligible costs they have incurred. To this end, as well as demonstrating that they are engaged in an activity eligible for support, they must provide evidence of the reimbursable costs they have incurred. In doing so, they must often follow complex rules regarding what can be claimed (eligibility) and how costs can be properly incurred (public procurement or *state aid* rules).

1.17. In 2023, we continued to find that high-risk expenditure was affected by material error but low-risk expenditure was not. Our 2023 audit results therefore reaffirm our assessment, as reflected in our risk analysis and classification, that the way funds are disbursed has an impact on the risk of error.

High-risk expenditure represents a substantial proportion of our audit population and is affected by material error

1.18. *Figure 1.6* illustrates that high-risk expenditure represents 64.4 % of our audit population (2022: 66.0 %). Taking into account the results of our testing across all MFF headings, we estimate the level of error in high-risk expenditure at 7.9 % (2022: 6.0 %).

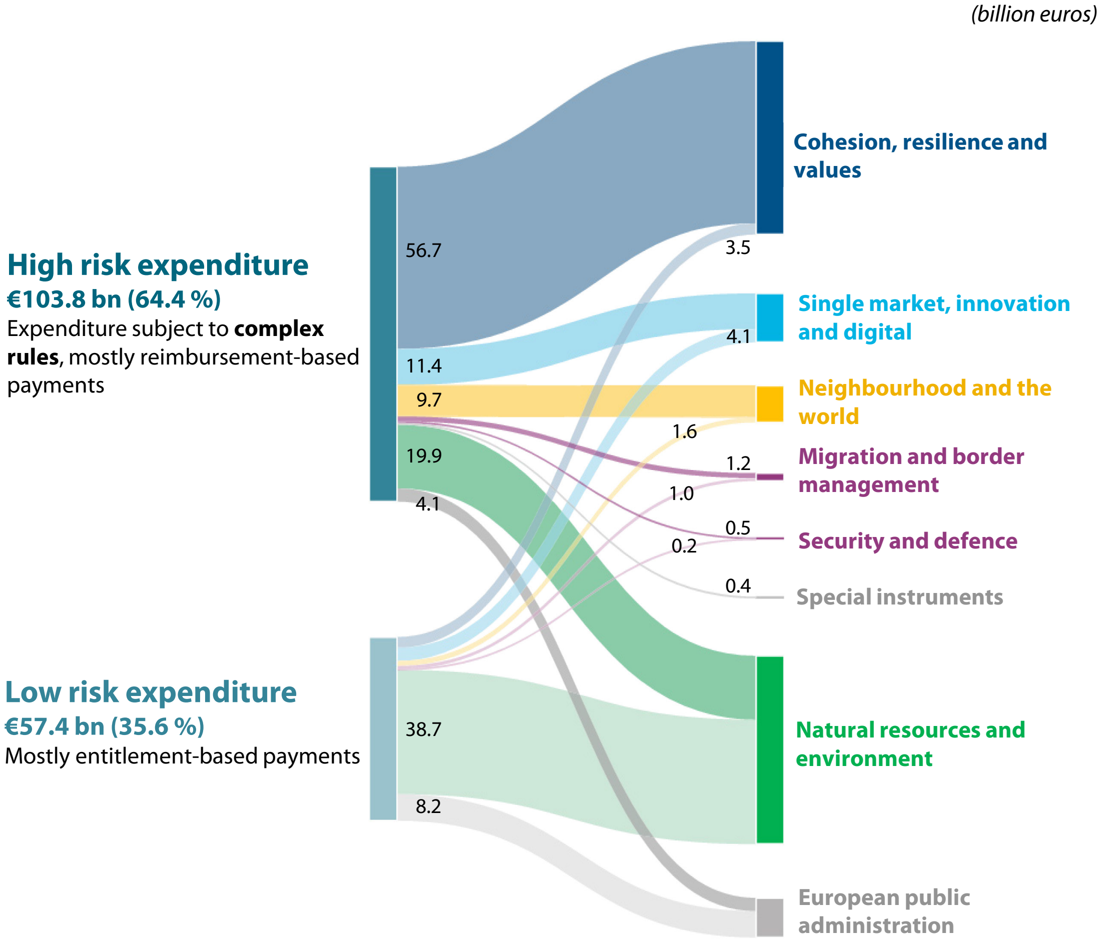
Figure 1.6 – Breakdown of the 2023 audit population into high-risk and low-risk expenditure



Source: ECA.

1.19. As *Figure 1.7* shows, 'Cohesion, resilience and values' contributes most to our high-risk population (€56.7 billion), followed by 'Natural resources and environment' (€19.9 billion), 'Single market, innovation and digital' (€11.4 billion) and 'Neighbourhood and the world' (€9.7) billion. Paragraphs *1.20*-*1.23* summarise our findings for each of these headings.

Figure 1.7 – Breakdown of high-risk and low-risk expenditure by MFF heading



Source: ECA.

1.20. ’Single market, innovation and digital’ (***chapter 5***): as in previous years in this area, research and innovation expenditure (mainly Horizon 2020), representing the majority of payments under this heading, remains high-risk and is the main source of errors. Errors in this area include different categories of ineligible costs (in particular, ineligible amounts related to direct personnel costs, other *direct costs* and absence of essential supporting documents). We also detected irregularities in relation to Connecting Europe Facility projects. One of these concerned a serious breach of EU public procurement rules.

1.21. ‘Cohesion, resilience and values’ (***chapter 6***): expenditure in this area is mainly implemented through the *European Regional Development Fund* (ERDF), the *Cohesion Fund* (CF) and the *European Social Fund Plus* (ESF+). It comprises mainly reimbursement-based payments, which we consider to be high-risk. This year, both the estimated level of error and the number of errors we found for this heading were again significantly higher than in previous years. We note that several factors put additional pressure on member state administrations and increased the risk regarding their capacity to ensure that spending was regular and in line with the principles of *sound financial management*. These factors include the significant additional REACT-EU resources being made available, and the end date of 31 December 2023 for the 2014-2020 cohesion eligibility period, which for the last few years overlaps with the eligibility period of the RRF (see paragraph ***6.17***). The main types of error we quantified were ineligible projects and costs, non-compliance with public procurement or state aid rules, and absence of essential documents.

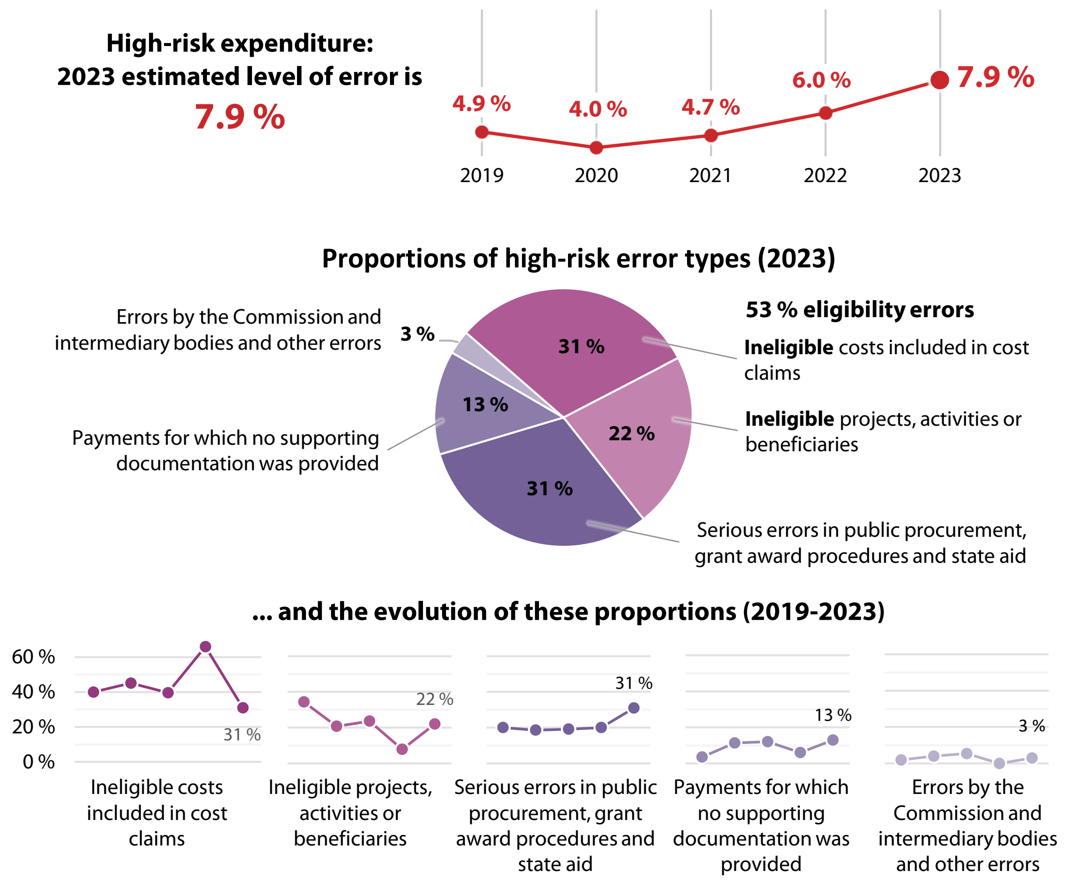
1.22. ’Natural resources and environment’ (***chapter 7***): our results indicate that the level of error was material for spending areas we have identified as high-risk (rural development, market measures and the other MFF heading 3 policy areas outside the *common agricultural policy (CAP)*. These areas represent around 34 % of expenditure under this heading, which mainly takes the form of reimbursement. Ineligible expenditure and failure to meet agri-environmental commitments are the most common errors found in these areas.

1.23. ‘Neighbourhood and the world’ (***chapter 9***): expenditure in this area is mostly reimbursement-based and covers *external action* funded by the EU budget. We consider all types of expenditure under this heading high-risk, except for *budget support* payments and administrative expenditure, which represent around 20 %. Most errors found in the high-risk expenditure in this area concerned expenditure not incurred, ineligible costs and non-compliance with public procurement rules.

Eligibility errors still contribute most to the estimated level of error for high-risk expenditure

1.24. As we have done in recent years, we describe in detail below the error types found in high-risk expenditure, as this is where material error persists. ***Figure 1.8*** shows the contribution of each error type to the estimated level of error for high-risk expenditure in 2023, alongside the estimates from 2019 to 2023.

Figure 1.8 – Contribution to the 2023 estimated level of error for high-risk expenditure, by error type



Source: ECA.

1.25. In 2023, we continued to find that eligibility errors, mainly in 'Cohesion, resilience and values', 'Natural resources and environment', 'Neighbourhood and the world' and 'Single market, innovation and digital' contributed the most to our estimated level of error for high-risk expenditure, at 53 % (2022: 74 %). Of these errors, ineligible costs included in costs claims contributed 31 % and ineligible projects, activities or beneficiaries 22 %.

1.26. Errors relating to infringements of public procurement rules in 'Cohesion, resilience and values', 'Neighbourhood and the world', 'Single market, innovation and digital' and 'European public administration' and of state aid rules in 'Cohesion, resilience and values' contributed 31 % (2022: 20 %) to the estimated level of error for high-risk expenditure in 2023.

1.27. In addition, more so than in previous years, payments for which no essential supporting documentation was provided significantly affected the level of error in high-risk expenditure, mainly in 'Cohesion, resilience and values' and 'Neighbourhood and the world'. These errors contributed 13 % (2022: 6 %) to the estimated level of error for high-risk expenditure. Missing supporting information is particularly worrying as it affects accountability.

Level of error is below materiality in low-risk expenditure

1.28. For low-risk expenditure, which represented 35.6 % of our audit population, we conclude that the estimated level of error is below the materiality threshold of 2.0 %, as was also the case in 2021 and 2022. Low-risk expenditure mainly comprises entitlement-based payments, part of administrative expenditure ('Salaries and pensions of EU civil servants' – ***chapter 10***) and budget support for non-EU countries ('Neighbourhood and the world' – ***chapter 9***) (see ***Figure 1.7***). Entitlement-based payments include *direct payments* for farmers ('Natural resources and environment' – ***chapter 7***) and student and other mobility actions under *Erasmus+* ('Cohesion, resilience and values' – ***chapter 6***).

The Commission's regularity information

1.29. The Commission is ultimately responsible for implementing the EU budget, regardless of the management mode (i.e. direct, indirect or shared management). The Commission accounts for its actions in five documents, which are included in the 'integrated financial and accountability reporting package':

(a) *annual management and performance report* (AMPR);

(b) consolidated annual accounts of the European Union;

(c) report on the follow-up to the *discharge* of the previous financial year;

(d) report to the discharge authority on internal audits carried out in the previous financial year;

(e) long-term forecast of future inflows and outflows of the EU budget.

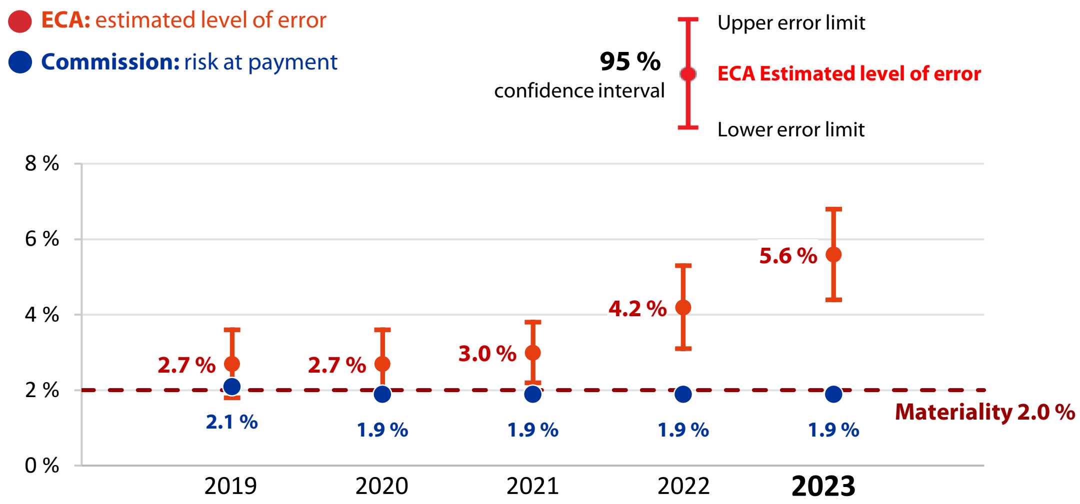
1.30. The AMPR summarises key information on internal control and financial management referred to in the *annual activity reports* (AARs) of the various Commission directorates-general. Responsibility for these reports follows the division of responsibilities set out in the Commission's governance arrangements. The directors-general are responsible for the reliability of the information provided in their respective AARs, while the college of Commissioners adopts the AMPR and therefore ultimately retains ownership of the report's production and of the information it presents.

The Commission's estimate of error is significantly below the range of our confidence interval

1.31. In the AMPR, the Commission presents its estimate of the risk at payment[13] for the transactions underlying the 2023 accounts. The risk at payment represents the Commission's estimate of the amount, at the moment of payment, that has been paid without the applicable rules having been followed. This concept is closest to our estimate of the level of error.

1.32. *Figure 1.9* presents the Commission's figures for the risk at payment alongside the range of our confidence interval[14] of 95 % for the estimated level of error. The Commission's risk at payment for 2023 is 1.9 %. This is significantly below our estimate of the level of error, which is 5.6 % (2022: 4.2 %), and below the range of our confidence interval, which is between 4.4 % and 6.8 % (see paragraph *1.14(b)*.

Figure 1.9 – The Commission's estimate of the risk at payment versus our estimate of the level of error



Source: ECA.

[13] Article 247(1)(b)(i) of the Financial Regulation requires that the AMPR include an estimate of the level of error in EU expenditure.

[14] See paragraph *(27)* of *Annex 1.1* for an explanation of the 95 % confidence interval.

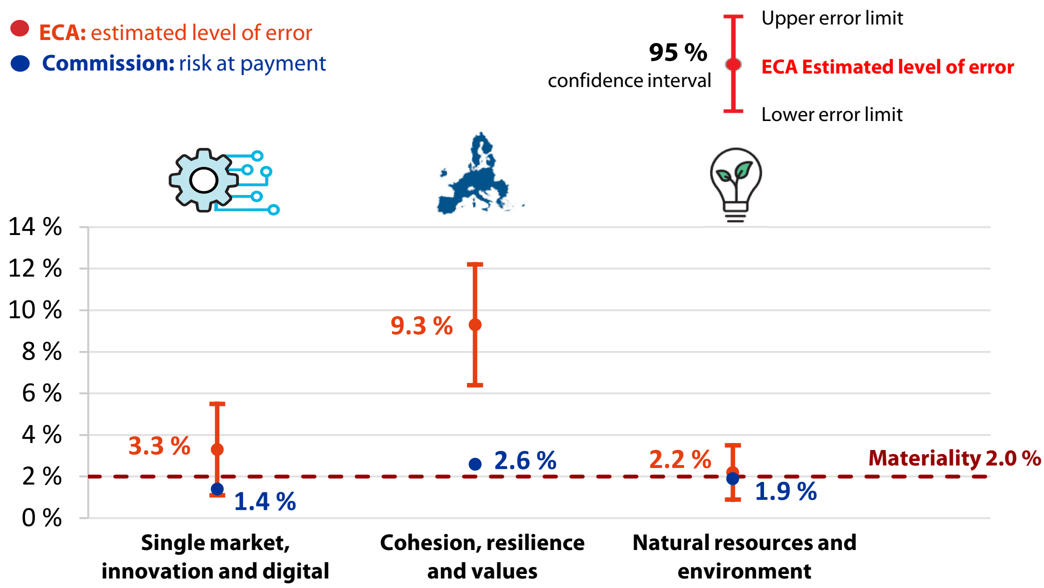
1.33. The risk at payment is disclosed individually for each directorate-general in its AAR and as aggregate figures for each policy area and for the Commission as a whole in the AMPR. ***Figure 1.10*** compares our estimate of the level of error with the Commission's estimates for the three biggest MFF headings for which we provide a specific assessment. The comparison shows that the Commission's figures are below our estimates for three policy areas. We found that:

— for heading 1 **'Single market, innovation and digital'**, the Commission's estimate of the risk at payment of 1.4 % was in the lower half of the range of our confidence interval, below our estimated level of error (see paragraphs ***5.7*** and ***5.42***).

— for heading 2 **'Cohesion, resilience and values'**, the Commission's estimate was 2.6 %, significantly below the range of our confidence interval for the estimated level of error (see paragraphs ***6.15*** and ***6.74***).

— for heading 3 **'Natural resources and the environment'**, the Commission's estimate of the risk at payment (1.9 %) was in the lower half of the range of our confidence interval, below our estimated level of error (see paragraphs ***7.16*** and ***7.38***).

Figure 1.10 – Our estimate of the 2023 level of error versus the Commission's estimate of the risk at payment for MFF headings 1, 2 and 3



Source: ECA.

The Commission's risk assessment is likely to underestimate the level of risk

1.34. In the AMPR, the Commission presents its overall risk assessment of 2023 annual expenditure in order to identify and focus action on high-risk areas. The Commission divides this annual expenditure (the 'total relevant expenditure') into areas with a low (less than 2.0 %), medium (between 2.0 % and 2.5 %) and high (above 2.5 %) estimated risk at payment. It arrives at this split by estimating the risk at payment for each programme and other relevant expenditure segment. For 'Natural resources and environment' and 'Cohesion, resilience and values', it estimates the overall risk at payment for individual paying agencies and operational programmes in the member states and assigns them to the appropriate risk category (low, medium or high). Based on this approach, the Commission estimates the risk at payment to be low for 67 % (2022: 63 %) of expenditure, medium for 9 % (2022: 12 %) and high for 24 % (2022: 25 %).

1.35. However, our work has revealed the following limitations in the Commission's *ex post* checks, which, taken together, affect the robustness of the Commission's risk assessment:

- MFF heading 1 **'Single market, innovation and digital'** (total relevant expenditure by the Commission: €19 billion) mainly comprises expenditure classified by the Commission as low-risk (67 % of this heading's total expenditure). However, we have previously reported weaknesses in the Commission's *ex post* audits in this area[15], which lead it to underestimate the risk at payment for the programmes concerned. For 2023, we estimated a level of error of 3.3 % in MFF heading 1, which indicates that these weaknesses still exist. In our view, despite the measures already taken by the Commission, it continues to underestimate the risk at payment (see paragraphs ***5.41*** and ***5.42***).

- MFF heading 2 **'Cohesion, resilience and values'** (total relevant expenditure by the Commission: €67 billion) comprises operational programmes classified by the Commission mainly as either low- or medium-risk (67 % of this heading's total expenditure) depending on their confirmed error rates. For 2023, we estimated a level of error of 9.3 % in MFF heading 2 (see paragraph ***6.15***). Taking into account the results of Commission's own audits and of our audit, which found 49 errors that remained undetected and numerous weaknesses in audit authorities' work, we conclude that at the end of the eligibility period (31 December 2023) the member states' management and control systems still did not always effectively prevent or detect irregularities in expenditure declared by beneficiaries.

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[15] 2020 annual report, paragraph 1.37 and 2019 annual report, box 1.11.

Therefore, the reliability of the Commission error rates is also affected, as they rely on these national systems, which do not work effectively (see paragraphs ***6.59*** and ***6.72***). We found that the Commission continues to detect irregularities through its compliance audits, but that its desk reviews have inherent limitations in confirming the *residual total error rate*[16]. Our audit findings demonstrate that the Commission's error rates are underestimated (see paragraph ***6.74***) and that some programmes may therefore have been incorrectly classified as low- or medium-risk.

- MFF heading 6 **'Neighbourhood and the world'** (total relevant expenditure by the Commission: €14 billion): the Commission considers 100 % of expenditure under this heading to be low-risk. The error rates reported in the residual error rate (RER) study are an important contributor to the risk at payment for this heading. We have concluded in recent years[17] that limitations in the RER studies of 2022 and 2021 may contribute to the underestimation of the risk at payment in this heading, which in turn would affect its risk classification. In addition, we continue to find a high number of quantifiable errors in 'Neighbourhood and the world' expenditure and our audit results indicate that the risk of error in this heading is high (see paragraphs ***9.9*** and ***9.26***).

[16] Special report 26/2021: "Regularity of spending in EU Cohesion policy – Commission discloses annually a minimum estimated level of error that is not final".

[17] 2022 annual report, paragraph 9.21 and 2021 annual report, paragraph 8.22.

We report suspected fraud to the EPPO and OLAF

1.36. *Fraud* is any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, the non-disclosure of required information and the improper use of EU funds[18]. Fraud has the effect of harming or potentially harming the EU's financial interests.

1.37. The primary responsibility for preventing and detecting fraud rests with both the management of an entity and those charged with its governance. Article 325 of the Treaty on the Functioning of the European Union (TFEU) requires the EU and its member states to counter fraud or other illegal activities affecting the EU's financial interests.

1.38. As the EU's external auditor, we do not have a mandate to investigate cases of suspected fraud against the EU's financial interests. We are, however, obliged to report such cases to the competent authorities, as part of our obligation under Article 287(2) TFEU to report on "any cases of irregularity" we detect while examining the legality, regularity and sound financial management of all EU revenue and expenditure. We take account of the risk of fraud before starting audits (see paragraphs ***(32)***-***(34)*** in ***Annex 1.1***) and review our procedures regularly.

1.39. We forward to the European Public Prosecutor's Office (EPPO) any suspicions of criminal offences falling within its competence and involving participating member states, and forward to the European Anti-fraud Office (OLAF) any suspicions of fraud, corruption or other illegal activity affecting the EU's financial interests. Such suspicions may arise either from our audit work (including performance audits) or from information reported to us directly by third parties. The EPPO and OLAF then follow up on these cases, decide whether to launch a criminal (in the case of the EPPO) or an administrative (in the case of OLAF) investigation and cooperate as necessary with member state authorities. Since March 2022, we have forwarded cases of suspected fraud to both the EPPO and OLAF where the matter falls within the competence of both bodies.

[18] Article 3 of Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (the 'PIF Directive').

1.40. In 2023, we reported to OLAF 20 cases (2022: 14 cases) of suspected fraud, 19 that we had identified during our audit of 2022 expenditure and one from our audit of 2021 expenditure. Based on this reporting, OLAF has already opened four investigations. In parallel, we reported 17 of these cases to the EPPO, from which the EPPO has opened nine investigations. During our audit of 2023 expenditure, we already identified 12 cases of suspected fraud.

1.41. The most frequent grounds for the suspicion of fraud were:

- intentional use or presentation of false, incorrect or incomplete statements or documents and/or non-disclosure of information in violation of a specific obligation, resulting in the misappropriation or wrongful retention of EU funds;
- artificial creation of conditions necessary for EU financing; and
- use of grants for unauthorised purposes.

According to OLAF, it recommended the recovery of a total of €544 million from closed investigations based on information arising from our audit work between 2010 and 2023.

1.42. As well as reporting cases to the EPPO and OLAF, we report in this annual report on how the Commission and member states have implemented their fraud risk policies. In ***chapter 6***, we report that we found weaknesses in the audit authorities' planning and preparation of their work, such as audit checklists that did not include specific questions on fraud or conflict of interest (see paragraphs ***6.51***). We also report that the Commission has implemented the recommendation on enhancing fraud risk awareness to ensure more effective reporting on suspected fraud from our 2022 annual report in only some respects (see Annex **6.2**).

1.43. In addition, we cover fraud in separate audits. We have completed our audit on the design of the Commission's control system for the RRF, in which we covered specific fraud-related risks. We concluded that the Commission's controls could support its assessment of member states' systems, but reporting on fraud and guidelines on correcting weaknesses in member states' systems were not fully developed[19]. Moreover, we have published a special report on the recovery of

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[19] Special report 07/2023: "Design of the Commission's control system for the RRF – Assurance and accountability gap remains at EU level in the new delivery model, despite extensive work being planned".

irregular EU expenditure[20], in which we concluded that the Commission's systems for managing and monitoring irregular expenditure incurred by beneficiaries of EU funds were partially effective. We are also currently conducting an audit on VAT fraud on imports and one on RRF fraud detection in the member states.

[20] Special report 07/2024: "The Commission's systems for recovering irregular EU expenditure – Potential to recover more and faster".

Conclusions

1.44. This chapter supports the audit opinion presented in the statement of assurance. We present the related audit results in paragraphs ***1.45*** and ***1.46***.

Audit results

1.45. We conclude that the accounts were not affected by material misstatements.

1.46. As for the regularity of transactions, we conclude that revenue transactions were free from material error. For expenditure, our audit results show that the estimated level of error increased compared to last year, from 4.2 % to 5.6 %. This was due mainly to the increase in MFF heading 2 (‘Cohesion, resilience and values’). We conclude that high-risk (mainly reimbursement-based) expenditure was affected by a material level of error. This year, the proportion of high-risk expenditure in our audit population is 64.4 % and it continues to represent a substantial part of our audit population.

1.47. The Commission’s estimate of error (risk at payment), as disclosed in the 2023 AMPR, is 1.9 %, which is significantly below our range.

1.48. Limitations in the Commission’s and member states’ *ex post* checks in MFF headings 1, 2 and 6 affect the risk at payment disclosed in the AMPR, and hence the Commission’s risk assessment.

Annexes

Annex 1.1 – Audit approach and methodology

(1) This annex outlines our approach and methodology for auditing the reliability of accounts and the regularity of transactions underlying the accounts of revenue and expenditure (budget spending) under the multiannual financial frameworks (MFFs). Our audit approach for expenditure under the Recovery and Resilience Facility (RRF), which is different and temporary, is outlined in ***chapter 11***.

(2) This annex also refers to the main differences between our audit approach and the way the Commission estimates and reports on the level of irregularities, while exercising its duties as manager of the EU budget. To this end, we clarify how we:

— structure our audit work around MFF headings and extrapolate the errors found (paragraphs ***(10)*** and ***(27)***);

— apply EU and national rules (paragraph ***(17)***) and

— quantify procurement errors (paragraph ***(29)***).

(3) We design our audit approach in order to provide our intended users with reasonable assurance. Our audit methodology conforms to the international standards on auditing issued by the International Federation of Accountants (IFAC) and the International Organization of Supreme Audit Institutions (INTOSAI). It ensures that our audit conclusions are supported by sufficient and appropriate audit evidence.

(4) We provide an audit opinion (the statement of assurance) on the reliability of accounts and the regularity of the underlying transactions, supplemented by specific assessments for major areas of EU activities. These assessments provide detailed audit results and conclusions on the underlying transactions and systems in those areas.

PART 1 – Audit approach for the reliability of accounts

(5) We examine the EU's consolidated accounts to determine their reliability. These consist of:

(a) the consolidated financial statements; and

(b) the budgetary implementation reports.

(6) The consolidated accounts should properly present, in all material respects:

(a) the financial position of the European Union at year end;

(b) the results of its operations and cash flows; and

(c) the changes in net assets for the year ended.

(7) In our audit, we:

(a) evaluate the accounting control environment;

(b) check the functioning of key accounting procedures and the year-end closure process;

(c) analyse the main accounting data for consistency and reasonableness;

(d) analyse and reconcile accounts and/or balances;

(e) perform substantive tests of commitments, payments and specific balance sheet items, based on representative samples;

(f) use the work of other auditors where possible, in accordance with international standards on auditing, particularly when auditing borrowing and lending activities managed by the Commission for which external audit certificates are available.

PART 2 – Audit approach for the regularity of transactions

(8) Underlying transactions are transfers of funds from the EU budget all the way to their final recipients, and transfers of revenue from member states and other sources to the EU budget.

(9) Our audit approach for assessing whether the expenditure transactions underlying the accounts comply with EU rules and regulations is to rely mainly on direct testing of compliance for a randomly selected, representative sample of transactions. This may be complemented by an examination of selected management and control systems.

(10) We organise our audit work around the various MFF headings and report our results accordingly, in line with the budget structure decided by the legislator.

Examination of management and control systems

(11) The Commission, other EU institutions and bodies, member state authorities, beneficiary countries and regions establish control systems for managing the risks to the budget and overseeing and ensuring the regularity of transactions. Every year, we examine selected management and control systems and present the results of our systems work, together with recommendations for improvement, in ***chapters 4-10***.

Selection and testing of transactions

(12) We first determine the overall size of our sample of transactions for all EU expenditure based on our categorisation of the audit population into low-risk (mainly entitlement-based expenditure) and high-risk (mainly reimbursement-based expenditure) expenditure and our assumptions regarding the estimated level of error and the standard deviation. The main reasons for this approach are to make our audit work more effective by focusing more on high-risk areas and to obtain a sufficient basis to conclude on whether the material error that we find through our work is pervasive (see paragraphs ***(36)*** and ***(37)***).

(13) We consider parts of the population to be low-risk when we have sufficient evidence that the estimated level of error is below the materiality threshold, based on the substantive testing we have carried out in previous years and, where available, the assurance we can derive from the existence and operation of control systems. We consider expenditure to be high-risk when the results of our work in previous years indicate that the estimated level of error is above materiality and/or the evidence collected to date does not allow us to conclude otherwise.

(14) To determine the sample sizes for each MFF heading, we consider the accepted expenditure amount, our division of the population into high-risk and low-risk expenditure and whether or not we provide a specific assessment. For this purpose, we use an assurance model which builds on our combined risk assessment of inherent and control risk and takes account of the assurance that can be derived from the management and control systems. Under each MFF heading for which we provide a specific assessment (***chapters 5-7*** and ***10***), we test a representative sample of transactions, allowing us to provide an estimated level of error for this heading.

(15) We also use a combined risk assessment to determine the sample size for revenue transactions.

(16) We use stratified *monetary unit sampling* to select claims or payments and, at a lower level, individual items within a transaction). For each selected transaction, we examine how the claim or payment amount was calculated. This involves tracing the transaction from the budgetary accounts to the final recipient (e.g. a farmer, the organiser of a training course, or a development aid project), testing compliance at each level.

(17) We determine whether the claim or payment was made for the purpose approved in the budget and specified in legislation and in compliance with applicable EU laws and regulations. These comprise the financial rules (TFEU, Financial Regulation), the basic legislation establishing the policy, programme or activity concerned, any rules or regulations established in accordance with that basic legislation, and the contractual framework. In line with the principle of subsidiarity, many rules are set at national level. These include not only directives transposing EU law into national law (e.g. public procurement directives) but also eligibility criteria for many shared management schemes. Our assessment takes due account of the interpretation of EU and national law provided by national judicial courts or national independent and authoritative bodies and the Court of Justice of the European Union.

(18) When testing revenue transactions (***chapter 4***), our examination of the own resources based on gross national income, value added tax and non-recycled plastic packaging waste takes as its starting point the statistics and data based on which these are calculated. For traditional own resources, we examine the customs authorities' account statements and the flow of duties – again up to the point they were received and recorded by the Commission.

(19) We examine expenditure at the point it was incurred by final recipients of EU funds in undertaking activities and subsequently accepted by the Commission ('*accepted expenditure*'). This applies to all categories of payments. In practice, this means that our population of transactions covers interim and final payments. We do not examine pre-financing payments (advances) at the point they were made, but rather once:

(a) the final recipient of EU funds (e.g. a farmer, a research institute, a company providing publicly procured works or services) has provided evidence of their use, i.e. once progress has been made in the activities funded and/or costs have been incurred; and

(b) the Commission (or other institution or body managing EU funds) has accepted the final use of the funds (the progress made and/or the related costs) by clearing the advance.

(20) Changes introduced since the 2014-2020 MFF legislation for ‘Cohesion’ have had an impact on what the Commission considers to be ‘accepted expenditure’ in this area. Since 2017, our audit population for this MFF heading has consisted of expenditure included in the accounts accepted annually by the Commission. This means our approach is to test transactions for which, according to the legislation, member states are supposed to have implemented all relevant actions to correct errors that they themselves have identified. The objective of our transaction testing in the area of ‘Cohesion’, in addition to contributing to the statement of assurance, is to review the work of audit authorities and conclude on the reliability of the Commission’s key regularity indicator for this area – the residual error rate.

(21) Our audit sample is designed to provide an estimate of the level of error for expenditure as a whole rather than for individual transactions (e.g., a particular project). The error rates reported for selected cost items should not be seen as a conclusion on their respective transactions; rather, they contribute directly to the overall level of error for EU expenditure.

(22) We do not examine transactions in every member state, beneficiary state and region in any given year. While we may name certain member states, beneficiary states and/or regions, this does not mean that similar examples do not occur elsewhere. The illustrative examples presented in this report do not provide a basis for drawing conclusions on the specific member states, beneficiary states and/or regions concerned.

(23) We consider whether we can make efficient use of the checks on regularity already performed by other auditors. If we want to use the results of these checks in our audit work, in line with international standards on auditing, we assess the independence and competence of those other auditors and the scope and adequacy of their work.

(24) For the part of our audit population concerning EU agencies and joint undertakings, we make use of the results of the audit work carried out for our respective specific annual reports on these agencies[21] and undertakings[22].

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[21] 2022 annual report on EU agencies.

[22] 2022 annual report on EU joint undertakings.

Evaluation of the results of transaction testing

(25) We define an 'error' as an amount of money that should not have been paid out from the EU budget. Errors occur when money is not used in compliance with the relevant EU legislation or with specific national rules.

(26) An error may concern all or part of the amount involved in an individual transaction. We consider whether errors are quantifiable or non-quantifiable, i.e. whether or not it is possible to measure how much of the amount examined was affected by the error.

(27) We determine the overall impact of errors by considering both qualitative and quantitative aspects. The qualitative evaluation takes into consideration the importance of the rules which have been infringed and the seriousness of the facts and the actual or potential consequences. The quantitative assessment is based on quantifiable errors identified by testing a sample of transactions, which we extrapolate to provide a statistical estimate – the estimated level of error. Furthermore, we calculate a 95 % confidence interval for the level of error in the audit population. This means a range within which we are 95 % confident the audit population's level of error lies.

(28) Errors detected and corrected prior to and independently of our checks are excluded from the calculation of error, since their detection and correction demonstrate that the management and control systems have worked effectively.

(29) Our criteria for quantifying public procurement errors may differ from those used by the Commission or member states. We quantify only serious breaches of procurement rules. We quantify as 100 % procurement errors only those infringements that have prevented the best bid from winning the tender, thereby rendering all expenditure under the contract ineligible. We do not use flat rates for the different types of infringement of procurement rules, unlike the Commission[23]. We base our quantification of public procurement errors on the amounts of ineligible expenditure in the transactions examined.

(30) For those MFF headings where we provide a specific assessment, as well as for revenue and for the EU budget as a whole, we present an estimated level of error, which takes account of quantifiable errors only and is expressed as a percentage. Examples of quantifiable errors are ineligible costs and projects, breaches of contract or grant conditions, non-compliance with public procurement and state

[23] Decision C(2019)3452, which includes an annex laying down the guidelines for determining financial corrections to be made to expenditure financed by the EU for non-compliance with the applicable rules on public procurement.

aid rules and absence of essential supporting documents. We also estimate the lower error limit and the upper error limit.

(31) Our approach is not designed to gather data on the frequency of error in the whole population. Therefore, figures presented on the number of errors detected in an MFF heading, in expenditure managed by a directorate-general or in spending in a particular member state are not an indication of the frequency of error in EU-funded transactions or in individual member states.

PART 3 – Audit procedures in relation to fraud

(32) We identify and assess the risks of material misstatement of the consolidated accounts and of material non-compliance of the underlying transactions with the requirements of EU law, whether due to fraud or error.

(33) We design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. Instances of material misstatement or non-compliance resulting from fraud are more difficult to detect than those resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Consequently, there is a greater risk of such instances not being detected.

(34) If we have reason to suspect that fraudulent activity has taken place, we report this to the EPPO and OLAF, based on their competence.

PART 4 – The statement of assurance – forming our audit opinion

(35) We base our opinion on sufficient, relevant and reliable audit evidence which we obtain through an examination of management and control systems and through transaction testing.

(36) Our work allows us to arrive at an informed opinion as to whether errors in the population exceed or fall within the materiality limits. We use the level of 2.0 % as the materiality threshold for our opinion. We also take account of the nature, amount and context of errors and other information available (see paragraph ***(27)***).

(37) Where we find a material level of error and determine its impact on the audit opinion, we must determine whether the errors are 'pervasive'[24] to the audit population. When errors are material and pervasive, we issue an adverse opinion.

(38) Errors and/or absence of audit evidence are 'pervasive' if, in the auditor's judgment, they are not confined to specific elements, accounts or items in the financial statements (i.e. they occur throughout the accounts or transactions tested). Even if they are thus confined, they are still pervasive if they represent, or could represent, a substantial proportion of the financial statements, or relate to disclosures which are fundamental to users' understanding of the financial statements.

PART 5 – Link between the audit opinions on the reliability of accounts and on the regularity of transactions

(39) International auditing standards[25] specify that where auditors issue audit opinions on both the reliability of accounts and the regularity of transactions underlying those accounts, a modified opinion on the regularity of transactions does not, in itself, lead to a modified opinion on the reliability of accounts.

[24] International Standard on Auditing (ISA) 705 (revised), Modifications to the Opinion in the Independent Auditor's Report.

[25] ISSAI 4000, paragraph 16.

Chapter 2

Budgetary and financial management

Contents

Introduction

2.1. This chapter presents the main issues in relation to budgetary and financial management of the 2023 EU budget and its additional financing. We also report on budgetary and financial risks and challenges that the EU may face in future years. The chapter is based on our review of the implementation of the EU budget, and reviews of documents published by the Commission and other stakeholders. It also takes account of our work, presented in our special reports and opinions.

Budgetary and financial management in 2023

EU budget implementation was high for commitments but low for payments

2.2. In this section, we analyse EU budget implementation in 2023. This was the third year of both the 2021-2027 *multiannual financial framework* (MFF) and *NextGenerationEU* (NGEU) implementation.

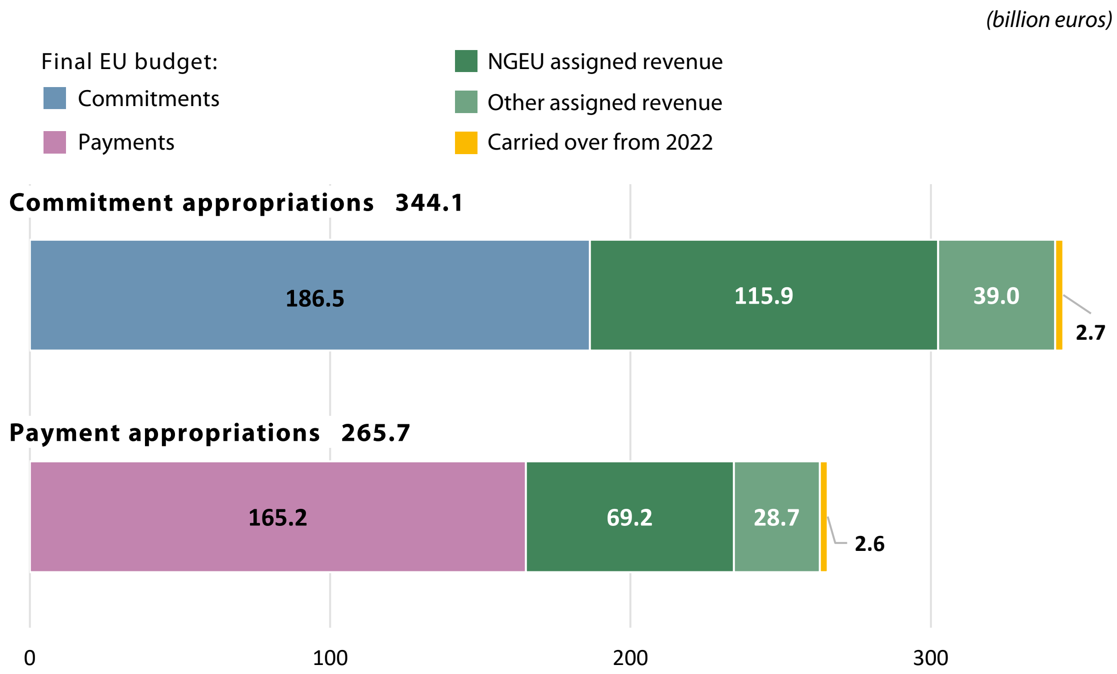
2.3. The *Financial Regulation* classifies the *commitment* and *payment appropriations* by year of origin and source of funding. Until 2022, we focused our analysis on *annual budget appropriations* and, for 2021[1] and 2022[2], NGEU *assigned revenue*. For 2023, given the higher amounts of other types of assigned revenue (e.g. proceeds from the emissions trading system (ETS) and cash contributions from member states to the *InvestEU* guarantee), we include all types of appropriations in our analysis. The *Recovery and Resilience Facility* (RRF) loans are off-budget items and thus out of our scope.

2.4. ***Figure 2.1*** shows the total 2023 EU budget available for both commitment and payment appropriations. Annual EU budget and NGEU assigned revenue make up 87.9 % of the total available EU budget for commitment appropriations and 88.2 % of the total available EU budget for payment appropriations, while other assigned revenue and *carry-overs* from 2022 make up the remaining part.

[1] 2021 annual report, paragraph 2.2.

[2] 2022 annual report, paragraph 2.3.

Figure 2.1 – Total 2023 EU budget available appropriations including NGEU grants



Source: ECA, based on the 2023 consolidated annual accounts of the EU.

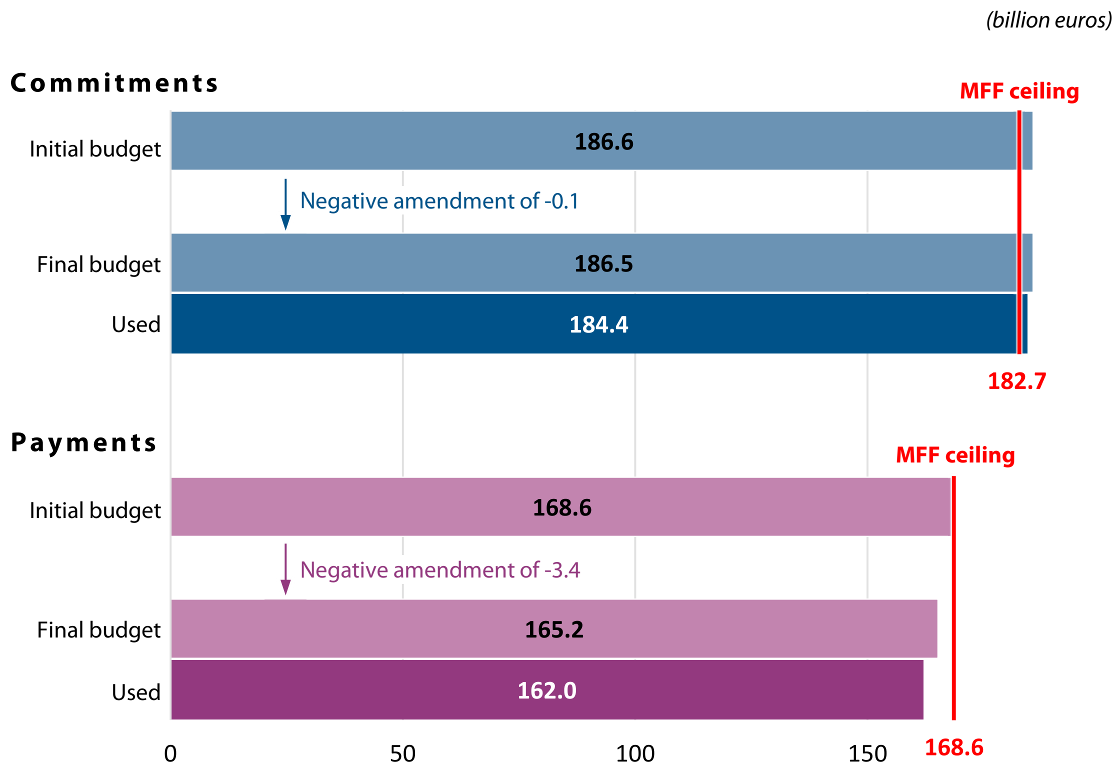
In 2023, almost all commitment appropriations of the annual EU budget were used

2.5. The budgetary authority approved an initial annual EU budget for 2023 of €186.6 billion of commitment appropriations. Four amending budgets were adopted during 2023. The overall net effect of the amending budgets was a reduction of €0.1 billion in commitment appropriations.

2.6. The final budget of commitment appropriations of €186.5 billion was above the MFF ceiling of €182.7 billion (***Figure 2.2***). This was made possible via MFF *special instruments*, such as the *Brexit Adjustment Reserve*, *European Globalisation Adjustment Fund for Displaced Workers*, and *Solidarity and Emergency Aid Reserve* (SEAR). These instruments provide additional funds over and above the MFF ceilings for new or unforeseen events.

2.7. The total commitments made under the 2023 budget were €184.4 billion, which was 98.9 % of the available amount. The unused commitment appropriations of €2.1 billion were mainly from *European Union Solidarity Fund* (EUSF) (€0.4 billion), the *European Regional Development Fund* (ERDF) (€0.8billion), the *Cohesion Fund* (CF) (€0.2 billion), and the *European Agricultural Guarantee Fund* (€0.3 billion). Of the unused appropriations, a total of €0.8 billion was carried over to 2024, mainly for the European Agricultural Guarantee Fund (€0.3 billion), and for EUSF's assistance to Türkiye following the earthquakes in February 2023 (€0.4 billion). The remaining unused appropriations of €1.3 billion lapsed.

Figure 2.2 – Budget implementation in 2023



Source: ECA, based on the 2023 consolidated annual accounts of the EU.

2.8. Furthermore, the 2023 commitments made from carry-overs from the previous year were €2.7 billion and from assigned revenue €145.2 billion, out of which €115.6 billion were NGEU funds.

Payments were lower than initially planned and below the MFF ceiling

2.9. The 2023 initial voted budget for payment appropriations was €168.6 billion. The total overall net effect of the amending budgets was a reduction of payment appropriations by €3.4 billion, and the total final budget was €165.2 billion, which was below the MFF ceiling of €168.6 billion euros.

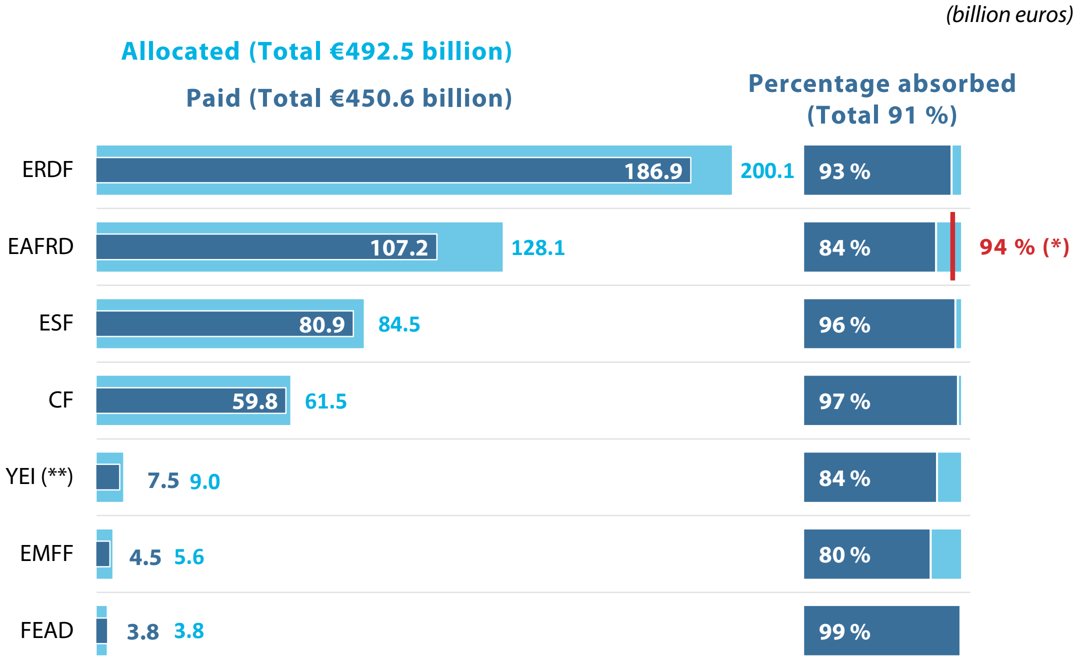
2.10. Total payments made under the final budget were €162.0 billion, or 98.1 % of the available amount. Taking into account additional payments of €74.7 billion from assigned revenue (mainly NGEU *grants*, including top-ups to MFF funding *programmes*), and €2.4 billion of carry-overs from 2022, total payments in 2023 reached €239.2 billion. Utilisation of the budget for payments was 90.0 % of total payment appropriations of €265.7 billion.

Absorption of the 2014-2020 ESIF slowed down in 2023, but the deadline for payment claims and closure documents was extended by one year

2.11. The *European Structural and Investment Funds* (ESIF) are jointly managed by the Commission and the member states. ESIF payments in 2023, excluding NGEU resources, amounted to €54.7 billion, which was less than in the previous 3 years (€64.7 billion in 2022, €75.1 billion in 2021 and €72 billion in 2020). At the end of 2023, total payments for the 2014-2020 ESIF amounted to €450.6 billion out of the total allocation of €492.6 billion, resulting in an *absorption* rate of 91.5 %.

2.12. In ***Figure 2.3*** we present the cumulative absorption rates for each ESI fund, excluding NGEU resources, at the end of 2023. The absorption rate expresses, as a percentage, the *prefinancing* and *interim payments* made from the EU budget to member states for the declared eligible expenditures compared to the total allocated amounts for a given period. The interim payments to member states are made after they have submitted payment requests to the Commission. As a result, the absorption rates we present do not necessarily show the full progress of project implementation nor the total amount that *beneficiaries* have already received from member states.

Figure 2.3 – Absorption of 2014-2020 ESIF (excluding NGEU), as at end 2023



ERDF: European Regional Development Fund
EARFD: European Agricultural Fund for Rural Development
ESF: European Social Fund
CF: Cohesion Fund
YEI: Youth Employment Initiative
EMFF: European Maritime and Fisheries Fund
FEAD: Fund for European Aid to the Most Deprived

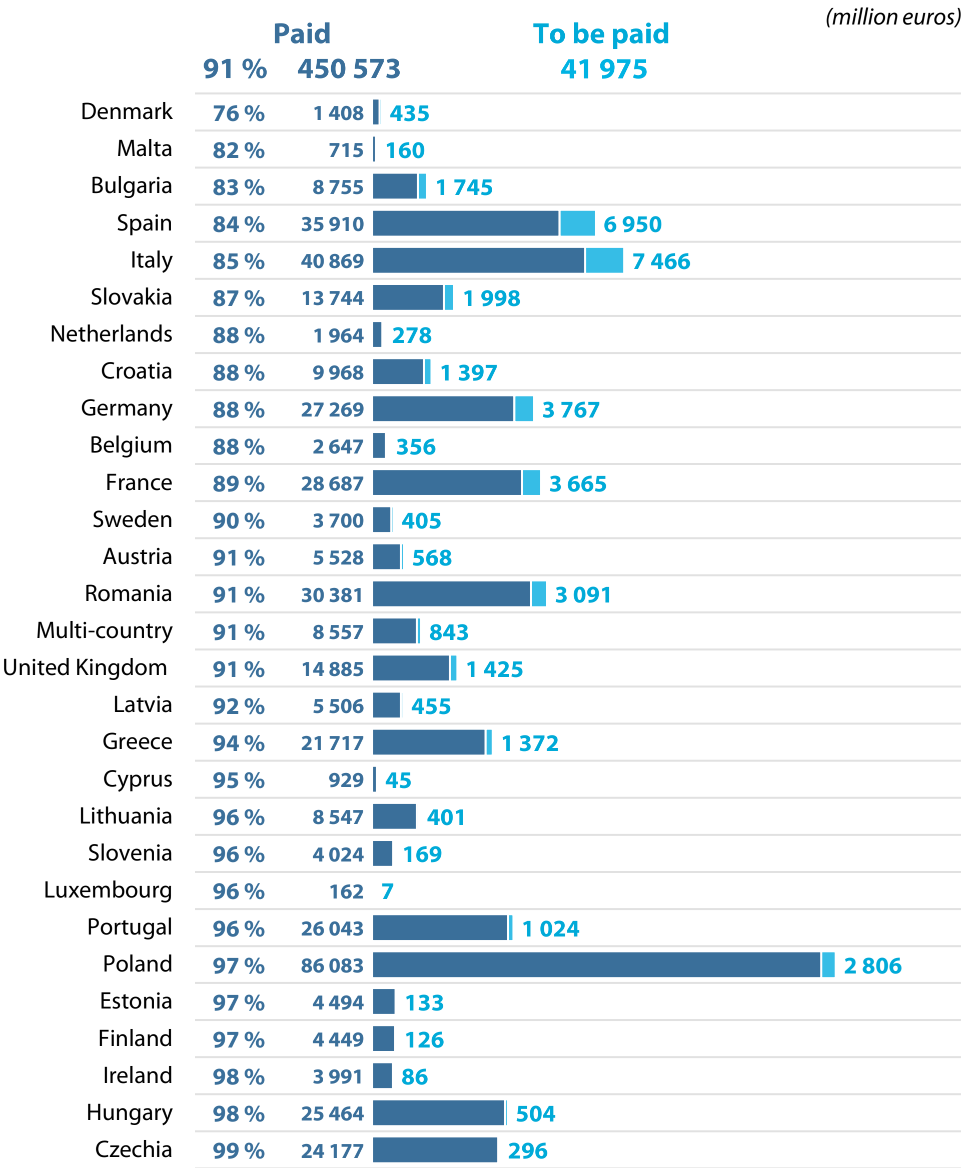
(*) The red line shows the absorption rate if the additional 2021 and 2022 allocations for the EAFRD of €28.1 billion from the 2021-2027 MFF had been excluded. The EAFRD received these additional allocations because of a 2-year transitional period, after which it fell fully under the common agricultural policy strategic plans for 2023-2027.

(**) YEI includes a specific allocation from the ESF.

Source: ECA, based on Commission's open data platform as at 8 January 2024 and on other Commission data.

2.13. While the differences in how member states absorbed ESI funds were less significant in comparison to 2022, the absorption rates of four member states remained below 85 % at the end of 2023, see *Figure 2.4*.

Figure 2.4 – Member state absorption rates of 2014-2020 ESIF (excluding NGEU), as at end 2023



Source: ECA, based on Commission's open data platform as at 8 January 2024 and on other Commission data.

2.14. The European Parliament and the Council decided on 29 February 2024[3] to extend the deadlines for member states to submit final applications for all ESI funds interim payments (except EAFRD) by one year to 31 July 2025. The eligibility period did not change. In addition, the decision also increased the possible maximum EU co-financing rate to 100 % for ERDF, ESF and the Cohesion Fund (CF) for the final accounting year starting on 1 July 2023 and ending on 30 June 2024. This should allow

[3] Articles 14 and 15 of Regulation (EU) 2024/795.

for higher implementation and for member states to deal with continued budget pressure.

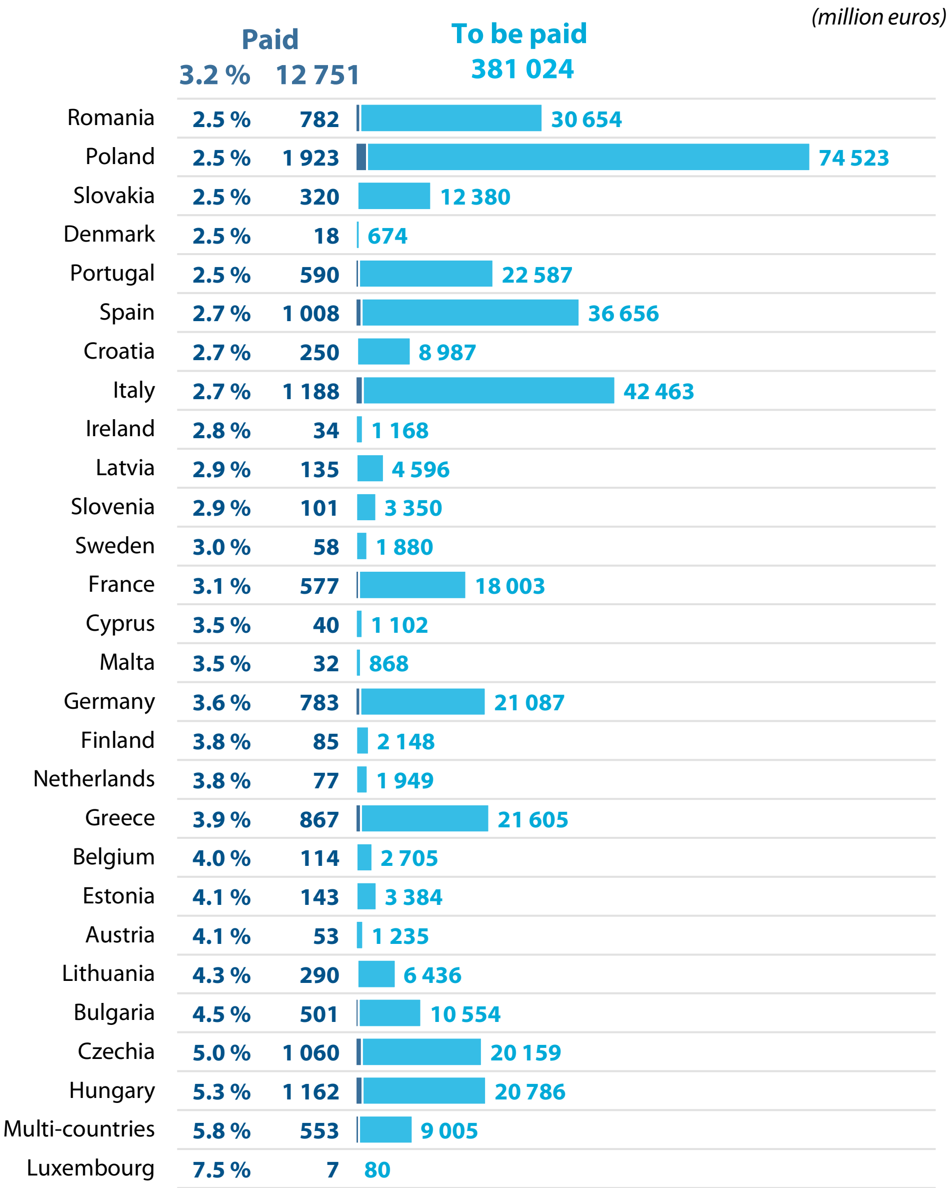
Payments from 2021-2027 shared management funds under the CPR remained low

2.15. Since 2023, an open data platform has provided financial information about the implementation of the 2021-2027 *shared management* funds under the *Common Provisions Regulation* (CPR)[4]. These funds are the ERDF, CF, the European Social Fund Plus (ESF+), the *Just Transition Fund* (JTF), the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the *Asylum, Migration and Integration Fund* (AMIF), the *Internal Security Fund* (ISF), and the *Border Management and Visa Instrument* (BMVI).

2.16. In 2023, the annual payments for the shared management funds under the CPR (€6.3 billion) were for €4.1 billion of pre-financing and €2.2 billion of interim payments. In 2023, 11 member states did not request interim payments for any of the funds covered by the CPR. At the end of 2023, total payments amounted to €12.8 billion, which is only 3.2 % of the total amount of the 2021-2027 MFF. ***Figure 2.5*** shows the absorption rate per member state.

4 Regulation (EU) 2021/1060.

Figure 2.5 – Member state absorption rates of 2021-2027 shared management funds under the CPR, as at end 2023



Source: ECA, based on Commission's open data platform as at 8 January 2024 and on other Commission data.

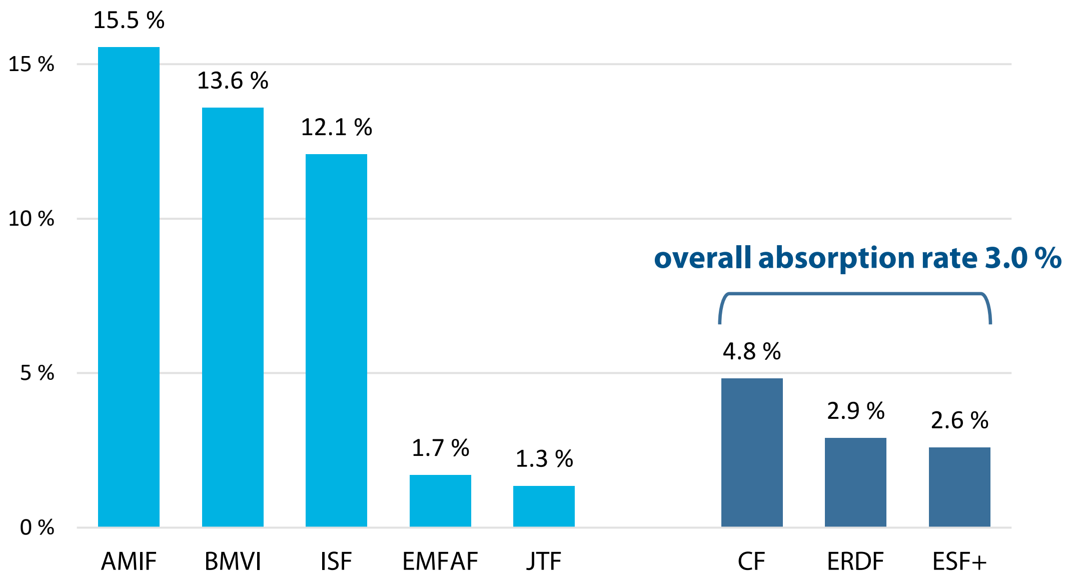
2.17. In our 2022 annual report[5], we described the changes between the 2014-2020 ESIF and the 2021-2027 shared management funds under the CPR. We compare the absorption rates of the ERDF, CF and ESF+ at the end of 2023 with those at the end of 2016, which was also the third year of the previous MFF. For these three cohesion policy funds, which account for 90.9 % of the total EU amount allocated to shared management funds under the CPR for 2021-2027, the overall absorption rate

[5] 2022 annual report, paragraph 2.10.

was only 3.0 % by the end of 2023, see ***Figure 2.6***, compared to 8.0 % at the end of 2016. In 2023, member states prioritised efforts to absorb the 2014-2020 cohesion policy funds, and speed up the implementation of NGEU. Compared to the previous *programming period*, the aggregate delays indicate a shortfall in implementation of cohesion policy funds equivalent to a one-year gap[6].

2.18. The absorption of funds related to migration and security (AMIF, ISF and BMVI) was higher, see ***Figure 2.6***. Their regulations provide for higher pre-financing rates, which range from 3 % to 5 %, and up to 95 % for AMIF in the event of emergency assistance, compared to 0.5 % for the other funds under the CPR. In 2023, the actual pre-financing payments amounted to 79.0 % of the payments for these three funds.

Figure 2.6 – Absorption of 2021-2027 shared management funds under the CPR, as at end 2023



AMIF: Asylum, Migration and Integration Fund
BMVI: Border Management and Visa Instrument
ISF: Internal Security Fund
EMFAF: European Maritime, Fisheries and Aquaculture Fund
JTF: Just Transition Fund

CF: Cohesion Fund
ERDF: European Regional Development Fund
ESF+: European Social Fund Plus

Source: ECA, based on Commission's open data-platform as at 8 January 2024 and on other Commission data.

[6] COM(2023) 390, p. 4.

2.19. The newly introduced Regulation establishing the *Strategic Technologies for Europe Platform* (STEP)[7] increases the maximum EU co-financing rate to 100 % for ESF+, ERDF, CF and JTF investments supporting the STEP objectives. It also provides an additional and exceptional pre-financing amount[8] for ESF+, ERDF and CF allocations supporting those objectives. For the JTF, given the need to accelerate its implementation, the additional exceptional pre-financing introduced by the STEP Regulation applies to the whole of the JTF allocation.

EAFRD payments under the new CAP started slowly in 2023

2.20. Since 2023, the EAFRD has been covered by the new *Common Agricultural Policy* (CAP) regulations[9]. Absorption of EAFRD funding for 2023-2027 began in 2023, after the transitional period of 2021-2022 for the agricultural funds[10]. At the end of 2023, EAFRD payments amounted to €0.7 billion, with an absorption rate of only 1 %. According to the Commission[11], implementation was lower than expected because member states were trying to avoid *decommitments* for the 2014-2022 EAFRD and they were also prioritising implementation of NGEU projects.

Payments from RRF and NGEU top-up programmes were lower than expected in 2023

2.21. In February 2023, the European Parliament and the Council amended the RRF Regulation[12] so that a *REPowerEU* chapter could be included in member states' RRF plans in order to phase out the EU's dependency on Russian fossil fuel imports and tackle climate change. By the end of 2023, all member states other than Bulgaria, Germany, Ireland, and Luxembourg had included a REPowerEU chapter in their revised plans. The Commission will use revenues from the emissions trading system (ETS) of up to €17.3 billion to finance the 23 approved chapters, plus allocations from the Brexit Adjustment Reserve (BAR)[13] of up to €1.6 billion. As a result, NGEU is no longer the

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[7] Recital 23 of Regulation (EU) 2024/795.

[8] Ibid.

[9] Regulation (EU) 2021/2115 and Regulation (EU) 2021/2116.

[10] Regulation (EU) 2020/2220.

[11] COM(2023) 530, p. 4.

[12] Regulation (EU) 2023/435.

[13] Ibid., Article 21.

only source of financing for RRF grants. Due to the additional financing from the ETS and BAR, the total amount of RRF grants, including REPowerEU, could reach €356.8 billion, which is 6 % higher compared to the initial RRF grant allocations of €338.0 billion.

2.22. According to the 2023 country specific recommendations[14] and the mid-term evaluation of the RRF[15] issued by the Commission, several factors, such as high inflation, increased energy prices, problems in global supply chains, labour shortages or insufficient administrative capacity, adversely affected RRF implementation.

2.23. By the end of 2023, the Commission had made all NGEU-financed RRF commitments for grants (€337.9 billion). The commitments for the REPowerEU chapters were €18.5 billion (€17.3 billion from the ETS and €1.2 billion from the BAR), with the remaining €0.4 billion from the BAR to be committed at a later date.

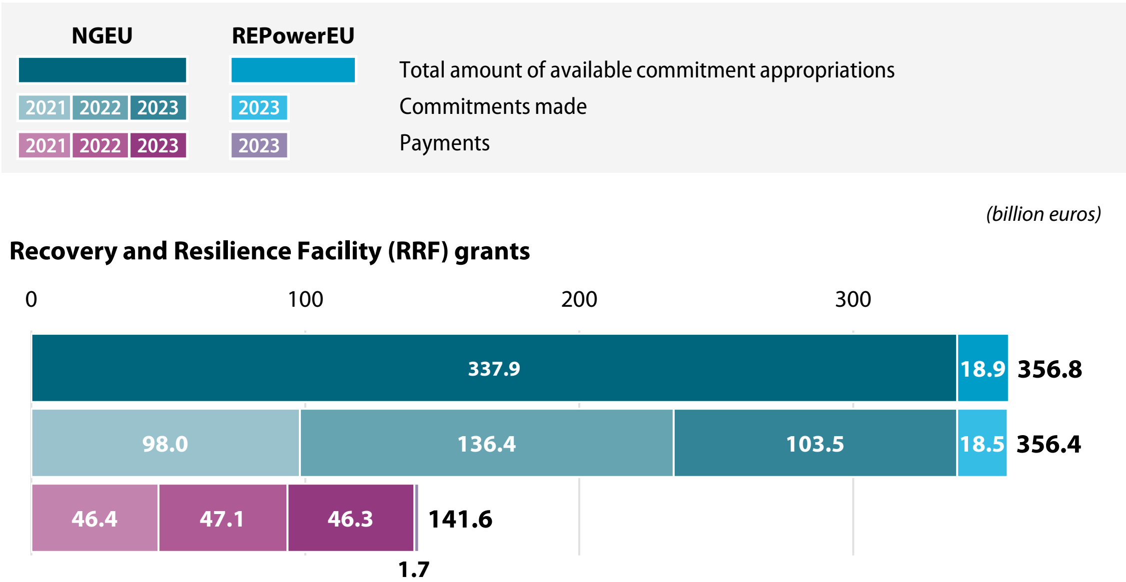
2.24. Annual payments of RRF grants totalled €48 billion in 2023, of which €1.7 billion was pre-financing of REPowerEU and €46.3 billion was for fulfilment of *milestones* and *targets*. In contrast, in June 2022 the Commission had expected total NGEU financed RRF payments linked to milestones and targets (not including REPowerEU) in 2023 to amount to €76.4 billion[16]. With payments of €141.6 billion out of €356.4 billion of commitments made, a total of up to €215.2 billion of RRF grants remains available to be paid by the end of 2026, see ***Figure 2.7***.

[14] 2023 country specific recommendations.

[15] Mid-term evaluation of the Recovery and Resilience Facility and supporting study.

[16] COM(2022) 315, table 3.

Figure 2.7 – Implementation of RRF grants by source, as at end 2023

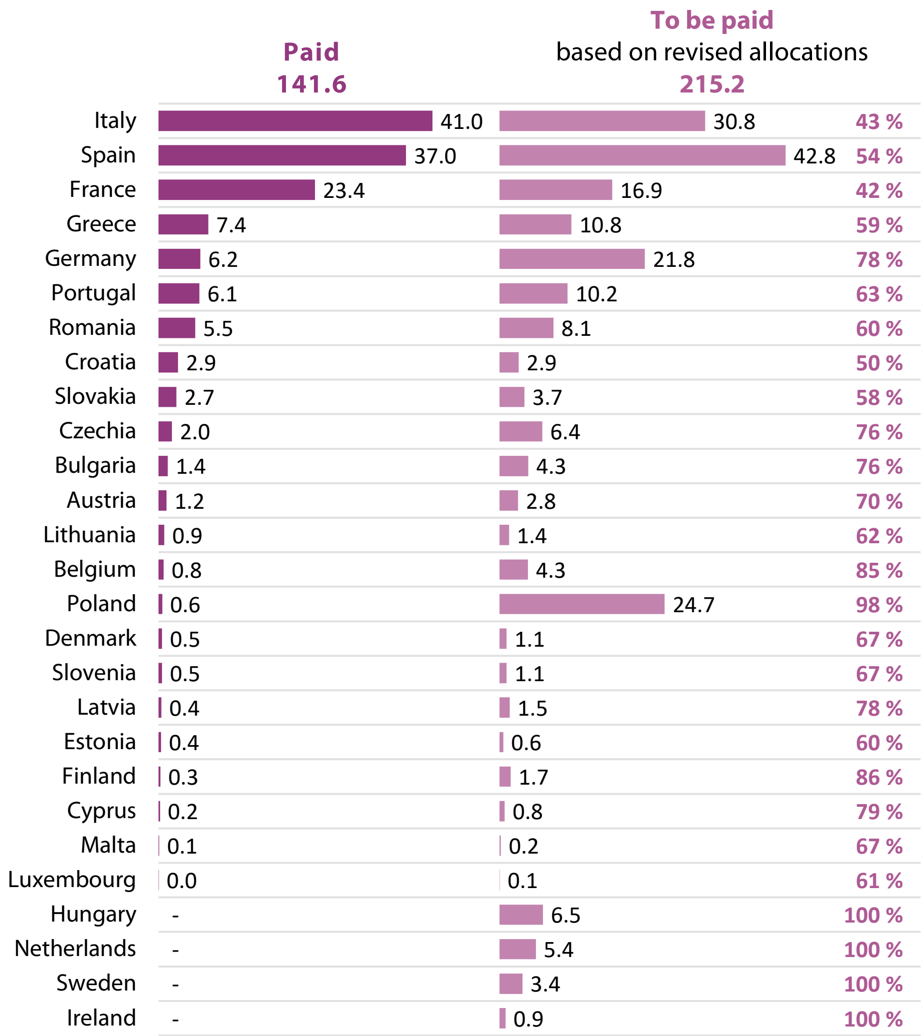


Source: ECA, based on the 2023 consolidated annual accounts of the EU.

2.25. There are significant differences in how member states absorbed the RRF grants, see *Figure 2.8*. By the end of 2023, four member states (Ireland, Hungary, Netherlands, and Sweden) had not received pre-financing nor submitted a payment request, while three member states (Belgium, Poland, and Finland) had received only pre-financing.

Figure 2.8 – RRF grants paid and amounts to be paid based on revised allocations by member state, as at end of 2023

(billion euros)



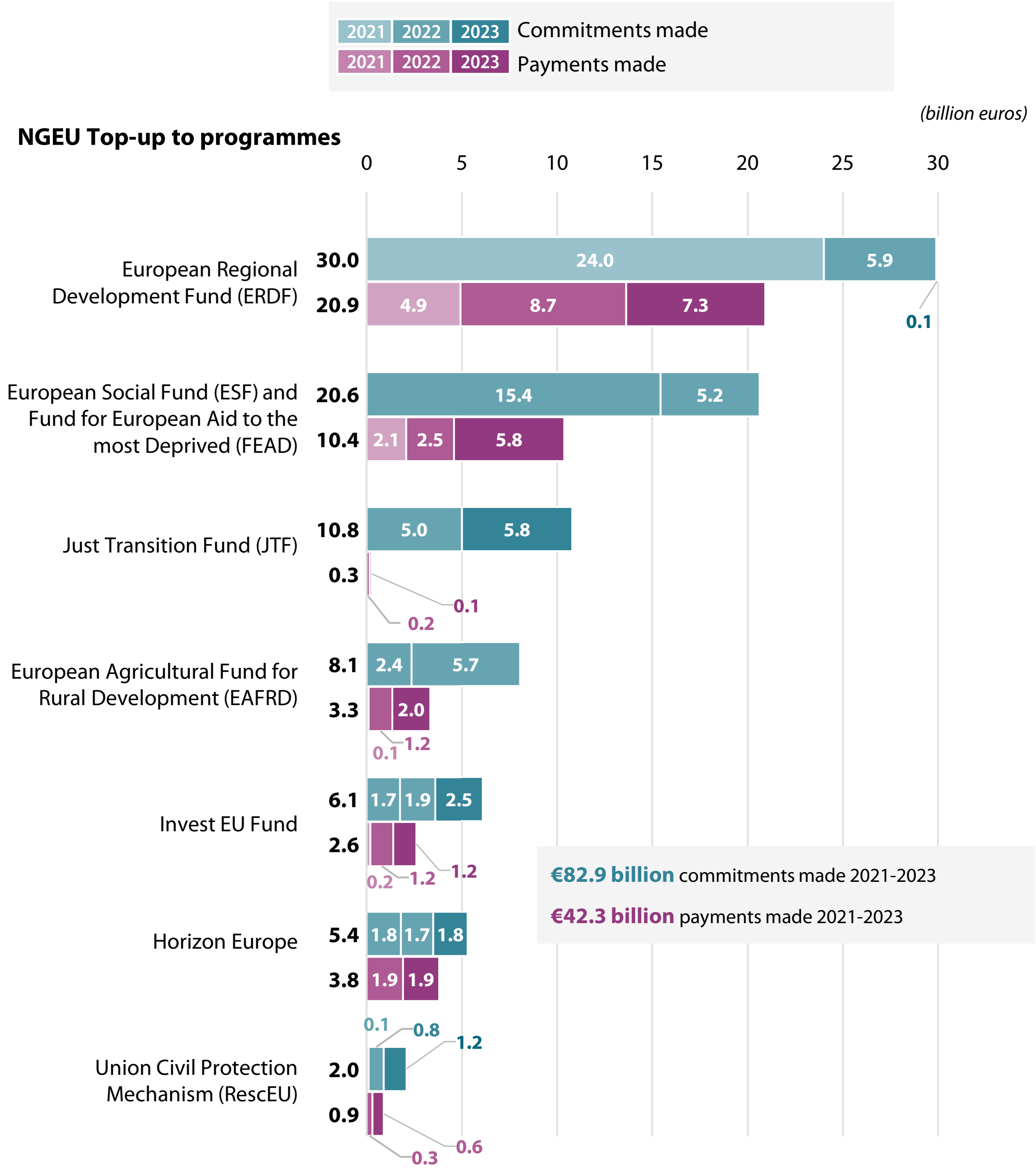
Notes: The chart includes REPowerEU figures.

As regards Hungary, the pre-financing for REPowerEU initiated before end of 2023 was paid in January 2024.

Source: ECA, based on RRF scoreboard and data received from the Commission.

2.26. The total commitments of NGEU top-ups to MFF programmes totalled €82.9 billion out of an initial allocation of €83.1 billion, mainly due to €0.1 billion of funds allocated for the JTF that were not committed. The annual payments of NGEU top-ups to existing MFF programmes increased from €7.2 billion in 2021 and €16.1 billion in 2022 to €19.0 billion in 2023. As a result, payments up to €40.6 billion can be made until the end of 2026. For the JTF, the delayed approval of the relevant legal act and programmes, plus deferred implementation, resulted in total payments of only €0.3 billion by the end of 2023. *Figure 2.9* shows the details.

Figure 2.9 – NGEU implementation related to top-ups to EU programmes, as at end 2023



Source: ECA, based on the 2023 consolidated annual accounts of the EU and on the accounting system of the Commission.

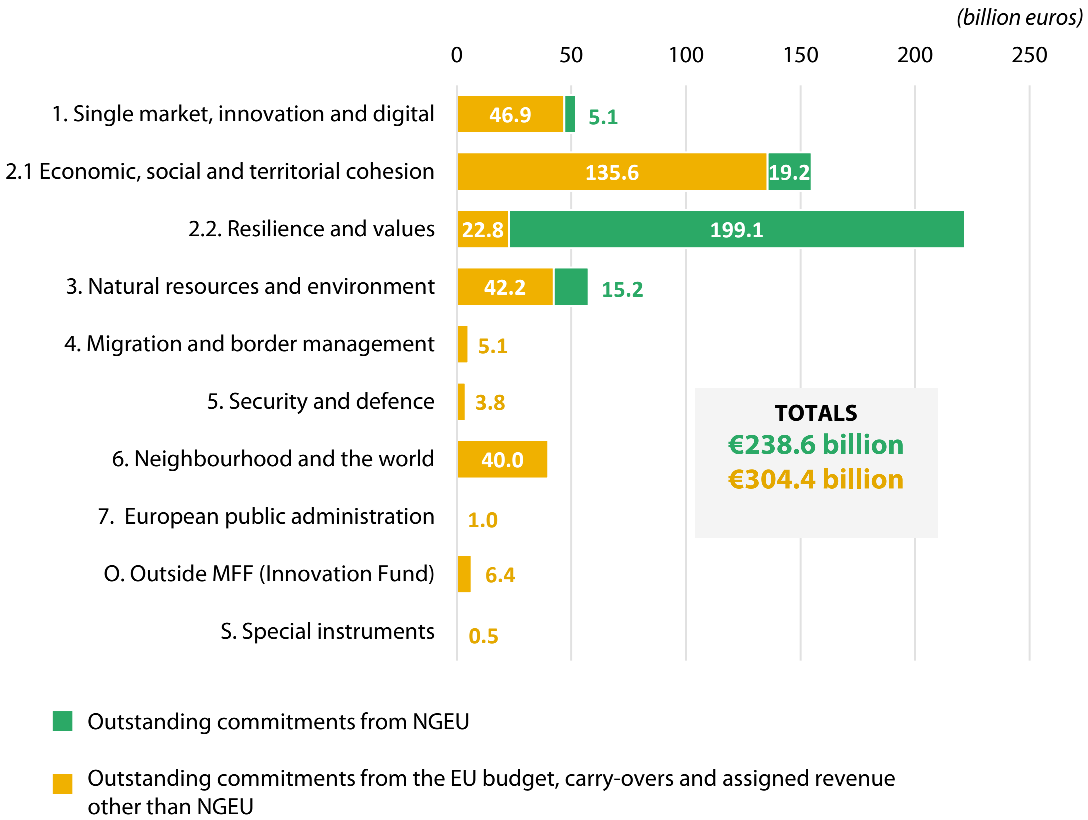
Total outstanding commitments reached €543 billion in 2023, but are expected to fall in the coming years

2.27. *Outstanding commitments* are the sum of commitments made but not yet paid. By the end of 2023, total outstanding commitments, which will have to be paid in the following years unless they are decommitted, reached a record high of €543 billion. This was an increase of €90.2 billion compared to 2022 (€452.8 billion). The outstanding commitments mainly relate to the EU budget and carry-overs (€263.6 billion) and NGEU grant funding (€238.6 billion). The remaining amount of €40.8 billion stems from assigned revenue other than NGEU. We made a recommendation in 2022[17] to substantially reduce the level of outstanding commitments.

2.28. ***Figure 2.10*** shows the total outstanding commitments by source and MFF heading. The outstanding commitments from NGEU relate to the RRF total €198.0 billion and are included in MFF heading 2.2. These commitments represent 83 % of the total NGEU outstanding commitments. Adding the outstanding commitments of REPowerEU chapters not financed by NGEU, the total RRF outstanding commitments amount to €214.8 billion.

[17] 2022 annual report, recommendation 2.1 – Substantially reduce the level of outstanding commitments.

Figure 2.10 – Total outstanding commitments by source and MFF heading, as at end 2023



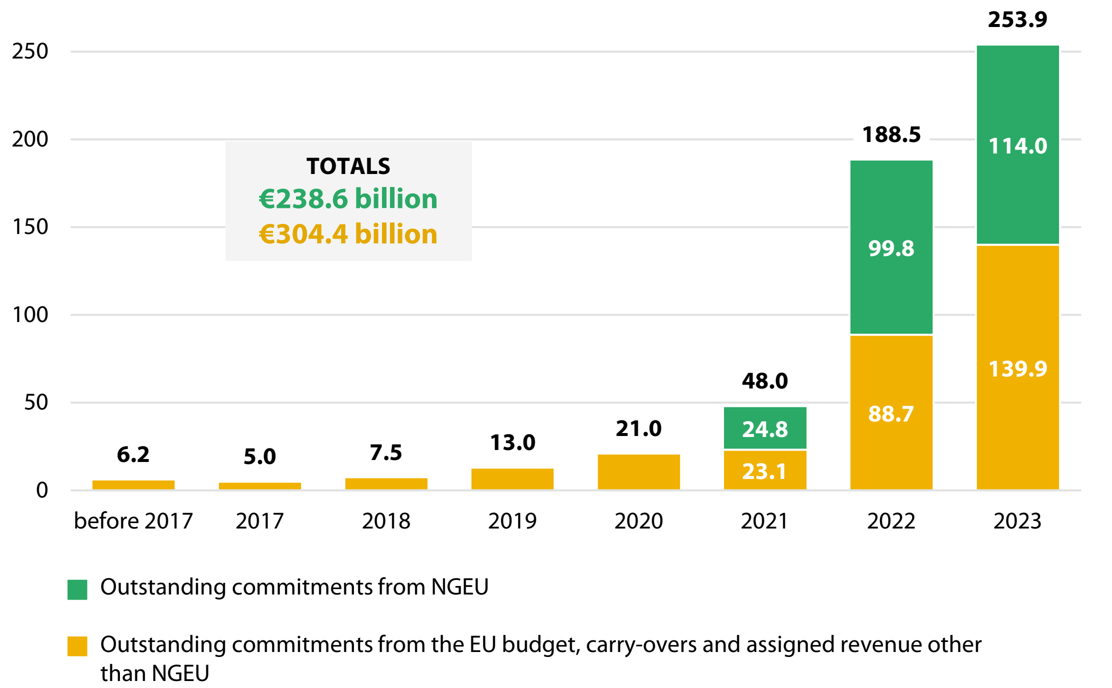
Note: The Innovation Fund is financed by assigned revenue and outside the MFF, but is disclosed in the EU accounts.

Source: ECA, based on the 2023 consolidated annual accounts of the EU.

2.29. *Figure 2.11* shows the total outstanding commitments at the end of 2023 by year of origin and type of funding. 90.3 % of these commitments were made after 2021.

Figure 2.11 – Total outstanding commitments by year of origin and type of funding, as at end 2023

(billion euros)

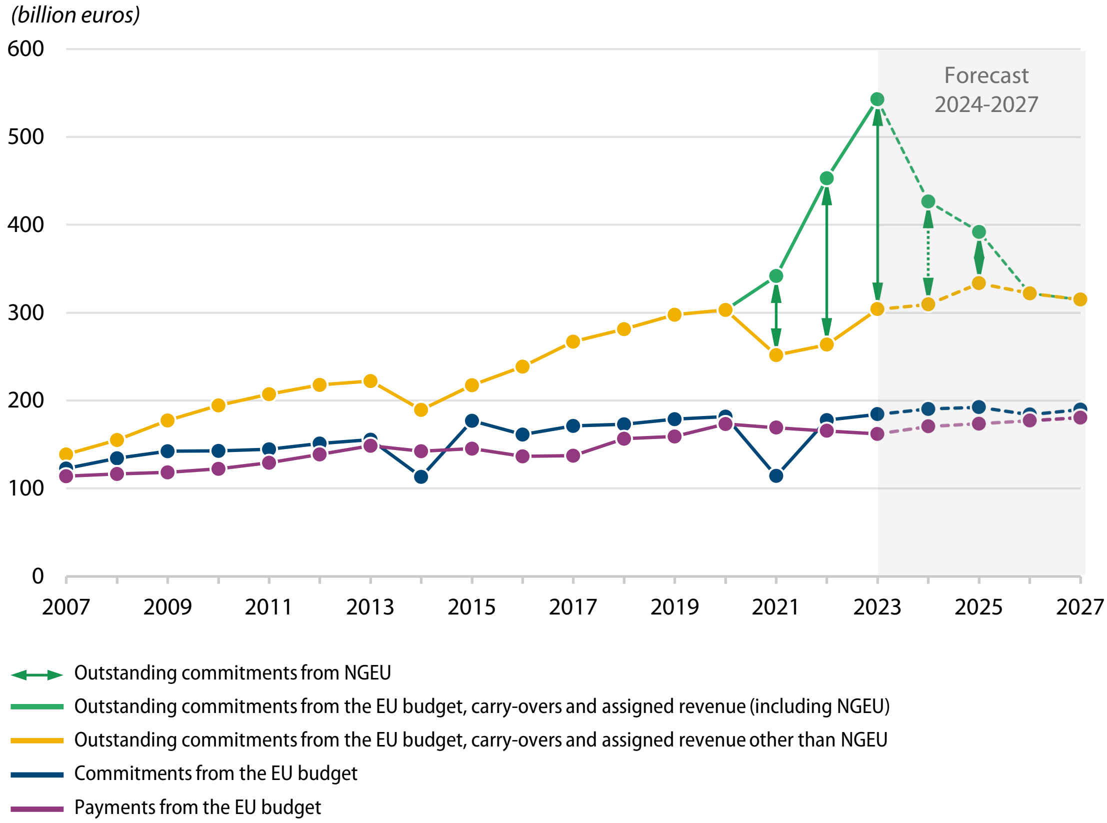


Source: ECA, based on the 2023 consolidated annual accounts of the EU and budgetary implementation reports from the Commission's accounting system.

2.30. The part relating to previous MFFs is becoming smaller and will fall further as we approach the *closure* of the 2014-2020 ESIF in 2025 and 2026. In addition, NGEU outstanding commitments will fall in 2024-2026 as payments will have to be made by the end of 2026 or be decommitted. In June 2023, the Commission forecast that outstanding commitments from MFF implementation would be €322.9 billion by the end of 2027[18], see ***Figure 2.12***.

[18] COM(2023) 390, table 4.

Figure 2.12 – Outstanding commitments, commitments and payments 2007 to 2023, and forecast for 2024 to 2027



Note: The forecasts from 2024 onwards do not include carry-overs or assigned revenue other than NGEU and Ukraine Facility appropriations.

Source: ECA, based on data from the consolidated annual accounts of the EU for 2007-2023, the Commission's long-term forecast report 2024-2028 and Council Regulation (EU, Euratom) 2024/765 amending the 2021-2027 MFF.

Risks and challenges

The MFF revision introduced measures to address risks related to additional NGEU financing costs and payment backlog

2.31. In February 2024, the Council amended the MFF[19] in response to multiple challenges (e.g. continued support for Ukraine, higher interest rates, increased migration and the need to promote strategic technologies). The MFF revision increases commitment appropriations for 2024-2027 by €21.0 billion, of which €17 billion is to finance the newly created Ukraine Facility[20]. Furthermore, €10.6 billion of existing appropriations are redeployed. The MFF revision is also designed to mitigate the risk of payment backlogs for 2026[21] previously expected by the Commission.

2.32. The Council also introduced a "cascade mechanism"[22]. Its purpose is to cover NGEU borrowing costs that exceed, if funds cannot be found within the existing EU budget and until the end of the current MFF, the annual amounts set out in the revised MFF Regulation[23]. On top of the original projections for borrowing costs of €14.9 billion made in 2020, the Commission estimated in June 2023 that the aggregate shortfall for this MFF is between €17 and €27 billion[24]. The European Union Recovery Instrument NextGenerationEU (EURI) is a special instrument over and above the MFF ceiling and has no fixed amount. It may be mobilised by the European Parliament and the Council in the framework of the annual budgetary procedure only after having sought other financing possibilities, including use of room created by budgetary implementation of the programmes and reprioritisation (redeployment) and use of non-thematic special instruments. Under the EURI instrument, if funds are still not sufficient to fully finance NGEU borrowing costs, the available amount of non-carried-over decommitments is drawn upon first before mobilising member states' contributions. See ***Figure 2.13***.

[19] Regulation (EU, Euratom) 2024/765.

[20] Regulation (EU) 2024/792.

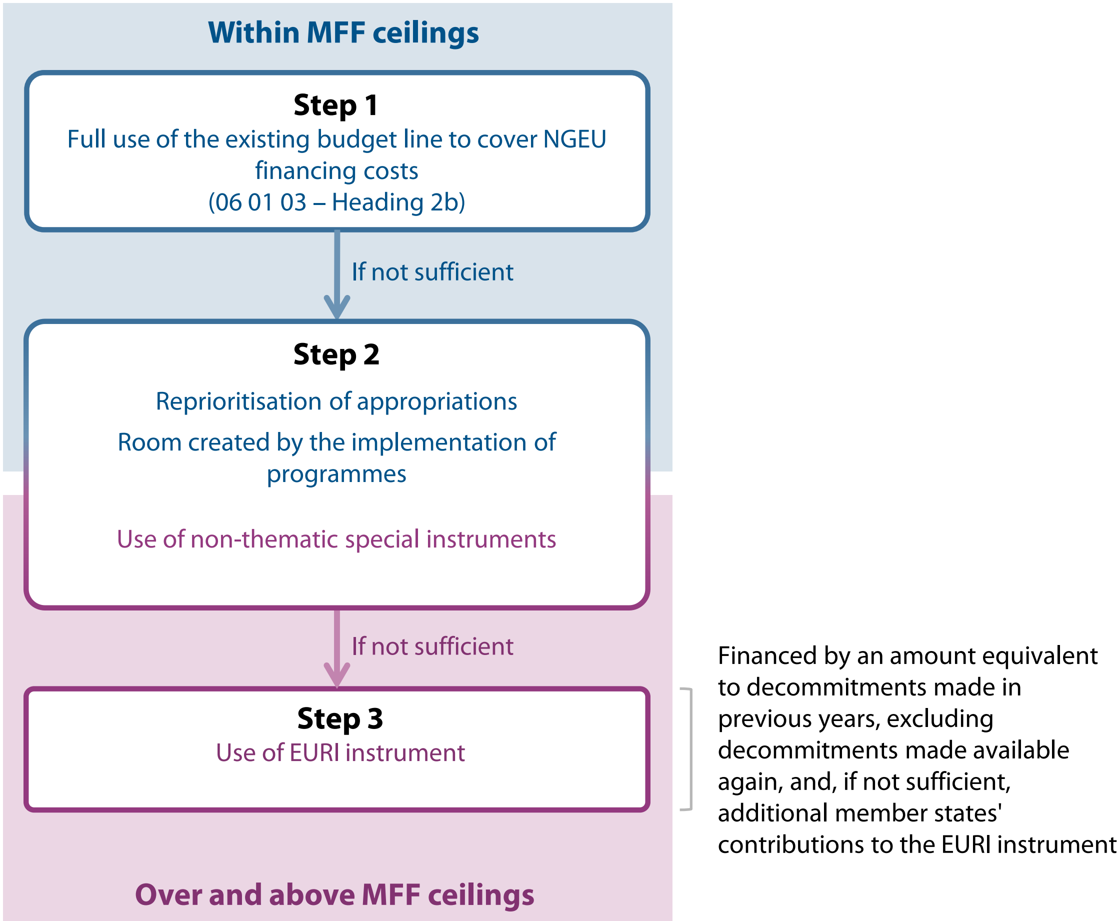
[21] Article 1(7) of Regulation (EU, Euratom) 2024/765.

[22] Ibid., Article 1(6).

[23] Ibid., Article 1(6).

[24] Statement of estimates of the Commission for the financial year 2024 (section Financial Programming 2025-2027, p. 9).

Figure 2.13 – Cascade mechanism to cover NGEU interest and coupon payments cost overruns until 2027



Note: Non-thematic special instruments (*Flexibility Instrument, Single Margin Instrument*) make it possible to address generally unforeseen circumstances or new/emerging priorities.

Source: ECA, based on Regulation (EU, Euratom) 2024/765.

Risk of decommitments in cohesion policy funds for the 2021-2027 MFF

2.33. In our 2022 annual report, we underlined that the late adoption of legislation for the CPR shared management funds from the 2021-2027 MFF and the parallel and delayed implementation of several instruments increased the risk of decommitments. Absorption of the ERDF, ESF+, CF and JTF for the 2021-2027 MFF continued to be low in 2023, see ***Figure 2.6***. As a result, the budgetary authority reduced the 2023 payment appropriations for the ERDF (- €1.1 billion) and the ESF+ (- €0.7 billion)[25]. The risk of

[25] COM(2023) 530.

decommitments could already materialise at the end of 2025 for commitments made in 2022 under the CPR for 2021-2027.

2.34. In 2023, the Commission forecast decommitments for 2024-2027 at €8.1 billion (2022 forecast: €7.6 billion for 2023-2027). For the CF, ERDF, and ESF+ cohesion policy funds, the Commission forecast total decommitments for 2024-2027 at €2.2 billion[26], more than five times its 2022 forecast of €0.4 billion[27]. For JTF, the delays in adopting the MFF and the programme-specific legislation, and the low implementation in 2023 will put important amounts at risk of decommitment from 2025 onwards[28]. In our view, an important amount of decommitments might jeopardise the achievement of the EU objectives.

EU debt from borrowing increased in 2023

2.35. For our analysis of EU debt, we considered the borrowing from the markets, mainly long-term bonds guaranteed by the EU budget, that was a source of funding for NGEU and for financial assistance to member states and non-EU countries (Temporary *Support to mitigate Unemployment Risks in an Emergency* (SURE), European Financial Stabilisation Mechanism (EFSM), *Macro-Financial Assistance* (MFA), Balance of Payments and Euratom).

The EU's diversified funding strategy became the standard approach to EU borrowing

2.36. In April 2021, the Commission put in place a diversified funding strategy for the NGEU programme[29]. From December 2022 onwards, this strategy became the standard borrowing method when funding financial assistance programmes through borrowing[30]. It decoupled borrowing and lending terms (e.g. maturity and interest rate). In the previous borrowing strategy, the Commission had borrowed and lent to member states or non-EU countries on the same terms (back-to-back approach).

[26] COM(2023) 390, table 2.

[27] COM(2022) 315, table 2.

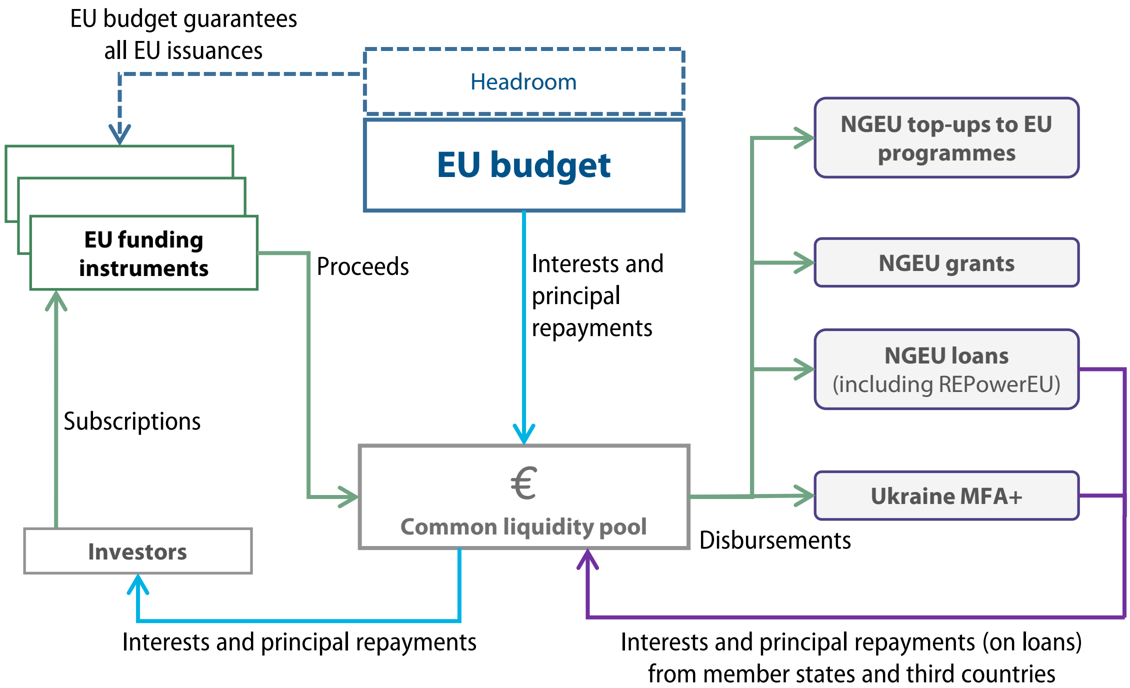
[28] COM(2023) 390, p. 7.

[29] COM(2021) 250.

[30] Regulation (EU, Euratom) 2022/2434.

2.37. The diversified funding strategy is based on pooling funding instruments, using a common liquidity pool and regular capital market presence[31], see *Figure 2.14*. Cash holdings of the common liquidity pool are held in a dedicated account at the European Central Bank and are managed by the Commission.

Figure 2.14 – The EU's diversified funding strategy, as at end 2023



Note: The *headroom* is the margin between the *own resources* necessary to finance the EU budget and the own resources ceiling up to which the Commission, as a last resort, is entitled to call resources from the member states to service EU debt. The own resources ceiling is set at 1.4 % of EU *Gross National Income* (GNI). An additional temporary headroom under the own resources ceiling of 0.6 % of EU GNI is reserved to cover NGEU-related borrowings.

Source: ECA, based on Regulation (EU, Euratom) 2022/2434, Commission Implementing Decision (EU, Euratom) 2023/2825 and COM(2021) 676.

Outstanding EU borrowings increased by more than 30 % in 2023

2.38. In 2023, the nominal (face) value of net outstanding EU borrowings increased by €110.5 billion[32]. At the end of 2023, the nominal value of outstanding EU borrowings was over €458.5 billion (2022: €348 billion). Gross debt from borrowings at nominal value represents the principal amount borrowed by the EU from its creditors. This excludes adjustments for discounts, premiums, or accrued interest. It reflects the

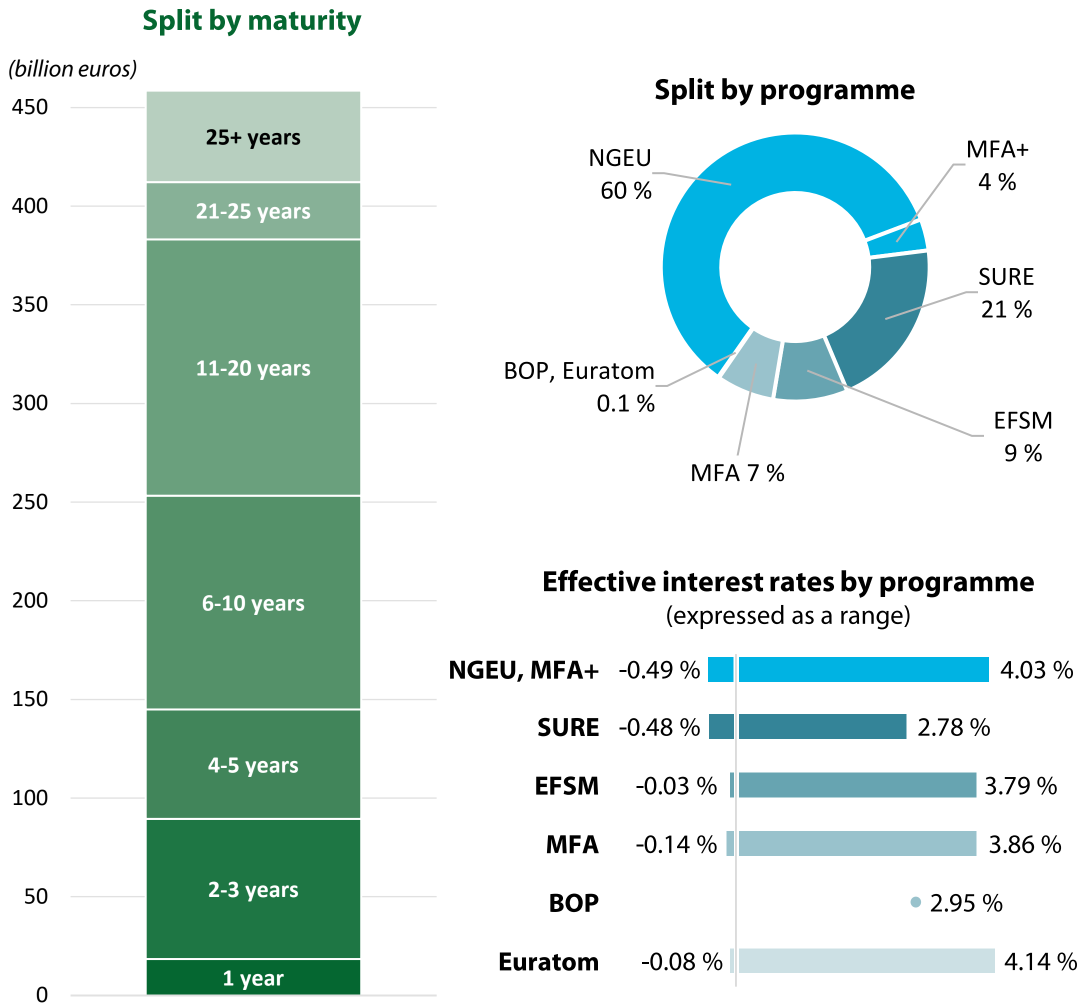
[31] Article 1 of Regulation (EU, Euratom) 2022/2434.

[32] Note 2.11.1.1 to the 2023 consolidated annual accounts of the EU.

original amount borrowed without considering market fluctuations or financial adjustments. The outstanding borrowings included EU bills at nominal value of €15.2 billion (2022: €17 billion). These have a maturity shorter than one year (3 or 6 months) and are issued for liquidity management, including to maintain a liquidity buffer. ***Figure 2.15*** shows the maturities and *effective interest rates* of all EU borrowing. The EU has now become one of the largest debt issuers in Europe[33].

[33] Special report 16/2023, figure 3.

Figure 2.15 – Maturities and effective interest rates of EU borrowing, as at end 2023



NGEU: NextGenerationEU
MFA+: Macro-Financial Assistance Plus to Ukraine
SURE: Temporary Support to mitigate Unemployment Risks in an Emergency
EFSM: European Financial Stabilisation Mechanism
MFA: Macro-Financial Assistance
BOP: Balance of Payments assistance facility

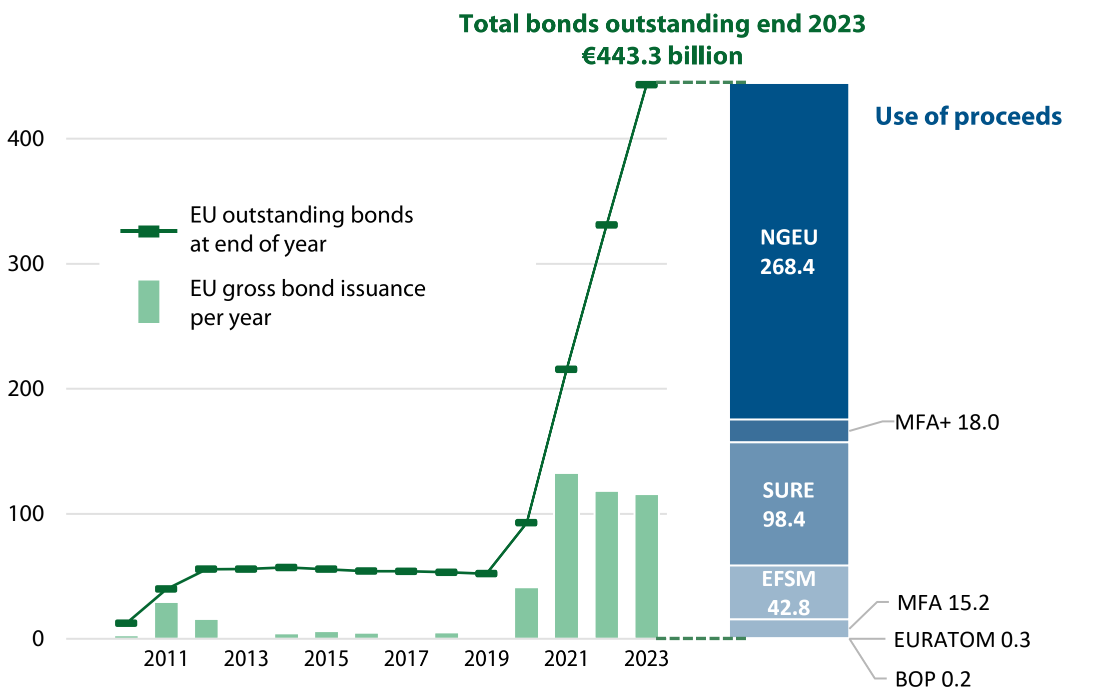
Note: Amounts at nominal value.

Source: ECA, based on the 2023 consolidated annual accounts of the EU.

2.39. *Figure 2.16* illustrates the evolution of EU bonds (excluding EU bills) since 2010, highlighting the surge in issuance and bonds outstanding from 2020. The chart also shows the use of proceeds by EU programme as at the end of 2023.

Figure 2.16 – EU bond issuance and outstanding amount since 2010, and use of proceeds as at end 2023

(billion euros)



NGEU: NextGenerationEU
MFA+: Macro-Financial Assistance Plus to Ukraine
SURE: Temporary Support to mitigate Unemployment Risks in an Emergency
EFSM: European Financial Stabilisation Mechanism
MFA: Macro-Financial Assistance
BOP: Balance of Payments assistance facility

Notes: EU bond issuance at gross debt nominal value. EU bills (€15.2 billion) are excluded.

Source: ECA, based on the 2023 consolidated annual accounts of the EU and information provided by the Commission.

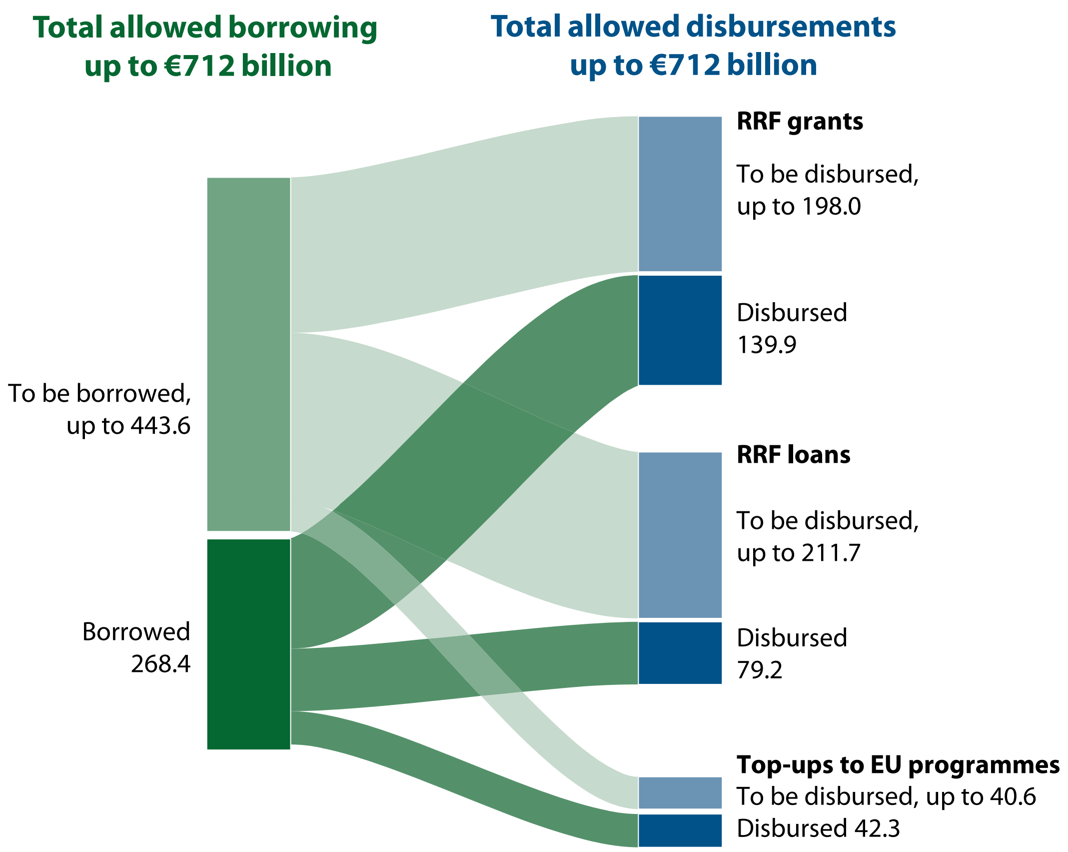
NGEU borrowing may more than double by 2026 while the bulk of repayment is deferred to future MFFs

2.40. The initial NGEU programme amount was €806.9 billion at current prices (€750 billion at 2018 prices). In 2023, this was adjusted to €712 billion because member states had not applied for the total available loan support when the deadline for loan applications expired in August 2023. At this point, the total amount of NGEU loans applied for was €290.9 billion and €94.9 billion of loans were no longer available.

2.41. The EU uses the EU budget and the headroom under the temporary own resources ceiling (0.6 % of EU GNI) to back the NGEU borrowing. At the end of 2023, the EU had outstanding EU bonds for a nominal value of €268.4 billion to finance RRF loans and grants and other NGEU-funded programmes. For NGEU, the EU may borrow an additional €443.6 billion by the end of 2026, see ***Figure 2.17***. After that date, borrowing operations must be strictly limited to refinancing operations to ensure efficient debt management[34].

Figure 2.17 – NGEU borrowing and disbursements, as at end 2023

(billion euros)



Note: The borrowed amount does not include €15.2 billion of short-term EU bills. A borrowed amount of €7.0 billion had not yet been disbursed by the end of 2023, with the funds held at the European Central Bank.

Source: ECA, based on COM(2024) 93 and the 2023 consolidated annual accounts of the EU.

2.42. The repayment of NGEU borrowing must start before the end of 2027, if unused appropriations remain available in the budget line to cover NGEU financing costs, and be completed by 2058 at the latest[35]. The bulk of the repayments is therefore deferred to future MFFs because the repayment schedule must be steady and predictable, and annual repayments of the NGEU borrowing are capped at 7.5 %

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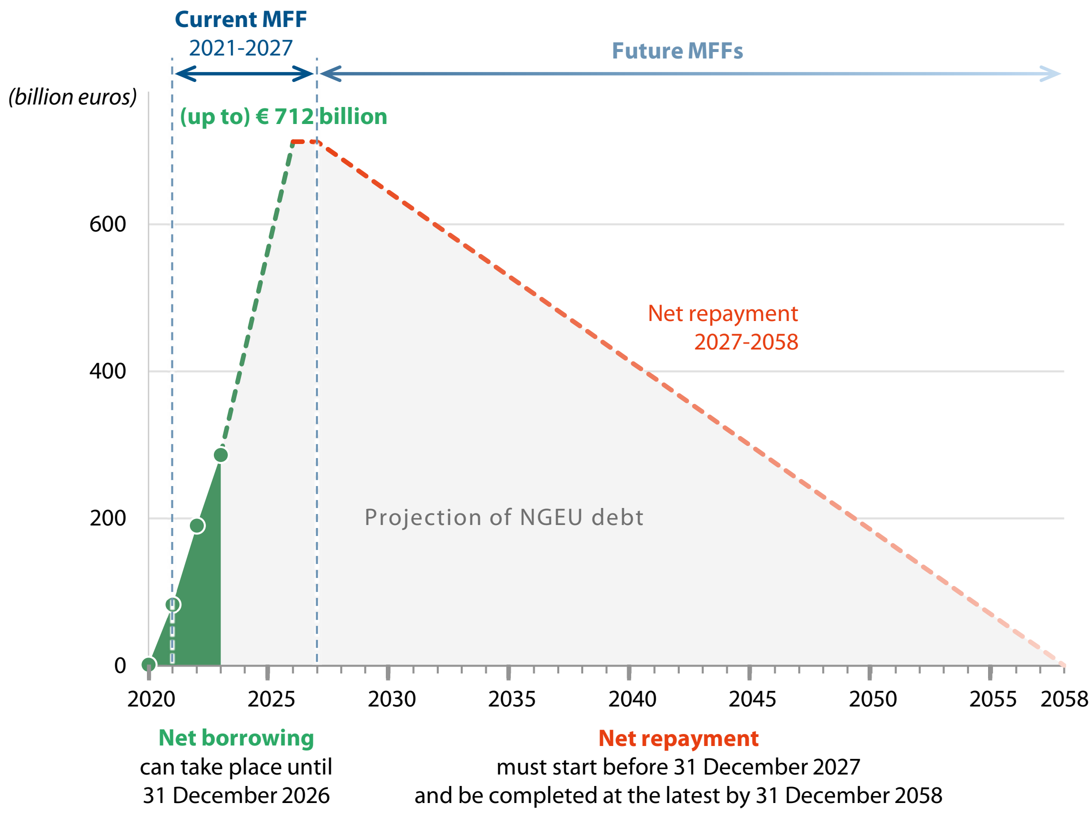
[34] Recital 18 of Decision (EU, Euratom) 2020/2053.

[35] Ibid., Article 5.

of the maximum amount of non-repayable NGEU support[36] (i.e. €31.6 billion per year). All costs incurred by the EU in relation to the borrowing of funds for NGEU loans, including those linked to managing interest rate and other financial risks, have to be borne by the beneficiary countries. All costs associated with NGEU grants and top-ups are borne by the EU budget.

2.43. In ***Figure 2.18*** we present a simulation of how NGEU debt could evolve assuming the maximum allowed borrowing under NGEU and linear repayment. However, in practice the borrowing and repayment of NGEU debt will likely not adhere to such linear patterns.

Figure 2.18 – Simulation of NGEU debt evolution, as at end 2023



Note: Borrowing shown does not include short-term EU bills.

Source: ECA, based on the 2023 consolidated annual accounts of the EU and Council Decision (EU) 2020/2053.

[36] Ibid.

2.44. To achieve a steady and predictable reduction of NGEU debt until 2058, the Commission may need to rollover expiring debt by issuing new debt instruments to pay off the old ones as they mature[37]. Potential changes in market conditions might result in higher borrowing costs that, for the NGEU debt relating to grants and NGEU top-ups[38], will have to be borne by the EU budget.

2.45. On 20 June 2023, the Commission presented an "Adjusted package for the next generation of own resources" adjusting the three additional sources of revenue to the EU budget originally proposed in December 2021 (ETS, carbon border adjustment mechanism, and statistical based own resource on company profits). In February 2024, the European Council agreed to use the proceeds of any new own resources introduced after 2023 for the early repayment of NGEU borrowing[39]. In our opinion on the Commission's proposal[40], we stated that the information available did not allow us to assess whether the expected annual revenues would also be sufficient to cover NGEU repayment needs as intended.

External assigned revenue from NGEU debt has a significant impact on the economic result

2.46. The amounts borrowed under NGEU are channelled into NGEU grants and top-ups of EU programmes by means of *external assigned revenue*, which is additional to voted appropriations in the EU budget[41]. ***Figure 2.19*** shows the changes in external assigned revenue related to both NGEU and non-NGEU since 2020.

[37] COM(2024) 93, p. 12 of Annex.

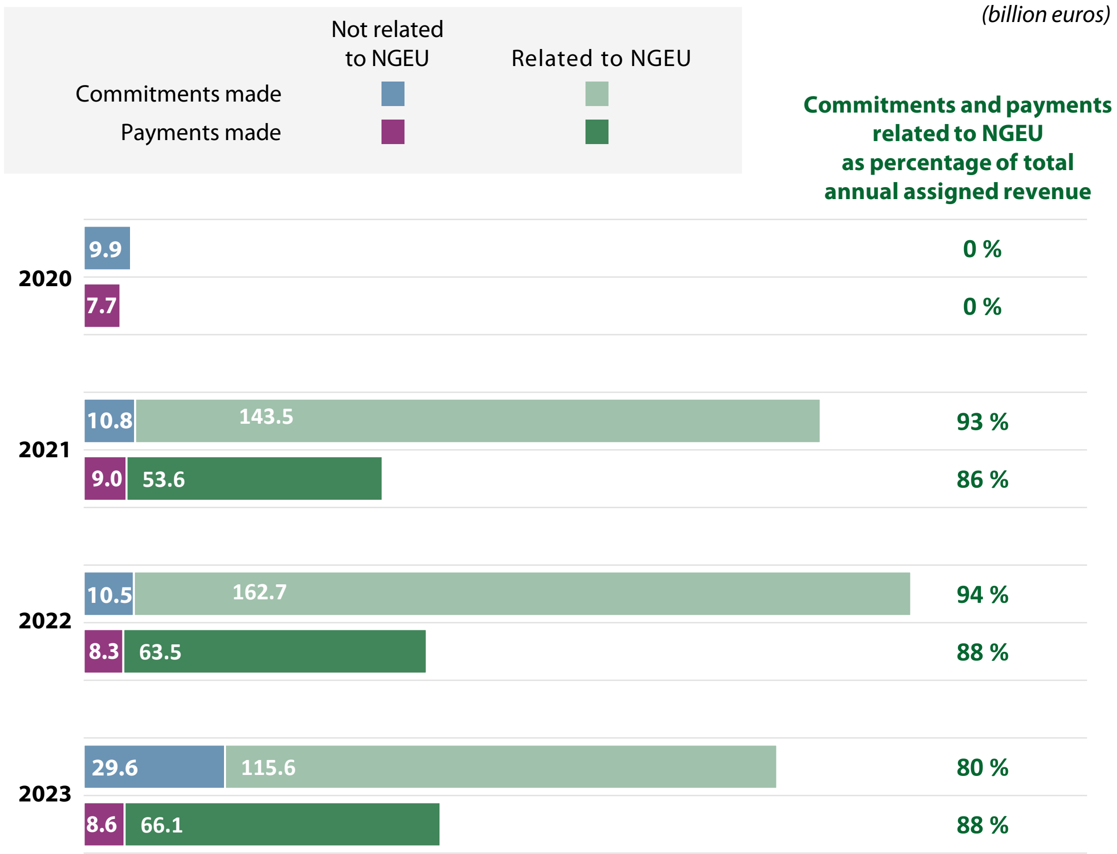
[38] Article 11.1 of Commission Implementing Decision (EU, Euratom) 2023/2825.

[39] EUCO 2/24.

[40] Opinion 04/2023, paragraph 20.

[41] Article 22 of the Financial Regulation.

Figure 2.19 – Commitments and payments made from external assigned revenue from 2020 to 2023



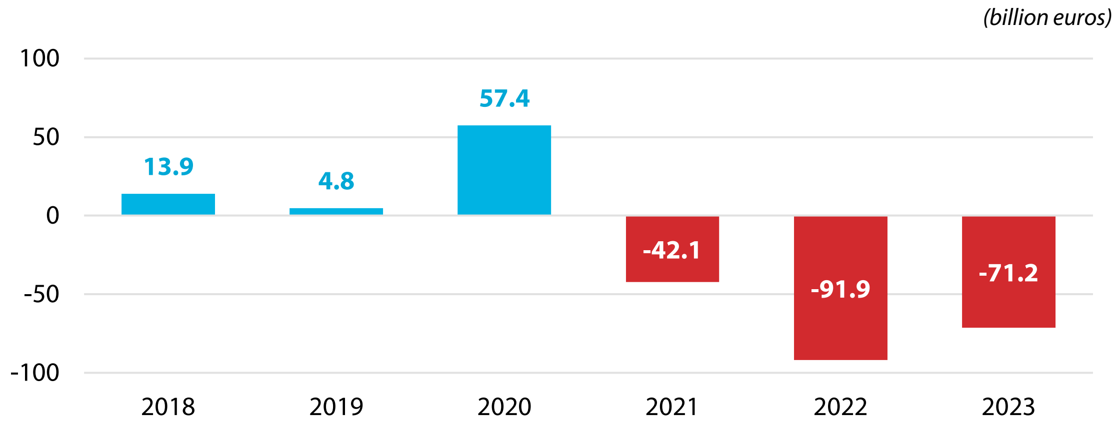
Source: ECA, based on the consolidated annual accounts of the EU for 2020 to 2023.

2.47. The implementation of NGEU does not formally affect the principle that the revenue and expenditure shown in the annual EU budget should balance (principle of equilibrium)[42]. Nevertheless, from an accounting perspective, the statement of financial performance does not include as revenue the amount borrowed under NGEU, whereas it includes the expenses related to the NGEU grants. Consequently, it has a negative impact on the *economic result* of the year, see ***Figure 2.20***. Negative economic results increase the deficit in net assets as reflected in the EU's balance sheet and therefore must be funded by future budgets. The repayment of the NGEU borrowing is guaranteed within the ceilings of own resources[43].

[42] Recital 34 of Opinion 9062/20 of the Legal Service of the Council.

[43] COM(2020) 445.

Figure 2.20 – Economic result (surplus/deficit) for each year from 2018 to 2023



Note: The figure for 2020 includes €47.5 billion of revenue related to the UK Withdrawal Agreement.

Source: ECA, based on consolidated annual accounts of the EU for 2018 to 2023.

Financing costs for NGEU borrowing could almost double the initial estimate of €15 billion made in 2020 for the current MFF

2.48. In 2020, the Commission forecast an amount of €14.9 billion under MFF heading 2b to finance the interest and *coupon payments* for NGEU borrowings[44]. The estimates for 2020 were based on expected borrowing interest rates ranging from 0.55 % in 2021 to 1.15 % in 2027[45]. However, actual interest rates are significantly higher than these expectations[46].

2.49. The increase in interest rates had an adverse effect on the EU cost of funding (in other words, debt service costs calculated on the basis of the interest paid on the outstanding borrowing). This increased to 3.56 % in the second half of 2023, from 2.51 % in the second half of 2022 and 0.14 % in the second half of 2021[47], see ***Figure 2.21***.

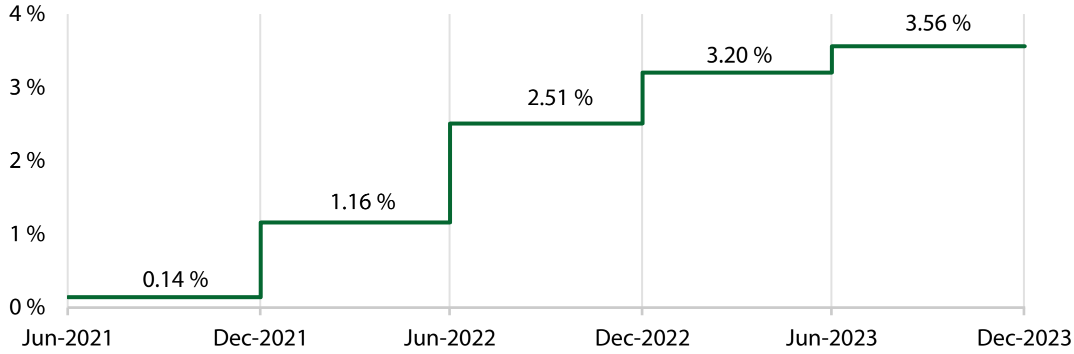
[44] Statement of estimates of the Commission for the financial year 2024 (section Financial Programming 2025-2027, p. 9).

[45] Briefing Revision of the EU's long-term budget for 2021 to 2027 by the European Parliamentary Research Service, p. 7.

[46] The European Central Bank website: Key ECB interest rates.

[47] COM(2024) 93, p. 8.

Figure 2.21 – Change in the EU cost of funding



Source: ECA, based on COM(2024) 93.

2.50. The Commission has estimated[48] that the additional interest and coupon payments for NGEU borrowing within the current MFF might range from €17 billion to €27 billion. This estimate is, however, subject to the substantial uncertainty surrounding the actual annual *disbursement profiles* and the level of interest rates[49].

EU budget exposure increased in 2023 and is projected to rise further

2.51. To analyse the exposure of the EU budget, we considered:

(a) the EU budget guarantees for the borrowing from the markets that was a source of financing for loans disbursed to member states or non-EU countries in the event of defaults on these loans;

(b) liabilities that might arise in future if a specific event occurs, that are disclosed in the annual accounts as *contingent liabilities* and are composed of *budgetary guarantees* that have already been extended for amounts disbursed[50].

2.52. The resulting exposure of the EU budget totalled €298.0 billion at the end of 2023, which was an increase from €248.3 billion at the end of 2022. ***Figure 2.22*** provides a detailed breakdown of the exposure (shown in purple) by source. Layers of risk coverage, representing different levels of coverage, are shown as concentric circles. The circle adjacent to the exposure represents the first layer of risk coverage

[48] Statement of estimates of the Commission for the financial year 2024 (section Financial Programming 2025-2027, p. 9).

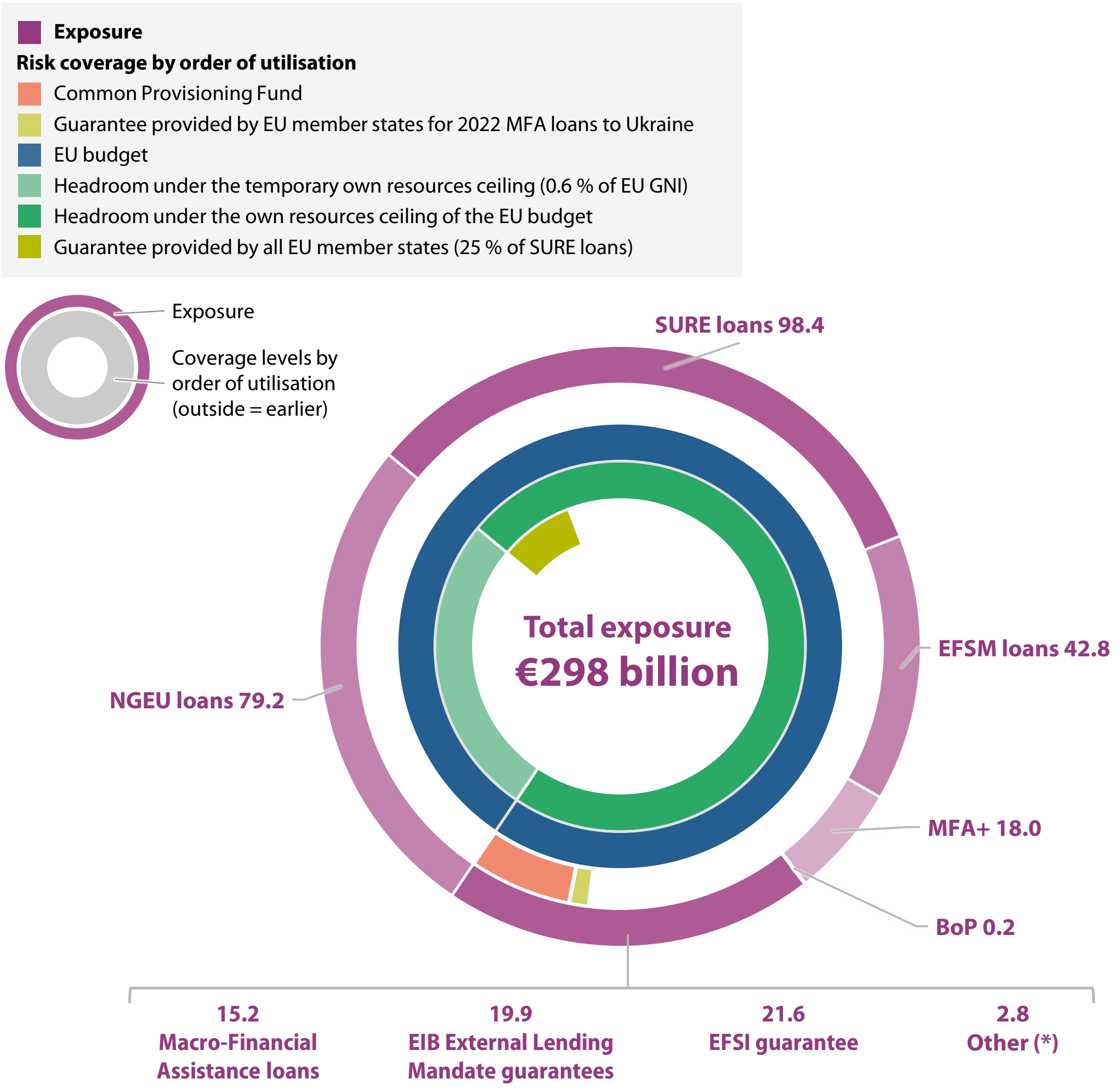
[49] Ibid.

[50] Note 4.1.1 of the 2023 consolidated annual accounts of the EU.

that will be called upon. Moving inwards, subsequent circles denote additional layers of risk coverage.

Figure 2.22 – Total exposure of the EU budget at end 2023, with source of exposure and risk coverage

(billion euros)



NGEU	NextGenerationEU
SURE	Support to mitigate Unemployment Risks in an Emergency
EFSM	European Financial Stabilisation Mechanism
MFA+	Macro-Financial Assistance Plus to Ukraine (2023)
BoP	Balance of Payments
EFSI	European Fund for Strategic Investments

(*) European Fund for Sustainable Development (EFSD) guarantee: €0.5 billion, InvestEU guarantee: €1.4 billion, and European Fund for Sustainable Development Plus (EFSD+) guarantee: €0.6 billion; Euratom loans: €0.3 billion.

Source: ECA, based on the 2023 consolidated annual accounts of the EU, and applicable regulations.

2.53. The 2023 increase in EU budget exposure related mainly to borrowings for the additional €34.1 billion of RRF loans made to member states (2022: €27.2 billion), of which €5.4 billion were for REPowerEU loans, plus the MFA+ loans to Ukraine of €18.0 billion. Exposure to the contingent liabilities arising from budgetary guarantees increased to €44.0 billion by the end of 2023 from €42.9 billion at the end of 2022. This was mainly because of more disbursements for investments covered by the InvestEU guarantee. In October 2023, the Commission estimated[51] that, based on data at the end of 2022, the available headroom for the 2024-2027 period would be adequate to cover potential losses arising from headroom-backed liabilities, both from non-NGEU and NGEU operations.

2.54. The EU budget exposure at the end of 2023 is expected to rise in 2024 and 2025, mainly due to new RRF loans. By the end of 2023, the Commission had signed RRF loan agreements with member states for €290.9 billion, of which €211.7 billion had not yet been disbursed.

2.55. In early 2024, the EU legislator established the Ukraine Facility[52]. In addition to up to €17°billion of non-repayable support for the period 2025-2027, loans up to €33 billion will be financed by financial market borrowing and backed by the headroom of the EU budget, as is the case for MFA+ loans. In our opinion on the Ukraine Facility, we highlighted that this approach entails considerable risks for the EU budget.

2.56. Also in 2024, the Council presidency and the European Parliament reached a provisional agreement on setting up a Reform and Growth Facility for the Western Balkans[53]. The new instrument is worth €6 billion, of which €4 billion are loans with principal ’repayments starting from 2034, and with maturities of up to 40 years. The loans are set to be backed by a provisioning of 9 % to the EU’s common provisioning fund. In our opinion on the new instrument, we welcomed this provisioning. The Council also proposed macro-financial assistance to Egypt , providing €1 billion in 2024[54] and €4 billion still to be adopted over the period 2024-2027[55].

[51] COM(2023) 683.

[52] Regulation (EU) 2024/792.

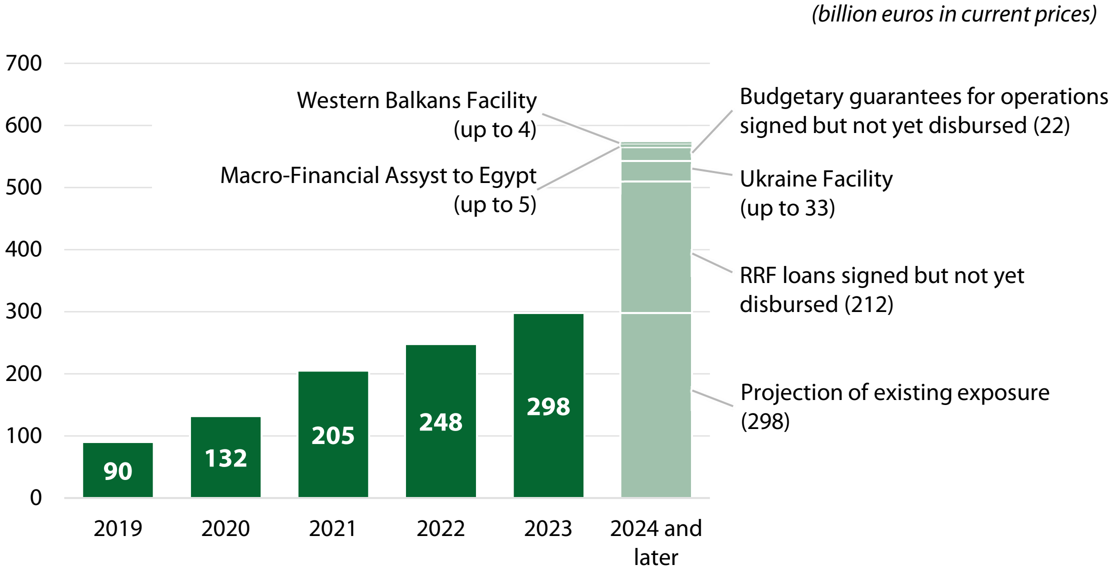
[53] Press release dated 4 April 2024.

[54] Decision (EU) 2024/1144.

[55] Press release dated 12°April°2024.

2.57. *Figure 2.23* compares past and projected exposure of the EU budget from 2019 onwards.

Figure 2.23 – Past and projected exposure of the EU budget



Note: Amounts in nominal values.

Source: ECA, based on the consolidated annual accounts of the EU for 2019 to 2023 and Commission information.

2.58. Total exposure can be broken down into annual exposure, which is the maximum amount that needs to be covered by the EU budget, or by the headroom, if there are payment defaults in any given year[56]. The Commission provided us with data, based on figures at the end of 2022, on the annual EU budget exposure stemming from financial assistance to member states and non-EU countries as well as the *External Lending Mandate*. It amounted to €8.2 billion in 2024 (€7.7 billion for 2023 and €7.0 billion for 2022), but this figure does not include the annual exposure from the remaining programmes covered by budgetary guarantees (EFSI, InvestEU, EFSD and EFSD+). We made a recommendation in 2022[57] to publish the Commission's estimate of total annual exposure.

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[56] Special report 05/2023, figure 2.

[57] 2022 annual report, recommendation 2.3 – Sustainability of the EU budget's exposure.

Russia's war of aggression against Ukraine continues to increase financial risks to future EU budgets

2.59. The exposure of the EU budget to Ukraine rose from €16 billion at the end of 2022 to €33.7 billion at the end of 2023. This comprised €18 billion of MFA+ loans, €11.6 billion of MFA loans, €0.3 billion of Euratom loans, and €3.8 billion of budgetary guarantees for outstanding loans provided by the EIB and other financial institutions. At the same time, the Commission recognised an impairment allowance for the MFA and MFA+ loans made to Ukraine of €8.8 billion (€2.2 billion in 2022), which reflected the expected losses over the lifetime of the loans.

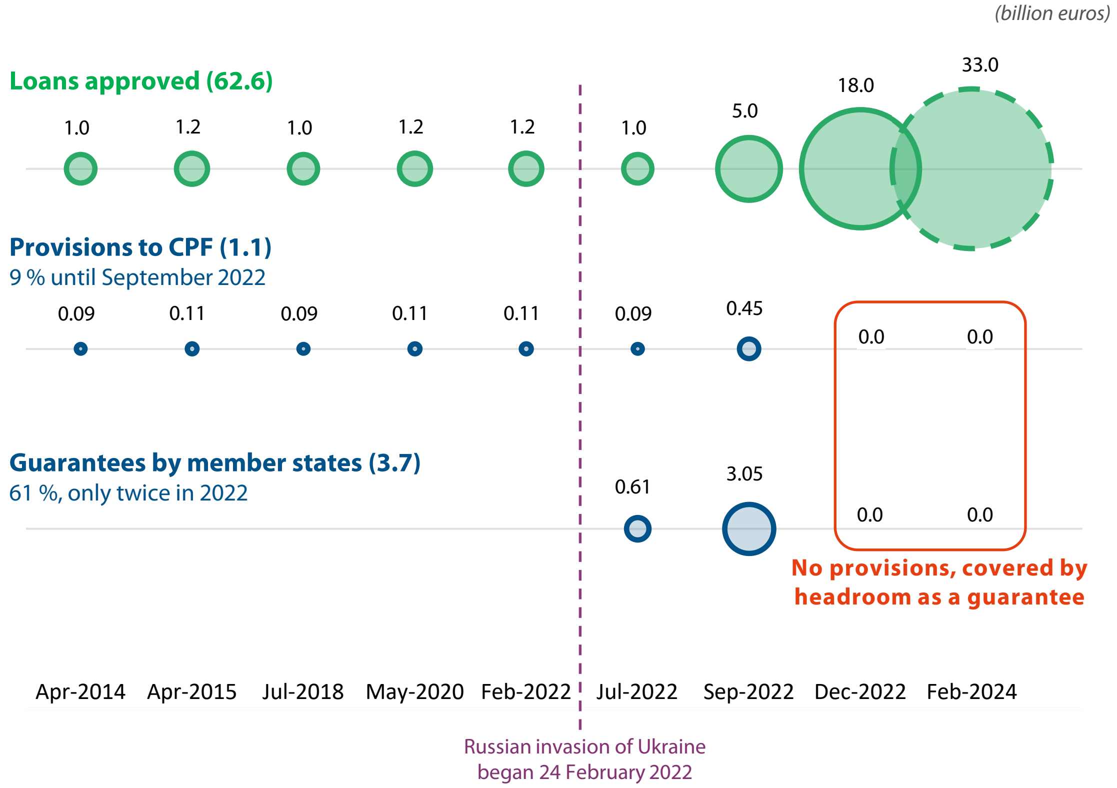
2.60. In 2023, the MFA+ instrument provided €18 billion support to Ukraine in the form of highly concessional loans to be repaid over a maximum of 35 years starting in 2033. In derogation to the Financial Regulation[58], the MFA+ loans do not require provisioning to cover the risk of default[59] as they are guaranteed through the headroom of the EU budget. In our opinion on this matter, we had highlighted that transferring the risks of possible defaulted repayments to the future could put pressure on future budgets and payment needs.

2.61. In February 2024 the European Parliament and the Council agreed to set up the Ukraine Facility, see paragraph ***2.55***, to provide financial support to Ukraine for an additional amount of up to €33 billion in loans for the period from 2024 to 2027, see ***Figure 2.24***. In our opinion, we highlighted that this approach entails considerable risks for the EU budget.

[58] Article 211.1 of Regulation (EU, Euratom) 2018/1046.

[59] Article 14.3 of COM(2022) 597.

Figure 2.24 – Timeline of approved loans to Ukraine since 2014, including provisions and member state guarantees



Source: ECA, based on applicable legislation and the 2023 consolidated annual accounts of the EU.

Despite positive performance in 2023, the cumulative performance of the common provisioning fund is still negative

2.62. Since 2021, the assets of the *common provisioning fund* (CPF) have pooled all the provisions for the EU's financial liabilities arising from *financial instruments*, budgetary guarantees or loans for financial assistance[60]. The Commission can draw from the CPF to honour outflows required for guarantee calls or defaults of non-EU countries before the EU budget is further called upon.

2.63. At 31 December 2023, CPF assets amounted to €18.8 billion (€14.4 billion in 2022), see ***Figure 2.25***. The Commission estimates the CPF will receive an additional €18.8 billion in inflows from 2024 to 2030[61].

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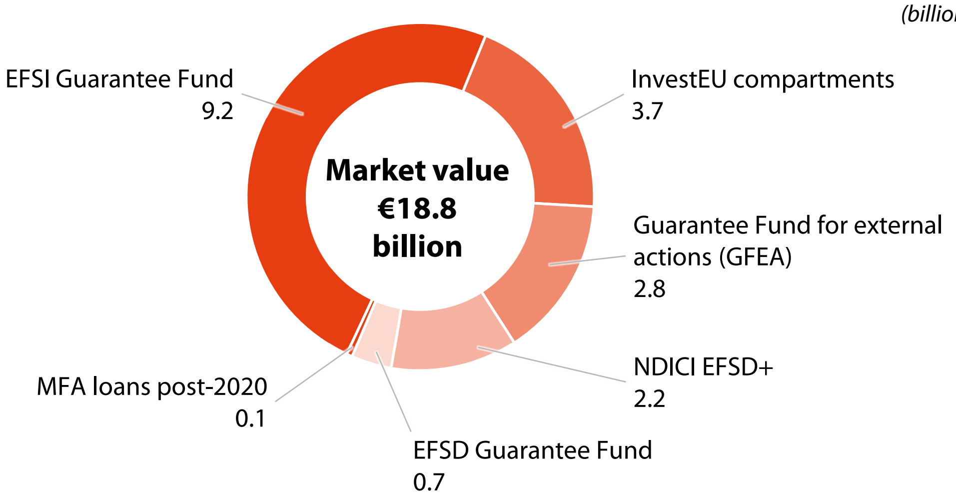
[60] Article 212 of the Financial Regulation.

[61] COM(2023) 288, p. 4.

Figure 2.25 – Common provisioning fund and its components, as at end 2023

(billion euros)



EFSI: European Fund for Strategic Investments
NDICI: Neighbourhood, Development and International Cooperation Instrument
EFSD+: European Fund for Sustainable Development Plus
EFSD: European Fund for Sustainable Development
MFA: Macro-Financial Assistance

Source: ECA, based on the 2023 consolidated annual accounts of the EU.

2.64. The Commission's objective in managing the CPF is to, at least, safeguard the contributed capital (capital preservation)[62]. Despite a positive performance of €0.9 billion in 2023 after a particularly negative performance in 2022 due to rising interest rates[63], the cumulative unrealised financial performance of the portfolio since its inception in 2021 was still negative at the end of 2023 (-2.2 % or €0.4 billion)[64]. Our 2022 recommendation[65] that the Commission should take any appropriate action to ensure sufficient capacity of its risk mitigation tools, including the CPF, remains valid.

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[62] Ibid., p. 2.

[63] 2022 annual report, paragraph 2.39.

[64] 2023 financial statements of CPF.

[65] 2022 annual report, recommendation 2.3 – Sustainability of the EU budget's exposure.

High inflation in 2022 and 2023 continues to affect the EU budget

2.65. The MFF Regulation sets the maximum annual ceilings (commitment and payment appropriations) at 2018 prices[66]. As the adjustment to current prices in the annual EU budget is done with a fixed 2 % annual percentage increase (*deflator*), the EU budget *purchasing power* is reduced (or increased) by the difference between the fixed deflator and the average inflation rate.

2.66. Between 2013 and 2020, the EU inflation rate was below the 2 % threshold. However, average inflation increased significantly in 2022 to 9.2 % before falling back to 6.4 % in 2023[67], see ***Figure 2.26***. Commission forecasts suggest that EU inflation will fall to an average of 2.7 % in 2024 and 2.2 % in 2025, and in the euro area to an average of 2.5 % in 2024 and 2.1 % in 2025[68]. This is broadly in line with current European Central Bank forecasts for the euro area of 2.7 % in 2024 and 2.1 % in 2025[69].

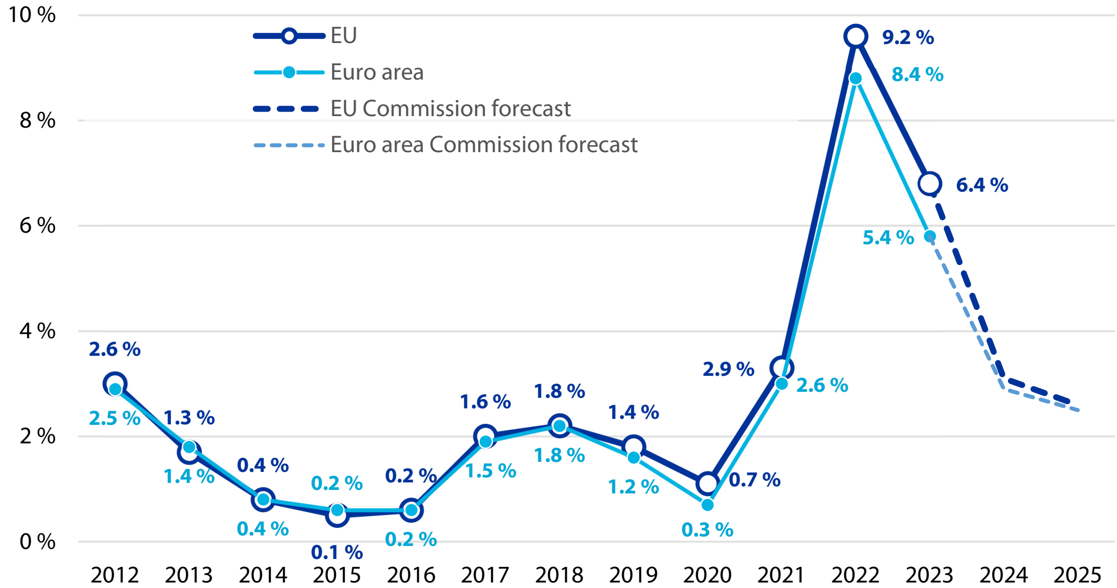
[66] Annex I to Regulation (EU, Euratom) 2020/2093, as amended by Regulation (EU) 2024/792.

[67] Harmonised index of consumer prices inflation rate published by Eurostat.

[68] Commission's Spring 2024 Economic Forecast.

[69] European Central Bank's macroeconomic projections as at December 2023.

Figure 2.26 – Annual average inflation rate in the EU and the euro area (2012-2025)



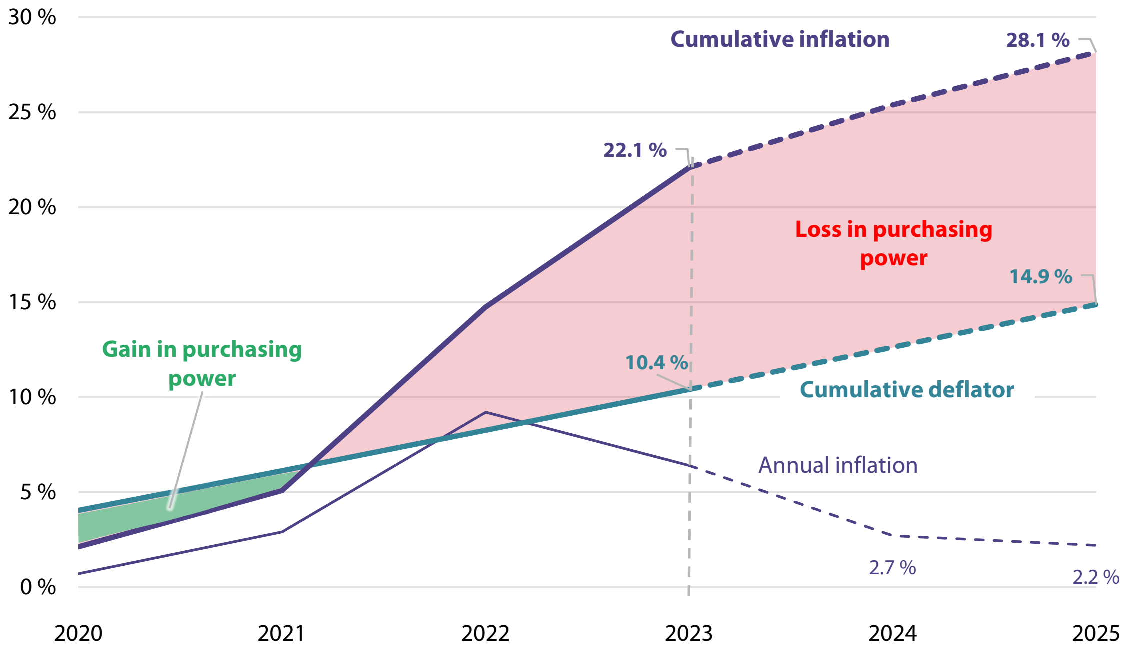
Source: ECA, based on the Eurostat and the Commission's Spring 2024 Economic Forecast.

2.67. Based on the Commission's inflation forecast[70], we estimate that the EU budget could lose about 13 % of its purchasing power by the end of 2025, see ***Figure 2.27***. We made a recommendation on this matter in 2022[71].

[70] Commission's Spring 2024 Economic Forecast.

[71] 2022 annual report, recommendation 2.2 – Assess the impact on the EU budget of high inflation over several years.

Figure 2.27 – Changes in EU budget purchasing power (2020-2025)

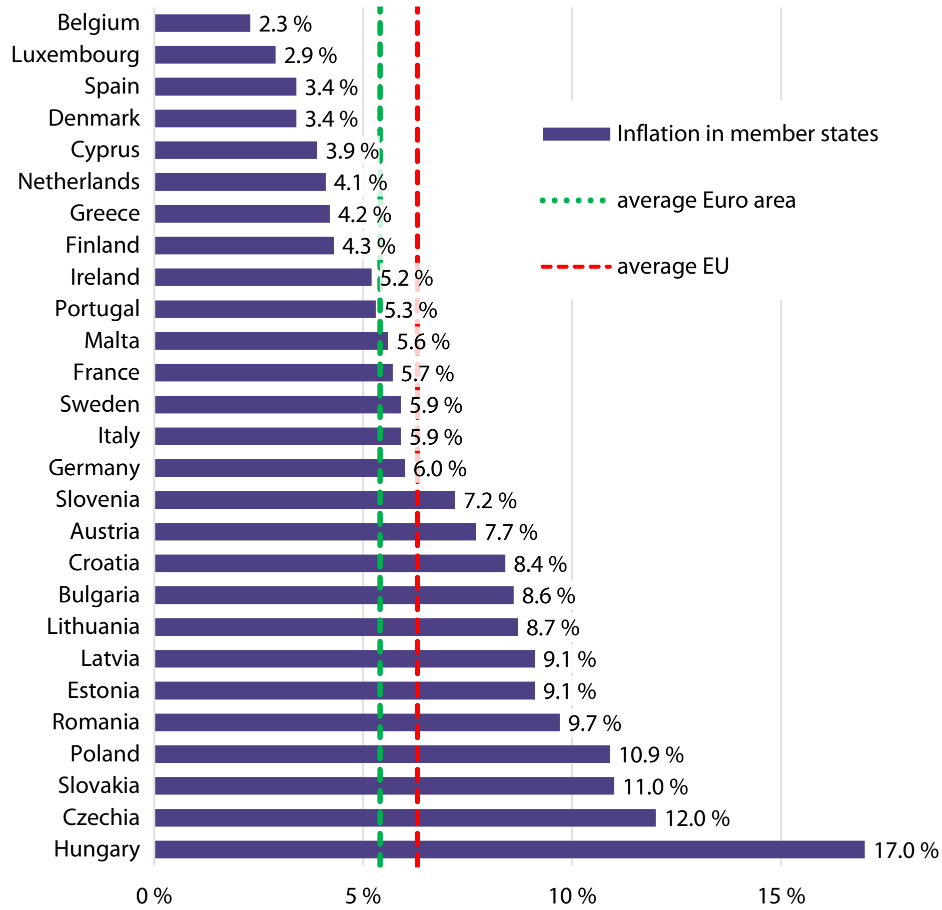


Source: ECA, based on Eurostat and Commission's Spring 2024 Economic Forecast.

2.68. Inflation and its consequent erosion of purchasing power in recent years increased the risk that EU funds may not be able to achieve their objectives to the same extent. However, inflation did not affect all member states of the EU in the same manner, see ***Figure 2.28***. In their revised RRF national plans[72], 20 member states (all except Denmark, Germany, Luxembourg, Malta, Netherlands, Finland and Sweden) acknowledged that certain objectives outlined in the original plans were either partially or entirely unattainable due to inflationary pressures.

[72] Recovery and Resilience Scoreboard, Country overview.

Figure 2.28 – Inflation in member states in 2023

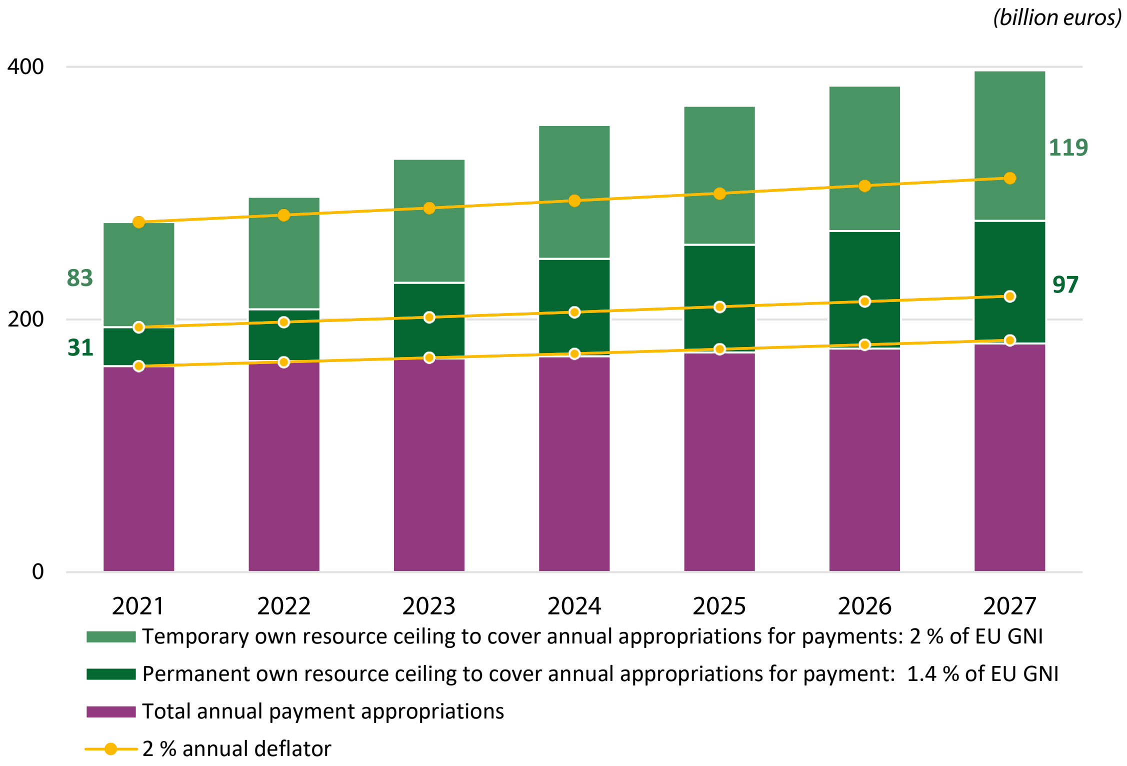


Source: ECA, based on Eurostat and Commission's Spring 2024 Economic Forecast.

2.69. Annual ceilings (payment appropriations) set in the MFF Regulation are raised only by the fixed 2 % deflator, see paragraph ***2.66***. While the primary factor driving the increase in GNI is economic growth, high inflation also contributes to the increase in GNI of member states and leads to an expansion of the headroom. As the headroom guarantees the EU's borrowing, its expansion strengthens the financial credibility of the EU as a borrower. ***Figure 2.29*** shows the expansion of the headroom based on the Commission's forecasts[73] for economic growth and inflation.

[73] COM(2023) 320.

Figure 2.29 – Projected effect of economic growth and inflation expectations on the headroom



Source: ECA, based on Annex to COM(2023) 320.

Conclusions and recommendations

Conclusions

2.70. Almost all available commitment appropriations of the EU budget were used in 2023. However, payment appropriations were lower than initially planned. Absorption of the 2014 2020 ESIF slowed down in 2023, but the deadline for payment claims was extended by one year. As member states prioritised efforts to absorb the 2014-2020 cohesion policy funds and speed up implementation of NGEU, total payments for shared management funds under the CPR were only 3.2 % (€12.8 billion) of the total amount of the 2021-2027 MFF. Also, EAFRD payments under the new CAP, which started in 2023, showed a modest absorption rate of 1 % at the end of the year. See paragraphs ***2.2***-***2.20***.

2.71. In 2023, amendments to the RRF Regulation allowed for the inclusion of a REPowerEU chapter in member states' RRF plans. By the end of 2023, the Commission had made all NGEU-financed RRF commitments for grants (€337.9 billion). Annual payments of RRF grants totalling €48 billion in 2023 were lower than expected. See paragraphs ***2.21***-***2.26***.

2.72. Outstanding commitments from the EU budget and NGEU grant funding reached a record high of €543 billion at the end of 2023, but are expected to fall to €322.9 billion by the end of 2027. See paragraphs ***2.27***-***2.30***.

2.73. Continued low implementation of the 2021-2027 CPR shared management funds in 2023 will put the commitments made in 2022 at risk of decommitment from 2025. In 2023, the Commission forecasted the total decommitments for the period 2024-2027 at €8.1 billion, out of which €2.2 billion relates to cohesion policy funds. In our view, an important amount of decommitments might jeopardise the achievement of the EU objectives. See paragraphs ***2.33***-***2.34***.

2.74. In 2023, the EU's diversified funding strategy became the standard approach to EU borrowing. Outstanding EU borrowings increased by 30 % in 2023 to over €458.5 billion, out of which €268.4 billion for NGEU. Because interest rates have been rising rapidly, the additional costs for NGEU borrowing within the current MFF might range from €17 billion to €27 billion. See paragraphs ***2.35***-***2.50***. The MFF revision also introduced measures to address risks related to additional NGEU financing costs and payment backlog for 2026. See paragraphs ***2.31***-***2.32***.

2.75. The exposure of the EU budget from EU budget guarantees and contingent liabilities increased from €248 billion in 2022 to €298 billion in 2023. At the end of 2023, an additional €202 billion of RRF loans had been granted but not yet disbursed. The exposure will therefore continue to rise. See paragraphs ***2.51***-***2.58***.

2.76. The EU budget exposure to Ukraine increased from €16 billion to €34 billion in 2023, and it will rise further following the agreement to set up the Ukraine facility in early 2024. The additional loans to Ukraine do not require provisioning, thus increasing the risk to future EU budgets. See paragraphs ***2.59***-***2.61***.

2.77. The assets of the common provisioning fund amounted to €18.8 billion at the end of 2023. The cumulative financial performance of its portfolio since 2021 is still negative. See paragraphs ***2.62***-***2.64***.

2.78. High inflation continued to affect the EU budget. Based on the Commission's inflation forecast, we estimated that the EU budget could lose about 13 % of its purchasing power by the end of 2025. See paragraphs ***2.65***-***2.69***.

Recommendation

Recommendation 2.1 – Mitigate the risk of decommitments

To mitigate the risk of decommitments, the Commission should closely monitor the progress in selection of operations and take necessary actions regarding programmes at risk.

Target implementation date: By end of 2025

Chapter 3

Getting results from the EU Budget

Contents

Annex 3.5 – AMIF and ISF-BV indicators and the values achieved at the end of 2022

Annex 3.6 – Follow-up of previous recommendations for the ‘Report of the European Court of Auditors on the performance of the EU budget – status at the end of 2020’

Annex 3.7 – Follow-up of 2020 special report recommendations – European Commission

Annex 3.8 – Follow-up of 2020 special report recommendations – Other auditees

Introduction

3.1. Every year, we analyse a number of aspects relating to the *performance* and the *results* achieved by the EU budget, which is implemented by the Commission in cooperation with the member states[1].

3.2. This year, our chapter on performance covers the following topics:

- Part 1 – results and key messages from our 2023 special reports on performance, as well as related information from the Commission and the budgetary and legislative authorities (the European Parliament and the Council);
- Part 2 – this is a new part compared with our 2022 report where we examine how the Commission reported on performance for heading 4, ‘Migration and border management’, of the *multiannual financial framework* (MFF). We aim to examine different MFF headings in rotation over the following years;
- Part 3 – implementation of the recommendations made in our 2020 report on the performance of the EU budget;
- Part 4 – implementation of the recommendations we made in the special reports we published in 2020.

[1] Article 317 of the Treaty on the Functioning of the EU.

Part 1 – Results of our performance audits: key messages

Introduction

3.3. Our special reports examine how well the principles of *sound financial management*[2] have been applied in implementing the EU budget. They address key performance and compliance objectives. In 2023, we published 29 special reports addressing many of the challenges the EU is facing across its different spending areas and policies.

3.4. Our audit work targeted the following strategic areas, which we consider to be priorities in line with our 2021-25 strategy:

- the EU's response to post-crisis recovery;
- increasing the EU's economic competitiveness for the benefit of all citizens;
- resilience to threats to the EU's security, and respect for the European values of freedom, democracy and the rule of law;
- climate change, the environment and natural resources; and
- fiscal policies and public finances in the EU.

3.5. ***Figure 3.1*** gives an overview of all the special reports we published in 2023, by strategic area.

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2 Article 33 of the *Financial Regulation*.

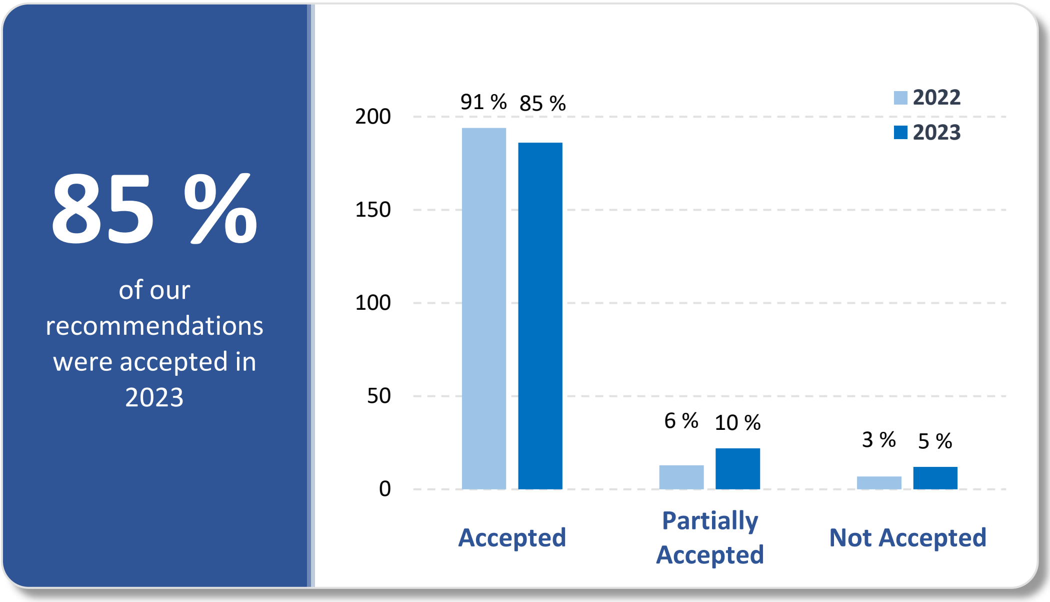
Figure 3.1 – ECA strategic areas covered by special reports in 2023

EU response to post-crisis recovery	▪ SR 02/2023: Adapting cohesion policy rules to respond to COVID-19 ▪ SR 07/2023: Design of the Commission's control system for the RRF ▪ SR 16/2023: *NGEU* debt management at the Commission ▪ SR 26/2023: The Recovery and Resilience Facility's performance monitoring framework
Competitiveness	▪ SR 03/2023: Internal electricity market integration ▪ SR 11/2023: EU support for the digitalisation of schools ▪ SR 13/2023: Authorised Economic Operators ▪ SR 15/2023: The EU's industrial policy on batteries ▪ SR 27/2023: Screening foreign direct investments in the EU
Resilience and European values	▪ SR 01/2023: Tools facilitating travel within the EU during the COVID-19 pandemic ▪ SR 09/2023: Securing agricultural product supply chains during COVID-19 ▪ SR 10/2023: The Preparatory action on defence research ▪ SR 14/2023: Programming the *Neighbourhood, Development and International Cooperation Instrument – Global Europe* ▪ SR 20/2023: Supporting persons with disabilities ▪ SR 21/2023: The Spotlight Initiative to end violence against women and girls
Climate change, environment and natural resources	▪ SR 04/2023: The Global Climate Change Alliance(+) ▪ SR 08/2023: Intermodal freight transport ▪ SR 17/2023: Circular economy ▪ SR 18/2023: EU climate and energy targets ▪ SR 19/2023: EU efforts for sustainable soil management ▪ SR 22/2023: Offshore renewable energy in the EU ▪ SR 23/2023: Restructuring and planting vineyards in the EU ▪ SR 24/2023: Smart cities ▪ SR 25/2023: EU aquaculture policy ▪ SR 29/2023: The EU's support for sustainable biofuels in transport
Fiscal policies and public finances	▪ SR 05/2023: The EU's financial landscape ▪ SR 06/2023: Conflict of interest in EU cohesion and agricultural spending ▪ SR 12/2023: EU supervision of banks' credit risk ▪ SR 28/2023: *Public procurement* in the EU

Source: ECA.

3.6. Our auditees have the right to provide replies to our observations[3]. These replies, which also indicate whether or not they accept our recommendations, are published together with our special reports. Our 2023 special reports contained 220 recommendations (214 in 2022) on a wide range of topics. Our auditees fully accepted 85 % of our recommendations, while 10 % were partially accepted (see ***Figure 3.2***).

Figure 3.2 – Acceptance of recommendations made in our 2023 special reports compared to 2022

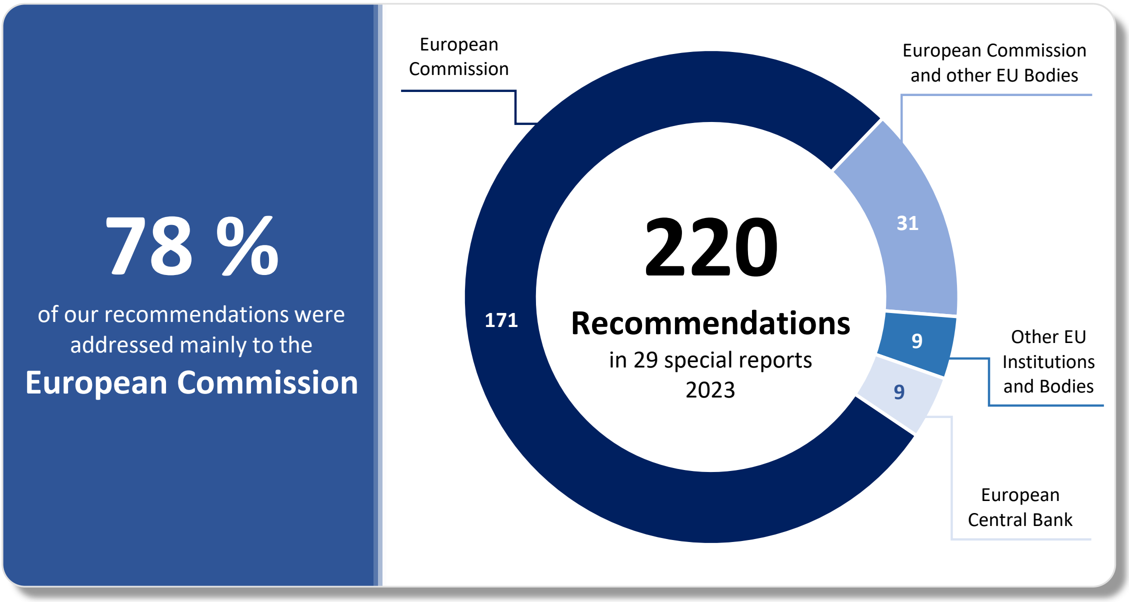


Source: ECA.

3.7. We addressed most of our recommendations to the Commission (see ***Figure 3.3***).

[3] Ibid., Article 259.

Figure 3.3 – Breakdown of recommendations by auditee



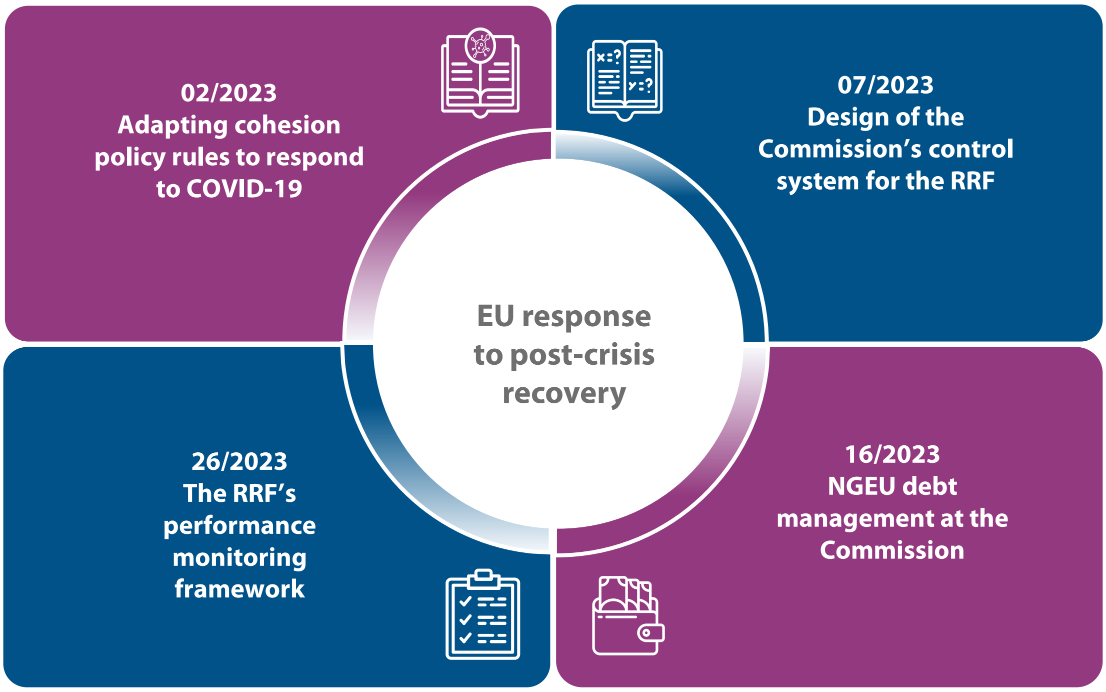
Source: ECA.

3.8. In the following paragraphs, we present the key messages of our special reports, by strategic area. We complement this with an overview of the references made to our special reports by the Council, and by the European Parliament in its *discharge* resolution. We also refer to the discussion of special reports at European Parliament committees (see ***Annex 3.1***) and give examples of early actions taken by the Commission (see ***Annex 3.2***). This information is in addition to the Commission's position as set out in its replies to our special reports, and is without prejudice to the regular follow-up exercise we carry out after 3 years.

EU response to post-crisis recovery

3.9. In 2023, we published four special reports on topics in this strategic area (see ***Figure 3.4***).

Figure 3.4 – Special reports published in 2023 in the strategic area of the EU's response to post-crisis recovery



Source: ECA.

3.10. The COVID-19 pandemic brought new challenges to the member states with regard to the implementation of the EU structural funds. We concluded[4] that, in general, the Commission had adapted the 2014-2020 cohesion policy rules well in order to provide greater flexibility to members states. However, there have been no formal assessments of the long-term *impact* of using cohesion policy as a crisis response tool.

3.11. We found[5] that the Commission had established the funding strategy and the organisational arrangements to manage the debt raised through the issuance of EU bonds for the NextGenerationEU *programme* quickly, which allowed the required funds to be made available in a timely manner. However, the rapidly built debt management capacities need adjustment to be in line with established best practice and the Commission did not concentrate sufficiently on setting strategic objectives, or on measuring and reporting on performance.

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[4] Special report 02/2023.

[5] Special report 16/2023.

3.12. During 2023, the Court published two reports on the *Recovery and Resilience Facility* (RRF), which is funded with €723.8 billion:

- A first audit found[6] that, within a relatively short time, the Commission had designed a control system that provided for an extensive process to verify the fulfilment of *milestones* and *targets*. However, an assurance and accountability gap remained at EU level in protecting the EU's financial interests.

- A second audit concluded[7] that milestones, targets and common indicators contributed to measuring progress, but focused on *output* rather than results, and did not fully cover all aspects of the RRF's performance. Additionally, the RRF scoreboard was user-friendly but affected by data quality and transparency issues, while the early RRF reports mostly complied with the reporting obligations but information on performance was limited.

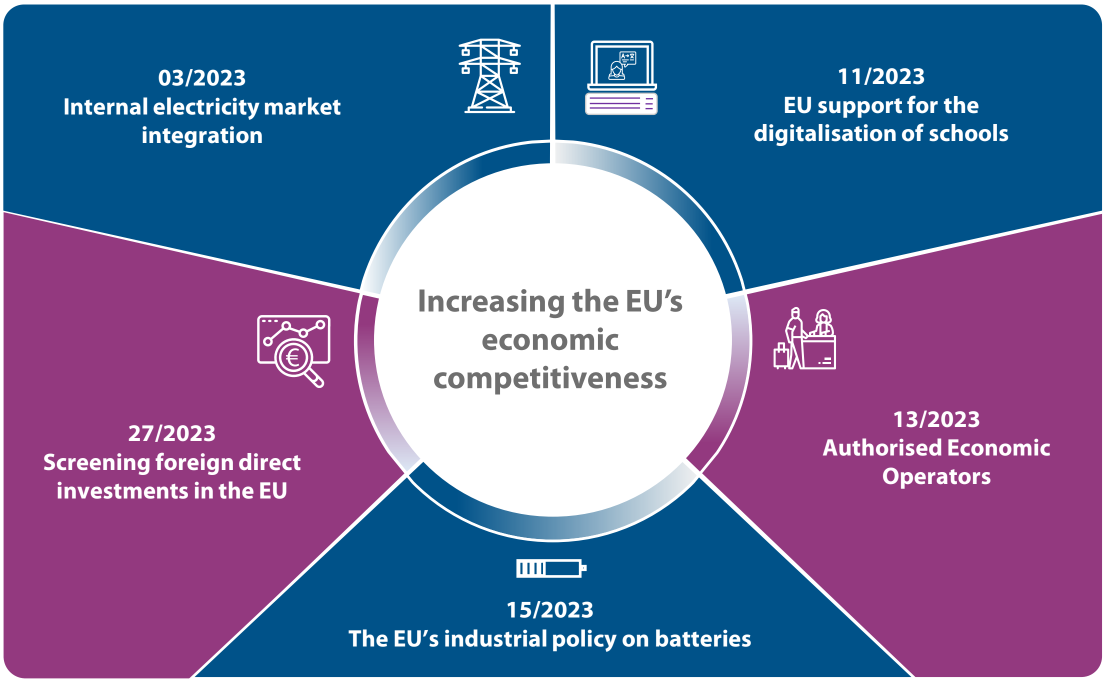
Increasing the EU's economic competitiveness for the benefit of all citizens

3.13. In 2023, we published five special reports on topics in this strategic area (see ***Figure 3.5***).

[6] Special report 07/2023.

[7] Special report 26/2023.

Figure 3.5 – Special reports published in 2023 in the strategic area of EU economic competitiveness



Source: ECA.

3.14. We found[8] that despite certain significant achievements, progress with integration of the EU's internal electricity market was slow and uneven across market segments and regions within the EU. The Commission's choice of regulatory tools led to a complex legal architecture of cross-border trade rules and to delays in implementation. Weaknesses in the EU's governance framework and monitoring by the Commission and the Agency for the Co-operation of Energy Regulators did not trigger sufficient improvement in the way in which the EU electricity market operates.

3.15. Furthermore, we concluded[9] that the Commission's promotion of an EU industrial policy on batteries had been effective, despite shortcomings in monitoring, coordination and targeting. Access to raw materials remained a major strategic challenge for the EU's battery value chain.

3.16. In the field of education, we concluded[10] that EU measures helped schools in their digitalisation efforts, but that member states lacked strategic focus in their use of

8 Special report 03/2023.

9 Special report 15/2023.

10 Special report 11/2023.

EU financing, while only a small number of schools had the fast connections required to harness the full potential of digital education.

3.17. The EU has a system to simplify customs procedures for reliable traders known as authorised economic operators (AEOs). Our overall conclusion[11] was that it facilitated legitimate trade, enhanced supply-chain security and protected the EU's financial interests. Its regulatory framework was generally robust, with a clear and transparent legislative framework, but some concepts were not defined. The Commission's monitoring of the programme's implementation was not sufficient to ensure that member states grant AEOs the related benefits, nor did it systematically monitor the implementation of mutual recognition agreements concluded with third countries. The AEO programme did not have an adequate performance measurement framework in place, including quantitative targets and objectives.

3.18. In 2020, the EU established a framework for member states' screening of foreign direct investment (FDI) and a mechanism for cooperation between EU member states and the Commission. Overall, we concluded[12] that the Commission had taken appropriate steps to establish and implement a framework for screening FDI in the EU. However, there remained significant limitations across the EU that reduced the *effectiveness* and *efficiency* of the framework at preventing security and public-order risks.

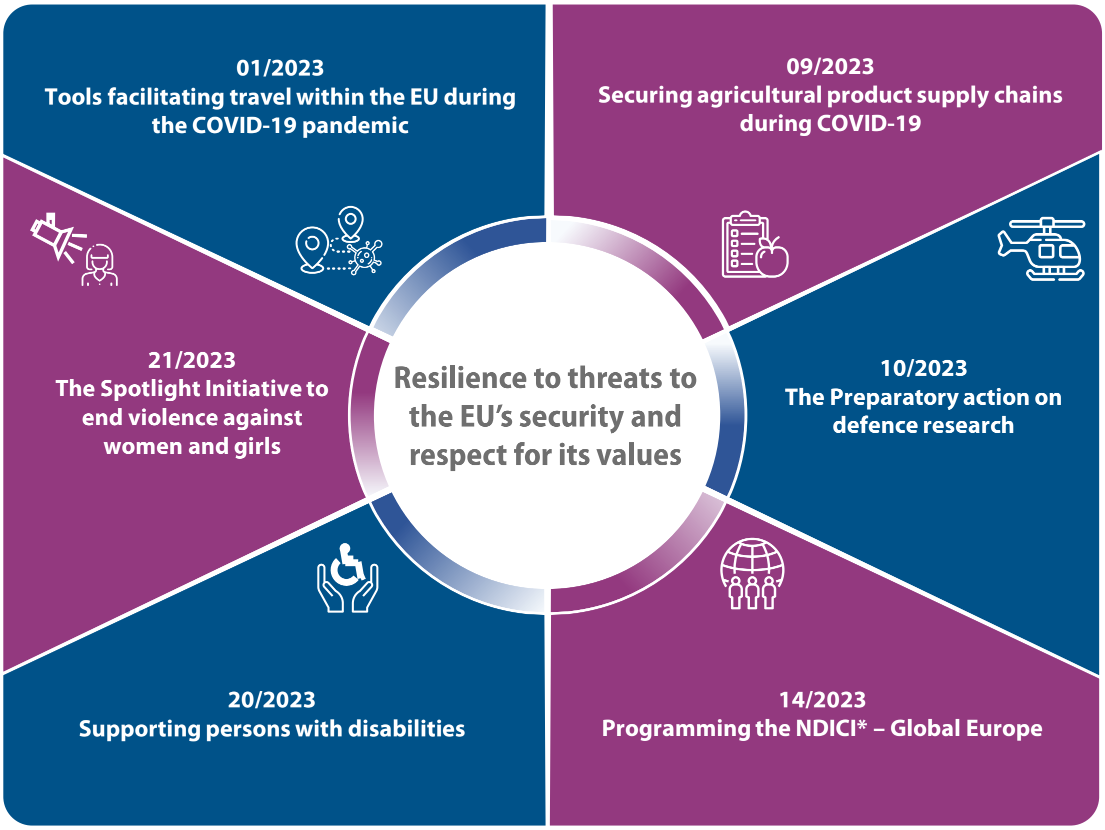
Resilience to threats to the EU's security and respect for the European values of freedom, democracy and the rule of law

3.19. In 2023, we published six special reports on topics in the strategic area (see ***Figure 3.6***).

[11] Special report 13/2023.

[12] Special report 27/2023.

Figure 3.6 – Special reports published in 2023 in the strategic area of resilience and European values



* *Neighbourhood, Development and International Cooperation Instrument*.

Source: ECA.

3.20. The COVID-19 pandemic considerably affected the free movement of citizens as well as agricultural product supply chains, and the Commission adopted exceptional measures in response. In 2023, we completed two audits in this area. In relation to freedom of movement, we found[13] that despite its limited competence in public health policy, the Commission had moved fast to propose suitable technological solutions to facilitate travel within the EU during the pandemic. However, the member states' use of these tools varied significantly, so the tools' impact in facilitating travel was uneven. With regard to agricultural product supply chains, we concluded[14] that the Commission's response was appropriate in most respects although insufficiently targeted by the member states. The Commission rapidly issued useful guidelines on the movement of goods and critical workers that mitigated disruption to the agri-food sector. However the direct support, which was implemented quickly, was mostly taken

[13] Special report 01/2023.

[14] Special report 09/2023.

up by member states with significant unused *European Agricultural Fund for Rural Development* (EAFRD) budget at the end of 2019.

3.21. In the area of defence, we concluded[15] that while some lessons were learned, the value of the Preparatory Action on Defence Research as a test bed for increasing EU defence spending was reduced by time constraints and limited results.

3.22. The EU has adopted several strategies aimed at improving the lives of persons with disabilities. We concluded[16] that the 2021-2030 Strategy set objectives, but some issues remained unresolved and the monitoring system in place did not show how EU funding helped improve the lives of persons with disabilities. Overall, the key equality indicators for persons with disabilities had not significantly improved in recent years. We published an easy-to-read version of this special report in all EU languages.

3.23. In 2017, the EU, in partnership with the United Nations, launched the Spotlight Initiative. The main objective of this initiative was to ensure that all women and girls, especially those who are marginalised and vulnerable, live free from violence and harmful practices. We concluded[17] that the initiative was an ambitious attempt to address violence against women and girls, but its impact was limited. The 4-year duration of the programme was not sufficient to create lasting change worldwide.

3.24. The new Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI – Global Europe) is the main financing tool for implementing EU cooperation with partner countries. We concluded[18] that the Commission and the European External Action Service (EEAS) had designed comprehensive geographical programmes, addressing a broad range of partner country needs and EU priorities. There were, however, deficiencies both in the methodologies used for allocating funding to partner countries and in the monitoring framework.

Climate change, the environment and natural resources

3.25. In 2023, we published 10 special reports in this strategic area (see ***Figure 3.7***).

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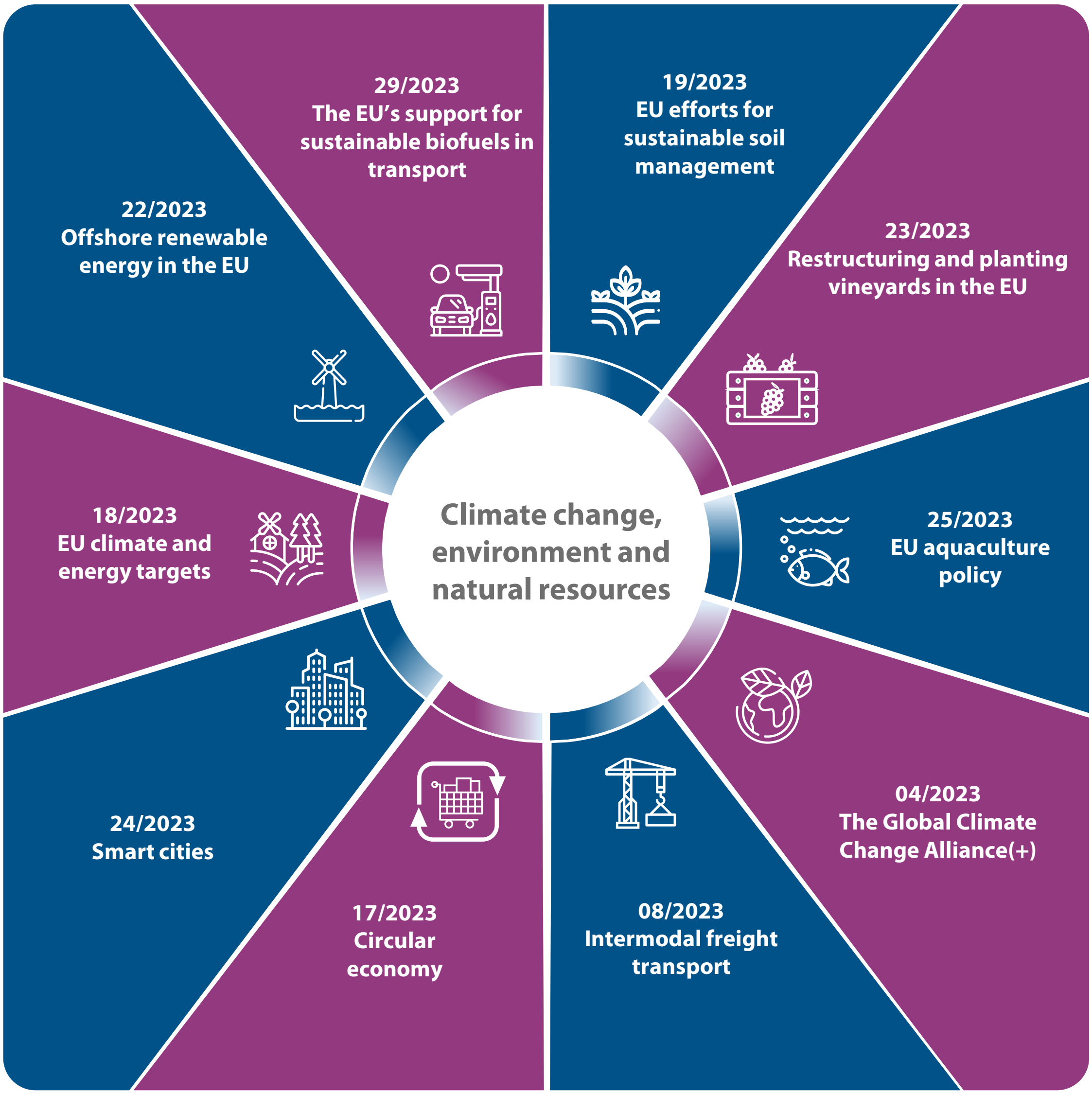
[15] Special report 10/2023.

[16] Special report 20/2023.

[17] Special report 21/2023.

[18] Special report 09/2023, 10/2023 and 14/2023.

Figure 3.7 – Special reports published in 2023 in the strategic area of climate change, the environment and natural resources



Source: ECA.

3.26. In the area of climate and energy, we found that:

- The EU had achieved its 2020 energy and climate targets, but some member states did not contribute to the targets as had been expected. However, the Commission did not assess the extent to which this progress was a result of policies rather than external factors such as the 2009 financial crisis and the COVID-19 pandemic[19].

[19] Special report 18/2023.

- EU promotion actions had contributed to the development of offshore renewable energy, in particular in the case of offshore wind. However, the targets are ambitious and may be difficult to achieve[20].
- The lack of a long-term perspective in EU biofuels policy affected investment security, and that sustainability issues, biomass availability and costs limited the deployment of biofuels. Overall, despite EU support for research, the deployment of waste- and residue-based biofuels was slower than expected[21].

3.27. With regard to the management of natural resources, we found that:

- Due to the often unambitious definition and requirements of the standards and limited national targeting, the available tools for managing agricultural soils and manure sustainably were not used sufficiently, and that there was still considerable scope to improve soil health[22].
- The policy framework for making wine growers more competitive had shortcomings in terms of design and implementation, because it lacked proper definitions, coherent strategies and relevant indicators. We also found that the audited measure and scheme had only partially taken environmental protection on board, despite the large amount of funding involved[23].
- The EU strategic documents for the *sustainable development* of EU aquaculture had improved and that, at member state level, multiannual strategic plans were generally aligned with the Commission’s guidelines. However, some key strategies for the environment did not take aquaculture into account properly. Moreover, spatial planning and licensing procedures continued to hamper the growth of the aquaculture sector[24].

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[20] Special report 22/2023.

[21] Special report 29/2023.

[22] Special report 19/2023.

[23] Special report 23/2023.

[24] Special report 25/2023.

3.28. We also addressed cross-cutting climate and environmental topics and found that:

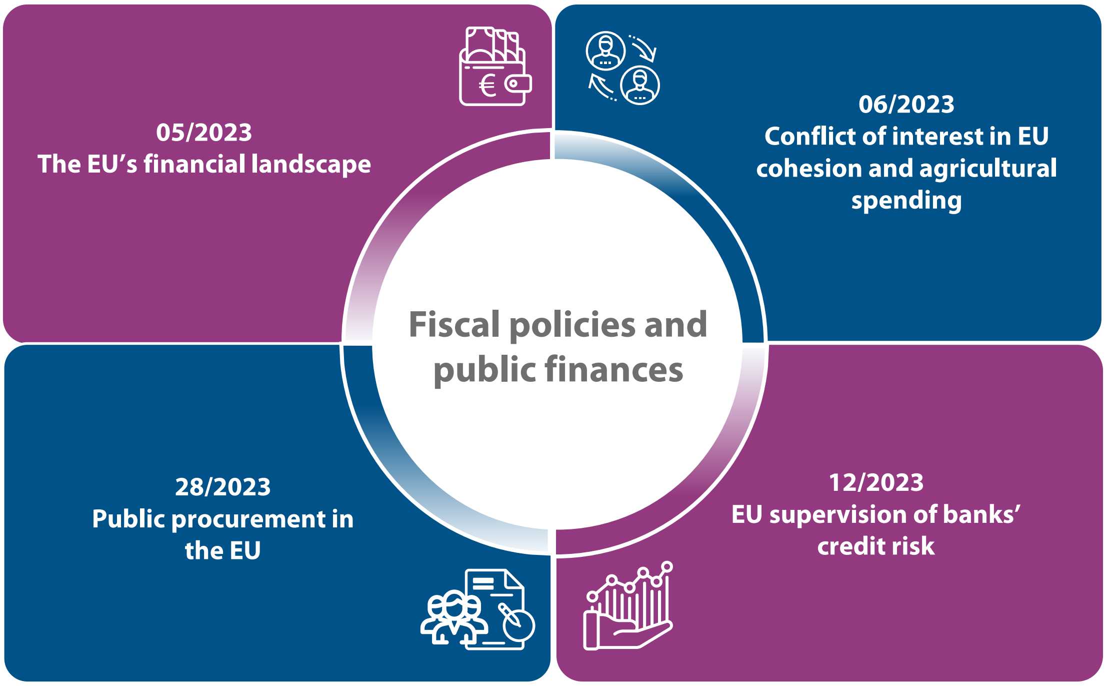
- The EU Global Climate Change Alliance initiative completed actions generally delivered their outputs, but that there was room for reducing costs and for demonstrating the initiative's impact[25].
- EU intermodal freight transport could still not compete with road transport on an equal footing due to regulatory and infrastructure barriers[26].
- There was only limited evidence that the Commission's Circular Economy Action Plans, in particular the actions on the circular design of products and production processes, had influenced circular economy activities in the member states[27].
- The Commission had designed the Lighthouse programme well, meeting the needs of EU cities and other stakeholders consulted. However, a lack of appropriate indicators, targets and plans to assess the replication of project solutions meant that the Commission could not properly measure its overall impact[28].

Fiscal policies and public finances in the EU

3.29. In 2023, we published four special reports on topics in this strategic area (see ***Figure 3.8***).

[25] Special report 04/2023.
[26] Special report 08/2023.
[27] Special report 17/2023.
[28] Special report 24/2023.

Figure 3.8 – Special reports published in 2023 in the strategic area of fiscal policies and public finances



Source: ECA.

3.30. The EU's financial landscape has evolved over decades and this landscape also covers multiple instruments outside the budget. We concluded[29] that even if there were reasons for creating instruments outside the budget, the piecemeal approach to the creation of the EU's financial landscape had resulted in a patchwork construction that is not fully publicly accountable.

3.31. Our audit on conflicts of interest affecting the EU budget in agricultural and cohesion spending concluded[30] that the Commission and member states had a framework in place to prevent and manage conflicts of interest, but that gaps remained in terms of promoting transparency and detecting situations at risk of conflict of interest.

3.32. Our audit of the way the European Central Bank (ECB) assessed the risks faced by banks (e.g. credit risk, governance, liquidity and the business model) found[31] that while the ECB had stepped up its efforts, more needed to be done for the ECB to gain greater assurance that banks properly managed and covered credit risk.

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[29] Special report 05/2023.

[30] Special report 06/2023.

[31] Special report 12/2023.

3.33. Public procurement in the EU is a key component of the EU's single market. We found[32] that over the last decade, competition for public contracts had decreased, and that the 2014 reform of the EU public procurement directives had not shown any signs of reversing this trend. We concluded that key goals of the EU's 2014 reform to ensure competition, such as simplifying and shortening procurement procedures, had not been met and that some of the objectives may even reduce competition.

Main institutional stakeholders

European Parliament

3.34. The European Parliament's 2022 discharge resolution referred to six[33] of our 29 reports. For example:

- regarding our report[34] on the Preparatory action on defence research, the European Parliament called on the Commission to secure the *provision* of adequate budget and skilled human resources to enhance defence cooperation and investment and to implement the European Defence Fund (EDF);

- regarding our report[35] on NDICI – Global Europe, the European Parliament emphasised the significance of meeting all spending and programme-related targets outlined in the instrument and called for comprehensive information to be provided on the progress achieved;

- regarding our report[36] on the RRF's performance monitoring framework, the European Parliament recommended that when implementing performance-based instruments in the future, milestones and targets be clearly defined and linked in a timely manner to avoid accountability gaps and in order to facilitate the measuring of outputs and results.

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[32] Special report 28/2023.

[33] Special reports 06/2023, 09/2023, 10/2023, 14/2023, 16/2023 and 26/2023.

[34] Special report 10/2023.

[35] Special report 14/2023.

[36] Special report 26/2023.

The Council of the European Union

3.35. By the end of April 2024, the Council prepared conclusions for 20 of our 29 reports published during 2023. Overall, the conclusions supported our recommendations, and they included additional remarks, for example:

- regarding our report[37] on the adaptation of cohesion policy rules to respond to COVID-19, the Council invited the Commission to analyse the impact of using the cohesion policy funds to respond to recent crises on the long-term objectives of the policy and to closely monitor *REACT-EU absorption*;
- regarding our report[38] on intermodal freight transport, the Council recalled that investments need to be complemented with appropriate financial resources at EU level, as well as from the private sector and at national, regional and local levels, to ensure adequate operation and maintenance of the public transport network;
- regarding the circular economy report[39], the Council invited the Commission together with the member states to assess whether the regulations and guidelines on the structural funds, and all other available sources of funding, adequately facilitate and encourage the financing of projects along the whole circular economy value chain.

[37] Special report 02/2023.
[38] Special report 08/2023.
[39] Special report 17/2023.

Part 2 – Performance of programmes under MFF heading 4

Introduction

3.36. To provide more information on the performance of the EU budget, this year we analysed the available performance information on a selected multiannual financial framework (MFF) heading. We focused on heading 4 – Migration and border management, and the following two funds: the *Asylum, Migration and Integration Fund* (AMIF), and the *Integrated Border Management Fund* (IBMF), which consists of the *Border Management and Visa Policy Instrument* (BMVI) and the *Customs Control Equipment Instrument* (CCEI). These funds represent 62.5 % of the total €22.7 billion MFF 4 budget for the 2021-2027 *programming period*. The remaining MFF 4 budget is for decentralised agencies. Chapter 8 of this report gives our findings concerning the *regularity* of expenditure from this MFF heading.

3.37. Comprehensive performance information for programmes funded under an MFF heading becomes more available towards and after the end of the programming period. Due to the early stage of implementation of the AMIF and IBMF for the 2021-2027 MFF period, the 2021 and 2022 *annual management and performance reports* (AMPRs) mostly address the implementation of the previous funds from the 2014-2020 MFF period. While the AMIF was the same in both periods, for the BMVI the corresponding fund from 2014-2020 was the *Internal Security Fund* – Borders and visa (ISF-BV), and the CCEI is a new instrument for 2021-2027.

Scope and approach

3.38. We analysed the Commission's AMPR, which is the Commission's high-level annual performance report on the EU, budget and the results of our audit work. We did not perform audit work at member state level. We checked the correct application of the Commission's performance reporting framework to the *programme performance statements* (PPSs) for MFF Heading 4 of the 2021 and 2022 AMPRs. We considered our previous audit work, examined how indicators were used to report performance, and checked a selection of indicators included in the PPSs. We also reviewed how indicators had changed since the previous programming period.

The performance reporting framework improved

3.39. For the 2014-2020 programming period, member states have submitted *annual implementation reports* (AIRs) with a final implementation report to be submitted by 31 December 2024. For the 2021-2027 programming period, member states have to submit an annual performance report (APR) to the Commission. Reporting has evolved from 2014-2020 to 2021-2027[40], with more frequent reporting of financial and performance data, as presented in ***Table 3.1***.

Table 3.1 – Reporting framework 2014-2020 v 2021-2027

Main elements of the AIR / APR	Frequency of reporting	
	2014-2020	**2021-2027**
Narrative part	once per year	once per year
Financial tables	once per year	five times per year
Indicators table	once per year	twice per year

Source: ECA, based on fund-specific regulations.

3.40. We also observed an improvement in the approach to indicators. Legislation[41] introduced a requirement for member states to have a methodology for the establishment of the performance framework and to make it available to the Commission if requested. The 2014-2020 fund-specific regulations[42] established indicators mapped to objectives, without distinguishing between output and results, while the 2021-2027 fund-specific regulations[43] established output and *result indicators* for objectives, as well as core performance indicators (a selection from the output and result indicators). In addition, the Commission established a *metadata* set to provide the main characteristics (e.g. definition, unit of measure, frequency, data source, whether the indicator covers output or results) of indicators from the current programming period.

3.41. According to the Commission's performance data tables for the draft 2024 budget, the majority of the 2014-2020 indicators for both the AMIF and ISF-BV

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[40] Articles 41 and 42 of Regulation (EU) 2021/1060 laying down the common provisions of EU funds implemented through shared management, amongst which the AMIF and the IBMF.

[41] Ibid., Article 17.

[42] Regulation (EU) 516/2014 for the AMIF and Regulation (EU) 515/2014 for the ISF-BV.

[43] Regulation (EU) 2021/1147 for the AMIF and Regulation (EU) 2021/1148 for the IBMF-BMVI.

were classified by the Commission as "result" indicators. However, in our annual report on performance for 2019[44], we considered that two thirds of the indicators for this period were output indicators. We assess that the accuracy of this classification improved in the 2021-2027 programming period. Examples of the improvements to these indicators are included in ***Annex 3.3***.

Performance information for the current period is so far scarce and shows low progress

3.42. After 2 years of the 2021-2027 MFF period, the programmes are still at an early stage of implementation. Therefore, the 2022 AMPR mostly reports low progress in achieving objectives. Similar to other *shared management* programmes, member states' programmes for the AMIF and BMVI were approved only in the last quarter of 2022. In addition, the prolongation of the equivalent funds of the previous programming period by 1 year may have contributed to the late start of those under the current period.

3.43. For the AMIF, all of the *key performance indicators* (KPIs) included in the PPS of the 2022 AMPR show zero progress towards achieving the targeted value, and the Commission noted in the PPS that it was not possible to carry out any meaningful assessment of progress. For the IBMF, only one of the eight KPIs presented in the PPS reported 12 % progress towards achieving the target, while the others reported zero progress. This was the case for the indicator on the percentage of border crossing points and customs laboratories fitted with appropriate equipment, under the specific objective of contributing to customs controls.

Performance information for the 2014-2020 period shows good progress but is still to be completed

Indicators show good progress, but do not capture the extent to which needs have been covered

3.44. Most AMIF and ISF-BV indicators show good progress towards their targets. In the 2019 report on the performance of the EU budget, we analysed the performance of the AMIF. Progress in achieving the AMIF KPI targets (as presented in the 2022 PPS) advanced significantly from 2019 to 2022 (see ***Annex 3.4***, with most

[44] 2019 report on the performance of the EU budget, paragraph 5.14.

indicators increasing by almost 50 % or more. However, the AMIF was performing below expectations in terms of facilitating returns of migrants and the number of automated border passages through ISF-BV-funded gates was far from the target. Progress was particularly affected by COVID-19-related travel restrictions.

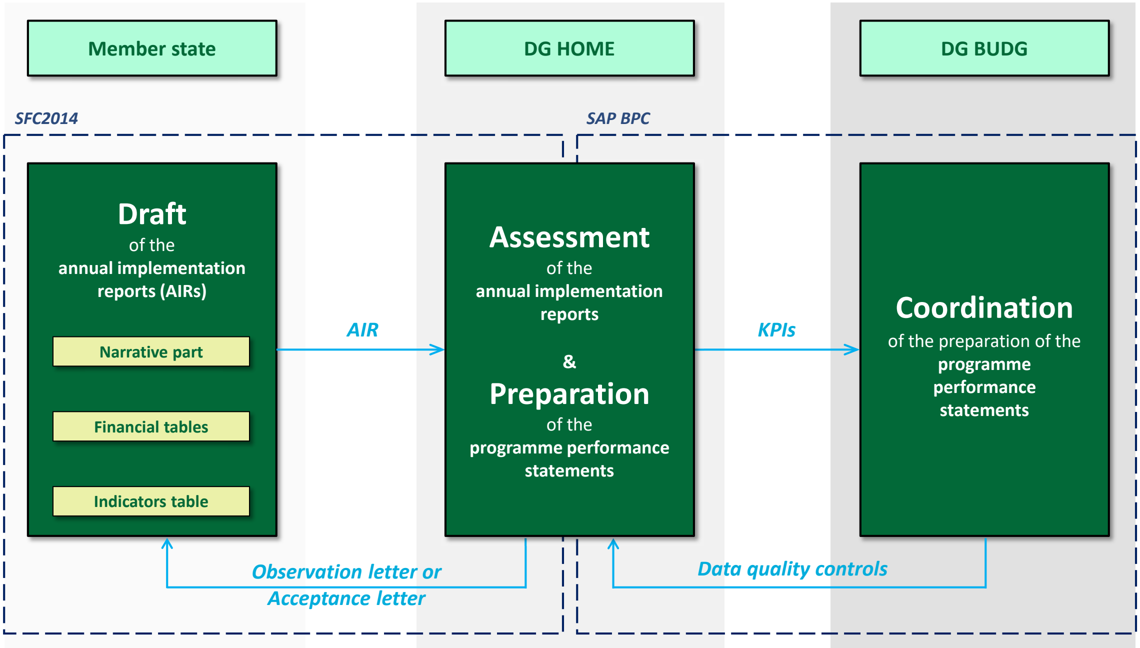
3.45. Targets are cumulative figures from the member states. Our 2019 report on the performance of the EU budget identified that quantified needs were not included in the performance reporting framework. Therefore, even where KPIs indicate that targets have been achieved, identifying the extent to which the funded actions have addressed needs at EU or member state level requires an evaluation by the Commission (see paragraph ***3.51***).

3.46. For example, the target for the 2014-2020 indicator 'Total number of people provided with assistance' to the end of 2022 was 1.3 million people. The PPS reports this target as being 100 % achieved, with assistance provided to 3.5 million people, surpassing the target by almost three times. Twenty-two member states achieved more than 100 % progress on this indicator.

3.47. When a member state proposes targets for indicators (while drafting their specific member state programmes), these are subject to review by the Commission. We consider that for the 2014-2020 period, the Commission did not always ensure that targets were appropriately revised to reflect changes in needs and member state strategies, leading to some incorrect target values. For example, for the AMIF, in the case of the 2014-2020 indicator 'Total number of people provided with assistance', the target value for one of the larger member states was 13 000 persons, which represented 1 % of the total KPI at programme level. The 2022 AMPR reported that this member state provided assistance to over 150 000 persons, more than 12 times its target.

3.48. For the 2014-2020 programming period, member states used the shared fund management common information system (SFC2014) to transmit their AIRs (which include information on indicators) to the Commission (see ***Figure 3.9***). For both funds we examined, the Commission recognised in the PPSs that there was a need to strengthen the quality of performance monitoring with more regular and reliable data for result indicators. The controls carried out by DG BUDG on AMPR performance data were described in our 2022 AMPR review and consist mainly of verifying completeness, formatting and reasonableness.

Figure 3.9 – Data flow from the AIRs to the PPSs and the corresponding controls



Source: ECA.

3.49. We tested the accuracy of the data for four 2014-2022 KPIs from the 2022 PPSs and one from the 2021 PPSs, for 12 member states and for all years from 2014 to 2022. We found the data was in all cases correctly reflected in SFC2014. We noted that DG HOME usually raises comments on the indicator data submitted by member states in their draft AIRs. Where DG HOME considered that the indicator values reported by member states were inaccurate and it had better quality data available from other sources (e.g. *Frontex*, the EU's border and coastguard agency), it used that instead. One of the relatively small member states we sampled, for example, incorrectly reported it had supported 10 '*National coordination centres*', and the Commission corrected this to one in the PPS.

There is not yet sufficient information about the programmes' overall results

3.50. Progress in achieving the programmes' targets gives useful information on the contribution of the fund to policy objectives. However, as we noted in our 2019 report on the performance of the EU budget, indicators are only a first step in analysing performance. We found that there is not yet sufficient information about the programmes' overall results.

3.51. In common with other spending programmes, the AMIF and the ISF-BV are subject to interim and *ex post evaluations* by the Commission during the MFF programming period. The interim evaluations for the 2014-2020 MFF period of the equivalent programmes took place in 2018 and recognised that overall programme results would be assessed by the *ex post* evaluation. In addition, the reports acknowledged problems with member states' performance data. The fund-specific legislation planned the *ex post* evaluation for June 2024, but this was postponed for 1 year. The reason for the delay was the beginning of Russia's war of aggression against Ukraine in February 2022 which led to a mass influx of displaced persons from Ukraine to member states and subsequently to a 1 year extension of the funds' implementation period.

3.52. Our special report 24/2019 on *asylum*, relocation and return of migrants concluded that the AMIF performance monitoring framework was set up late and without targets, and that more performance data was needed to facilitate a robust policy evaluation at EU level.

3.53. Our 2019 report on the performance of the EU budget concluded that the AMIF provided substantial support to help member states face the costs and challenges of asylum and migration action. However, the reliability and consistency of the indicator information provided by member states and underlying the AMPR was not checked sufficiently, and the indicators defined point to the relevance of spending and its EU added value, but did not provide evidence about *economy* and efficiency as two thirds of the indicators measure activities and outputs.

The performance reporting for IBMF includes future achievements

3.54. In the PPSs for 2022, the Commission's assessment was that overall, the funds were achieving their objectives for 2014-2020. In the PPSs, the Commission presented progress in achieving the KPIs it considered most relevant (eight for the AMIF and three for the ISF-BV). In the case of the AMIF, the Commission considered that 50 % of relevant targets had been achieved, 25 % were on track and 25 % had made moderate progress, while for the ISF-BV the Commission reported a 100 % achievement rate for its three selected indicators (see ***Annex 3.5*** for details). For the ISF-BV, the Commission did not show indicators with a lower progress rate in the PPS visuals, but they did refer to this in the text.

3.55. We consider that the KPIs selected by the Commission for the AMIF give a balanced presentation overall of progress relating to the programme's implementation. The KPIs it highlighted for the ISF-BV were less balanced. ***Annex 3.5*** presents all KPIs for both funds, including their targets and the values achieved.

3.56. We found that the PPSs followed the DG BUDG instructions overall, analysed the evolution of the KPIs and provided reasonable explanations where targets for the 2014-2020 period had not been fully achieved. In the 'Programme in a nutshell' section of the 2022 PPS, the Commission presented values related to past achievements for the AMIF. However, for the IBMF, the Commission presented a combination of past achievements (four out of the eight figures) and future achievements (four out the eight figures) (see ***Box 3.1***). This was not in line with the instructions to present concrete achievements in this section.

Box 3.1 – Figures of the IBMF 'Programme in a nutshell' 2022

Past achievements*

161 192 hits **were registered** in the Schengen information system in 2022.

453 consular cooperation activities **were developed** between 2014 and 2022.

755 specialised posts **were created** in non-EU countries between 2014 and 2022.

47 812 pieces of border control (checks and surveillance) infrastructure and means **were developed or upgraded** between 2014 and 2022.

Future achievements**

+ 1 300 pieces of equipment for border crossing points **will be purchased**, maintained or upgraded using CCEI funds between 2021 and 2023.

+ 200 border crossing points (distributed across 24 member states) **will receive** customs control equipment […].

+ 500 pieces of equipment for customs laboratories **will be purchased**, maintained or upgraded using CCEI funds between 2021 and 2023.

+ 30 customs laboratories (distributed across 18 member states) **will receive** customs laboratory equipment as a result of the *grant* agreements signed under the CCEI.

* Figures from the implementation of the predecessor programmes under the 2014-2020 MFF.
** Planned figures for the IBMF instrument, the CCEI, which had no predecessor under the 2014-2020 MFF.

Source: European Commission's AMPR, as issued in June 2023.

Conclusions

3.57. There is an improved performance reporting framework for the current MFF period (paragraphs ***3.39***-***3.41***).

3.58. Little performance information for the AMIF and the IBMF for the current period is available (paragraphs ***3.42*** and ***3.43***), as implementation had just started.

3.59. Most indicators for the 2014-2020 period show good progress towards achieving their targets. Indicators do not necessarily show the extent to which the funded actions have addressed needs (paragraphs ***3.44***-***3.47***). The Commission recognised that performance data submitted by member states was not fully reliable (paragraphs ***3.48*** and ***3.49***). There is not yet sufficient information about the programmes' overall results, including their economy and efficiency (paragraphs ***3.50***-***3.53***).

3.60. The KPIs the Commission highlighted in the 2022 AMPR of the ISF-BV were less balanced than for the AMIF (paragraphs ***3.54*** and ***3.55***). The PPSs provided reasonable explanations when targets were not fully achieved, however the Commission included expected future achievements in its 'Programme in a nutshell' section (paragraph ***3.56***).

Recommendations

3.61. In Chapter 3 of our 2022 annual report, we concluded that the Commission had implemented in some respects a recommendation we made in our 2019 report on the performance of the EU budget, to further improve the reliability of the performance information presented in the programme statements and the AMPR.

3.62. Based on our conclusions for 2023, we recommend that the Commission:

Recommendation 3.1 – Improve quality of performance information in the programme performance statements (PPSs) for MFF heading 4

(a) Present actual achievements in the 'Programme in a nutshell' part of the PPS, not potential achievements in the future;

(b) disclose in its AMPR which KPIs were based on sources that were different from the AIRs submitted by the member states.

Target implementation date: (a) and (b) – AMPR 2024

Part 3 – Follow-up of the recommendations made in our report on the performance of the EU budget – status at the end of 2020

3.63. This part provides information on the follow-up of the recommendations made in our report on the performance of the EU budget covering the financial year 2020.

3.64. The report contained four recommendations, with the first recommendation divided into two sub-recommendations. All recommendations and sub-recommendations were addressed to and accepted by the Commission.

3.65. We carried out a review to assess the extent to which the weaknesses identified have been addressed. Three of the five recommendations we followed up were not yet due for implementation at the time of our follow-up review, at the beginning of April 2024. Of the remaining two recommendations, the Commission implemented one in most respects and the other one in some respects.

3.66. ***Annex 3.6*** provides an overview of the five recommendations' implementation status.

Part 4 – Follow-up of the recommendations made in our special reports from 2020

Introduction

3.67. Every year, we review the extent to which our auditees have taken action in response to our recommendations 3 years after we made them. This follow-up of our recommendations is an important step in the audit cycle. It provides us with feedback on whether our auditees have implemented the actions we recommended and whether the issues we raised have been addressed. It is also important in designing and planning our future audit work and for keeping track of risks.

3.68. This year, we analysed recommendations from all 26 special reports we published in 2020. In total, we followed up on 195 recommendations. Of these, 185 were addressed to the European Commission. Seven of those recommendations were addressed to the European Investment Advisory Hub which operates as a partnership between the Commission and the European Investment Bank. The remaining 10 recommendations were addressed to EU decentralised agencies and other bodies (EU agencies) and the European Personnel Selection Office (EPSO).

3.69. We used documentary reviews and interviews with auditees to carry out our follow-up work. To ensure a fair and balanced review, we sent our findings to the auditees and took account of their replies in our final analysis. To avoid repetition, recommendations are listed under the auditee to which they were mainly addressed. The results of our work reflect the situation as at the end of April 2024.

Observations

The proportion of recommendations fully or partially accepted by our auditees remained at a high level

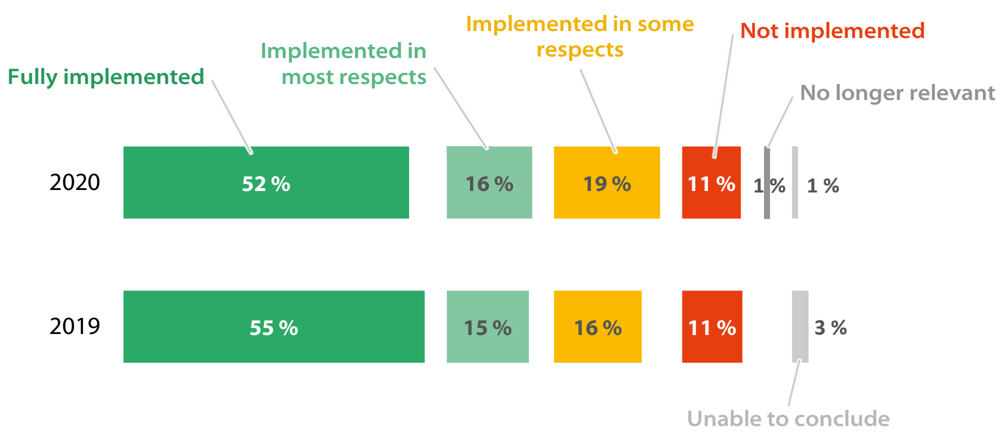
3.70. Out of the 195 recommendations that we followed up, our auditees fully accepted 153 (80 %), partially accepted 26 (13 %), and did not accept 13 (7 %). Three recommendations, addressed to auditees other than the European Commission, are excluded from this calculation as the level of acceptance was not communicated.

The proportion of recommendations implemented in full or in most respects has slightly decreased

3.71. Nine of the 195 recommendations we followed up were not yet due for implementation at the time of our follow-up review. Of the remaining 186 recommendations, our auditees have fully implemented 97 (52 %). They have implemented a further 29 (16 %) in most respects (see ***Figure 3.10***).

3.72. Compared with the previous year, the total proportion of recommendations fully or mostly implemented slightly decreased from 70 % to 68 %, and the proportion of recommendations implemented only in some respects increased from 16 % to 19 %. The proportion of recommendations not implemented was stable. When our auditees did not implement our recommendations, it was often because they had not accepted them. ***Annex 3.7*** and ***Annex 3.8*** show the implementation status of the recommendations in more detail.

Figure 3.10 – Implementation of our 2020 and 2019 special report recommendations by our auditees

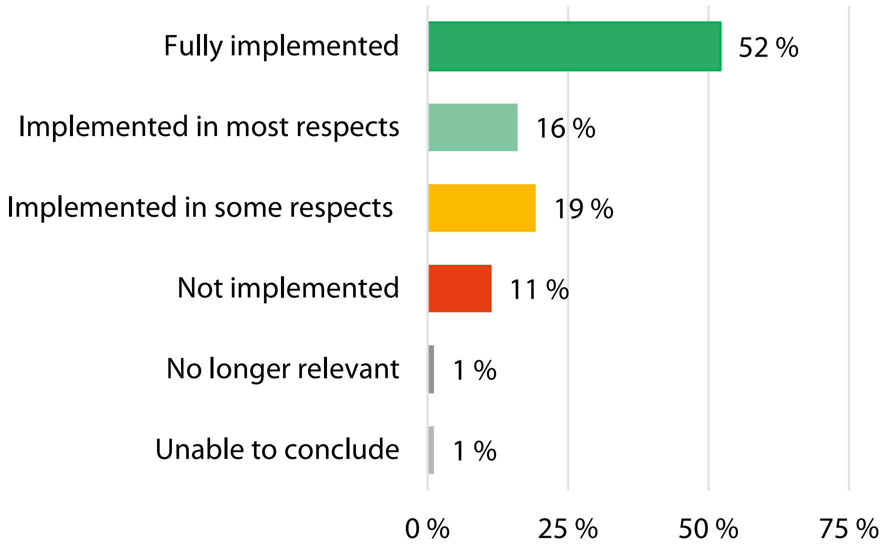


Source: ECA.

68 % of recommendations addressed to the European Commission have been implemented in full or in most respects

3.73. The total number of recommendations addressed to the Commission was 185. Eight recommendations were not yet due for implementation by the time of our follow-up review. Of the remaining 177 recommendations, the Commission has fully implemented 92 (52 %) and implemented a further 27 (16 %) in most respects. In addition, the Commission has implemented 34 (19 %) in some respects, and has not implemented 20 (11 %) at all (see ***Figure 3.11***). In two cases (1 %), no assessment of the implementation status was required, as we considered the recommendation to be no longer relevant. In two other cases (1 %), we were unable to conclude as it was too early to assess the recommendation's level of implementation.

Figure 3.11 – Implementation of our 2020 special report recommendations addressed to the Commission



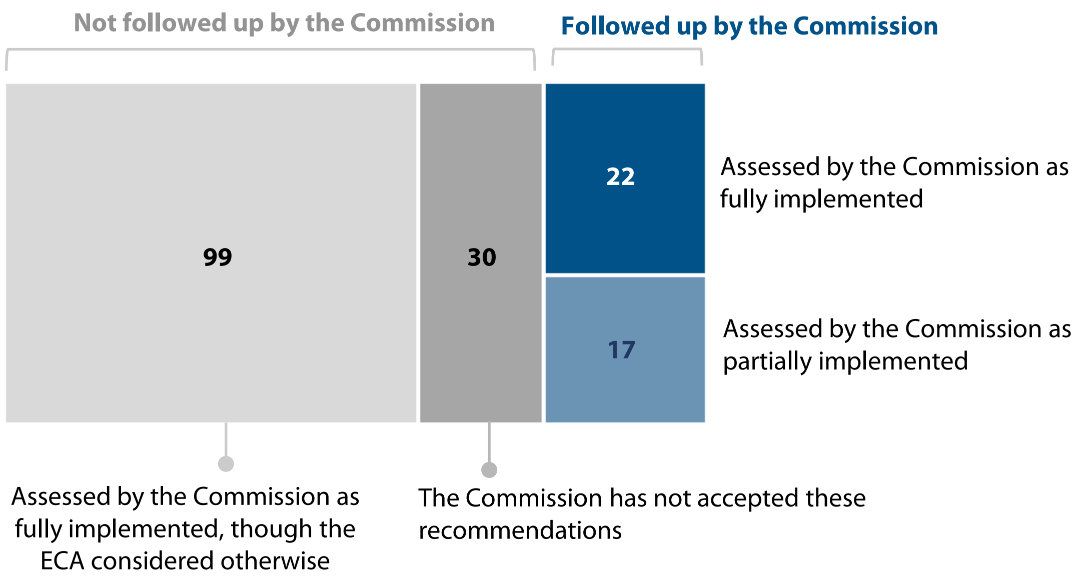
Source: ECA.

3.74. ***Annex 3.7*** shows the implementation status of the recommendations in more detail. It also provides brief descriptions of the improvements and of the remaining weaknesses affecting, for example, the recommendations which have been implemented in some respects.

3.75. We assessed 97 recommendations from our 2018 special reports and 71 recommendations from our 2019 special reports as outstanding in our follow-up exercises from 2021 and 2022[45]. This year, 129 of those 168 recommendations remained unimplemented and were no longer being followed up by the Commission (see ***Figure 3.12***). The Commission had not accepted 30 of those 129 recommendations in the special reports themselves. It considered that the remaining 99 recommendations had been fully implemented by the time of the last 2 years' follow-up exercises, though our assessment differed.

[45] 2021 report on the performance of the EU budget, paragraphs 3.13-3.15, and 2022 annual report on the implementation of the EU budget, paragraphs 3.94-3.95.

Figure 3.12 – Follow-up of 2018 and 2019 special report recommendations not fully implemented by the Commission during our two previous years' follow-up exercises



Source: ECA.

3.76. The Commission has continued to follow up the remaining 39 of the 168 recommendations which had not been implemented in full. The Commission considers that it has since finished implementing 22 of those 39 recommendations. Applying the follow-up approach for outstanding recommendations used for our last two follow-up exercises (from our 2018 and 2019 special reports), we continue to monitor such cases by analysing Commission data, but we have not examined them in detail.

78 % of recommendations addressed to other auditees have been implemented in full or in most respects

3.77. Special reports 22/2020 and 23/2020 contained a total of 10 recommendations addressed to auditees other than the European Commission (EU agencies and EPSO).

3.78. One recommendation was not yet due for implementation by the time of our follow-up review. Of the remaining nine recommendations, these auditees have fully implemented five (56 %) and implemented a further two (22 %) in most respects and two (22 %) in some respects.

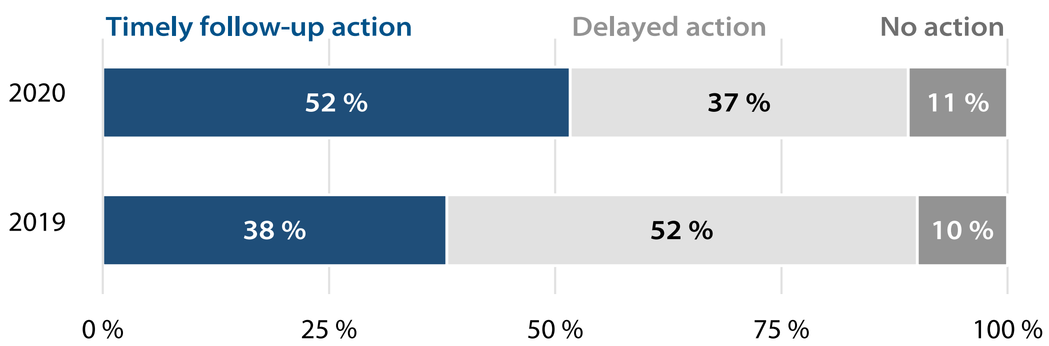
3.79. *Annex 3.8* provides a detailed overview of the implementation status of these recommendations. It also provides brief descriptions of improvements made and weaknesses remaining in relation to the recommendations which have been implemented in some respects.

The proportion of recommendations implemented on time has increased

3.80. Timeframes for the implementation of recommendations are discussed and agreed with the auditee and specified in our special reports to ensure that they are clear to all parties concerned.

3.81. Compared to the previous year, the proportion of recommendations implemented on time increased from 38 % to 52 %, while the proportion with no action taken remained relatively stable (see *Figure 3.13*). Although the timeliness of actions taken by auditees to address our recommendations improved, it has not yet returned to the pre-COVID-19 pandemic level (60 % or higher).

Figure 3.13 – Timeliness of actions taken by auditees to address our 2020 and 2019 special report recommendations



Note: Excluded from the calculation are recommendations where the timeline has not yet passed (four cases in 2019 and nine cases in 2020), where we were unable to conclude (seven cases in 2019 and two cases in 2020) and where the recommendations are no longer relevant (two cases in 2020).

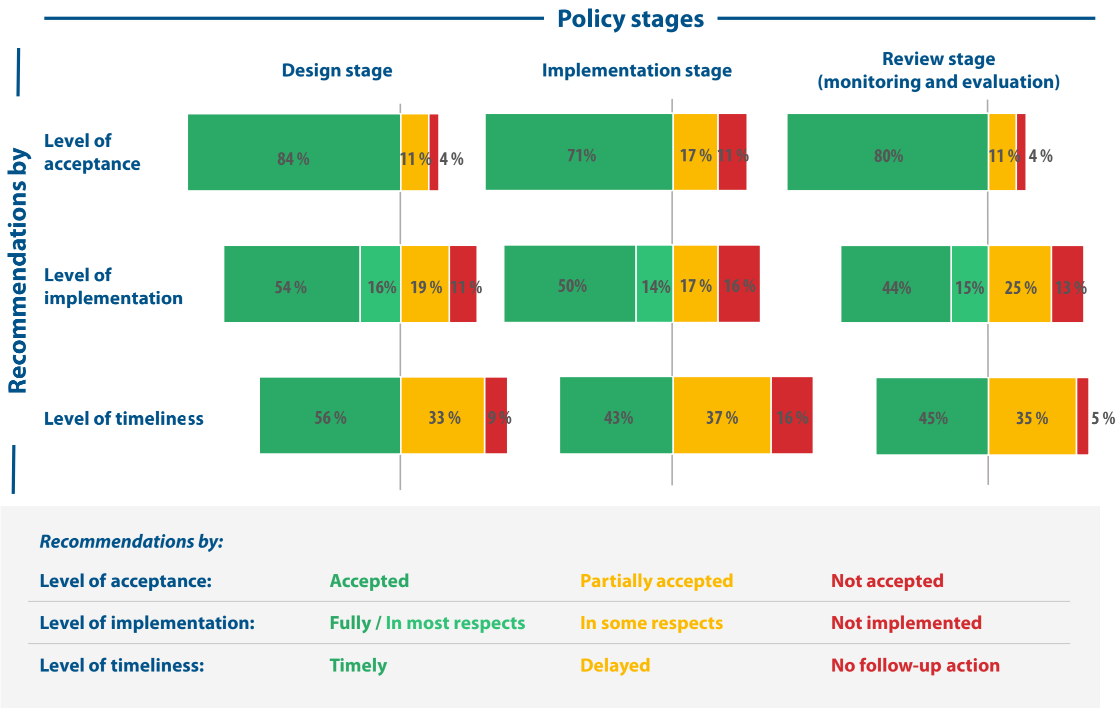
Source: ECA.

Recommendations related to the design of policies or programmes show the highest level of acceptance, implementation and timeliness

3.82. This year, for the first time, we have classified our recommendations according to the stage in the policy cycle they focus on: design stage, implementation stage, and review stage (monitoring and evaluation). This classification enabled us to analyse whether there are differences between the three policy stages with regard to the level of acceptance, the level of implementation and the timeliness of corrective actions taken in response to our recommendations.

3.83. Our analysis shows that the distribution of our recommendations is relatively even across all three stages: 36 % in both the policy design and policy implementation stages, and 28 % in the policy review stage. Recommendations related to the policy design stage and policy review stage have a higher percentage of acceptance (84 % and 80 %) compared to the implementation stage (71 %). The total percentage of recommendations fully or mostly implemented is the lowest in the review stage (59 %), followed by the implementation stage (64 %) and the design stage (70 %). The timeliness of actions taken by auditees to address our recommendations is the lowest in the implementation stage and the highest in the design stage. Detailed results of our analysis are presented in ***Figure 3.14***.

Figure 3.14 – Level of acceptance, implementation and timeliness by stage in the policy cycle



Note: To improve readability, Figure 3.14 does not include three recommendations where the level of acceptance was not communicated to us, two cases where we considered the recommendation to be no longer relevant, two cases where we were unable to conclude as it was too early to assess the recommendation's level of implementation, and nine recommendations that were not yet due for implementation by the time of our follow-up review.

Source: ECA.

Conclusion

3.84. Our analysis shows that the proportion of 2020 special report recommendations which were fully or partially accepted by our auditees remained, compared to the previous year, at a high level (93 %). Although the proportion of recommendations implemented in full or in most respects slightly decreased from 70 % last year to 68 % this year, the proportion of recommendations implemented on time increased from 38 % to 52 %. The latter can be explained by the gradual decrease in the effects of the COVID-19 pandemic, even if the results have not yet returned to the pre-COVID-19 pandemic level of 60 % or higher. For the first time, we have carried out an analysis to verify if there are differences between the different stages in the policy cycle with regard to the level of acceptance and the adequate and timely implementation of our recommendations. This examination showed that the policy design stage and policy review stage have the highest percentage of fully accepted recommendations. However, the level of implementation was the lowest in the review stage, while the level of timeliness was the highest in the design stage.

Annexes

Annex 3.1 – Discussion of special reports at European Parliament committees

Report number	Report title	Committees	CONT working document
SR 01/2023	Tools facilitating travel within the EU during the COVID-19 pandemic		
SR 02/2023	Adapting cohesion policy rules to respond to COVID-19	CONT REGI	✔
SR 03/2023	Internal electricity market integration		
SR 04/2023	The Global Climate Change Alliance(+)		
SR 05/2023	The EU's financial landscape	CONT BUDG	
SR 06/2023	Conflict of interest in EU cohesion and agricultural spending	CONT	✔
SR 07/2023	Design of the Commission's control system for the RRF	CONT	✔
SR 08/2023	Intermodal freight transport	TRAN	
SR 09/2023	Securing agricultural product supply chains during COVID-19		
SR 10/2023	The Preparatory action on defence research	SEDE-BUDG ITRE	
SR 11/2023	EU support for the digitalisation of schools	CONT CULT	✔
SR 12/2023	EU supervision of banks' credit risk		
SR 13/2023	Authorised Economic Operators	IMCO	
SR 14/2023	Programming the Neighbourhood, Development and International Cooperation Instrument – Global Europe	AFET-DEVE	
SR 15/2023	The EU's industrial policy on batteries		
SR 16/2023	NGEU debt management at the Commission	CONT BUDG	✔
SR 17/2023	Circular economy	REGI	
SR 18/2023	EU climate and energy targets	CONT ENVI	✔

Report number	Report title	Committees	CONT working document
SR 19/2023	EU efforts for sustainable soil management	AGRI ENVI	
SR 20/2023	Supporting persons with disabilities	EMPL	
SR 21/2023	The Spotlight Initiative to end violence against women and girls	FEMM-DEVE	
SR 22/2023	Offshore renewable energy in the EU	PECH	
SR 23/2023	Restructuring and planting vineyards in the EU	AGRI	
SR 24/2023	Smart cities		
SR 25/2023	EU aquaculture policy	PECH	
SR 26/2023	The Recovery and Resilience Facility's performance monitoring framework	CONT BUDG-ECON RRF WG	✔
SR 27/2023	Screening foreign direct investments in the EU		
SR 28/2023	Public procurement in the EU	CONT IMCO	✔
SR 29/2023	The EU's support for sustainable biofuels in transport	TRAN ENVI	

Annex 3.2 – Examples of early actions taken by the Commission following the recommendations in ECA 2023 special reports

EU response to post-crisis recovery

In response to the need of adapting cohesion policy rules to crisis situations, the Commission issued different legislative proposals which, in February 2023, resulted in several amendments as regards *REPowerEU* chapters in recovery and resilience plans, or established the *Strategic Technologies for Europe Platform* in February 2024.

Regarding the RRF and following one of our recommendations, in September 2023 the Commission developed guidance on the reversal of a measure related to a previously fulfilled RRF milestone and target. This was published as Annex II to the Report on the implementation of the Recovery and Resilience Facility: Moving forward.

Increasing the EU's economic competitiveness for the benefit of all citizens

In March 2023, the Commission issued two legislative proposals in the framework of the electricity market design revision. The first one amended the electricity market design rules and the second one amended the Wholesale Energy Market Integrity and Transparency Regulation.

In April 2023, the Commission issued a proposal for a Council Recommendation on the key enabling factors for successful digital education and training, and a proposal for a Council Recommendation on improving the provision of digital skills in education and training, as well as a *staff working document* presenting findings from the Structured Dialogue with member states on digital education and skills.

Following Commission proposals, the new Batteries Regulation was adopted in July 2023, and the European Parliament voted for the Critical Raw Materials Act in December 2023. In February 2024, the co-legislators reached a provisional agreement on the Net-Zero Industry Act, which addresses the manufacturing segment of batteries in Europe.

Resilience to threats to the EU's security and respect for the European values of freedom, democracy and the rule of law

In June 2023, the Commission published a proposal for a Council Recommendation on joining the global digital health certification network established by the World Health Organization and on temporary arrangements to facilitate international travel.

In January 2024, a report on the use of crisis measures adopted pursuant to Articles 219 to 222 of the Common Organisation of the Markets (CMO) Regulation was adopted and the crisis measures adopted until the end of 2023 were listed in Annex I to the report.

In March 2024, the European Defence Industrial Strategy was adopted.

Climate change, the environment and natural resources

In July 2023, the Commission published two legislative proposals, one concerning a revision of the Waste Framework Directive to better target the textiles and food sectors, and a second one for a Directive on Soil Monitoring and Resilience, the objective of which is to put in place a solid and coherent soil monitoring framework for all soils across the EU and to continuously improve soil health.

In October 2023, with the adoption of its 2024 work programme, the Commission announced the evaluation of the Nitrates Directive. The Commission launched the open public consultation in December 2023.

In April 2024, the Commission published for public feedback a draft amendment of Annex III to the Nitrates Directive with updated rules on the use of certain fertilising materials from livestock manure.

In September 2023, the Commission adopted a proposal for a regulation regarding the restriction of intentionally added microplastics and measures on the unintentional release of microplastics. In October 2023, the Commission adopted the European Wind Power Action Plan, and the Renewable Energy Directive was revised.

In November 2023, a provisional agreement was reached regarding the review of the Industrial Emissions Directive, including the integration of circular economy practices in upcoming best available techniques reference documents and, in the same month, the Commission adopted the legislative proposal for a directive on combining transport modes for more sustainable freight.

Fiscal policies and public finances

In November 2023, a frequently asked questions document on conflicts of interests in EU cohesion and agricultural spending was published on the Commission intranet and shared through CIRCABC with member states.

Annex 3.3 – Example of AMIF indicators and their classification for the 2014-2020 and 2021-2027 periods

Programming period	Fund	Objective	Indicator	Classification (Commission)	Classification (ECA)
2014-2020	AMIF	1	1. Number of target group persons provided with assistance through projects in the field of reception and asylum systems supported under the Fund	Result*	Output
2014-2020	AMIF	1	3.1 Number of persons trained in asylum-related topics with the assistance of the Fund	Result*	Output
2014-2020	AMIF	2	1. Number of target group persons who participated in pre-departure measures supported under the Fund	Result*	Output
2021-2027	AMIF	1	2. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training	Result	Result
2021-2027	AMIF	2	1. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent	Result	Result
2021-2027	AMIF	3	1. Number of returnees voluntarily returned	Result	Result

* MFF Performance results reports – Performance data table (pp. 1158, 1160, and 1163) used for the draft budget 2024.

Source: ECA.

Annex 3.4 – AMIF main indicators evolution from 2019 to 2022 according to the PPSs

AMIF Indicators for 2014-2020	Progress	Target in 2022	Values achieved	Change in the values achieved since 2019	Assessment
1.1 Asylum – people provided with assistance	>100 %	1.3 million	3.5 million	+67 %	Achieved
1.2 New/improved reception accommodation infrastructures	>100 %	51 028	51 581	+72 %	Achieved
1.6 Number of people resettled	85 %	108 860	92 331	+47 %	On track
2.2 Integration of non-EU nationals – number of *beneficiaries*	>100 %	2.6 million	10 million	+69 %	Achieved
2.3 Integration of non-EU nationals – local, regional and national actions	>100 %	7 443	15 709	+75 %	Achieved
3.3.1 Co-financed returns – total (number of people)	70 %	612 400	425 870	+54 %	Moderate progress
3.3.2 Co-financed returns – voluntary (number of people)	78 %	297 930	232 782	+46 %	Moderate progress
4.1 Asylum seekers and beneficiaries transferred from one member state to another	93 %	38 703	35 857	+12 %	On track

Source: Asylum, Migration and Integration Fund – Programme Performance Statement.

Annex 3.5 – AMIF and ISF-BV indicators and the values achieved at the end of 2022

AMIF

Objective	Indicator	Presented in the PPS	Target	Value achieved	Progress
1. To strengthen and develop all aspects of the Common European Asylum System, including its external dimension	1.1 Number of target group persons provided with assistance […]	✔	1 263 700	3 502 656	>100 %
	1.2 Capacity (i.e. number of places) of new reception accommodation infrastructure […] and of existing reception accommodation infrastructure improved […]	✔	51 028	51 581	>100 %
	1.3 Number of persons trained in asylum-related topics […]		25 205	89 969	>100 %
	1.4 Number of country-of-origin information products and fact-finding missions conducted with the assistance of the Fund		117 721*	72 246*	>100 %
	1.5 Number of projects supported under the Fund to develop, monitor and evaluate asylum policies in member states		113*	132*	86 %
	1.6 Number of persons resettled with support of the Fund	✔	108 860	92 331	85 %
2. To support legal migration to the member states in accordance with their economic and social needs	2.1 Number of target group persons who participated in pre-departure measures supported under the Fund		240 920	176 998	73 %
	2.2 Number of target group persons assisted by the Fund through integration measures in the framework of national, local and regional strategies	✔	2 618 062	9 993 193	>100 %
	2.3 Number of local, regional and national policy frameworks/measures/tools in place for the integration of third-country nationals and involving civil society and migrant communities, as well as all other relevant stakeholders, as a result of the measures supported under the Fund	✔	7 443	15 709	>100 %

Objective	Indicator	Presented in the PPS	Target	Value achieved	Progress
	2.4 Number of cooperation projects with other member states on the integration of third-country nationals		62*	52*	84 %
	2.5 Number of projects supported under the Fund to develop, monitor and evaluate integration policies in member states		134*	325*	>100 %
3. To enhance fair and effective return strategies in the member states supporting the fight against illegal immigration	3.1 Number of persons trained on return-related topics with the assistance of the Fund		28 040	37 322	>100 %
	3.2 Number of returnees who received pre or post return reintegration assistance co-financed by the Fund		200 020	154 869	77 %
	3.3.1 Total number of returnees whose return was co-financed by the Fund	✔	612 400	425 870	70 %
	3.3.2 Voluntary returns	✔	297 930	232 782	78 %
	3.4 Number of monitored removal operations co-financed by the Fund		6 856	40 454	>100 %
	3.5 Number of projects supported under the Fund to develop, monitor and evaluate return policies in member states		44*	62*	>100 %
4. To enhance the solidarity and responsibility-sharing between the member states	4.1 Number of applicants and beneficiaries of international protection transferred from one member state to another	✔	38 703	35 857	93 %
	4.2 Number of cooperation projects with other member states on enhancing solidarity and responsibility-sharing		6*	6*	100 %

* The value for these indicators was collected from the Excel database provided by the Commission (based on the AIRs uploaded in SFC2014).

Source: Commission's MFF Performance results reports – Performance data table prepared for the draft 2024 budget.

ISF-BV

Objective	Indicator	Presented in the PPS	Target	Value achieved	Progress
1. Supporting a common visa policy to facilitate legitimate travel, provide a high quality of service to visa applicants, ensure equal treatment of third-country nationals and tackle illegal immigration	1.1 Number of consular cooperation activities developed with the help of the Instrument		146	453	>100 %
	1.2 Number of staff trained and number of training courses in aspects related to the common visa policy with the help of the Instrument		11 365	7 051	62 %
	1.3 Number of specialised posts in third countries supported by the Instrument		395	755	>100 %
	1.4 Percentage and number of consulates developed or upgraded with the help of the Instrument out of the total number of consulates	✔	923	3 279	>100 %
2. Supporting border management, including through sharing information between member states and between member states and the Frontex Agency, to ensure, on one hand, a high level of protection of the *external borders*, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*	2.1 Number of staff trained and number of training courses in aspects related to border management with the help of the Instrument		34 603	41 355	>100 %
	2.2 Number of border control (checks and surveillance) infrastructure and means developed or upgraded with the help of the Instrument	✔	19 902	47 812	>100 %
	2.3 Number of border crossings of the external borders through ABC gates supported from the Instrument out of the total number of border crossings		357 233 078	137 493 358	38 %
	2.4 Number of national border surveillance infrastructure established/further developed in the framework of EUROSUR	✔	30	30	100 %
	2.5 Number of incidents reported by member states to the European Situational Picture		157 593	194 009	>100 %

Source: Commission's MFF Performance results reports – Performance data table prepared for the draft 2024 budget.

Annex 3.6 – Follow-up of previous recommendations for the 'Report of the European Court of Auditors on the performance of the EU budget – status at the end of 2020'

Level of acceptance: accepted; partially accepted; not accepted.

Level of implementation: fully; in most respects; in some respects; not implemented.

Level of timeliness: timely; delayed; deadline still pending; no follow-up action; no assessment of timeliness.

ECA recommendation	Level of acceptance	ECA analysis of progress made in implementing recommendation		
		Level of implementation	Remarks	Level of timeliness
Recommendation 1.1(a): When preparing the next MFF, the Commission should: ensure *impact assessments* examine the key substantive (i.e. not merely procedural) aspects of legislation covering several programmes, such as the *Common Provisions Regulation*;	accepted	not implemented	The deadline for implementation is not yet due (31 December 2026).	deadline still pending
Recommendation 1.1(b): When preparing the next MFF, the Commission should: plan its evaluations for all spending programmes, including evaluations covering specific thematic aspects of such programmes, so that their results are available to use in the relevant impact assessments.	accepted	not implemented	The deadline for implementation is not yet due (31 December 2026).	deadline still pending

ECA recommendation	Level of acceptance	ECA analysis of progress made in implementing recommendation		
		Level of implementation	Remarks	Level of timeliness
Recommendation 1.2: The Commission should pursue and implement its plans to establish a user-friendly point of access for all impact assessments, evaluations and underlying studies. This could be achieved by linking its relevant evidence registers and portals, and reaching out to other institutions to set up a common evidence register, the Joint Legislative Portal.			While the Joint Legislative Portal is being developed, it is not specifically intended for use as an access point for impact assessments, evaluations and underlying studies.	
Recommendation 1.3: The Commission should clearly identify relevant follow-up actions arising from evaluations, by presenting them in its annual management plans or in other publicly available documents of equivalent status.			While follow-up actions from evaluations were mentioned in management plans, *annual activity reports* and their annexes, the exact follow-up actions to be taken were not always clearly identified.	
Recommendation 1.4: When presenting options in impact assessments, the Commission should include more quantitative information, especially cost-benefit and cost-effectiveness analyses.			The deadline for implementation is not yet due (31 December 2026).	

Source: ECA.

Annex 3.7 – Follow-up of 2020 special report recommendations – European Commission

Level of acceptance: accepted; partially accepted; not accepted.

Level of implementation: fully; in most respects; in some respects; not implemented; no longer relevant or unable to conclude.

Level of timeliness: timely; delayed; deadline still pending; no follow-up action; no assessment of timeliness.

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
SR 01/2020: “EU action on Ecodesign and Energy Labelling – Important contribution to greater energy efficiency reduced by significant delays and non-compliance”	1(a)	77				
	1(b)	77				
	1(c)	77			The Commission has maintained its decision to reject the recommendation. Although the Commission is not against adopting measures as soon as they are ready, as stated in the Ecodesign and Energy Labelling Working Plan 2022-2024, it argues that it cannot commit to doing so systematically. Since the audit report, the Commission has adopted five regulations and envisages adopting implementing measures when ready.	
	1(d)	77				
	2(a)	78			The Commission has attempted to improve on its estimate of 10 % for energy savings lost due to electrical products being non-compliant with ecodesign and energy labelling regulations. However, due to the difficulties in obtaining the necessary data, the Commission has decided to continue using the same estimate of 10 %. Following a JRC technical	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					report in April 2023, the Commission intends to launch a pilot project in 2024 with a view to improving impact accounting. It has nonetheless added a new section on non-compliance to the ecodesign impact accounting annual reports showing more relevant data. Despite these efforts, impact accounting has not yet improved. The Commission needs to collect data on real-life usage before confirming the differences in product performance between real-life and test conditions.	
	2(b)	78				
	2(c)	78				
	3(a)	80				
	3(b)	80				
	3(c)	80				
SR 02/2020: “The SME Instrument in action – An effective and innovative programme facing challenges”	1(a)	132				
	1(b)	132				
	2(a)	135				
	2(b)	135				
	2(c)	135				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	2(d)	135				
	2(e)	135			The Commission decided not to publish the success rate per project proposal as it considers this to be potentially misleading given the significant changes in the resubmission rules planned for the 2024 work programme.	
	3(a)	137			Recommendation 3(a) is no longer relevant as phase 1 of the SME Instrument has been replaced by the new Plug In scheme of the European Innovation Council (EIC), which was launched following discussions between the Commission and the member states in the context of the EIC Programme Committee.	
	3(b)	137			Recommendation 3(b) is no longer relevant as phase 1 of the SME Instrument has been replaced by the new EIC Plug In scheme and there are therefore no national schemes similar to phase 1 of the SME Instrument currently managed at EU level. Beneficiaries of the EIC Plug In scheme have access to the EIC's coaching and business acceleration services.	
	3(c)	137				
	4(a)	138				
	4(b)	138				
	4(c)	138				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	5(a)	139				
	5(b)	139				
	5(c)	139				
	5(d)	139				
SR 03/2020: “The Commission contributes to nuclear safety in the EU, but updates required”	1	76			No new or revised directive in the area of nuclear safety, radiation protection, or radioactive waste management has been planned or adopted since 2020 (status as of December 2023). The Commission plans to implement this recommendation, as appropriate, 1 year before the transposition deadline of any potential future Euratom directives.	
	2	79			The Commission has still to complete its internal assessment of the current legislative framework. The Commission considers that it will only complete this assessment once a new legislative procedure for an updated framework covering nuclear investment projects has been launched.	
	3	80				
SR 04/2020: “Using new imaging technologies to monitor the Common Agricultural Policy – Steady progress overall,	1(1)	82				
	1(2)	82				
	1(3)	82				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
but slower for climate and environment monitoring”	2(1)	84				
	2(2)	84				
SR 05/2020: “Sustainable use of plant protection products – Limited progress in measuring and reducing risks”	1(a)	67				
	1(b)	67				
	2(a)	71				
	2(b)	71				
	3	74			In 2024, the Commission withdrew its proposal for a regulation on the sustainable use of plant protection products, which had been published in 2020.	
SR 06/2020: “Sustainable Urban Mobility in the EU – No substantial improvement is possible without Member States’ commitment”	1(a)	75				
	1(b)	75			The revised TEN-T Regulation, requiring member states to provide data, has not yet been approved. Therefore, the Commission does not yet have information to report on the progress made by member states and urban nodes in making urban mobility more sustainable.	
	2(a)	75			During the legislative negotiations for the *European Regional Development Fund* (ERDF) and the Cohesion Fund (CF), the Commission did not manage to include specific provisions in the legal framework requiring programmes to make access to funds for urban mobility conditional on the existence of a	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					sustainable urban mobility plan (or the *commitment* to adopt such a plan within a reasonable deadline).	
	2(b)	75				
	2(c)	75				
SR 07/2020: "Implementing Cohesion policy – Comparatively low costs, but insufficient information to assess simplification savings"	1(a)	68				
	1(b)	68			The Commission has announced the study of administrative costs to the member states and submitted information on the scope of the surveys and the indicative timetable. The Commission plans to give more details on what member states need to provide, including what content and data are needed and by when.	
	1(c)	68			The Commission has only sent member states the announcement of the study. Support has not been provided or needed so far.	
	1(d)	68			As the survey for the study has not yet been launched, the Commission cannot prove that the data to be collected will be verified to ensure that they are of sufficient quality.	
	2	70			In September 2023, the Commission contracted a study to examine a sample of 2014-2020 *operational programmes* to measure the effects and analyse the impact of simplification measures, but the study has not yet been finalised.	
	3	74				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
SR 08/2020: “EU investments in cultural sites – Topic that deserves more focus and coordination”	1(a)	99			The Commission prepared the ground and discussed with the Council a possible new EU strategic framework which could include strategic and operational objectives, though without success. The Commission has not developed further specific strategic and operational objectives or monitoring arrangements as there was no consensus among the member states.	
	1(b)	99			Responsibilities for the implementation of the strategic and operational objectives have not been defined and allocated.	
	1(c)	99				
	2(a)	99				
	2(b)	99				
	2(c)	99			The Commission explored the possibility of developing a scheme that builds on private sources of funding for heritage sites, but this scheme has not moved forward. Thus, the Commission has not coordinated initiatives that build on private sources of funding for heritage sites with other EU cultural initiatives (e.g. European Heritage label, European Capitals of Culture).	
	3	105			The Commission has examined and proposed simplified forms of support for European Regional Development Fund (ERDF) investments in cultural sites. ERDF financing does not, by law, favour projects that contain plans to improve the financial self-sustainability of cultural sites.	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4	105				
SR 09/2020: "The EU core road network – Shorter travel times but network not yet fully functional"	1(a)	71				
	1(b)	71			Investments in core *trans-European transport network* (TEN-T) roads have not been prioritised and there are still challenges to be met, such as insufficient quality (especially with regard to road safety or the availability of sufficient safe and secure parking and rest areas).	
	2(a)	72			The Commission has improved its monitoring of the development of the TEN-T core network. However, the proposal for a revised TEN-T Regulation provides for intermediate targets only for barriers between and within transport modes and to enhance multimodal transport but not to assess progress made by member states.	
	2(b)	72			The proposal for a revised TEN-T Regulation provides for improved monitoring. The Commission is currently developing an updated TENtec information system, which will allow automated data exchange with member states and relevant EU bodies. An updated monitoring system is under development, but its description does not specifically refer to the monitoring of results such as time savings, average speed and capacity in order to help assess the impact of the EU core network.	
	3	73				
	1(a)	80				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
SR 10/2020: “EU transport infrastructures – More speed needed in megaproject implementation to deliver network effects on time”	1(b)	80				
	1(c)	80				
	1(d)	80				
	2(a)	83			The Commission neither accepted nor implemented the recommendation.	
	2(b)	83			The Commission neither accepted nor implemented the recommendation.	
	3(a)	86			The Commission neither accepted nor implemented the recommendation.	
	3(b)	86			The Commission neither accepted nor implemented the recommendation.	
	3(c)	86			The Commission neither accepted nor implemented the recommendation.	
	4(a)	89			Implementing acts for European transport corridors, the two horizontal priorities and complex cross-border sections are planned according to Article 54 of the Commission proposal (COM(2021) 812 final) and will depend on the analysis of the first work plan by the European Coordinators.	
	4(b)	89			The Commission neither accepted nor implemented the recommendation.	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4(c)	89			The Commission has proposed to strengthen the role of the European Coordinators. Implementing acts for European transport corridors, the two horizontal priorities and complex cross-border sections are still pending.	
SR 11/2020: “Energy efficiency in buildings – Greater focus on cost-effectiveness still needed”	1(a)	91				
	1(b)	91				
	1(c)	91				
	2	92			The Commission only partially accepted the recommendation. While recognising the need to respect the principles of sound financial management, it indicated that, under shared management, project selection pertains to the mandate and responsibilities of member states’ *managing authorities*. The Commission highlighted its commitment to encouraging managing authorities to use selection criteria and procedures for energy efficiency investments in buildings. These include some key parameters to link their energy efficiency investments in buildings to targeted or achieved energy savings. However, the Commission has not provided any evidence that it uses its advisory capacity in monitoring committees to influence project selection procedures and ensure they respect the principles of sound financial management.	
	3(a)	93				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	3(b)	93				
	3(c)	93			The Commission did not accept the recommendation that it should use indicators for monitoring the cost-effectiveness of investments when making decisions on the allocation of resources in the 2021-2027 period mid-term review. It replied that any re-allocation of resources would be done at the initiative of the member state, based on criteria which may not necessarily consider cost-effectiveness.	
SR 12/2020: "The European Investment Advisory Hub – Launched to boost investment in the EU, the Hub's impact remains limited"	1	61				
	2(i)	62				
	2(ii)	62				
	2(iii)	62				
	3(i)	63				
	3(ii)	63				
	3(iii)	63				
	4(i)	64			Annex 1 to the *InvestEU* Advisory Agreement signed between the Commission and the European Investment Bank (*EIB*) refers to the dissemination and active gathering of knowledge and evidence, best practice and other market information (including the identification of specific market gaps and needs). It provides the general framework	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					applicable to the subsequent implementation and management of the action and for agreements to be signed with *national promotional banks or institutions* (NPBIs). An assessment to analyse the advisory needs and the likely demand for targeted advisory initiatives based on the experience acquired over the 2015-2020 period was not carried out following our audit. The last market gap analysis was made in 2016 (prior to our recommendation).	
	4(ii)	64			An assessment to analyse the advisory needs and the likely demand for targeted advisory initiatives based on the experience acquired over the 2015-2020 period was not carried out (see recommendation 4(i)). This assessment is necessary for advisory assistance to target unmet needs. Furthermore, we have not received evidence that priority is given to projects which potentially could be supported under the InvestEU guarantee.	
	4(iii)	64			Based on the evidence received, three agreements were signed with NPBIs after 2020 (two with French NPBIs and one with an Italian NPBI). None of the eight member states without cooperation agreements as of 31 December 2018 (Denmark, Estonia, Greece, Cyprus, Luxembourg, Malta, Romania, and the United Kingdom [which left the European Union on 31 January 2020]) are covered by new agreements to improve the geographical coverage of advisory services in the European Union.	
	4(iv)	64			Three agreements were signed with NPBIs after 2020. This limited number does not prove a more proactive approach,	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation: Level of implementation	Remarks	Level of timeliness
					by means of local presence, to generating requests for advisory services.	
	4(v)	64				
	4(vi)	64			The recommendation is partly addressed through the information request referred to in the reporting requirements in Annex 4 of the agreement signed between the Commission and the EIB. We have not received evidence that the recommended performance monitoring framework led to reports covering the costs and benefits of providing advisory services.	
SR 13/2020: "Biodiversity on farmland – CAP contribution has not halted the decline"	1(a)	76				
	1(b)	76				
	1(c)	76				
	2	78			The new *CAP* Strategic Plans Regulation requires member states to increase the level of ambition in relation to environmental and climate objectives. There is only limited evidence that *direct payments* have made an increased contribution to farmland biodiversity. The conclusion of the ongoing ECA audit should provide further information in this respect.	
	3(a)	80				
	3(b)	80			When approving member states' *CAP strategic plans*, the Commission assessed the national strategic plans and sent	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					recommendations for the specific section on biodiversity if necessary. There is still no conclusive evidence on the level of ambition and attractiveness of the member states' new aid schemes for both arable and grassland farms compared to what was in place before the new CAP. The ongoing ECA audit should provide information in this respect.	
	4	82				
SR 14/2020: "EU development aid to Kenya"	1(a)	83				
	1(b)	83			The quantitative formula applied in the 2021-2027 programming period aims to allocate more resources to the countries with the biggest needs. Similarly to the previous programming period, countries' commitment and past performance in relation to the rule of law and corruption are still measured mainly through the worldwide governance indicators (WGI). The mid-term review (MTR) will assess the commitment to the rule of law of European Neighbourhood countries exclusively. How the results of the MTR will affect countries' allocations is unclear based on the instructions.	
	2	84			The two Team Europe initiatives (TEIs) in Kenya bring together various existing and future actions, which are coordinated jointly with other European donors, and will likely have a much bigger impact in Kenya than if the EU were to act alone. Priority areas are very broad, and the selected sectors and amounts of co-financing from EU partners to TEIs are indicative. This allows for flexibility but can limit the focus and potential impact of EU funding. The	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					Commission did not provide the auditor with a list of financial allocations per sector in the multiannual indicative programme (MIP). Therefore, it is impossible to assess if and how the amounts allocated to each sector will likely reach a sufficient critical mass to achieve significant results. There is no analysis of the impact had in the previous programming period, and the current intervention framework is incomplete since many indicators lack quantified targets.	
	3	89			Kenya's 2021-2027 MIP includes indicative sectors with a potential to promote sustainable economic development, create jobs and grow exports, and support the rule of law and the fight against corruption. The volume of funds allocated to actions promoting economic development and the rule of law during the 2021-2024 period is not indicated in the MIP, as financial allocations in the MIP are per priority area (which are very broad) rather than sector. The Commission did not provide the auditor with a list of financial allocations per sector. Therefore, it is very difficult to assess how sectors have been prioritised. The intervention framework in the MIP is incomplete as there are no defined targets for result and impact indicators. The annual programmes do not include targets for many indicators either. It is therefore not possible to estimate the expected impact of the actions.	
SR 15/2020: "Protection of wild pollinators in the EU –	1(a)	66				
	1(b)	66			In June 2022, the Commission established a working group to help it develop a policy on pollinators and monitor its	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
Commission initiatives have not borne fruit”					implementation. The Commission has not provided sufficient evidence on governance set-up or on whether it has assigned clear responsibilities to the different Commission directorates-general involved in the Pollinators Initiative. The revised EU Pollinators Initiative does not define targets or criteria to assess the progress of the proposed actions.	
	2(a)	68			The Commission assessed the available information on wild pollinators and published an overall assessment of member states’ prioritised action frameworks (PAFs) in April 2023. The Commission’s assessment of the measures and/or benefits for wild pollinators did not cover all member states/regions since it only concerned PAFs which had been updated or submitted after May 2020 (42 PAFs from 18 member states). Therefore, the Commission could not provide an overall assessment of the measures taken by member states to protect wild pollinators due to the quality of the information included by member states.	
	2(b)	68				
	2(c)	68				
	3(a)	69			At the Standing Committee meeting of December 2023, the Commission proposed draft amendments to relevant EU legislation on pesticides, which include safeguards for bumble bees and solitary bees. The Commission proposals have not yet been published. The European Food Safety Authority (EFSA) is currently updating its protocol on how to	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					verify emergency authorisations granted by member states. The revised Commission guidance on emergency authorisations has not improved the justifications required from member states to grant these authorisations.	
	3(b)	69			In October 2023, together with the member states, the Commission established a work plan to develop 12 missing test methods, 10 of which concerned bumble bees and solitary bees. Given the absence of sufficiently robust data, the Commission could not define protection goals for bumble bees and solitary bees when assessing the risk of pesticides to bees. In December 2023, the Commission started discussing potential draft amendments to relevant EU legislation with member states, to require, under certain conditions, systematic field tests on bumble bees and solitary bees when approving pesticides in the EU. The Commission has yet to publish its legislative proposal. EFSA's 2023 revised guidance on how to assess risks to bees includes methodologies for these tests but has yet to be endorsed by member states.	
SR 16/2020: "The European Semester – Country Specific Recommendations address important issues but need better implementation"	1(a)	59				
	1(b)	59			The 2023 country-specific recommendations (CSRs) did not address research and development (R&D) policies. With regard to R&D, the target set in 2000 under the Lisbon strategy was to increase expenditure on R&D to 3 % of GDP in each member state and to make the EU the most competitive and dynamic knowledge-based economy in the world by 2010. The *Europe 2020 strategy* set the same	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					target of 3 %, but for the EU, allowing member states to specify their own national targets. This EU target was never met and remains a relevant policy priority.	
	2(a)	61				
	2(b)	61				
	2(c)	61			In contrast to earlier Semester cycles, the Recovery and Resilience Facility (RRF) required specific measures to address specific CSRs. Prior to the RRF, there were no specific measures triggered by deviations from required deficit reduction targets under structural reform or investment clauses. The Commission did not provide evidence that it used its powers (under Article 2-a(3)(a) of Regulation 1466/97) to recommend specific measures where member states do not address the CSRs, and prefers to continue its approach of annually re-issuing CSRs which remain fully or substantially unaddressed.	
	3	62				
	4	63			The RRF measures related to CSRs have defined milestones and targets with specific deadlines, and the scoreboard provides information on implemented measures. CSRs still combine various reforms and policy measures under a single CSR, do not have measurable targets or timeframes (annual or multiannual), and do not provide fully documented reasons as to why some issues are prioritised over others	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					not included in CSRs or why CSRs from the previous year have been discontinued.	
	5(a)	64				
	5(b)	64			The Commission neither accepted nor implemented the recommendation.	
SR 17/2020: "Trade defence instruments – System for protecting EU businesses from dumped and subsidised imports functions well"	1	92				
	2	94				
	3(i)	96				
	3(ii)	96				
	4(1)	98				
	4(2)	98			Regular evaluations to estimate the overall effectiveness of trade defence measures are still pending.	
	5	99			By updating its websites, DG TRADE has provided additional clarity on the use of *ex officio* investigations. The Commission used its power to initiate *ex officio* investigations in only one case, relating to the ongoing anti-subsidy investigation into imports of battery electric vehicles from China.	
	6	102				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
SR 18/2020: “The EU’s Emissions Trading System – Free allocation of allowances needed better targeting”	1	57				
	2(a)	58				
	2(b)	58				
SR 19/2020: “Digitising European Industry – An ambitious initiative whose success depends on the continued commitment of the EU, governments and businesses”	1	80				
	2	80				
	3	81				
	4	81				
	5	82				
	6	82				
	7	82				
	8	83				
	9	83				
SR 20/2020: “Combating child poverty – Better targeting of Commission support required”	1	97				
	2	100				
	3	103				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4	108				
SR 21/2020: “Control of State aid to financial institutions in the EU – In need of a fitness check”	1(1)	72				
	1(2)	72			Given that the Commission has not finalised the evaluation (recommendation 1(1)), it could not have taken any follow-up action (recommendation 1(2)).	
	2(1)	73				
	2(2)	73				
	2(3)	73				
	3	74			The Commission has introduced new performance indicators. However, these are not suitable for demonstrating the effect of *state aid* control as they do not help to determine whether the Commission prevented distortions of competition between member states, nor whether its decisions contributed to protecting financial stability.	
SR 22/2020: “Future of EU agencies – Potential for more flexibility and cooperation”	1(a)	85				
	1(b)	85				
	2(b)	86			The agencies’ opinion is that the Commission does not consult them during the planning process (preparation for the next multiannual financial framework (MFF)) on their	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
					requests for resources. There is no established formal procedure to consult agencies on their requests.	
	2(c)	86			Despite our recommendation that the Commission review agencies' requests in a timely manner, it continues to review them primarily as part of the unchanged budgetary cycle. This means that needs identified at the end of year X are only financed, if accepted, by the budget for year X+2, and the agencies have no flexibility regarding their *establishment plans*.	
	3(b)	88			The Commission does not monitor the implementation of the new guidelines on performance information in a way which provides an overall, systematic overview of the shortcomings identified by the Commission in the agencies' performance information, the Commission's suggestions for improvement, their implementation status and – if the management boards rejected these suggestions – the reasons for doing so.	
	3(c)	88			All agencies (except the Community Plant Variety Office and the Translation Centre) provided for a periodic external evaluation in their respective founding regulations. External evaluations of agencies with bigger management boards have been delayed. Some external evaluations did not assess agencies' governance structure (European Space Agency, European Medicines Agency, and European Union Agency for Criminal Justice Cooperation).	
	4(b)	89				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4(c)	89				
SR 24/2020: “The Commission’s EU merger control and antitrust proceedings – A need to scale up market oversight”	1	94			The Commission has strengthened its proactive detection strategy through several initiatives. The Commission neither accepted nor implemented the second part of the recommendation, i.e. to select cases based on clearly weighted criteria, for example by using a scoring system.	
	2(a)	99			The Commission further enhanced the simplified procedure aimed at reducing the information requirements for merger notifications, provided guidance to ensure better coverage of *transactions* relevant to the single market, and is about to launch an electronic notification application. The second part of recommendation 2(a), i.e. to conduct a detailed analysis of the costs and benefits of charging merger filing fees, was neither accepted nor implemented.	
	2(b)	99				
	2(c)	99			The Commission launched an evaluation of the deterrent effects of EU competition enforcement actions, including fines. The final report is planned for 30 November 2024. Therefore, the methodology has not yet been updated.	
	3	100				
	4(a)	103				
	4(b)	103			The Commission neither accepted nor implemented the recommendation.	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
SR 25/2020: "Capital Markets Union – Slow start towards an ambitious goal"	1(a)	129				
	1(b)	129				
	1(c)	129				
	2(a)	132			The Commission neither accepted nor implemented the recommendation.	
	2(b)	132			Due to the COVID-19 pandemic and the shift from the European Semester process to the Recovery and Resilience Facility, there were no country-specific recommendations (CSRs) related to the capital markets union (CMU) issued in 2021-22. There were some CMU-related measures envisaged in the member states' recovery and resilience plans, but they remained general in nature.	
	2(c)	132			Although the Commission continues its outreach activities to address member states in need, this approach does not guarantee that those member states with the highest needs will apply for *technical assistance*. Therefore, there has been no enhancement of the demand-driven model as such.	
	3(a)	136				
	3(b)	136				
	3(c)	136				
	4(a)	139				

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4(b)	139				
	4(c)	139				
SR 26/2020: "Marine environment – EU protection is wide but not deep"	1 (first indent)	88			In February 2023, the Commission adopted the Marine Action Plan. It requires member states to publish roadmaps by March 2024 to make fisheries more sustainable. It also requires the Commission to issue guidance for member states on establishing conservation measures by the end of 2024. The Commission has not yet finalised the evaluation of the Marine Strategy Framework Directive (MSFD), which may help identify shortcomings in order to facilitate faster implementation of conservation measures.	
	1 (second indent)	88			In June 2022, the Commission tabled a proposal for a regulation on nature restoration requiring member states to put in place measures to restore at least 30 % of marine habitats to good condition by 2030, 60 % by 2040 and 90 % by 2050. The final compromise text was adopted in the Committee of Permanent Representatives (Coreper) meeting of 22 November 2023. The lists of threatened species in the annexes to the Birds and Habitats Directives (BHDs), which are referred to in many pieces of EU legislation that include provisions on marine protective measures, have remained unchanged for decades. The Commission has not taken any significant action to amend these lists and extend protection to more species in the light of current scientific knowledge.	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	2 (first indent)	94				
	2 (second indent)	94				
	3	97				

Source: ECA.

Annex 3.8 – Follow-up of 2020 special report recommendations – Other auditees

Level of acceptance: accepted; partially accepted; not accepted; not communicated.

Level of implementation: fully; in most respects; in some respects; not implemented.

Level of timeliness: timely; delayed; deadline still pending; no follow-up action; no assessment of timeliness.

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
EU decentralised agencies and other bodies (EU agencies)						
SR 22/2020: "Future of EU agencies – Potential for more flexibility and cooperation"	2(a)	86	not communicated	in some respects	Agencies consider single programming documents (SPDs) to be adequate tools for resource planning and to take account of priorities, possible synergies and economies of scale. While SPDs provide a detailed overview of agencies' planning for the coming years, they are less effective as a tool for influencing the allocation of resources to agencies. Moreover, the proposal of the new MFF has not yet been put forward and agencies have not yet assessed and presented their needs for the next MFF to the Commission.	deadline still pending
	3(a)	88	not communicated	in some respects	The systematic use of SPDs and consolidated annual activity reports (CAARs) to report on agencies' performance is an improvement. However, agencies reported difficulties in establishing the link between the impact of their performance and the EU policy objectives. They consider it necessary for the Commission to provide more guidance on how the impact of agencies' work could be measured as regards the contribution to EU policies.	delayed

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	4(a)	89				
European Personnel Selection Office (EPSO)						
SR 23/2020: "The European Personnel Selection Office – Time to adapt the selection process to changing recruitment needs"	1 (first indent)	92				
	1 (second indent)	92				
	1 (third indent)	92				
	1 (fourth indent)	92				
	1 (fifth indent)	92			In January 2023, the management board of the European Personnel Selection Office (EPSO) endorsed a new competition model which aims to substantially reduce the length of open competitions, from an average duration of 15 months (in 2022) to 6 months. In June 2023, EPSO published the first open competition under the new model, with an estimated duration of 6 months. In November 2023, EPSO postponed the testing stage due to problems with the online testing platform. Therefore, the aim of reducing the duration of open competitions under the new model has not yet been achieved (status as of February 2024).	

Report number and title	No	SR para.	Level of acceptance	ECA analysis of progress made in implementing recommendation		
				Level of implementation	Remarks	Level of timeliness
	2	96				
	3	97				

Source: ECA.

Chapter 4

Revenue

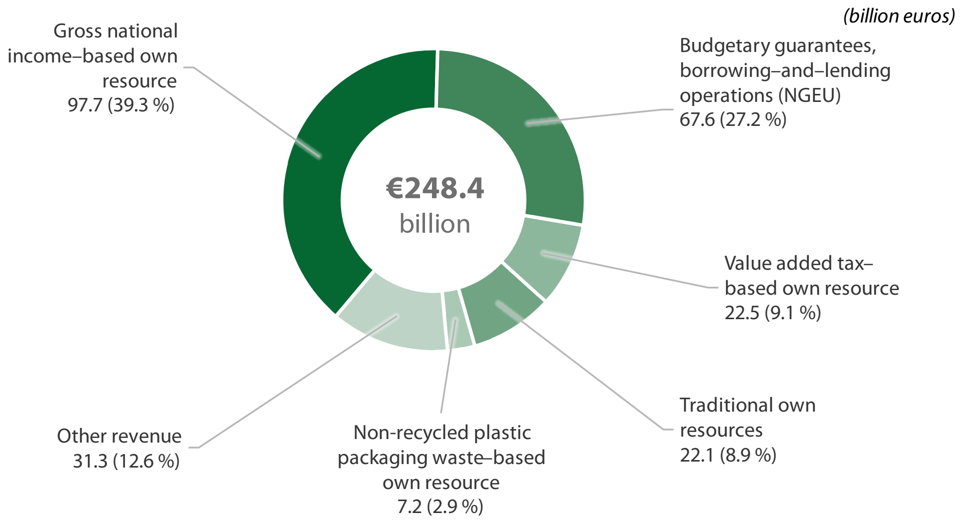
Contents

Annexes

Introduction

4.1. This chapter presents our findings for revenue, which comprises the four different categories of *own resources*, revenue financing *NextGenerationEU (NGEU)* expenditure[1], and other revenue. ***Figure 4.1*** gives a breakdown of revenue in 2023.

Figure 4.1 – Revenue – 2023 breakdown (*)



(*) The total of €248.4 billion represents the EU's actual budget revenue. The amount of €171.9 billion presented in the statement of financial performance is calculated using accrual-based accounting.

Source: ECA, based on data from the 2023 consolidated accounts of the European Union.

Brief description

4.2. In 2023, 60 % of EU revenue came from own resources[2]:

(a) the ***gross national income-based (GNI-based) own resource*** provides 39 % of EU revenue, balancing the EU budget after revenue from all other sources has been calculated. Each member state contributes in proportion to its GNI;

(b) the ***value added tax-based (VAT-based) own resource*** provides 9 % of EU revenue. Contributions under this own resource are calculated using a uniform

[1] This includes the amounts borrowed by the Commission, in line with Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis.

[2] Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union.

rate applied to the total amount of member states' VAT receipts collected in respect of all taxable supplies divided by the weighted average VAT rate;

(c) ***traditional own resources (TOR)*** provide 9 % of EU revenue. They comprise customs duties on imports collected by the member states. The EU budget receives 75 % of the total amount; member states retain the remaining 25 % to cover collection costs;

(d) the ***non-recycled plastic packaging waste-based own resource*** (the 'plastic-based own resource') provides 3 % of EU revenue. It is calculated by applying a uniform rate to the weight of unrecycled plastic packaging waste generated in each member state.

4.3. Amounts borrowed to finance non-repayable financial support to member states in the context of NGEU provide 27 % of EU revenue. There are also other sources of EU revenue. The most significant of these are contributions and refunds connected with EU agreements and *programmes* (9 % of EU revenue), such as recoveries from member states in the areas of Natural resources and environment and Cohesion, resilience and values, and non-EU countries' contributions to EU programmes and activities.

Audit scope and approach

4.4. Our objective was to estimate the level of error in EU revenue and to contribute to the *statement of assurance*. Applying the audit approach and methods set out in ***Annex 1.1***, we examined the following for revenue in 2023:

(a) a representative sample of 65 Commission *recovery orders* (including 10 recovery orders relating to NGEU *grants*);

(b) the Commission's systems for:

  (i) verifying that the member states' GNI, VAT and plastic packaging waste data constitute an appropriate basis for the calculation and collection of own-resource contributions. In the last case, we also used the results of our special report on the plastic-based own resource[3];

[3] Special report 16/2024: "EU revenue based on non-recycled plastic packaging waste: A challenging start hindered by data that is not sufficiently comparable or reliable".

(ii) managing TOR and verifying that member states have effective systems for collecting and reporting the correct amounts of TOR and making them available to the EU budget;

(iii) calculating the amounts resulting from adjustments to own resources;

(iv) managing fines and penalties;

(c) the systems for TOR accounting and management in three member states (Denmark, Spain and France), selected on the basis of both the amount of customs duties they collected and our own risk assessment;

(d) the reliability of the information on the *regularity* of own resources in the *annual activity reports* of the Directorate-General for Budget (DG BUDG) and Eurostat.

4.5. Our assessment of the Commission's systems for calculating the contributions based on GNI, VAT and non-recycled plastic packaging waste took as a starting point the statistics and data provided by member states and verified by the Commission. The Commission's systems for borrowing and lending operations related to NGEU were scrutinised in our special report on the Commission's debt management[4].

4.6. For TOR, customs duties are at risk of either not being declared or being declared incorrectly to the national customs authorities by importers. The actual import duties collected are therefore lower than the amount that should be collected – the *"customs gap"*. This shortfall in customs duties collected is not within the scope of our audit opinion on the regularity of revenue. However, since the customs gap may affect the amounts of duties established by member states, we continued to assess the EU actions taken to reduce the gap and mitigate the risk of incomplete TOR. In so doing, we examined for a third consecutive year the progress made by the Commission in implementing its Customs Action Plan[5]. Furthermore, we reviewed the member states' reporting to the Commission on their implementation of the Financial risk criteria and standards (FRC) Framework[6], designed to lead to the uniform application of customs controls at EU level.

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4 Special report 16/2023: "NGEU debt management at the Commission – An encouraging start, but further alignment with best practice needed".

5 Communication from the Commission "Taking the Customs Union to the Next Level: a Plan for Action" (COM(2020) 581), 28 September 2020.

6 Implementing Decision of 31 May 2018 laying down measures for the uniform application of customs controls by establishing common financial risk criteria and standards.

Regularity of transactions

4.7. This section presents our observations on the regularity of revenue *transactions*. We have based our conclusion on the regularity of the revenue transactions underlying the EU accounts and on our assessment of the Commission`s systems for calculating and collecting revenue. Our examination of a sample of 65 recovery orders revealed that none of them was affected by a quantifiable error.

Examination of elements of internal controls

4.8. We have selected and examined a number of control systems (see paragraph ***4.4***). Our observations on those systems do not affect our unmodified opinion on the regularity of EU revenue (see ***chapter 1***). However, they do highlight weaknesses in the collection of individual categories of own resources. In addition, we noted weaknesses in EU action to reduce the customs gap and mitigate the risk that TOR are incomplete.

The Commission's verification work on GNI is affected by delays on the part of member states

4.9. ***Figure 4.2*** describes the GNI verification cycle. In 2023, the Commission lifted 98 *GNI reservations*, meaning that by the end of the year it had cumulatively lifted 260 out of the 300 reservations placed following the 2016-2019 verification cycle (see ***Annex 4.1***). We found that, for 22 of the 40 outstanding reservations, member states had provided information that was in the process of being verified by the Commission. For the remaining reservations, at least one year after the deadline, member states had not addressed four[7] and provided only partial information to address the other 14[8]. Delays on the part of the member states in addressing reservations lead to delays in the Commission's work to verify the information provided and lift the reservations. This increases uncertainty in the national and EU budgets with regards to the GNI-based contribution.

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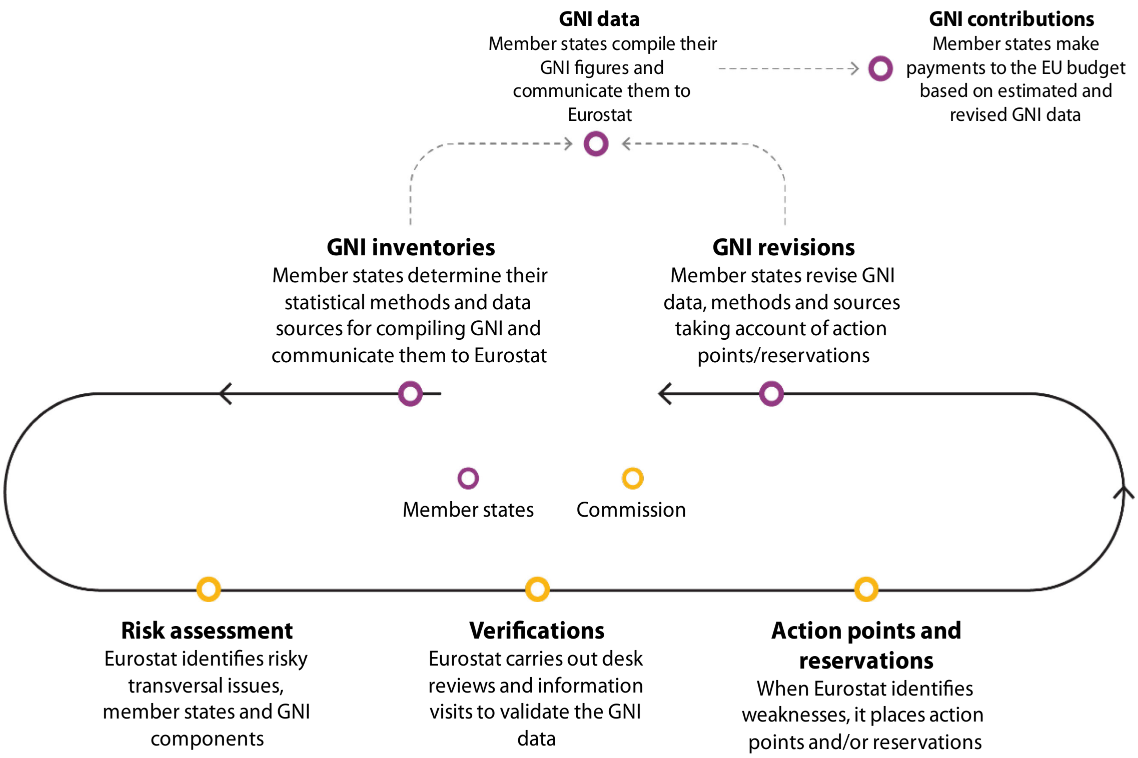
[7] Luxembourg (3) and Malta (1).

[8] Bulgaria (1), Croatia (6), Greece (4), Luxembourg (2), and Malta (1).

Figure 4.2 – GNI verification cycle



Source: ECA, based on Eurostat documents describing its verification approach.

4.10. The Commission continued its work on the current 2020-2024 verification cycle by updating its risk assessment. It carried out desk checks on GNI inventories, which describe member states' procedures for compiling data, and visited national statistical institutes to verify the quality of GNI data. The Commission placed the first reservation for the current cycle specific to a member state on Bulgaria, for a weakness in its GNI compilation.

4.11. In line with the recommendation we made in our 2020 annual report (see ***Annex 4.2***), in 2023 the Commission lifted the GNI reservation on globalisation for all member states except Luxembourg. Lifting these reservations resulted in a material *impact* for only Belgium (0.11 % of GNI for 2019). The Commission expects improvement in capturing the impact of globalisation on member states' GNI in the 2024 benchmark revision of national accounts.

The Commission did not charge interest when GNI reservations were addressed after the deadline

4.12. If member states are late in making corrections to GNI data needed to address reservations notified by the Commission and these corrections have a material impact on GNI, the Commission should collect late payment interest[9]. We examined whether any of the 98 GNI reservations lifted by the Commission in 2023 qualified for the application of late payment interest. Member states provided corrected data addressing five reservations partly after the deadline, and one reservation fully after the deadline. All six cases had a material impact on GNI.

4.13. The Commission did not charge late payment interest for any of these six cases on the basis that it could not calculate the impact of the late submission of data with precision:

- For the five cases where member states provided some of the data after the deadline, this was because of the difficulties in determining the impact of the data provided late separately from the data that had been provided on time.
- The case in which all the data was provided after the deadline affected more than one reservation and the Commission concluded that it was not possible to quantify accurately the impact on each reservation.

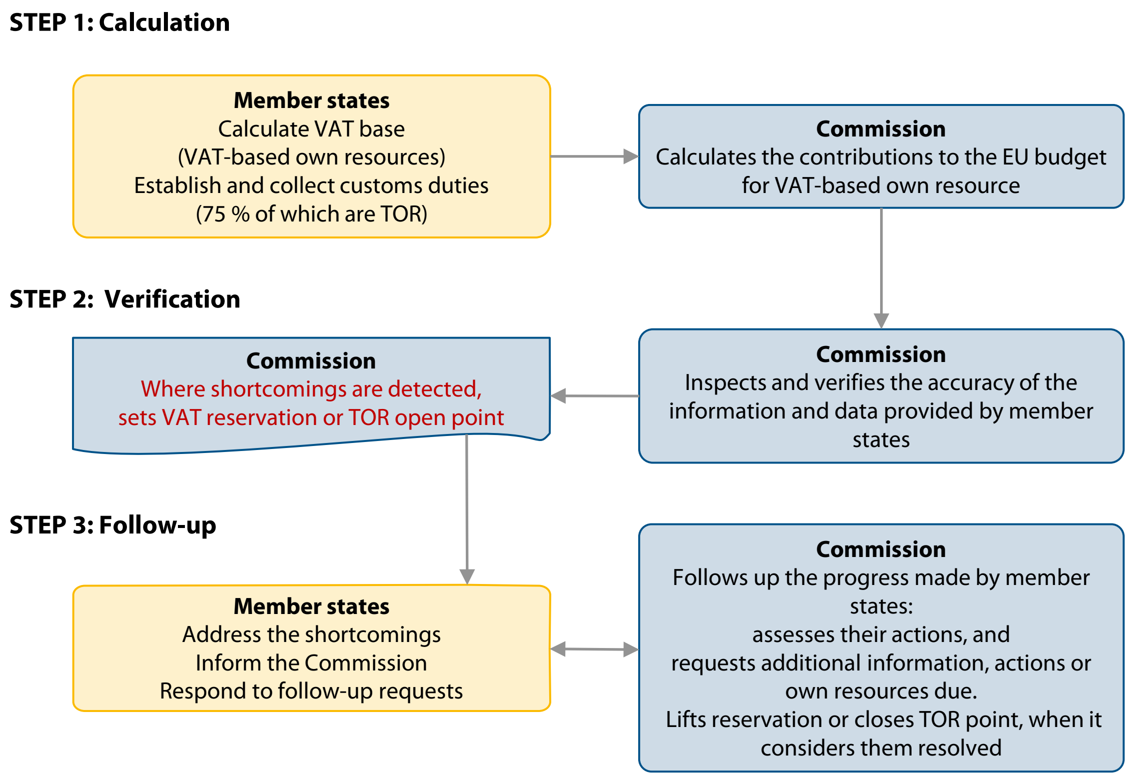
4.14. We note that the legislation makes no mention of partial provision of information. The decision of the Commission not to charge late payment interest in these cases removed an incentive for the member states to provide all the necessary information to address reservations within the deadline.

Decrease in the number of VAT reservations and TOR open points but long outstanding issues remain

4.15. ***Figure 4.3*** shows the process the Commission uses to verify member states' calculation of VAT bases and TOR. ***Annex 4.1*** provides an overview, as at the end of 2023, of the outstanding reservations and open points set by the Commission for weaknesses detected. Compared to last year, the number of *VAT reservations* decreased from 81 to 67 (17 %) and the number of *TOR open points* decreased from 283 to 274 (3 %).

[9] Article 12 (2) (d) of Regulation (EU, Euratom) No 609/2014 for making available the traditional, VAT and GNI-based own resources.

Figure 4.3 – The process of verifying member states' VAT bases and traditional own resources



Source: ECA, based on Commission data.

4.16. In 2023, the Commission made progress in lifting VAT reservations placed under the 2014 Own Resource Decision[10]. At the same time, it set fewer new reservations due to the introduction of simplified VAT statements under the 2020 Own Resource Decision[11]. Long outstanding reservations (open for more than 5 years) also decreased from 14 to 10 during the year. However, eight of these long outstanding reservations had been set between 6 and 11 years previously. We noted some delays from member states in providing information to address the long outstanding issues.

4.17. The number of long outstanding TOR open points increased from 97 to 103 at the end of 2023. As we also reported last year[12], we found that the Commission was not prioritising its treatment of open points, and that there were delays in communication between member states and the Commission.

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[10] Decision (EU, Euratom) 2014/335 on the system of own resources of the European Union.

[11] Decision (EU, Euratom) 2020/2053 repealing Decision (EU, Euratom) 2014/335.

[12] 2022 annual report, paragraph 4.18.

Weaknesses persist in member states' accounting and management of TOR

4.18. We examined how Denmark, Spain and France draw up their TOR statements (comprising a statement of duties collected and a statement of duties established but not yet collected)[13], as well as their procedures for managing TOR owed to the EU budget (see ***Annex 4.3***).

4.19. We did not identify any significant problems in the way Denmark and Spain drew up the TOR statements and managed customs duties collected. However, we noted shortcomings in France (see ***Box 4.1***).

Box 4.1

Shortcomings in France's accounting and management of customs duties collected

Due to an administrative error, the French customs authorities wrongly deducted €412 000 from TOR accounts instead of the national budget, in April 2023. This reduced the amount paid to the EU budget.

We found two cases with a total value of €478 000, where the payment of customs duties was guaranteed and not contested by the importers. This sum should have been made available to the EU budget at the time of the guarantee, but was instead initially included in the statement of customs duties established but not yet collected. The French customs authorities recorded the sum correctly in the statement of duties collected only at a later date, in one case with a delay of 6 months.

We also noted that several reductions to custom duties collected, resulting from justified requests from importers, *post-release controls* or court judgments, were executed with a delay of between 3 and 7 months. For the duration of the delay, TOR paid by France to the EU were overstated.

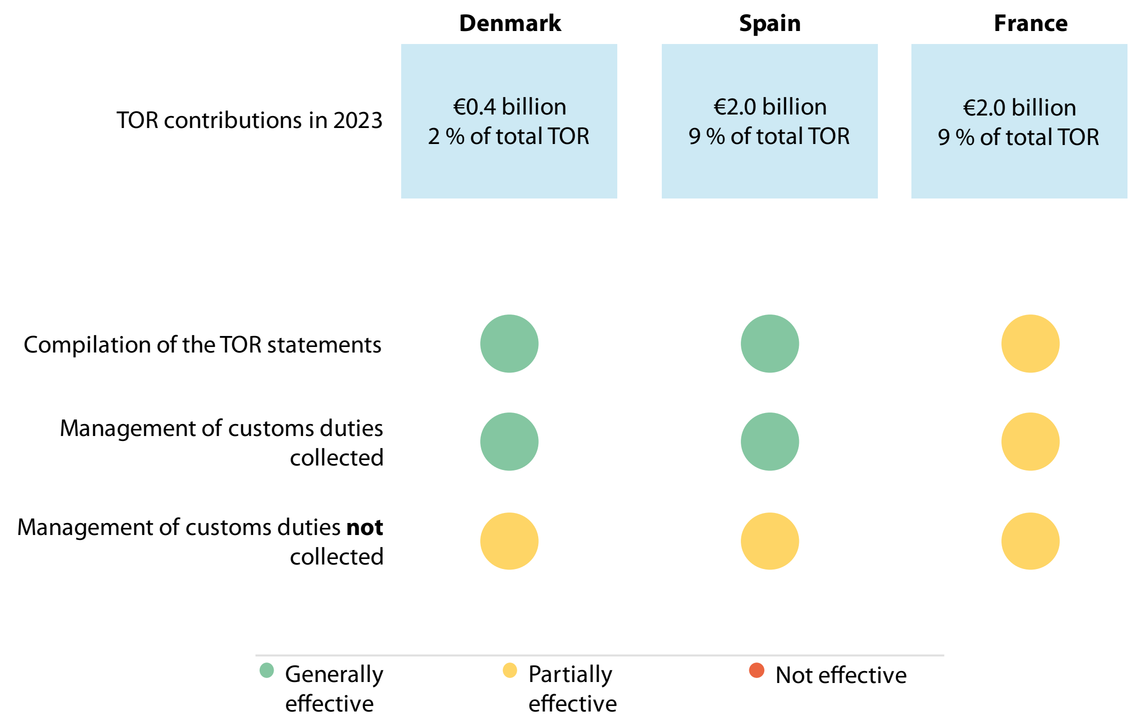
4.20. As regards the management of customs duties established but not yet collected, our audits in these three member states revealed several shortcomings. We noted cases of failure to enforce the customs debt in a timely way in Denmark, of

[13] Decision (EU, Euratom) 2018/194 establishing models for statements of accounts for entitlements to own resources as amended by Decision (EU) 2022/523.

delays in establishing the customs debt in Spain, and irrecoverable duties not yet written off in France.

4.21. The Commission continues to detect, report and follow up similar weaknesses in the accounting and management of customs duties not yet collected in member states. Our assessment of member states' key internal TOR control systems is presented in ***Figure 4.4***.

Figure 4.4 – Assessment of key internal TOR control systems in the member states selected



Source: ECA.

4.22. With regards to a recommendation we made on this topic in our 2021 annual report (see ***Annex 4.2***), we examined the progress made in resolving Italy's long-standing discrepancies between the statements of duties collected and duties established but not yet collected, concerning the amounts of duties recovered. We found that, following action taken by the member state with the support of the Commission, such discrepancies were not present in the TOR statements for the year 2023. The Commission has not yet carried out an inspection to confirm their reliability.

Deficiencies in reliability and comparability of the data used for calculating plastic-based EU revenue

4.23. In 2023, member states provided the first statistical data on the weight of the plastic packaging waste generated and amounts recycled for 2021, allowing the Commission to adjust the own resource contributions that it had previously calculated based on forecast data. The Commission is in the process of verifying the data submitted by the member states. Greece provided its first annual statement on the plastic-based own resource 4 months after the deadline[14]. This delay prevented the Commission from including the Greek data in the adjustment calculations for 2021 that are budgeted in 2024. This had a temporary impact on the calculation and redistribution of the adjustment amounts due from or to all member states.

4.24. In our special report on the plastic-based own resource, we observed weaknesses in the reliability and comparability of data used for the calculation of member states' contributions. These weaknesses concern the measurement point of the plastic packaging waste recycled, statistical compilation methods and assurance that the plastic packaging waste is actually being recycled (see ***Box 4.2***).

Box 4.2

Weaknesses in data reliability and comparability

Measurement point

Member states are required to calculate the packaging waste recycled when it enters the recycling process or, by derogation, at the exit of the sorting operation and apply average loss rates[15]. Most member states (20) used the derogation and applied loss rates ranging between 6 % and 54 %, four member states used as a measuring point the entry to the recycling operations, and three did not submit this information. In the absence of clear EU rules on average loss rates, member states' estimates of packaging waste recycled are less reliable and comparable.

[14] Article 5(5) of Regulation (EU, Euratom) 2021/770 on the calculation of the plastic-based own resource.

[15] Directive 94/62/EC on packaging and packaging waste.

Statistical compilation methods

Member states are required to use two different primary compilation methods[16] to estimate the amount of plastic packaging waste generated in a given year and to balance the results obtained. Only 14 member states submitted data based on both methods, and none of them balanced the two methods as required by the legislation. Instead, all member states submitted the data to be used for the calculation of their contribution based only on one method.

Assurance that plastic waste is actually being recycled

Neither the Commission, nor the member states we visited conducted checks or audits to assess whether the plastic packaging waste was actually being recycled by the recyclers in the member states. Neither the environmental legislation nor the own resources legislation requires that such checks are carried out. In addition, it is very difficult for member states to obtain reliable information on amounts recycled for exports of plastic waste outside the EU. There is therefore a risk to the reliability of the data used for own resource purposes.

Insufficient progress in implementing some actions from the Customs Action Plan

4.25. We have already reported in 2021 on the insufficient progress being made in implementing the Commission's Customs Action Plan[17], and in 2022, we found further delays[18] in selected actions. As part of our audit work this year, we reviewed the overall implementation of this action plan and followed up our 2021 annual report recommendation.

4.26. According to the Commission's assessment of June 2023, out of 29 actions in the Customs Action Plan, 21 were still open as their underlying objectives had not been met; eight had been delayed beyond their planned deadline; while the deadline for the remaining 13 actions had not yet passed. Four of the delayed actions relate to measures contributing to reducing the customs gap, such as the adoption of a new risk management strategy and measures to improve the management of e-commerce.

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[16] Regulation (EU) 2023/595 establishing the form for the statement relating to plastic-based own resource.

[17] 2021 annual report, paragraph 3.13.

[18] 2022 annual report, paragraph 4.24.

4.27. With regard to the recommendation in our 2021 annual report that the Commission should implement the measures in its action plan relevant to financial risks in a prompt manner, we conclude that it has been implemented in some respects (see ***Annex 4.2***).

4.28. In May 2023, the Commission presented a legislative proposal for significant customs reform[19] with the aim of improving the functioning of the Customs Union (see ***Box 4.3***). The proposed reform is expected to address some of the weaknesses we have previously reported, such as a lack of EU-wide analysis of data on all EU imports to detect financial risks in customs[20] and the inconsistent application of customs controls[21].

Box 4.3

EU customs reform

The reform proposes to set up two key enablers: the EU Customs Authority and the EU Customs Data Hub.

The key function of the new EU Customs Authority will be to pool expertise and powers that are currently scattered across the EU, to steer, coordinate, and support national customs authorities in the EU. It will carry out EU risk management.

The new EU Customs Data Hub will be a prerequisite for strengthening supervision and simplifying procedures within the Customs Union. It will include a common, EU-wide risk analysis, based on centralised data, protecting the EU's external border for goods more efficiently and effectively.

Source: ECA, based on Commission's communication "Customs reform: Taking the Customs Union to the next level" (COM(2023) 257).

4.29. The Commission has linked the implementation of 16 out of the 29 actions in the Customs Actions Plan (see paragraph ***4.26***) to its proposal for customs reform. However, the proposal has not yet been adopted and, in our view, five of the eight

[19] COM(2023) 258.

[20] 2020 annual report, paragraph 3.18.

[21] Special report 04/2021: "Customs controls: insufficient harmonisation hampers EU financial interests", paragraphs 46-52.

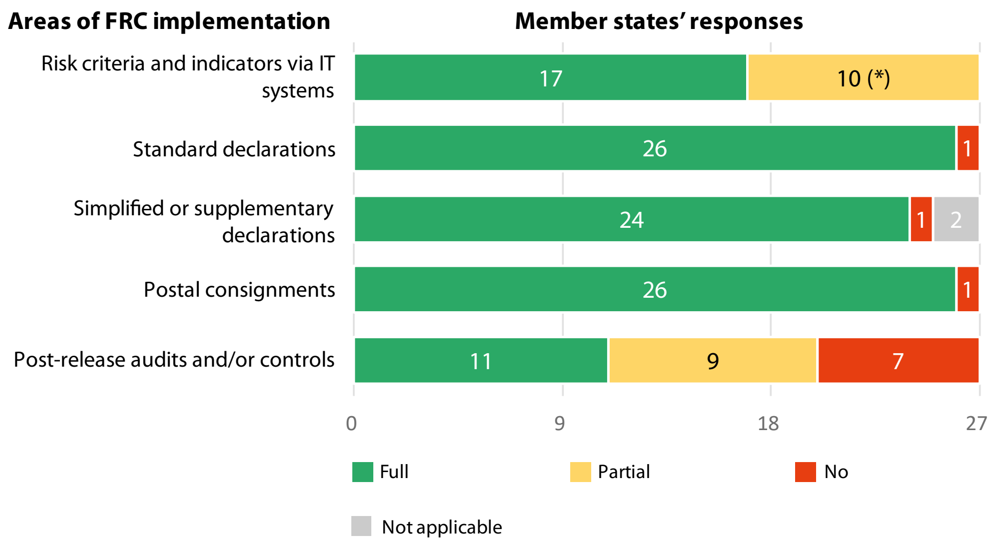
delayed actions can only be closed once the related provisions of the proposed revision of the *Union Customs Code* are applied (expected from 2028 onwards).

Insufficient follow-up by the Commission of the member states' implementation of financial risk criteria and standards

4.30. The FRC Framework (see paragraph *4.6*) comprises a set of rules allowing member states' customs clearance systems to systematically identify transactions that present a potential financial risk and require further scrutiny and/or control action. The FRC is designed to encompass the majority of known financial risks and contribute to a more consistent approach to customs controls.

4.31. According to FRC Framework, member states should have applied the FRC Decision from 2019. In 2021 and 2023, member states reported to the Commission on their progress in implementing the FRC Framework on the basis of which the Commission issued two reports. The report based on the 2021 information concluded that the FRC Framework was not fully implemented by all member states and thus had not yet contributed to a uniform application of controls. The 2023 update found both marginal improvements and regressions in the different areas of implementation. *Figure 4.5* summarises the findings of the 2023 report in selected areas.

Figure 4.5 – Member states' FRC implementation as at end of 2023



(*) Member states reporting a maximum of two risk criteria / specific risk indicators that cannot be implemented, or having IT constraints in their systems that do not allow them to combine all risk indicators at the same time.

Source: ECA, based on Commission's report.

4.32. We found that even though the Commission had analysed the information provided by the member states, it did not verify its accuracy through monitoring visits before including it in its own reports. Nor did the Commission assess the impact of the reported delays, with a view to supporting member states in implementing the higher priority elements of the FRC without further delay.

4.33. The FRC Framework is still not consistently implemented across all member states. As we previously reported[22], the lack of harmonisation creates a risk for the whole Customs Union as operators could still target EU points of entry with lower level of controls. This may affect the collection of customs duties and the levels of TOR paid to the EU.

[22] Special report 04/2021, paragraph 62 and Special report 19/2017 on import procedures, paragraph 148.

Annual activity reports

4.34. The information on the regularity of own resources provided in the 2023 annual activity reports published by DG BUDG and Eurostat generally corroborated our findings and conclusions.

4.35. In its 2022 annual activity report, DG BUDG reported that it had lifted the reservation that the TOR amounts transferred to the EU budget from the United Kingdom and the member states were inaccurate owing to undervaluation of textiles and shoes imported from China over the period from 2011 to 2017. After the United Kingdom paid all the amounts due, the Commission closed the related *infringement procedure* on 15 February 2023. Using the methodology applied for the United Kingdom case, the Commission expects to finalise the quantification of TOR losses attributable to the member states in 2024.

Conclusion and recommendations

Conclusion

4.36. The overall audit evidence indicates that the level of error in revenue transactions was not material. The systems for managing the revenue we examined were generally effective. However, some of the elements for the management of GNI and VAT reservations, TOR open points at the Commission, the key internal TOR controls we assessed in certain member states, and the systems for ensuring the reliability and comparability of data for calculating the plastic-based own resource were partially effective (see paragraphs ***4.9***, ***4.16***, ***4.17***, ***4.20*** and ***4.24***).

4.37. We also found that some actions from the Commission's Customs Action Plan are lagging behind, in particular those linked to the implementation of the EU customs reform (see paragraph ***4.26***), and that the Commission has not undertaken monitoring visits to verify member states' reporting concerning the implementation of the FRC Framework (see paragraph ***4.32***). These weaknesses do not affect our audit opinion on the regularity of revenue, as they do not concern the transactions underlying the accounts.

Recommendations

4.38. ***Annex 4.2*** shows the findings of our follow-up review of one recommendation we made in our 2020 annual report. The Commission had implemented one sub-recommendation in full. The other sub-recommendation was no longer applicable.

4.39. We also reviewed three recommendations from our 2019 and 2021 annual reports that were planned for implementation during 2023. We consider that the Commission had implemented them in some respects.

4.40. Our special report on the plastic-based own resource set out recommendations for improving the management of this source of EU revenue (see paragraphs ***4.23*** and ***4.24***).

4.41. Based on our findings and conclusions for 2023, we recommend that the Commission:

Recommendation 4.1 – Charge member states late payment interest when GNI reservations are not fully addressed by the deadline

Charge late payment interest when member states do not provide all the information needed to fully address reservations and correct GNI data by the deadline set.

Target implementation date: by mid-2025

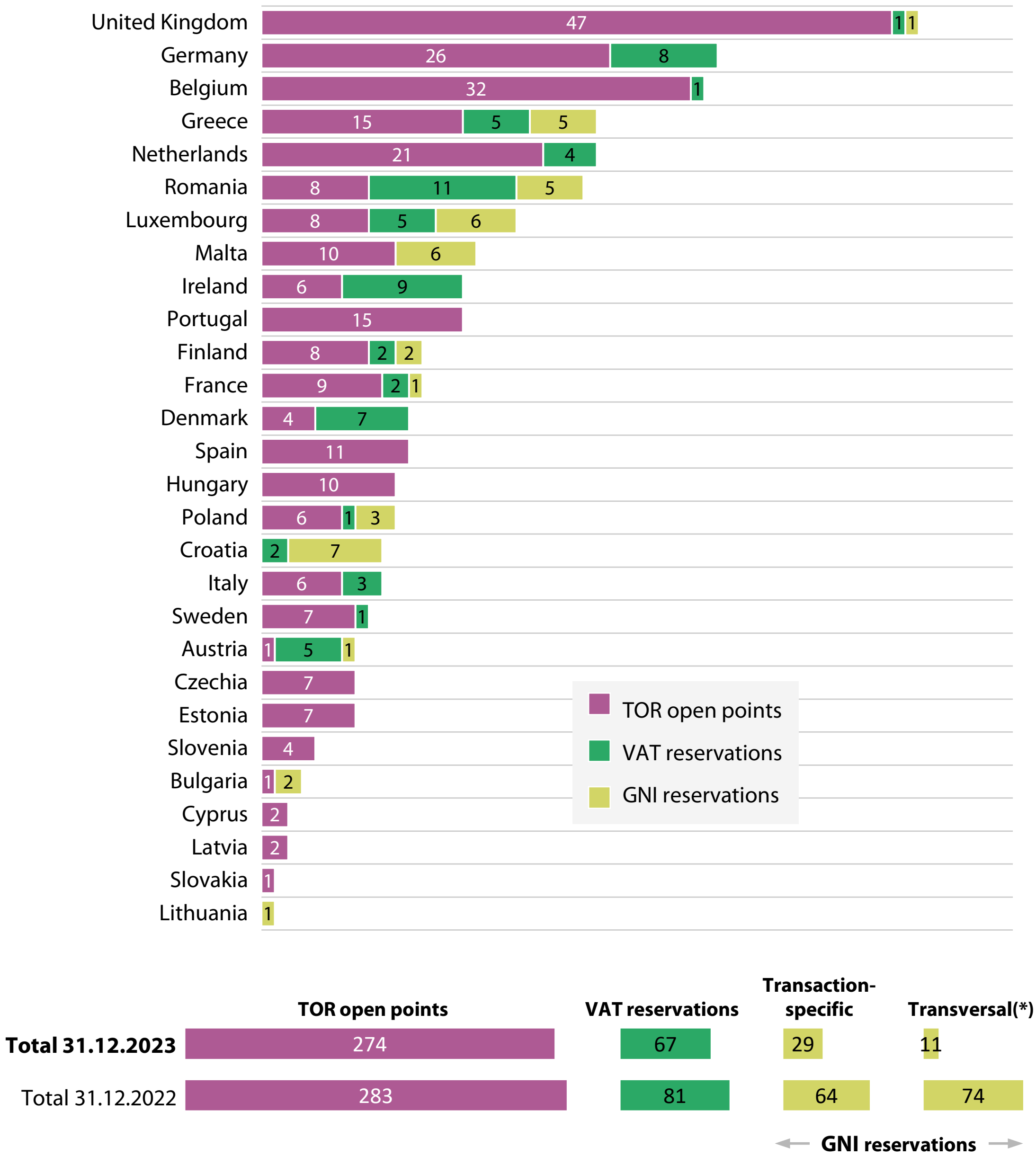
Recommendation 4.2 – Verify progress reported by member states and identify the key elements of FRC to be implemented

Verify the state of play of FRC Framework implementation in the member states through monitoring visits on a sample basis, identify the FRC elements that should be implemented as a matter of priority and take the necessary action to support member states in implementing them without delay.

Target implementation date: by end of 2026

Annexes

Annex 4.1 – Number of outstanding GNI reservations, VAT reservations and TOR open points by member state as at 31 December 2023



(*) Type of GNI reservation concerning a cross-cutting issue and requiring a comparative analysis of the solutions adopted by member states.

Source: ECA, based on Commission data.

Annex 4.2 – Follow-up of previous recommendations

Level of implementation: fully; in most respects; in some respects; not implemented.

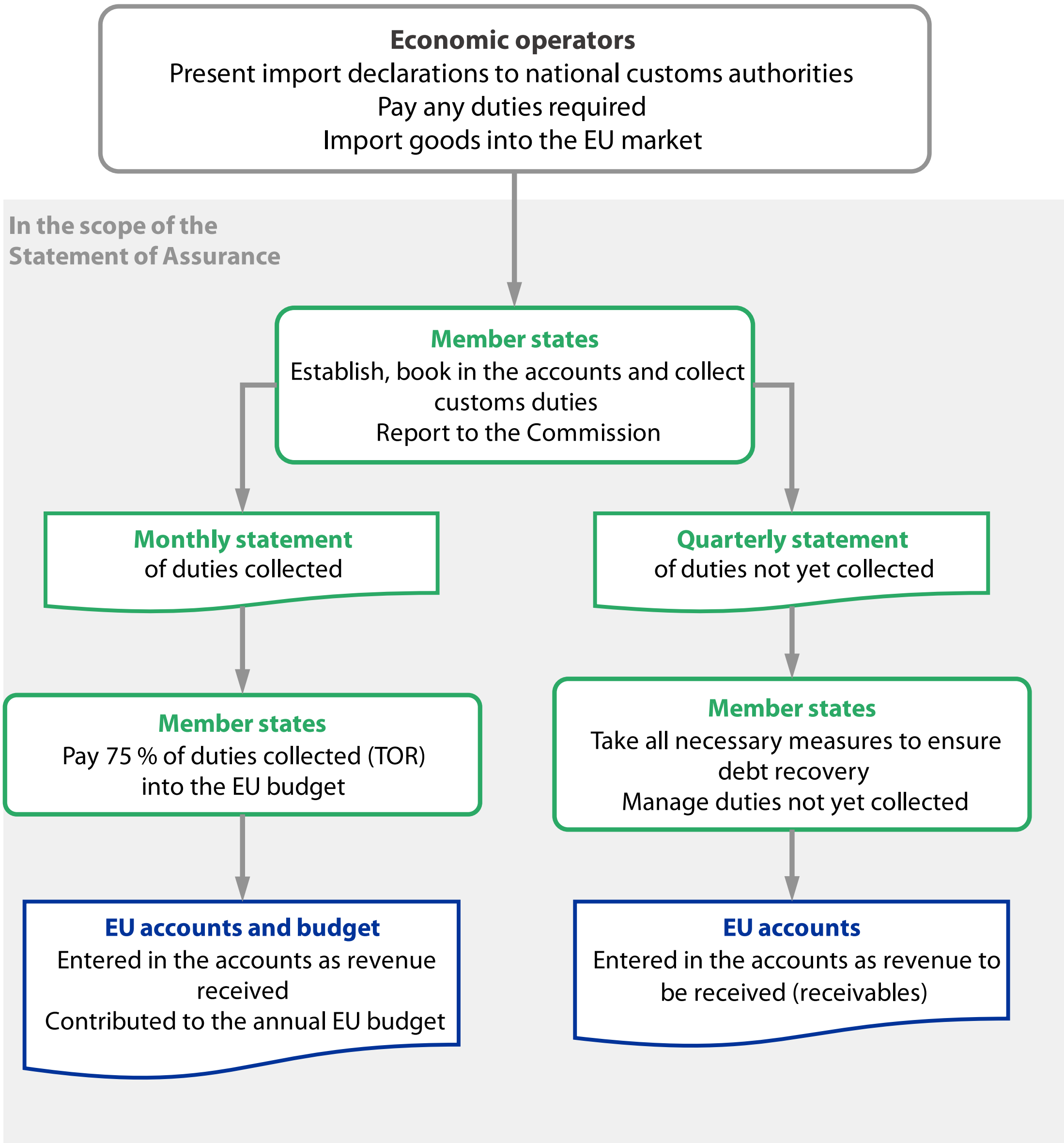
Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2019	We recommend that the Commission: **Recommendation 1:** provide member states with regular support in selecting the riskiest importers for post-release audits by: (a) collecting and analysing relevant import data at EU level, and sharing the results of its analysis with member states (by the end of 2021); (b) once Surveillance III becomes operational, providing guidance on how to carry out data analysis within this new system (by June 2023).		The Commission has increased the scope of the initial plans of some projects by collecting and analysing import data to identify importers at EU level. However, it did not yet share the results of its analysis with national customs authorities (see recommendation 1a). Concerning recommendation 1b), we note that full capacity of the data analysis can be achieved only when Surveillance III becomes fully operational. While Surveillance III's functionality and data analysis possibilities are known since 2022, the Commission has not yet prepared any guidance on how to use this system to identify and select the riskiest importers at EU level for post-release audits.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2020	We recommend that the Commission: (a) **Recommendation 2:** In cooperation with member states' statistical authorities, continue to improve the capture of globalisation in national accounts to address the GNI reservation in this area for the years 2018 onwards (by mid-2023). (b) If the impact of lifting the above reservation on national accounts were to differ significantly between member states, the Commission should reassess the quality of the GNI data of previous years, with a view to informing the *budgetary authority* of the possible implications of the resulting revised statistics for the revenue budget since 2010 (by mid-2023).		For recommendation 2 (a), see paragraph ***4.11***. The implementation of recommendation 2 (b) is no longer applicable since lifting the *transversal reservation* on globalisation had little impact on member states.
2021	We recommend that the Commission: **Recommendation 1:** Take the necessary action (including infringement proceedings where appropriate)		See paragraph ***4.22***.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	to ensure that Italy solves its long-outstanding weaknesses in TOR accounting. The action should aim to address the persistent discrepancies affecting the reliability of the country's statements of duties collected and not yet collected (by mid-2023).		
2021	We recommend that the Commission: **Recommendation 3:** Improve the assessment of financial risks for TOR by implementing the relevant measures of its Customs Action Plan in a timely manner (by the deadlines set in the Customs Action Plan).		See paragraphs ***4.25*** and ***4.29***.

Source: ECA.

Annex 4.3 – The process of drawing up the TOR statements of duties (collected and not yet collected) and their entry in the EU accounts and budget



Source: ECA, based on current EU legislation and rules.

Chapter 5

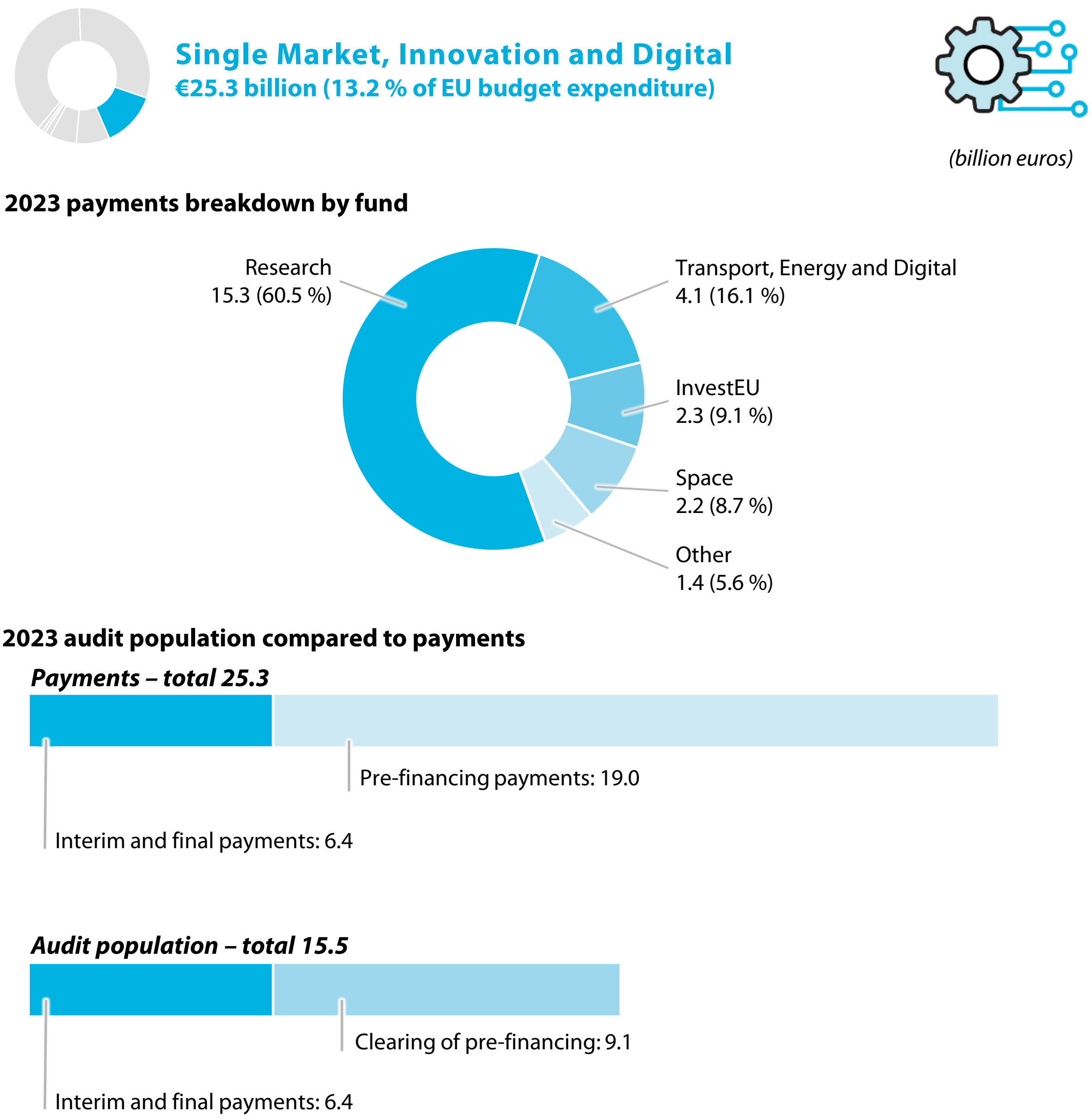
Single market, innovation and digital

Contents

Introduction

5.1. This chapter presents our findings for MFF heading 1 'Single Market, Innovation and Digital' (MFF1). ***Figure 5.1*** gives an overview of the main activities and spending under this heading in 2023.

Figure 5.1 – Payments and audit population



Source: ECA, based on data from the 2023 consolidated accounts of the European Union.

Brief description

5.2. The *programmes* financed under 'Single Market, Innovation and Digital' are diverse and aim to finance projects that contribute to, among other things, research and innovation, the development of European infrastructure in the transport, energy and digital sectors, communications, digital transformation and the single market, and space policy.

5.3. The principal programmes for research and innovation are *Horizon 2020* (H2020) for the 2014-2020 period, and its successor, *Horizon Europe* for the 2021-2027 period. In its third year of implementation, with 10 674 *grant* agreements and two framework agreements signed, the Horizon Europe programme still only accounts for a small proportion of our 2023 audit population, as the majority of the payments made under this programme constituted pre-financing.

5.4. MFF1 also finances large infrastructure projects such as the *Connecting Europe Facility (CEF)* and the space programmes, including Galileo (the EU's global satellite navigation system), EGNOS (the European Geostationary Navigation Overlay Service), and Copernicus, the European Earth Observation Programme. It also includes the *InvestEU* fund, which, together with H2020 and Horizon Europe, benefits from additional funding from the NextGenerationEU (NGEU).

5.5. Most spending on these programmes is managed directly by the Commission, including through *executive agencies*, and takes the form of grants to public or private *beneficiaries* participating in projects. The Commission provides pre-financing to beneficiaries upon signature of a grant agreement and later reimburses the EU-funded costs, net of the pre-financing. The space programmes are generally managed indirectly on the basis of *delegation* and *contribution agreements* signed between the Commission and dedicated implementing bodies (such as the European Space Agency and the EU Agency for the Space Programme). InvestEU financial instruments are implemented mainly by the EIB or EIF, which in turn use financial intermediaries. Additional funding from the NGEU is managed in accordance with the rules of the programmes to which it is allocated.

Audit scope and approach

5.6. Applying the audit approach and methods set out in ***Annex 1.1***, we examined the following for this MFF heading in 2023:

(a) a statistically representative sample of 127 *transactions* covering the full range of spending under this MFF heading. It consisted of 97 transactions in the area of research and innovation (90 for Horizon 2020 and 7 for Horizon Europe) and 30 under other programmes and activities, notably the CEF, the space programmes and financial instruments. The beneficiaries audited were located in 20 member states and five non-EU countries. We also took account of the results of our annual audits of the agencies and *joint undertakings*. Our objective was to estimate the level of *error* for this MFF heading and thereby contribute to the *statement of assurance*;

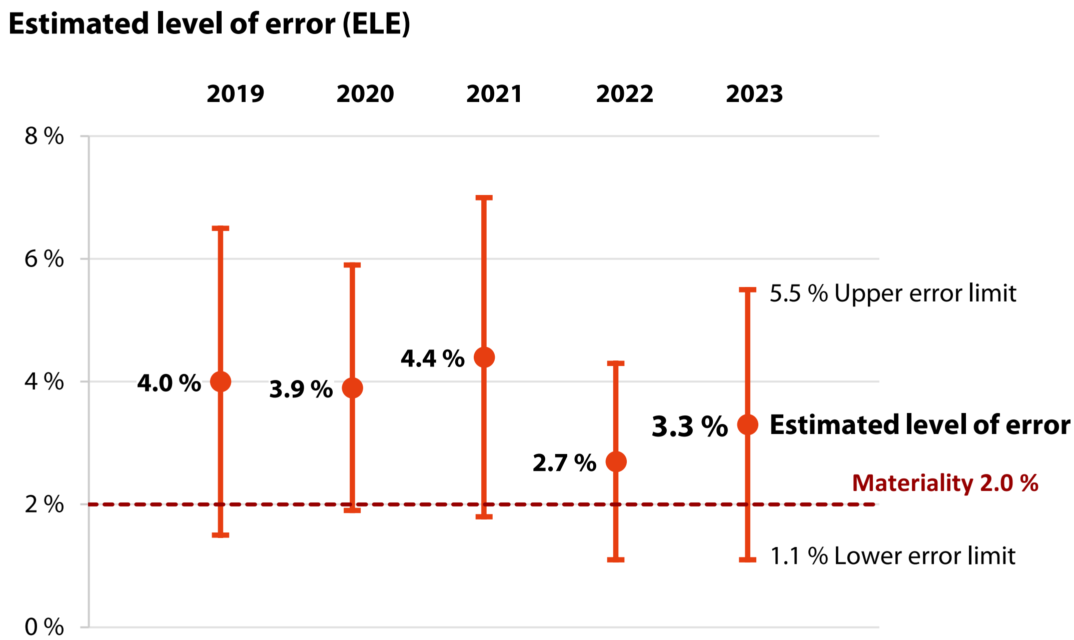
(b) the *European Climate, Infrastructure and Environment Executive Agency's (CINEA) ex ante* control system for CEF grants in the transport and energy sectors;

(c) the regularity information given in the *annual activity reports* of the Directorate-General for Research and Innovation (DG RTD) and the *European Health and Digital Executive Agency (HaDEA)*, and then included in the Commission's *annual management and performance report (AMPR)*.

Regularity of transactions

5.7. Of the 127 transactions we examined, 39 (31 %) contained errors. Based on the 32 errors we have quantified, we estimate the level of error to be 3.3 % (see *Figure 5.2*). *Figure 5.3* gives a breakdown of our *estimated level of error* by error type for 2023, distinguishing between research and other transactions.

Figure 5.2 – Estimated *impact* of *quantifiable* errors

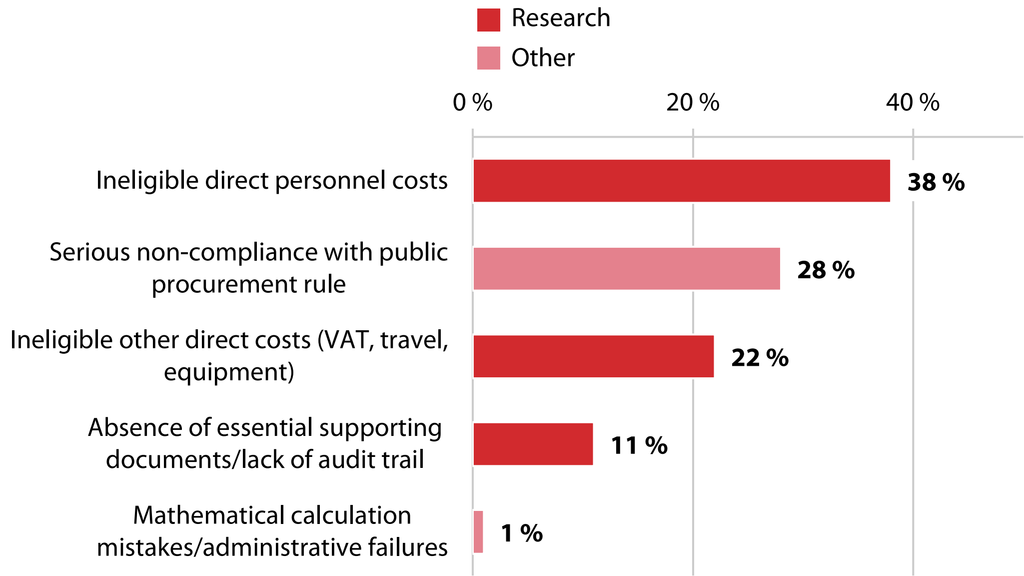


Sample size (transactions)

2019	**2020**	**2021**	**2022**	**2023**
133	133	130	127	127

Source: ECA.

Figure 5.3 – Breakdown of the estimated level of error by error type



Source: ECA.

5.8. Horizon 2020 brought improvements to the design of and the control strategy for EU research and innovation funding[1]. The simplifications of the rules had the potential to reduce the risk of error. However, our audits show that the error rate did not fall below the 2 % materiality threshold even after 9 years of implementation.

5.9. Horizon 2020 spending therefore remains high risk and is the main source of the errors we detect. We found *quantifiable errors* relating to ineligible costs in 30 of the 97 research and innovation transactions in the sample, including one in Horizon Europe. These represent 71 % of our estimated level of error for this heading in 2023.

5.10. In the case of other programmes and activities, we detected quantifiable errors in two of the 30 transactions in the sample, both concerning CEF projects. One of these relates to a serious breach of the EU public procurement rules, which lead to the contract being awarded to a consortium that did not fulfil the selection criteria.

5.11. The Commission had applied corrective measures that directly affected eight of the transactions we sampled. These measures were relevant to our calculations, as they reduced our estimated level of error for this chapter by 0.3 percentage points. In

[1] 2018 annual report, paragraph 5.13, special report 28/2018: "The majority of simplification measures brought into Horizon 2020 have made life easier for beneficiaries, but opportunities to improve still exist".

seven cases of quantifiable errors made by beneficiaries, the Commission (or the auditors contracted by the beneficiaries) had sufficient information in the beneficiaries' periodic reports and supporting documents to prevent, or to detect and correct, the error before accepting the expenditure. Had the Commission, or the auditors contracted by the beneficiaries made proper use of all the information at their disposal, the estimated level of error for this chapter would have been 1.4 percentage points lower.

5.12. We have seen increasingly this year, that beneficiaries report costs in excess of the maximum grant amount specified in the grant agreements, partly because of very high inflation rates in recent years. This agreed practice creates a buffer, i.e. ineligible costs can be replaced by additional expenditure that has been accepted. In our assessment, this practice will become more prevalent as the MFF 2014-2020 programmes come to an end and beneficiaries report their final costs. This year we saw such buffers in 22 (17 %) of the transactions audited. The error found in four of these transactions was reduced by the buffer, while the error found in five other cases was fully offset.

In research expenditure, personnel costs remain those most affected by error

5.13. After 9 years of implementation of the H2020 programme, the calculation of personnel costs remains a major source of error in the cost claims. As we have stated in previous annual reports[2], the methodology for calculating personnel costs is complex, as are the national accounting rules that must be respected. We see the same in the Horizon Europe transactions audited. Of the 30 transactions affected by quantifiable errors in our sample of research transactions, 22, i.e. around 73 %, were affected by incorrect application of the methodology for calculating personnel costs.

[2] 2018 annual report, paragraph 5.16, 2019 annual report, paragraph 4.11, 2020 annual report, paragraph 4.13, 2021 annual report, paragraph 4.12, and 2022 annual report, paragraph 5.13.

Incorrect calculation of the hourly rates in H2020

5.14. As we have pointed out in previous annual reports[3], the rule requiring the use of the annual hourly rate calculated for the most recent closed financial year may lead to errors. We found evidence of this again in 2023.

5.15. Instead of calculating an hourly rate for a financial year, we found that beneficiaries had calculated a rate for either the entire reporting period or only those months of a year that were covered by the reporting period. In three cases, though only one with financial impact, the beneficiary had allocated persons to the EU-funded project at a certain percentage, and claimed the costs according to that percentage, without calculating an hourly rate.

5.16. We also found in seven transactions that incorrect hourly rates had been used due to the inclusion of ineligible costs in the calculation, such as the parental leave allowance (for which the beneficiary had been reimbursed by the state), retroactive payments for salary increases, and ineligible bonuses.

Incorrect calculation of daily rates for Horizon Europe grants

5.17. With the 2021-2027 MFF, the Commission introduced the use of daily rates to reimburse personnel costs. The daily rate is calculated by dividing the annual costs for a member of staff by 215 days in the case of a full-time post. The grant agreements covering the three Horizon Europe projects audited stated that the annual personnel costs for one person must be divided by 215. However, we note that the Commission guidance[4] gives two options: either the standard option of calculating a single daily rate for the full reporting period or that of calculating separate daily rates for each calendar year using only the data applicable to the corresponding months in the reporting period concerned. We see this as an issue, since it creates confusion for the beneficiaries with respect to the correct calculation of the daily rate.

5.18. In two of the Horizon Europe transactions audited we found that the beneficiaries had not based their personnel cost declarations on calculated daily rates. We provide an example in ***Box 5.1***.

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[3] 2019 annual report, paragraph 4.12, 2020 annual report, paragraph 4.14, 2021 annual report, paragraph 4.15, 2022 annual report, paragraph 5.15.

[4] EU Grants: AGA – Annotated Grant Agreement, EU Funding Programmes 2021-2027: version 1.0 –1 May 2024, European Commission

Box 5.1

Example of a beneficiary under a Horizon Europe project not calculating daily rates

A non-profit beneficiary in Belgium received a Horizon Europe grant and declared costs for personnel working on the project over the 13-month reporting period. The beneficiary declared all the costs incurred for a person based on the reasoning that the person had worked exclusively on the project. Hence, the beneficiary did not calculate a daily rate and apply it to the number of days the person had worked on the project. The records showed that the person had worked on it for 208.5 days over the reporting period. As this is lower than the corresponding full-time equivalent in Horizon Europe (215 days per year, 233 days over the reporting period), the costs the beneficiary claimed were too high.

5.19. Though our Horizon Europe sample was limited in 2023, with only three grant agreements, there is a risk that the issues with personnel costs remain, despite the Commission's simplification efforts.

Breaches of the double ceiling rule

5.20. The double ceiling rule stipulates that the total number of hours declared for a person for a year in the case of EU-funded projects may not exceed the number of annual productive hours used to calculate the hourly rate. Moreover, the total amount of personnel costs declared (for reimbursement as actual costs) for any person for the given year may not exceed the total personnel costs recorded in the beneficiary's accounts for the person concerned for that same year. We identified this type of error in eight transactions in 2023. In these cases, beneficiaries declared and were reimbursed for personnel costs in excess of those actually incurred in the year.

Other errors in personnel costs

5.21. Other errors in personnel costs included the declaration of ineligible months in the case of staff working exclusively on the project (e.g. months claimed in full even though the staff had worked for less than half of the working days), and personnel costs (a) claimed in full in the absence of exclusivity declarations or timesheets, (b) claimed for persons whose link to the project could not be demonstrated, and (c) declared in full due to clerical mistakes.

Ineligible other *direct costs*

5.22. A key condition governing the eligibility of costs is that they must be incurred in connection with the action and necessary for its implementation. As reported in 2022[5], again in 2023 we found eight instances where the costs claimed did not meet this requirement. Beneficiaries declared travel and hospitality costs that were not necessary to implement the project, costs for financial management consultancy services of a general nature, and renovation of and furniture for a laboratory where the grant agreement allowed for consumables only.

5.23. Other errors found in other cost categories included ineligible internally invoiced goods and services, costs not incurred, missing supporting documents and incorrect exchange rates.

Transactions with multiple errors

5.24. On many occasions (in 12 of the 32 transactions with quantifiable errors) the beneficiaries claimed ineligible expenditure in two or more cost categories. We see such multiple errors in cost claims from both private and public beneficiaries, as well as from both newcomers and experienced participants. We give an example of such errors in ***Box 5.2***.

Box 5.2

Example of multiple errors in a single cost claim

A public intergovernmental beneficiary in France declared costs for personnel and other services. In the case of one employee, the beneficiary included in the costs a bonus that lacked legal basis and supporting documentation. In that of a second employee, the beneficiary applied an incorrect number of productive hours, leading to an inflated hourly rate. Furthermore, when declaring costs for other services, the beneficiary included VAT amounts, even though the organisation could be reimbursed by the French tax authority.

[5] 2022 annual report, paragraph 5.22

Newcomers and *Small and Medium-sized Enterprises (SMEs)* are more prone to errors

5.25. One of the strategies for boosting European research is to increase private-sector participation, especially by newcomers and SMEs. SMEs represented 11 % of the sample (14 out of 127 transactions) but accounted for 25 % of the estimated error rate. Moreover, we found errors in the cost claims of four of the 12 newcomers we audited, two of which were also SMEs. These results indicate that SMEs and newcomers are more prone to errors than other beneficiaries, as has also been concluded both by the Commission's audits[6] and in our previous annual reports[7].

6 2019 annual report, paragraph 4.16.

7 2018 annual report, paragraph 5.19, 2019 annual report, paragraph 4.16, 2021 annual report, paragraph 4.20, 2022 annual report, paragraph 5.24.

Review of the CINEA’s *ex ante* control system for CEF grants in the transport and energy sectors

5.26. The European Climate, Infrastructure and Environment Executive Agency (CINEA) is responsible for implementing the Connecting Europe Facility (CEF) programme for transport and energy. Two programming periods are currently underway, i.e. CEF1 (2014-2020) and CEF2 (2021-2027).

5.27. According to CINEA’s 2022 Annual Activity Report, in 2022 its *ex ante* controls resulted in the rejection of costs of €84.6 million due to ineligibility and irregularities (1.8 % of the cost claims submitted). This amount covers all grants managed by CINEA, with CEF transport and energy grants representing approximately 70 % of the payments made in 2022.

5.28. The initial *ex ante* control strategy for the CEF1 programme dates from 2016. The strategy focused on those risks with the highest impact on the costs beneficiaries declare for the actions concerned (i.e., certain cost types, high level of contribution or high-cost transactions). In the first instance, CINEA considers the *Certificate on the financial statement* (CFS), if required. A CFS is required where the EU contribution to a project is €325 000 or more. Given the size of the projects, it is expected that most beneficiaries will submit a CFS in the lifetime of a project. The CFS should be based on a sample covering 10 % of a beneficiary’s total cost claim. *Ex ante* assurance is obtained by covering a minimum of 25 %. Hence, CINEA’s checks cover the additional 15 % of the costs declared in the cases where a CFS has been submitted.

5.29. CINEA assessed the *ex ante* strategy in 2017, which resulted in minor revisions (see comparative table in ***Table 5.1***).

5.30. The control strategy for CEF2 took account of the lessons learnt from CEF1’s *ex ante* controls, particularly with regard to the sampling approach. It defines three different sampling approaches (see comparative table in ***Table 5.1***).

Table 5.1 – Comparative table of *ex ante* control sample coverage for the CEF programmes

CEF1 *ex ante* control strategy	CEF1 revision	CEF2 *ex ante* control strategy
Minimum 25 % coverage of total costs claimed per beneficiary without a CFS	Between 15 % and 20 % coverage of total costs claimed per beneficiary without a CFS	Between 10 % and 20 % coverage of total costs claimed per beneficiary, with a minimum of three cost items above €5 000 *(increased sampling)*
Minimum 15 % coverage of total costs claimed per beneficiary with a CFS	Between 10 % and 15 % coverage of total costs claimed per beneficiary with a CFS	Between 5 % and 10 % of the cost categories with the highest share (above 15 % of the total costs) claimed per beneficiary, with a minimum of three cost items above €10 000 *(standard sampling)*
		Maximum 5 % coverage of total costs claimed per beneficiary or no sampling *(reduced sampling)*

5.31. We reviewed the *ex ante* control strategies for CEF1 and CEF2 and the improvement between CEF1 and CEF2. We checked whether the guidelines reflected the strategies, as well as the level of assurance that could be obtained from the *ex ante* controls. This work was complemented by a review of the *ex ante* controls performed on a sample of ten cost claims: seven CEF1s and three CEF2s (CEF2 is still at an early stage of implementation). For these ten files, we checked for adherence to the internal guidelines, the documentation of the work and whether correct conclusions had been drawn.

5.32. The design of both strategies is based on sound analysis of risks and past irregularities. However, while CINEA has both acknowledged that errors in procurement procedures had a big impact in CEF1, and recognised that not all CFS auditors necessarily have sufficient experience in auditing public procurement procedures, it does not envisage performing any in-depth checks on procurement in CEF2 projects in certain cases, for example cases of reduced sampling. Depending on the actual scale of reduced sampling, we consider that this might reduce the level of assurance provided by the *ex ante* controls.

5.33. The sampling approaches of the *ex ante* control strategies for CEF1 and CEF2 are correctly reflected in the corresponding guidelines. However, the guidelines for procurement are not detailed enough, as they do not describe the extent of the checks to be performed on the samples.

5.34. During our review of the above-mentioned ten files, we found that the guidelines had been applied but there was no evidence of the work carried out. Instead, only the result of the work performed, i.e. acceptance or rejection of a cost item, was indicated. In one of the files we found a reduction in the number of cost items sampled, although neither the strategy nor the guidelines provide for such an exception. We reviewed the checks on the invoices and the procurement procedures and found that the conclusions on these were generally correct.

Annual activity reports and other governance arrangements

5.35. The annual activity reports (AARs) we examined (those of DG RTD and HaDEA) reflected the information available in the respective DG/Agency and, based thereon, gave a fair assessment of the financial management in relation to the *regularity* of underlying transactions relating to MFF1 expenditure.

5.36. With regard to Horizon 2020, DG RTD reported a cumulative representative detected error rate of 2.57 % for all DGs and other EU bodies managing EU research spending. The cumulative *residual error rate*, taking into account corrective actions, is 1.55 % (1.64 % for DG RTD alone). The *ex post* audits underlying these error rates covered payments made over the 2014-2022 period. Since January 2023, DG RTD calculates a *representative error rate* based on the methodology recommended by the ECA[8]. This was disclosed in DG RTD's 2023 AAR.

5.37. As the *ex post* audit campaign for the Horizon Europe framework programme is due to be launched only in 2024, DG RTD did not report a detected error rate for the programme in 2023. The target the Commission has set for the Horizon Europe residual error rate is no more than 2 % by the end of the framework programme.

5.38. In its 2023 AAR, DG RTD disclosed nine open Internal Audit Service (IAS) recommendations. Three of the open recommendations were classified as 'very important'. A *reservation* that had been issued on reputational grounds in DG RTD's 2022 AAR, in respect of the late implementation and weaknesses in the governance and control systems of the investment component of the European Innovation Council Accelerator scheme, was lifted because of the timely implementation of the remedial measures. Furthermore, the IAS downgraded the recommendation from 'critical' to 'important' as a result of its follow-up audit in early 2024.

5.39. HaDEA's main relevant expenditure under MFF1 in 2023 related to Horizon Europe, Horizon 2020 and CEF Telecom Digital Service Infrastructure (DSI). With regard to Horizon 2020, HaDEA reported a representative detected error rate of 2.57 % and a residual error rate of 1.74 %. In CEF Telecom DSI's case, it reported an expected representative error rate of 2.82 % and a residual error rate of 2.46 %. Due to the low

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[8] 2018 annual report, paragraph 5.34.

financial significance of the errors, no reservation was issued. The error rates determined during the *ex post* audits of the remaining programmes are relatively low.

5.40. We reviewed the information in the Commission's 2023 AMPR regarding the estimated risk at payment in the policy areas under MFF1. The Commission calculated an error rate of 1.4 % for MFF1. This percentage is at the lower end of our range of estimated level of error and below materiality.

Conclusion and recommendations

Conclusion

5.41. The overall audit evidence we obtained and have presented in this chapter indicates that the level of error in spending on ‘Single Market, Innovation and Digital’ was material. For this MFF heading, our testing of transactions produced an estimated overall level of error of 3.3 %. The research and innovation expenditure is most affected by error, particularly in the area of personnel costs.

5.42. The estimated risk at payment presented in the AMPR is 1.4 %. This percentage is at the lower end of our range of estimated level of error and below materiality. Therefore, in our view, despite the measures already taken by the Commission, this rate remains understated.

Recommendations

5.43. *Annex 5.1* shows the findings of our follow-up review of the recommendations we made in our 2021 and 2022 annual reports that were due to be implemented by 2023. The Commission has implemented three recommendations in full and two recommendations in some respects.

5.44. Based on this review and our findings and conclusions regarding 2023, we recommend that the Commission:

Recommendation 5.1 – Enhance beneficiaries' compliance with the daily-rate rules

For Horizon Europe reporting, introduce measures that go beyond the awareness-raising actions taken to date in order to enhance beneficiaries’ compliance with the daily-rate rules.

Target implementation date: mid-2025.

Recommendation 5.2 – Ensure clarity in Horizon Europe documents

For Horizon Europe, further clarify the rules and methods for calculating daily rates for the personnel costs used in the model grant agreement.

Target implementation date: mid-2025.

Recommendation 5.3 – Develop the guidelines on *ex ante* controls on procurement

Further develop the guidelines describing the extent of the checks to be performed in *ex ante* controls on procurement for CEF projects in respect of the consistency of the selection and award criteria applied with those published in the contract notice.

Target implementation date: end 2024.

Annexes

Annex 5.1 – Follow-up of previous recommendations for 'Single Market, Innovation and Digital'

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that by mid-2023 (H2020) and mid-2024 (HE) the Commission: **Recommendation 1:** Strongly encourages the use of the Personnel Costs Wizard (see paragraph 4.25) (made available in the participant portal), especially by certain categories of beneficiaries that are more prone to committing errors, such as SMEs and new entrants (for H2020).		The recommendation has been fully implemented for Horizon 2020. The development of the software for Horizon Europe has been included in the 2023 IT Work Plan and is currently underway. The ECA will verify its implementation for Horizon Europe next year.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that by mid-2023 the Commission: **Recommendation 2:** Issues guidance to beneficiaries on the specific differences, focusing on the eligibility aspects under Horizon Europe, compared to H2020 and similar programmes.		
2021	We recommend that by end-2022 the Commission: **Recommendation 3** In the case of H2020, improves the existing *ex ante* controls in order to identify and eliminate potential ineligible adjustments made to the personnel costs submitted by the beneficiaries following recalculation of the hourly rates.		The Commission did a feasibility assessment and committed to add a reminder which was to appear when beneficiaries were filling in their financial statements, stating that recalculation of hourly rates is not allowed by the end of 2024.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that by mid-2023 the Commission: **Recommendation 4** Further improves the guidance addressed to the independent auditors that beneficiaries contract to deliver the CFSs, in order to reduce the large number of weaknesses we identified in our audits of these certificates.		
2022	We recommend that by end-2023 the Commission: **Recommendation 2 - Improve experts' evaluations of lump sum grants** For lump sum grants, ensures that expert evaluations of grant applications, in particular the budget proposals therein, are carried out with due considerations of relevant benchmarks and are properly documented.		The Commission published a briefing for experts requiring them to use the dashboard with personnel cost data when evaluating budget proposals. However, the experts are still not required to document their assessments properly. The Commission committed to address this by the end of 2024.

Source: ECA.

Chapter 6

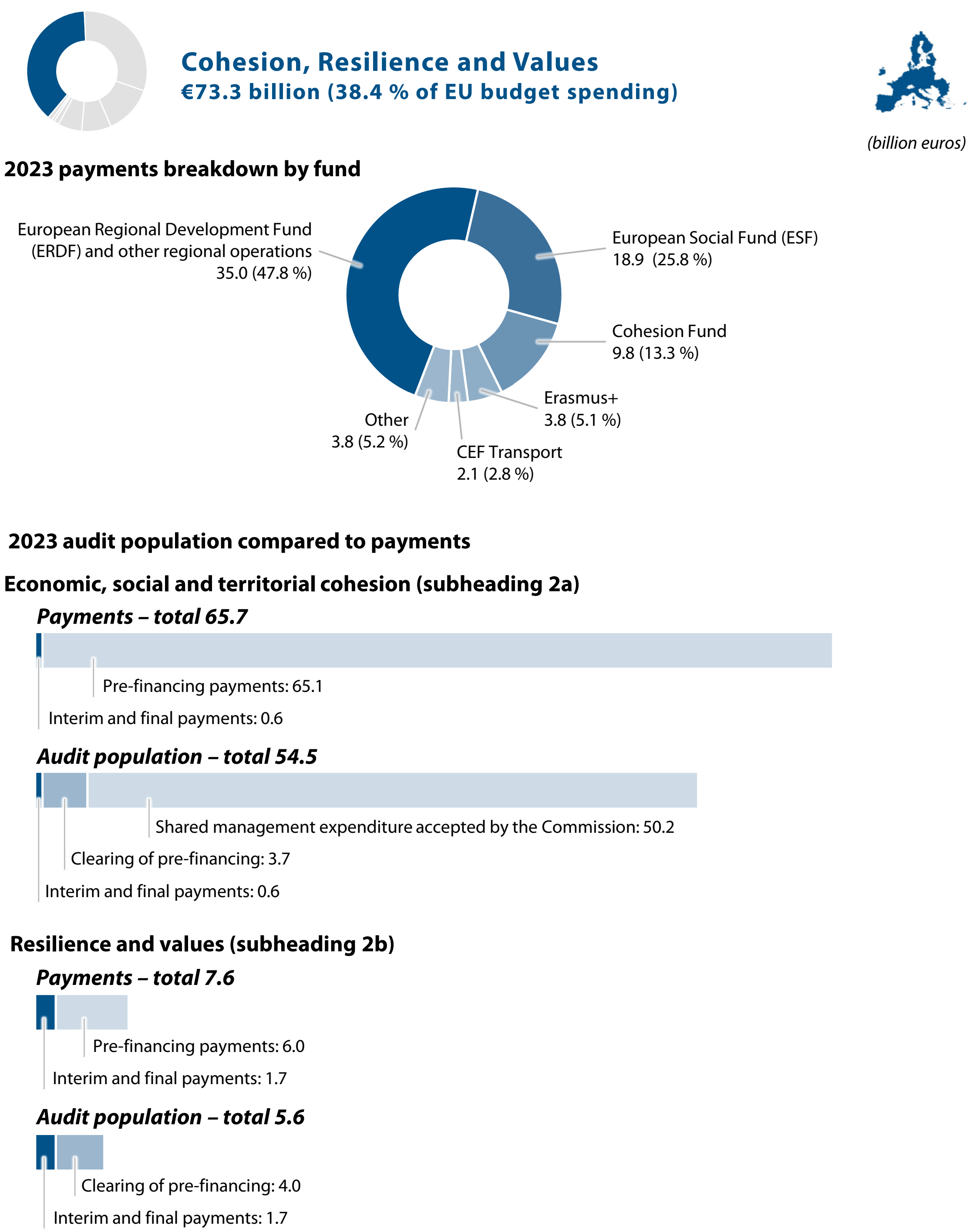
Cohesion, resilience and values

Contents

Introduction

6.1. This chapter presents our findings for *multiannual financial framework (MFF)* heading 2, 'Cohesion, resilience and values'. ***Figure 6.1*** gives an overview of the main spending funds and the amounts involved under this heading in 2023.

Figure 6.1 – Payment and audit population



Source: ECA, based on data from the 2023 *consolidated accounts* of the European Union.

Brief description

Policy objectives and spending instruments

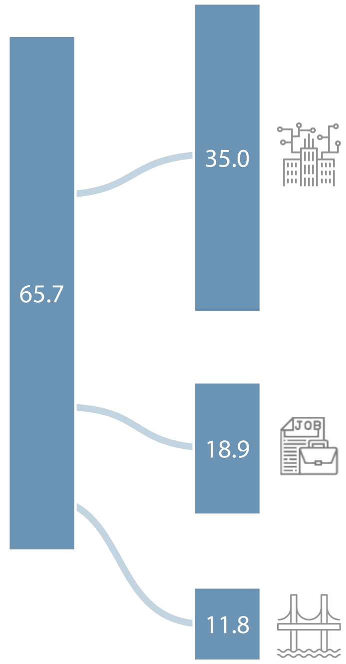
6.2. Spending under this heading focuses on reducing development disparities between the different member states and regions of the EU (subheading 2a), and actions to support and protect EU values, making the EU more resilient to present and future challenges (subheading 2b). ***Figure 6.2*** shows the policy objectives of MFF heading 2, 'Cohesion, resilience and values' (subheading 2a[1] and subheading 2b), and the related funds and instruments[2].

[1] Articles 162 and 174 to 178 of the Treaty on the Functioning of the European Union.

[2] We report on 2023 *Recovery and Resilience Facility (RFF)* expenditure in ***chapter 11***.

Figure 6.2 – Policy objectives and payments *(billion euros)*

Subheading 2a - economic, social and territorial cohesion
aims to reduce development disparities between EU member states/regions.

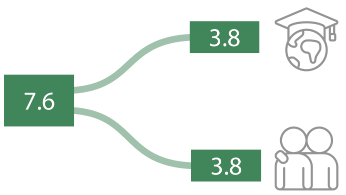


European Regional Development Fund (ERDF)
lessens regional imbalances by supporting innovation and research, digital agenda, SMEs and low carbon economy.

European Social Fund (ESF)
aims to achieve high employment, fair social protection, a skilled and resilient workforce, and inclusive/cohesive societies as key in eradicating poverty; for 2021-2027, includes the Youth Employment Initiative (YEI), Fund for European Aid to the Most Deprived (FEAD), and EU Programme for Employment and Social Innovation.

Cohesion Fund (CF)
promotes sustainable development by financing environment and transport projects in member states with GNI per capita < 90 % of EU average.
The CF helps finance trans-European network projects via the **Connecting Europe Facility (CEF)**.

Subheading 2b - resilience and values
aims to make the EU more resilient by upholding EU values.



Erasmus+
supports education, training, youth and sport by promoting youth mobility and active participation.

Smaller schemes, e.g. Creative Europe, the Citizens, Equality, Rights and Values Programme (CERV), and specific instruments promoting post-COVID economic recovery in the EU (EU4Health, Emergency Support Instrument (ESI), etc.).

Source: ECA.

Management of funds

6.3. The cohesion policy funds (the *ERDF/CF* and the *ESF*) are implemented under *shared management*. ***Figure 6.3*** describes the management, control and assurance processes, and related roles and responsibilities.

Figure 6.3 – Cohesion management, control and assurance processes

Shared management

European Commission

DG EMPL and DG REGIO retain ultimate responsibility for implementing the EU budget

- Approves operational programmes (OPs) and any major projects
- Implements OPs with member states
- Co-finances eligible costs of operations as per OP
- Carries out the annual acceptance of the accounts and performs checks on completeness and accuracy so it can accept the accounts and release the 10 % retained as a guarantee (*).
- Carries out desk reviews of each assurance package and selected compliance audits in member states. The Commission performs these checks to validate the residual error rates reported by audit authorities, then publishes them in its annual activity reports (AARs) for the following year, alongside a weighted average as a key performance indicator.

Member states

National/regional authorities

- Submit multiannual OPs for entire MFF
- Co-finance eligible costs of operations as per OP

Managing authorities

- Manage OPs by ensuring regular cohesion spending
- Select operations
- Verify all expenditure based on payment requests from beneficiaries
- Check the eligibility of expenditure before it is certified to the Commission

Certifying authorities

- Draw up and submit payment applications
- Draw up and certify accounts

Audit authorities

- Verify expenditure included in the annual accounts
- Draw up annual control report that contains the residual error rate for the OPs and an audit opinion on the regularity of declared expenditure and the effective functioning of management and control systems.

Beneficiaries

- Commit to achieve output and results indicators included in grant agreements
- Implement operations
- Receive reimbursements through managing authorities (EU and national/regional contributions)

(*) Article 130 of the Regulation (EU) No 1303/2013 limits the reimbursement of *interim payments* to 90 %.

Source: ECA.

6.4. *Audit authorities* play a key role in the control and assurance framework for 2014-2020 spending under shared management[3]. By reporting the *residual error rate*[4], they contribute to ensuring that the level of *irregularity* in the *operational programme's (OP's)* annual accounts remains below 2 % (*materiality threshold* for *legality* and *regularity*[5]) of the amount declared. After checks by their *managing authorities*, which are the 'first line of defence', the member states certify each OP's annual accounts and report to the Commission which is ultimately responsible for implementing the EU budget. To this end, the control and assurance process builds on the combined work on regularity at all three levels as shown above in ***Figure 6.3***.

6.5. MFF heading 2, 'Cohesion, resilience and values', also covers EU funding through *programmes* or actions that are managed either directly by Commission DGs[6] or indirectly with the support of partner organisations or other authorities such as *Erasmus+* national agencies, mostly in the subheading 2b (see ***Figure 6.2***). For smaller schemes under subheading 2b, the Commission is solely responsible for ensuring the regularity of the spending.

Audit scope and approach

6.6. The objective of our audit work was to contribute to the overall *statement of assurance (SoA)* as described in ***Annex 1.1***, and to provide an assessment of the regularity of expenditure, both under MFF heading 2 as a whole and for the cohesion policy funds (subheading 2a). In doing so, we assessed the reliability of the work of the audit authorities and the Commission's audit function.

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[3] 2017 annual report, paragraphs 6.5-6.15 and 2018 annual report, Figure 6.1.

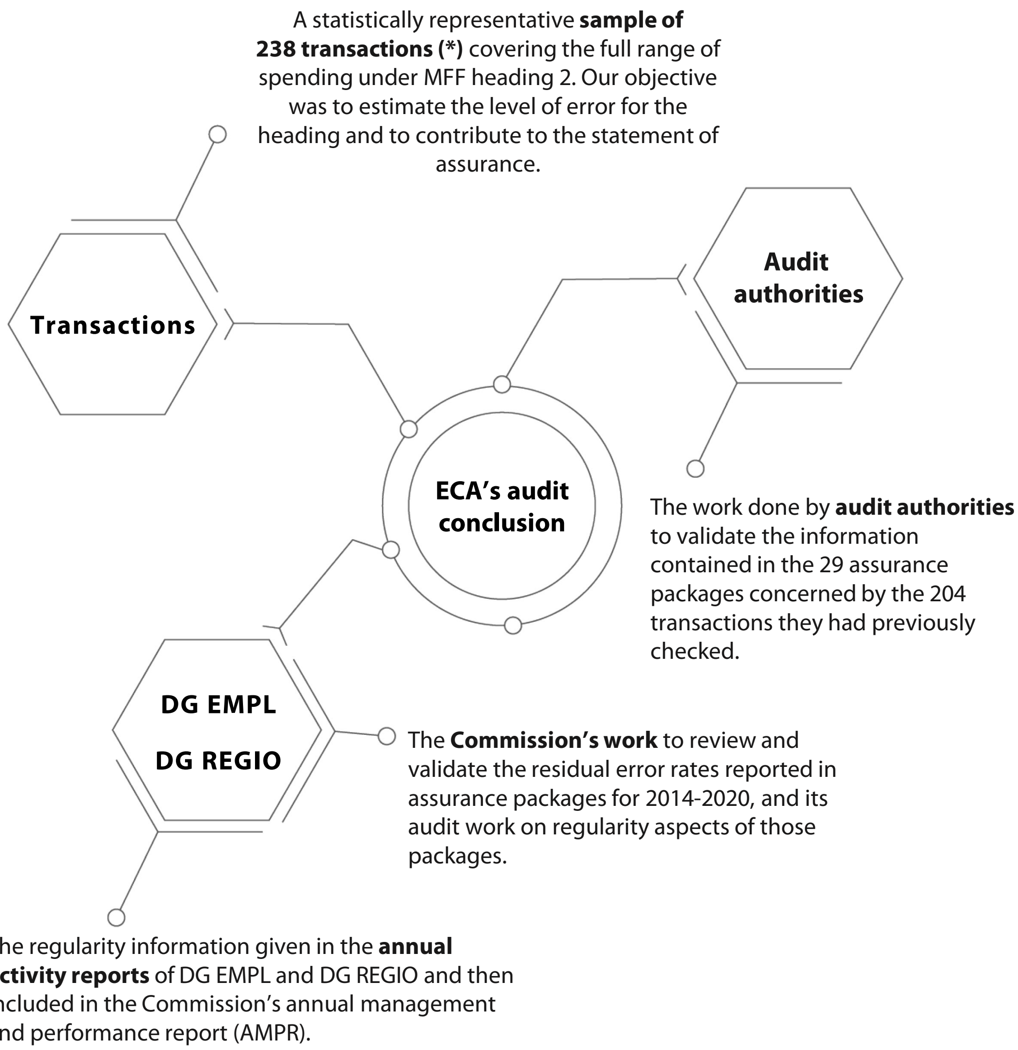
[4] In its *Annual Activity Reports (AARs)*, the Commission refers to a '*residual risk rate*' (RRR) when dealing with closure for the 2007-2013 *programming period* and to a 'residual total error rate' (*RTER*) when dealing with the 2014-2020 programming period. In this chapter, we refer to both as 'residual error rate(s)'.

[5] Article 28(11) of Regulation (EU) No 480/2014 supplementing Regulation (EU) No 1303/2013.

[6] DG EAC, DG EMPL, DG HERA, DG REFORM, DG REGIO, DG SANTE and *European Climate, Infrastructure and Environment Executive Agency (CINEA)* under the supervision of DG MOVE in relation to expenditure in our 2023 population.

6.7. To draw these audit conclusions, as in previous years, we applied the same approach and methods to auditing cohesion spending as set out in ***Annex 1.1***, examining the elements described in ***Figure 6.4***.

Figure 6.4 – Elements audited



(*) For the cohesion policy funds, the **sample** consisted of 204 *transaction*s for which expenditure had been certified in *assurance packages* (which had been checked previously by an *audit authority*), as well as 12 *financial instruments* (subheading 2a). The sample also included 22 transactions directly or indirectly managed by the Commission (8 under subheading 2a and 14 under subheading 2b).

Source: ECA.

6.8. Of the overall population consisting of €60.2 billion (see ***Figure 6.1***), shared management expenditure from the 2014-2020 period represented €50.2 billion, which was included in accepted accounts submitted in 416 OPs and 357 assurance packages for the 2021/2022 accounting year. In addition, expenditure from the

2007-2013 period under the nine OPs which the Commission had closed or partially closed[7] in 2023 (€0.4 billion) were also included.

6.9. In respect of the 2021-2027 period, the Commission made advance payments of €3.9 billion and interim payments of €1.9 billion during 2023. We did not sample this spending, as we only do so when the expenditure paid by beneficiaries has been reimbursed, audited by the *programme authorities*, included in payment claims paid and incorporated into the accepted accounts by the Commission[8].

6.10. From early 2020 onwards, the EU took a number of actions to address the challenges such as the COVID-19 pandemic (*Coronavirus Response Investment Initiative (CRII)* and CRII+) and refugee and migratory challenges (*Cohesion's Action for Refugees in Europe (CARE)*). These actions comprised procedural simplifications for 2014-2020 cohesion policy funds, including the possibility of 100 % EU co-financing. Our sample also included projects benefiting from this possibility. In addition, the *REACT-EU* initiative provided additional funding with up to 100 % EU co-financing rate. As the eligibility period for the 2014-2020 expenditure ended on 31 December 2023, the additional funding provided through REACT-EU may have added pressure to spend[9]. At the same time, the 100 % co-financing rate has allowed for a faster *absorption* of the available funding for the 2014-2020 programmes by member states.

6.11. We used a two-stage approach when selecting our sample of 204 transactions, from expenditure certified in assurance packages during 2023. We first selected 29 packages (35 in 2022) from the 2014-2020 period, covering 58 *OPs* (66 in 2022). From these, we sampled transactions which had been checked by the audit authorities. For 2023, we carried out on-the-spot audit visits for 88 transactions (67 for 2022). This allowed us to interview programme authorities' staff and beneficiaries, obtain additional evidence such as original documents and perform physical inspections of EU-funded *output*.

6.12. For the 2021/2022 accounting year, the member states reported disbursements through financial instruments under 124 OPs (€3.0 billion) (128 OPs and

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[7] The Commission pays only the uncontested amounts, and issues which have a material impact remain open. The final balance is paid and the OP closed once all outstanding issues have been resolved.

[8] By April 2024, the Commission had adopted 354 programmes for the ERDF, the CF and the ESF+ under the 2021-2027 period.

[9] Special report 02/2023: "Adapting cohesion policy rules to respond to COVID-19".

€5.5 billion for 2022). We sampled 12 financial instruments (15 in 2022) from the 2014-2020 period for which payments had been made to *final recipients*. From this sample we audited 67 loans, 36 management fees, 31 *equity* and *quasi-equity investments* and 21 guarantees.

6.13. ***Annex 6.1*** contains a breakdown of our sample of transactions and transaction-related findings we identified in the 27 member states and the United Kingdom[10] for MFF subheading 2a.

6.14. As part of our testing for 2023, we also sampled 22 transactions from €6.9 billion of spending on programmes under the Commission's *direct or indirect management*. This covered the *Cohesion Fund (CF)* contribution to the *Connecting Europe Facility (CEF)*, Urban Innovative Action, Erasmus+, *Emergency Support Instrument (ESI)* contribution to the development and supply of COVID-19 vaccines, and transactions in relation to the Commission's service and works contracts.

[10] The United Kingdom's programmes under the 2014-2020 period are still part of the MFF heading 2 expenditure.

Regularity of transactions, AARs and other governance arrangements

Results of our transaction testing

6.15. For 2023, we estimate the level of error for MFF heading 2 at 9.3 %[11] (see ***Figure 6.5***). This is based on our audit of 238 transactions, in which we identified and quantified 49 errors (50 in 2022) which had not been detected or had been insufficiently corrected by audit authorities. Our estimate also includes the findings of audit authorities, which reported 52 errors (58 in 2022) in the same transactions. In arriving at our estimate, we took account of the corrections applied by programme authorities (total value €337.0 million).

6.16. According to Article 287(2) TFEU, "*The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound*. *In doing so, it shall report in particular on any cases of* irregularity". The error rate represents the share of declared expenditure for which our work shows that the conditions for payment set out in the *Financial Regulation*, the *Common Provisions Regulation (CPR)* and the regulation on the protection of the EU's financial interests have not been met in one or more ways. Errors of this type lead to a direct and measurable financial *impact* on the payment amount authorised at the time from the EU budget. However, the *estimated level of* error we report should not be interpreted as being equivalent to the potential amount of *financial corrections* the Commission can impose in accordance with the applicable rules. We are currently conducting a *performance* audit on whether the Commission's financial corrections in Cohesion are designed and applied to protect the EU budget. With this audit we intend to assess whether the financial corrections are an effective tool and whether the Commission has been making effective use of it to protect the EU's financial interests during the 2014-2020 period. The *results* of this audit are planned to be published in a special report by mid-2025.

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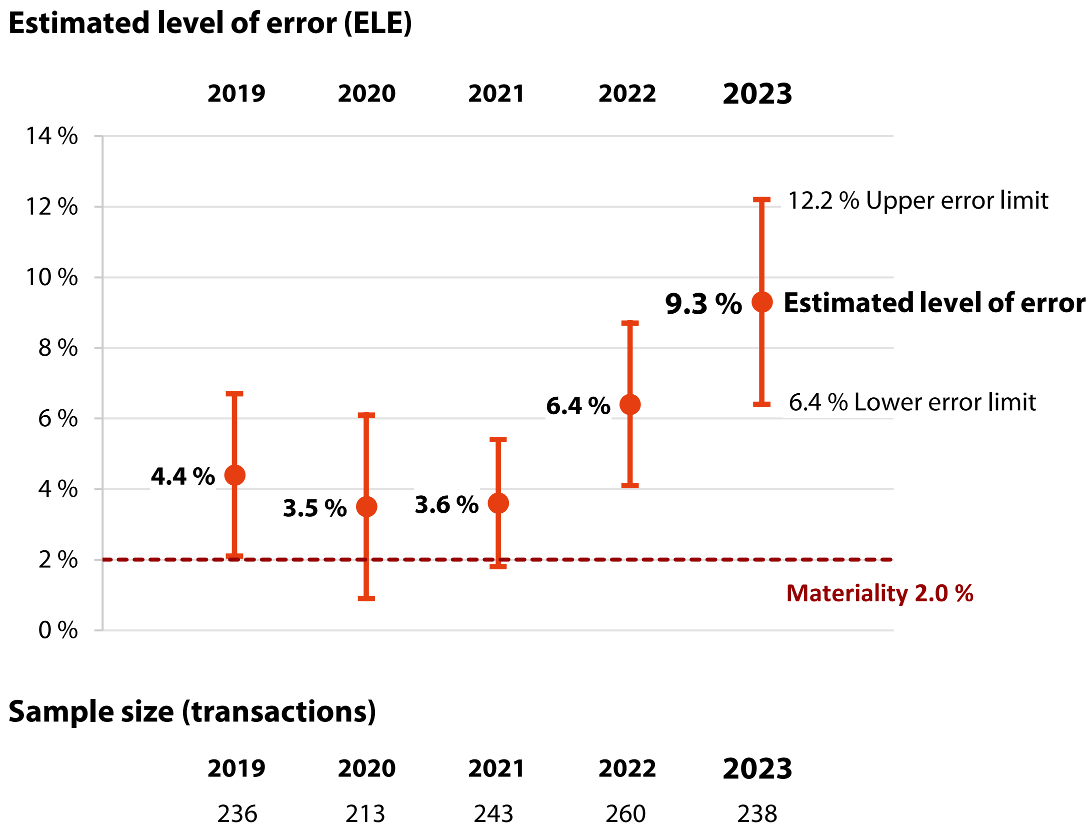
[11] The estimated level of error for subheading 2a only is 10.1 % (lower error limit 6.9 %, upper error limit 13.3 %). The estimated level of error for cohesion policy funds only is 10.1 % (lower error limit 6.8 %, upper error limit 13.4 %).

Figure 6.5 – Estimated impact of quantifiable errors

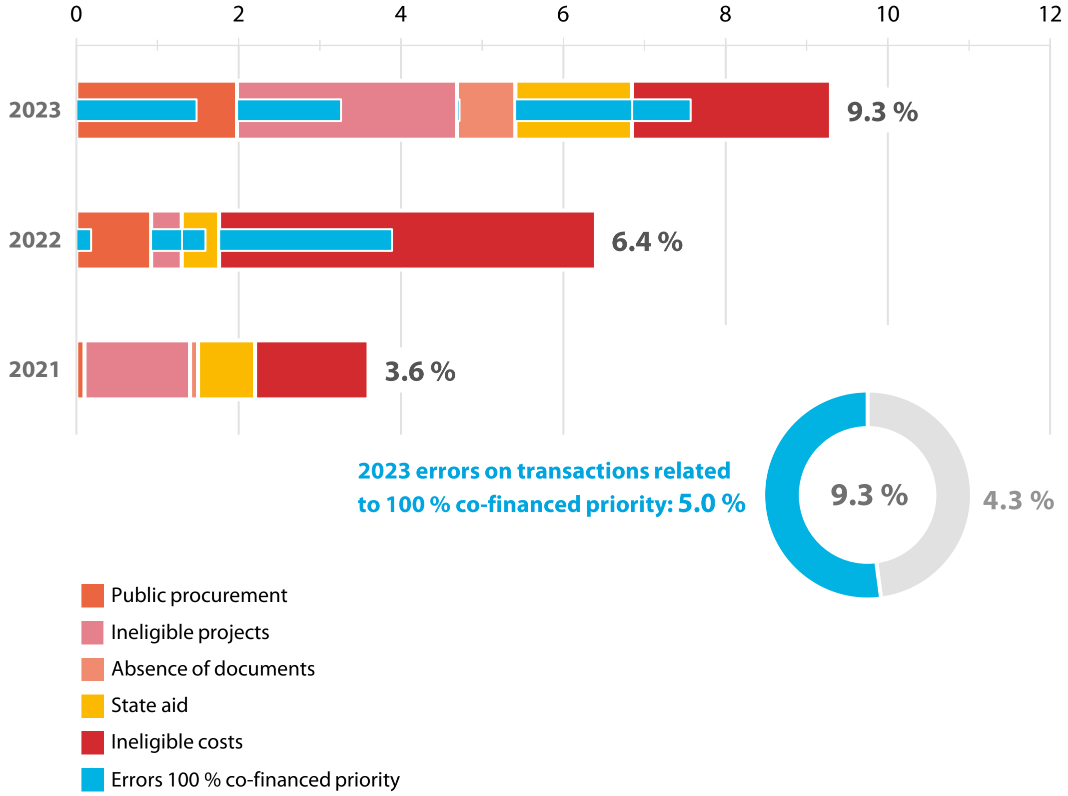


Source: ECA.

6.17. This year our error rate estimate is again significantly above the 2 % materiality threshold. We note that several factors put additional pressure on member state administrations and increased the risk regarding their capacity to ensure that spending was regular and in line with the principles of *sound financial management*. These factors include the significant additional REACT-EU resources being made available, and the end date of 31 December 2023 for the 2014-2020 cohesion eligibility period, which for the last few years overlaps with the eligibility period of the RRF.

6.18. ***Figure 6.6*** compares this year's estimated level of error in percentage points with the figures for the last 2 years. It also shows the overall contribution of the estimated levels of error (see blue bars) related to transaction with additional funding REACT-EU and flexibility through CRII+ and CARE.

Figure 6.6 – Comparison of the contribution to the Estimated Levels of Error (ELE) per category
(percentage points)



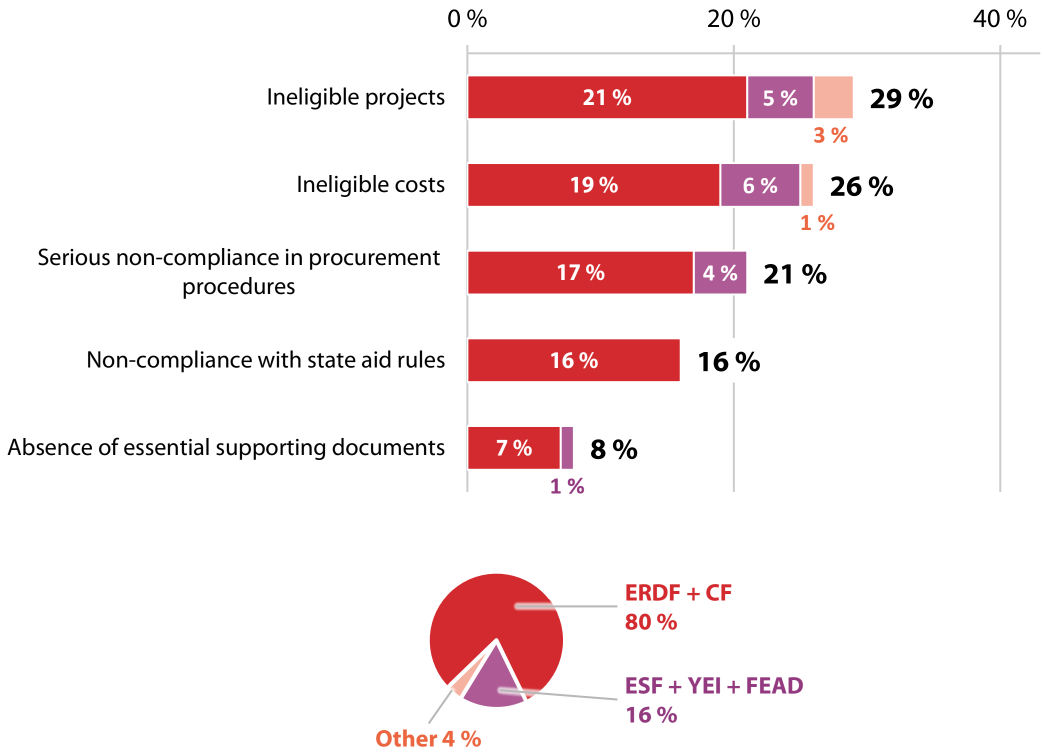
Source: ECA.

6.19. The 52 *quantifiable errors* reported by the audit authorities concerned ineligible costs (34), irregularities in *public procurement procedures* (12), missing supporting documents (3), accounting and calculation errors (3), *simplified cost options (SCOs)* (2), and infringements of *state aid* rules (2)[12]. The member states had applied financial corrections to correct the individual errors identified and with a view to bringing the residual error rates to or below the materiality threshold of 2 %. Our error rate takes into account the corrections made by the national authorities.

6.20. *Figure 6.7* shows the 49 errors we found in addition to those detected or not sufficiently corrected by the audit authorities on the same transactions. We provide an analysis by category (before taking account of financial corrections) and by EU fund. Ineligible projects, ineligible costs and infringements of public procurement rules contributed most to our estimated level of error. Paragraphs *6.21*-*6.38* provide more information on these errors.

[12] A single transaction may be affected by more than one type of error.

Figure 6.7 – Contribution of the errors we found to the overall error rate



Source: ECA.

Ineligible projects identified

6.21. We identified seven ineligible projects (three in Czechia, one in Spain, Hungary, Poland, and one in direct management). See an example in ***Box 6.1***. These projects accounted for 14.3 % of all the quantifiable errors we detected, and approximately 2.7 percentage points of the estimated level of error (a 29 % error contribution).

Box 6.1

Project financed despite ineligibility

A private company in Czechia received ERDF funding to purchase new IT equipment with a view to increasing sales and competitiveness. The call required applications to sufficiently describe individual project items and justify their link to the project’s activities on penalty of exclusion.

We found that the company did not sufficiently describe and justify the IT equipment for purchase in its project application. Furthermore, the majority of the equipment did not directly relate to the project activities or comply with the 'project's *economy*' criterion.

The *managing authority* should therefore have excluded the project application from funding. Therefore, we consider the project ineligible.

Moreover, our on-the-spot visit revealed that some of the newly purchased equipment was not used by the *beneficiary*, but rather by its subsidiary company which was not eligible for funding through the call issued under the programme in question.

Therefore, we consider the costs relating to the equipment used by the subsidiary company ineligible.

Ineligible costs found

6.22. When member state authorities declare expenditure to the Commission in their accounts, they certify that it was incurred in compliance with the applicable EU and national rules, and that aid was granted to beneficiaries and operations that met the OP eligibility requirements. The assurance package contains even an explicit statement in the management declaration, that this expenditure is fully legal and regular.

6.23. In our sample, we found 25 cases of ineligible costs that had not been detected by the audit authorities despite them checking the same transactions. The main causes of ineligibility were costs not related to the project, ineligible participants, and expenditure not paid by the beneficiary. These cases accounted for 51 % of the total number of quantifiable errors we found, and approximately 2.4 percentage points of the estimated level of error (a 26 % error contribution).

6.24. *Box 6.2* gives an example of ineligible expenditure.

Box 6.2

Ineligible COVID-19 emergency support: self-declarations of final recipients not supported by evidence

We audited a regional ERDF operation in Italy aiming to provide financial support in sectors affected by COVID-19 restrictions. Under the audited operation, the region granted income support in the form of non-repayable *lump sums* to over 1 500 final recipients (SMEs, self-employed persons, or associations) in the targeted sectors, calculated on the turnover of the year 2019. The call required final recipients to declare that they met the eligibility criteria.

We audited the expenditure related to 30 final recipients. We found that the audit authority had not checked their self-declarations against adequate supporting evidence. One final recipient declared that it had no pending repayments related to previous financial aid, even if a previous aid had been revoked by the regional authorities the year before the self-declaration and not paid back by the final recipient. At our request, the authorities checked the self-declaration and found, that the final recipient had not yet repaid the previously revoked aid. Consequently, they launched a procedure to also revoke the audited ERDF financial support to this final recipient. The authorities then allowed the final recipient to pay back the previously revoked aid (co-financed under the 2007-2013 ESF OP) in instalments, considering that this would resolve the eligibility issue regarding the ERDF operation.

However, we consider the expenditure ineligible, as the final recipient did not meet the eligibility criteria when it applied for the ERDF funding and made a declaration contradicted by the available documentary evidence, so the authorities' initiative does not eliminate the irregularity. We also found two other final recipients whose self-declarations were not supported by adequate evidence, and three final recipients who were ineligible on other grounds.

This confirms the ongoing relevance of our recommendation[13] in the 2022 annual report regarding the need for audit authorities to have appropriate methods in place to check the validity and reliability of self-declarations.

Infringements of internal market rules detected: public procurement and state aid

27 cases of non-compliance with EU or national public procurement rules

6.25. Public procurement rules are key to ensuring that public money is spent economically and efficiently while respecting the principles of transparency, proportionality, equal treatment and non-discrimination. Furthermore, public procurement is a key part of the effective functioning of the EU single market. We

[13] 2022 annual report, recommendation 6.5.

audit the compliance of transactions with the CPR-required EU and national public procurement rules[14].

6.26. In 27 procedures we audited as part of our sample, we identified cases of non-compliance with EU or national public procurement rules in Czechia, Hungary, Portugal, Romania, and one in *direct management*. We classified the errors which are serious breaches of EU and national procurement rules as quantifiable. We found seven such cases in Czechia, Hungary and Portugal. All these irregularities went undetected by audit authorities, even though they examined the same transactions or they were detected but not sufficiently corrected (Hungary). ***Box 6.3*** gives examples of unjustified direct awards in Hungary and Portugal. The seven cases we classified as quantifiable accounted for 14.3 % of all such errors we found, or approximately 2.0 percentage points of the estimated level of error (a 21 % error contribution).

Box 6.3

Unjustified direct award for consultancy services

For one ERDF-funded project in Portugal, the beneficiary was a private-sector association responsible for supporting *small and medium-sized enterprises' (SME)* development by contracting consultancy services to be provided to SMEs to help them access foreign markets.

The association did not carry out any public procurement procedure for several consultancy services, as it did not think it needed to.

However, as most of the association's income came from public sources, it was required to launch a public procurement procedure under national legislation. The audit authority did not identify this issue when it checked the project.

We consider that the beneficiary signed an unjustified direct award for the consultancy services, contravening national procurement legislation.

Unjustified direct award for legal assistance

In Hungary, a consortium of three entities (the beneficiary) received a *grant* to provide free legal assistance to employees and employers in relation to labour law and other legal and business issues.

The beneficiary launched an initial open public procurement procedure because the amount involved was above EU threshold. However, the national public

[14] Article 6 of the CPR: 'Operations supported by the ESI Funds shall comply with applicable Union law and the national law relating to its application ('applicable law')'.

procurement control body concluded that the bidders' conduct may have unlawfully distorted competition, and therefore provided a negative opinion on the procedure. Subsequently, the beneficiary divided the initial contract into a number of lower-value contracts. Each contract individually was below the threshold set by the EU Public Procurement Directive, and consequently contracted through direct award procedures, rather than by open tender. The beneficiary awarded one of these contracts to a bidder involved in the suspected collusion in the initial tender procedure.

We consider the expenditure related to these contracts ineligible due to the absence of a public procurement procedure compliant with the EU Public Procurement Directive.

6.27. The remaining 20 of the 27 cases of non-compliance with EU or national public procurement rules mentioned in paragraph ***6.26*** had no direct impact on the payment made and therefore, we did not classify them as quantifiable. However, for five of these cases the member states should have applied a financial correction in accordance with the Commission's guideline[15].

6.28. EU and national law stipulate that contracting authorities must avoid conflicts of interest when carrying out procurement procedures. ***Box 6.4*** gives two examples we found where conflicts of interest impacted the public procurement outcome. This confirms the ongoing relevance of our recommendation in the 2022 annual report[16] regarding thematic audits on conflicts of interest.

Box 6.4

Mayor acted for the contracting authority and the winning bidder

In Hungary, the contracting authority for an ERDF project we audited was a municipality, which launched a public procurement procedure to renovate a municipal daycare facility, as the value was above the national threshold. However, they failed to publish a contract notice.

The *intermediate body* found that the mayor of the municipality was involved in the preparation of the procurement procedure and in the decision-making process, while also acting on behalf of a company owned in full by the municipality and exercising ownership rights over the winning company. He thus acted on

15 Decision C(2019) 3452.

16 2022 annual report, recommendation 6.3.

behalf of both the contracting authority and the winning bidder, without taking appropriate measures to mitigate the conflict of interest.

The audit authority detected and correctly established the existence of a conflict of interest. However, instead of applying a financial correction of 100 % as specified by the Commission guidelines, the audit authority only applied a 10 % correction to the costs affected by this irregularity. We consider that the audit authority unduly justified the inadequate mitigation of the conflict of interest on the grounds of extenuating circumstances.

Successful tenderer co-drafted specifications

We audited an operation in Czechia involving the construction of an automated bicycle parking tower. The contracting authority, a public body, conducted a simplified open public procurement procedure. Under such procedures, authorities must treat economic operators equally, avoiding discrimination and conflicts of interest.

We found that part of the technical specifications was drawn up by a company that was co-owned by the sole bidder and included as the key subcontractor. The general part of the tender documentation showed an image of the winning bidder’s product and included a general disclaimer that if references to concrete brands or specific products are mentioned in the tender documentation, ‘equivalent’ solutions are allowed. Contrary to this general statement, the specifications were tailor-made to the sole bidder´s product in such a detailed way that *de facto* did not allow for equivalent products to be awarded the tender. For example, the specification set a requirement for exactly 118 bike places, the capacity of the product of the sole bidder that drew up the technical specifications, even contrary to the feasibility study which set out a number of 126 bikes.

The technical specifications of the subject matter were not objectively justified by the contracting authority´s needs as required by the national law. By awarding the contract to the only bidder that had co-drafted the discriminatory technical specifications and ensured for itself an advantage against other manufacturers of bike towers on the EU market, the contracting authority accepted a conflict of interest and breached national public procurement law.

6.29. We audited four Hungarian public procurement procedures that were subject to a 10 % flat rate correction for management and control system weaknesses previously discovered by the Commission. The Commission recommended the audit authority not to audit the initial contracts subject to the flat rate correction, but to limit its audit scope to subsequent modifications of these contracts only. With this approach, it is unlikely that cases of *fraud* and conflict of interest for the initial contracts would be detected. For the four public procurement procedures we audited we found errors with an impact above 10 %. In general, there is a risk that the correction of 10 % is not sufficient, and fraudulent cases remained undetected, which poses a risk to the financial interests of the EU.

Four projects infringed state aid rules

6.30. This year, we identified four projects that infringed the EU's state aid rules in Poland. We consider that these should have obtained either less public funding or none at all. These projects accounted for 8.2 % of all the quantifiable errors we found, and approximately 1.5 percentage points of the estimated level of error (a 16 % error contribution).

6.31. In ***Box 6.5*** we provide an example of an infringement of state aid rules in Poland.

Box 6.5

Inadequate application of state-aid rules: incorrect declaration of investment costs as operating expenses, rather than depreciation

Three large private companies in Poland received grants for R&D projects under the *General Block Exemption Regulation (GBER)*. The three unrelated projects aimed to develop innovative technologies to be used for the beneficiaries' business activities following project completion.

Our audit showed that all three projects contravened Article 25 of the GBER by wrongly declaring full equipment costs for the new co-financed production lines. According to this article, where equipment is used beyond project completion, only the depreciation costs of the investment during the project lifespan are eligible to be co-financed by the EU.

We therefore conclude that a significant proportion – ranging between 69 % and 94 % of the aid granted for these projects – was non-compliant with state aid rules and therefore ineligible for funding.

We reported the same type of infringement in our 2022 annual report[17], yet we found three projects in 2023 affected by this type of error, indicating a deficiency of the system in this respect.

[17] 2022 annual report, box 6.5.

Essential supporting documents absent

6.32. Beneficiaries and programme authorities are required to maintain systems and procedures that ensure an adequate *audit trail* to prove the eligibility of the expenditure. This includes keeping sufficient and appropriate documentary records of the evidence supporting audit conclusions[18]. Furthermore, the CPR requires that documentation be maintained for at least 2 or 3 years after the acceptance of the accounts[19]. Obtaining and retaining proper documentation is essential to the effective functioning of the control systems.

6.33. We found that supporting information or documentation was not available in eight of the transactions we examined. We classified six of these errors as quantifiable, because neither the programme authorities nor the beneficiaries could provide essential documents demonstrating compliance with the eligibility conditions. ***Box 6.6*** gives an example. These errors had a direct and measurable financial impact on the amount of the underlying transactions financed from the EU budget. They accounted for approximately 12.2 % of the transactions we quantified, and 0.7 percentage points of the estimated level of error (a 8 % error contribution).

[18] *International Standard on Auditing (ISA)* 500, Audit evidence and 230, Audit documentation.

[19] Article 140(1) of the CPR: '…operations for which the total eligible expenditure is less than €1 000 000, are made available to the Commission and the European Court of Auditors upon request for a period of three years…'.

Box 6.6

Insufficient audit trail of project implementation

In Czechia, we audited an EU co-financed project focused on developing new diagnostic methods to detect unstable arterial plaques, and on developing and testing two prototypes. The operation was implemented under the 'Enterprise and Innovation for Competitiveness' OP.

Although the development of these new diagnostic methods was one of the objectives of the audited operation, the beneficiary did not provide any evidence proving the development of any such methods.

The beneficiary should also have kept a detailed record of the testing of the functionality of the prototypes, but did not provide us with any such evidence.

There was no evidence to prove that the project was implemented as foreseen in the grant agreement. We have quantified this error due to the absence of essential supporting documents.

Issues raised for financial instruments

6.34. Financial instruments – mainly loans, guarantees and equity – are a reimbursable form of support. Disbursement through financial instruments decreased from €5.5 billion in the 2020/2021 accounting year to €3.0 billion in the 2021/2022 accounting year audited.

6.35. Out of the 12 transactions covering 119 final recipients and 36 management fees we audited, we found seven final recipients who received support despite either operating in an ineligible economic sector (one in Italy and two in Slovenia) or not complying with the eligibility criteria (one in Germany) or the funding agreement (two in Italy and one in Hungary). We quantified the cases in Slovenia (see ***Box 6.7***) and in Germany. These cases will remain ineligible at *closure* of the OPs.

Box 6.7

Aid granted to ineligible sector

We audited a financial instrument in Slovenia aimed at promoting entrepreneurship by improving SME access to equity and quasi-equity funding sources. The national framework funding agreements exclude real-estate activities and the corresponding IT services and investments from receiving aid.

We identified two final recipients carrying out ineligible activities related to real estate and corresponding IT services. One created and ran an online platform for renting out offices and conference rooms. The other ran an online platform offering mobile homes for sale or rent and also renting out land for mobile homes. Therefore, the two final recipients and their activities as supported by the financial instrument are ineligible.

Transactions managed directly or indirectly by the Commission

6.36. This section of the report represents our findings for expenditure managed directly or indirectly by the Commission i.e. not under shared management. We identified and quantified the case of an ineligible project funded under direct management via the CEF instrument in Slovakia (see ***Box 6.8***). In Slovenia and France (under the Urban Innovative Action) we also found cases of non-compliance with public procurement rules.

Box 6.8

Exclusion criteria not applied, and EU financial interest not sufficiently protected

In Slovakia, we audited an operation that was part of a global project implemented through one public procurement procedure, co-financed by both the Cohesion Fund and the CEF.

The *executive agency* of the Commission approved the grant based on an incorrect self-declaration. We found that the beneficiary representatives with decision-making and control powers had been convicted for professional misconduct, which should have led to the exclusion of the beneficiary under the CEF call for proposals. Therefore, the project was ineligible for EU financial support.

Moreover, for the cohesion part of the project, the managing authority applied a 25 % financial correction for the unjustified extension of the project duration.

The beneficiary reported the 25 % financial correction to the relevant executive agency. The grant agreement for the CEF part sets out the penalties to be applied to the beneficiary in case of serious breaches in public procurement. These penalties can be up to 10 % of the value of the grant. However, the agency concerned disbursed the final payment without applying the possible reduction provided for in the grant agreement.

Therefore, we observed that the same public procurement irregularity was assessed and corrected differently compared to the same error in shared management. There is not the same level of protection of the financial interest in case of public procurement errors.

6.37. We identified a case concerning the ESI contribution to an unsuccessful development of COVID-19 vaccines. We found that the Commission accepted the contractor’s financial statement without analysing the underlying transactions or requesting supporting documentation, and therefore did not raise any objections to the proposed amounts within the 30-day period foreseen in the contract. The financial statement submitted by the contractor included both project commitments and actual expenditure for the development of the vaccines. We detected that at least €19.6 million of commitments assumed by the contractor were not incurred as expenditure. We also detected ineligible costs in an action funded under Erasmus+ in Spain.

6.38. The total quantified cases under direct and indirect management account for approximately 0.4 percentage points of our estimated level of error. The contribution of the cases we quantified is taken into account in ***Figure 6.6***.

Lack of follow-up on the commitment to achieve performance target included in grant agreements

6.39. During our work, we identify and report also on issues, which have no direct impact on initial payment to the beneficiary but involve a financial risk and/or could lead to financial corrections, for example, if the beneficiary does not comply with its commitments to achieve performance *targets*.

6.40. The EU supports projects that aim at achieving the OPs' objectives. Therefore, beneficiaries are sometimes required to make a contractual commitment to achieve the target value of *result indicators* contributing to these objectives, either at payment or a defined time after the payment is made.

6.41. We identified two cases in Bulgaria where the beneficiary did not fulfil the respective performance indicator. We quantified one of these cases because the national authorities should have applied a financial correction in accordance with the grant agreement before certifying the expenditure to the Commission. In the other case, a beneficiary completed the project and had the obligation to report on one of the result indicators 2 years later. Our audit, which took place once the indicators were available, found that the beneficiary did not fulfil this commitment.

Our assessment of the work of audit authorities in shared management

Managing authorities are the 'first line of defence' against irregular spending and audit authorities are the 'second line of defence'

6.42. The inherent risk of error in cohesion spending is high. Beneficiaries can make errors when claiming for EU funding, either inadvertently including when they do not have sufficient knowledge of the often complex rules, or sometimes even deliberately.

6.43. Managing authorities are the 'first line of defence' in detecting and correcting the errors in expenditure declared by beneficiaries. Their checks are important for helping to ensure the compliance of the operations with the legal framework and their performance. However, our audit results over the last 7 years demonstrate that these controls are not yet sufficiently effective.

6.44. Audit authorities are the 'second line of defence' in the framework for assurance and control of spending. They must be functionally independent from the managing authorities. They verify, on a sample basis, the regularity of the expenditure that managing authorities have declared to the Commission and require the errors they find to be corrected, thereby ensuring the residual error rate in these assurance packages is less than 2 % (materiality).

Residual error rates are above materiality for more than 60 %, of the value of assurance packages we audited in 2023

6.45. We assessed the work of 19 of 116 audit authorities in 13 member states and the United Kingdom. Our sample comprised 29 assurance packages. Except for four cases, the audit authorities had reported to the Commission a residual error rate equal to or below 2 %.

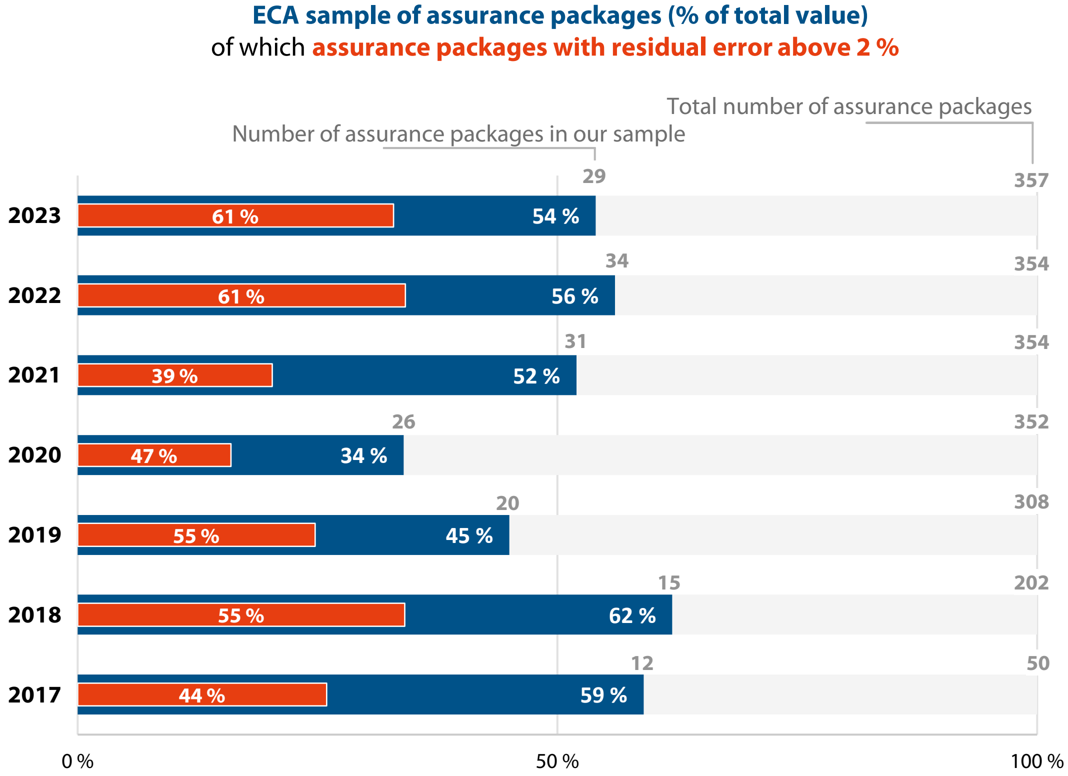
6.46. In DG REGIO's and DG EMPL's *AAR*s, taking account of its own audit work and the preliminary results of our audits for the financial year 2023, the Commission adjusted the residual error rate for 11 of the 29 assurance packages in our sample to above 2 %.

6.47. Taking account of the errors detected by the Commission and of our own audit findings, our work on this year's sample shows that the residual error rate was above 2 % in 16 of the 29 audited assurance packages.

6.48. The assurance packages we audited represent a significant share of the expenditure certifying authorities certified to the Commission (2023: 54 %). Since 2017, our annual sample coverage ranges between 34 % and 62 % of the expenditure certified in the annual accounts (see blue bars in ***Figure 6.8***).

6.49. Since 2017, we have classified errors as quantifiable in 58 of the 99 assurance packages we have audited at least once. These are errors that were not detected by the audit authorities' checks on the same transactions. We have found that a significant proportion of assurance packages we audit are understated, with the actual residual error rate often being above 2 % materiality, despite being certified as below. The proportion varies from 39 % in 2021, up to 61 % in 2023 (see red bars in ***Figure 6.8***). This reflects continuing shortcomings in the work of the audit authorities which are not sufficiently addressed by the Commission's assurance work.

Figure 6.8 – Assurance packages audited, and with a residual error rate above 2 % (2017 to 2023)



Source: ECA.

Weaknesses in the audit authorities' work reduce the extent to which the Commission can rely on the results

6.50. We found various types of weaknesses in the work of all 19 audit authorities we audited. Similar to 2022, these weaknesses affected more than half of the transactions we examined. The errors we found in these transactions could, and should, have been detected by audit authorities when they did their checks. This reduces the extent to which the Commission can rely on the results of their work.

6.51. In 2023, we identified shortcomings at the level of audit authorities in 157 out of the 204 transactions we audited. We found shortcomings:

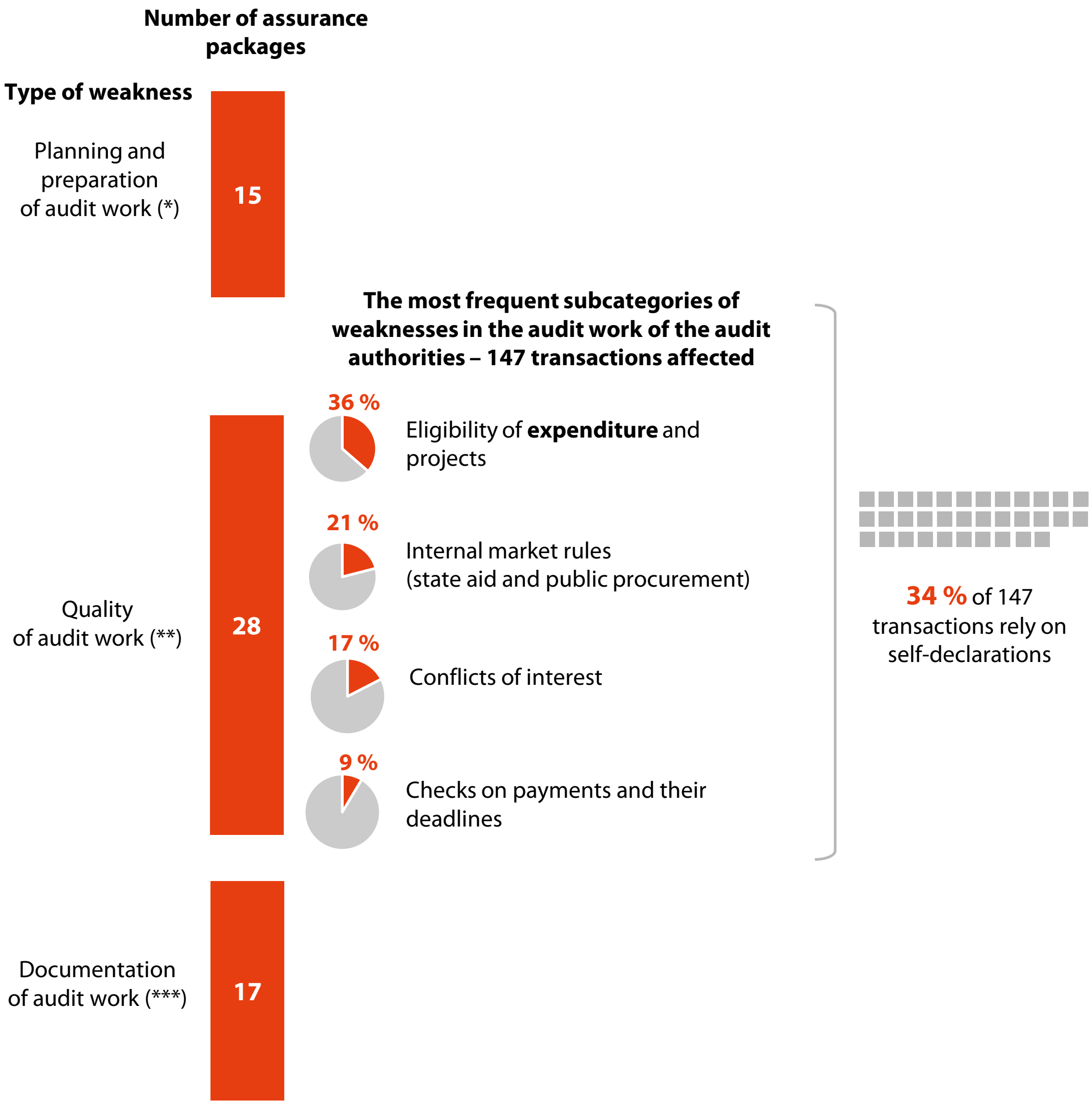
- in the planning and preparation of the authorities’ audit work. For example, there were weaknesses in the sampling approaches and incomplete checklists (e.g. checklists that do not include specific questions on fraud, conflict of interest, double funding or state aid, even though audit authorities are required to check these issues);

- in the quality of audit work (see ***Box 6.9*** for examples), and
- in the documentation of that work.

6.52. We had to re-perform the corresponding audit procedures for 145 of them (71 %). For 88 transactions (43 %), we had to approach managing authorities, intermediate bodies or beneficiaries for the necessary supporting documents and other evidence, as the audit authorities had either not collected or retained them, in line with the audit standards (see paragraph ***6.32***).

6.53. ***Figure 6.9*** reports the shortcomings we identified and reported at the level of audit authorities per assurance package.

Figure 6.9 – Types of shortcomings identified at the level of audit authorities



(*) Belgium, Bulgaria, Czechia, Germany, Spain, Italy, Hungary, Slovenia, Slovakia, and European Territorial Cooperation (ETC).

(**) Belgium, Bulgaria, Czechia, Germany, Greece, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Slovenia, Slovakia, United Kingdom, and ETC.

(***) Belgium, Bulgaria, Czechia, Germany, Greece, Spain, Italy, Hungary, Romania, Slovenia, Slovakia, United Kingdom, and ETC.

Source: ECA.

Box 6.9

Lack of checks by audit authority

In Hungary, our audit revealed that the audit authority did not check certain aspects of personnel costs. These concerned staff qualifications, salary increases and hours worked by managers. The national authorities had applied a flat-rate correction, based on the results of a Commission audit, to all '*priority axis* 2' project costs incurred before February 2022.

Although the flat-rate correction is intended to compensate for any potential over-declaration of personnel costs, according to the CPR audit authorities are nonetheless still required to verify whether costs are legal and eligible, and member states need to recover undue funding from beneficiaries in line with Article 122(2) of the CPR. This lack of checks and recoveries undermines the deterrent effect on the beneficiaries to comply with the applicable law.

We therefore classify the lack of audit work on personnel costs by the audit authority as a major system weakness.

Audit opinion issued – but incomplete audit testing

In Spain, we audited one *Youth Employment Initiative (YEI)* project aimed at improving youth employability and professional skills of young people not in employment, education or training (*NEET*s) through courses and workshops. The audit authority had issued an unqualified opinion on the legality and regularity of expenditure. We found that the audit authority only started to verify participant eligibility based on the NEET status, after our audit notification. This means that the audit authority has based its opinion on incomplete audit work. We consider this a major system weakness and a breach of relevant regulation[20].

6.54. Nevertheless, we did identify the following elements of good practice in a regional OP in Poland (see ***Box 6.10***).

[20] Article 27 of the *Delegated Regulation* (EU) No 480/2014.

Box 6.10

Example of ‘good practice’ checks identified in a member state

In Poland, we examined seven projects from the regional OP and found that the audit authority had used the checklists appropriately and documented the audit work properly. The checklists for the audit of operations and the working documentation covered all relevant aspects in sufficient detail. This enabled us to follow the audit trail and draw conclusions on the audit work done. Our on-the-spot visit to two of the projects did not trigger any additional findings. On the contrary, it confirmed the high quality of the audit authority’s work in auditing the sampled transactions and detecting the relevant errors.

This demonstrates that if the audit authority adequately plans, carries out and documents all the audit work necessary to draw a valid audit opinion, it is possible to implement the cohesion assurance framework set out in the CPR such as to provide sufficient assurance on the legality and regularity of transactions.

Review of 2014-2020 cohesion policy highlights persistent management and control issues

6.55. In July 2024, we published a multiannual review on cohesion spending accumulated audit work on the 2014-2020 period – largely within the statement of assurance – and information published by the Commission. The summarised audit results over the last 6 years, combined with results from audit authorities and the Commission, show that the cohesion policy assurance framework has helped to reduce the overall error level since 2007, but it has not been effective in bringing it below the regulatory 2 % materiality threshold for each assurance package and therefore overall. This analysis furthermore showed that both we and the Commission have often reassessed member states’ assurance packages as having error rates above materiality threshold.

6.56. By combining our annual results for 2017 to 2022, we estimate the level of error for cohesion spending for those years to be significantly above 2 %. As such, there is a need for the Commission to strengthen the implementation of the assurance framework for 2021-2027 cohesion spending, as it is ultimately responsible for the implementation of the EU budget.

The Commission's assurance work and reporting of residual error rate in its annual activity reports

6.57. Annual activity reports (AARs) are the Commission DGs' main tool for reporting the extent to which they have reasonable assurance that control procedures ensure the regularity of expenditure.

Persistent deficiencies in management and control systems

6.58. In shared management, it is the Commission's responsibility to satisfy itself that member states set up management and control systems that function effectively during the implementation of programmes[21].

6.59. During 2023, the Commission again assessed the functioning of the management and control systems at the level of the members state (managing authorities/intermediate bodies or audit authorities) and concluded that they do not work adequately for 37 out of 278 OPs led by DG REGIO (mainly relating to ERDF, CF and REACT-EU) and for 13 out of 133 OPs led by DG EMPL (mainly concerning ESF, YEI and FEAD). In 10 cases, the Commission considered that audit authorities responsible for auditing the OPs concerned needed improvement.

6.60. Taking into account the results of Commission's own audits and our results of 49 errors that remained undetected (paragraph ***6.15***) and the numerous weaknesses in audit authorities work (paragraph ***6.19***), we conclude that at the end of the eligibility period (31 December 2023) not all member states' management and control systems function effectively. Therefore, the reliability of the Commission error rates is also affected, as they rely on these national systems, which do not work effectively (see also paragraph ***6.55***).

6.61. ***Box 6.11*** gives an example of a systemic weakness in the management and control system that remained undetected until our audit work led to detection and correction.

[21] Article 75(1) of the CPR.

Box 6.11

Systemic weakness corrected following our audit

In our 2021 annual report, we included an observation related to operations concerning rebates of employers' social security contributions in Spain financed by the YEI (see Box 5.5). The observation concerned retroactive registration in the national *Youth Guarantee* system, a lack of verification of NEET eligibility compliance and ineligible expenditure regarding (non-NEET) substituted workers.

The Commission interrupted payments for the OP, in application of Article 83 of the CPR. It asked the authorities to improve the functioning of the management and control system and make the necessary financial corrections regarding previous payments. Following the interruption of payments, the national authorities implemented a financial correction of €50 million at the Commission's request. Further to this, the managing authority applied an additional financial correction of €53 million.

This year, we detected errors for the same OP regarding other issues not covered by the correction. For example, one of the operations was funded by the YEI. It targeted support to NEETs in accordance with Article 16 of the ESF Regulation, but the operation addressed participants who did not comply with the NEET requirements.

The Commission considers that the level of irregular expenditure in the accepted accounts is material for ERDF/CF funds

6.62. In cohesion, the Commission uses individual residual error rates reported by member states, the results of its own regularity work and other available information such as the results of our audit work to calculate a weighted average residual error rate. It reports that rate as a *key performance indicator (KPI)* on legality and regularity for 2014-2020 programmes.

6.63. For the 2021/2022 accounting year, DG REGIO reported a *residual total error rate* in shared management for 2014-2020 programmes of 2.1 % and a 'maximum rate' of 3.0 %[22]. The DG EMPL rates were 1.6 % for the residual total error and a 2.6 %[23] maximum rate. The maximum rate is intended to address the risk of errors lying

[22] The estimated overall risk at payment for DG REGIO's 2023 expenditure (including all programmes and management modes) ranges between 2.0 % and 2.9 %.

[23] The estimated overall risk at payment for DG EMPL's 2023 expenditure (including all programmes and management modes) ranges between 1.6 % and 2.5 %.

outside the sample of transactions in OPs on which the error rates are based. They may also include a 'top-up' or flat rate for unaudited OPs[24].

6.64. In the 2023 *annual management and performance report (AMPR)*, the indicators reported by the Commission[25] are:

— For MFF heading 2 as a whole, a combined risk at payment of 2.6 %, basing this on the amounts at risk concluded by the various DGs. We consider that this indicator is significantly above the 1.9 % the Commission calculated for the EU budget as a whole.

— For all cohesion policy funds taken together, a combined risk at payment of between 1.9 % and 2.8 %, again based on the DGs' estimates for amounts at risk and their KPIs.

6.65. Overall, DG REGIO concludes[26] that for ERDF/CF, a material level of irregular expenditure remains in the accepted accounts despite the results of the controls and corrections already applied at member state level. DG EMPL[27], however, concludes that there is a risk that material irregularities remain in the expenditure certified to the Commission for ESF/YEI and FEAD in the accounts accepted in 2023.

Shortcomings detected in Commission's assurance work

6.66. The Commission performs desk reviews and *compliance audits* to review and assess the work of audit authorities. When performing desk reviews, it only checks the consistency of the regularity information included in the assurance packages. The Commission's desk reviews have therefore inherent limitations in confirming the residual total error rate[28]. We also detected other shortcomings in the Commission's assurance work (see ***Box 6.12***).

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[24] Annex 7A of DG REGIO and DG EMPL 2023 AARs.

[25] Volume II of the 2023 AMPR, Annex 2, pp. 89 and 90 and Volume III, Annex 5, pp. 12- 14.

[26] DG REGIO's 2023 AAR, p. 30.

[27] DG EMPL's 2023 AAR, p. 30.

[28] Special report 26/2021: "Regularity of spending in EU Cohesion policy: Commission discloses annually a minimum estimated level of error that is not final".

Box 6.12

Commission failed to identify and follow-up on repeated weaknesses

As part of our sample we audited a project implemented in Germany under a 2014-2020 ERDF OP. The beneficiary used a full-cost accounting method to determine the eligible costs, consisting of staffing costs, overheads and depreciation. The national authorities accepted the costs as eligible without verification.

Our audit found that the beneficiary had claimed ineligible costs: we detected a wide variety of non-compliances with the CPR and programme-specific eligibility rules, as well as numerous cases of costs that did not relate and/or contribute to the project.

- For this specific beneficiary and its full-cost accounting method, already in December 2013, the Commission had stipulated towards the national authorities and the beneficiary that costs must comply with national and programme-specific rules, and overheads must relate or contribute to the project in order to be eligible. However, despite having previously noted that the beneficiary was claiming ineligible costs using this same method during the 2007-2013 programme period, the Commission did not take appropriate measures to ensure that the beneficiary and national authorities implemented these requirements when declaring expenditure. We had already reported in the context of the 2017 statement of assurance that the beneficiary continued to declare ineligible expenditure.

- For the 2014-2020 period, in 2017 and 2018, the Commission conducted an audit on the management and control system for this 2014-2020 ERDF OP. In its sample, it audited another project run by the same beneficiary. Even though the Commission was aware of the problem with the beneficiary from its own audits and the ECA's audit during the 2017 statement of assurance, it did not sufficiently verify the eligibility of the costs.

As a result, the Commission failed to detect that the beneficiary had continued to use the full-cost accounting method to declare ineligible costs under the 2014-2020 OP and that the national authorities had not verified the eligibility of these costs.

Closure of the 2007-2013 programme period still ongoing

6.67. The deadline for member states to submit the 2007-2013 closure documents was 31 March 2017, although this has been repeatedly delayed. By the end of 2023, the situation was as follows:

- DG REGIO had closed 279 out of 322 OPs for 2007-2013, only three more than in 2022. For a further 42 OPs, DG REGIO had made pre-closure payments covering the uncontested amounts only, while one programme remained fully open. Issues such as ongoing administrative or court proceedings and investigations, open audit findings, and pending recoveries remained unresolved.
- DG EMPL had closed 102 out of 118 OPs and pre-closed 13 OPs. Three programmes remained fully open due to pending issues.

Uncertainties found around the closure of the 2014-2020 programme period

6.68. The eligibility period for 2014-2020 cohesion spending runs from 1 January 2014 until 31 December 2023. The deadline for member states to submit their final expenditure declaration was originally mid-2024, and this was recently extended to mid-2025[29].

6.69. For the 2014-2020 period, the closure of the programmes will be based solely on the documents relating to the final accounting year and the final implementation report. However, programme authorities will still have to address the final assessment of the eligibility of costs declared for some operations, particularly those involving investments made by financial instruments, the *clearing* of state aid advances, the final assessment of revenue-generating operations, and the handling of non-functioning operations. This may result in additional financial corrections.

6.70. The Commission reported two 2014-2020 OPs as closed in 2023. These cases concerned a FEAD programme managed by DG EMPL and a financial instrument financed by the ERDF under DG REGIO's responsibility. We found that, in both cases, the communication on the *settlement* of accepted amounts was still ongoing in 2024.

6.71. An audit[30] by the Commission's Internal Audit Service (IAS) in September 2023 concluded that the planning of the 2014-2020 closure exercise was insufficiently advanced and that there was no assurance that the residual risk would be below 2 % after the closure process, as audit work would still be ongoing after the payment of the final balance. The IAS also raised concerns on the definition of the closure process, as it is actually not even defined what it means to close an OP in terms

[29] Article 14(3) of the Strategic Technologies for Europe Platform (STEP) Regulation.

[30] Ares(2023)6301839,18 September 2023.

of the assurance to be provided on the legality and regularity. According to the Commission, it has since taken further steps in the preparation of the closure procedure.

Conclusion and recommendations

Conclusion

6.72. The audit evidence we have obtained and presented in this chapter indicates that the level of error in spending on 'Cohesion, resilience and values' was material. For MFF heading 2, our testing of transactions produced an estimated overall level of error of 9.3 %.

6.73. Our work shows that managing authorities' controls do not always effectively prevent or detect irregularities in expenditure declared by beneficiaries. In addition, we found significant weaknesses in the work of a substantial number of audit authorities covered by our sample (see paragraphs ***6.42***-***6.54***). This limits the reliance that can be placed on their work. The recalculated error level was above the 2 % materiality threshold in 16 of the 29 assurance packages for the 2014-2020 period. The Commission adjusted the residual error rates for 11 of these packages to a figure above 2 %. In doing this, it also took account of our audit work.

6.74. Since 2017, the assurance packages in our annual samples have consistently accounted for over one third of the expenditure accepted by the Commission. The proportion of expenditure covered by assurance packages with residual error rates above 2 % has increased from 44 % in 2017 to 61 % in 2023 and 2022 (see ***Figure 6.8***). There is a need for further improvements in the way the framework is applied, both by the member states' programme authorities and by the Commission.

6.75. In the 2023 AMPR and the AARs, the Commission concurs with our overall opinion that there is a material level of error in cohesion spending. At the same time, the Commission's error estimates are significantly lower than ours (see paragraphs ***6.63***-***6.64***). However, the Commission's estimated error rates are based on residual error rates reported by member states and reviewed and recalculated by the Commission. Therefore, the reliability of the Commission's estimated error rates is affected by both, the weaknesses in the member states management and control systems and shortcomings in the Commission's own audit work. In particular, our error rate includes the errors that remained undetected by the member states and the Commission and demonstrate that the Commission's error rates are underestimated.

Recommendations

6.76. *Annex 6.2* shows the findings of our follow-up review of one recommendation we made in our 2020 annual report. The Commission had implemented it in most respects. We have reviewed recommendations from the 2021 and 2022 annual reports that required immediate action, or which were targeted for implementation during 2023. We also assessed recommendations from the 2017, 2018 and 2019 annual reports that had not yet been fully implemented, but which remain relevant.

6.77. Based on this review and our findings and conclusions for 2023, we recommend that the Commission:

Recommendation 6.1 – Follow-up of weaknesses in member states’ management and control systems

(a) Follow up in a timely manner all weaknesses in the member states’ management and control systems we identified and reported on in the context of our statement of assurance exercise for the outgoing 2014-2020 period.

(b) Identify, together with the audit authorities, the key lessons learnt in the follow-up under point (a) and apply them to the arrangements for the 2021-2027 period, and communicate the actions needed and supporting best practices to the member states’ programme authorities.

Target implementation date: December 2025.

Recommendation 6.2 – Harmonised treatment of public procurement errors under direct and shared management

Establish a harmonised treatment of public procurement irregularities for projects financed under both direct and shared management, such as projects financed by both CEF and ERDF. Irregularities resulting from the breach of the same legal provisions should lead to the same assessment and correction rate.

Target implementation date: December 2024.

Recommendation 6.3 – Address financial risks while checking that performance targets are achieved

Ensure that member states establish a process to systematically check the fulfilment of contractual obligations after payment, by which the beneficiary has committed to achieve performance indicators linked to actions taking place following project implementation.

Target implementation date: at the time member states submit OP closure documents, and by March 2026 at the latest.

Recommendation 6.4 – Ensure sound preparation ahead of 2014-2020 closure

Elaborate detailed closure procedures addressing the risks identified in our annual reports, by:

(a) Setting up a closure monitoring system to trace the status of all 2014-2020 OPs, the amounts actually closed during the year and cumulatively, the amounts still open, and the actions still pending for closure; and

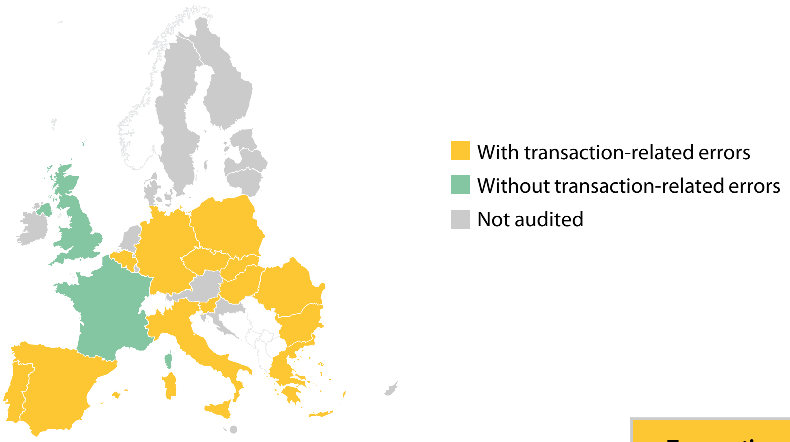
(b) disclosing this information in the AARs.

This information on 2014-2020 closures should also contain the decommitment of outstanding funds in the Commission’s accounts.

Target implementation date: June 2025.

Annexes

Annex 6.1 – Breakdown of our sample of transactions and associated findings for the 2023 statement of assurance



			Transaction-related findings	
Member state (*)	**EU contribution *(million euros)***	**Audited transactions**	**Quantifiable errors**	**Non-quantifiable errors**
Poland	11 105	41	5	3
Spain	4 026	19	6	7
Italy	3 986	18	4	6
Romania	3 866	23	4	6
Hungary	3 659	18	5	16
Czechia	3 561	21	10	8
Greece	3 500	13	2	3
Portugal	3 445	12	4	5
Germany	2 481	9	3	4
France	2 190	6	-	-
Slovakia	1 693	8	-	2
ETC (**)	1 480	6	2	-
United Kingdom	1 391	7	-	-
Bulgaria	1 239	7	1	3
Croatia	1 010	--		
Lithuania	944	--		
Slovenia	724	1	1	-
Latvia	551	--		
Estonia	486	--		
Belgium	275	7	-	2
Sweden	251	--		
Finland	228	--		
Austria	163	--		
Netherlands	154	--		
Malta	128	--		
Luxembourg	98	--		
Cyprus	75	--		
Denmark	65	--		
Ireland	12	--		
TOTAL	**52 786**	**216**	**47**	**65**

(*) Our sample is not designed to conclude at member state's level.
(**) ETC contributions include those from a bilateral programme between Spain and Portugal. These contributions are not included in this illustration.
Source: ECA.

Annex 6.2 – Follow-up of previous recommendations for ‘Cohesion, resilience and values’

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2017	We recommend that the Commission: **Recommendation 1:** ensure that the audit arrangements for financial instruments managed by the *EIF* are adequate at the level of financial intermediaries. When the EIB/EIF uses agreed-upon procedures with external auditors, the Commission should define the minimum conditions of such contracts with a view to the need to provide assurance, in particular the obligation for sufficient audit work at the level of the member state. (Implementation date: immediate)		The *Omnibus Regulation* introduced a requirement for audit authorities to perform system audits and audits of operations on financial instruments at the level of financial intermediaries, including financial instruments managed by the *EIB Group* but excluding *SME Initiative* programmes set up before 2 August 2018. The Commission has taken additional measures by including, in the audit methodology for financial instruments, a recommendation that audit authorities audit financial intermediaries for instruments implemented by the EIB Group, regardless of when they were set up. However, the methodology cannot extend the regulatory mandate of audit authorities. The Commission provided proof that in some member states the audit authorities already perform checks at the level of the financial intermediaries. However, our 2020 and 2022 (SMEi Spain) audits revealed that those checks are not yet performed consistently (in the member state we audited, neither the external auditor nor the audit authorities carried out any audit at the level of financial intermediaries). No new elements were provided to show that this was corrected in 2023.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	Recommendation 3: address the weaknesses we have identified in its verification of the audit authorities' work in the context of the Commission's regularity audits. (Implementation date: immediate)		See paragraphs 6.58-6.64 of the 2018 annual report, 5.48-5.62 of the 2019 annual report, paragraphs 5.43-5.44 of the 2020 annual report, paragraphs 5.40-5.43 of the 2021 annual report, paragraph 6.47 of the 2022 annual report and paragraph ***6.48*** of the 2023 annual report. Despite the Commission's increased compliance audit work, we still encounter weaknesses in the audit authorities' work.
	Recommendation 4: address the complexity of the information presented on the 2014-2020 control and assurance framework in the AARs of DGs REGIO and EMPL, by: (…) (iii) disclosing an overall residual error rate for MFF subheading 1b for each accounting year. (Implementation date: June 2019)		Point (iii) is implemented in most respects since the Commission provides an overall estimate for MFF subheading 2a in the AMPR. However, where a DG is responsible for implementing the budget under several MFF headings, expenditure is allocated to a single MFF heading. As a result, this estimate does not fully reflect the underlying expenditure.
	Recommendation 5: ensure that audit arrangements are changed in accordance with the proposal made by the Commission for financial instruments in the post-2020 regulatory framework so that only the actual use of funds at final recipient level is used for the calculation of residual error rates. (Implementation date: before implementation of the post-2020 legislative framework begins)		The new CPR for the 2021-2027 period (Regulation (EU) No 2021/1060) provides for a single advance payment for financial instruments to be included in the first payment application. In its replies to the follow-up for the 2020 annual report, the Commission stated its intention to adopt a delegated act requiring audit authorities to exclude this advance from the audit population. The Commission has now reassessed this position and stated that the initial advance will remain part of the audited population for the accounting year concerned.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	Recommendation 6: carry out sufficient regularity checks to conclude on the *effectiveness* of audit authorities' work and obtain reasonable assurance on the regularity of expenditure at the latest in the AARs it publishes following the year of accepting the accounts. (Implementation date: immediate)		See paragraph 5.64 of the 2021 annual report.
2018	We recommend that the Commission: **Recommendation 6.1 – Audit arrangements for SME Initiative programmes** Ensure that: (a) regular checks, based on a representative sample of disbursements to final recipients, are carried out at the level of financial intermediaries either by the audit authority or by an auditor selected by the EIB Group; (b) where such checks were insufficient, develop and implement appropriate control measures to prevent the possibility of material irregular expenditure at closure. (Target implementation date: immediate)		Our previous audits confirmed that the EIF has already made or is making improvements to its monitoring and control systems and has voluntarily extended the use of reasonable assurance reports to SMEi programmes. While we acknowledge that some audit authorities have already carried out verifications at the level of financial intermediaries, the full effectiveness of these measures has not yet been proven. We point as an example the results of the audit to SMEi Spain carried out in context of the 2022 *SOA*.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2019	We recommend that the Commission: **Recommendation 5.1 – Project eligibility conditions** Clarify what is meant by 'physically completed' and/or 'fully implemented' operations. This would help member states to verify that operations comply with Article 65(6) of the CPR and avoid the non-detection of ineligible operations. It should be made clear that this condition relates only to works or activities necessary to achieve the operation's output, and not to financial and administrative aspects. (Timeframe: immediate)		
	Recommendation 5.2 – Action to increase the reliability of the residual rates reported by audit authorities Analyse the main sources of undetected errors and develop the necessary measures together with audit authorities to improve the reliability of reported residual rates. (Timeframe: June 2021)		Despite the Commission's efforts, as presented in the AARs of DG REGIO (2019: pp. 25 and 2020: pp. 41-43 and 2021: pp. 32-33) and DG EMPL (2019: pp. 37, 2020: pp. 43-44 and 2021: pp. 49), our audit work for 2020 did not show a significant improvement in this respect (see for example paragraph 5.38 of the 2020 annual report, paragraphs 5.40 and 5.41 of the 2021 annual report and paragraphs 6.48, 6.49 and 6.50 of the 2022 annual report. The Commission had implemented the analysis of main sources of undetected errors and disseminated the updated typology of errors.
2020	We recommend that the Commission: **Recommendation 5.2 – Keeping track of the risk of fraud in audit authorities' audits of operations** Encourage audit authorities explicitly to introduce specific questions in their checklists on fraud risks and document the		

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	steps taken to address any such risks discovered in the course of an audit. Audit authorities should work in collaboration with national anti-fraud coordination services (AFCOSs) and take account of cases of suspected or established fraud reported to the Commission via the Irregularities Management System (IMS). We also refer to our recommendations in special report 06/2019. (Timeframe: June 2022)		
2021	**Recommendation 5.1 – Method used for reimbursing beneficiaries when SCOs are applied to determine the EU contribution to the programme** Reiterate to managing authorities the requirements attached to reimbursing beneficiaries using a methodology that differs from the simplified cost options (SCOs) used for calculating payments to member states from the EU budget, taking particular account of the situation detected this year in Irish ESF operational programme. (Target implementation date: December 2022)		
	Recommendation 5.2 – Contribution of national schemes to ESF objectives Ensure that, when operational programmes are based on existing national schemes, the operation implemented contribute effectively to programme objectives, taking particular account of the situation detected this year in		The Commission had taken action in relation to the Spanish case referred to in the recommendation. However, it did not address the issue of how operations financed through OPs based on existing national schemes contribute effectively to the programme objectives.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	relation to NEET participants in Spanish ESF/YEI operational programmes. (Target implementation date: November 2022)		
	Recommendation 5.6 – Rule of law Provide information in its annual activity reports about ongoing rule of law procedures against member states and how these may affect the assurance that the Commission can obtain about regularity of expenditure from the assurance and control systems of the countries concerned. (Target implementation date: April 2023 (next AARs))		See paragraph 6.76 of the 2022 annual report. The Commission rejected this recommendation.
2022	**Recommendation 6.5 – Reliability of self-declarations** Ensure that audit authorities have appropriate methods in place to check the validity and reliability of self-declarations and share good practices, taking particular account of the situation detected this year. (Target implementation date: December 2023)		We take note that the Commission has taken several actions in this respect and we take note that the Commission is planning to further share best practices.
	Recommendation 6.6 – Enhancing fraud risk awareness to ensure a more effective reporting on suspected fraud […] (b) Specify minimum requirements for the audit authorities to cover the risk of fraud in their checklists and audit work.		

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	(c) Reiterate to member states their obligations regarding fraud reporting. (Target implementation date: […] for recommendations 6.6(b) and 6.6(c) by December 2023)		

Source: ECA.

Chapter 7

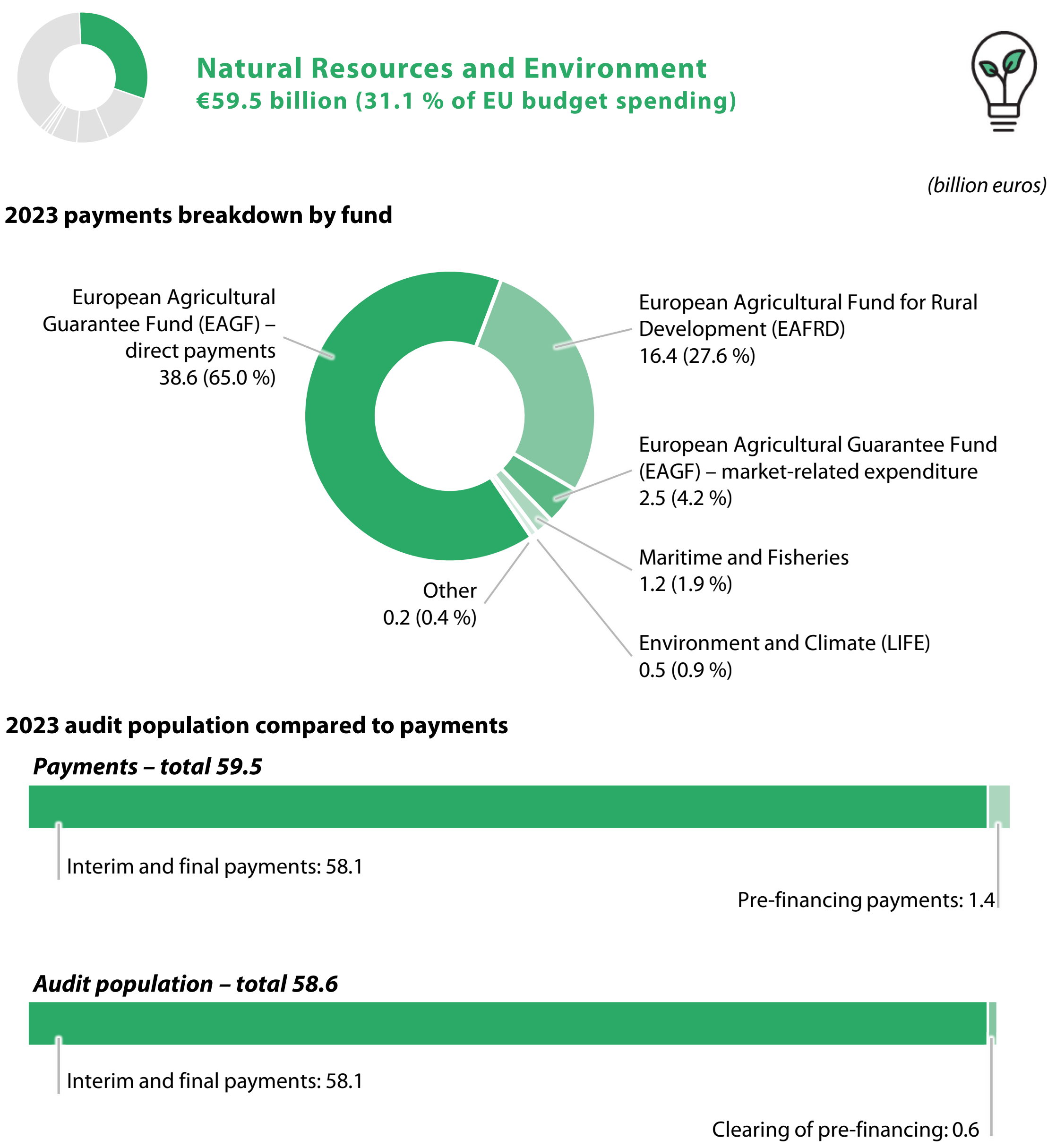
Natural resources and environment

Contents

Introduction

7.1. This chapter presents our findings for MFF heading 3 ‘Natural resources and environment’. *Figure 7.1* gives an overview of the main activities and spending under this heading in 2023.

Figure 7.1 – Payments and audit population



Source: ECA, based on data from the 2023 *consolidated accounts* of the European Union.

Brief description

Policy objectives and areas

7.2. Agriculture and rural development account for 97 % of EU spending on 'Natural resources and environment' and are implemented through the *common agricultural policy* (CAP). The CAP has three general objectives[1]:

- viable food production, with a focus on agricultural income, agricultural productivity and price stability;
- the sustainable management of natural resources and climate action, with a focus on greenhouse gas emissions, biodiversity, soil, and water;
- balanced territorial development.

7.3. While the European Commission, in particular the Directorate-General for Agriculture and Rural Development (DG AGRI), is ultimately responsible for the CAP, it shares its management with *paying agencies* in the member states. Since 2015, independent *certification bodies* in the member states have been providing annual opinions on the *legality and regularity* of the expenditure declared by the paying agencies.

7.4. This MFF heading also covers EU spending on the maritime and fisheries policy financed by the *European Maritime and Fisheries Fund (EMFF)*, under the responsibility of the Directorate-General for Maritime Affairs and Fisheries (DG MARE), and the *LIFE programme* for the environment and climate action under the responsibility of the Directorates-General for the Environment (DG ENV), Climate Action (DG CLIMA) and Energy (DG ENER).

Spending instruments

7.5. Although 2023 was the first year of the 2023-2027 CAP, nearly all 2023 payments were based on the rules for the spending instruments under the 2014-2022 CAP, as they related to applications for EU support made by farmers in 2022. In total,

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[1] Article 110(2) of Regulation (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy.

only €0.9 billion out of €57.5 billion of the CAP payments made in 2023 were under the rules for the new period.

7.6. For 2023, the main spending instruments for the CAP were:

- *direct payments* to farmers, fully funded by the EU budget;
- member states' national and regional *rural development programmes*, co-financed by the EU budget and the member states;
- agricultural *market measures*, fully funded by the EU budget except for certain measures, such as agri-food promotion measures, which are co-financed by the member states.

7.7. Direct payments accounted for 65 % of spending under *MFF* heading 3 (€38.2 billion in 2023). The main CAP schemes were:

- the '*basic payment scheme*' (€14.9 billion) and the '*single area payment scheme*' (€4.6 billion), which provide income support based on the area of agricultural land declared by farmers;
- the '*greening* payment' (€10.7 billion) to support agricultural practices beneficial for the climate and the environment;
- the 'voluntary *coupled support*' (€4.2 billion) for specific types of agricultural produce, such as beef and veal, milk, or protein crops.

7.8. Direct payments to farmers are entitlement-based, as receiving them depends on meeting certain conditions. Such payments carry a lower risk of *error* than reimbursement-based payments, provided the attached conditions are not complex (see paragraph ***1.18***). Direct payments are managed through the *integrated administration and control system (IACS)*, which interlinks databases of holdings, aid applications, animal registries and agricultural areas. IACS incorporates the *land parcel identification system (LPIS)*, a geographical information system based on multiple sources. The LPIS helps farmers to fill in their area-related aid applications and allows paying agencies to check them afterwards. This gives them the possibility to correct certain errors in aid applications and reduce the risk of error.

7.9. Rural development accounted for 27.6 % of spending under MFF heading 3 (€16.4 billion) and consisted of:

- payments to farmers based on environmental and climate-related criteria (€8.0 billion) applied to the agricultural area (***Box 7.1*** gives an example of support for organic farming) or on the number of animals on the holding ('area or animal-related');
- aid to investment projects (€8.4 billion) to support social and economic development in rural areas ('non-area-based').

Box 7.1

Example of support for organic olive farming

In Spain, a small olive producer received support under rural development measure 11 for organic farming. The support enabled the producer to preserve olive groves with very old olive trees and produce olives without fertiliser or pesticide on sloping parcels, where it was not possible to mechanise olive harvesting. During our audit we confirmed that the *beneficiary* had respected the eligibility conditions. The photo shows one of the olive groves.

Source: ECA

7.10. In 2023, member states continued to implement EU spending under national and regional rural development programmes covering the 2014-2022 period. The Commission approved 118 rural development programmes in the member states for 2014-2020, consisting of 20 measures. Following delays in adopting the legislation for the post-2020 CAP, all programmes were extended until the end of 2022. Under the United Kingdom Withdrawal Agreement, the former member state's rural development programmes ran until the end of 2023 and will be closed in 2024. Additional measures were introduced to provide exceptional temporary support in response to the COVID-19 outbreak in 2021[2] and the impact of Russia's invasion of Ukraine in 2022[3].

7.11. Agricultural market measures, which accounted for 4.2 % of MFF heading 3 spending (€2.5 billion), include a number of diverse schemes, such as support for fruit and vegetables producer organisations and the restructuring of vineyards, each with their own eligibility conditions. Market measures in the wine sector support improving the performance of companies by increasing their competitiveness and helping them adapt to market demands.

7.12. The remaining 3 % of MFF heading 3 spending, mainly under the *EMFF* and *LIFE programmes*, also involves a variety of selection criteria, eligibility requirements and disbursement methods.

7.13. The eligibility conditions for most spending on rural development, market measures and the MFF heading 3 policy areas outside the CAP are more complex than for direct payments, and the risk of error is higher (see paragraph ***1.18***).

Audit scope and approach

7.14. Our objective was to estimate the level of error for this MFF heading and to contribute to the *statement of assurance*. Applying the audit approach and methods set out in ***Annex 1.1***, we examined the following for this MFF heading in 2023:

(a) a statistically representative sample of 218 *transactions* covering all spending under this MFF heading, including:

  (i) 88 direct payments covering the main schemes,

  (ii) 59 area/animal-related transactions under rural development programmes,

  (iii) 49 non-area-based rural development transactions,

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[2] Regulation (EU) 2020/872 amending Regulation (EU) No 1305/2013 as regards a specific measure to provide exceptional temporary support under the *European Agricultural Fund for Rural Development (EAFRD)* in response to the COVID-19 outbreak.

[3] Regulation (EU) 2022/1033 amending Regulation (EU) No 1305/2013 as regards a specific measure to provide exceptional temporary support under the European Agricultural Fund for Rural Development (EAFRD) in response to the impact of Russia's invasion of Ukraine.

(iv) 14 transactions related to market measures, and

(v) eight transactions under spending areas outside the CAP, four under the EMFF, and four under the LIFE programme;

(b) the regularity information given in the *annual activity reports* of DG AGRI and DG ENV and then included in the Commission's *annual management and performance report* (AMPR).

7.15. The 218 transactions we audited covered 20 member states[4] and the United Kingdom. We audited direct payments in 13 member states and rural development transactions in 16 member states covering 19 national and regional programmes.

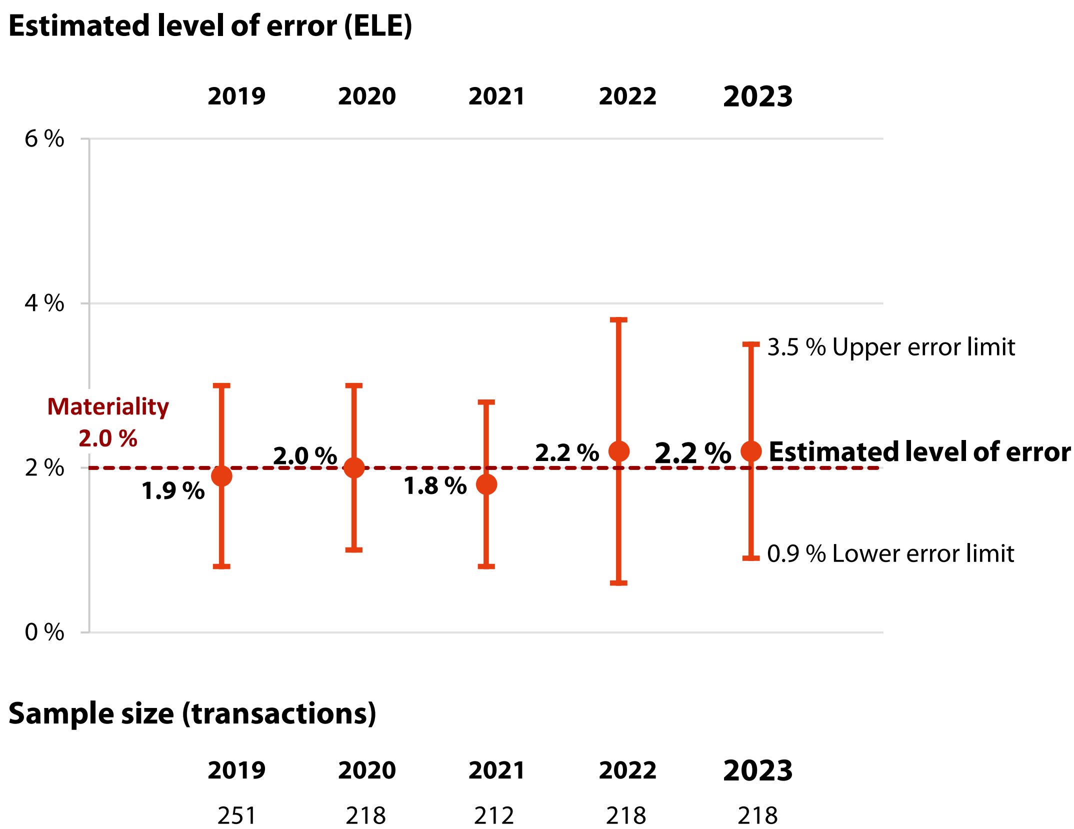
[4] Belgium, Bulgaria, Czechia, Germany, Ireland, Greece, Spain, France, Croatia, Italy, Latvia, Lithuania, Hungary, Netherlands, Austria, Poland, Portugal, Romania, Slovakia and Sweden.

Regularity of transactions

Results of transaction testing

7.16. Of the 218 transactions examined, 56 (26 %) contained errors. Based on the 37 errors we have quantified, we estimate the level of error for MFF heading 3 to be 2.2 % (see ***Figure 7.2***).

Figure 7.2 – Results of transaction testing

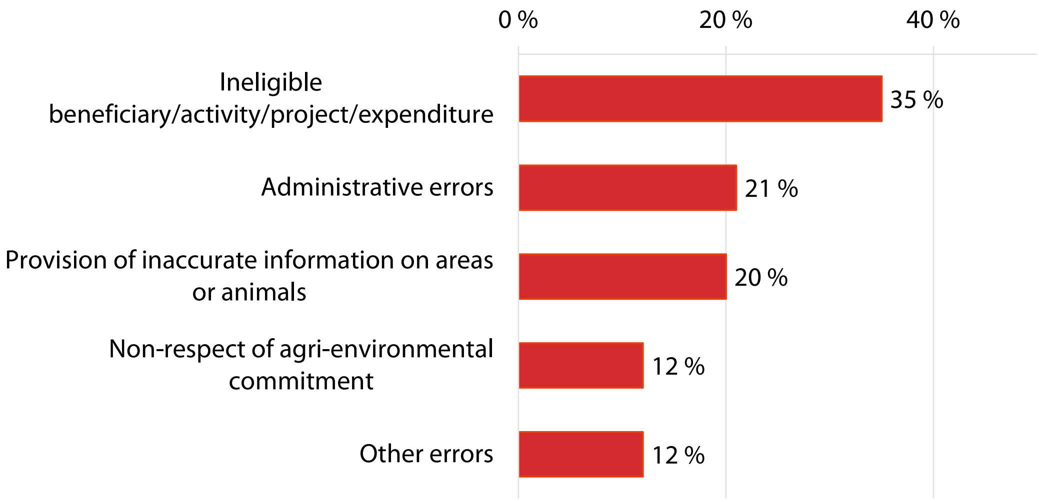


Source: ECA.

7.17. Rural development transactions accounted for the largest number of the quantified errors we found (16). We found 15 *quantifiable errors* in direct payments, three in market measures, and three in non-CAP expenditure. We also found 19 compliance issues with no impact on the error rate. For example, we found a case where the member state's rules did not require beneficiaries to keep supporting documents after the end of the commitment period. This has made subsequent checks by national authorities, the Commission and the ECA impossible. ***Annex 7.1*** presents an overview of MFF heading 3 payments and the results of our transaction testing by member state.

7.18. *Figure 7.3* gives a breakdown of our *estimated level of error* for 2023, by category of error.

Figure 7.3 – Much of the estimated level of error is related to ineligible claims



Source: ECA.

7.19. The member state authorities and the Commission had applied corrective measures that directly affected 39 of the transactions we sampled. These measures were relevant to our calculations, as they reduced our estimated level of error for this chapter by 0.5 percentage points. In 30 cases of *quantifiable errors*, the member state authorities and the Commission had sufficient information to prevent, or to detect and correct, the error before accepting the expenditure. Had the member state authorities and the Commission made proper use of all the information at their disposal, the estimated level of error for this chapter would have been 1.0 percentage point lower.

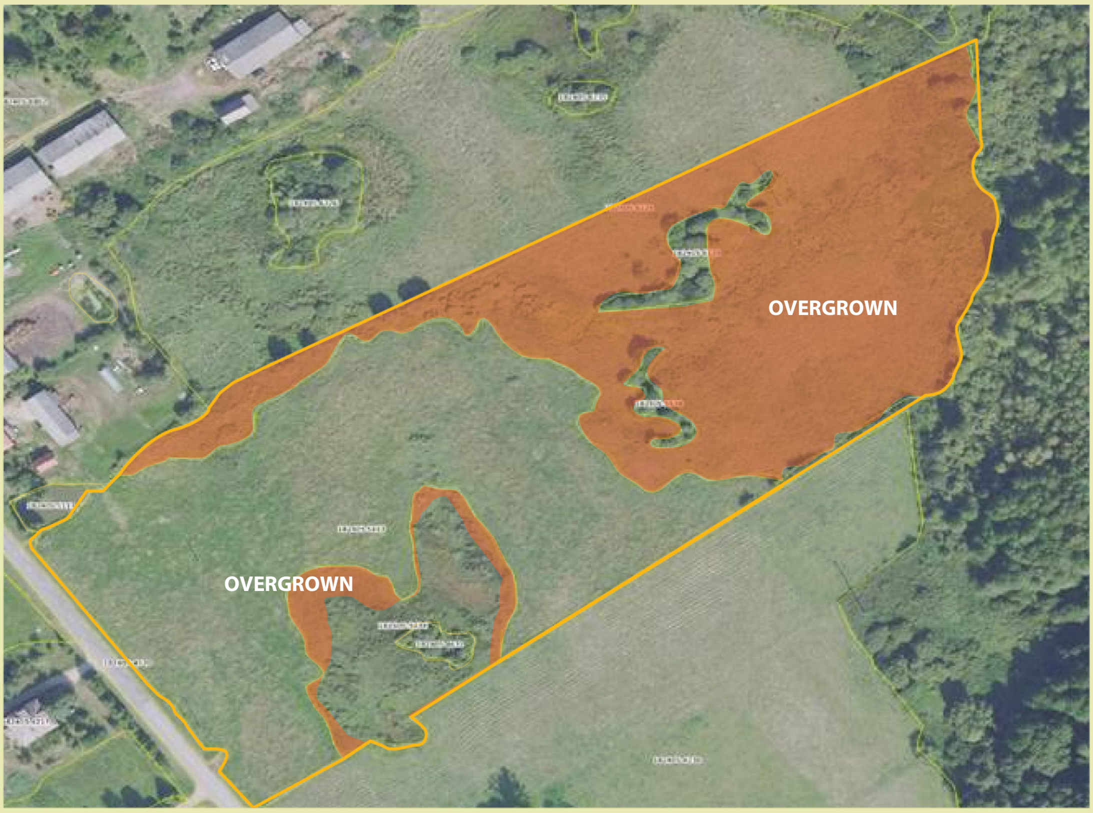
Direct payments

7.20. In the 88 direct payment transactions tested, we found 15 quantifiable errors, eight of them resulting from farmers overstating the eligible area of agricultural land or wrongly calculated payments (see *Box 7.2*). In one case, a beneficiary avoided the cap on the maximum amount of support receivable by setting up several companies to enable multiple applications for EU support.

Box 7.2

An example of over declaration of eligible area

In Lithuania, a beneficiary had a determined eligible area of 15.02 ha for their holding. During our on-the-spot visit, we confirmed the determined area except for one parcel, where the beneficiary did not fulfil the minimum requirements, as there was overgrown, unwanted vegetation in one part. The measurement resulted in a reduction of the eligible area of the parcel by 1.64 ha, representing a quantifiable error of over 10 % for the overall area of the holding. The aerial photo shows the overgrown area on the parcel that we found during our on-the-spot visit.



Rural development, market measures and other payments

Area or animal-related rural development spending

7.21. We examined 59 rural development payments based on the area or animal numbers declared by farmers. These included payments for meeting specific *agri-environment-climate commitments*, compensation payments for organic farming, payments to farmers in areas with natural constraints and compensation payments for farming in Natura 2000 protected areas.

7.22. Of the 59 area or animal-related rural development transactions we tested, 19 contained errors. We found 13 quantifiable errors, eight of which related to the over-declaration of the eligible area. For the remaining five findings, the sources of error included an incorrect aid calculation, breaches of agri-environment-climate commitments, and a farmer who did not meet the conditions for receiving a compensation payment for Natura 2000 agricultural areas (see ***Box 7.3***).

Box 7.3

An example of a farmer not meeting the conditions for payment

In Hungary, a farmer in a Natura 2000 protected area applied for a compensation payment in respect of a parcel. Under rural development measure 12, beneficiaries may be compensated for additional costs and income foregone resulting from restrictions on the use of the land concerned. As a condition for receiving the compensation payment, the farmer undertook to mow the whole parcel by mid-June and received a payment for having done so. Our inspection of the parcel in October (see photograph below) as well as overhead photographs and satellite images taken in June and August indicated that a significant proportion of the parcel had not been mowed.

Source: ECA.

Investment projects

7.23. We examined 49 rural development payments to investment projects, such as investments in physical assets, start-up aid for young farmers and risk management (insurance).

7.24. We quantified errors in three payments, resulting from beneficiaries having declared expenditure or activities that did not meet the eligibility conditions. In one case, the error resulted from the beneficiary, a poultry producer, awarding a contract for building farm infrastructure to a related party, a construction company with the same beneficial owner.

Market measures

7.25. In the 14 *market measure* transactions tested, we quantified errors in three cases where the paying agencies had reimbursed ineligible costs.

Maritime, fisheries, the environment and climate action

7.26. For the maritime, fisheries, and the environment and climate action areas, we audited eight transactions and we found three quantifiable errors in *direct management* transactions under the LIFE programme for the environment and climate action.

Annual activity reports and other governance arrangements

DG AGRI and DG ENV reporting on the regularity of spending

7.27. Each *paying agency* director provides DG AGRI with an annual management declaration on the *effectiveness* of their agency's management and control systems, and the legality and regularity of their expenditure. In addition, the member states report annually on their administrative and on-the-spot checks (control statistics).

7.28. Since 2015, in order to provide additional assurance, certification bodies have been required to give an annual opinion for each paying agency on the legality and regularity of the expenditure for which member states have requested reimbursement.

7.29. DG AGRI uses the error rates reported in the control statistics, making adjustments based on the results of the certification bodies' audits, and its own audits of paying agencies' systems and spending, to calculate a figure for 'risk at payment' for direct payments, rural development and market measures. The adjustments stemming from DG AGRI's own analysis result in corrections. DG AGRI deducts its estimate of future *financial corrections* and recoveries from the 'risk at payment' to estimate a 'final amount at risk'.

7.30. The control statistics reported by the paying agencies indicated a level of error equivalent to 1.1 % of CAP spending as a whole. DG AGRI, taking into account the work of the certification bodies and its own audits, calculated the 'estimated amount at risk at payment' to be €1 064 million, i.e. around 1.9 % of total CAP expenditure in 2023. DG AGRI estimated a risk at payment (adjusted error rate) of around 1.5 % for direct payments, 2.8 % for rural development and 2.3 % for market measures.

7.31. We also performed a limited review of the regularity information in DG ENV's annual activity report. We noted that the methodology for the calculation of the risk at payment and at *closure* for DG AGRI and DG ENV was in line with the Commission guidelines.

The Commission's Annual Management and Performance Report (AMPR)

7.32. The Commission's estimate of risk at payment for 'Natural resources' presented in its AMPR is 1.9 %.

Information collected on new performance reporting systems

7.33. As part of our 2023 audit, we collected information on the introduction of *annual performance reports* (APR), a key element of the new *performance*-based delivery model for the 2023-2027 CAP. Based on documents, interviews, and on-the-spot visits from January to April 2024, we examined the progress made by the paying agencies of Bulgaria, Croatia, and Greece in developing annual performance reporting.

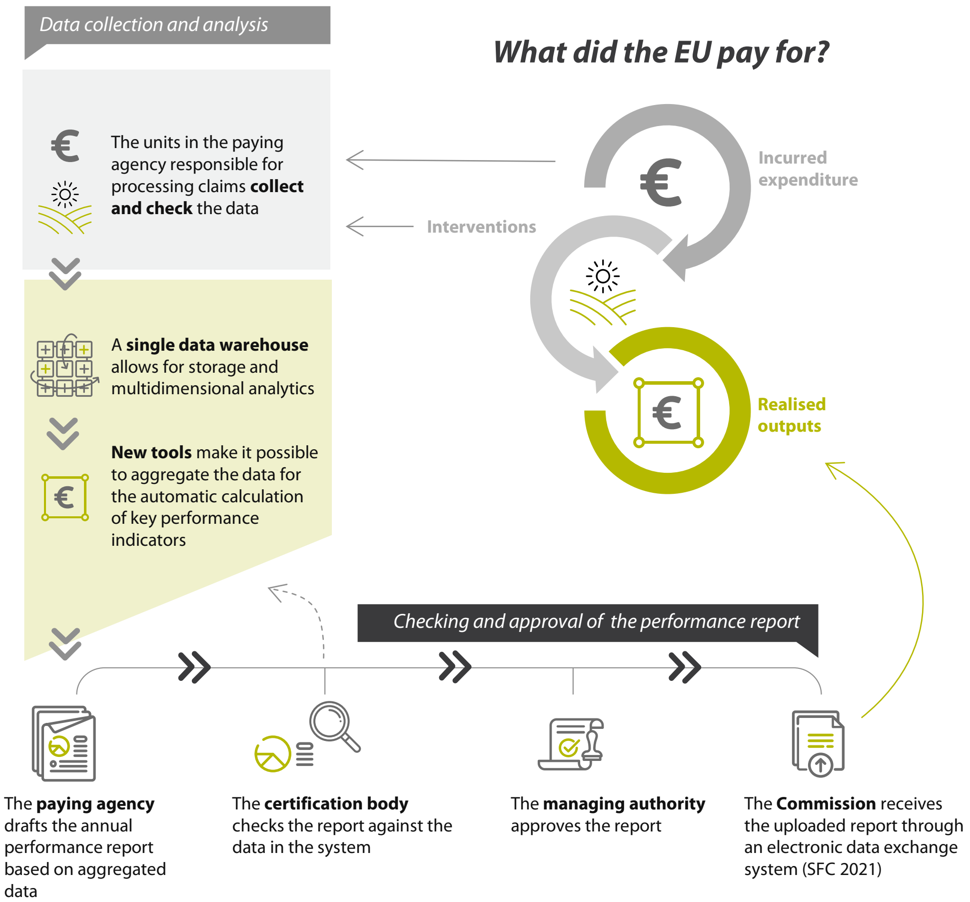
7.34. Under the 2023-2027 CAP, to be eligible for EU support, paying agencies' declared expenditure under their *CAP strategic plans* must be matched by a corresponding reported output. Member states are required to submit to the Commission information on the realised outputs and incurred expenditure in their APRs for a given financial year (N) by 15 February of the following year (N+1). The Commission checks the correspondence between declared expenditure and *outputs*, and where no acceptable justifications are provided for expenditure without a corresponding output, it may reduce EU support in a performance clearance decision by 15 October N+1.

7.35. Member states submitted their first APRs in February 2024 covering the 2023 financial year. As most CAP spending for 2023 fell under the rules for the previous period, only €63 million of paying agencies' declared expenditure generated reported outputs, of which €37 million related to *apiculture*. The three member states visited used a manual or partly automated approach to reporting on apiculture, drawing together data from existing systems and external sources. The units of the paying agencies responsible for processing applications for apiculture interventions checked the data submitted by the beneficiaries and sent it to the units responsible for reporting. The units responsible for reporting manually aggregated the data and prepared the APR in the standard format required for uploading to the Commission's electronic data exchange system (SFC 2021).

7.36. We also found that the three paying agencies were in the process of designing their systems during 2023 in preparation for reporting on all strategic plans interventions in their 2024 APR by 15 February 2025. To this end, they initiated *public* *procurement* procedures to contract external providers for the development work, which needs to comply with the international information security standards (ISO 27001 requirements) that apply to accredited paying agencies.

7.37. For the 2024 APR, the paying agencies plan to adopt similar approaches with units responsible for managing specific interventions to prepare and check the necessary APR data. Each of the visited paying agencies plans to extract data automatically from the systems for processing applications and store it in a data warehouse, where analytical tools will be used to automatically calculate the declared expenditure, unit amounts and corresponding output indicators for the different interventions. The information in the APRs will then be checked by the certification bodies and approved by the *managing authority* of the member state before being uploaded to the Commission's SFC 2021 platform. The paying agencies noted that implementing APR systems for all interventions by 15 February 2025 would be challenging and that alternative reporting solutions may be necessary in case of delays. *Figure 7.4* summarises the approach the visited member states are taking to producing their annual performance reports.

Figure 7.4 – Production of annual performance reports



Source: ECA.

Conclusion and recommendations

Conclusion

7.38. The overall audit evidence we obtained and have presented in this chapter indicates that the level of error in spending on 'Natural resources and environment' as a whole was material (see paragraph ***7.16***). For this MFF heading, our testing of transactions produced an estimated overall level of error of 2.2 %.

7.39. Our results indicate that the level of error was not material for direct payments, representing 66 % of spending under this MFF heading, while it was still material for the other spending areas taken as a whole (rural development, market measures, maritime, fisheries, the environment and climate action), representing 34 % of spending.

Recommendations

7.40. We reviewed the recommendations from the last three annual reports that either required immediate action or were targeted for implementation during 2023. Two recommendations made in the 2021 annual report were targeted for implementation in 2023. ***Annex 7.2*** shows the findings of our follow-up of the two recommendations we made in our 2021 annual report. We consider recommendation 6.1, concerning support to the use of new technologies for preventing errors in CAP payments to have been implemented in full, and the part of recommendation 6.2, concerning the audit of exceptional temporary support payments under rural development measure M21, to have been implemented in full.

7.41. Based on our findings and conclusions for 2023, we recommend that the Commission:

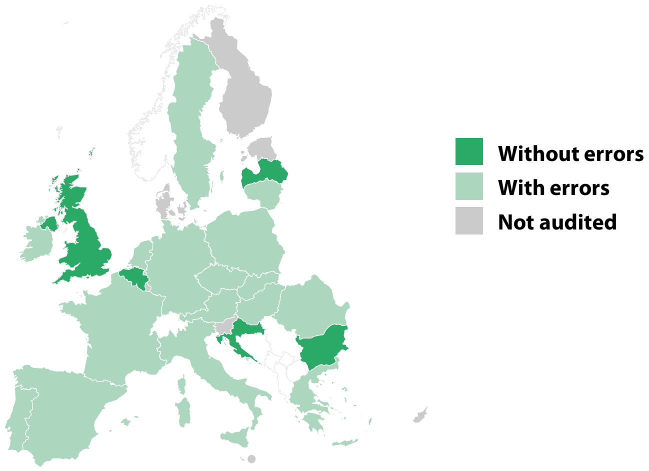
Recommendation 7.1 – Examine the effectiveness of national arrangements for capping EU support to large farms

Given the responsibility of member states for targeting income support to those who need it most, examine the effectiveness of member states' measures for limiting direct payments for large farms.

Target implementation date: 2025

Annexes

Annex 7.1 – Information on EU action in member states and the UK



Member state / country	EU contribution (*million euros*)	Audited transactions	Quantifiable errors	Non-quantifiable errors
CAP spending	**57 547**	**210**	**34**	**17**
France	*9 448*	28	2	3
Spain	*7 042*	36	5	1
Germany	*6 356*	16	2	1
Italy	*5 890*	20	4	6
Poland	*5 034*	20	2	1
Romania	*3 203*	12		2
Greece	*2 944*	8	4	
Hungary	*2 183*	12	3	
Ireland	*1 495*	4	3	1
Portugal	*1 501*	10	1	
Czechia	*1 246*	8	1	
Austria	*1 350*	4	2	
Bulgaria	*1 116*	4		
Sweden	*983*	4	1	1
Netherlands	*842*	4	1	1
Lithuania	*833*	4	2	
Belgium	*654*	8		
Croatia	*753*	4		
Slovakia	*563*	4	1	
Latvia	*474*	0		
United Kingdom	*71*	0		
MS not audited	*3 566*	N/A	N/A	N/A
Other spending	**1 930**	**8**	**3**	**2**
TOTAL	**59 477**	**218**	**37**	**19**

Source: ECA, based on Commission data.

Annex 7.2 – Follow-up of previous recommendations

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that the Commission: **Recommendation 6.1:** Support the use of new technologies for preventing errors in CAP payments Based on the experience of the use of '*checks by monitoring*', facilitate the sharing of best practices in member states' use of new technologies for performing their checks of CAP payments, in order to support the member states in their implementation of the Area Monitoring System from 2023. (Target implementation date: 2023)		The Commission organised regular GREX (Expert Group meetings on the implementation of the CAP) meetings, IACS workshops and Panta Rhei conferences as a forum for facilitating the sharing of best practices in the use of new technologies. Based on the experience gained in 2023, the Area Monitoring System (AMS) has become fully operational as of 1 January 2024. AMS combines the use of Copernicus Sentinels satellite imagery, geo-tagged photos and equivalent technologies to observe, track and assess all monitorable eligibility conditions of the area-based CAP interventions.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that the Commission: **Recommendation 6.2:** Check measure M21 payments Perform audits, and ensure monitoring and evaluation, to confirm that measure M21 funding properly targeted eligible beneficiaries suffering liquidity problems which put at risk the continuity of their farming or business activities. (Target implementation date: 2023 for auditing; 2025 for monitoring and evaluation)		In 2022 and 2023, the Commission's Rural Development audits to three member states covered measure 21 and in one case identified findings related to measure 21, with the error amount being limited. The findings are subject to the contradictory procedure with the member state concerned in line with the legal deadlines.

Source: ECA

Chapter 8

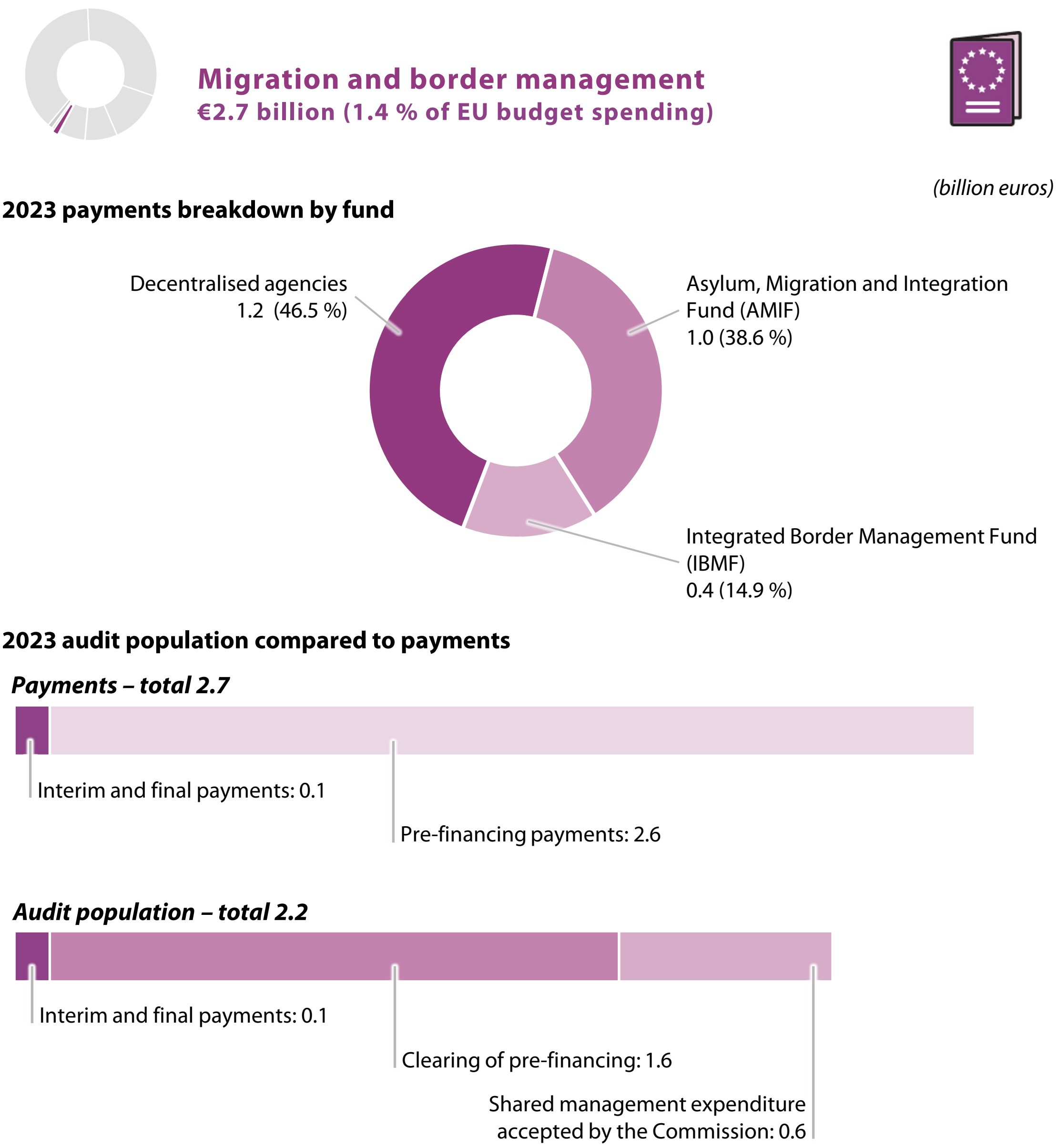
Migration and border management
Security and defence

Contents

Introduction

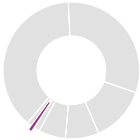
8.1. This chapter presents our findings for the *multiannual financial framework (MFF)* headings 4 'Migration and border management' and 5 'Security and defence'. In the previous MFF period, the related expenditure was mainly budgeted for and recorded under a single heading, MFF heading 3 'Security and citizenship'. ***Figure 8.1*** and ***Figure 8.2*** give an overview of the main activities and spending under these headings in 2023.

Figure 8.1 – Payments and audit population – Migration and border management



Source: ECA, based on data from the 2023 *consolidated accounts* of the EU.

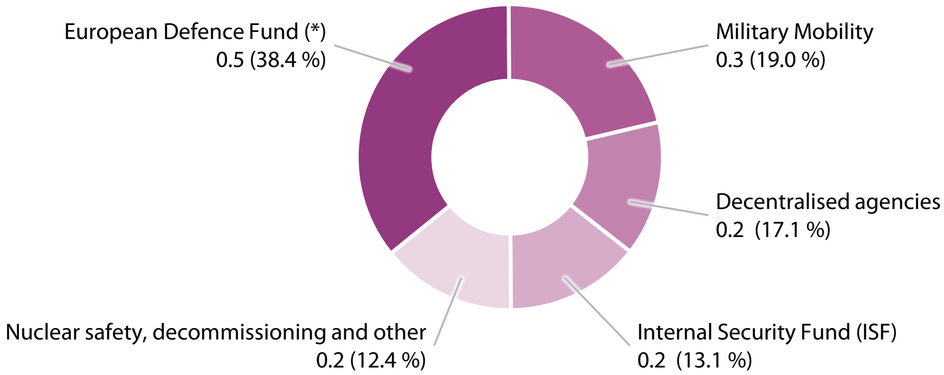
Figure 8.2 – Payments and audit population – Security and defence



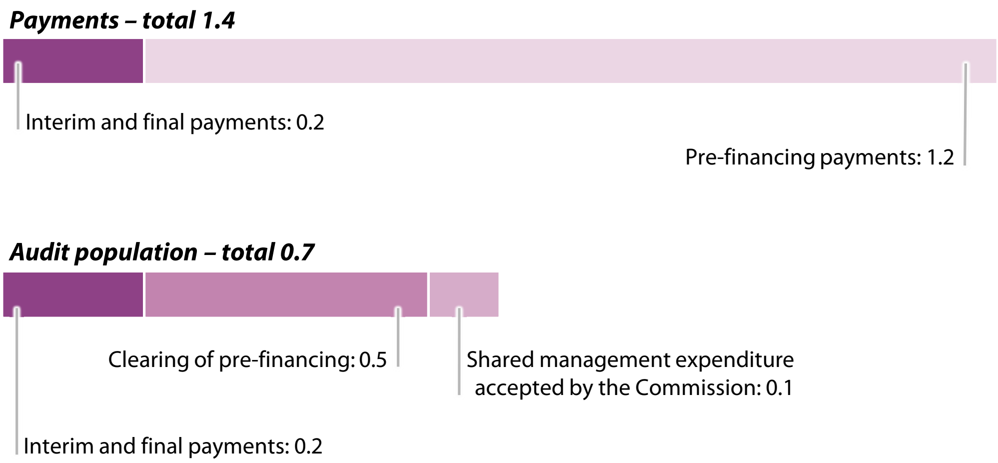
Security and defence
€1.4 billion (0.7 % of EU budget spending)

(billion euros)

2023 payments breakdown by fund



2023 audit population compared to payments



(*) Including the programmes related to defence industries.

Source: ECA, based on data from the 2023 consolidated accounts of the EU.

Brief description

Migration and border management

8.2. Given the increasing importance of migration and border management in recent years, the EU has established heading 4 of the 2021-2027 MFF specifically for these policy areas, as shown in ***Figure 8.1***. A significant portion of the spending in this heading in 2023 still concerned the completion of projects and schemes outstanding from the 2014-2020 MFF. Thus, most expenditure relates to the winding-up of the *Asylum, Migration and Integration Fund*[1] (AMIF) for 2014-2020 and the completion of funding from the *Internal Security Fund* – Borders and Visa instrument[2] (ISF-BV). These 2014-2020 funds have been replaced in the 2021-2027 MFF by, respectively, a new AMIF[3], and the *Instrument for Financial Support for Border Management and Visa Policy*[4] *(BMVI)* of the *Integrated Border Management Fund*.

8.3. Another significant spending area for MFF heading 4 is the funding for *decentralised agencies* (European Border and Coast Guard Agency (*Frontex*), *European Union Agency for Asylum (EUAA)*, and European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (*eu-LISA*)). We report separately on agencies in our annual report on EU agencies.

Security and defence

8.4. In the 2021-2027 MFF, heading 5 is devoted to security and defence, as shown in ***Figure 8.2***. The 'security' component includes funding from the Internal Security Fund (ISF) for 2021-2027[5] and the completion of projects and schemes funded from the Internal Security Fund – Police instrument (ISF-P) for 2014-2020[6], which comprised

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1 Regulation (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund.

2 Regulation (EU) No 515/2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa.

3 Regulation (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund.

4 Regulation (EU) 2021/1148 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy.

5 Regulation (EU) 2021/1149 establishing the Internal Security Fund.

6 Regulation (EU) No 513/2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

a significant portion of the spending in this area in 2023. This component also includes funding for nuclear decommissioning in Bulgaria, Lithuania and Slovakia), and funding for EU decentralised agencies in the area of security (European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Union Agency for Law Enforcement Cooperation (Europol), and European Union Agency for Law Enforcement Training (CEPOL)). The 'defence' component includes the European Defence Fund[7] that supports collaborative defence projects at all stages of research and development. The component also supports military mobility through a dedicated budget within the *Connecting Europe Facility*[8] that relates to adapting sections of the *Trans-European Transport Network* for civilian-military dual use purposes.

Implementation of shared management programmes

8.5. The management of most AMIF and ISF funding for 2014-2020 and most AMIF, BMVI and ISF funding for 2021-2027 is shared between the member states (or Schengen associated countries) and the Commission's Directorate-General for Migration and Home Affairs (DG HOME). Under this arrangement, member states implement multiannual *programme*s that have been approved by the Commission.

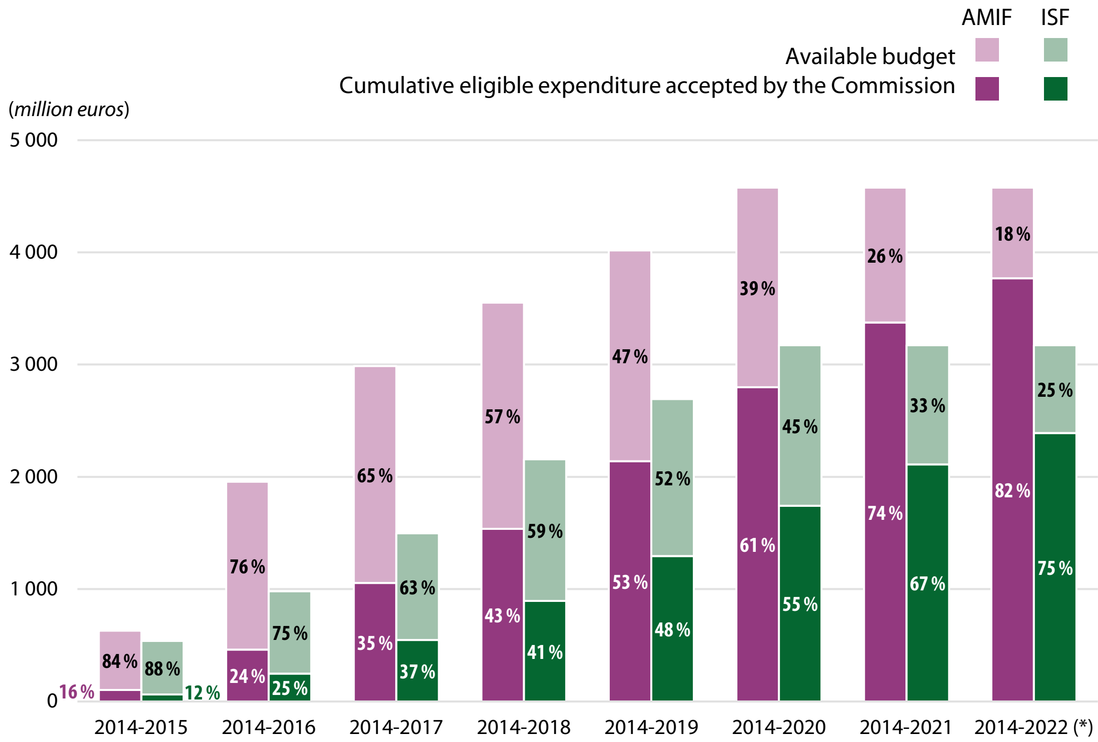
8.6. Since 2020, member states have stepped up implementation of their AMIF and ISF programmes for the 2014-2020 *programming period*. Funding for 2014-2020 had to be spent by June 2024[9]. Nevertheless, the Commission's 2023 accounts showed that significant amounts remained undeclared by member states (18 % for AMIF and 25 % for the ISF). ***Figure 8.3*** sets out the expenditure that member states have reported to the Commission for reimbursement since the beginning of the 2014-2020 *programming period*.

[7] Regulation (EU) 2021/697 establishing the European Defence Fund.

[8] Regulation (EU) 2021/1153 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014.

[9] Regulation (EU) 2022/585 amending Regulations (EU) No 514/2014, No 516/2014 and No 2021/1147.

Figure 8.3 – Progress of the 2014-2020 AMIF and ISF programmes



(*) AMIF/ISF expenditure at member state level is declared to and approved by the Commission the year after it is incurred. Thus, the Commission's accounts for 2023 show the expenditure incurred by the member states in 2022.

Source: ECA, based on Commission data (programmes and *clearance* decisions until the end of 2023).

Audit scope and approach

8.7. Applying the audit approach and methods set out in ***Annex 1.1***, we carried out the following work:

(a) We examined a sample of 23 *transactions*, which while contributing to our overall *statement of assurance*, does not allow to *estimate an error rate* for these headings. The sample consisted of:

— 12 transactions under *shared management* (two each from: Germany, France, Hungary, Poland, and United Kingdom for MFF heading 4; Latvia for MFF heading 5);

— 10 transactions under the Commission's *direct management* (eight for MFF heading 4, two for MFF heading 5);

— one transaction under *indirect management* (MFF heading 5);

— and we also took account of the results of our *compliance audits* of agencies.

(b) We examined the *regularity* of information given in the *annual activity report* (AAR) of DG HOME and then included in the Commission's *annual management and performance report* (AMPR).

(c) As regards the Commission internal control systems, we assessed: how DG HOME distributed funding between the member states' national programmes and the "thematic facilities" of the three funds (AMIF, BMVI and ISF); how it supported member states in the transition to the *Common Provisions Regulation*[10] (CPR) in terms of shared management under AMIF, BMVI and ISF; and how *audit authorities* in five member states (Germany and France for AMIF; Hungary and Poland for BMVI; Latvia for the ISF) were preparing for the 2021-2027 AMIF, BMVI and ISF.

[10] Regulation (EU) 2021/1060 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

Regularity of transactions

8.8. Of the 23 transactions we examined, seven were affected by *errors*. We quantified four errors which had a financial impact on the amounts charged to the EU budget. These errors related to ineligible expenditure, the absence of supporting documents (for example, non-retention of key travel documents) and *public procurement* issues. ***Box 8.1*** shows an example of the errors we quantified.

Box 8.1

Essential supporting documents missing

DG HOME

We audited an AMIF project under shared management with the United Kingdom for which the Commission accepted eligible expenditure of €2.47 million. The project was implemented from October 2020 to December 2022 and consisted of providing security services and flights to facilitate the removal from the United Kingdom of third-country nationals who no longer had permission to stay.

We found ineligible expenditure for all ten items examined, which related to flight costs and costs for the services provided by the security teams escorting each returnee. Contrary to the national AMIF guidance, the UK authorities had not retained key documents in any of the cases, notably boarding passes or other equivalent supporting documents. Consequently, we did not obtain sufficient documentation to confirm that the individual security escorts had participated in the removal operations in question. Therefore, we could not verify that these costs had actually been incurred.

Accordingly, we considered 100 % of the examined expenditure ineligible for EU funding. We also note that the *beneficiary* submitted audit certificates to support its cost claims, but none of the errors described above had been reported by the external auditors.

Furthermore, we noted shortcomings in the procedures to determine how many security escorts were required to accompany the returnees from the UK, and in those to establish the best value flight option for the return. Both situations were prevalent in our sample.

8.9. We also found ten cases of non-compliance with legal and financial provisions in seven transactions (but with no direct financial impact on the EU budget). These related to, for example, shortcomings in *grant* award procedures, public procurement issues, and failure to respect technical eligibility parameters. ***Box 8.2*** and ***Box 8.3*** show examples of the errors we found.

Box 8.2

Shortcomings in grant award procedures

DG HOME

We audited three open calls for proposals published in 2016, 2019 and 2020 under AMIF shared management. The calls required applicants to provide services to facilitate the integration of third-country nationals in the member states (in our audit, these were Germany and France) and the United Kingdom.

In two cases, we found that grant applicants had not been properly informed about the evaluation process. Important information on the appraisal methodology, such as applicable thresholds or different weightings applicable to individual criteria, had not been published (France and the UK). In the UK case, applicants' right to appeal against the award decision had not been recognised. Elsewhere, we noted that the selection criteria had been modified during the selection procedure, which had resulted in unequal treatment of applicants (Germany).

Overall, we considered that these shortcomings contravened the principles of transparency and equal treatment and, in one instance, also the fundamental rights of applicants to appeal against administrative decisions that have an adverse effect on them.

Box 8.3

Inconsistent application of award criteria and EU support to projects beyond required level for dual use

DG MOVE

We audited a military mobility infrastructure project in Germany awarded by the Commission. The project consisted of upgrading rail infrastructure so that elements of the trans-European transport network could be adapted for dual military-civilian use. The total eligible expenditure was €99.18 million, of which the EU contribution was 50 %.

We found that the beneficiary's proposal did not identify how the project was to contribute to adaptation of axle load capacity of railway bridges for dual use, notably because it did not disclose those capacities per bridge before- and after-project completion. Axle load capacity is a key eligibility criterion which the evaluation process was, consequently, unable to check. Moreover, the evaluation of the proposals against the published criteria was not always consistent, particularly for the criterion whereby EU funding would help overcome a financial gap and bring significant leverage effect to speed up the project's implementation.

The audit ultimately established that all of the railway bridges examined achieved a load capacity on average 27 % above the required level for dual use of 25 tonnes/axle. Although this does not render these bridges ineligible per se, the applicable rules also state that construction costs related to load capacity going beyond the required level are not eligible for EU funding. The Commission did not enforce this limit and considered all costs as eligible. As these bridges' layouts were designed and built to accommodate the specific axle load capacities set out in the national guidelines, we were unable to separate those elements of the construction that exceeded the dual-use requirements. Consequently, the ineligible expenditure cannot be quantified.

8.10. Although not affected by regularity errors, we also found three transactions which did not comply with the principles of *sound financial management*. These related to issues with reimbursement of *value added tax* to public bodies, and the lack of an objective basis for the application of supplemental salary allowances. ***Box 8.4*** shows an example of the cases we found.

Box 8.4

Issues related to reimbursement of VAT declared by public bodies

DG HOME

We audited an AMIF project 100 % co-financed by the EU for €1 million under shared management with Hungary, which consisted of upgrading the Schengen Information System. The system is used for security and border management in Europe and enables competent national authorities to enter and consult alerts on persons or objects. The audited cost claim amounting to €213 098 included *VAT* of €45 304.

For this project, we found that the cost claim was not in line with Commission guidance that had been issued in response to our previous recommendation that EU co-financing may not exceed the total eligible expenditure excluding VAT. However, the amount claimed by the public body in this case exceeded the total cost of the project, net of VAT.

We reported on such cases in 2017[11] and have found similar cases during our audit work in 2021 and 2022. As VAT charged by a service provider automatically flows to the national budget, this generates additional budgetary revenue for member states.

[11] 2017 annual report, paragraph 8.7 and Box 8.3, with Commission replies.

Examination of elements of internal control systems

8.11. We assessed how DG HOME had established the thematic facilities for the 2021-2027 MFF and re-calculated the allocations and weightings for the distribution of funding for the member states' national programmes under AMIF, BMVI and ISF. The AMIF and BMVI Regulations set out certain requirements for their thematic facilities, while the allocation methodologies established in Annex I to the AMIF, BMVI and ISF Regulations stipulate specific calculations and weightings based on statistical data provided by Eurostat and Frontex.

8.12. We confirmed that DG HOME's establishment of the thematic facilities and implementation of the allocation methodologies was compliant with the requirements of the relevant regulations.

8.13. We also assessed the support and guidance offered by DG HOME to the member state authorities in managing the transition of the AMIF, BMVI and ISF funds to the new CPR in the 2021-2027 MFF. We analysed the preparatory work of five member state audit authorities (Germany and France for AMIF, Hungary and Poland for BMVI, Latvia for the ISF) as follows:

(a) how the implementation of the CPR was affecting these audit authorities;

(b) how they were taking account of the specific requirements of the CPR in relation to AMIF, BMVI and the ISF.

8.14. Under the CPR, all member states were required to have in place, at the latest by 30 June 2023, a description of their management and control systems, which is a prerequisite for audit authorities to define their audit strategy for system audits and audits of operations. The five selected member states had finalised the description of their management and control systems at the time of our audit, and most were still in the process of finalising their audit strategies (one had already done so). They had a clear picture of the main changes required in the audit strategy, system audits and audits of operations compared with the 2014-2020 programming period. The five member states we visited intended to submit their first annual accounts for AMIF, BMVI and the ISF to the Commission in 2024, at the earliest.

8.15. Overall, the five audit authorities considered that DG HOME support provided to the member states was satisfactory. They have made reasonable progress in their preparations for the 2021-2027 AMIF, BMVI and ISF.

Annual activity reports and other governance arrangements

8.16. For the 2023 financial year, we reviewed the AAR of DG HOME. Our analysis focused on whether DG HOME had presented the regularity information in its AAR in accordance with the Commission's instructions, and whether this information was consistent with the knowledge we had obtained during our audits. We found no information that might contradict our findings.

8.17. We reviewed DG HOME's estimates for risks at payment and at closure. We found that they were calculated and reported in the AMPR in accordance with internal methodology. Of the total expenditure in 2023 (€3 046 million), DG HOME estimated the total amount at risk at the time of payment to be €34 million (1.1 %), and it estimated a figure of €3 million for corrections resulting from its checks in future years.

8.18. The Director-General of DG HOME declared that she had reasonable assurance that the resources assigned to the activities described in the AAR had been used for their intended purpose and in accordance with the principles of sound management, but with some *reservations*. As the number of transactions we check concerns only a small proportion of the transactions under DG HOME's responsibility, we are unable to verify this statement against the results of our audit work.

Conclusion and recommendations

Conclusion

8.19. While we did not audit sufficient transactions to estimate the level of error for these MFF headings (see paragraph *8.7*), our audit results indicate that it is a high-risk area. The results of transaction testing contribute to our statement of assurance.

Recommendations

8.20. ***Annex 8.1*** shows the findings of our follow-up review of the recommendations from our 2021 annual report that were targeted for implementation by the end of 2023. These recommendations concerned guidance to the beneficiaries of *Union actions* and emergency assistance, and to member state authorities responsible for implementing DG HOME funds. They concerned the retention of an adequate *audit trail* and compliance with procurement rules. For emergency assistance, we also recommended better targeting *ex ante* checks for emergency assistance projects. Although DG HOME initially agreed to implement these recommendations by the end of 2023, they have informed us that they plan to finalise implementation during 2024, as further explained in the aforementioned Annex.

8.21. Based on our findings and conclusions, we make the following recommendations to the Commission:

Recommendation 8.1 – Provide further guidance to member states on applicable rules

Provide further guidance to the member state authorities responsible for implementing DG HOME funding via shared management on adhering to:

(a) the rules for retaining appropriate supporting documentation that can be presented in the event of checks or audits;

(b) the obligation to comply with the national and EU rules on transparency and equal treatment when awarding grants following open calls for proposals;

Target implementation date: End of 2025

Recommendation 8.2 – Verify technical aspects of projects before awarding grants

Carefully check and document the technical aspects of military mobility grant applications to the Connecting Europe Facility during the grant award procedure. In particular, identify whether dual-use infrastructure projects meet the eligibility conditions and ensure that EU financial support does not exceed the level of requirements necessary for dual use.

Target implementation date: End of 2025

Annexes

Annex 8.1 – Follow-up of previous recommendations for 'Migration and border management' and 'Security and defence'

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	We recommend that the Commission: **Recommendation 1:** Provide further guidance to the *beneficiaries* of Union action and emergency assistance, and the Member State authorities responsible for implementing DG HOME funding, on adhering to: (a) the rules for collecting appropriate supporting documentation that can be produced in the event of checks or audits;	In some respects	The recommendation has been implemented in some respects. For Union actions and emergency assistance, the Commission has provided guidance during various meetings (e.g. kick-off meetings, ad-hoc technical meetings, monitoring meetings) held with beneficiaries to address the first part of the recommendation concerning the rules to maintain an adequate audit trail. For member state authorities responsible for implementing DG HOME funding, the Commission plans to host a webinar in mid-2024.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	(b) the obligation to comply with the national rules on public procurement when purchasing goods or services.		The Commission has communicated a revised target implementation date by mid-2024 to the ECA.
2021	**Recommendation 2:** Carry out better targeted *ex ante* checks on the eligibility of expenditure, especially in the case of emergency assistance, with a specific focus on the potential risks related to: (a) the type of expenditure (e.g. procurement) and; (b) the type of beneficiary (e.g. beneficiaries with little or no experience of EU funding). In doing this, the Commission should take into consideration the fact that using audit certificates to support beneficiaries' payment claims has limitations.		The recommendation has been implemented in some respects. The Commission is working on the setting up of a DG level strategy putting together the different existing elements, including *ex ante* controls. Considering that a similar recommendation has been issued by the ECA in the context of the 2022 annual report in relation to Union actions, the Commission has decided to address the implementation of both recommendations together in order to ensure a coherent approach for all actions directly managed by DG HOME. The Commission has communicated a revised target implementation date by end-2024 to the ECA.

Source: ECA.

Chapter 9

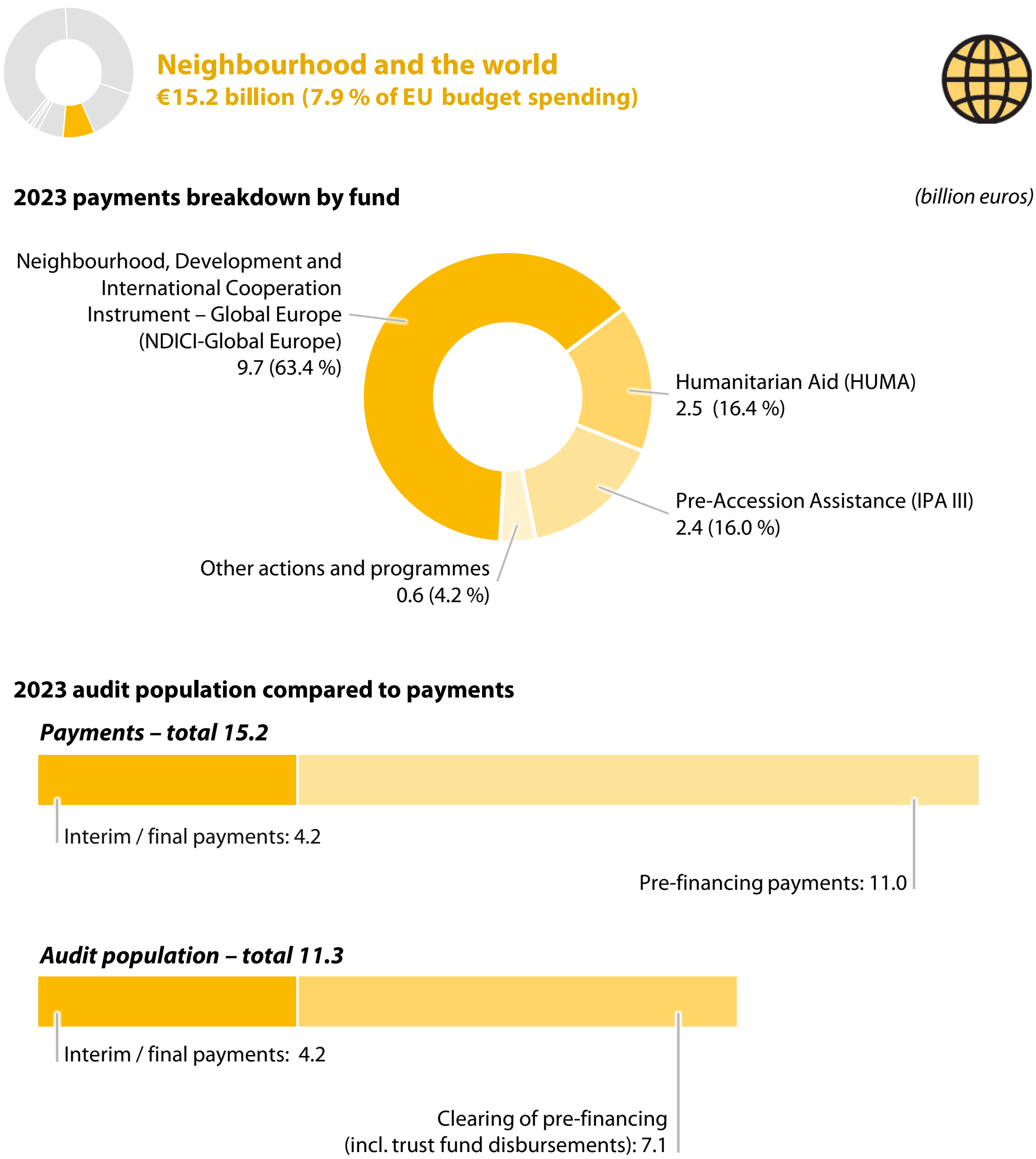
Neighbourhood and the world

Contents

Introduction

9.1. This chapter presents our findings for MFF heading 6 'Neighbourhood and the world'. *Figure 9.1* gives an overview of the main activities and spending under this heading in 2023.

Figure 9.1 – Payments and audit population



Source: ECA, based on data from the 2023 *consolidated accounts* of the European Union.

Brief description

9.2. The spending area comprises several funding instruments, most notably the *Neighbourhood, Development and International Cooperation Instrument - Global Europe ('NDICI - Global Europe')*[1], the Instrument for Pre-accession Assistance[2] and the humanitarian aid budget.

9.3. The general objective of NDICI - Global Europe is to uphold and promote EU values, principles and fundamental interests worldwide, and help promote multilateralism and stronger partnerships with non-EU countries. It reflects two major changes, compared to the 2014-2020 MFF, in the way the EU finances *external action* (foreign policy):

(a) cooperation with African, Caribbean and Pacific partner countries, previously financed by the European Development Funds, has now been brought under the EU's general budget;

(b) such cooperation and the EU's neighbourhood policy are now funded under the same NDICI - Global Europe instrument while preserving the specific features of both types of support.

9.4. The general objective of the Instrument for Pre-accession Assistance is to support *beneficiary* countries in adopting and implementing the reforms required to align with EU values with a view to membership, thereby contributing to their stability, security and prosperity.

9.5. The EU also provides needs-based humanitarian assistance to people hit by human-induced disasters and natural hazards, with a particular focus on the most vulnerable.

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[1] Regulation (EU) 2021/947 on the Neighbourhood, Development and International Cooperation Instrument - Global Europe.

[2] Regulation (EU) 2021/1529 establishing the Instrument for Pre-Accession assistance (IPA III).

9.6. The main directorates-general and services involved in implementing EU external action are the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), the Directorate-General for International Partnerships (DG INTPA), the Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) and the Service for Foreign Policy Instruments (FPI).

9.7. In 2023, payments for 'Neighbourhood and the world' amounted to €15.2 billion (pre-financing, interim and final payments) and were disbursed using several instruments (see ***Figure 9.1***) and delivery methods. These include works/supply/service contracts, *grants*, special loans, loan guarantees and financial assistance, *budget support* and other targeted forms of budgetary aid in non-EU countries (see ***Annex 9.1***). The total payments under this heading increased from €14.5 billion in 2022 to €15.2 billion in 2023.

Audit scope and approach

9.8. Applying the audit approach and methods set out in ***Annex 1.1***, we examined the following:

(a) a sample of 72 *transactions* which, while contributing to our overall statement of assurance, does not allow us to estimate the error rate for this heading. We sampled 32 transactions from DG NEAR, 23 from DG INTPA, 12 from DG ECHO and three from FPI, as well as two transactions from other directorates-general;

(b) the regularity information given in the *annual activity report* (AAR) of FPI and DG INTPA and then included in the European Commission's *annual management and performance report (AMPR)*;

(c) selected systems in five EU delegations including their systems for:

   (i) governance and functioning – we reviewed the available reports, such as external assistance management reports, risk management framework reports and supervisory mission reports, and conducted interviews with the relevant staff during our visit;

   (ii) audit, verification and follow-up – we assessed whether the implementation of the annual audit and verification plans was appropriate and compliant with the applicable rules and guidelines;

   (iii) fraud prevention and ethics – we assessed whether staff received proper training in fraud prevention and ethics and were aware of the procedures and obligations in cases of suspected fraud.

Regularity of transactions

9.9. Of the 72 transactions we examined, 37 (51.4 %) were affected by errors. Despite the limited sample size, our audit results indicate that the risk of error in this MFF heading is high. We were unable to conclude on the regularity of one transaction implemented in the Gaza strip because we did not receive the necessary evidence due to force majeure, namely the conflict on that territory. We have quantified 31 errors which had a financial *impact* on the amounts charged to the EU budget. These errors related to ineligible beneficiaries, ineligible costs, expenditure not incurred and *public procurement*. ***Box 9.1*** shows examples of some of these errors we have quantified.

Box 9.1

Budget implementation entrusted to an ineligible beneficiary

DG INTPA

We audited an invoice worth €3.5 million under a delegation agreement with a pillar-assessed implementing partner. After signing the agreement, the implementing partner sub-delegated the entire implementation to a private company registered under national law of an EU member state. This company could not demonstrate its public service mission, and hence its eligibility to undergo *pillar assessment* and manage EU funds on the Commission's behalf.

However, neither the Commission nor the implementing partner sought clarification on whether the company in the member state was eligible, and particularly on whether it could be considered to have a public service mission. The company was also not made to undergo the required *ex ante* assessment before signing the sub-delegation contract.

The implementing partner consequently sub-delegated the implementation of the audited delegation agreement to an ineligible entity, thereby rendering the related payment ineligible.

Contribution not compliant with legal basis for financing not linked to costs

DG INTPA

We audited an invoice worth €227 million under a *contribution* agreement signed with an international financial institution, implemented under *direct management* with support provided in the form of financing not linked to costs.

Under the EU *Financial Regulation* and the Commission's implementing rules, EU contributions of this type are subject to the setting of conditions in sector-specific rules or Commission decisions, or of results to be achieved. Those conditions must be fulfilled or results achieved before any payment of EU financing not linked to costs can be made.

However, neither the Commission decisions nor the contribution agreement made payments dependent on the fulfilment of any conditions or the achievement of results. The payment of the audited invoice was based solely on the countersignature of the contribution agreement. We therefore considered it ineligible.

Excess clearing in relation to costs not incurred

DG NEAR

We audited an invoice worth €11.8 million under a contribution agreement signed with an international organisation and implemented under *indirect management*.

Due to the late completion of reconstruction works the international organisation decided to transfer an amount of €925 873 from the audited contract (phase II) to another contract (phase I) financing a similar EU project. This meant the related expenditure no longer represented costs incurred under the audited contract, to avoid leaving funds unspent under the other contract.

The accounting operation for this transfer took place after the end of the reporting period. The international organisation reflected the operation in its accounting system but did not include it in its annual report to the Commission. It did not promptly notify the Commission of the financial consequences of this operation. We considered that costs of €925 873 had not been incurred under the audited contract and concluded that the Commission had cleared this amount in excess.

9.10. We also found 19 cases of non-compliance with legal and financial provisions (but with no direct financial impact on the EU budget). These related to, for example, public procurement, unclear allocation of costs, non-compliance with visibility rules, and insufficient evidence. ***Box 9.2*** shows examples of errors that we have not quantified.

Box 9.2

Negotiation of application after award

DG INTPA

We audited an invoice worth €1 million under a grant contract signed with non-governmental organisations (NGOs). The action's estimated costs amounted to €5.6 million (EU contribution of 90 %).

The contract was awarded following a call for proposals. The evaluation committee recommended the application submitted by the beneficiaries of the audited invoice for the award of a grant and did not identify any issues for correction. The Commission, as contracting authority, accepted the evaluation committee's recommendation.

After the award decision and before the signature of the grant agreement, the Commission entered into negotiations with the applicant, which led to changes to the description of the action and to the proposed budget. The changes were significant corrections and did not relate to issues clearly identified by the evaluation committee. Nor were they aimed at taking into consideration changes in circumstances that had occurred after the date the proposal was submitted. Under the Commission's rules, they therefore should not have been permitted.

Incorrect allocation of shared costs

DG NEAR and DG INTPA

We audited expenditure claimed through five different invoices under grant contracts with NGOs and contribution and delegation agreements with international organisations. The invoices included costs shared between EU-funded and other projects. We found that the charging of these shared costs to the EU budget was not based on an objective allocation methodology reflecting the proportion of funds actually used for the EU-funded projects.

Non-compliance with visibility rules

DG NEAR

We audited an invoice worth €21.2 million under a contribution agreement signed with an international organisation and implemented under indirect management. The aim of the project was to support Eastern partnership countries in tackling COVID-19. The total cost of the action was €35.2 million, with an EU contribution of €34.7 million (99 %). Beneficiaries of EU funds are required to clearly publicise the fact that the EU has financed or co-financed the action they are implementing.

However, we found that most donation certificates we checked did not contain any acknowledgment that the medical equipment donated was EU funded.

9.11. We also identified one case of non-compliance with the principle of sound financial management, related to the purchase of goods above market price. ***Box 9.3*** provides details on this case.

Box 9.3

Fuel purchased for more than the average published price

DG ECHO

We audited an invoice for €5.9 million under a grant contract signed with an NGO. The action is being implemented in a region of an African country, with estimated costs of €7 million and an EU contribution of €5.9 million (84 %).

When auditing expenditure claimed under this grant, we sampled a cost item related to the purchase of fuel. We found that, during the implementation of the contract, the beneficiary's supplier had changed the price of fuel on several occasions. The supplier's prices were between 0.35 % and 62 % higher than the average published prices for the relevant period, as proven by data from the country's National Bureau of Statistics for this region.

The beneficiary thus paid substantially more than the average published price and charged this amount to the EU budget. We concluded that this practice was not compliant with the principle of sound financial management.

9.12. We identified two spending areas in which transactions are generally less prone to errors due to specific payment conditions. These areas are (i) budget support and (ii) projects subject to the '*notional approach*', which are implemented by international organisations. In 2023, we audited three budget support transactions and nine 'notional approach' transactions.

9.13. Budget support is a contribution to a state's general budget or its budget for a specific policy or objective. Budget support payments financed by the EU general budget amounted to €1.4 billion in 2023. We examined whether the Commission had complied with the conditions governing budget support payments to partner countries and had verified that these countries met the eligibility conditions (such as satisfactory improvement in public-sector financial management). Our regularity audit cannot cover what happens after the Commission pays aid to the recipient country, since these funds then merge with that country's own budget resources.

9.14. Under the 'notional approach', when contributions from the Commission to multi-donor projects are pooled with those from other donors and not earmarked for specific, identifiable items of expenditure, the Commission assumes that expenditure is compliant with EU eligibility rules provided that the total pooled amount includes sufficient eligible expenditure to cover the EU's contribution. We took this approach into account in our substantive testing. In 2023, payments to international organisations from the EU general budget amounted to €4.6 billion. We cannot state the proportion of this amount to which the notional approach applies, since the Commission does not monitor it.

9.15. When examining the regularity of transactions, we also noted examples of effective controls by the Commission. We present one such example in ***Box 9.4***.

Box 9.4

Reduction of EU contribution due to underperformance

DG ECHO

We audited an invoice worth €3.3 million under a delegation agreement signed with an international organisation. The action's estimated costs amounted to €4.5 million, with an EU contribution of €4.1 million (91 %). The project's objective was to provide emergency assistance to increase food production capacity and build resilience among vulnerable populations affected by conflicts in an African country.

Through analysis of the project's final report and a field monitoring visit, the Commission identified failings on the part of the international organisation. The Commission found, among other things, that seeds were of poor quality or distributed outside the appropriate period. As these failings had a serious impact on the achievement of the project's operational objectives, the Commission decided to reduce the EU contribution by €820 000, corresponding to 20 % of the agreed amount.

9.16. For transactions related to contracts under indirect management with pillar-assessed organisations (international organisations, international financial institutions and state agencies), the Commission accepted expenditure on the basis of a financial report and a management declaration. The latter is a self-declaration from the pillar-assessed organisation certifying that the financial information submitted is properly presented, complete and accurate, and in compliance with the obligations laid down in the contract. However, we found errors in transactions implemented by pillar-assessed organisations that indicate that their financial reports are not free from errors and that these errors are not reported in their management declarations.

9.17. As in previous years, we faced delays in receiving requested documentation from some international organisations and international financial institutions and, consequently, in carrying out our work (see ***Annex 9.2***, recommendation 1 from 2020). These organisations provided only limited access to documents (e.g. in read-only format), which hindered the planning, execution and quality control of our audit. This concerned 12 transactions we audited. These difficulties persisted despite the Commission's attempts to resolve them through ongoing communication with the international organisations concerned.

Examination of elements of internal control systems

9.18. We visited five EU delegations (in Albania, Armenia, Cambodia, Georgia and India) and examined elements of their internal control systems (see paragraph *9.8*).

9.19. We identified some shortcomings in the functioning of the internal control system elements we examined. These shortcomings related to, for example, insufficient budget for monitoring visits and delays in the implementation of blending contracts. ***Box 9.5*** shows examples of such shortcomings.

Box 9.5

Insufficient budget for field monitoring visits

DG NEAR

Field monitoring visits are a key element of the Commission's internal control system. They allow the Commission to keep track of the implementation of project activities and the achievement of intended results.

In one of the EU delegations we visited, we found that the 2023 budget for these visits had decreased by almost 20 % compared to 2022. According to the delegation's 2023 management report, the limited budget was an obstacle to conducting field monitoring visits during project implementation, especially for contract managers in the delegation's Finance, Contracts and Audit section.

Delays in the implementation of blending contracts

DG NEAR and DG INTPA

During our visits to two EU delegations, we identified significant delays in the implementation of blending contracts under indirect management, which have become increasingly important within the Commission's portfolio. These delays mainly related to failures to implement project activities. The intended results were therefore not achieved in a timely manner due to delays on the part of development banks in making the investments supported by the blending operations.

In one of these delegations, according to its 2023 management report, these delays created difficulties in achieving two key performance indicators: one on beneficiaries' use ('absorption') of amounts to be disbursed, and one on the clearing of pre-financing already paid.

9.20. Following our observation last year that the Commission's OPSYS information system was not fully operational[3], we performed an IT audit on its component for managing user access and rights. ***Box 9.6*** provides detailed information on the outcome of this IT audit.

[3] Box 9.4 of our 2022 annual report.

Box 9.6

Shortcomings in the functioning of a component of the OPSYS IT ecosystem

DG INTPA

Several years ago, DG INTPA, DG NEAR and FPI launched a large-scale business and IT transformation programme called OPSYS to manage the EU's entire external action portfolio. The OPSYS IT ecosystem comprises a set of components. These include a corporate access management tool, owned by another directorate-general, which is used to manage user access rights. We performed an IT audit on this component.

We found, among other things, that although DG INTPA had a procedure for granting and removing access rights for system administrators and to standard users, it had not been formalised. Moreover, during our checks on 41 staff we found four cases in which standard users had more access rights than they needed for their jobs. This contravenes the Commission's IT standards.

In addition, we found that DG INTPA did not manage all administrator accounts belonging to staff of other directorates-general.

We consider that these weaknesses increase the risk of inappropriate access to the system and undermine the integrity of system processes and data. They also increase the risk of non-compliance with the rules and procedures set by the various directorates-general for implementing external action projects.

Annual activity reports and other governance arrangements

FPI’s annual activity report

9.21. We reviewed FPI’s AAR for the 2023 financial year. We focused on whether FPI had presented the regularity information in its AAR in accordance with the Commission’s instructions and had been consistent in its application of the methodology for estimating future corrections and recoveries.

9.22. Of the total expenditure accepted in 2023 (€865 million), FPI estimated the total amount at risk at the time of payment to be €7.2 million (0.83 %). It estimated the value of corrections resulting from its checks in subsequent years at €0.9 million (0.1 % of the total relevant expenditure). This led FPI’s Head of Service to declare that the service’s financial exposure was below the materiality threshold of 2 %.

9.23. Considering that we do not have a representative sample to estimate an error rate for MFF heading 6 ‘Neighbourhood and the world’, we are unable to indicate whether this statement contradicts the results of our audit work. In addition, only 4 % of our checks performed in 2023 related to payments under the responsibility of FPI.

9.24. Our review of FPI's 2023 annual activity report and our checks on payments under FPI’s responsibility in 2023 did not reveal any errors or shortcomings.

DG INTPA’s annual activity report

9.25. Our work on DG INTPA´s 2023 AAR is presented in detail in our annual report on the 9th, 10th and 11th European Development Funds (EDFs).

Conclusion and recommendations

Conclusion

9.26. While we did not audit sufficient transactions to estimate the level of error for this MFF heading (see paragraph *9.8*), our audit results indicate that it is a high-risk area. The results of transaction testing contribute to our statement of assurance.

Follow-up of previous recommendations

9.27. *Annex 9.2* shows the findings of our follow-up review of recommendation 1 we made in our 2020 annual report. As already indicated in our 2022 annual report, the Commission had implemented recommendations 2 and 3 in full. However, we consider recommendation 1, on complete and timely access to documents, to have been implemented only in some respects.

9.28. We also reviewed recommendations from the 2021 and 2022 annual reports that required immediate action or were targeted for implementation during 2023. The Commission had implemented four recommendations in full (*Annex 9.2*).

Recommendations

9.29. Based on this review and our findings and conclusions for 2023, we make the following recommendations to the Commission:

Recommendation 9.1 – Take measures to improve control systems for the clearing of pre-financing

Before clearing pre-financing paid to organisations implementing contracts under indirect management, obtain detailed information on any pre-financing that these organisations, in turn, have paid and included in their claimed expenditure.

Target implementation date: end of 2026

Recommendation 9.2 – Provide beneficiaries with guidance on the allocation of shared costs

Provide beneficiaries with guidance to ensure that they base their allocation of shared costs on the actual use of funds for each EU-funded project.

Target implementation date: end of 2026

Recommendation 9.3 – Ensure compliance with visibility rules

Strengthen controls to ensure that organisations implementing contracts under indirect management comply with visibility rules.

Target implementation date: end of 2026

Recommendation 9.4 – Make sure sufficient field monitoring visits by EU delegations take place

Make sure sufficient field monitoring visits by EU delegations take place.

Target implementation date: end of 2026

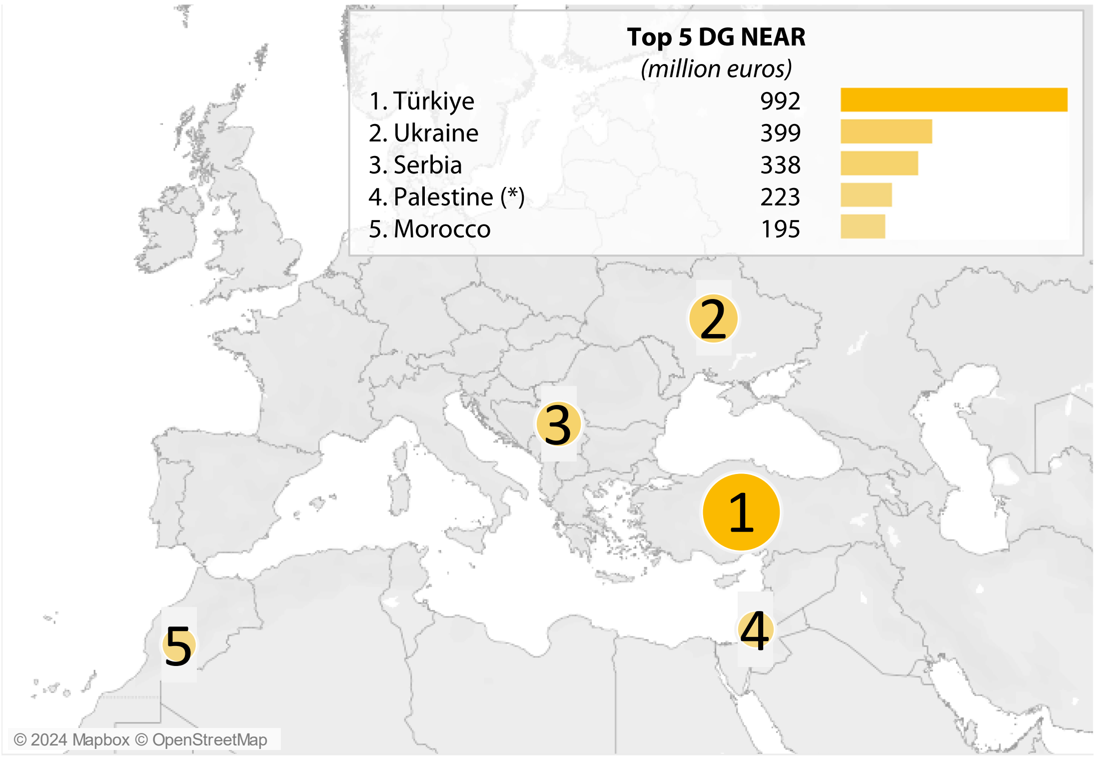
Recommendation 9.5 – Enhance the monitoring and steering mechanisms for blending operations

Enhance the monitoring and steering mechanisms for blending operations in order to mitigate the risk of delays in the implementation of actions.

Target implementation date: end of 2026

Annexes

Annex 9.1 – Payments per country for DG NEAR and DG INTPA



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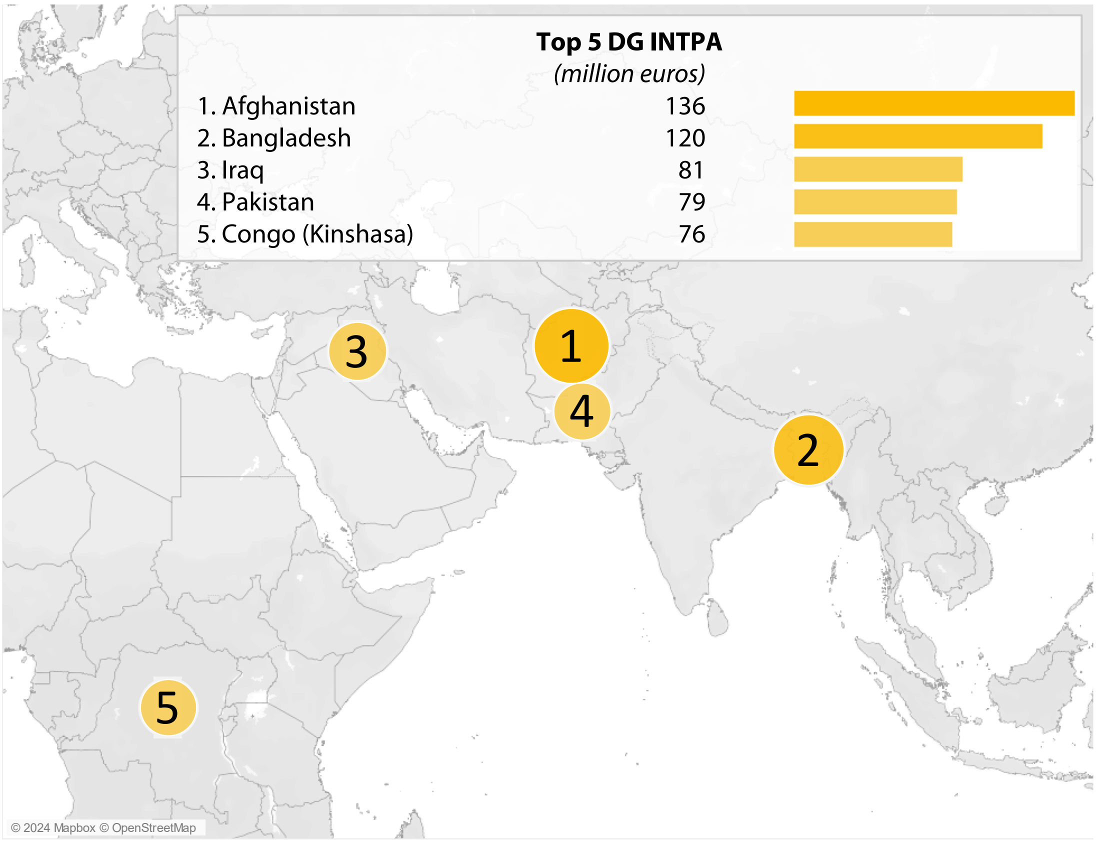
Top 5 DG NEAR countries (in million euros)							
2022		**2021**		**2020**		**2019**	
Ukraine	714	Türkiye	127	Morocco	411	Palestine (*)	145
Tunisia	268	Moldova	109	Türkiye	314	Morocco	135
Egypt	124	Morocco	106	Tunisia	248	Türkiye	99
Palestine (*)	120	Egypt	88	Palestine (*)	174	Tunisia	86
Morocco	102	Jordan	70	Georgia	119	Moldova	65

(*) This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the member states on this issue.



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Top 5 DG INTPA countries (in million euros)							
2022		***2021***		***2020***		***2019***	
Afghanistan	200	Bangladesh	140	Bangladesh	153	Afghanistan	125
Congo (Kinshasa)	79	Iraq	103	Afghanistan	138	Niger	94
Pakistan	76	Pakistan	89	Myanmar/Burma	74	Burkina Faso	84
Ethiopia	76	Nepal	85	Iraq	59	Mali	83
Yemen	69	Afghanistan	77	Cambodia	50	Ethiopia	65

Annex 9.2 – Follow-up of previous recommendations for 'Neighbourhood and the world'

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2020	We recommend that the Commission: **Recommendation 1:** Take steps so that international organisations provide the ECA with complete, unlimited and timely access to documents necessary to carry out our task in accordance with the TFEU, and not just in read-only format. Timeframe: by the end of 2021.		The Commission stepped up communication with international organisations regarding our access to documents. Some international organisations, such as the International Organisation for Migration (IOM), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP) and the World Bank Group (WBG), continue to provide read-only access to supporting documentation, or do not provide access to all supporting documentation requested.
2021	We recommend that DG NEAR: **Recommendation 1:** Take appropriate measures aimed at ensuring that any commitments or advance payments claimed as incurred costs by beneficiaries in their financial reports are deducted before carrying out payments or clearings. Target implementation date: end of 2023.		
2021	We recommend that DG NEAR: **Recommendation 2:** Strengthen controls when drafting financing agreements for budget support operations in order to set clear conditions in financing agreements regarding the transfer		

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
	of funds to the treasury account in the beneficiary country's central bank and the applicable exchange rate; these should be consistent with the budget support guidelines. Target implementation date: end of 2023.		
2021	We recommend that DG NEAR: **Recommendation 3:** Disclose the type and value of contracts excluded from the population of the RER study in the 2022 annual activity report and future annual activity reports. Target implementation date: in the 2022 annual activity report.		
2022	We recommend that DG NEAR: **Recommendation 4:** Strengthen controls to prevent irregular alteration of proposals at the contracting stage when awarding grants on the basis of a call for proposals. Target implementation date: June 2024.		

Source: ECA.

Chapter 10

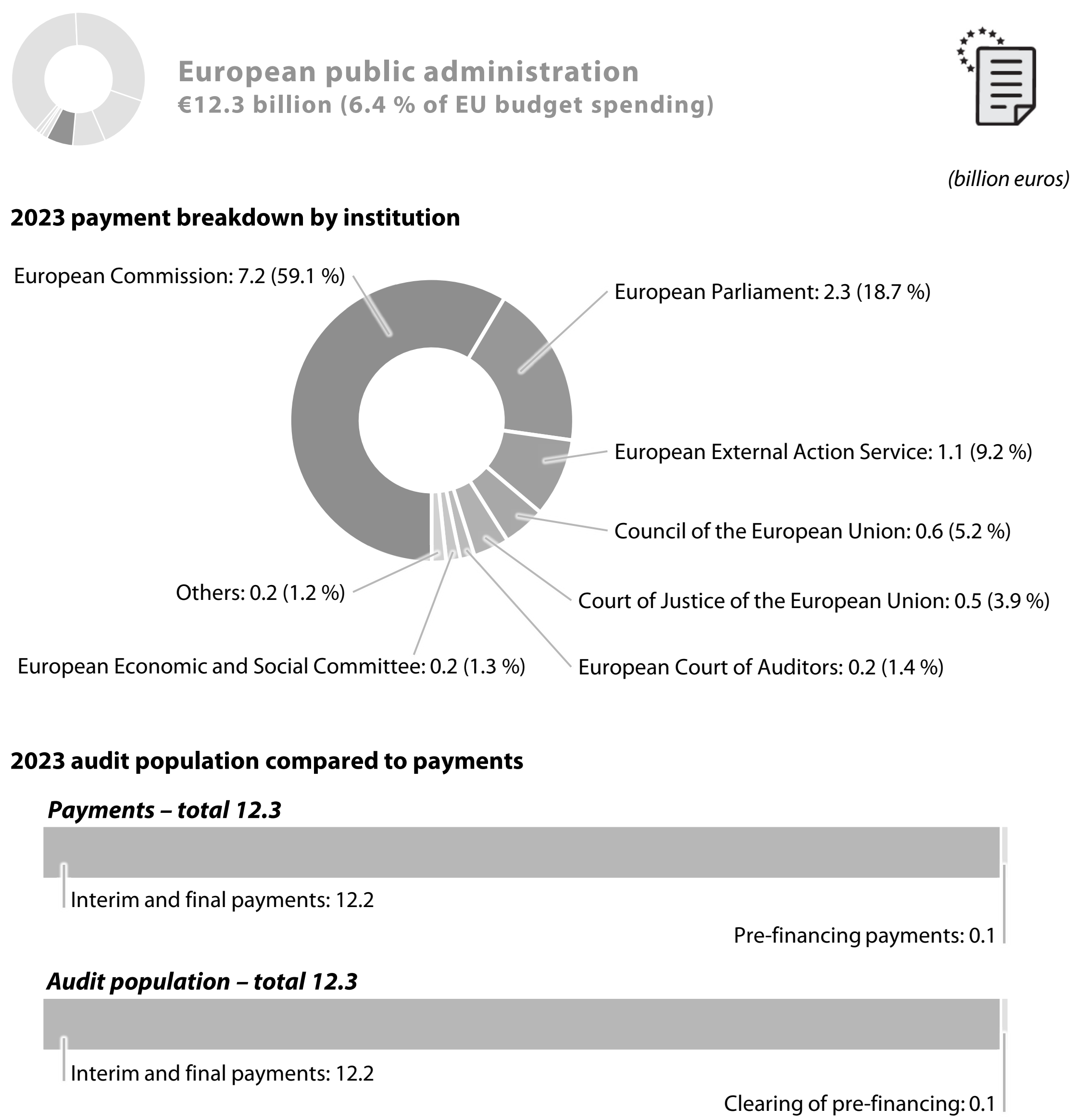
European public administration

Contents

Introduction

10.1. This chapter presents our findings for *MFF* heading 7, 'European public administration'. ***Figure 10.1*** gives an overview of the spending of the EU institutions and bodies under this heading in 2023.

Figure 10.1 – Payments and audit population



Source: ECA, based on data from the 2023 *consolidated accounts* of the European Union.

10.2. We report separately on the EU agencies, other EU entities and the European Schools. Our specific annual reports on these bodies are published on our website. Our mandate does not cover the financial audit of the European Central Bank.

Brief description

10.3. Administrative expenditure comprises expenditure on human resources including pensions, which in 2023 accounted for about 70 % of the total, and on buildings, equipment, energy, communications and information technology. Our work over many years indicates that, overall, this spending is low risk.

Audit scope and approach

10.4. Applying the audit approach and methods set out in ***Annex 1.1***, we examined the following for this MFF heading in 2023:

(a) a statistically representative sample of 70 *transactions* covering the full range of spending under this MFF heading. Our objective was to estimate the level of *error* for this MFF heading and to contribute to the *statement of assurance*.

(b) the supervisory and control systems of the European Parliament, in particular the implementation of internal control standards, risk management, and the functioning of key controls defined in the *Financial Regulation*, including *ex ante* and *ex post* controls on payments.

(c) the *regularity* information given in the *annual activity reports* of all EU institutions and bodies, including those of the Commission's directorates-general and offices primarily responsible for administrative expenditure[1], and then included in the Commission's *annual management and performance report*.

10.5. Our own expenditure is audited by an external auditor[2].

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[1] DG Human Resources and Security, Office for the Administration and Payment of Individual Entitlements, Offices for Infrastructure and Logistics in Brussels and Luxembourg, and DG Digital Services.

[2] ACG Auditing & Consulting Group S.r.l.

Regularity of transactions

10.6. Of the 70 transactions examined, 21 (30 %) contained errors. Based on the five errors we have quantified, we estimate the level of error to be below the materiality threshold.

Observations on the transactions examined

10.7. Our observations concern the European Parliament, the Council of the European Union, the European Commission, the European External Action Service, the European Committee of the Regions, and the European Data Protection Supervisor. We did not identify any significant issues concerning the Court of Justice of the European Union, the European Economic and Social Committee, or the European Ombudsman. Our external auditor did not report any specific issues.

European Parliament

10.8. Our sample of 16 transactions included two payments to political groups and one payment to a political party. As we reported in paragraph 10.9 of our 2022 annual report, the internal rules[3] for the management of *appropriations* of the Parliament's political groups, as adopted by the Bureau of the European Parliament, were not in line with the Financial Regulation. These rules do not require the use of open or *restricted procurement procedures* for high-value contracts, but rather the use of *negotiated procurement procedures*, which limits competition.

10.9. In 2023, we identified that both of the political groups examined had awarded such a high-value contract. In addition, we found two other cases where the political group did not follow the European Parliament's rules[4], as they did not seek enough tenders. One of these cases involved insufficient coordination with Parliament's administration concerning the potential use of one of Parliament's

[3] Rules on the use of appropriations from Budget item 400, as last amended on 4 July 2022.

[4] Ibid.

framework contracts, which resulted in the lack of an appropriate procurement procedure.

10.10. We also identified non-quantifiable errors related to the two payments to political groups. They concern cases where the decision to award the contract was not properly documented due to lack of relevant procedures; where flat rate travel expenses were paid without sufficient evidence that any actual expenses were incurred; and where supplies were ordered over the phone without keeping a formal record.

10.11. We found non-quantifiable errors in the transaction for the European political party. A new agreement was signed with a contractor during the COVID-19 pandemic, which significantly altered the nature of the services provided, without launching a new tendering procedure. In addition, we identified that the political party did not have specific procedures to prevent conflicts of interests for its procurement procedures.

10.12. We also identified weaknesses in two procurement procedures among the 13 other transactions we examined. This included a case where the European Parliament launched a tender to lease vehicles, which referred to specific models of cars. Although the tender procedure included criteria for assessing the price and quality of the offers, it did not allow the bidders to propose alternative models.

Council of the European Union

10.13. We did not identify any *quantifiable errors* in the four payments we examined. In one case, related to building maintenance, the Council signed the underlying framework contract for a maximum 10-year duration. We consider that, while a duration over 4 years was justified due to the nature of the contract, the specific duration of 10 years was not clearly explained when making the *commitment*.

European Commission

10.14. We identified two quantifiable errors in the 26 payments we examined. One concerned the non-application by the Commission of the EU tax abatement to which an employee was entitled in respect of family allowances. This was caused by an error in underlying IT systems, with a risk that the same type of error was repeated in other payments. The other concerned a relatively small overpayment of building works due to the use of a price which exceeded that agreed in the contract.

10.15. We raised four non-quantifiable errors, including a case where the Commission entered into a legal commitment for energy supply before making the budgetary commitment, without recording this correctly as an exception. We identified a case where a pension file did not contain a recent life certificate for the pensioner’s partner. Such life certificates are needed to demonstrate ongoing entitlement to allowances. In one case, the most recent information concerning the rights to family and child allowances of the official was from 2020. Delays in receiving and verifying such information increase the risk of ineligible payments. Similar to the issue we reported for the Council (see paragraph ***10.13***), we consider that the 11-year duration of an IT contract we examined was not sufficiently justified.

European External Action Service

10.16. We found a quantifiable error in one of the 13 payments we examined, concerning the absence of a valid procurement procedure before a rental contract was signed for an EU Delegation. In addition, we raised six non-quantifiable findings concerning procurement at EU Delegations, including weaknesses in the methodology for selecting tenderers and evaluating tenders; and entering into a legal commitment before making the budgetary commitment. We also found that rental payments for a Delegation’s premises in one country were made to a bank account in a different country, which appeared on the EU’s official list of non-cooperative jurisdictions for tax purposes. This was not consistent with the EU’s ongoing efforts to promote good tax governance.

European Committee of the Regions

10.17. Similar to the issue we reported for the Council (see paragraph ***10.13***), we consider that the 10-year duration of a building maintenance contract was not sufficiently justified in one of the two transactions we examined.

European Data Protection Supervisor

10.18. The transaction we examined concerned a salary payment. At the time of our audit, the official had last made a declaration concerning their rights to family and child allowances in 2020. Delays in receiving and verifying such declarations increase the risk of ineligible payments.

Observations on supervisory and control systems

10.19. We examined supervisory and control systems at the European Parliament, concentrating on the four biggest spending directorates-general as outlined in paragraph ***10.4(b)***. The directorates-general adopted different approaches to the performance of *ex ante* and *ex post* controls of expenditure. The intensity of *ex ante* controls reflected the different types of expenditure and considered risk factors. However, there was not a common methodology to design the approach to *ex ante* controls or to harmonise the categorisation of errors detected. *Ex post* controls are optional. Six of the 14 directorates-general reported *ex post* control *results* in their 2022 annual activity reports. The *ex post* control methodologies used in the directorates-general we examined did not always specify how to set appropriate sample sizes, or how to disclose the *impact* of the *ex post* control results in the annual *declaration of assurance* signed by the *authorising officers*.

10.20. The European Parliament has taken initiatives to prevent and detect *fraud*. These include decisions by the Bureau on whistleblowing, by the Secretary-General on the treatment of financial *irregularities*, fraud awareness content on the Parliament's intranet site, training activities, and related actions on ethics. There were anti-fraud strategies in some directorates-general, but there was no institution-wide anti-fraud strategy at the European Parliament, to coordinate actions across the organisation.

Annual activity reports and other governance arrangements

10.21. The annual activity reports we reviewed did not identify material levels of error, which is consistent with our audit findings (see paragraph ***10.6***).

Conclusion and recommendations

Conclusion

10.22. The overall audit evidence we obtained and have presented in this chapter indicates that the level of error in spending on 'European public administration' was not material.

Recommendations

10.23. ***Annex 10.1*** shows the findings of our follow-up review of the recommendations we made to the European Parliament and the Commission in our 2020 annual report. We consider both recommendations to have been implemented in some respects.

10.24. In our annual reports for 2021 and 2022, we addressed recommendations[5] to the European Parliament concerning payment appropriations for political groups. Based on our findings for 2023, we consider that these recommendations remain highly relevant.

10.25. Based on our audit work, we recommend the following:

Recommendation 10.1 – Enhancing actions to fight fraud at the European Parliament

The European Parliament should build on its existing actions to fight against fraud by developing an institution-wide anti-fraud strategy and ensuring its application throughout the organisation.

Target implementation date: by the end of 2025

[5] See 2022 annual report, paragraph 10.19 and 2021 annual report, paragraph 9.20.

Annexes

Annex 10.1 – Follow-up of previous recommendations for ‘European public administration’

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2020	We recommend that: **Recommendation 1:** The Parliament should implement the necessary changes to ensure that it only pays daily subsistence allowances to MEPs who qualify for them.		The European Parliament’s administration proposed to the Bureau the replacement of the current paper-based register of attendance, with a biometric based system. The Bureau decided in October 2023 that the competent services should assess the matter further. In February 2024, the administration presented a new proposal. The Bureau decided on a badge-based system, complemented by a voluntary biometric system, and the possibility to continue to attest presence using the current paper-based register. Parliament’s administration was working on the implementation of this new system.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2020	We recommend that: **Recommendation 2:** In order to improve its system for managing statutory family allowances, the Commission should reinforce consistency checks on staff declarations of allowances received from other sources and raise staff awareness of this issue.		The Commission increased the capacity of its team checking this area and was developing a system of automated controls, which was not yet operational. Audit findings in 2023 indicate the need for ongoing efforts to better check such allowances.

Source: ECA.

Chapter 11

Recovery and Resilience Facility

Contents

Introduction

Brief description of the RRF

11.1. The *Recovery and Resilience Facility (RRF)* was established by Regulation (EU) 2021/241 ('the Regulation') that entered into force on 19 February 2021. It was amended in February 2023, allowing member states to add a '*REPowerEU* chapter' in their recovery and resilience plans (RRPs)[1]. The RRF has supported reforms and investments in member states since the start of the COVID-19 pandemic in February 2020 (since 1 February 2022 in the case of REPowerEU) and will run until 2026.

11.2. The RRF was originally funded with €723 billion in non-repayable financial contributions ('*grants*') (€338 billion) and loans (€385 billion). By the end of 2023, €648 billion had been committed, consisting of €356.8 billion in grants and €290.9 billion in loans. This number includes the REpowerEU amendment. As loans could be requested until August 2023, €94.5 billion is no longer available for loans.

Policy objectives

11.3. The main objective of the RRF is to mitigate the economic and social consequences of the COVID-19 pandemic, while making member states' economies more resilient and better prepared for future challenges, also by accelerating their way towards the green and digital transition. The REPowerEU plan – the EU's response to global energy-market disruption caused by Russia's war of aggression against Ukraine – added a further objective to end the EU's dependence on Russian fossil fuels by transforming the EU's energy system.

Management and control framework

11.4. The Commission implements the RRF through direct management, meaning that the Commission is directly responsible for its implementation. Payments under the RRF are conditional upon member states satisfactorily fulfilling the *milestones* and *targets* set out in the Annexes to the *Council implementing decisions* (CIDs) approving

[1] Regulation (EU) 2023/435.

their RRPs[2]. Further requirements are that targets or milestones that have previously been satisfactorily fulfilled should not have been reversed, and that there is no breach of the double-funding principle. The eligibility conditions laid down in the Regulation include compliance with the eligibility period, the 'Do No Significant Harm' (DNSH) principle, and non-substitution of recurring national budgetary expenditure[3]. Member states may request disbursements up to twice a year if they provide sufficient evidence that the related milestones and targets have been satisfactorily fulfilled. They also need to accompany their payment requests with a summary of audits and a management declaration regarding the information provided.

11.5. The Commission's control system must ensure that RRF payments are legal and regular, this being mainly contingent upon the satisfactory fulfilment of milestones and targets. To this end, the Commission's control systems provide for preliminary assessments (*ex ante* verifications) of member states' payment requests and *ex post* audits in the member states that are carried out after payment has been made.

11.6. Since the Commission is ultimately responsible for the EU budget[4], it must also obtain sufficient assurance from the member states that the EU's financial interests are effectively protected. Member states must implement control systems ensuring that RRF measures comply with EU and national law, in particular regarding the prevention, detection and correction of *fraud*, corruption, and conflicts of interests. The Commission can apply *financial corrections* (a reduction in the level of support provided, or recovery of funds already disbursed) if it finds:

- serious irregularities affecting the EU's financial interests that have not been corrected by the member state; or
- serious breaches of the obligations laid down in financing or loan agreements.

[2] Regulation (EU) 2021/241, Article 24(2).

[3] Ibid., Articles 5, 9, 17(2) and 24(3).

[4] Treaty on the Functioning of the European Union (TFEU), Article 317.

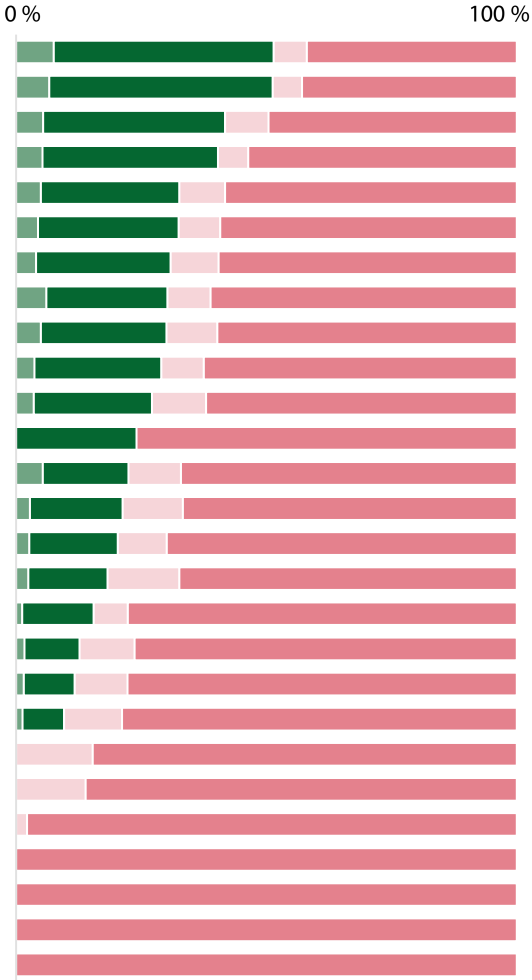
State of implementation

11.7. By the end of 2023, all member state RRPs had been approved by the Council, and 22 member states had received pre-financing. By 1 February 2024, all member states had submitted requests to modify their RRPs (23 included a REPowerEU chapter), which were then approved by the Council. By the end of 2023, the Commission had made 37 grant payments (one in 2021, 13 in 2022, and 23 in 2023) totalling €141.6 billion, including €22.7 billion pre-financing not yet cleared. This means that the implementation reached 33.3 % at the end of 2023, whereas the implementation period of the RRF ends in 2026 (see ***Figure 11.1***). There is no information available on the overall amounts paid by member states to *final recipients*[5].

[5] Special report 13/2024: "*Absorption* of funds from the Recovery and Resilience Facility: Progressing with delays and risks remain regarding the completion of measures and therefore the achievement of RRF objectives", paragraphs 53-54.

Figure 11.1 – Progress of RRF grant payments to member states as of 31 December 2023

(million euros)



	Allocation	Paid / Cleared	Allocation available/Pre-financing not yet cleared
France	40 270	20 723	19 547
Italy	71 780	36 799	34 981
Croatia	5 787	2 414	3 373
Spain	79 854	32 184	47 670
Slovakia	6 408	2 088	4 321
Greece	18 220	5 924	12 297
Romania	13 566	4 184	9 382
Luxembourg	83	25	58
Estonia	953	286	667
Portugal	16 325	4 740	11 585
Lithuania	2 298	623	1 675
Bulgaria	5 689	1 369	4 320
Slovenia	1 613	362	1 251
Denmark	1 626	346	1 280
Austria	3 961	804	3 157
Malta	328	60	268
Germany	28 019	4 345	23 674
Czechia	8 409	1 066	7 343
Latvia	1 969	231	1 738
Cyprus	1 020	98	922
Belgium	5 034	0	5 034
Finland	1 949	0	1 949
Poland	25 277	0	25 277
Sweden	3 446	0	3 446
Netherland	5 441	0	5 441
Ireland	915	0	915
Hungary	6 512	0	6 512
Total	**356 751**	**118 671**	**238 080**

	2021	2022	2023	Total
Pre-financing	36 372	271	1 691	**38 334**
Paid	10 000	46 897	46 325	**103 222**
Clearings	1 494	6 803	7 152	**15 449**

- Pre-financing cleared
- Paid
- Pre-financing not yet cleared
- Allocation available

Source: ECA.

11.8. In 2023, the Commission's preliminary assessments identified five milestones and targets in two grant payment requests as not being satisfactorily fulfilled. Consequently, the Commission partially suspended them:

- For Lithuania, the Commission considered two out of the 33 milestones as not having been satisfactorily fulfilled, and suspended an amount of €26.2 million. Based on action taken by Lithuania within 6 months of the suspension, the Commission concluded that one milestone had been satisfactorily fulfilled and the other partially. It therefore made a payment of €17.5 million, thereby reducing Lithuania's RRF support by €8.7 million.

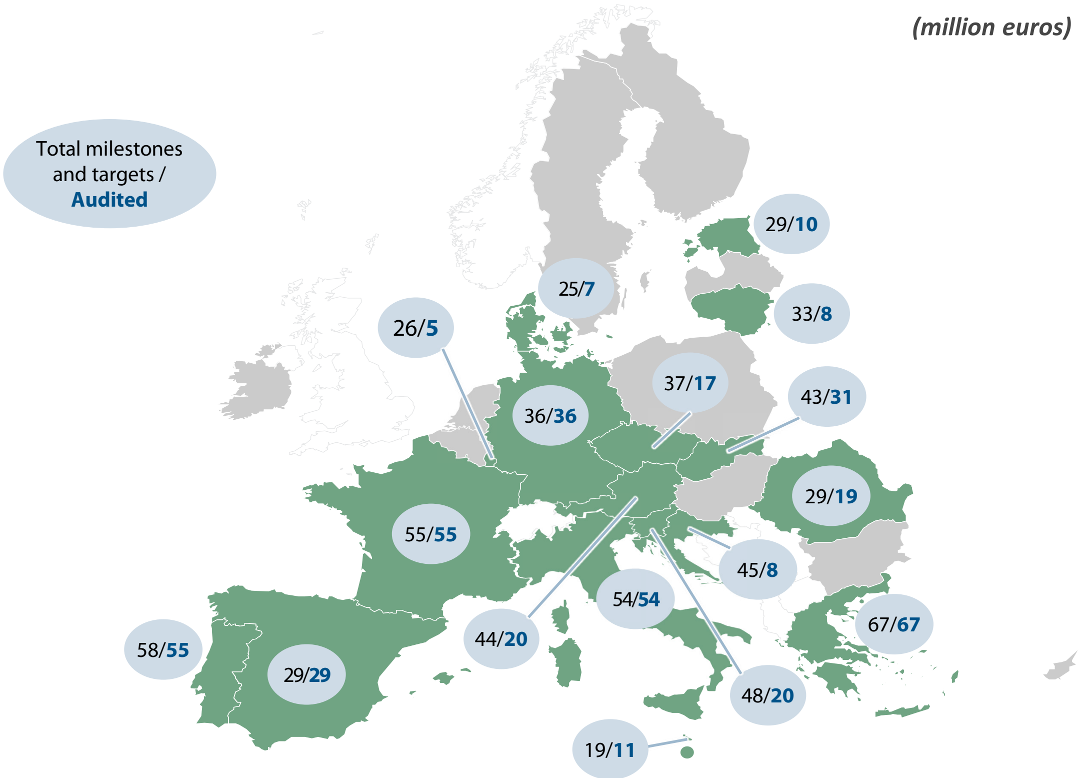
- For Portugal, the Commission considered two milestones and one target out of the 40 milestones/targets as not having been satisfactorily fulfilled, and made a partial payment of €1 874.5 million for the 37 satisfactorily fulfilled milestones and targets. At the same time, the Commission suspended an amount of €810.4 million for the three milestones/targets that were not satisfactorily fulfilled. Based on action taken by Portugal within 6 months of the suspension, the Commission concluded that the two milestones and the target had been satisfactorily fulfilled.

Audit scope and approach

11.9. The 2023 RRF expenditure totalled €53.5 billion and our audit covered all 23 grant payments totalling €46.3 billion and the related *clearing* of pre-financing totalling €7.2 billion. These 23 grant payments and clearings of pre-financing ('RRF expenditure') were made to 17 member states and concerned 542 milestones and 135 targets (see ***Figure 11.2***). Our audit does not cover the loans component of the RRF (see ***Annex 11.1***).

Figure 11.2 – Total and audited milestones and targets underpinning the 2023 RRF expenditure

(million euros)



Member state	Total milestones	Total targets	Milestones audited	Targets audited	Expenditure
Czechia	31	6	11	6	1 067
Denmark	23	2	5	2	346
Germany	28	8	28	8	4 345
Estonia	28	1	9	1	286
Greece (*)	63	4	63	4	3 949
Spain	24	5	24	5	6 897
France	16	39	16	39	12 217
Croatia	32	13	2	6	805
Italy (*)	41	13	41	13	13 810
Lithuania	33	0	8	0	623
Luxembourg	24	2	3	2	25
Malta	16	3	8	3	60
Austria	40	4	16	4	805
Portugal (*)	35	23	33	22	4 104
Romania	28	1	18	1	2 147
Slovenia (*)	45	3	17	3	361
Slovakia (*)	35	8	23	8	1 629
Total	**542**	**135**	**325**	**127**	**53 476**

(*) There was more than one payment in 2023.

Source: ECA.

11.10. In line with our audit approach set out in ***Annex 11.1***, for our opinion on the regularity of 2023 RRF expenditure, we examined;

(a) 325 milestones and 127 targets included in the 23 grant payments made in 2023 to assess whether they comply with the payment and eligibility conditions. This assessment included;

(i) a desk review of the Commission's preliminary assessments, including the 15 milestones and targets linked to the member states' audit and control systems;

(ii) on-the-spot visits for 30 targets and milestones in six member states (Czechia, Spain, France, Croatia, Italy and Portugal);

(b) five Commission *ex post audit*s (Czechia, Denmark, Greece, Spain and Austria) in order to assess whether they were carried out effectively to provide a level of assurance; and

(c) DG ECFIN's reporting on the regularity of 2023 RRF expenditure in its *annual activity report (AAR)* and the way this information is presented in the *annual management and performance report (AMPR)*.

Our audit opinion does not cover the regularity of expenditure incurred by final recipients

11.11. The RRF is based on the 'financing not linked to costs' funding model[6]. The main condition for payment to member states by the Commission is the satisfactory fulfilment of predefined milestones or targets. Further requirements are that targets or milestones that have previously been satisfactorily fulfilled should not have been reversed, and that there is no breach of the double-funding principle. The eligibility conditions laid down in the Regulation also include compliance with the eligibility period, the 'Do No Significant Harm' (DNSH) principle, and non-substitution of recurring national budgetary expenditure[7].

11.12. Although member states are required to have effective and efficient internal control systems[8], compliance of expenditure incurred by final recipients and implementing bodies with EU and national rules is not a condition for RRF payments to member states. As a result, our audit of the regularity of RRF grant payments to member states focuses on whether the predefined milestones and targets have been satisfactorily fulfilled, and whether the eligibility conditions defined by the Regulation were met.

11.13. As reported in previous years, this represents a significant difference[9] compared to our audit work in other areas of the EU budget, where we assess compliance with all relevant EU and national rules down to final recipient level (e.g. the eligibility of costs incurred, and compliance with *state aid* and *public procurement* rules). ***Figure 11.3*** compares what we audit for cohesion spending and RRF spending and illustrates the differences between our work in the two areas.

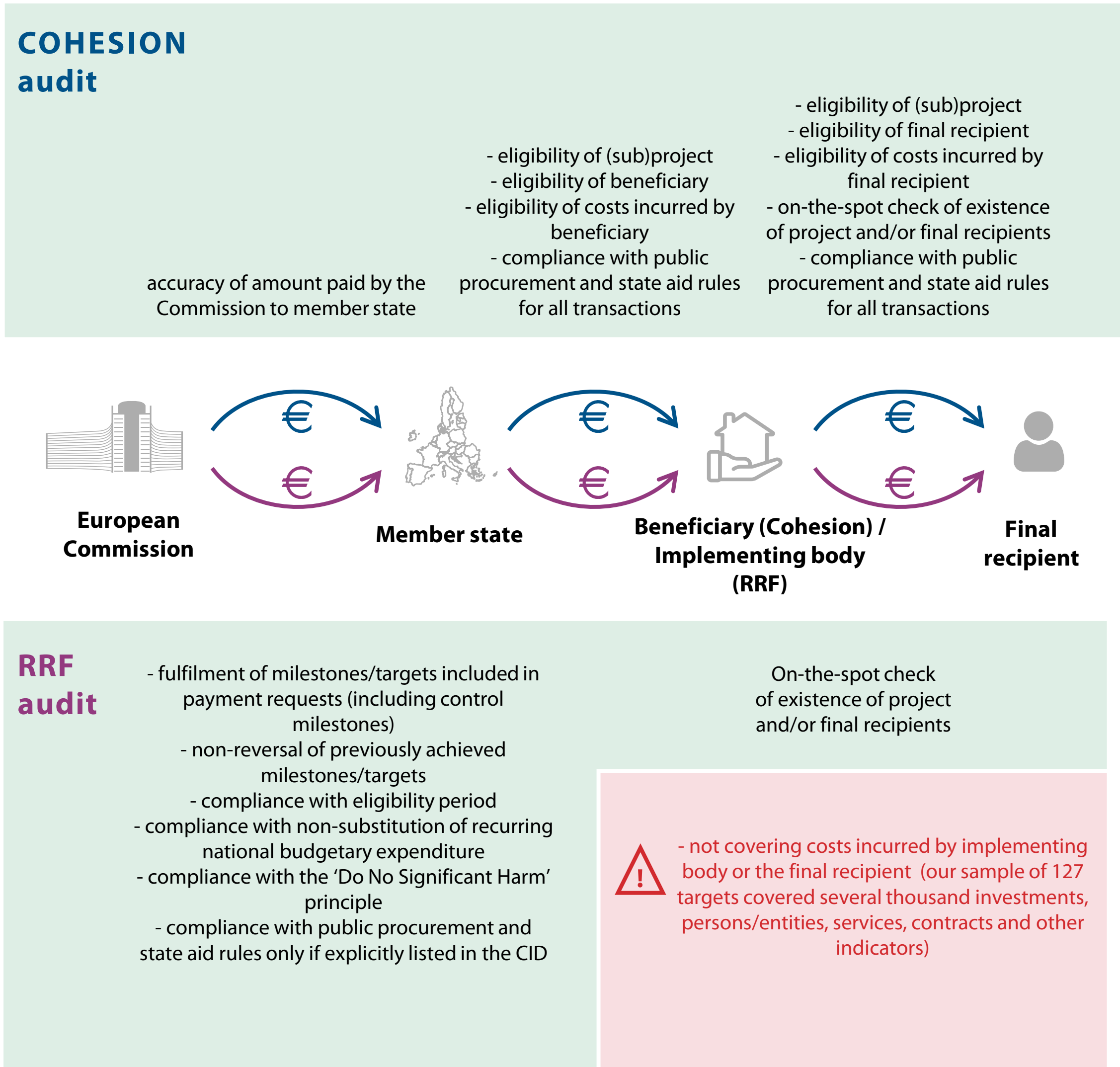
6 Financial Regulation, Article 125(1)(a)(ii).

7 Regulation (EU) 2021/241, Articles 5, 9, 17(2) and 24(3).

8 Ibid., Article 22.

9 2022 annual report, paragraph XXXVII.

Figure 11.3 – Our audit work related to the regularity of cohesion and RRF expenditure



Source: ECA.

11.14. For the RRF, member states had to provide cost estimates for the planned reforms and investments, as basis for the Commission's assessment of their respective RRPs. However, disbursements to member states are linked neither to the estimated costs of RRF measures nor to the actual costs incurred by final recipients. In line with the Regulation, the member states are not obliged to provide information with their payment requests about the expenditure incurred by final recipients when implementing milestones or targets. This means that through our audit, we do not assess whether the actual costs of implementing a milestone or target are commensurate with the RRF payment or with its estimated cost. This is another difference compared to our audit work in other areas of the EU budget.

11.15. In a previous report[10] we found that the RRF control system provides only limited information at EU level on whether RRF-funded investment projects comply with EU and national rules. This affects the assurance the Commission can provide and results in an EU-level accountability gap. In an ongoing audit, we are currently examining the actions taken by the Commission in this area (see paragraph ***11.49***) and the control systems of the member states to ensure compliance with EU and national rules.

[10] Special report 07/2023: ''Design of the Commission's control system for the RRF''.

Our assessment of compliance with payment and eligibility conditions

11.16. According to the Regulation[11], the Commission should assess payment requests without undue delay and at the latest within 2 months of receiving the request. The financing agreements signed by the Commission and member states[12] give the Commission the right to "stop the clock'' in cases where it notifies the member state of the need for major additional information or corrections to the payment request.

11.17. We reviewed the time it had taken the Commission to carry out the preliminary assessment for grant payments made in 2023 and found that it had met the 2-month deadline for only three out of the total of 23 (grant) payments. The delays were mostly due to requests from member states to suspend the assessment to provide more information. However, neither the Regulation nor the Financing Agreement provide this option.

11.18. We found that 16 of the 325 milestones and 127 targets examined were affected by findings with a financial impact (see ***Annex 11.2***). These concerned seven of the 23 RRF payments (and related clearings of pre-financing).

11.19. Given the nature of the RRF spending model, and since the Commission's payment suspension methodology[13] relies on many judgments to be made, possibly leading to different interpretations, we do not provide an *error* rate comparable to other EU spending areas (see ***Annex 11.1***). In this context, we estimate the minimum financial impact of these quantitative findings to be above our *materiality threshold*. ***Figure 11.4*** presents the breakdown of our findings concerning breaches of payment and eligibility conditions.

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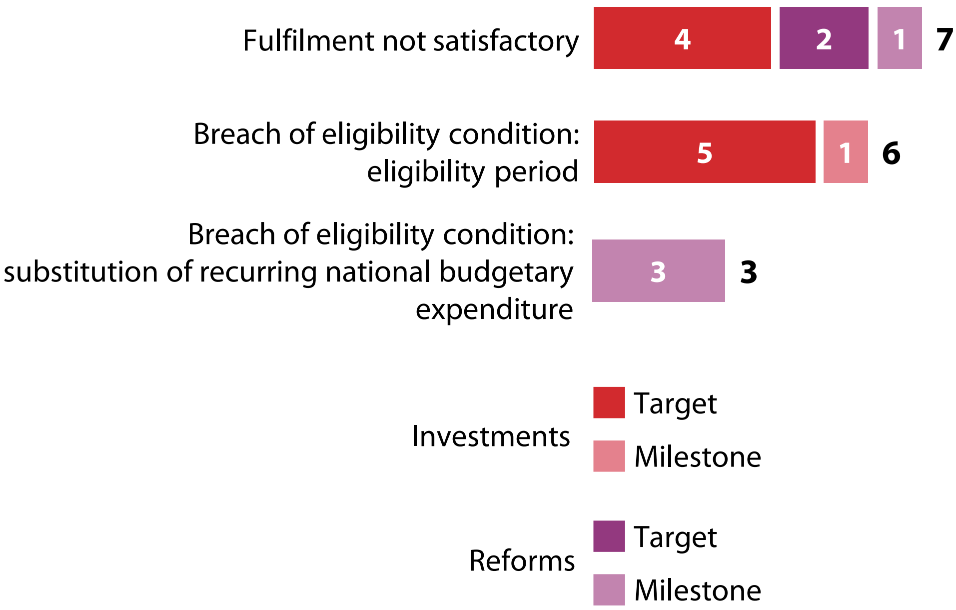
[11] Regulation (EU) 2021/241, Article 24(3).

[12] Financing agreement, Article 6(4).

[13] Annex 2 of COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Recovery and Resilience Facility: Two years on – A unique instrument at the heart of the EU's green and digital transformation (COM(2023) 99).

Figure 11.4 – Breakdown of quantitative findings



Source: ECA.

Fulfilment of certain milestones/targets not satisfactory

11.20. Our checks identified seven milestones and targets in six payments that had not been satisfactorily fulfilled. We found that not all elements required by the milestone or target had been fulfilled, and that these missing elements represented more than a minimal acceptable deviation (see ***Box 11.1***). The Commission had nevertheless made the corresponding payments. We found another 14 cases of weaknesses in the Commission's assessment that did not have an impact on the overall correctness of the assessment.

Box 11.1

Example of a target not satisfactorily fulfilled

<u>Italian target M1C1-9 – ‘Support to the upgrade of security structures T1’</u>

Description of the target in Italy’s CID:

‘At least five strengthening interventions upgrading security structures completed in the National Security Perimeter for Cyber (PSNC) and Network and Information Systems (NIS) sectors. ...’

The member state provided seven reports to prove the strengthening interventions upgrading security structures. These reports included cyber posture analysis, risk and impact analysis, while the NIS2 directive considers these actions as only one of the ten elements necessary to manage the risk posed to the security of networks and information systems.

The Commission took the view that these seven reports represent strengthening interventions.

We took the view that six of the seven reports were not improvements of the internal monitoring and control capabilities but merely an analysis of those capabilities. The interventions provided the basis for plans to strengthen cyber defences but did not constitute strengthening interventions upgrading security structures as required by the CID.

We found milestones/targets not satisfactorily fulfilled also in payments for Austria, Czechia, France, Greece and Portugal.

Some measures started before the eligibility period and others involved a substitution of recurring national budgetary expenditure without due justification

11.21. The Regulation stipulates the following two main eligibility conditions defining the timing and nature of measures funded under the RRF:

(a) only measures which started from 1 February 2020 onwards[14]; and

(b) support from the RRF should not substitute recurring national budgetary expenditure, unless duly justified[15].

11.22. The Regulation does not provide further criteria to define what constitutes the 'start' of a measure or 'substitution of recurring national budgetary expenditure'. The Commission assessed compliance with these requirements at the time the plans were approved. The Commission guidance[16] states that "The Facility can support measures only in so far as their implementation (for which the costs incur) has started only on or after 1 February 2020 and those measures form an integral part of the investment/reform contained in the plans". We rather take the view that the start of a measure should be the date of the first (legal) *commitment*, since this already constitutes the start of an activity, in the form of a contract or financing decision. Furthermore, it is not clear how the start of a measure should be assessed for a reform.

11.23. Regarding recurring national budgetary expenditure, in its guidance to member states on their RRPs[17] the Commission differentiates between recurrent and non-recurrent costs and refers to administrative expenditure such as staff costs and to operating costs. As an example, it considers recurring infrastructure maintenance costs not to be eligible, but investments in upgrades, including very extensive or overdue maintenance, as potentially eligible on a case-by-case basis.

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[14] Regulation (EU) 2021/241, Article 17(2).

[15] Ibid., Article 5(1).

[16] Commission *staff working document*, Guidance to member states, Recovery and resilience plans, SWD (2021) 12 final.

[17] Ibid.

11.24. In four payments, we found that the activities relating to five targets and one milestone started before February 2020. Therefore, these milestones/targets should not have been funded by the RRF (see ***Box 11.2***).

Box 11.2

Example of non-compliance with eligibility period

France target 3-7 – "Catenaries"

Description of the target in the French CID:

'Kilometres of new catenaries installed (in total)'.

To substantiate the fulfilment of the target, the French authorities provided the Commission a list of seven railway projects under which 233.9 km of new overhead wiring that transfers power ("catenaries") were installed. Based on the purchase orders, we found that the orders for four projects covering the construction of 155 km were issued before February 2020.

We found cases of non-compliance with eligibility period also in payments for Czechia, Italy and Austria.

11.25. We also found that three milestones substituted recurring national budgetary expenditure without due justification (see ***Box 11.3***).

Box 11.3

Example of substitution of recurring national budgetary expenditure

Austrian milestone 134 – 'Fourth building culture report'

Description of milestone in Austria's CID:

'The fourth building culture report has been published. It shall set the agenda for a reform of building culture in Austria for the coming years and outline concrete measures for a building culture programme'.

The fourth building culture report commissioned by the Austrian Federal Government is the continuation of an initiative launched by the Austrian Parliament in 2005. This initiative requires the recurring publication (every 5 years) of this report to promote measures to develop and disseminate desirable solutions and practices concerning building culture in Austria. The first three reports were published in 2006, 2011 and 2017.

We consider the development and publication of building culture reports to be a recurring activity that must be carried out every 5 years and which so far was funded from national budgetary expenditure. Additionally, there was no significant improvement in the report as compared to previous reports. Therefore, it should not have been funded from the RRF.

We found cases of RRF financing recurring national budgetary expenditure also in payments for Greece and Malta.

Milestones and targets are not always clearly defined

11.26. In a financing model where payments are conditional on the satisfactory fulfilment of previously set milestones and targets, clear and unambiguous indicators and a clear definition of 'satisfactory' fulfilment are crucial for a sound assessment of the regularity of a payment. Vaguely defined milestones and targets mean that the criteria for assessing their fulfilment are also vague.

11.27. The Regulation does not stipulate criteria on how to interpret the word 'satisfactorily'. In line with the Commission's guideline[18], 'satisfactory' fulfilment means that – except for minimal deviations (such as falling short of a target by less than 5 %) – the requirements have been fulfilled (see ***Annex 11.1***). When assessing the satisfactory fulfilment of milestones and targets, the Commission accepts minimal deviations in substance, form, timing and context. We therefore use these minimal deviations as an audit criterion. We note that, depending on the RRF payment concerned, the portion of a payment corresponding to accepted deviations may amount to several million euros. Furthermore, the assessment of 'satisfactory' fulfilment of qualitative criteria requires many judgments to be made, leading to several possible different interpretations of whether the milestone/target has been satisfactorily fulfilled.

[18] COM(2023) 99, Annex 1.

11.28. As reported in the past[19], we highlighted the risk that unless milestones and targets were clear, fulfilment would be difficult to assess, or the initial objective might not be fulfilled. For future revisions of plans, we recommended that the Commission should ensure that milestones and targets are sufficiently clear. Through our work on the regularity of 2023 RRF expenditure, we identified 15 cases, in our sample, of vaguely defined milestones or targets (we note that, in 12 of these cases, the Commission identified and documented these weaknesses in its preliminary assessment) (***Box 11.4***).

Box 11.4

Example of an insufficiently specific milestone

Spanish milestone 2 – ‘Amendments to the Technical Building Code (TBC) the Low Voltage Electrotechnical Regulation (LVER) and approval of a Royal Decree to regulate public recharging services’.

Description of the milestone in Spain’s CID:

‘Entry into force of: …ii) amendments to the Low Voltage Electrotechnical Regulation (LVER) to incorporate obligations for charging infrastructure of car parks which are not linked to a building and; ….’

Among other things, the milestone requires amendments to LVER legislation to include the obligation to install charging points in car parks not linked to a building. However, it does not specify the scope of the obligation, in particular the number or proportion of charging points to be installed. As a result, any amendment, however undemanding would be sufficient for the satisfactory fulfilment of the milestone.

[19] Annual report 2022, paragraph 11.36 and recommendation 11.2.
Special report 21/2022: “The Commission’s assessment of national recovery and resilience plans – Overall appropriate but implementation risks remain”, paragraph 82.
Special report 26/2023: “The Recovery and Resilience Facility’s performance monitoring framework – Measuring implementation progress but not sufficient to capture performance”.

Our examination of selected monitoring and control systems

Some weaknesses remain in the Commission's *ex post* audits

11.29. In line with the *Financial Regulation*[20], and the financing agreements signed with member states, *ex post* audits aim to detect and correct errors relating to operations after they have been authorised. The objective of these audits is to check the legality and regularity of payments made by the Commission by verifying the achievement of the milestones and targets included in a payment request.

11.30. In 2023, the Commission performed eight *ex post* audits of milestones and targets in order to assess the extent to which 10 targets and eight milestones had been fulfilled. Some of these audits were combined with system audits. The Commission concluded that all milestones and targets had been satisfactorily fulfilled. In 2024, the Commission continued to carry out *ex post* audits of milestones/targets, covering payments made in 2023.

11.31. In our 2022 annual report[21], we noted that the *ex post* audit procedures do not provide for checks to verify whether the audited targets previously assessed as fulfilled were not reversed after payment was made, or whether the measures complied with the eligibility period criterion and the principle of non-substitution of recurring national budgetary expenditure. Our corresponding recommendation, which the Commission partially accepted, has so far been implemented only in some respects (see ***Annex 11.3***).

11.32. We reviewed the Commission's work for five *ex post* audits of 10 milestones/targets (concerning Czechia, Denmark, Greece, Spain and Austria). We noted that the Commission updated its audit strategy to include checks on reversal, but not on the substitution of recurring national budgetary expenditure. However, at the time of our audit, the Commission had not yet updated its audit checklists to include the checks on reversal. We also found that *ex post* audits included some checks on compliance with the eligibility period, but considered the moment at which the costs were incurred to be the date on which the measure had started rather than the date of the relevant legal commitment (see paragraph ***11.21***). As a result, it did not

[20] Financial Regulation, Article 74(6).

[21] Annual report 2022, paragraph 11.46 and recommendation 11.1.

identify a breach of the eligibility period criterion for one target. Lastly, for another target, we found that the *ex post* audit was based on incomplete data.

Weaknesses in member state monitoring and control systems persist

11.33. As the member states' monitoring and control systems were not fully set up at the time the RRPs were approved[22], the Commission introduced specific milestones/targets ('*control milestones*') to address the gaps or deficiencies in the control systems. The control milestones required member states to implement additional measures before the first payment.

11.34. Initially, the Commission required 16 member states to include specific control milestones. During the 2023 revision of the NRRPs, the Commission added 10 further control milestones for seven member states to address newly identified weaknesses in their control systems. These seven member states either did not have any control milestones linked to their first payment requests (Denmark, Cyprus, Austria and Portugal), or had not yet submitted their first payment request (Belgium, Ireland and Finland). Moreover, there is no specific implementation deadline for the first three member states (Denmark, Cyprus and Austria), and so these milestones will have to be implemented only when the member state submits its next payment request (expected in 2024).

11.35. In general, we take the view that the introduction of control milestones, means that these systems were not fully functional when the plans started to be implemented. For those member states whose second or third payments were conditional on the achievement of control milestones, the weaknesses in their control systems pose a risk to the protection of the EU's financial interests, with a potential impact on the regularity of expenditure.

11.36. We assessed the implementation of 15 control milestones in six member states (Czechia, Estonia, Lithuania, Luxembourg, Portugal and Slovenia). Although our work does not aim to provide an opinion on the overall *effectiveness* of the member states' control systems for managing the RRF, it did enable us to assess key components of these systems. Either we or the Commission identified the following weaknesses in two member states (Czechia and Lithuania):

[22] Special report 21/2022, paragraphs 102 - 104.

(a) a lack of information on the progress of unfulfilled milestones/targets (Czechia);

(b) weaknesses in the systems for the collection of data on final recipients, contractors, subcontractors and beneficial owners (Lithuania).

11.37. As was the case last year, we found that control milestones varied significantly in their requirements and level of detail between member states. For example, in Czechia, Lithuania, Luxembourg and Slovenia, the control milestones require a repository system (recording data and monitoring progress of implementation) to be in place and operational, while in Estonia the control milestone is the entry into force of the RRF legal framework. In our 2022 annual report, we noted a horizontal weakness affecting five member states (Bulgaria, Greece, Croatia, Italy and Romania) – but with potential implications for all member state systems – concerning the collection of data on beneficial owners of foreign companies. This year, we also noted similar weaknesses in Czechia, Spain, Lithuania and Luxembourg.

11.38. We also followed up weaknesses we identified when assessing the implementation of control milestones related to 2022 payments (Spain, France and Croatia), and found that these weaknesses still exist (see ***Box 11.5***).

Box 11.5

The weaknesses in member state control systems we reported in 2022 persist

Spain: The reporting system does not have complete information about the progress of unfulfilled milestones/targets and about beneficial owners, sources of EU funding, and amounts paid.

France: The management and reporting system is not interfaced with other IT systems for managing RRF measures. In the absence of an integrated information system dedicated to the NRRP, the flow of information is not automated and so entails a risk to the quality of the data.

Croatia: The repository system is still unable to provide data on calls for proposals that were awarded before the system was put in place.

11.39. We note that the Commission issued qualified opinions on control systems or on the achievement of milestones and targets in three out of four final *ex post* audit reports available at the time of our audit (Greece, Croatia and Slovakia). Together with the draft audit reports (Czechia, Denmark, Spain, Luxembourg) and the final report of Austria (with unqualified opinion) that were available at the time of our audit, the following findings were raised (see *Table 11.1*). Some of the observations made in the draft reports may be modified by the time the final reports are prepared.

Table 11.1 – Weaknesses identified by *ex post* audits

	Number of member states concerned
Weaknesses in member states' control systems and protection of EU financial interest	
Weaknesses in checks on conflict of interest, double funding, fraud and corruption	7
Inadequate or insufficient checks on compliance with EU and national rules (including public procurement and state aid) or with DNSH principle	6
Suspected fraud case	1
Lack or limited use of Arachne as a risk detection tool	2
Weaknesses in payment request	
Ineligible declared projects or items	1
Weaknesses in the audits by national audit bodies (incorrect assessment, methodological weaknesses etc.)	3
Inadequate or weak *audit trail* or data management process	7
Other weaknesses (including repository system)	
Inadequate data collection contrary to Article 22.2.d of the Regulation	4
Lack of administrative capacity or clear organisational structure	2
Non-compliance with publicity rules	5

Source: ECA analysis based on the Commission's *ex post* audit reports.

11.40. Both the Commission's and our findings point to persistent weaknesses in the implementation of member state control systems. This poses a risk to the availability of complete and accurate data underlying payment requests, access to those requests for control purposes, and the effective functioning of member state control systems to protect the EU's financial interests. This is a matter of concern, as member states' control systems have a key role to play in ensuring that the financial interests of the EU are protected effectively[23].

[23] Regulation (EU) 2021/241, Article 22(1).

11.41. Concerning the protection of EU financial interests, in a previous report, we highlighted that the Commission must obtain sufficient assurance from the member states on the effectiveness of national systems to prevent, detect and correct fraud, corruption and conflicts of interest[24]. This means that, when compared with the cohesion policy funds, the Commission relies to a greater degree on the member states' systems. We also noted that, when compared with the cohesion policy funds, reporting on fraud relating to RRF funds lacks a standardised and centralised approach[25]. Member states are obliged to report on cases of suspected fraud not in an integrated IT system, but in the management declaration accompanying every payment request. However, there are no clear guidelines about exactly when a case of suspected fraud should be reported, whether there is a reporting threshold, and what standard information should be reported for each case and about the remedial measures taken[26].

11.42. A key indicator for the risk of fraud is the scale of detected fraud. We found that until the end of 2023, the member states' management declarations had not reported a single case of detected suspected fraud. The only available EU-level data on the scale of detected suspected fraud comes from the 2023 annual report of the European Public Prosecutor's Office (EPPO). By the end of 2023, the EPPO had 206 active investigations related to RRF funds and estimated potential damages of over €1.8 billion. The 206 open investigations concern 10 member states, with around 75 % of these cases coming from Italy. The figures presented by the EPPO confirm that the risk of fraud is present in the RRF. They call into question the reliability of member state management declarations in terms of reporting detected fraud and the remedial measures taken.

Weaknesses in payment requests

11.43. In three member states (Greece, Malta and Portugal), we found that by the time the payment requests were sent to the Commission, the audit authorities had not finalised their audit work for the summaries of audits that accompany the management declarations and the payment requests. We also identified eight cases of problems with the reliability of the information that five member state authorities

[24] Review 01/2023: "EU financing through cohesion policy and the Recovery and Resilience Facility: A comparative analysis", paragraph 107.

[25] Special report 07/2023, paragraphs 80-81.

[26] Ibid.

included in their management declarations. The aim of these declarations is to provide assurance that the information submitted with the payment requests is complete, accurate and reliable[27]. In their management declarations, member states should include *reservations* and highlight missing evidence to the Commission when needed. However, none of the member states included such a reservation (see ***Box 11.6***).

Box 11.6

Example of an unreliable management declaration

Slovenian milestone 128 – 'Award of grants for projects to support regional development'

Description of the milestone in Slovenia's CID:

'Award of grants for projects to support regional development through investment in fixed tangible and intangible assets. The projects shall be awarded based on the Act on Promotion of Regional Development and in compliance with the 'Do no significant harm' Technical Guidance (2021/C58/01) through the use of an exclusion list and the requirement of compliance with the relevant EU and national environmental legislation'.

We found that only two out of the three decisions to grant funds were issued before the payment request, while the remaining decision was issued during the Commission's preliminary assessment. The management declaration did not include a reservation highlighting that the milestone was only partially fulfilled.

We found unreliable management declarations also in payments for Austria, Greece, Portugal and Romania.

[27] Regulation (EU) 2021/241, Article 22(2)(c).

Issues related to *sound financial management*

11.44. This part of the chapter presents issues not directly linked to our *statement of assurance* but highlights weaknesses in the design of measures, milestones and targets. Special reports[28] provide a more comprehensive view of sound financial management aspects concerning the RRF.

11.45. Milestones and targets should measure the member states' progress in implementing the investments and reforms contained in their national RRPs – and therefore the achievement of the RRF's objectives. To ensure that these milestones and targets are meaningful and in line with sound financial management principles, it is important that they cover all the main elements of the underlying reform or investment, in particular its completion[29].

11.46. In our sample of milestones and targets (see paragraph ***11.10***), we identified 14 cases of reforms or investments where either not all elements were covered by milestones or targets, or the completion was not captured by a milestone or target. This means that RRF payments are made even if the related reform or investment is not fully implemented (see ***Box 11.7***).

[28] Special report 21/2022: "The Commission's assessment of national recovery and resilience plans – Overall appropriate but implementation risks remain".
Special report 26/2023: "The Recovery and Resilience Facility's performance monitoring framework – Measuring implementation progress but not sufficient to capture performance".
Special report 13/2024: "Absorption of funds from the Recovery and Resilience Facility: Progressing with delays and risks remain regarding the completion of measures and therefore the achievement of RRF objectives".

[29] Special report 26/2023, paragraphs 30-32.

Box 11.7

Example of a reform not fully covered by milestones

Spanish reform 4 (C28.R4) – Reform of tax measures contributing to the ecological transition (CID):

'This reform contains tax measures that aim to support green transition. The measures shall include the following five elements: (a) the establishment of a tax on the deposit of waste in landfills and incineration plants; (b) the introduction of a tax on non-reusable plastic packaging; (c) the amendment of the tax on fluorinated greenhouse gases; (d) taxes or payments related to mobility such as road tolls and vehicle registration taxes; and (e) the revision of the subsidies for mineral oils used as fuel. The implementation of the measures shall be completed by 30 June 2022.'

The first four elements are covered by three milestones (milestones 389, 391 and 390). The fifth element – the revision of the subsidies for mineral oils used as fuel – is not covered by any milestone or target in the CID. The fact that this element of the reform is not covered in the CID hinders monitoring of the implementation of the reform, and ultimately enables a situation where all RRF payments related to this reform would take place even if the reform is not fully implemented.

We found similar cases in payments for France, Greece, Italy, Portugal and Slovakia.

11.47. We also found that the costs estimated for one investment by the member state when it submitted its RRP to the Commission were significantly higher than were needed to fulfil the related investment target as defined by the CID (see ***Box 11.8***). This means that the member state could implement the investment with less funds than those estimated.

Box 11.8

Example of an investment with significantly lower implementation costs than estimated in the national plan

Austrian investment ID 4.B.4 – 'Investment in the implementation of community nurses'

'… The investment consists in the establishment of a network of community nurses close to their patients. During the project, 150 community nurses shall be posted nationwide as part of the pilot project within the framework of fixed-term employment contracts. …'.

The investment consists of two targets: providing 150 community nurses and issuing an interim evaluation report. The CID description did not specify whether the nurses should be full time or part time, only that they had started work.

In an annex to the RRP, the total estimated cost of the investment was based on the cost of full-time equivalent nurses (€100 000 a year for each nurse). According to the job contracts, the average working time of the nurses subsequently employed was 68 % of a full-time equivalent. The vague definition of the target in the RRP means that the cost of the investment will be significantly lower than estimated.

AARs and the AMPR

11.48. AARs are the Commission DGs' main tool for reporting whether they have reasonable assurance that control procedures guarantee the regularity of expenditure. For 2023, the Director-General of DG ECFIN provides reasonable assurance on the following three elements:

(a) The legality and regularity of 2023 RRF payments;

(b) In the area of public procurement and state aid, that member states regularly check that RRF financing has been used in compliance with all applicable rules, and measures for implementing reforms and investment projects have complied with all applicable rules, in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests[30] and

(c) Concerning the protection of the financial interests of the Union, the assurance covers the implementation of proportionate reductions in RRF support and recovery of any amount due to the EU budget or the request for early repayment of the loan, in cases of fraud, corruption, and conflicts of interests affecting the EU's financial interests that a member state has not corrected, or a serious breach of an obligation of the financing agreement[31].

11.49. As in previous years, the Commission does not estimate a quantifiable risk at payment on the grounds that a meaningful error rate cannot be determined. Instead, the Commission assigns a risk level (low, medium or high) for the legality and regularity of each RRF payment, based on the results of its *preliminary assessments*, the results of its *ex post* audits on milestones and targets and on the reporting systems. High level risk RRF payments above the *de minimis threshold* should be covered with a reservation. The Commission assessed all milestones and targets as having been satisfactorily fulfilled and concluded that 22 payments were low risk and one payment medium risk. On this basis, the Director-General of DG ECFIN provides assurance that the 2023 RRF payments are legal and regular. This is, however, not in line with our own findings.

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[30] Regulation (EU) 2021/241, Article 22(2).

[31] Ibid., footnote 2, Article 22(5).

11.50. In a previous report[32], we found that the RRF control system provided only limited information at EU level on whether RRF-funded investment projects complied with EU and national rules, and that this impacted the assurance the Commission could provide, resulting in an assurance gap. According to the 2023 AAR, the Commission has updated the RRF control and audit strategies, including reinforced controls on member state control systems. However, the assurance for the financial year 2023 provided by DG ECFIN only states that member states carry out regular checks and still does not cover the effectiveness of the checks carried out by member states. This is particularly worrying as non-compliance with EU and national rules, such as procurement, state aid and eligibility rules, is prevalent in other EU spending programmes (see ***Figure 1.8***) and the member state control systems are affected by weaknesses (see ***Table 11.1***).

[32] Special report 07/2023.

Conclusions and recommendations

Conclusions

11.51. Compared to expenditure under the EU's general budget, the RRF spending model has a significant impact on the coverage of our regularity audit and the assurance we can provide, as the regularity of expenditure incurred by final recipients is not a condition for making payments to member states. The overall audit evidence from our work as presented in this chapter shows that:

(a) 16 of the 452 milestones and targets we examined did not comply with the payment and eligibility conditions. These concern seven payments in seven member states (see paragraph ***11.20***-***11.25***);

(b) there were 15 cases of vaguely defined milestones and targets and 14 weaknesses in the design of measures and milestones/targets that contributed to a more discretionary assessment of their satisfactory fulfilment and/or undermine the results that can be achieved by the RRF (see paragraphs ***11.28*** *and* ***11.44***-***11.47***);

(c) the Commission updated its *ex post* audit strategy to include checks on reversal, but not on the substitution of recurring national budgetary expenditure. *Ex post* audits now include some checks on compliance with the eligibility period, but take as the start of a measure the date of costs incurred rather than the date of the relevant legal commitment (see paragraphs ***11.31***-***11.32***);

(d) for those member states whose second or third payments were conditional on the achievement of control milestones, the weaknesses in their control systems pose a risk to the protection of the EU's financial interests, with a potential impact on the regularity of expenditure (see paragraph ***11.33***-***11.35***);

(e) there were persistent weaknesses in the member states' reporting and control systems. This poses a risk to the availability of complete and accurate data underlying the payment request, accessing them for control purposes, and the effective functioning of member state control systems to protect the EU's financial interests (see paragraphs ***11.36***-***11.42***);

(f) the information that member states included in their management declarations was not always reliable (see paragraph ***11.43***).

11.52. Our findings and conclusions are not in line with the declaration provided by DG ECFIN's *Authorising Officer*.

Recommendations

11.53. *Annex 11.3* shows the findings of our follow-up review of the three recommendations we made in our 2021 and 2022 annual reports. Based on the review of our previous recommendations and on our findings and conclusions for 2023, we recommend that the Commission:

Recommendation 11.1 – Apply stricter criteria for assessing compliance with the eligibility period

Assess compliance with eligibility conditions by applying the date of the first (legal) commitment as the start of the measure.

Target implementation date: end 2024

Recommendation 11.2 – Define specific criteria for assessing substitution of recurring national budgetary expenditure

Assess compliance with eligibility conditions by defining specific criteria for what constitutes substitution of recurring national budgetary expenditure.

Target implementation date: end 2024

Recommendation 11.3 – Address remaining weaknesses in member state control systems

Ensure that member states take prompt remedial action to address remaining weaknesses in their control systems.

Target implementation date: end 2024

Recommendation 11.4 – Provide assurance on the effective functioning of member state control systems

Use the results of the Commission's checks on member state control systems to express a clear conclusion on their effectiveness.

Target implementation date: The 2024 AAR

Annexes

Annex 11.1 – Audit approach and methodology

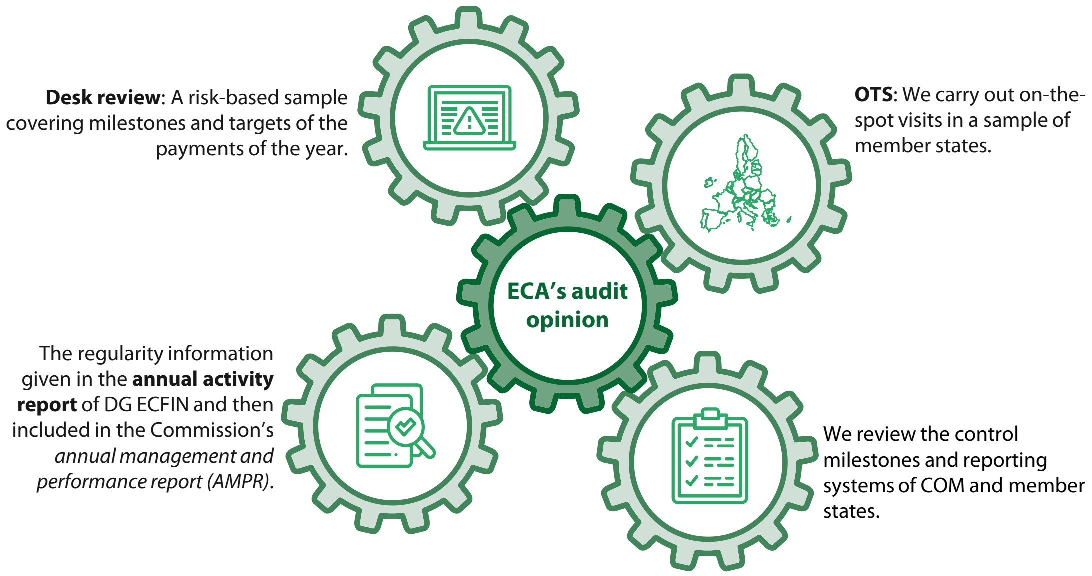
General

(1) This annex covers our audit approach and methodology for the statement of assurance on the regularity of RRF expenditure.

(2) We issue a separate opinion on the regularity of the RRF expenditure as part of our statement of assurance on the EU budget. This is because we consider the RRF delivery model to be different and a temporary instrument. With this opinion, we aim to provide reasonable assurance on the payments, and provide detailed information based on this opinion in the statement of assurance.

(3) We derive most of our assurance from substantive testing and the assessment of the supervisory and control systems. Our assurance is complemented by the AARs-AMPR and the reports of the Internal Audit Service (see ***Figure 11.5***).

Figure 11.5 – Audit opinion



Source: ECA.

(4) Our work conforms to international audit standards, and ensures that our audit opinions are supported by sufficient and appropriate audit evidence.

(5) As regards our audit procedures in relation to fraud, we follow the approach detailed in part 3 of ***Annex 1.1***.

Regularity of *transactions*

How we define underlying transactions and how we test them

(6) The underlying transactions relevant for the statement of assurance work on the RRF are grant payments to member states and/or clearings of previous pre-financing. In contrast to most spending under the *Multiannual Financial Framework*, RRF payment requests are not supported by incurred costs, but by justification of satisfactory fulfilment of milestones and targets. As the RRF loans are not recognised as expenditure in the EU accounts, they are not part of our audit.

(7) Our substantive testing mainly consists of assessing whether RRF payments were made in compliance with the payment conditions laid down in the Regulation[33]. Where feasible, we cover the non-reversal of previously fulfilled measures and double funding. We also assess the fulfilment of other eligibility conditions, such as non-substitution of recurring national budgetary expenditure, compliance with the eligibility period and the 'Do No Significant Harm' principle[34].

(8) To reach our conclusion, we first used a risk-based sample to review whether the Commission had gathered sufficient and appropriate evidence during its preliminary assessments to support its assessment of satisfactory fulfilment. If we consider the evidence available in the Commission's files to be insufficient for us to reach a conclusion, we ask the member state directly to provide further evidence. We also carry out on-the-spot visits in a sample of member states.

(9) First, we select control milestones and milestones related to the *general regime of conditionality* for the protection of the Union budget[35]. We then apply a number of risk criteria to select the remaining sample.

(10) For our assessment of whether individual milestones and targets have been satisfactorily fulfilled, we use the Commission's framework[36]. In line with this framework, if the nature of the milestone (and, if applicable, the nature of the target) does not allow for an assessment based on quantitative elements, we will accept minimal deviations in substance, form and timing. For milestones or

[33] Regulation (EU) 2021/241, Article 24(3).

[34] Ibid., Articles 5, 9 and 17(2).

[35] Regulation (EU, Euratom) 2020/2092.

[36] COM(2023) 99.

targets for which an assessment based on quantitative elements is possible, we will accept deviations below 5 %.

(11) We may detect cases of fraud, corruption, conflicts of interest, double funding or breaches of the financing agreement (e.g. the unavailability of information on final recipients and of funding from other EU funds). In these cases, we assess (where feasible) how these 'serious irregularities' impact the legality and regularity of RRF expenditure.

How we evaluate the results of transaction testing

(12) We determine the type of each finding.

(13) Quantitative findings are related to cases of non-compliance with the payment and eligibility conditions laid down in the Regulation, i.e. unsatisfactory fulfilment of milestones and targets; the reversal of previously fulfilled milestones and targets; non-compliance with the eligibility period, the DNSH principle and double funding.

In line with auditing standards, the auditor should consider using existing criteria[37]. Following this consideration, to quantify the financial impact of these findings, we use the Commission's payment suspension methodology[38] as a basis. The methodology entails a three-step approach to arrive at the amount to be suspended:

(i) determining the unit value of a milestone or target included in a plan;

(ii) correcting unit values by applying a coefficient; and

(iii) adjusting the corrected unit values.

We do not systematically estimate a financial impact when the milestone or target is satisfactorily fulfilled within 6 months[39] after the payment and within the audited year.

(14) Findings linked to suspicion of fraud, corruption and conflicts of interest are quantified only if there is sufficient evidence to prove that they impact the fulfilment of a milestone or target (i.e. a fraudulent case that calls into question

[37] ISSAI 4000.

[38] COM(2023) 99, Annex 2.

[39] Regulation (EU) 2021/241, Article 24(8).

the existence of the items, or the complete absence of a procurement procedure).

(15) Findings without a financial impact are qualitative findings.

Examination of supervisory and control systems

(16) Our examination of the supervisory and control systems may identify:

(i) weaknesses in Commission and member state control and audit activity to ensure the regularity of RRF expenditure and the protection of the EU's financial interests;

(ii) weaknesses in the availability of the list of final recipients, contractors, subcontractors and beneficial owners;

(iii) weaknesses in the availability of information about the measure and the total public funding involved; and

(iv) weaknesses in record-keeping.

(17) Such weaknesses might affect the regularity of RRF expenditure at member state level and result in a recovery (i.e. a reduction in the overall amount of the plan) after the Commission has made the payment to the member state. The financing agreements provide for flat-rate corrections for serious breaches, by taking account of the frequency and extent of such breaches. For our assessment, we consider system weaknesses and breaches of the financing agreements as qualitative findings.

(18) We also assess the Commission's *ex post* audits. These audits may identify milestones and targets as not having been satisfactorily fulfilled. Where feasible, we use the findings that have not been corrected during the year of the payment to formulate our opinion.

Formulating our audit opinion

(19) Materiality is a fundamental concept, as it sets the level of deviation that we consider is likely to influence our stakeholders' decisions.

(20) We define materiality on both a quantitative and a qualitative basis.

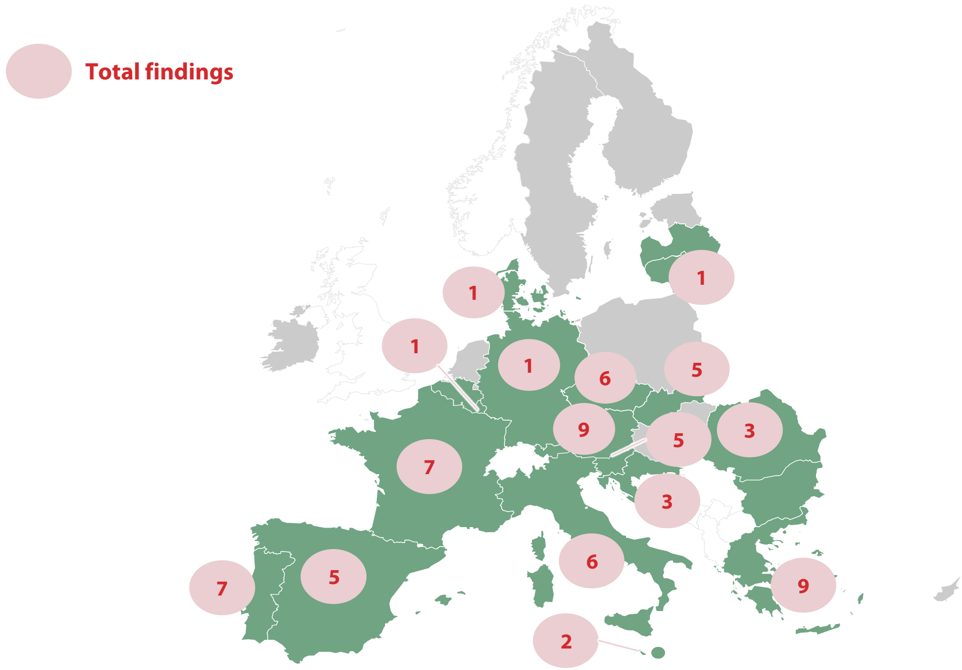
(21) By analogy with other audits, we use the level of 2 % as the materiality threshold for our opinion, and we also take account of the nature, amount and context of errors and other available information.

(22) The quantitative findings are an important element for reaching our conclusion. To assess the regularity of RRF expenditure, we will reach a conclusion, based on the quantitative findings, as to how the estimated amount of error compares to the materiality threshold. To calculate the overall impact of quantitative findings (including those initially identified by the Commission's *ex post* controls), we use the Commission's payment suspension methodology as a basis.

(23) We also consider the impact of the qualitative findings and the system weaknesses. In addition to our professional judgment, we take into account the number of these findings and the materiality of the payments affected.

(24) Our audit opinion does not disclose an error amount/rate. Due to the RRF spending model, it is not possible to determine an error rate comparable to those reported in other MFF chapters. This is because there is no link between RRF payments and costs incurred by final recipients. In addition, the nature of milestones and targets and the risk-based sampling does not allow for extrapolation of our results. Therefore, the result of our testing provides only an estimate of the minimum error amount.

Annex 11.2 – Audit results



Member state	Quantitative findings	Qualitative findings	System weaknesses	Total findings
Czechia	4	1	1	**6**
Denmark	0	1	0	**1**
Germany	0	1	0	**1**
Greece (*)	2	4	3	**9**
Spain	0	4	1	**5**
France	2	4	1	**7**
Croatia	0	2	1	**3**
Italy (*)	3	3	0	**6**
Lithuania	0	0	1	**1**
Luxembourg	0	0	1	**1**
Malta	1	0	1	**2**
Austria	3	5	1	**9**
Portugal (*)	1	3	3	**7**
Romania	0	1	2	**3**
Slovenia (*)	0	2	3	**5**
Slovakia (*)	0	5	0	**5**
Total	**16**	**36**	**19**	**71**

(*) There was more than one payment in 2023.

Source: ECA

Annex 11.3 – Follow-up to previous recommendations

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	**Recommendation 1:** Clearly and transparently justify the elements contained in the Operational Arrangements and CIDs that are not deemed relevant by them for the satisfactory fulfilment of milestones and targets. **Recommendation 3:** Improve documentation of the assessment of milestones and targets by fully documenting all the elements examined during the *ex ante* work.		During our 2023 audit we did not identify any similar issues.
2022	**Recommendation 1(a):** Cover in its preliminary assessments and *ex post* audits compliance with the eligibility period and the principle of non-substitution of recurring national budgetary expenditure;		The Commission's preliminary assessments and *ex post* audits include some checks on compliance with the eligibility period, but not on substitution of recurring national expenditure. However, the criteria to assess the start of a measure is the start of physical works as opposed to the signature of first legal commitment.
	Recommendation 1(b): Revise its *ex post* audit procedures so that they provide for checks to verify whether the audited targets previously assessed as fulfilled were not reversed after the payment.		The *ex post* audit strategy was updated to include checks on reversal; however, the audit checklists were not yet updated at the time of our audit.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2022	**Recommendation 2:** Based on experience acquired during the RRF implementation, verify that the reviewed plans clearly define all milestones and targets and that all key elements of a measure are covered by milestones and targets.		Our 2023 audit identified eight payment requests submitted based on reviewed plans. In four payments we identified seven cases of weak CID design.

Source: ECA.

Appendix

Reporting

(pursuant to Article 92 (4) Regulation (EU) No 806/2014)

On any contingent liabilities arising as a result of the performance by the Commission and by the Council, of their tasks under this Regulation for the 2023 financial year

Introduction

Legal basis

01 Article 92(4) of the single resolution mechanism (SRM) Regulation requires us to "report on any contingent liabilities (whether for the SRB, the Council, the Commission or otherwise) arising as a result of the performance by the SRB, the Council and the Commission of their tasks under this Regulation". This appendix covers the SRM contingent liabilities of the Commission and of the Council. The contingent liabilities of the SRB are covered in the annual report on EU agencies.

Contingent liabilities: definition and recognition criteria

02 A contingent liability is defined as follows:

- a possible obligation that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the European Union,
- or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of economic resources embodying economic benefits or service potential will be required to settle the obligation, or because the amount of the obligation cannot be measured with sufficient reliability.

03 To determine if a contingent liability needs to be disclosed or a provision recognised, the probability of an outflow of economic resources (in general, of cash) must be assessed. If a future outflow of resources is:

- probable, a provision needs to be recognised;
- possible, a contingent liability needs to be disclosed;
- remote, no disclosure is necessary.

Background information on contingent liabilities related to the single resolution mechanism

04 In the context of the performance of their tasks under the SRM Regulation, the SRB, the Council and the Commission can incur contingent liabilities linked to ongoing legal proceedings (before EU or national courts) in relation to:

- **their resolution and non-resolution decisions**[1] **–** both a decision to apply and not to apply resolution tools can be challenged before a court;
- **the no-creditor-worse-off principle –** to safeguard fundamental property rights, the SRM Regulation provides that no creditor shall be left worse off under resolution than they would be under normal insolvency proceedings. Based on that principle, any creditors who would have received better treatment under normal insolvency proceedings must be compensated by the Single Resolution Fund. To assess the treatment of creditors and shareholders, a valuation of difference in treatment must be conducted.

[1] In its judgment of 18 June 2024 (C-551/22 P), the Court of Justice found that only the Commission´s endorsement decisions can be challenged before the EU Courts.

Observations

Part I: Contingent liabilities of the Commission

05 *Table 1* shows the number of SRM-related legal proceedings affecting the Commission and the related contingent liabilities, amounting to €0 million, disclosed in the Commission's accounts.

Table 1 – SRM-related legal proceedings affecting the Commission and the related contingent liabilities

Cases related to	Number of cases before EU courts potentially affecting the Commission´s contingent liabilities	Related contingent liabilities disclosed in the Commission's accounts (in *million euros*)
Resolution and non-resolution decisions	12	0
Resolution of Banco Popular Español S.A. (BPE)	8	0
Non-resolution of ABLV	0	not applicable
Resolution of Sberbank d.d. and Sberbank banka d.d. and non-resolution of Sberbank Europe AG	4	0
No-creditor-worse-off decision for BPE	0	not applicable
TOTAL	12	0

Source: The Commission's 2023 accounts and other sources.

06 The Commission is the defendant in the four appeals lodged against the General Court's decisions regarding the BPE pilot cases[2]. One of these has been withdrawn by the appellant[3]. It is also the defendant in four new damages cases lodged in 2022 with the General Court, concerning the resolution of BPE[4]. The Commission considers the

2 Cases C-448/22 P, C-535/22 P, C-539/22 P and C-541/22 P.

3 Case C-539/22 P.

4 Cases T-294/22, T-474/22, T-475/22 and T-477/22.

likelihood of an outflow of resources related to these cases as remote. In addition, the Commission appealed against the General Court ruling in another case[5], regarding the fact that the application was lodged only against the SRB's resolution decision[6] and not against the Commission's decision endorsing the SRB's resolution scheme. However, in the Commission's view, even an unfavourable outcome of its appeal would not entail an outflow of economic resources for the Commission, other than legal costs.

07 Two applications were lodged by Sberbank Austria AG, seeking the annulment of the Commission's endorsement of the SRB's resolution decision regarding Sberbank banka d.d. and Sberbank d.d., its Slovenian and Croatian subsidiaries[7]. Another two applications were filed by Sberbank Russia OAO, seeking the annulment of the Commission's endorsement of the same SRB resolution decisions but were declared inadmissible[8]. The applicant has appealed the rejecting orders[9]. The Commission considers the likelihood of an unfavourable outcome remote in these cases.

08 The Commission has not disclosed any contingent liabilities in relation to the above cases.

Part II: Contingent liabilities of the Council

09 ***Table 2*** shows the number of SRM-related legal proceedings affecting the Council and the related contingent liabilities, amounting to €0 million, disclosed in the Council's accounts.

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[5] Case T-481/17.

[6] Case C-551/22 P.

[7] Cases T-523/22 and T-524/22.

[8] Cases T-525/22 and T-526/22, which were declared inadmissible by the General Court (Order of 10 October 2023).

[9] Cases C-791/23 P and C-792/23P.

Table 2 – SRM-related legal proceedings affecting the Council and the related contingent liabilities

Cases related to	Number of cases before EU courts potentially affecting the Council´s contingent liabilities	Related contingent liabilities disclosed in the Council's accounts (in *million euros*)
Resolution and non-resolution decisions	0	not applicable
Resolution of Banco Popular Español S.A. (BPE)	0	not applicable
Non-resolution of ABLV	0	not applicable
Resolution of Sberbank d.d. and Sberbank banka d.d. and non-resolution of Sberbank Europe AG	0	not applicable
No creditor worse off decision for BPE	0	not applicable
TOTAL	0	not applicable

Source: The Council's 2023 accounts and other sources.

10 The Council has not disclosed any contingent liabilities arising as a result of the performance of its tasks under the SRM Regulation because there are no pending cases before EU courts in which the Council is the defendant and from which contingent liabilities could arise.

Institutions' replies to the annual report on the implementation of the EU budget for the 2023 financial year

Contents

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 1: STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

I. THE COMMISSION REPLIES IN BRIEF

This Commission's term has been marked by a string of unprecedented crises requiring fast and effective solutions to protect people's lives and livelihoods in the European Union. 2023 was yet another significant year, in which the EU continued to meet the aspirations of its citizens and to address challenges as they emerged.

In these unprecedented times, **the Commission continued to attach great importance to making the best possible use of taxpayers' money and ensuring that the EU budget was spent responsibly and correctly**, and to working with all parties involved, including Member States, to make sure that it delivers tangible results on the ground.

The implementation of the EU budget entails handling millions of transactions, and hundreds of thousands of checks, across all programmes and management modes. The Commission, and the Member States authorities under shared management, have put in place robust, multiannual control strategies designed to prevent and detect weaknesses and correct them when identified. Wherever necessary, the Commission further adjusts, develops, and improves these strategies and it relentlessly strives for further simplifications across programmes. Thanks to these controls, and based on their results, **the Commission is confident that the information regarding the risk at payment (1.9% in 2023, stable since 2020) presented in the Annual Management and Performance Report (AMPR) is representative of the level of error at the time of payment.** This stability is underpinned also by the fact that a significant part of the expenditure in 2023 still relates to the 2014–2020 programming period for which the rules, systems and implementing bodies have not changed compared to previous years.

In this context, the Commission takes note of the estimated level of error reported by the ECA (at 5,6%), the highest level since 2008 (5,2%). As stated above, this does not resonate with the overall assessment made by the Commission, nor with the efforts from the Commission, Member States and other implementing partners to continuously improve the management of European funds over the 2007-2013, 2014-2020 and 2021-2027 periods.

For 2023, the **difference between the Commission's estimated risk at payment** and **the level of error estimated by the European Court of Auditors (ECA)** is significant for the heading '**Cohesion, resilience and values',** which is mainly due to the sometimes different interpretation of facts or applicable rules as well as to distinct methodological approaches between the two institutions**.** This is mainly the result of the different roles and mandates of the Commission (responsible for the sound financial management of the EU budget) and the ECA (as the independent external auditor). The Commission takes note of the high error rate estimated by the ECA this and last year compared to a relatively stable level of error reported for the years 2016-2021. The Commission's maximum level of risk at payment (taking into account potential additional risks) for this heading remained above the materiality threshold at 2.6%[1] for 2023. It is in line with previous years, although at a lower level than that calculated by ECA. In its sample of transactions, the ECA quantifies errors related to any breach of applicable rules that have an impact on the related payment (§6.16). The Commission does not necessarily consider the

[1] For the cohesion policy funds, the estimated risk at payment is at 2.8% in 2023.

expenditure associated with the ECA's findings to be ineligible nor all cases quantified by ECA as irregularities within the meaning of Article 2(36) of the Common Provision Regulation (CPR), which provides the legal ground for the Commission to impose a financial correction.

The Commission considers, in addition, that the indicator representing best all the actions taken by both the Member States and its services is the **risk at closure**, which measures the level of error remaining once all ex-post controls and additional corrections will have been made. For 2023, the overall risk at closure is estimated at 0.9%, well below the 2% materiality threshold, and in line with previous years' level (0.8% in 2021 and 0.9% in 2022). In the area of cohesion policy, for the 2007-2013 period and for the accounting years of 2014-2020 period up to 2022, the Commission has evidence confirming that the actual **risk at closure is well below 2%.**

Overall, the Commission endeavours to **strike the right balance** between low level of error, fast payments, and reasonable costs of controls to timely deliver on all its policy objectives and to improve the lives of EU citizens.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Audit findings

Reliability of the accounts

The Commission welcomes that the **EU accounts are considered to be free from material error** for the 17th year in a row.

Regularity of transactions

As regards the revenue side of the EU budget (§1.14a), the Commission welcomes, once again, that the **ECA considers revenue free of material error** and that the revenue managing systems were generally effective.

In May 2023, the Commission proposed the most ambitious **reform of the customs union** since its creation, which is currently under negotiation with the co-legislators. To prepare this proposal, the Commission has anticipated Action 17 of the customs action plan on the potential creation of an EU Customs Agency/Authority. Many other actions have also been incorporated and reinforced in the proposal, to provide them with a more solid legal and digital basis. Once agreed and implemented, this reform will drastically strengthen the analysis, risk management, and control capabilities of the customs union. The Commission has thus diligently performed its right of initiative and now invests significantly in closely collaborating with the Council and European Parliament to progress the file as efficiently as possible. Therefore, while the Commission acknowledges a delay in the implementation of some of the actions in the plan, it is also important to note that only four of all actions in the Customs Action Plan have previously been identified as potentially contributing to reducing the customs gap.

Error in specific types of spending

As regards **regularity of expenditure** (§1.14b), based on the numerous audits and controls carried out, the Commission's own estimate of the **risk at payment**, i.e. the remaining level of error at the time of payment, after preventive controls have taken place, remained stable at **1.9%** of the relevant expenditure, i.e. the same level for four years in a row.

Given the **multiannual nature of its expenditure and of its differentiated control strategies**, the Commission, together with the Member States in shared management, deploys substantial efforts to perform controls and to make corrections after the payments have taken place and until the end of the programming cycle. These efforts are reflected in **the risk at the closure of the programme, which is estimated at 0.9% overall**. This is well below the materiality threshold of 2% and in line with the levels reached in previous years since 2016 and with the objective of the Commission.

Impact of rules and of the way EU funds are disbursed on the risk of error

The Commission shares the ECA's view that **the way funds are disbursed has an impact on the risk of error** (§1.16), and in particular that the risk of error is lower for expenditure which is subject to simplified rules (mainly in entitlement-based payments).

Therefore, and in line with the requests from the European Parliament[2], the Commission continues to take action to simplify rules. This includes**,** among others, promoting simplified cost options and financing not linked to costs: 2023 marked the increased use of such simplified schemes, in several policy areas (e.g. lump sums in research and health or financing not linked to costs in cohesion policy). The move of the common agricultural policy towards a performance-based delivery model whereby all interventions are planned ex ante, linked with output indicators and paid based on these indicators, goes in the same direction.

Still, based on the detailed information at its disposal, the Commission considers that **the risks at payment are not uniformly material for reimbursement-based payments**. The risk exposure might differ within the same policy area and even within the same spending programme.

Specifically, thanks to the reliable, evidence-based information gained through its controls and its detailed analysis thereof, including on Member States' control results, the Commission is able to **split the relevant expenditure[3]** between:

- **lower risk expenditure,** with a risk at payment below 2%, representing **67%** of the total expenditure,
- **medium risk expenditure**, with a risk at payment between 2% and 2.5%, representing **9%** of the total expenditure and,
- **higher risk expenditure**, with a risk at payment above 2.5%, representing **24%** of the total expenditure for 2023[4].

[2] European Parliament resolution of 11 April 2024 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2022, Section III – Commission and executive agencies (2023/2129(DEC)) – see in particular §57(iii), §95(iii), §134(xi), §134(xii), 286(viii).

[3] More details can be found in the Annual Management and Performance Report 2022, Volume II, page 57

[4] In the case of the European Regional Development Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, the level of risk has also been considered high, irrespective of the risk at payment, when the audit opinion issued in the annual activity reports on the functioning of the management and control system of the programmes was either adverse or qualified.

Thanks to this approach, the Commission can show a nuanced picture of the level of risk, at a **granular level**. For example, under cohesion policy funds, for which it estimated an overall risk at payment at 2.8% in 2023, the Commission is able to identify which operational programmes (or parts of programmes) present serious deficiencies, to request improvements from the concerned programme authorities and to apply proportional, targeted and legally justified financial corrections. Therefore, the Commission could conclude that management and control systems function well for 93% of the 441 cohesion policy programmes. For the remaining 30 programmes, and parts of another 25 programmes, weaknesses persisted mainly at the level of managing authorities or their intermediate bodies (as detailed in the Commission replies to chapter 6 and in the annual activity reports of DGs REGIO and EMPL).

The Commission is taking **targeted remedial actions** for the medium- and higher-risk categories of expenditure. Such actions include raising beneficiaries' and implementing partners' awareness of applicable EU rules and of recurrent issues with a view to improve the error detection capacity, adjusting the control strategies to the level of risks, applying the lessons learned to future programmes and simplifying rules wherever possible. At the same time, complex conditions and eligibility rules may sometimes be needed where the targeting of aid is necessary, in order to achieve ambitious policy objectives or to respect the fundamental principles of the Single Market (public procurement or State aid rules). Simplification of rules must therefore be **balanced with the achievement of policy objectives**, while bearing in mind the costs of administration and control.

High-risk expenditure

As regards **high-risk expenditure** (§1.18-§1.27), based on the granular analysis by spending area and segments of expenditure within spending areas, the Commission's own estimate is that for 33% of the expenditure, the risk at payment is above 2%.

Specifically:

- In the area of '**'Single market, innovation and digital'** (§1.20), the Commission acknowledges that there is a material level of error for Horizon 2020 grants and other complex grants under that heading. While personnel costs have remained the main source of errors, H2020 was a major step forward in the simplification and harmonisation of cost eligibility rules, including on the calculation of personnel costs. For other direct costs, as in the case of errors in personnel costs, the Commission mitigates the risk of error by outreach communication events and webinars, by the guidance provided in the Horizon 2020 Annotated Model Grant Agreement, and the Annotated Grant Agreement for Horizon Europe, and by encouraging the use of the Research Enquiry Service. Moreover, the increased use of lump-sum funding under Horizon Europe and the recent introduction of the unit cost for personnel costs reduces the administrative burden on beneficiaries and is expected to further reduce the risk of error.

- In the policy area of **'Cohesion, resilience and values'** (§1.21), as mentioned above, the Commission's maximum risk at payment, estimated for Cohesion at 2.8% in 2023, is based on a comprehensive review of all audit opinions and error rates reported by programme audit authorities, adjusted by the Commission where relevant following its own assessment and risk-based audits and taking account of the ECA's audit results as well. The Commission attributes the difference between its estimated risk at payment and the level of error estimated by the ECA to sometimes different interpretations of facts or the applicable rules, and to distinct methodological approaches. This is mainly the result of the different roles and mandates of the Commission (responsible for the sound financial management of the EU budget) and the ECA (as the independent external auditor). The

Commission notes that, for the second year, this difference is particularly wide compared to financial years 2016-2021. In its sample of transactions, the ECA reports quantified errors related to any breach of applicable rules that have an impact on the related payment and not only those for which the Commission is able to apply financial corrections under the CPR (§6.16).
Moreover, the Commission stresses the importance of the role of audit authorities in detecting errors, although it acknowledges that continued cooperation and support is needed in some instances to ensure a better detection capacity, and the effectiveness of the multi-annual corrective capacity that allows to bring the risk at closure below materiality. Programme authorities regularly withdraw from the certified accounts amounts previously declared that are found to be irregular or at risk (as detailed in the Commission replies to chapter 6 and in the REGIO and EMPL AARs). This is also thanks to the provision for possible net financial corrections in the CPR that would result, if the legal conditions were to apply, in a direct loss of funding for the Member States concerned if Member States do not take timely remedial actions to address serious deficiencies.

- Concerning the policy area of '**Natural resources and environment**' (§1.22): for market measures and rural development, the ECA's assessment is in line with the Commission's one, which also sees higher risk of errors in these areas. Under the 2014-2022 CAP legislative framework, complex conditions and eligibility rules apply where, in order to achieve ambitious policy objectives, targeting of aid is necessary. It is thus needed to balance legality and regularity considerations with the achievement of policy objectives while bearing in mind the delivery costs. The performance-based 2023-2027 CAP offered the possibility to the Member States to design the interventions in their CAP strategic plans and thus, to streamline their control systems, including by making increased use of new technologies and simplified cost options.

- Referring to '**Neighbourhood and the world'** (§1.23), the Commission considers that the lower-risk expenditure under this chapter is not limited to merely the budget support payments and to administrative expenditure but includes also other expenditure under direct and indirect management segments that have a low or medium risk at payment. Hence the risk at payment for this heading is at 0.85%, well below the materiality threshold of 2%. The Commission also considers that errors on clearing of pre-financing are of a temporary nature, as any such error is meant to be adjusted with the final acceptance of costs. For this reason, this type of error will not lead to a recovery.

As regards public procurement rules (§1.26), one of the biggest sources of error reported by the ECA this year for cohesion policy, the Commission notes that a number of cases reported concerned public contracts below the EU directives' thresholds. Apart from the Union principles of transparency and non-discrimination, procurement below the directives' thresholds is subject to national legislation which may lay down rules different than and/or additional to the EU directives (if no cross-border effect is involved). The Commission is not best placed to detect and assess such breaches of national law with a view to establishing irregularities.

The Commission will continue to support programme authorities through the measures designed under its public procurement and State aid action plans, to ensure a good understanding and correct implementation of those Union internal market provisions and where applicable national provisions, including to avoid situations of conflict of interest.

Low-risk expenditure

The Commission welcomes the ECA's conclusion that **direct aid to farmers** (§1.28) remains free of material error, confirming the important role played by the integrated administration and control system, including the land parcel identification system, in preventing and reducing the level of error.

Commission's regularity information

Commission's estimate of error

The Commission's objective is to identify the issues and to take appropriate and targeted remedial actions accordingly. To do so, **it has built its assurance from the bottom up and at a detailed level**, i.e. by programme or other relevant segment of expenditure, since implementation is not homogenous across programmes and Member States. This is also necessary to enable the Commission's authorising officers by delegation to exercise their responsibility.

In the AMPR, the Commission reports on the risks at payment disclosed by its services in their respective AARs and representing their best estimates, based on hundreds of thousands of checks carried out every year by the Commission and the Member States, following carefully established control strategies, tailored to the specificities of each spending programme.

The Commission is closely monitoring the risk at payment and risk at closure with the objective to maintain the risk at closure below the materiality threshold of 2%.

The Commission's approach, as manager of the EU budget, is different from that followed by the ECA in its role of external auditor. This may result in differences between the estimation of the level of error by the two institutions.

In addition, the Commission does not always share the ECA's assessment on individual errors. Nevertheless, the Commission notes that its estimations of the **risk at payment fall within the range of the ECA's estimated levels of error** for the budget headings "Single Market, Innovation and Digital" and "Natural resources and environment", but not for the area of 'Cohesion, resilience and values'.

For this area, the Commission still reports a **material risk at payment** (i.e. above the materiality threshold of 2%), but overall below the ECA's estimated level of error. The Commission notes that its estimate reflects irregularities as defined in Article 2(36) of the CPR, rendering the underlying expenditure ineligible and for which the Commission (and Member States) can effectively apply financial corrections, whereas the ECA's estimate reflects all types of breaches of applicable rules that have an impact on the related payment, including those that do not lead to an irregularity as defined in the CPR.

Commission's risk assessment

The Commission continues to take **actions to improve the effectiveness of ex-post checks**. It recalls however that, in order to remain cost-effective, controls need to be targeted and risk based.

In the area of '**Research and innovation'**, the Commission intends to make the most efficient use of the resources from the Common Audit Service of DG RTD to guarantee effective achievement of its objectives, while keeping an appropriate balance between trust and control and considering administrative and other costs of controls at all levels, including for beneficiaries. As regards the ex-post audit campaign for the current framework programme Horizon Europe, the Commission has adopted in November 2023 the Control Strategy for Horizon Europe.

In the area of **cohesion policy**, the Commission considers that, overall, reliance can be placed on the work of audit authorities and their control bodies, except for a limited number of them for which it identifies each year the need for improvements (in 2023, 10 audit authorities or their control bodies out of 116 overall as reported in the AARs). In some cases, errors previously not detected by the audit authorities, even if they affect the recalculated error rate in the reporting year, do not necessarily point to a systemic weakness in the work of the audit authority concerned. The Commission will continue to work in close collaboration with all programme authorities to refine management and control systems and tackle the root causes of errors, through specific actions such as:

- continued audits on the programmes or areas considered as most error-prone based on a risk-assessment,
- the continuous monitoring and analysis of errors, and sharing of such results with programme authorities to share a common understanding of applicable rules and prevent re-occurrence of errors,
- the promotion of less error-prone simplified cost options and financing not linked to costs,
- the use of data mining and risk-scoring tools such as Arachne, including the use of artificial intelligence, which enhance the capacity to detect irregularities, fraud suspicions or possible conflicts of interest.

As regard the ECA's observations on desk reviews under cohesion programmes (§1.35), the Commission remains confident that its **detailed assessment based on a combination of desk and on-the-spot audit work,** covering the different individual programmes and assurance packages, depending on the risks attributed to them, enables it to establish a reasonable and fair estimate of the error rates for each programme, every year, and cumulatively for the whole programming period for cohesion policy funds. The Commission considers that its systematic desk reviews constitute an **efficient and proportionate approach** for programmes that are found to reliably report low error rates year after year[5]. For riskier programmes, the desk review is complemented by audits that include **re-performance of samples of audit work carried out by programme authorities**, to test the reliability of their work.

In the policy area **'Neighbourhood and the world'**, the Commission considers that the residual error rate (RER) study – which is neither an assurance engagement nor an audit – is fit for purpose and is not subject to limitations that may contribute to an underestimation of errors. A review of the overall control strategy is currently ongoing, and the Commission will propose actions that are expected to help addressing the ECA's recommendations in relation to the RER study.

2. Report on suspected fraud

The Commission recalls that **not all irregularities or instances of non-compliance with the rules constitute fraud.**

The European Anti-Fraud Office (OLAF) confirms the number of 20 cases of suspected fraud reported to it by ECA in 2023 and the number of four investigations it has opened based on this reporting (§1.40). In addition, OLAF has reported one case referred to it by the ECA to the European Public Prosecutor's Office (EPPO).

[5] To be noted that for programmes where desk reviews are not complemented by re-performance work, the Commission calculates a maximum level for the risk at payment that takes into account all pending information still under validation, as well as a risk 'top-up' for programmes which have never been audited by the Commission itself or for which prior audits revealed certain irregularities that could be repeated to non-audited programmes.

The Commission notes the ECA's observations as regards the implementation of fraud-risk policies by the Commission and Member States under chapter 6 (§1.42) and recalls that programme authorities are required to put in place effective and proportionate anti-fraud measures at the start of the programming period, based on a fraud risk assessment, and to implement them. These measures are structured around four elements in the anti-fraud cycle: prevention, detection, correction and prosecution. As part of a guidance note on anti-fraud measures, the Commission has developed for the 2014-2020 period a fraud risk-assessment tool which is still applicable and used by programme authorities for the 2021-2027 programmes. **The Commission provides anti-fraud support to the Member States** by: (i) granting free-of-charge access to the data mining and risk scoring tool Arachne to increase their capacities to detect fraud suspicions or possible conflicts of interest; (ii) providing regular anti-fraud trainings targeted to the staff of national authorities dealing with cohesion policy funds; (iii) sharing its audit checklists, including parts concerning the assessment of the effectiveness of anti-fraud measures in place or the need to document any fraud suspicion in the audits of individual operations. For these reasons, the Commission considers that it has fully implemented the related ECA recommendation from its 2022 annual report and that it is for Member States' programme authorities to apply effective measures to fight against fraud.

Regarding the ECA conclusions regarding fraud-related risks on the audit on the design of the Commission's control system for the RRF (§1.43), the Commission refers to its reply to the relevant ECA special report, and in particular to its reply to recommendation 4, where it reminds the ECA that it has currently no legal instrument to oblige Member States to have an harmonised way to report on RRF-related fraud in their management declarations and that therefore it would not be able to implement the recommendation in full.

III.COMMISSION REPLIES TO THE CONCLUSION

The Commission remains confident that the information regarding the risks at payment (1.9%) presented in the 2023 AMPR is representative of the level of error at the time of payment. It is in line with the levels reported in previous years. This stability is underpinned also by the fact that a significant part of the expenditure in 2023 still relates to the 2014–2020 programming period for which the rules, systems and implementing bodies have not changed compared to previous years.

As regards the ECA's conclusion that the Commission's estimated risk at payment is significantly below its range (§1.47), the Commission notes that this is due to specific cases of sampled expenditure, for which the Commission does not always share the ECA's assessment of facts, legal interpretation or quantification.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 2: BUDGETARY AND FINANCIAL MANAGEMENT

I. THE COMMISSION REPLIES IN BRIEF

The Commission takes all necessary measures to ensure **full and efficient implementation of the EU budget** in accordance with the existing financial and legal framework. The Commission constantly monitors the implementation of the budget and the evolution of the outstanding commitments, as well as the related underlying factors. It regularly informs the Council and the European Parliament of the forecast needs (for a given year as well as for the following years) and of the potential risks for the future and regularly presents and explains the state of play of budget implementation. The main documents provided to that effect are: Working Document V attached to the draft budget, the annual report on the long-term forecast on the future inflows and outflows of the EU budget, which is part of the Integrated Financial and Accountability Reporting (IFAR), and input documents for the interinstitutional meetings on payments.

As regards the **budgetary implementation of shared management funds**, the Commission is **monitoring** the situation **closely** and is working with the Member States in order to ensure smooth implementation and to avoid the **risk of decommitment** at the end of 2025 and the following years.

The total amount of **outstanding commitments** ('RAL' – reste à liquider) stood at EUR 543.0 billion at the end of 2023. The non-repayable support part of NextGenerationEU contributed EUR 238.6 billion, which represents almost 44% of the total RAL. The Commission will continue to monitor the implementation of the overall level of outstanding commitments and will also continue to propose, during the annual budgetary procedures, levels of payment appropriations that adequately meet payment needs.

In response to the increased **risks and challenges** for the EU budget associated with future financial obligations in connection with the **increased level of NGEU borrowing**, the Commission has communicated on the amounts of revenue it expected to raise from the new own resources and their sufficiency to honour any obligations related to the repayment of NGEU non-repayable support. Concerning the financial exposure linked to **Russia's war of aggression on the Ukraine**, the Commission recalls that the headroom provides for a 100% guarantee on the loans to Ukraine. Furthermore, the high creditworthiness of such protection has been repeatedly recognised by rating agencies.

The Commission is fully transparent and treats **contingent liabilities** in line with international accounting standards. Contingent liabilities are disclosed in the EU annual accounts and are assessed regularly. Thanks to its robust corporate risk management and reporting framework, the Commission ensures an effective oversight of the management of debt, asset and contingent liabilities in view of ensuring sustainability of the EU budget. Moreover, the Commission is currently finalising the work on a 'unified credit risk model' to develop a common basis for assessing credit risk across all debt portfolios covered by budgetary guarantees.

As for the **performance of the Common Provisioning Fund** (CPF), the Commission's efforts to diversify the CPF investment universe by allowing equity investments via Exchange-Traded Funds (ETFs) was also meant to optimize risk parameters and expected return of the portfolio over the longer-term. While market volatility remained significant in 2023, the inflationary pressure began to recede in the last couple of months of the year and the CPF achieved an annual return of +5.21% in 2023, in line with its portfolio benchmark (+5.40%).

The Commission closely monitors **inflation** developments and their impact on the EU budget. It remains confident that the EU budget has the necessary safeguards to meet its legal and contractual obligations.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Budgetary and financial management in 2023

EU budget implementation

The Commission notes that the ECA included all types of appropriations in the analysis. When analysing the **final rates of the implementation** of the EU budget, the Commission recalls that the Financial Regulation and/or some of the legal bases provide for the possibility to carry over to the following year commitment and payment appropriations which were not implemented at year-end. This is especially a common practice for the assigned revenue.

As the ECA pointed out in §2.7, about EUR 0.8 billion of voted commitment appropriations were carried over (of which EUR 0.3 billion of commitment appropriations was carried over by Commission decision[1] and EUR 0.5 billion of commitment appropriations was carried over automatically). Taking into account the carryovers, the implementation of the voted budget for the Commission section reached 99.3 % for commitments. Out of the non-implemented commitment appropriations, EUR 218.8 million lapsed at the end of the year (of which EUR 197 million for the European Globalisation Adjustment Fund which was not mobilised, while the remaining amount was due to the typically limited amounts left after finalisation of procurement or grant procedures) in addition EUR 1 billion of the lapsed commitments relate to the suspended commitment appropriations following the Council implementing Decision 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary.

Regarding **payment appropriations**, the Commission would like to add to the elements presented in §2.10 that EUR 1.1 billion of voted payment appropriations were carried over to 2024 by Commission decision[2] and EUR 1.9 billion of payment appropriations were automatically carried over. Taking into account the carry-over of appropriations from 2023 to 2024, the implementation reached 99.9 % of total available payments. As a result, only EUR 0.2 billion (or 0.1%) of the voted payment appropriations remained unused at year-end. In addition EUR 23.2 billion of assigned revenue were carried over to 2024.

[1] C(2024) 780 final, 5.2.2024.

[2] C(2024) 780 final, 5.2.2024.

Budgetary implementation of shared management funds

Since the peak reached in 2021, **payments for programmes** financed by the **European structural and investment funds (ESIF)** of the **2014-2020** period are on a downward trend, which is consistent with the usual implementation profile when approaching programmes' closure. Overall absorption at the end of 2023 reached over 90%. The extension of the deadlines for submitting interim payment applications and closure documents granted under the STEP regulation allows Member States to report on the use of the resources still available by mid-2025 and, as a result, the actual implementation rate for the 2014-2020 ESIF programmes is expected to increase further.

Concerning **payments of 2021-2027 shared management funds under the Common Provision Regulation (CPR), most of the amounts** disbursed in 2023 related to pre-financing given the delays in adopting the 2021-27 programmes. The Commission expects a significant acceleration in interim payments in the following years, driven by the increasing level of project selection, in line with the experience obtained during the preceding programming period.

The 2024 budget implementation to date shows that European Agricultural Fund for Rural Development (**EAFRD) payments under the Common Agricultural Policy (CAP)** strategic plans is gaining speed.

Payments from RRF and NGEU top-up programmes

The **NGEU appropriations** were inscribed in full in 2021, i.e. EUR 421.1 billion in commitment appropriations. In 2023, the last year for which the related legal commitments could be entered into, 99.8 % of the available commitments under NGEU was committed and only EUR 0.4 million had to be cancelled.

In 2023, the NGEU payment appropriations were implemented at a rate of 95,5%. The remaining amount of payment appropriations was carried over to 2024.

Level of outstanding commitments

Total **outstanding commitments** ('reste à liquider' – **RAL**) amounted to EUR 543 billion at the end of 2023 when, according to the Commission's analysis, it reached its peak value.

The main driver of the 2023 increase of RAL was, as in the previous two years, **the implementation of the non-repayable support part of NextGenerationEU**, contributing EUR 238.6 billion (44%) to the total RAL at the end of 2023. As set out above, 2023 was the last year in which it was possible to commit NextGenerationEU appropriations. The payments of these commitments are planned to be made until 2026 and as a result, as of 2024, the nominal value of the RAL should decrease and the temporary effect that NextGenerationEU has had on the RAL should be completely phased out.

2. Risks and challenges

Level of decommitments in cohesion policy funds for the 2021-2027 MFF

In relation to ECA observations in §2.33-2.34, despite initial delays in the 2021-2027 programming, the selection of cohesion policy funds operations under the 2021-2027 programming period is picking up speed. The Commission proactively engaged with Member States to speed up programming and implementation of the 2021-2027, including involvement in the setting up of the relevant administrative and management structures, the preparations of selection criteria, providing various administrative capacity building tools, trainings, webinars, promoting the use of simplified cost options etc. According to the reporting of the Member States as of the end of March 2024, four Member States have selected operations covering more than 40% of their allocation, while the selection rate in seven other Member States is above 25%. This shows that good progress is possible despite the delayed start. Furthermore, the implementation of the Just Transition Fund (JTF) has caught up with the average of the other cohesion policy funds.

As regards the 2023 forecasts for the substantial decommitment risk at end of 2025, it should be noted that the updated budgetary forecasts of January 2024 show a positive trend which results in no expected decommitments at the end of 2025 for cohesion policy funds. These forecasts take into consideration the increased pace of implementation, the impact of STEP measures and the payment profile projections based on historical budgetary data.

The Commission is monitoring the situation closely and is working with the Member States in order to ensure smooth implementation and avoid decommitment risks at the end of 2025 and the following years.

Level of EU debt from borrowing

Increase of NGEU borrowing by 2026 and its repayment

The Commission communicated[3] on the amounts of revenue it expected to raise from the new own resources and their sufficiency to honour any obligations related to the repayment of NGEU grants. Specifically, the 'Adjusted package for the next generation of own resources' of 20 June 2023 quoted detailed figures about the revenue each new own resource[4] was expected to generate for the EU budget. These sources underlined that, 'once in force, this basket of new own resources will ensure an adequate long-term financing of the budget including the repayment of *NextGenerationEU*.'

Regarding the repayment profile of the principal amounts borrowed for *NextGenerationEU* non-repayable support, Article 5 of Council Decision (EU) 2020/2053[5] establishes that these repayments will follow a steady and predictable reduction of liabilities until 2058.

The Commission cannot communicate an exact repayment profile for two reasons. Firstly, the exact repayment amounts and the annual interest for the non-repayable support of *NextGenerationEU* cannot be determined in advance, as they critically depend on the fulfilment of RRF milestones and targets and the Member States' payment requests by the end of 2026. Secondly, the debt redemption profile of NGEU non-repayable support is not in the hands of the Commission, being instead decided by the budgetary authority (European Parliament and Council) as part of the next Multiannual Financial Framework.

[3] Press release: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3328

Factsheet: https://commission.europa.eu/document/6edb3f23-9373-4560-aa46-2d894e9b45c5_en

Commission Staff Working Document: https://commission.europa.eu/system/files/2023-06/SWD_2023_331_1_EN_autre_document_travail_service_part1_v4.pdf

[4] These are: ETS, carbon border adjustment mechanism, and statistical based own resource on company profits.

[5] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020D2053

Impact of Russia's war of aggression against Ukraine on future EU budgets

The headroom budgetary coverage associated with the **Ukraine Facility** referred to §2.55 corresponds to a 100% guarantee on the loans to Ukraine, similar to the one associated with Macro-Financial Assistance + (MFA+). The high creditworthiness of the protection provided by the headroom has also been repeatedly recognised by rating agencies. Based on an assessment of risk, a provisioning equal to 70% of the amount of the loan would have been needed, if the loan was backed by the Common Provisioning Fund. This would imply the need for the EU budget to make available and block EUR 23 billion upfront for liabilities with long term maturity. The Commission considers that provisioning upfront such a large amount would not be the best way to use public resources.

The cumulative performance of the common provisioning fund

The Commission underlines that the Common Provisioning Fund (CPF) is a liquid and well diversified bond portfolio. Investing exclusively in highly rated debt instruments has historically delivered positive returns for the Commission's portfolios. However, this strategy could not insulate the portfolios from the sharp rise of yields across the board that occurred in 2022, on the back of persistently higher inflation and a sharp tightening of monetary policy by the central banks. The CPF performance was also negatively impacted, although remaining in line with its benchmark.

In 2022, the Commission took action **to diversify the CPF investment universe** by mitigating the risk from investing in individual companies' stocks. The inclusion of equities as a new asset class in the CPF investment universe was based on a thorough analysis and optimized the risk parameters and expected return of the portfolio over the longer-term.

In 2023, market volatility remained significant. In the last couple of months of 2023, however, inflationary pressure began to recede, leading to a **partial reversal of the dynamic** seen in 2022 and **to a positive impulse to the value of outstanding bonds** owned by CPF.

Against this background, the CPF achieved an annual return of +5.21% in 2023, in line with its portfolio benchmark (+5.40%). The newly introduced equity portion (on average about 3.1% during 2023) contributed +0.38 % to the total return of the portfolio. When looked at in isolation, the equity investment returned about +12.5%, which is more than twice the return of the fixed income portion in 2023.

Effects of the level of inflation on the EU budget

The Commission **closely monitors inflation** developments and their impact on the EU budget. Such assessment was also performed in the mid-term review of the MFF. The Commission acknowledges that the high inflation experienced in 2022-2023 affects distinct types of expenditures and programmes differently. The overall impact will, however, depend on the actual inflation outturn over the course of the MFF, which might be subject to some volatility.

The Commission notes that, despite the negative impact of inflation, the **EU budget has the necessary safeguards** to meet its legal and contractual obligations. To strengthen such safeguards for what concerns the financing costs of NextGenerationEU, a cascade mechanism with a new special instrument (the EURI Instrument) as a backstop was introduced with the amendment of the MFF Regulation adopted on 29 February 2024 as part of the MFF mid-term revision.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Recommendation 2.1 – Mitigate the risk of decommitments

To mitigate the risk of decommitments, the Commission should closely monitor the progress in selection of operations and take necessary actions regarding programmes at risk

Target implementation date: By end of 2025

The Commission **accepts** this recommendation.

The Commission continuously works with the Member States and monitors closely the progress in implementing the EU programmes and instruments, including support to programming to make use of new legislative and programming initiatives such as STEP, thereby also enhancing implementation. In all Member States, regular monitoring committee meetings take place at least once per year and a performance review is done annually, in particular to examine the performance of the programmes and issues that affect it and the measures taken to address those issues. In addition, more formal events, technical meetings, exchange of letters and other informal communication take place as needed. In case bottlenecks are identified, the Commission works closely with the relevant authorities to resolve them, with the help of various technical assistance tools.

Good governance is crucial for economic development and requires efficient and effective administrative capacity to implement investment projects. In view of this, the Commission continues promoting the development of roadmaps to strengthen administrative capacity in the Member States. By the end of 2023, 15 Member States had finalised such roadmaps.

To speed-up and simplify implementation, the Commission also continued its effort to increase the use of simplified cost options (SCOs) and financing not linked to costs (FNLC) by offering support to Member States in designing, verifying and submitting their respective methodologies. At this stage, 145 SCO methodologies from 12 Member States covering EUR 6.5 billion and FNLC schemes from four Member States covering EUR 1.3 billion are now part of the ERDF 2021-2027 programmes. In case of ESF+, 230 SCOs and 6 FNLC schemes are supported in 20 Member States, with a total planned budget of EUR 18.1 billion.

The Commission also recently presented to Member States the methodology for N+3 de-commitments in relation to 2021-27 programmes. Based on this, Member States will be informed already in February of the respective year on the amounts at risk of de-commitment at the end of the year N+3. The early sending of the warning letter, in comparison with the procedure applied in the previous programming period, aims to inform Member States about the N+3 risks in due time and allow them to take all the necessary actions to avoid the risk of decommitment. This is expected to further boost the overall implementation and avoid any potential technical bottleneck. The latest Member States' forecast for interim payment applications of January 2024 for the years 2024 and 2025 confirms there is no identified risk of N+3 de-commitments at the end of 2025.

The Commission services will continue to ensure close cooperation with the respective national and regional authorities to effectively manage the identified risks and ensure optimum implementation.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 3: GETTING RESULTS FROM THE EU BUDGET

Part 1 – Results of the ECA's performance audits: key messages

The conclusions presented in Part 1 of Chapter 3 are derived from the ECA's special reports that were published in 2023. These special reports were subject to extensive clearing and adversarial procedures, in line with the requirements of the Financial Regulation. The detailed Commission replies reflecting the Commission's position on the special reports and their related recommendations have been published alongside the reports and are available to the public.

The Commission takes note of the ECA's summaries of the European Parliament and Council statements issued after the publication of the special reports issued in 2023 and listed in Part 1 of Chapter 3.

The Commission underlines that the acceptance rate of the ECA's recommendations as reflected in Part 1 (§ 3.6) is generally very high, illustrating the Commission's constructive approach towards addressing the issues identified by the ECA. The Commission did not accept only 4% of the recommendations.

More specifically, the Commission would like to recall its position on several special reports referred to by the ECA in part 1 of Chapter 3.

In relation to the ECA Special Report 07/2023 on the **Design of the Commission's control system for the Recovery and Resilience Facility (RRF)**, while the Commission agreed with substantial parts of the special report, it did not fully endorse or agree with all the ECA's observations and related conclusions. Notably, the Commission considers that the RRF control system does not leave an accountability and assurance gap at EU level. The RRF control framework is tailored to the legal design of the RRF, which attributes a clear responsibility for the assessment of milestones and targets to the Commission and a clear responsibility to Member States – as beneficiaries – *'to take all the appropriate measures to protect the financial interest of the Union and to ensure that the use of funds in relation to measures supported by the facility complies with the applicable Union and national law* (Article 22, RRF Regulation). Even so, the Commission is very actively engaged in ensuring an adequate protection of the financial interests of the Union. First, it has made a thorough assessment of the adequacy of national control systems in the context of the assessment of the recovery and resilience plans. Second, where warranted, it has insisted with Member States on additional and timebound improvements to those systems, as a pre-condition for future disbursements. Third, it carried out at least one system audit per Member State and is progressing with the delivery of its audit schedule. Given the importance of the protection of the financial interests of the Union, the Commission also stands ready to intensify its audits beyond the objectives stated in its audit plan if deemed necessary.

In relation to the ECA Special Report 26/2023 on the **Recovery and Resilience Facility's performance monitoring framework**, the Commission noted that the Facility is an innovative, performance-based instrument, where payments are made to Member States, as beneficiaries, upon delivering reforms and investments pre-agreed in national recovery and resilience plans, which means that payments under the RRF are – by nature – linked to the satisfactory fulfilment of milestones and targets. Milestones and targets are the backbone of the RRF performance monitoring framework, and the ECA acknowledges that overall, the milestones and targets are suited to measure the progress made in implementing investments and reforms, which the Commission notes is their main purpose. Other elements to monitor the performance of the Facility include the common indicators, which measure - to the maximum extent possible – the progress of the whole Facility towards its objectives. However, the Commission recalled that there is neither a legal requirement to distinguish between result-based and output-based common indicators nor for common indicators to capture the impact of the Facility. The Commission also considered that the ECA's recommendation to report on actual expenditures by pillars would be technically and legally impossible, as Member States are not obliged to report on incurred costs under the RRF Regulation.

In relation to the ECA Special Report 16/2023 on **NGEU debt management at the Commission**, the revised Financial Regulation[1], and related Commission Implementing Decision on the Governance[2], will now allow the Commission to develop an overarching debt management strategy for its operations, in keeping with the ECA's recommendations. The Commission could not previously implement a single, all-encompassing debt management strategy as it was required to run the NextGenerationEU diversified funding strategy alongside a series of programmes financed by a different method and using different techniques. Building on the funding strategy put in place for NextGenerationEU, the Commission will henceforth cover all borrowing and lending operations for EU policies under the unified funding approach in its Funding Plans and related reporting while the Chief Risk Officer will also oversee other (non-NextGenerationEU) borrowing. In setting up its debt management strategy and reporting systems under the unified funding approach, the Commission has given utmost consideration to the ECA's recommendations.

In relation to the ECA Special Report 05/2023 on **the EU's financial landscape**, the Commission acknowledged the diversity of components of the EU financial landscape. However, it did not concur with the ECA's qualification that such landscape results in a patchwork, as all instruments were fully adopted in respect of the relevant legal bases, specific policy objectives, as well as relevant interinstitutional procedures and political decision-making. The diversity of components of the financial landscape does not per se equate to a lack of efficiencies or adequacy. It has in fact allowed for the delivery on numerous and increasingly complex Union's policy priorities and objectives. The increased magnitude and complexity of economic, societal and global challenges has required the development of common responses and the mobilisation of significant resources. This has led to a diversification of financial interventions and instruments, including by leveraging public and private investment, at the level of the EU and euro area, but also through specific cooperation with Member States and international organisations and institutions.

[1] Regulation (EU, Euratom) 2022/2434 (EUR-Lex - 32022R2434 - EN - EUR-Lex (europa.eu))

[2] Commission Implementing Decision (EU, Euratom) 2022/2544 of 19 December 2022 establishing the arrangements for the administration and implementation of the EU borrowing and debt management operations under the diversified funding strategy and related lending operation.

Part 2 – Performance of programmes under MFF heading 4

Performance reporting framework

The Commission agrees with the ECA's conclusion that the performance reporting framework for the Asylum, Migration and Integration Fund (AMIF) and Internal Security Fund – Borders and visa/Border Management and Visa Policy (ISF-BV/BMVI) is improved as compared to the previous 2014-2020 framework (§ 3.39-3.41). These improvements include more frequent reporting of financial and performance data, the distinction between output and result indicators, and the establishment of a metadata providing the main technical characteristics of the indicators.

Performance information for the current period 2021-2027

With regard to the low progress in achieving objectives (§ 3.42-3.43) of the current period 2021-2027, the reporting on the Key Performance Indicators (result indicators), is expected to materialize at a later stage, upon conclusion of the first operations and consolidation and reporting of the data. Thus, as by the end of 2022 the Member State programmes had literally just started, and an assessment of the performance of the programmes in the Programme Performance Statements was not yet possible. In addition, in the early stages of implementation, the results achieved on the ground may not yet be visible in the data transmitted to the Commission due to a natural lag between the launch of the operations and reporting on results.

With regard to the performance assessment of the programme performance statements (PPS) at the end of 2022, it is not possible to express a judgement on the progress of implementation given the adoption of the Member States programmes during the last quarter of 2022, and the fact that many Member States had not yet completed any operations.

Regarding the Customs Control Equipment Instrument (CCEI), the Instrument core indicator shows a 12% progress towards achieving the target, and the positive trend is expected to continue with the upcoming completion of CCEI projects. The CCEI Core indicator is calculated taking into account a model/matrix defining the common list of equipment to be available at the Border Crossing Points.

The CCEI implementation builds on a two-layer approach: the conclusion of grant agreements with the Member States which are followed by national procedures to procure the equipment for which the EU level co-funding has been granted. Such procedures take up to three years, in some cases even longer (in addition to the fact that the programme start was late in 2021 and there was no predecessor programme on the results of which to build on). Reporting in the box 'Programme in a nutshell' about the number of concluded agreements for 2022 (under the first Work Programme 2021-2022) would not have allowed the reader to understand the Instrument's intervention. For that reason, it was considered appropriate to present the planned deliverables (i.e. future achievements) under the concluded grant agreements for which the implementation was and, in most of the cases, is still on-going. When this was the case, it was communicated in a transparent way.

Finally, the Commission would like to underline that the programme performance statements report includes various sections such as programme in a nutshell, budget implementation, and the assessment of the budget performance.

Performance information for the 2014-2020 period

The performance indicators for the 2014-2020 period show good progress, but they need to be complemented with more evidence from dedicated evaluations. Consequently, the indicator targets need to be realistic and proportionate to the resources allocated in order to inform in a useful way the monitoring, management, and implementation of the activities. Target setting is fully (and only meaningful if based on the available resources, which should normally be targeted to actions with the highest EU added value in a complex framework in which EU funds need to be complementary to national resources.

The role of the Commission is to make sure that the targets proposed by the Member States are realistic given the resources allocated and correctly reflect the underlying methodological assumptions and evidence (e.g. historical costs).

Commission replies to the recommendations

Recommendation 3.1 – Improve quality of performance information in the programme performance statements (PPSs) for MFF heading 4

(a) Present actual achievements in the 'Programme in a nutshell' part of the PPS, not potential achievements in the future;

(b) disclose in its AMPR which KPIs were based on sources that were different from the AIRs submitted by the Member States.

(Target implementation date: (a) and (b) – AMPR 2024)

The Commission **accepts recommendation 3.1 a.**

The Commission **accepts recommendation 3.1 b.**

Part 3 - Follow-up of the recommendations made in the ECA's report on the performance of the EU budget – status at the end of 2020

The Commission gives the utmost importance to the implementation of all accepted recommendations. The follow-up and implementation are an integral part of the Commission's governance system. With regard to the level of implementation of recommendation 1.2, the Commission refers to the interinstitutional project for a Joint Legislative Portal that was launched in 2022 on the basis of an agreement between all major institutions. Good progress was made during 2023, which allowed for a first version of the portal to go live in April 2024.

Given the on-going work on the Joint Legislative Portal and the progress made so far, as well as the fact that impact assessments and evaluations are also published on the Register of Commission documents[3] and the Have Your Say portal[4], the Commission does not consider it is cost-efficient to build a dedicated single-point entry for this purpose alone, but will continue to explore further opportunities for better linking existing platforms.

Part 4 - Follow-up of the recommendations made in the ECA's special reports from 2020

Regarding the European Court of Auditors' (ECA) recommendations addressed to the Commission (§3.73-3.76), **the Commission gives the utmost importance to the implementation of all accepted recommendations.** The Commission follows up on the actions that it committed to implement and that fall within its mandate. It cannot, however, be excluded that the ECA assesses recommendations as partially implemented when the Commission considers them fully implemented. The ECA indeed assesses the level of implementation against the recommendation it formulated, independently from whether or not it was fully accepted by the Commission. The Commission, on the other hand, assesses the level of implementation against the commitment it undertook in the replies to special reports.

In this context, the Commission takes note that the **levels of implementation of recommendations addressed to the Commission remains very much in line with last year's levels**, with 68% of recommendations implemented in full or in most respects, against 70% last year.

More in detail, in relation to the level of acceptance of recommendations (§3.70), the number of recommendations not accepted by the Commission in 2020 remained stable compared to 2019 (around seven percent of the recommendations issued in 2020 against 6% in 2019). **As regards non-acceptance or partial acceptance of recommendations**, this can have several reasons. These cover for instance (i) the limits entailed by the existing regulatory framework and/or the difficulty to pre-empt future EU legislation, (ii) the remit of roles and competences (including responsibility and accountability arrangements) between different EU Institutions, bodies, Member States and stakeholders, (iii) the complementarity with policies, legislation and programmes, (iv)

[3] https://ec.europa.eu/transparency/documents-register/

[4] Have your say - Public Consultations and Feedback (europa.eu)

the Commission's assessment of the feasibility of the recommendations and/or the resources and timing implications.

Concerning the **timely implementation of recommendations** (§3.80-3.81), the Commission welcomes the ECA's conclusion that the proportion of recommendations implemented on time by the Commission increased. The Commission notes in this context that the timeliness of the follow-up actions is also to be seen in conjunction with the level of acceptance of the recommendations. The Commission remains fully committed to implement all accepted recommendations within the timeframes set up in the ECA's special reports. This is however not applicable for recommendations which the Commission did not accept in the first place, for the reasons set out in the published replies to the concerned special report.

In some cases, the follow-up actions may require more time than initially expected due to the complexity of the measures, legislative or policy-related developments, resources constraints, external factors, or to the need to involve other institutions or entities. The fact that a recommendation is not fully implemented by the initial expected completion date does not entail that this recommendation will not be implemented thereafter. Evolving circumstances, or changes in the policy or political context, may typically lead to a reprioritisation of actions.

Annex – Follow-up of 2020 special report recommendations – European Commission

Special Report 01/2020: EU action on Ecodesign and Energy Labelling important contribution to greater energy efficiency reduced by significant delays and non-compliance

Reply to recommendation 1c, paragraph 77: The Commission did not accept the recommendation on the basis that it could not prejudge what its position would be regarding any future measures.

In its Ecodesign and Energy Labelling Working Plan 2022-2024, the Commission specified that: "to avoid unnecessary delays, the Commission henceforth will adopt individual measures for specific product groups whenever they are ready, unless exceptional circumstances warrant otherwise". The Commission is thus of the opinion that its right of initiative entails the right to adopt ecodesign and energy labelling measures as a package, but considers appropriate to do so only in exceptional circumstances. In practice, since the publication of the audit, all new ecodesign and energy labelling measures have always been adopted when they were ready. Moreover, steps have been taken to streamline the preparatory work for adopting new or revised regulations. Therefore, the Commission considers that it addressed the concerns of ECA, while remaining consistent with its right of initiative.

Special Report 01/2020: EU action on Ecodesign and Energy Labelling important contribution to greater energy efficiency reduced by significant delays and non-compliance

Reply to recommendation 2a, paragraph 78: The collection of data necessary to implement this recommendation is subject to complex constraints. The market surveillance Regulation 2019/1020 (Art. 11(3)) requires authorities to follow a risk-based approach when deciding on which checks to perform, on which types of products and on what scale. There are, therefore, uncertainties associated with the number of samples. Furthermore, the results of inspections and tests performed by market surveillance authorities (MSA) cannot be considered to represent the actual compliance rates of products placed on the EU market.

The Commission considers that it has nevertheless partially implemented the recommendation as it has taken steps to be able to collect data on real life usage of products. Only when such data becomes available will it be possible to objectively assess deviations in performance between 'real world' and test conditions and then take this into account in the impact accounting.

Special Report 03/2020: The Commission contributes to nuclear safety in the EU but updates required

Reply to recommendation 1, paragraph 76: The Commission plans to implement this recommendation, as appropriate, one year before the transposition deadline of any potential future Euratom directives.

Special Report 03/2020: The Commission contributes to nuclear safety in the EU but updates required

Reply to recommendation 2, paragraph 79: The Commission has at this stage taken no decision to use its right of initiative in that domain. No further action is possible at this stage.

Special Report 05/2020: Sustainable use of plant protection products limited progress in measuring and reducing risks

Reply to recommendation 3, paragraph 75: The refinement of the Harmonised Risk Indicator 2 (HRI2) first requires Member States' agreement to provide the relevant data on the extent of use of the plant protection product(s) concerned. Since this is not fully under the Commission's control, the ECA recommendation was accepted only partially. The Commission is reflecting on how additional data could be obtained from Member States and taken into account for HRI2 in the future. As regards the Commission's proposal for a Regulation on the sustainable use of plant protection products, following the rejection by the European Parliament, its call for withdrawal and in line with the President's speech in the European Parliament on 6 February 2024, the Commission proposal was withdrawn.

Special Report 06/2020: Sustainable Urban Mobility in the EU No substantial improvement is possible without Member States' commitment

Reply to recommendations 2a and 1b, paragraph 75: The Commission reiterates that it partially accepted the recommendation and considers that it has taken the measures it had committed to.

The Commission took the recommendation into account in the legislative proposal for a revised Trans-European Transport Network (TEN-T) Regulation. The revised TEN-T Regulations is expected to enter into force by Q2 2024. Afterwards, the Commission within one year will prepare the implementing act that will set the legal obligation for Member States to provide urban mobility data to the Commission.

Special Report 07/2020: Implementing Cohesion policy comparatively low costs, but insufficient information to assess simplification savings

Reply to recommendations 1b, paragraph 68: The Commission had to revise the original completion date of this recommendation to reflect the take up of the 2021-2027 programmes. The Member States have been informed of the scope of the study and its surveys and of the indicative timetable. The study is currently in progress and its final report is expected by the end of 2024.

Special Report 07/2020: Implementing Cohesion policy comparatively low costs, but insufficient information to assess simplification savings

Reply to recommendations 1c, paragraph 68: The Commission notes that the deadline for the implementation of this recommendation is still pending. The study is in progress and its final report is expected by the end of 2024, in line with the deadline for this recommendation. The experts in charge of the study are in contact with programme authorities and national coordination bodies to assist them in this task.

Special Report 07/2020: Implementing Cohesion policy comparatively low costs, but insufficient information to assess simplification savings

Reply to recommendations 1d, paragraph 68: The Commission notes that the deadline for the implementation of this recommendation is still pending. The study is in progress and its final report is expected by the end of 2024, in line with the deadline for this recommendation. The Commission stands ready to ensure that data collected is verified, to ensure its quality.

Special Report 07/2020: Implementing Cohesion policy comparatively low costs, but insufficient information to assess simplification savings

Reply to recommendations 2, paragraph 70: The Commission had to revise the original completion date of this recommendation to reflect the take up of the 2021-2027 programmes. The Member States have been informed of the scope of the study and its surveys and of the indicative timetable. The study is currently in progress and its final report is expected by the end of 2024.

Special Report 8/2020: EU investments in cultural sites a topic that deserves more focus and coordination

Reply to recommendations 1a, paragraph 99: The Commission went as far as it could in the framework of its competence in the field of culture, the Work Plan for Culture being a document adopted by the Council, where the Commission cannot impose objectives or monitoring measures if the Member States do not explicitly agree to have them. Yet the Commission has well tested the possibility of taking the steps recommended by the Court when consulting the Member States on their ideas for the future Work Plan. This consultation took place both orally with the Czech Republic Presidency in charge of drafting the new Work Plan at the time, and in the context of the Commission's report on the implementation of the previous Work Plan for Culture 2019-2022, which also included a forward-looking section. That report was issued in June 2022 and in its conclusions advocated for a more integrated EU strategic framework for cooperation on culture in line with the ECA's recommendations.

Special Report 8/2020: EU investments in cultural sites a topic that deserves more focus and coordination

Reply to recommendations 1b, paragraph 99: The Commission considers the level of implementation of this recommendation as "Implemented in some respects".

The Commission went as far as it could with regard to a new initiative of an EU strategic framework for culture. The reflections have been launched at different levels, and most importantly the Commission included this idea and recommendation in all relevant publications/processes. In particular the Commission introduced the idea of a strategic framework for culture in two official Reports: on the Work Plan for Culture 2019-2022 and on the Cultural dimension of sustainable development. It is also thanks to these works that the Council agreed to include an invitation to the Commission and the High Representative in the Council conclusions in its Resolution on the EU Work Plan for Culture 2023-2026.

Special Report 8/2020: EU investments in cultural sites a topic that deserves more focus and coordination

Reply to recommendations 2c, paragraph 99: The Commission considers the level of implementation of this recommendation as "Implemented in some aspects".

In September 2021, the Commission launched CulturEU, which is both a web tool and a funding guide aimed to assist EU stakeholders in navigating the available EU funding for culture for the period 2021-2027. Now, it is available in all EU languages and provides access to over 75 funding opportunities for culture across 21 EU funding programmes/instruments. Furthermore, the Commission has presented this web tool and guide to very large audiences at numerous conferences and events, including the Creative Europe Desks in EU Member States.

Additionally, in 2022, the EU-funded platform CreativesUnite has enhanced their website by adding a tool called "So you need money!", which enables stakeholders to find alternative sources of finance for their projects and activities: private investors, philanthropy, (micro)credit, crowdfunding, crowdlending, loans, etc.

Moreover, the Commission organised a workshop on complementary sources of funding for cultural heritage, targeting EU Member States and heritage stakeholders. This workshop concentrated on the exchange of best practices from Member States, with the European Investment Bank Institute participating to shed light on how to make cultural heritage appealing to private investors. The European Cultural Foundation also contributed to the discussion by exploring the role of philanthropy and foundations.

Finally, the Commission has published on its website the selected Good Practices on Complementary Funding for Cultural Heritage.

Special Report 8/2020: EU investments in cultural sites a topic that deserves more focus and coordination

Reply to recommendations 3, paragraph 105: The Commission considers this recommendation to be fully implemented.

The Commission has examined and proposed simplified forms of support for European Regional Development Fund (ERDF) investments in cultural sites and, within its competences in the shared management context of Cohesion Policy funds, it has made a considerable effort during the negotiations of 2021-2027 programmes to compel Managing Authorities to improve and ensure the financial sustainability of cultural sites that would be supported by ERDF investments.

Special Report 9/2020: The EU core road network: shorter travel times but network not yet fully functional

Reply to recommendations 1b, paragraph 71: The Commission considers the recommendation to be fully implemented.

The Commission has taken appropriate steps so that Member States prioritise the available Cohesion Fund and ERDF for roads on investment in the core network to complete it by 2030. When adopting the 2021-2027 Partnership Agreements and programmes, the Commission services were well aware of the urgency to support the completion of the TEN-T core network, especially in lagging Member States and regions. As a result, almost EUR 4.5 billion from the EU budget (or 24.6% of total ERDF/CF - Cohesion Fund - 2021-2027 allocations to roads) has been earmarked in CF/ERDF programmes to support the core road TEN-T. Moreover, given the evolution towards reduced budgets for transport under Cohesion policy, and the mounting importance of supporting more sustainable forms of transport as part of the EU's Green Agenda, and Cohesion policy's core objective to improve connectivity in and with less developed regions, 24.6% is still a substantial share.

In addition, ERDF and CF programming has recognised the need to improve road safety. The enabling condition 3.1(8) 'Comprehensive transport planning at the appropriate level' clearly stipulates that Member States' multimodal mapping of existing and planned infrastructures, [...] presents the results of the assessment of road safety risks in line with existing national road safety strategies, together with a mapping of the affected roads and sections and providing with a prioritisation of the corresponding investments.

Special Report 9/2020: The EU core road network: shorter travel times but network not yet fully functional

Reply to recommendations 2a, paragraph 72: The Commission considers that it has taken the actions that fell within its remit.

The Commission took the recommendation into account in the legislative proposal for a revised TEN-T Regulation. The political agreement was reached between the co-legislators in December 2023. The formal adoption process falls within the remit of the European Parliament and the Council. The revised TEN-T Regulations is expected to enter into force in Q2 2024. In the regulation the Commission puts a very high emphasis on the improvement road safety and security through ambitious road standards as well as through minimum distance based targets for the development of rest areas and safe and secure parkings. The latter also aims at improving the social and working conditions of transport workers.

Special Report 9/2020: The EU core road network: shorter travel times but network not yet fully functional

Reply to recommendations 2b, paragraph 72: The Commission is developing a new version of TENtec which will contain an extended analysis and statistics part, allowing to monitor and to assess the completeness of the core network more efficiently. The availability of more accurate and complete data sets together with improved analysis tools will offer the possibility to better monitor the performance of the TEN-T network e.g. the evolution of operating speed for freight trains through time.

Special Report 10/2020: EU transport infrastructures more speed needed in megaproject implementation to deliver network effects on time

Reply to recommendations 2a, 2b, 3a, 3b, 3c, 4b, paragraphs 83, 86, 89: The Commission reiterates that it did not accept the recommendation.

Special Report 10/2020: EU transport infrastructures more speed needed in megaproject implementation to deliver network effects on time

Reply to recommendations 4a, paragraph 89: The Commission partially accepted the recommendation and considers that it has taken the actions that it committed to and fell within its remit.

The Commission took the recommendation into account in the legislative proposal for a revised TEN-T Regulation, which strengthens the role of the European Coordinators. The Implementing acts foreseen in the political agreement on the revision of TEN-T address the major points made in this special report in terms of scope (major cross-border projects, horizontal priorities and entire corridors) and targets (implement missing links, remove major bottlenecks, ensure a coherent priority setting of infrastructure and investment planning, establishing indicative milestones and the expected timelines).

Special Report 10/2020: EU transport infrastructures more speed needed in megaproject implementation to deliver network effects on time

Reply to recommendations 4c, paragraph 89: The Commission considers that it has taken the actions that fell within its remit.

The Commission has taken the recommendation into account in the legislative proposal for a revised TEN-T Regulation. The revised TEN-T Regulations is expected to enter into force in Q2 2024 and will empower the Commission to adopt implementing acts for the implementation of the European Transport Corridors. Those will be based on the work plans of the coordinators which strengthens their role significantly. Furthermore, the regulation foresees the participation of the coordinators in the work of the supervisory bodies or similar steering bodies of single entity, for the coordination, construction and/or management of cross-border infrastructure projects.

Special Report 11/2020: Energy efficiency in buildings greater focus on cost-effectiveness still needed

Reply to recommendations 2, paragraph 92: The Commission considers that it has fully implemented the accepted part of the recommendation.

The Commission partially accepted this recommendation, underlining that project selection under shared management pertains to the mandate and responsibilities of Member States' managing authorities. The Commission notes that the Common Provisions Regulation 2021-2027 obliges managing authorities to ensure that selected operations present the best relationship between the amount of support, the activities undertaken and the achievement of objectives. Selection criteria and procedures should also give priority to operations which maximize the contribution of EU funding to the achievement of the objectives of the programme. These provisions aim at preventing the selection of projects with low contribution to the objectives of the programme. The Commission also notes that the provisions of the Energy Performance of Buildings Directive need to be respected, including the new requirement for Member States to link their financial measures for energy efficiency improvements in the renovation of buildings to the targeted or achieved energy savings.

Special Report 11/2020: Energy efficiency in buildings greater focus on cost-effectiveness still needed

Reply to recommendations 3c, paragraph 93: The Commission reiterates that it did not accept the recommendation.

Special Report 12/2020: The European Investment Advisory Hub — Launched to boost investment in the EU, the Hub's impact remains limited

Reply to recommendations 4i, paragraph 64: An internal Commission working group including all the policy DGs active under the InvestEU Advisory Hub assessed possible options and next steps in order to simplify and potentially merge EU technical assistance for investment projects at the Commission. Moreover, the Commission policy DGs were and are very closely associated in the negotiations on Advisory Agreements with the EIB and other Advisory Partners to determine the scope of advisory initiatives for each of them.

The Commission considers Recommendation 4(1) as fully and timely implemented.

Special Report 12/2020: The European Investment Advisory Hub — Launched to boost investment in the EU, the Hub's impact remains limited

Reply to recommendations 4ii, paragraph 64: All the Advisory Agreement signed under the InvestEU Programme have an objective that at least 50% of the total amount of the EU contribution available under the Advisory Initiatives shall be used to provide Advisory Support or Grants for the benefit of projects that are potentially eligible to receive subsequent financing supported by the InvestEU Fund.

In addition, a number of advisory initiatives are linked to specific InvestEU financial products and develop a pipeline of projects for these particular products.

Considering the above, the Commission considers Recommendation 4(ii) as fully and timely completed.

Special Report 12/2020: The European Investment Advisory Hub — Launched to boost investment in the EU, the Hub's impact remains limited

Reply to recommendations 4iii, paragraph 64: The geographical coverage of the InvestEU Advisory Hub has been extended through agreements with two international financial institutions: the European Bank for Reconstruction and Development (EBRD) covers a number of Member States (Bulgaria, Croatia, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia) and the Council of Europe Bank (CEB) covers all Member States, except Austria. Three agreements were signed with National Promotional Banks or Institutions (NPBI) (two with French NPBIs and one with an Italian NPBI). Moreover, the cooperation agreements referred to by the ECA, i.e. the Memoranda of Understandings signed between the European Investment Bank and a number of NPBIs, cannot be compared to Advisory Agreements under InvestEU. While the latter are legal agreements presenting budgetary implications, the former are legally non-binding cooperation arrangements.

The Commission considers Recommendation 4(3) as fully and timely implemented.

Special Report 12/2020: The European Investment Advisory Hub — Launched to boost investment in the EU, the Hub's impact remains limited

Reply to recommendations 4iv, paragraph 64: The InvestEU Advisory Hub is active via its Advisory Partners in all EU Member States. Some of these Advisory Partners are more active in certain Member States and have established local presence via local offices well known and recognised in those Member States.

The Commission considers Recommendation 4(4) as fully and timely implemented.

Special Report 12/2020: The European Investment Advisory Hub — Launched to boost investment in the EU, the Hub's impact remains limited

Reply to recommendations 4vi, paragraph 64: The Annex 4 ("Operational Reporting" principles) of the Advisory Agreement with the European Investment Bank is derived in a more detailed document, the Key Performance Indicators/Key Monitoring Indicators methodology, which is being implemented through regular reporting submitted through the InvestEU Management Information System. The costs of the advisory assignments as well as the benefits (e.g. mobilised investments, people trained) are reported by all Advisory Partners. First results have been reported for the end of 2023 as the first advisory assignments were completed. For a more comprehensive analysis advisory reporting results over a longer implementation would need to be collected.

The Commission considers recommendation 4(6) as fully and timely implemented.

Special Report 14/2020: EU development aid to Kenya

Reply to recommendations 1b, paragraph 83: The Commission reiterates that it did not accept the recommendation as explained in its replies to the Special Report 14/2020.

Special Report 14/2020: EU development aid to Kenya

Reply to recommendations 2, paragraph 84: The notion of critical mass in the priority areas was established as part of the programming exercise and be based on knowledge, human resources (capacity for policy dialogue) and financial resources. The adoption of the Multiannual indicative programme (MIP) of Kenya thus marked the completion date for implementation of the recommendation.

Special Report 14/2020: EU development aid to Kenya

Reply to recommendations 3, paragraph 89: The Commission and the European External Action Service consider that the recommendation has been fully implemented.

The MIP is built on three priority areas (1. Green Transition: Environmental Sustainability and Resilience; 2. Leave no one behind: Human Development and Digital Inclusion; 3. Democratic governance, peace and stability), with three sectors each (1.1. Natural capital and resilience; 1.2. Green economy and sustainable business; 1.3. Sustainable energy; 2.1. Education and skills for employment; 2.2. Empowering women and youth; 2.3. Inclusive and resilient urbanisation; 3.1. Democratic and Economic Governance; 3.2. Conflict, peace and security; 3.3. Migration and forced displacement).

They are prioritised as shown in the distribution across financial allocations in the adopted Annual Action Plan 2022 and Multi-annual Action Plan 2023-24 (https://international-partnerships.ec.europa.eu/action-plans_en?f%5B0%5D=countries_countries_multiple_%3Ahttp%3A//publications.europa.eu/resource/authority/country/KEN).

Special Report 15/2020: Protection of wild pollinators in the EU — Commission initiatives have not borne fruit

Reply to recommendations 1b, paragraph 66: The Commission considers that this recommendation was fully implemented as the responsibilities between the three Directorates-General (DG) in the revision of the initiative and its implementation were clearly established from the start, in line with the competences of each DG.

The Commission reiterates that it provided evidence on the external governance (Member States, stakeholders) set-up.

In respect of the internal governance, three DGs (DG ENV, DG AGRI, DG SANTE) formally co-lead on the revised initiative, as evidenced by the roadmap (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13142-EU-pollinators-initiative-revision_en). The responsibilities are thus clearly established, with each DG leading in policy areas of its competence: DG AGRI on agriculture (Common Agricultural Policy) in the context of Action 5, DG SANTE on pesticide and biocides in the context of Action 6, and DG ENV on environmental policies including the overall coordination of the initiative.

Special Report 15/2020: Protection of wild pollinators in the EU — Commission initiatives have not borne fruit

Reply to recommendations 2a, paragraph 68: The PAFs (multi-annual prioritised action frameworks) format agreed with the Member States in May 2018 did not provide a specific section related to pollinators, but the Prioritised Action Frameworks (PAF) section on further added value of prioritized measures could already be used to describe pollinators measures. Therefore, the need to address priority measures for important pollinator habitats in the prioritized action frameworks was raised orally and in written at the meeting of the Expert Group on the Birds and Habitats Directives (NADEG meeting) of 29/30 November 2018. Later in the NADEG meeting of 6/7 May 2020, the Commission requested again to include pollinators measures into the PAF, within the updated checklist for PAF assessment, with a question on pollinators. As a result, only those PAFs updated or submitted after May 2020 were assessed for addressing pollinators by the Commission.

Special Report 15/2020: Protection of wild pollinators in the EU — Commission initiatives have not borne fruit

Reply to recommendations 3a, paragraph 69: The Commission implemented the recommendation by proposing to amend Implementing Regulations for plant protection products (PPP) to include safeguards for wild bees. The Commission shared first proposals with Member States in December 2023. Already in 2021, the Commission supplemented its guidance on emergency authorisations by three additional pages to provide directions for Member States regarding justifications. The Commission furthermore mandated European Food Safety Authority (EFSA) to develop new protocols to conduct verifications of emergency authorisations.

Special Report 15/2020: Protection of wild pollinators in the EU — Commission initiatives have not borne fruit

Reply to recommendations 3b, paragraph 69: The Commission implemented the recommendation fully and is committed, together with Member States, to follow up on the workplan presented in October 2023 for the development of test methods focusing on wild pollinators. The Commission managed to find three Member States willing to act as lead countries for the submission of three draft test protocols on bees to the Organisation for Economic Co-operation and Development (OECD) in 2023. Due to the absence of sufficiently robust evidence, a majority of Member States supported in 2022 to proceed with an undefined threshold approach as specific protection goal for both bumblebees and solitary bees until further data becomes available. In practice this means that field studies will be required unless a substance meets certain criteria. These criteria will be included in the Commission Regulation setting out the uniform principles for evaluation and authorisation of plant protection products.

Special Report 16/2020: The European Semester – Country Specific Recommendations address important issues but need better implementation

Reply to recommendations 1b, paragraph 59: The introduction of Recovery and Resilience Plans (RRP) in 2021 provided clear incentives to Member States to reinforce the implementation of Country Specific Recommendations (CSR), given that they need to address all, or a significant subset of challenges identified in the relevant CSRs made by the Council, including those elated to employment and poverty reduction, research and development. Over the past years, focus in the CSRs has been on implementation of the RRPs.

Special Report 16/2020: The European Semester – Country Specific Recommendations address important issues but need better implementation

Reply to recommendations 2c, 5b, paragraphs 61, 64: The Commission did not accept the recommendation.

Special Report 17/2020: Trade defence instruments system for protecting EU businesses from dumped and subsidised imports functions well

Reply to recommendations 4(2), paragraph 98: The Commission has postponed the implementation of the recommendation to 2025. The implementation of the recommendation is reflected in the Multi-annual Evaluation Plan of DG TRADE, by programming an evaluation of the EU's trade defence instruments in 2025.

This date was chosen to allow more time to collect sufficient data, following the implementation of the legislative changes in the area of Trade Defence Instruments in December 2017 and June 2018, to enable a proper ex post evaluation. The time frame takes into account the length of trade defence proceedings from the lodging of complaints to the imposition of measures to conducting reviews.

Special Report 17/2020: Trade defence instruments system for protecting EU businesses from dumped and subsidised imports functions well

Reply to recommendations 5, paragraph 99: The Commission considers that the recommendation has been implemented. The Commission has specified the criteria to initiate an investigation ex-officio by updating its websites and has initiated investigations ex-officio recently, such as the anti-subsidy investigation with respect to battery electric vehicles from China. The Commission reiterates that the very reason for ex-officio initiations being only warranted in exceptional circumstances is the fact that the high level of evidence necessary to initiate a case is normally only available to the European producers concerned. This therefore requires knowledge and evidence that imports of a specific product would be dumped or subsidized, including access to detailed business proprietary data relating to the performance of an industry at the level of that specific product.

Special Report 21/2020: Control of State aid to financial institutions in the EU: in need of a fitness check

Reply to recommendations 1(2), paragraph 72: Given that the Commission has not finalised the evaluation (recommendation 1(1)), it cannot have taken any follow-up action as per the recommendation.

Special Report 21/2020: Control of State aid to financial institutions in the EU: in need of a fitness check

Reply to recommendations 3, paragraph 74: The Commission considers that the recommendation has been fully implemented.

Firstly, the Commission would like to recall that it is very difficult to define simple performance indicators that provide a meaningful assessment of how our objectives are met on a yearly basis.

Secondly, the limited number of banking aid decisions in recent years would also not provide a strong basis for drawing general conclusions from the performance indicators that due to their annual nature would be based on few observations.

Finally, specific performance indicators are normally reserved for current Commission priorities and the much lower number of banking cases compared to the aftermath of the financial crisis makes it hard to justify that specific indicators for banking aid remain necessary.

For these reasons, the Commission will reconsider at the start of the next mandate whether it is appropriate and necessary to maintain specific performance indicators for State aid to the banking sector.

Special Report 22/2020: Future of EU agencies – Potential for more flexibility and cooperation

Reply to recommendations 2b, paragraph 86: The Commission underlines that the deadline is still pending. It also considers that the recommendation has been implemented to the extent possible at this stage, as further implementation will take place as planned in the context of the Multi-annual Financial Framework (MFF) preparation process.

Any reference to final planning with regards to the post-2027 MFF preparation is far too premature. The priorities of each agency will be reviewed in due time before the new MFF period. The assessment may start in the course of 2025. As it has been done also for the current MFF, the next MFF proposal will cover the agencies and will reflect the reviewed priorities. The Commission confirms that the assessment of the agencies' priorities and needs will start in due time for the next MFF.

It is however important to note, that the Commission is regularly and on an ongoing basis reviewing individually and with differentiated approach each agency's resource needs and proposing reinforcements in their budgets whenever justified and possible within the MFF and the budgetary procedure. For more information on the ongoing assessments, please see the reply to the Recommendation 2c of the Special Report 22/2020 and the overview evolution tables in the Draft Budget 2025.

Special Report 22/2020: Future of EU agencies – Potential for more flexibility and cooperation

Reply to recommendations 2c, paragraph 86: The Commission considers that the recommendation has been timely and fully implemented, as illustrated by several examples regarding the Draft budget, amending budgets and transfers.

The Commission reviews the agencies' financial and human resources each year during the budgetary hearings based on the agencies' budget requests submitted to the Commission. The agencies' requests and needs are duly taken into consideration and adjusted whenever justified and possible within the MFF.

The overview table on pages 84 and 85 of the Policy Highlights of the Statement of Estimates for budget 2025 illustrates concretely that the proposed budget increase and staff increase per agency varies a lot and is tailored to each individual situation. The proposed EU budget subsidy in 2025 compared to 2024 among the various agencies ranges from minus 100% to plus 174%. The proposed evolution of establishment plan posts varies among the agencies from zero/stable staffing to an increase of 242 posts.

Aside from the budgetary procedure, prior to issuing new legislative proposals, the Commission carries out impact assessments and consults agencies on the resources needed to complete proposed new tasks. Such resources and their justification are then included in the legislative financial statements that accompany the Commission legislative proposals. These new resources may be also further revised during the negotiations of these proposals and prior to the formal adoption of the legislation by the co-legislators to realign resources with revised implementation schedules or with revised tasks decided by the co-legislators during the negotiations.

Last but not least, the Commission also closely monitors the Agency's budgetary implementation and stands ready to assist the Agency in budgetary adjustments whenever necessary. For example, an agency has the possibility to return appropriations, which it is not able to make use of, when properly justified, in the Global Transfer Exercise in the autumn each year.

The evolving needs of the agencies are therefore taken duly into account throughout the year, within the framework of the applicable financial rules, and within the constraints of the MFF.

The Budgetary Authority cannot fulfil all requests of decentralised agencies, as this would jeopardize the respect of the MFF ceilings. A more flexible approach on the staffing levels would in turn squeeze down the resources available for operational expenditure in the agencies' budgets and increase the pressure on administrative expenditure in the Union budget stemming from future pension expenditure. The Commission takes these aspects into account when analysing the requests of decentralised agencies.

The Commission notes that the agencies' evolving and exceptional needs are assessed throughout the year within the constraints of the MFF and are taken duly into account, if appropriate, in the Draft Amending Budget(s) and in transfers. This process allows therefore for adjustments during the year and not only in the year X+2.

Special Report 22/2020: Future of EU agencies – Potential for more flexibility and cooperation

Reply to recommendations 3b, paragraph 88: The Commission considers that the recommendation has been timely and fully implemented.

As of 2021 in its opinions on the Single Programming Documents of the decentralised agencies, the Commission calls for a closer link between performance indicators and the agencies' contribution to the implementation of EU policies, instead of an overly focus on outputs and activities.

Agencies are therefore encouraged and asked to define the performance indicators such that there is a clear link with the relevant policy objectives. Partner DGs will focus more on this aspect in their monitoring of their respective agencies. Based on these efforts, we expect performance information provided by agencies to gradually improve over the years.

Nevertheless, decentralised agencies themselves remain responsible for the information provided in the Single Programming Documents and other supporting documents submitted to the Budgetary Authority. The Commission reiterates that it can only encourage the agencies to define appropriate performance indicators, but it is the agencies themselves that are responsible for their performance monitoring.

Special Report 22/2020: Future of EU agencies – Potential for more flexibility and cooperation

Reply to recommendations 3c, paragraph 88: The Commission considers that recommendation has been fully implemented.

The Commission stresses that the Common Approach remains the main political framework of the institutions to ensure a well-functioning and robust governance structure for agencies. The Common Approach sets out a standard composition of agencies' management board, without prejudice to relevant arrangements for existing agencies. The Commission evaluates the governance of agencies and where appropriate makes legislative proposals in line with the Common Approach. Taking this into account, for none of the revisions of founding acts of agencies carried out since September 2020, the Commission found it appropriate or justified to change the size of the management boards since it reflected the Common Approach; and since 2021, 12 external evaluations have been launched, including the cross-cutting evaluation of the agencies dealing with employment (Cedefop, eu-OSHA, Eurofound and ETF) — the latter being the agencies for which the question of the size of the management board is of particular relevance. This evaluation is being finalised.

Special Report 24/2020: The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight

Reply to recommendations 1, paragraph 94: The Commission considers that the recommendation has been fully implemented.

The Commission expanded and made better use of already existing information channels to gather information on possible breaches of competition law, notably illegal cartels. Those measures have already been rolled out and require continuous investments. It also expanded the scope of its anonymous whistleblower tool to also explicitly cover other forms of competition infringements, with an accompanying campaign on social media and an updated website to raise awareness. It has disclosed in public that several of the cartel dawn raids carried out during the last two years were triggered by market intelligence outside the leniency regime. These actions illustrate that the measures put in place since the ECA audit are already generating results. To enhance ex-officio detection, the Commission engaged with non-competition national enforcers. To strengthen its capability to proactively identify and collect, also in the context of ex-officio enforcement, market relevant information provided by publicly available web sources it set up a Chief Technology Officer Team.

The Commission did not accept and not implement the second part of the recommendation as it considers that its methodology for priority setting in antitrust is well balanced to grant priority to those potential infringements that have a significant impact on the internal market.

Special Report 24/2020: The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight

Reply to recommendations 2a, paragraph 99: The Commission further enhanced the simplified procedure aimed at reducing the information requirements for merger notifications, provided guidance to ensure better coverage of transactions relevant to the single market, and is about to launch an electronic notification application.

The Commission reiterates that the second part of the recommendation - i.e. to conduct a detailed analysis of the costs and benefits of charging merger filing fees - was not accepted.

Special Report 24/2020: The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight

Reply to recommendations 2c, paragraph 99: The Commission launched an evaluation of the deterrent effects of EU competition enforcement actions, including fines. The final report is planned for 30 November 2024. As such, the methodology has not yet been updated.

Special Report 24/2020: The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight

Reply to recommendations 4b, paragraph 103: The Commission reiterates that it neither accepted nor implemented recommendation 4(b). The Commission did not accept and not implement the recommendation as it considers that the OECD is well-placed to carry out such peer reviews in view of its independence and since it has the necessary expertise. The OECD has conducted in depth reviews of competition laws and policies in different jurisdictions (including the European Union) since 1998. The Commission would also like to recall that it has no power to oblige National Competition Authorities (NCA) to engage in such peer reviews. However, the Commission notes that NCAs participate in the work of the International Competition Network (ICN) Agency Effectiveness Working Group.

Special Report 25/2020: Capital Markets Union – Slow start towards an ambitious goal

Reply to recommendations 2a, paragraph 132: The Commission reiterates that it did not accept the recommendation.

The Commission already reviewed best practices and outlined the directions that actors at different levels could take[5]. The next step would be for Member States to build on this. Several Member States have worked on national capital market strategies. The Commission will closely follow and support progress in building an interconnected ecosystem of strong, transparent and accessible capital markets in the EU, including through continued technical support. The Commission aims to reinforce its monitoring and dialogue with the Member States, and to continue its efforts to address the needs of local markets.

Special Report 25/2020: Capital Markets Union – Slow start towards an ambitious goal

Reply to recommendations 2b, paragraph 132: The Commission considers that this recommendation is implemented.

In the face of the pandemic and the crisis brought about by the war on Ukraine the focus shifted towards actions such as emergency support for citizens and businesses and the European Semester process, and thus the publication of the Country Specific Reports and Recommendations, were temporarily suspended.

Nevertheless, capital markets were still assessed, although to a different extent, in 19 Country Reports concerning 2020. Several member states (e.g. Bulgaria, Cyprus, Romania, Greece, Estonia, Latvia) received Country Specific Recommendations targeting their capital markets. For example, Cyprus received the recommendation to secure adequate access to finance and liquidity, especially for small and medium-sized enterprises, which is broader and comprises access to both bank financing and capital markets. On the other hand, the recommendation received by Estonia to ensure sufficient access to finance, it is more narrow and refers to the capital market development in the Member States.

In the meantime, the Recovery and Resilience Facility instrument was set up to help Member States undertake reforms and investments that address the challenges identified in previous Country-Specific Recommendations.

Special Report 25/2020: Capital Markets Union – Slow start towards an ambitious goal

Reply to recommendations 2c, paragraph 132: The Commission acknowledges the ECA's evaluation of the recommendation. It considers, however, that the recommendation has been implemented, to the extent possible, under the Technical Support Instrument (TSI) Regulation.

The demand-driven approach, as prescribed by the Technical Support Instrument (TSI) Regulation, allows each Member State to submit a request for support that will be selected for funding provided it meets the defined selection criteria and receives a positive evaluation and validation by the College. In the Commission's opinion, the outreach initiatives associated with the TSI annual calls ensure that each Member State in need is provided with comprehensive information and encouragement to request support for developing local capital markets.

[5] Commission SWD (2019) 99: Capital Markets Union: progress on building a single market for capital for a strong Economic and Monetary Union

Special Report 26/2020: Marine environment: EU protection is wide but not deep

Reply to recommendations 1 (1st indent), paragraph 88: The Commission would like to recall that the Marine action plan is a policy initiative endorsed by the co-legislator under the EU Biodiversity Strategy for 2030. It contributes to the target of legally and effectively protecting 30% of EU seas by 2030, with one third being strictly protected. While the evaluation of the EU Marine Strategy Framework Directive (MSFD) has not been completed yet, its implementation is however ongoing. The recent adoption and ongoing implementation by the Member States of threshold values under the MSFD are worth noting: - two threshold values for seabed integrity (descriptor 6 under the MSFD) - two threshold values for noise (descriptor 11 of the MSFD, also a deliverable of the Marine action plan). Further, the adoption of threshold values for sensitive species (descriptor 1 of the MSFD, also a deliverable of the Marine action plan) is ongoing.

Special Report 26/2020: Marine environment: EU protection is wide but not deep

Reply to recommendations 1 (2nd indent), paragraph 88: First of all, the Commission would like to reiterate its previous response that all marine species and habitats in EU Member State marine waters are protected by the Marine Strategy Framework Directive. Also, as the conservation of marine biological resources is exclusive competence of the European Union under the common fisheries policy (CFP), when Member States are adopting measures concerning fishing activities, they are subject to the rules and procedures under the CFP. Thus, it is up to the Member States to design adequate fisheries conservation measures, at national or regional level, to contribute to enhancing the protection of sensitive species and habitats.

Furthermore, even though the proposal of regulation on nature restoration aims at increasing the coverage of habitats under protection and does not refer to protected species, it will also benefit species by improving and enlarging their habitats.

Finally, the marine action plan proposes several actions that should reduce the incidental catches of threatened species. Even though in 2023 it focuses on two species in dire situation but already protected by EU law (i.e. harbour porpoise in the Iberian Atlantic, the Baltic and the Black Seas and the common dolphin in the Bay of Biscay), in 2024 the plan focuses on other species not included in the Annexes of the Birds and Habitats Directives, such as sharks and skates. By 2030, the need for Member States to put in place measures is extended to cover all species in unfavourable conservation status or threatened by extinction and protected under EU law, and any other sensitive marine species in need of protection.

REPLIES OF THE EU AGENCIES NETWORK TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 3: GETTING RESULTS FROM THE EU BUDGET'

Recommendation 2(a)

EUAN Reply:

The Network agrees with the conclusion by the ECA.

The Network wishes to reiterate the need for a coordinated approach from the Commission services to include the Agencies in the assessment process.

Recommendation 3(a)

EUAN reply:

The Network agrees with the conclusion by the ECA.

The Network considers that each policy objective of the Commission under the MFF should have defined KPIs, in this way Agencies could link their SPD outputs to the relevant policy KPIs, that could be reviewed during the MFF cycle. This would ensure the proper implementation of the intervention logic with cascading down from policy objectives/expected impacts to specific contributions.

Recommendation 4(a)

EUAN Reply:

The Network agrees with the conclusion by the ECA.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 4: REVENUE

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes that the European Court of Auditors (ECA) considers that the level of error in revenue transactions continues to be free of material error and that the revenue-related systems it examined were generally effective. The Commission will follow-up on the issues identified by the ECA and through its own control and audit work.

Regarding **Gross National Income (GNI)** the Commission attaches great importance to the close monitoring of the timeliness of submission of the work on GNI reservations by the Member States and has put in place a system of monitoring of Member States' compliance with the legal requirements. The Commission continued its work on the current 2020-2024 GNI verification cycle in line with the relevant framework documents and according to the agreed timetable. The Commission and the countries continue following globalisation-related issues in national accounts including the GNI for own resources.

As regards the **VAT-based own resource**, the Commission continues its efforts to reduce the number of open reservations on individual VAT statements.

As regards **Traditional Own Resources** (TOR), the Commission will continue the monitoring of TOR open points and has included the reliability of the A and B accounts as a dedicated topic in the 2024 Inspection program for 12 Member States. Furthermore, the Commission confirms that it expects to complete the recalculation of the final amounts due by Member States for undervaluation of textiles and shoes imported from China by 31 December 2024. In addition, in 2023 the Commission proposed the most ambitious reform of the customs union which is currently under negotiation with the co-legislators. Once agreed and implemented, this reform will drastically strengthen the analysis, risk management, and control capabilities of the customs union.

Concerning the **non-recycled plastic packaging waste EU revenue**, the Commission is actively continuing its work on the implementation of this new own resource.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Examination of elements of internal control systems

Verification work on GNI

The Commission attaches great importance to the close monitoring of the timeliness of submission of the work on GNI reservations by the Member States (§4.9-4.11). The Commission has put in place a system of monitoring of Member States' compliance with the legal requirements and informs the stakeholders on the state of play on reservations in a transparent manner.

The Commission continued its work on the current 2020-2024 GNI verification cycle in line with the relevant framework documents and the agreed timetable. This concerned in particular the checks of the GNI Inventories of the Member States and of the United Kingdom, including GNI information visits to those countries and placing action points and reservations[1] where appropriate.

In 2023, the Commission lifted the GNI reservation on globalisation for all the Member States but Luxembourg, for which the discussions are being finalised. The Commission and Member States continue following globalisation-related issues in national accounts including the GNI for own resources.

GNI reservations

In relation to the ECA's observations on charging late payment interests when GNI reservations were addressed after the deadline (§4.14) the Commission would like to underline that it has assessed, in all the relevant cases, whether the legal provisions related to the interest for late payment were applicable. The Commission concluded, based on the already existing methodology, that there were no such cases for the GNI reservations lifted in year 2023.

VAT reservations

For the VAT-based own resource and the management of related reservations (§ 4.16), the Commission considers that good progress has been made in reducing the number of outstanding reservations, also regarding those that have been open for more than 5 years. The ECA also recognises that resolving long-standing issues depends very much on the Member States providing relevant information.

Reliability and comparability of the data used for calculating plastic-based EU revenue

With regard to the plastic-based EU revenue (§ 4.23-§ 4.24) this own resource was introduced in 2021 and the first statements were received in July 2023. The first inspections took place in the third quarter of 2023 and were finalised in 2024. The Commission's work on ensuring the adequacy, reliability and comparability of data for the own resource is ongoing and the issues mentioned in the report are duly taken into account during this process. In 2023, the revenue was calculated and collected based on forecasts, and subsequently adjusted through the balances exercise. This is a standard exercise based on the rules provided for in the Making Available Regulations, applicable to GNI, VAT and plastics-based own resources. The late submission of the Greek statement did therefore not have any impact on the revenues for 2023. In this case, the difference between the forecasts and the statement was temporarily covered by the GNI own resource. It will be included in the 2024 balances exercise (to be communicated in 2025) and will be collected under the normal rules.

Issues with the quality of statistics at the level of the Member States do not represent a deficiency in the internal control system of the Commission. Furthermore, they do not lead to any errors in the collection of EU revenues. The quality of Member States' statistics is duly analysed during the Commission's inspections. Any deficiency identified will result in the placement of a reservation

[1] GNI reservations are placed by the Commission when weaknesses have been identified in how a Member State has compiled its GNI figures. Reservations are placed in cases of issues with a potential significant impact and remain open until the issues have been solved.

which has to be addressed before the amounts for the own corresponding resource are accepted and become final.

Reply to Box 4.2

Weaknesses in data reliability and comparability

Measurement point

During its inspection visits for the plastic own resource, the Commission verifies with the competent national authorities whether the amounts are reported at the calculation point, i.e. at the entry of the recycling operation or, by derogation, at the exit of the sorting operations, and in this case how this derogation is implemented. In all cases where the implementation of the derogation is not satisfactory, the Commission places reservations as necessary to ensure comparability.

The requirement in the packaging legislation is to use average loss rates only where reliable data cannot be otherwise obtained. The Commission proposed a delegated act on the harmonised average loss rates in 2021. It was rejected by the Council. The Commission is currently working on a new version of an Average Loss Rates act.

Statistical compilation methods

The statistical statement template includes reporting on two methods and a balancing decision, which Member States are required to report. During its inspection visits, the Commission verifies whether one or two methods are used, and places reservations whenever only one method is used, or balancing between the two methods is not applied, or one of the two methods has inconsistencies.

Assurance that plastic waste is actually being recycled

Some Member States audit recycling facilities in their territory and even in third countries. In four of the eight Member States inspected so far, the Producer Responsibility Organisations (PROs) or external auditors audit recycled amounts as well as recycling facilities. To be noted, those Member States that have been so far inspected are in the highest risk group which is why they were prioritised for inspection. The Commission places reservations on the recycling figures that cannot be verified during the inspections.

Customs action plan

The Commission proposed the most ambitious reform of the customs union since its creation, which is currently under negotiation with the co-legislators (§ 4.25-§ 4.29). To prepare this proposal, the Commission has anticipated Action 17 of the customs action plan on the potential creation of an EU Customs Agency/Authority. Many other actions have also been incorporated and reinforced in the proposal, to provide them with a more solid legal and digital basis. Once agreed and implemented, this reform will drastically strengthen the analysis, risk management, and control capabilities of the customs union. The Commission has thus diligently performed its right of initiative and now invests significantly in closely collaborating with the Council and European Parliament to progress the file as efficiently as possible. Therefore, while the Commission acknowledges a delay in the implementation of some of the actions in the plan, it is also important to note that only four of all actions in the Customs Action Plan have previously been identified as potentially contributing to reducing the customs gap.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Recommendation 4.1 – Charge Member States late payment interest when GNI reservations are not fully addressed by the deadline

Charge late payment interest when Member States do not provide all the information needed to fully address reservations and correct GNI data by the deadline set.

(Target implementation date: by mid-2025)

The Commission **does not accept** this recommendation.

In line with the Commission's interpretation of the applicable legislation, the European Commission is charging interest to the Member States when the GNI reservations are fully addressed after the deadline. Applying late interest payments when information is partially provided by the deadline is not mentioned in the legislation. Therefore, the Commission is not in a position to accept this recommendation.

Recommendation 4.2 – Verify progress reported by member states and identify the key elements of FRC to be implemented

Verify the state of play of FRC Framework implementation in the member states through monitoring visits on a sample basis, identify the FRC elements that should be implemented as a matter of priority and take the necessary action to support member states in implementing them without delay.

(Target implementation date: by end of 2026)

The Commission **accepts** this recommendation.

The Commission underlines, in addition, that the amendment to the Financial Risk Criteria (FRC) Decision was adopted on 4 April 2024, in line with the recommendations of the ECA in its Special Report 04/2021 on Customs controls.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 5: SINGLE MARKET, INNOVATION AND DIGITAL

I. THE COMMISSION REPLIES IN BRIEF

Payments under the Multiannual Financial Framework heading 1 'Single Market, Innovation and Digital' (MFF1) cover several programmes such as **Connecting Europe Facility (CEF), Horizon 2020 (H2020) and Horizon Europe (HE)**.

The Commission takes note of the **level of error** calculated by the European Court of Auditors (ECA) (§5.7), which is within the range detected during last years.

Horizon Europe is the biggest research and innovation programme in Europe. This program is based on the experience gained in H2020.

The way funds are disbursed has a direct impact on the risk of error. The Commission agrees that simplification of rules has the potential to reduce this risk. Therefore, Horizon Europe uses a standard **Model Grant Agreement (MGA)** as annexed to the Internal Rules of the Commission[1] for all EU funding programmes, makes extensive use of simplified costs options (unit cost, flat rate and lump sums), employs simpler cost reimbursement schemes in appropriate areas and implements a streamlined audit system. Further guidance on the MGA is provided in the **Annotated Grant Agreement (AGA)**. The Commission remains fully committed to further simplify rules and procedures to reduce both the risk of error and the burden on beneficiaries.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Regularity of transactions

The Commission takes note of the level of error of 3.3% calculated by the ECA (§5.7) and will follow up on the issues identified by the ECA (see §5.7 to §5.25 of the ECA report) as presented in the sections below.

The Commission takes note of the cases of quantifiable errors reported by the ECA for further action. The Commission also notes that corrective measures it had applied as part of its control systems have led to a reduced estimated level of error for the chapter (§5.11).

As regards cases where the auditors contracted by beneficiaries to issue certificates on financial statements (CFS auditors) did not detect the errors found by the ECA (§5.11), the Commission, to further improve the quality and reliability of the CFSs, organises targeted webinars for the CFS auditors to raise awareness of the most common errors found during audits (e.g., personnel costs,

[1] Annex 23 to Commission Decision C(2022)9304 final on the internal rules for the implementation of the Commission section of the general budget of the European Union

subcontracting and other direct costs, etc.). In addition to the self-explanatory template for H2020 certificates, the Commission provides feedback to the CFS auditors when errors in the CFS are identified via ex-post financial audits. Lastly, the Research Enquiry Service (a dedicated helpdesk on EU Research programmes) provides guidance to the CFS auditors through online requests.

Personnel costs

Personnel costs affected by errors

The Commission acknowledges that personnel costs have remained the main source of errors (§5.13), which seems to be, at least partially, a logical consequence of the fact that personnel costs account for the largest share of the total cost declared by beneficiaries under H2020, and similarly under Horizon Europe.

H2020 was a major step forward in the simplification and harmonisation of cost eligibility rules, including on the calculation of personnel costs.

The Commission has provided guidance and practical examples in the H2020 Annotated Model Grant Agreement and pursued its awareness raising activities on H2020 by means of an interactive questionnaire sent to participants approaching a reporting session, which offered relevant advice depending on the beneficiary's answers. The Commission also organised a webinar addressed to providers of Certificates on Financial Statements in H2020 grants. Moreover, beneficiaries are encouraged to make use of the Research Enquiry Service to request clarifications related to grant management, including practical examples on the calculation of personnel costs. The Commission confirms its commitment to reinforcing information campaigns targeting in particular error-prone beneficiaries.

For Horizon Europe, the Commission uses the corporate MGA applicable as of the start of the MFF 2021-2027, and issued corporate guidance for practical implementation, which foresees a simpler method for charging personnel costs, based on a daily rate calculation, replacing the error-prone methods used in H2020. Alongside the MGA, the AGA caters for practical examples on bonuses and calculation of daily rates. The Commission also provides among its guidance documents a list indicating how to deal with country specific costs.

Additionally, the Commission has redesigned its trainings and outreach activities for participants in Horizon Europe grants by more systematically including information aiming at limiting the risk of errors. The Commission has also further optimised interactions with the Legal and Financial National Contact Points, which are part of the support structure to inform beneficiaries on how to correctly declare costs.

The Commission is further simplifying the declaration of personnel costs under Horizon Europe with the introduction (as of May 2024) of the unit cost for personnel costs, which aims to reduce the risk of errors for beneficiaries opting for it. The Commission's communication campaigns will promote the widest possible use of this option by Horizon Europe beneficiaries.

Calculation of daily rates for Horizon Europe grants

Personnel costs are calculated, as a general principle, on the basis of a 215 days per year method as per Article 6.2.A.1 'Costs for employees (or equivalent)' of the MGA (called further on 'the 215-method'). The AGA provides guidance to operationalise this principle, in compliance with the MGA, and in a manner that simplifies calculations across the board to avoid errors. In most cases, the application of this method in practice requires interpretative guidance to allow its operationalisation in the different employment scenarios (varying lengths of reporting periods, varying time of employment, varying full/part-time status, parental leave etc.). As such, the basic 215-method is not intended and cannot normally be directly applied without adaptation to the individual circumstances.

In the AGA, the Commission clarifies that it accepts as a measure of further simplification the use of the 215-based method through a consolidated single calculation per reporting period per employee. This integrates (most) variables such as working time and reporting period length in a single calculation.

Ineligible other direct costs and Transactions with multiple errors

The Commission takes note that the ECA has found other direct costs that did not comply with some of the general cost eligibility conditions, and in particular that were not incurred in connection with the action (§5.22). Moreover, it spotted cases where beneficiaries claimed ineligible expenditure in two or more cost categories (§5.24).

As in the case of errors in personnel costs, the Commission mitigates these issues by outreach communication events and webinars (on avoiding errors in declaring other direct costs under H2020), by the guidance provided in the H2020 Annotated Model Grant Agreement, and the Annotated Grant Agreement for HE, and by encouraging the use of the Research Enquiry Service.

Newcomers and Small and Medium-sized Enterprises (SMEs)

The Commission shares the assessment of the ECA (§5.25) that SMEs and newcomers are the most error-prone beneficiaries. However, their participation is considered to be vital to the success of the programme and it is encouraged at all levels.

To mitigate the risk of errors, the Commission provides support to applicants and beneficiaries through online information and communication campaigns and workshops on avoiding errors when declaring costs. These actions target the more 'error-prone' entities such as small and medium-sized enterprises and newcomers (see also replies under 'Personnel costs affected by errors' and 'Ineligible other direct costs').

Moreover, the increased use of lump-sum funding under Horizon Europe and the recent introduction of the unit cost for personnel costs reduces the administrative burden on beneficiaries and is expected to further reduce the risk of error.

2. Review of the CINEA's ex ante control system for CEF grants in the transport and energy sectors

The Commission notes that, overall, the ECA considers the risk-targeted CEF ex-ante control strategy is based on sound analysis of risks and past experience.

Nevertheless, the ECA notes that not performing any in-depth checks on procurement in certain cases might reduce the level of assurance provided by the ex-ante controls (§5.32). The Commission considers that, when carrying out such checks, it is necessary to differentiate the situations in order to be cost effective and proportionate to the financial risks.

The Commission will further develop the guidelines to include a check on the consistency between the criteria used in the evaluation report and those set out in the contract notice (§5.33).

3. Annual activity reports and other governance arrangements

The Commission welcomes the observation from the ECA that the DG RTD and HaDEA Annual Activity Reports (AARs) provide a fair assessment of the financial management in relation to the regularity of underlying transactions (§5.35).

As regards the level of error reported in its AAR (§5.36), DG RTD reports a cumulative representative error rate for Horizon 2020 at 2.57% and a residual error rate at 1.64%. Both error rates are based on the results of the audits carried out by the Commission on Horizon 2020 (2014-2021) and, for the residual error rate, on the result of the corrections made.

As regards ex-post audit campaign for the new framework programme Horizon Europe (§5.37), the Commission has adopted in November 2023 the Control Strategy for Horizon Europe. In this context, the HE audit campaign has started in 2024. The target the Commission has set for Horizon Europe is that the cumulative representative error rate and the cumulative residual error rate, i.e. the level of errors which remain undetected and uncorrected, is no more than 2% on an annual basis and by the end of the framework programme.

In relation to the nine Internal Audit Service (IAS) recommendations addressed to DG RTD and open at the end of 2022 (§5.38), they have been taken into account in the assessment of DG RTD's internal control system. Action Plans for all recommendations have been prepared and are being implemented. The critical recommendation issued in 2022 on the governance framework of the European Innovation Council (EIC) programme was downgraded to 'important', as most of the mitigating actions have been implemented.

In the Annual Management and Performance Report (AMPR, §5.40), the Commission uses the risks at payment disclosed by the DGs in their AARs which correspond to their best estimate and that underwent a careful and structured quality review.

Based on the work carried out, the Commission considers that the risk at payment presented in the AMPR for MFF1 is representative and provides true and fair view of the level of error. This estimate is based on a methodology which allows the Commission, as a manager of the EC budget, to identify and distinguish between higher, medium and lower risk areas and therefore focus the Commission's efforts to mitigate the risk.

III.COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up of previous years recommendations

In relation to the ECA's follow-up of recommendation 3 / 2021, the Commission completed the feasibility assessment of adding a disclaimer appearing when filling-in the beneficiaries' financial statements and will add this feature by the end of 2024.

Concerning the recommendation 2 / 2022: the "Horizon Europe Proposal Evaluation – Standard briefing" already mentions on page 76 an obligation for documentation. The obligation to document the assessment in the evaluation reports is also included in the guidance for Commission staff who are conducting lump sum evaluations: In the “Lump sum guide A to Z“ (page 10). The standard expert briefing (section on lump sums) will be improved to clarify that the budget assessment must be documented.

Recommendation 5.1 – Enhance beneficiaries’ compliance with the daily rate rules

For Horizon Europe reporting, introduce measures that go beyond the awareness-raising actions taken to date in order to enhance beneficiaries’ compliance with the daily rate rules.

(Target implementation date: mid-2025)

The Commission **accepts** this recommendation.

Recommendation 5.2 – Ensure clarity in Horizon Europe documents

For Horizon Europe, further clarify the rules and methods for calculating daily rates for personnel costs used in the model grant agreement.

(Target implementation date: mid-2025)

The Commission **accepts** this recommendation.

The guidance provided in the Annotated Grant Agreement (AGA) to implement the principles set out in the MGA has been carefully considered to offer the maximum degree of simplification for beneficiaries across Union programmes and to ultimately reduce errors. In this respect, the 215-day method set out in the MGA offers the basis on which the AGA provides concise implementation guidance for the multitude of different employment scenarios, specific cases and combinations thereof.

The Commission will improve where necessary the clarity for calculating daily rates for personnel costs, for example in its templates, guidance, outreach and awareness raising activities, to further reduce any risk of confusion on personnel cost rules for beneficiaries.

Recommendation 5.3 – Develop the guidelines on *ex ante* controls on procurement

Further develop the guidelines describing the extent of the checks to be performed in ex ante controls on procurement for CEF projects, in respect of the consistency of the selection and award criteria applied with those published in the contract notice.

(Target implementation date: end 2024)

The Commission **accepts** this recommendation.

It will further develop the guidelines to include a check on the consistency between the criteria used in the evaluation report and those set out in the contract notice.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 6: COHESION, RESILIENCE AND VALUES

I. THE COMMISSION REPLIES IN BRIEF

The funds dedicated to the economic, social and territorial cohesion in the EU are spent through a system of shared management between the European Commission and national authorities.

Member States are responsible for implementing robust management and control systems, and for preventing, detecting and correcting irregularities in related expenditure. The Commission supervises and assesses the effective functioning of these systems based on all audit results, including its own audits, making recommendations for improvements as need be and seeking reasonable assurance that the annual error rate for each programme is below the materiality threshold of 2%. When necessary, the Commission may impose additional financial corrections to those already applied by Member States.

The Commission's single audit strategy for cohesion policy takes into account the management, control and audit responsibilities under shared management, where the audit authorities of Member States are primarily responsible for carrying out audits of cohesion funds expenditure reported to the Commission. To reduce the audit burden on beneficiaries, simplify the audit process and avoid duplication of effort, the Commission, under the single audit approach, aims to obtain reasonable assurance through desk reviews of national audit results and opinions for all programmes, combined with targeted risk-based audits. The latter included testing and re-performing the work of programme authorities, including audit authorities, to assess the reliability of their verification work and reporting. The audit approach is also complemented by capacity building actions, including the sharing of common methodologies, recommended corrective actions and feedback on detected errors. This provides the basis for programme authorities to improve their work, where needed.

As a result, the Commission assesses the quality of management and control systems by looking into different programmes based on a risk assessment, considering all available audit results, including those from the European Court of Auditors (ECA). By doing so, the Commission can identify the programmes or parts of programmes with deficiencies or the highest likelihood of errors, and focus their audit work and corrective measures on these areas. It can assess whether such deficiencies or irregularities have occurred in other parts of the programme, in other programmes in the same Member State or in other Member States. The Commission may thus request from the programme authorities concerned targeted and proportionate system improvements to reduce the recurrence of such errors in the future and financial corrections to correct past expenditure.

Based on the available national and Commission audit results, the Commission concluded in the annual management and performance report (AMPR) that the combined overall risk of irregular expenditure for cohesion policy as a whole remained stable compared with previous years despite an increase in 2022. It also concluded that management and control systems function well for 93% of the 441 cohesion policy programmes. For the remaining 30 programmes, and parts of another 25 programmes, weaknesses persisted mainly at the level of managing authorities or their intermediate bodies (deficiencies in management verifications, the first level controls). Moreover, some errors remained undetected by some audit authorities, but this did not call into question the reliability of the overall audit work carried out, except for a limited number of 10 audit authorities (or their control bodies) out of 116 overall.

Finally, the Commission stresses the effectiveness of the multi-annual corrective capacity that allows to bring the risk at closure below materiality. Programme authorities regularly withdraw from the certified accounts amounts previously declared that are found to be irregular or at risk. These withdrawals totalled EUR 12.8 billion for ERDF/CF and EUR 3.56 billion for ESF/YEI/FEAD cumulatively since the beginning of the 2014-2020 programming period. This is also thanks to the provision for possible net financial corrections in the Common Provisions Regulation (CPR) that would result, if the legal conditions would apply, in a direct loss of funding for the Member States concerned. The Member States could reintroduce (following confirmation of their eligibility) part of these withdrawal amounts or replace them by other eligible expenditure within the same programmes, as the CPR conditions on net financial corrections were not assessed to apply in any case so far. In addition, in the same period, as a result of its audit activity and supervisory role, the Commission requested over EUR 1.54 billion of financial corrections in cohesion policy contributions. After implementing all corrective measures, the Commission reported in the annual activity reports (AARs) that the risk at closure is now below 2% for all accounting years up to 2022. At the same time, further corrective actions continue to be applied.

The Commission therefore concluded that it has assurance that management and control systems function in general relatively well to ensure that underlying transactions are legal and regular, and that proportionate and effective corrective measures are taken when breaches of applicable rules are identified that threaten the legality and regularity of underlying transaction.

This overall management framework has also enabled cohesion policy to deliver as the key driver in reducing economic disparities across the European Union, contributing to the convergence of income levels, economic growth, reduction of unemployment and competitiveness, as the recently published 9th Cohesion Report[1] highlighted. For example, in Central and Eastern Europe as a whole, income per head increased from 52% of the EU average in 2004 to nearly 80% today. At the same time, the unemployment rate dropped from 13% to 4%.

Cohesion policy also played a vital role in supporting European regions during the COVID-19 pandemic and the subsequent crises, with rapidly adopted, specific measures addressing the health, economic, and social impacts of these crises for the most vulnerable ones in the society and the economy. Cohesion policy has immediately provided support to regions, reducing the risk of further widening disparities, injected much needed liquidity to support small and medium-sized enterprises (SMEs) while introducing job retention schemes to protect the livelihood of millions of Europeans, and proposed the required flexibility to support the continuation of projects. Cohesion policy funds were thus mobilised and where necessary reprogrammed, and complemented by NextGenerationEU financing of repair and recovery to allow Member States tackle these challenges on the short and medium term. In this context, in 2023 the Commission continued to request programme authorities to pay particular attention to new risks related to the additional funding made available, in particular double funding, conflict of interest, fraud or corruption, or unjustified use of emergency public procurement procedures. Transparent reporting on related identified breaches was made in the respective AARs of the Directorates-General for Regional and Urban Policy (REGIO) and for Employment, Social Affairs and Inclusion (EMPL).

[1] Inforegio - Ninth Report on Economic, Social and Territorial Cohesion (europa.eu); see also policy achievements for cohesion policy reported in the 2023 AARs of REGIO and EMPL.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Results of ECA's transaction testing

The Commission takes due note of the increasing error rate estimated by ECA in the last two years (§6.15), compared to a relatively stable level of error reported by both the ECA and the Commission from 2016 to 2021. The Commission's risk at payment, estimated to be material for cohesion at 2.8% in 2023, is based on a comprehensive review of all audit opinions and error rates reported by programme audit authorities, adjusted by the Commission where relevant following its own assessment and also taking account of the ECA's audit results. The Commission's approach allows it to conclude at Member State and even at individual programme level (see ECA clarification provided in §1.11). Based on all available audit results, including ECA audit results, in the 2023 AARs the Commission reported risks at payment and maximum risks comparable with previous years and overall material, although at a lower level than that calculated by the ECA.

The Commission attributes the difference to sometimes different interpretations of facts or the applicable rules, and to distinct methodological approaches. This is mainly the result of the different roles and mandates of the Commission (responsible for the sound financial management of the EU budget) and the ECA (as the independent external auditor). The Commission notes that, for the second year, this difference is particularly wide compared to previous years. In its sample of transactions, the ECA quantifies errors related to any breach of applicable rules that have an impact on the related payment (§6.16). The ECA extrapolated these errors to estimate the error rate applicable to the area of cohesion, resilience and values.

The Commission, on its side, did a programme-by-programme assessment, and aggregated its results (see above, part I of the Commission reply).

The Commission does not necessarily consider the expenditure associated with the ECA's findings to be ineligible nor all cases quantified by ECA as irregularities within the meaning of Article 2(36) of the CPR, which provides the legal ground for the Commission to impose a financial correction.

For example, besides irregularities in the meaning of the CPR, the ECA also quantifies issues that relate to a lack of audit trail or to apportionment methods of real costs to avoid excessive administrative costs, apparent conflicts of interest, errors in public procurement procedures under EU thresholds thus often falling under national legislation (see section "Adherence to internal market rules" below). The Commission notes that, in one case, corrections by the Member State were ongoing following a Commission audit that immediately preceded that of the ECA.

At the same time, the Commission acknowledges that certain system issues detected by ECA (wrong State aid calculation rules for investments in Poland, Box 6.3, inadequate calculation of overheads by a large beneficiary in Germany) will require rigorous and targeted follow-up with the concerned Member States' authorities. Moreover, in 2023, some programme authorities may have carried out less effective controls and verifications due to the heavy overload and increasing pressure of parallel implementation of the 2014-2020 programmes and of additional funding under NextGenerationEU (see also §1.22). The Commission recalls that following recent legislative changes[2], the administrative deadlines for closure were extended, and programme authorities have another two accounting years to declare and correct expenditure. Final accounts will only have to

[2] Regulation (EU) 2024/795 - adopted by the co-legislators on 29 February 2024 - establishing the *Strategic Technologies for Europe Platform (STEP)*:

be submitted until February 2026. Member States may thus benefit from additional time to carry out supplementary administrative checks and corrections in view of the closure expenditure declarations.

The Commission will duly follow up all errors reported by the ECA that it accepts and requests corrective measures or financial corrections, where legally feasible. The Commission will also recommend the programme authorities concerned to further improve management and control systems as necessary, including in view of the 2021-2027 period.

Moreover, the Commission stresses the importance of the role of audit authorities in detecting errors, as illustrated by the 52 quantifiable errors reported by the programme audit authorities on the transactions in the ECA's sample (§6.19). In addition, the managing authorities should have prevented or detected these errors in the first instance (see §6.43). In the accounting year under analysis, audit authorities reported total error rates above 2% for around one third of programmes, showing that first level controls require improvements for these programmes. Corrections applied brought the residual error rate down to below 2% in all but 29 cases. The detection capacity at programme and Member State level led to significant financial corrections and withdrawals before programme accounts were submitted to the Commission (see above section I of the Commission's reply).

The Commission, however, agrees that some errors remained undetected at managing and/or audit authorities' levels, or were inappropriately considered in the calculation of the reported error rates in specific cases. For this reason and following a programme-by-programme assessment, REGIO and EMPL adjusted the error rates as reported by Member States to estimate a maximum level of risk at payment (key performance indicator (KPI) on legality and regularity) in their respective AARs, also taking into account the ECA's results. This led to a lower level of error than the one calculated by the ECA through the statistical extrapolation of the errors it detected.

As regards error types (§6.20), based on their common typology, the Commission and audit authorities generally identified the same categories of irregularities as the ECA, namely: ineligible expenditure, public procurement, audit trail and State aid. The Commission will continue to work with the relevant programme authorities to help improve their capacities and better prevent and detect such irregularities, while continuing to promote the use of simplified cost options or financing not linked to costs to avoid such errors inherent to the declaration of real costs by thousands of beneficiaries.

Finally, the Commission takes the view that errors reported by the ECA, possibly due to complex rules or due to missing or insufficient supporting documentation, do not necessarily question the output or impact of the co-funded projects.

Adherence to internal market rules: public procurement and State aid

As regards public procurement rules, the Commission notes that three out of the seven cases the ECA quantified concerned low-value public contracts below the EU threshold, for which national legislations apply (rather than EU directives, except in specific situations of cross-border interest) and may allow for rules different than the EU rules. The Commission is therefore neither able nor competent to consider such cases as irregularities within the meaning of Article 2(36) of the CPR when the Commission and programme authorities consider that the national law was respected.

The Commission will continue to support programme authorities through the measures designed under its public procurement and State aid action plans, to ensure a good understanding and correct implementation of those internal market provisions when Directives and EU legislation apply, including to avoid situations of conflict of interest (§6.24). However, the Commission notes that for the Hungarian example quoted in Box 6.2 the audit authority took into consideration different factors to consider that the conflict of interest did not deserve a 100% rejection of the contract, as the municipal company concerned was not a profit-making company (see Commission guidelines C(2019) 3452 final (section 1.4)). For the Czech example, the Commission notes that the prior involvement of the company that submitted a bid and obtained the contract was transparently disclosed in the tender specifications in line with applicable rules, and a clause allowing for equivalent technical specifications was provided for. Moreover, the national law allows referring to specific patented products if justified by the public procurement rules, including in this case.

Moreover, the Commission takes the view that when it applies a flat rate correction for all public contracts up to a cut-off date, as this was the case for the 10% flat-rate correction applied in Hungary (§6.25), all potential public procurement issues are covered in the programmes concerned. The principle of a flat rate correction, provided for under Article 144 CPR, is that some contracts may be affected by varying correction rates, e.g. from 5% up to 100% under the Commission guidelines for public procurements, other may not be affected at all (0%). The level of the flat rate imposed following the Commission audit was based on its risk-based audited sample of 29 contracts, on which problems of different natures and severity were found with 21. The 10% flat rate correction provided for in the regulation was therefore considered appropriate in relation to the Commission audit results, and led to ex ante and ex post financial corrections of over EUR 1 billion. Therefore, the Commission is confident that the correction it imposed adequately protected the financial interests of the EU from any potential irregularity affecting the population of more than ten thousand contracts covered. Moreover, the Commission did a follow up audit in 2022 on Hungarian public procurement contracts launched after the cut-off date of the flat-rate correction to verify that the required improvements in the management and control systems were appropriately and effectively applied. The Commission also plans to carry out a horizontal public procurement audit in 2025.

Availability of essential supporting documents

In relation to §6.29, the Commission agrees that essential documents are required to ensure an appropriate audit trail of the expenditure declared for each operation, in line with Article 72(g) of the 2014-2020 Common Provisions Regulation, otherwise the eligibility of the supported operation may be questioned (see example quoted in Box 6.5). However, the Commission also stresses that information requested from beneficiaries and programme authorities should remain proportionate in each case, taking into account the impact and administrative cost of documentary requests and stakeholders' calls for further simplification in the implementation of EU funds.

As for the documentation of their audit processes by audit authorities (§6.50), respect of auditing standards should be balanced with proportionate administrative procedures. In 2019 and 2020, the Commission established with audit authorities a working group to improve audit documentation and provide minimum recommendation while respecting proportionality in the administrative cost. This led to a 'Reflection paper on audit documentation', as reported by the ECA in its 2019 Annual Report (Box 5.8).

Financial instruments

Any irregularity identified at the level of final recipients of financial instruments (see Slovenian example in Box 6.7) can be corrected and substituted with eligible expenditure by closure. This is by virtue of the CPR, which foresees that the eligibility of underlying transactions and expenditure for financial instruments is determined at closure (Article 42). Therefore, such irregularities at the level of final recipients can be replaced and do not affect the advance EU payments made during programme implementation at the higher level of the instrument. Audit strategies of the

Commission and audit authorities envisage targeted preparation to closure audits to ascertain the eligibility of expenditure and final recipients declared under financial instruments at closure.

Transactions managed directly or indirectly by the Commission

As regards the project co-financed by the Cohesion Fund and the Connecting Europe Facility (CEF) and presented in Box 6.8, the Commission considers that the applicant did fill out the Declaration correctly and the signatories were allowed to represent the applicant.

The financial correction of 25% was a decision taken by the managing authority in charge of the Cohesion Fund co-funded programme in question, following the Commission guidelines applicable under shared management. On the other hand, the funding under CEF was granted on the basis of a different legal and contractual framework: a direct grant agreement. Corrective action could only be taken if the Commission identified a breach of the terms of the grant agreement signed, and in line with the specific measures allowed. However, in this specific case, the Commission did not detect any breach of the grant agreement in question and has therefore not imposed any penalties.

With regard to §6.37, concerning the ESI contribution to the unsuccessful development of a COVID 19 vaccine, the contractor had provided a financial statement detailing the expenses for which the up-front payment had been used. In line with Article II.14.5(a) of the relevant contract, expenses to be taken into account included amounts incurred and equally amounts that had been committed or that were related to commitments made by the contractor when the Commission was notified. Moreover, in 2023, the Commission decided to carry out an on-the-spot audit to be started in June 2024 on this operation. Only upon completion of this audit, a final assessment on the eligibility of expenses can be made. The ECA has not quantified the financial impact of its finding and thus did not include this transaction in its error rate calculation.

Commitment to achieve performance target included in grant agreements

Progress against the programmes' performance framework is being monitored regularly by the Commission and each monitoring committee and reported in implementation reports. Programmes' final implementation reports will contain information and conclusions regarding the state of the performance framework at closure. At project level, the definitive level of public payment may be linked in grant agreements to the achievement of certain outputs, based on national eligibility rules.

According to the CPR and guidance to Member States on the performance framework, review and reserve, the Commission may apply financial corrections at the end of the period if the examination of the final implementation report of the programme establishes a serious failure to achieve the targets relating to financial and/or output indicators set out in the performance framework.

2. ECA's assessment of the work of audit authorities in shared management

Managing and audit authorities as the 'first' and the 'second lines of defence' against irregular spending

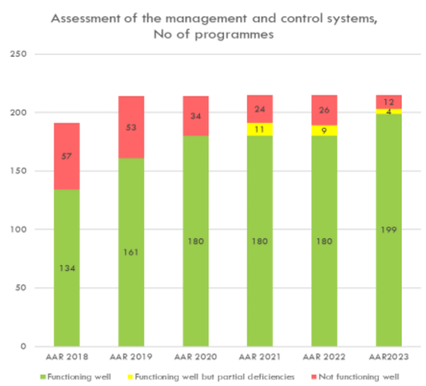
Under shared management, programme authorities are responsible in first instance to prevent, detect and correct irregularities in the expenditure declared by beneficiaries through management verifications by managing authorities on the expenditure declared by beneficiaries, and audits of representative samples of expenditure carried out by audit authorities, before certifying expenditure in the programme annual accounts. These audits aim at testing the effectiveness of first level controls through statistical samples of operations, and at carrying out additional extrapolated corrections when reported error rates are above 2%.

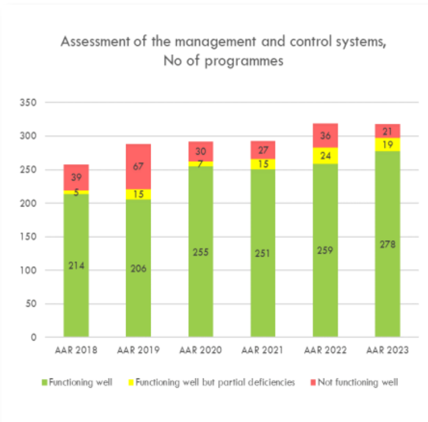
The Commission extensively cooperates with all programme authorities to ensure the implementation of a consistent and robust assurance and control framework.

Every year, for each programme under shared management, based on all reported audit results and its own audits, the Commission carries out an individual assessment of the effectiveness of the management and control systems and of the legality and regularity of expenditure in the accounts accepted in the reporting year. This approach is intended to report the assurance obtained and the weaknesses detected and to confirm individual risk rates for each programme. The Commission is thus able to identify which programmes function well, which still present deficiencies and what type of remedial actions are needed, and for which programmes further financial corrections are necessary or likely, based on possible additional risks under assessment. This differentiated and individual assessment is then presented in REGIO and EMPL AARs (see in particular annexes 7B and 7C).

As reported in the 2023 AARs, the Commission concluded that management and control systems function (sufficiently) well for over 93% of all programmes. It identified weaknesses for programmes or parts of programmes and requested improvements for 55 ERDF/CF or ESF managing authorities out of 441 cohesion policy programmes and for 10 audit authorities (or their control bodies) out of 116 (in charge of auditing less than 4% and 7% of ERDF/CF and ESF/YEI/FEAD expenditure, respectively).

Evolution of the assessment of EMPL and REGIO management and control systems (2018-2023)





With this approach the Commission intends, when necessary, to request improvements from the programme authorities concerned, apply proportional, targeted and legally justified financial corrections for past expenditure and avoid the recurrence of such errors by the same programme for the future.

Residual error rates linked to assurance packages audited by ECA in 2023

For the accounts accepted in 2023, the Commission validated in the 2023 AARs published in 2024 a residual error rate:

- below materiality (including in some cases after adjustments without a material impact) for 271 REGIO programmes[3] (85%) and 179 EMPL programmes (83%), and

- above materiality for 48 REGIO programmes (15%) and 36 EMPL programmes (17%). These programmes with a residual rate above materiality represent a relatively stable proportion of cohesion policy programmes.

For these programmes with a re-calculated residual error rate above 2%, including for cases reported by the ECA (§6.46), when the Commission considers it is legally possible, it has to apply additional financial corrections so that ultimately the 'risk at closure' for all 2014-2020 programmes is below the materiality threshold. Currently, based on the additional corrections required for the accounting year under assessment by the ECA and the Commission AARs, the Commission estimates the 'risk at closure' to be 1.3%. For all previous accounting years, based on the additional audit work and additional financial corrections requested by the Commission and accepted by the concerned programme authorities, the risk at closure is confirmed to be below 2%. This reflects cohesion policy's multiannual corrective capacity mechanism.

The Commission notes that out of the sixteen assurance packages audited by the ECA this year with residual error rates re-calculated by the ECA above 2%, the Commission had already adjusted ten of them above 2% (§6.45), and considers that several re-calculations made by the ECA are partly attributable to differences in the assessment of some errors (see above section II.1 of the Commission reply).

The Commission continues to work closely with audit authorities to ensure a common understanding of the common legal and implementation framework, and with the ECA to clarify possible different interpretations.

Reliability of the work of audit authorities

The Commission takes note of the conclusions of ECA this year which are in line with previous years (§6.50). The Commission assesses the effectiveness and reliability of the work of an audit authority based on different aspects, the error rate (as used by ECA, see figure 6.8) being one of them. For example, some errors previously not detected by the audit authorities, even if they affect the recalculated error rate in the reporting year, do not necessarily point to a systemic weakness in the work of the audit authority concerned.

Considering these criteria, the audit evidence the Commission has collected, including the ECA's results this year, the Commission assesses the effectiveness of audit authorities' work to be similar to the one reported in previous years. It will continue to require improvements from the concerned audit authorities where its own or the ECA's audits detected weaknesses of varying importance (see §6.51 and figure 6.9), including for the ten audit authorities where the Commission reported significant issues in the AARs.

Regarding the Hungarian case described in Box 6.9, the flat-rate financial correction applied as a result of the Commission audit included staff qualifications, salary increases and hours worked by managers. Carrying out additional verifications on the salary aspects covered by the flat rate would not have led to additional or different corrections. The audit authority verified all other aspects of regularity and legality on the impacted expenditure items, as per its obligations (for example over-declaration of personnel costs that was not covered by the flat-rate correction). The Commission

[3] Funded under the ERDF, Cohesion Fund or with the support of the Instrument for Pre-Accession (IPA-CBC) or the European Neighbourhood Instrument (ENI-CBC)

therefore considers that the risks for the expenditure concerned have been appropriately addressed by the audit authority. .

The Commission also notes the example of 'good practice' checks identified by the ECA in Box 6.10 and its positive impact on the audit trail. It will take this example into consideration for its exchanges of good practices within the audit community.

3. Review of management and control of 2014-2020 cohesion policy

The Commission notes the ECA's overall conclusion that the 2014-2020 assurance framework contributed to a reduction in the overall error rate compared to 2007-2013 period and offered several tools to the key actors of the management and control systems under cohesion policy to ensure the protection of the EU budget. However, not all programme authorities have been able to prevent and/or detect errors in certain cases. In view of further strengthening the implementation of the assurance framework for 2021-2027 cohesion spending, the Commission will continue to work in close collaboration with programme authorities to refine management and control systems and tackle the root causes of errors. This will be done through specific actions such as the continuous monitoring and analysis of errors, the promotion of less error-prone simplified cost options and financing not linked to costs. The Commission will further promote the use of data mining and risk-scoring tools such as Arachne, as well as artificial intelligence-based methods. Overall, this should enhance the capacity to detect irregularities, fraud suspicions and possible conflicts of interest.

4. The Commission's assurance work and reporting of residual error rate in its annual activity reports

Concerning the ECA's assessment that at the end of the period not all systems function effectively (§6.59), the Commission refers to its own assessment for managing and audit authorities based on all audit results available, including system audits carried out systematically on programme authorities each year. When deficiencies are identified leading to ineligible expenditure, financial corrections are implemented, as illustrated under the Spanish example in Box 6.11. Following individual irregularities detected by ECA in its 2021 annual report, the Commission requested the programme authorities to apply a systemic correction of EUR 50 million. With the further work carried out by the managing authority based on the ECA and EC work, over EUR 103 million were corrected in this specific case, showing that vigorous action is being taken. The additional finding raised by the ECA in this year's annual report refers to a different issue (verification of NEET status – "Not in Education, Employment, or Training" under the national law) than the one covered by the previous financial correction. Moreover, this finding is contested by the Member State.

When serious weaknesses identified affect the work of audit authorities specifically, the Commission does not rely on the reported error rates, carries out its own re-performance work or quantifies the risks using flat rates, as reflected in the risk at payment and maximum risks reported in the AARs and AMPR that the Commission therefore consider as fairly reflecting the situation on the ground.

The Commission has designed its assurance system to allow the Directors-General of EMPL and REGIO to provide assurance individually on each of the 441 programmes under cohesion policy, as per their obligation as authorising officers by delegation.

Based on this detailed and programme-by-programme assessment and aggregated residual total error rate (risk at payment) for the funds they manage, the Directors-General were able to conclude in their respective AARs that material irregularities (ERDF and Cohesion Fund) or a risk of material irregularities (ESF/YEI) remain in the expenditure certified to the Commission for those funds in the accounts accepted in 2023 (§6.63). They were also able to identify which (parts of) programmes present serious deficiencies (see for example annex 7.B of the AARs and above section I of this Commission reply) and for which corrective actions were requested, and reported on the financial corrections taken to follow up on previous years' detected irregularities (see Box 6.11 as an example provided about the Commission's action taken when deficiencies are identified by an audit).

The Commission reported in detail in the AARs the programmes for which audit results point to the need for potential additional financial corrections, based on a thorough and robust methodology applied for each programme. To address the ECA's observation on the inherent limitations of desk reviews in confirming the residual error rates, when these are not complemented by re-performance work, the Commission calculates a maximum level of the risk at payment that takes into account all pending information still under validation, as well as a risk 'top-up' for programmes which have never been audited by the Commission itself or for which prior audits revealed certain irregularities that could be repeated to non-audited programmes. The Commission is therefore confident that its KPI calculations including the maximum risks, which take account of the ECA's results without extrapolation but after assessing carefully if other programmes could be affected, present a fair representation of the reality on the ground, taking into account the risks identified for each programme.

Concerning the ineligible way of declaring costs by a beneficiary in a German programme (see §6.64 and Box 6.12), the Commission had provided specific recommendations to the Member State at the end of the previous programming period but notes that the Member State and the specific beneficiary did not follow them appropriately under the 2014-2020 programme(s). The Commission has planned an audit ahead of closure to analyse the possible extent of the ECA's finding to this and possibly other German programmes.

Finally, as far as closure of the 2014-2020 period is concerned (§6.65-§6.69), following the IAS audit on preparedness for closure, the Commission clarified that verification of the legality and regularity of expenditure may continue after the payment of the final balance of the last accounting year. Such assurance on the legality and regularity of underlying expenditure in the accounts can only be obtained once the Commission has assurance that the confirmed residual total error rate per programme does not exceed 2% for each accounting year, including the last one, and that all identified irregularities and risks were appropriately addressed by the programme authorities over the lifetime of the programme. This may entail compliance audits on expenditure of the last accounting year and/or following-up on any open issues for each programme, such as on-going payment interruptions, suspensions or financial corrections, stemming from previous audit work.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up of previous years' recommendations

The Commission **systematically follows-up on all the accepted recommendations** issued by the ECA in its Annual Reports. Concerning past ECA's recommendations reported in Annex 6.2 of the 2023 Annual Report, the Commission considers that it **has implemented all the accepted recommendations** as far as it could act (see for example recommendations 5.2 in Annual Report 2020 and 6.6 in Annual Report 2022) and provided the ECA with an extensive overview of the different steps it has taken towards their implementation.

With regard to the **recommendation 5.6 on the reporting of Rule of law** procedures against Member States issued in the 2021 Annual Report, the Commission recalls that the recommendation was rejected. Nevertheless, the Commission provides a relevant update of the situation in its AMPR and respective AARs, as appropriate.

Recommendation 6.1 – Follow-up weaknesses in member states' management and control systems

(a) Follow-up in a timely manner all weaknesses in the member states' management and control systems we identified and reported on in the context of our statement of assurance exercise for the outgoing 2014-2020 period.

(b) Identify, together with the audit authorities, the key lessons learnt in the follow-up under point (a) and apply them to the arrangements for the 2021 2027 period, and communicate the actions needed and supporting best practices to the member states' programme authorities.

(Target implementation date: December 2025)

The Commission **accepts** the recommendation.

The Commission will continue to work with the concerned Member States and programme authorities to follow-up in a timely manner the required improvements in management and control systems when its or ECA's 2023 statement of assurance audits pointed to specific system weaknesses or deficiencies, using all legal tools at its disposal as necessary (interruptions, suspensions, financial corrections).

Specifically in relation to varying deficiencies identified in ECA's 2023 audits for some audit authorities, in the framework of the regular technical work meetings the Commission has with audit authorities (in particular in the 2024 Homologues Group meeting, an annual gathering of the high-level representatives of the audit community with the Commission in October 2024), the Commission is organizing a session targeted to the follow-up of the identified weaknesses and errors not detected by the audit authorities. The outcome will be an action plan to feed into the 2021-2027 work of audit authorities. This will also be a source of information for the Commission's risk assessment when preparing its subsequent audit plans. Moreover, the Commission compliance audits in 2021-2027 will systematically include in the audit scope identifications of gaps in the used audit checklists (including for issues spotted by the ECA), as part of the assessment of Key requirement 11 on management and control systems. The Commission will continue to encourage the sharing of best practices within the audit community and it will report on the implementation of the action plan in the AARs.

Recommendation 6.2 – Harmonised treatment of public procurement errors under direct and shared management

Establish a harmonised treatment of public procurement irregularities for projects financed under both direct and shared management, such as projects financed by both CEF and ERDF. Irregularities resulting from the breach of the same legal provisions should lead to the same assessment and correction rate.

(Target implementation date: December 2024)

The Commission **does not accept** this recommendation.

In the specific case analysed by ECA, the responsible authorising officer for the CEF grant found that the amendments to the public procurement contract did not amount to a breach of obligations under the grant agreement signed with the beneficiary. Therefore, no corrective measures could be applied.

Even when applying similar frameworks under shared and direct management programmes for the assessment of possible irregularities, decisions by authorising officers and national authorities alike require an element of discretion which may lead to different outcomes.

However, in any other situation where an authorising officer for a directly managed programme does identify a breach of obligation, they can take measures on the basis of the provisions set out in the relevant grant agreement. Firstly, the affected costs could be rejected. In addition, the authorising officer could impose a reduction on the total grant amount up to 100% of the total grant amount in the case of substantial errors, irregularities or fraud or in the case of serious breach of obligation.

An updated guidance document[4] on how such grant reductions can be imposed was published in 2024. Therefore, the Commission already has a robust system to impose corrective measures on a beneficiary where the authorising officer has identified a breach of obligation. However, due to the obligations on the responsible authorising officers under shared management and under direct management stemming from the specific nature of each respective grant agreement they signed with the beneficiary, it is not possible to ensure that corrective measures will be the same in all cases.

Recommendation 6.3 – Address financial risks while checking that performance targets are achieved

Ensure that member states establish a process to systematically check the fulfilment of contractual obligations after payment, by which the beneficiary has committed to achieve performance indicators linked to actions taking place following project implementation.

(Target implementation date: At the time Member States submit OP closure documents and by March 2026 at the latest)

[4] https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/guidance-on-grant-reductions_en.pdf

The Commission **accepts** the recommendation.

The Member States have the obligation in first instance to systematically check that beneficiaries apply grant obligations effectively. They will report to the Commission on the effective fulfilment of the performance framework based on aggregated data from individual operations at programme level in each final implementation report at closure. The Commission will systematically assess these final implementation reports at closure taking account of any available audit results, e.g. about the durability of operations or whether programme authorities verified, even after the end of the implementation period, that operations contributed to the programme indicators, as planned. The audit authorities are also required to confirm at closure, based on their audits, that the data performance indicators, reported in implementation reports at closure, are reliable. In this respect, the related Commission audit checklists for thematic audits on the preparedness for closure include specific, targeted questions on such issues and have been transparently shared with all CPR audit authorities.

Recommendation 6.4 – Ensure sound preparation ahead of 2014-2020 closure

Elaborate detailed closure procedures addressing the risks identified in our annual reports, by:

(a) setting up a closure monitoring system to trace the status of all 2014-2020 OPs, the amounts closed during the year and cumulatively, the amounts still open, and the actions still pending for closure; and

(b) disclosing this information in the AARs.

This information on 2014-2020 closure should also contain the decommitment of outstanding funds in the Commission's accounts.

(Target implementation date: June 2025)

The Commission **accepts** the recommendation.

With respect to the target date for this recommendation, the Commission stresses that with the new deadline to submit the closure documents following the STEP amendment to the CPR, the Commission may receive the closure documents for many programmes only in February 2026, meaning also that potential de-commitments at closure for the programmes concerned will be done as from 2026.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 7: NATURAL RESOURCES AND ENVIRONMENT

I. THE COMMISSION REPLIES IN BRIEF

The Multiannual Financial Framework (MFF) heading 3 "Natural resources and environment" covers EU spending on the common agricultural policy (CAP), the maritime and fisheries policy (EMF(A)F) and the LIFE programme for environment and climate action.

The Common Agricultural Policy (CAP), accounting for most of the spending under this heading, is a genuinely European policy as Member States pool resources to operate a single common policy with a single European budget. The CAP objectives, as set out in the Treaty and the CAP regulations, are: to increase agricultural productivity; to ensure a fair standard of living for the agricultural community; to stabilise markets; to assure the availability of supplies; to ensure that supplies reach consumers at reasonable prices.

With 6.2 million beneficiaries in financial year 2023, the CAP is implemented under shared management through a comprehensive management and control system. The robust assurance model of the CAP includes the first level controls by the paying agencies, the audit work carried out by the independent certification bodies and the Commission's own work through the clearance of accounts.

The Commission welcomes the ECA's conclusion that Direct Payments remain free of material error, confirming thus again the important role played by the Integrated Administration and Control System (IACS), including the Land Parcel Identification System (LPIS), in preventing and reducing the level of error. The Commission takes note of the level of error estimated by the ECA for the MFF Heading 3 as a whole (§7.39). The Commission's own estimate of the risk at payment for the CAP, as presented in the Annual Activity Report (AAR) of DG AGRI, remains below the materiality level and stable over the years. This is particularly relevant considering that financial year 2023 (claim year 2022) was the last year of implementation of the CAP under the 2014-2022 legislative framework and this stable trend in the level of error, together with the well-functioning CAP governance bodies, pave the way for the implementation of the CAP 2023-2027 under its new performance-based model.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. Regularity of transactions

Results of transaction testing

The Commission takes note of the level of error estimated by the ECA at 2.2% for the MFF heading 3.

Direct payments

The Commission welcomes the ECA's assessment that direct payments continue to remain free of material error. In the case of four quantifiable errors, payments were affected by an erroneous calculation of the payment entitlements for claim year 2022. The member state's authorities had already identified the over-payments before the ECA's audit and the Certification Body has included these findings in its annual report and opinion (see also DG AGRI's AAR, Annex 7). The Commission will also follow up the situation via its own audit work, ensuring that the EU budget is duly protected.

2. Annual activity reports and other governance arrangements

DG AGRI and DG ENV reporting on the regularity of spending

Certification Bodies have been delivering an opinion on legality and regularity of expenditure for nine years now. Thanks to capacity building actions by the Commission (issuing of guidelines, regular expert group meetings), their reports contain sound, substantial and valuable information on the legality and regularity of expenditure. This information is examined in detail by DG AGRI and was the basis for the calculation of DG AGRI's adjusted error rate for financial year 2023. **The Commission further stresses that, as a result of all corrective actions for the CAP (estimated at 1.34%), the final amount at risk (risk at closure) for the CAP in 2023 is estimated at 0.53%, as presented in DG AGRI's AAR 2023.**

The **Commission** welcomes the ECA's observation that DG AGRI's and DG ENV's methodology for the calculation of the final risk at payment (or at closure) continued to be in line with the Commission guidelines.

The Commission's Annual Management and Performance Report (AMPR)

In the AMPR, the Commission uses the risks at payment disclosed by the DGs in their AARs which correspond to their best estimate of the level of error in the expenditure made, following a careful and structured quality review.

Overall, the Commission reports a non-material risk at payment for Heading 3 "Natural resources and environment", based on hundreds of thousands of checks carried out every year by the Member States, following their carefully established control strategies, tailored to the specificities of the Funds, as well as the audits by the Certification Bodies and the Commission. With its detailed approach, the Commission is able to identify the specific parts of the programme population that are most likely to be affected by errors, to clearly identify the areas where the improvements are needed, to apply financial corrections where appropriate and to give a differentiated view of the level of error across the payments made. Based on the work carried out, the Commission considers that the risk at payment presented in the AMPR for Heading 3 “Natural resources and environment” is representative of the level of error.

Information collected on new performance reporting systems

The Commission takes note of the ECA’s observations as regards the performance reporting systems. Between June 2023 and March 2024, the Commission has also performed four pilot preventive IT audits on the new performance reporting systems. The goal of these pilot audits was twofold: assessing the status of implementation of the IT systems for the performance reporting (focusing on the design and architecture of the systems, data processing – collection of the input data, calculation of the indicators and production of the performance report, and information security) and developing an audit methodology to provide guidance to the Certification Bodies for their annual audit work regarding the IT systems for the performance reporting and the annual performance report.

Based on the work carried out so far, the Commission’s observations are similar to those of the ECA on the challenges posed by the development of the performance reporting systems. However, in the Member States covered by DG AGRIs pilot preventive IT audits, the national authorities expressed more confidence in meeting the deadline (for financial year 2023 in particular) and did not indicate the possibility of using alternative solutions for reporting in case of delays.

To further mitigate the risks associated with the newly established IT systems for the performance reporting, DG AGRI will continue performing IT audits on these systems in 2024 in four other Member States.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up of previous years recommendations

The Commission welcomes the ECA’s assessment that the recommendations 6.1 and 6.2 (the part related to the audit of measure 21), due for implementation by end of 2023, have been implemented in full.

Recommendation 7.1 – Examine the effectiveness of national arrangements for capping EU support to large farms

Given the responsibility of member states for targeting income support to those who need it most, examine the effectiveness of member states’ measures for limiting direct payments for large farms.

(Target implementation date: 2025)

The Commission **accepts** this recommendation. The Commission will analyse the contribution of the different instruments to a better redistribution and targeting of direct payments, including capping, in the framework of the preparation of the Commission proposal for the CAP post 2027.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 8: MIGRATION AND BORDER MANAGEMENT – SECURITY AND DEFENCE

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes the European Court of Auditors' conclusions that the establishment of the thematic facilities for the 2021-2027 Multiannual Financial Framework and the implementation of the allocation methodologies was compliant with the requirement of the relevant regulations. It also notes the reporting of the efforts made in preparation of the 2021-2027 MFF and that the Audit Authorities visited are satisfied with the support provided by the Commission.

The Commission is committed to continue its efforts in the areas where shortcomings have been identified in order to reduce the risk of errors in the future.

With reference to paragraph 8.19, the Commission considers the expenditure for migration, border management, security and defence to be a low-risk expenditure[1]. The Commission's estimate for the risk at payment is below 2% of the expenditure and is based on all the controls and audits[2] carried out by the Commission and the Members states, with numerous transactions tested.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

Regarding the observation in §8.6 that significant amounts remained undeclared by member states (18% for Asylum, Migration and Integration Fund (AMIF) and 25% for the Internal Security Fund (ISF)) the Commission would like to inform that, by end of May 2024, after the finalisation of the audit work, the undeclared amounts for AMIF are at 11% and for ISF at 9 %.

1. Regularity of transactions

Regarding the examined transactions which were affected by errors (§ 8.8), the Commission engages itself to address the issues identified, reinforcing guidance where required to reduce the number of errors in the future.

[1] AMPR 2024: Volume II, Annex 2, Section 2.1.2

[2] Indicatively, at the end of 2023, the audit coverage for direct management, reached 25% of the expenditure under 2014-2020 programming period.

Reply to Box 8.1

Essential supporting documents missing

The AMIF project under shared management in the United Kingdom illustrated by the ECA in Box 8.1. consisted of providing security services and flights to facilitate the removal from the United Kingdom of third-country nationals (TCN) who no longer had the permission to stay.

The UK authorities consider the end of job report as a sufficient supporting document on whose basis the TCN is considered removed from the national territory.

The Commission considers that sufficient evidence was provided such as the end of job reports with detailed information on the location, date and time to demonstrate the occurrence of the facts that generated the expenditure to complement existing airplane tickets.

Reply to Box 8.3

Inconsistent application of award criteria and EU support to projects beyond required level for dual use

The Commission does not share the assessment presented in Box 8.3 and considers that the proposal included the information necessary to demonstrate how the adaptation would allow compliance with dual use.

The railway bridges were at the end of their lifetime and were mostly classified under Category 4, meaning that they were presenting severe damages/deficiencies. The Commission considers that the application demonstrated well that a replacement was necessary to avoid operational restrictions.

The Commission notes that the evaluation duly checked all eligibility criteria including the compliance with the axle load requirement based on the information provided in the application. Furthermore, the evaluation was conducted in accordance with the evaluation and award procedure applicable to the call.

The Commission considers that the Commission Implementing Regulation 2021/1328 does not set a ceiling for the load capacity, but a minimum, and a recommended value. Article 12.1.d of the CEF regulation 2021/1153 states that costs should be eligible up to the level of costs corresponding to the level of requirements necessary for dual use. The effective requirement for a given piece of infrastructure has to be appreciated on a case-by-case basis. In the specific case, the Commission considers that expenditure for this infrastructure was eligible.

Reply to Box 8.4

Issues related to reimbursement of VAT declared by public bodies

The ECA refers in box 8.4. to an AMIF project under shared management in Hungary, where non-recoverable VAT was declared by the beneficiary and paid by the Commission.

The Commission takes note that the eligibility of the VAT declared is not put into question. In the 2014-2020 MFF, the Commission encouraged Member States to review their arrangements in light of the ECA’s past observations and recommendations.

Hungary considered that both EU and national legislation were correctly applied and that the VAT treatment also fulfils the requirement of sound financial management.

2. Examination of elements of internal control systems

The Commission welcomes the ECA conclusions that the establishment of the thematic facilities for the 2021-2027 MFF and the implementation of the allocation methodologies was compliant with the requirement of the relevant regulations.

The Commission also welcomes the reporting by the ECA of the efforts made by the Commission in preparation of the 2021-2027 MFF and that the Audit Authorities visited are satisfied with the support provided by the Commission.

The Commission will continue to support to Member States' authorities in the 2021-2027 MFF and in the transition to the Common Provisions Regulation.

3. Annual activity reports and other governance arrangements

Regarding the examination of the Annual Activity Report's statement of assurance (§8.18), the Commission recalls that the Director General's declaration of assurance is based on the examination of several pieces of information from multiple sources ensuring its reliability (self-assessment, ex post controls, Internal Audit Service and ECA reports).

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up of previous years recommendations

In relation to the follow-up of recommendations issued in the 2021 ECA Annual Report:

- the implementation of the recommendation on audit trail and procurement was completed at the end of June 2024, after the ECA had finalised its audit work. A webinar with Member States authorities to remind them of the need to comply with public procurement and audit trail rules was organised by the Commission on 10 June. The webinar pointed at the most common weaknesses identified in those areas by both ECA and Commission's audits.

  The Commission organised a conference on 25 June 2024 bringing together all the beneficiaries of projects financed by DG HOME funds over the last two years, as well as managing and audit authorities from the Member States. A specific session was dedicated to eligibility of costs.

- In relation to the recommendation on eligibility of project costs for emergency actions under direct management, its implementation is being delayed, as it has been decided to address it together with the implementation of a similar recommendation issued in the ECA Annual Report for 2022 to better target checks on project cost eligibility in relation to Union actions. This will ensure a coherent approach to actions directly managed by DG HOME.

Recommendation 8.1 – Provide further guidance to Member States on applicable rules

Provide further guidance to the Member State authorities responsible for implementing DG HOME funding via shared management on adhering to:

(a) the rules for retaining appropriate supporting documentation that can be presented in the event of checks or audits;

(b) the obligation to comply with the national and EU rules on transparency and equal treatment when awarding grants following open calls for proposals.

(Target implementation date: end of 2025)

The Commission **accepts** this recommendation.

In relation to point a) the Commission has taken action to implement it, inter alia by the organisation of an ad-hoc webinar on 10 June 2024 focused on public procurement rules but also on audit trail. The obligation to retain appropriate supporting documentation that can be presented in the event of checks or audits was covered, and examples of most common cases of irregularities identified by both the Commission's and ECA audits were illustrated.

In relation to point b), the Commission will organize a session with Member State authorities responsible for implementing DG HOME funding via shared management in order to remind them of the obligation to comply with the rules on transparency and equal treatment when awarding grants, following open calls for proposals.

Recommendation 8.2 – Verify technical aspects of projects before awarding grants

Carefully check and document the technical aspects of military mobility grant applications to the Connecting Europe Facility during the grant award procedure. In particular, identify whether dual-use infrastructure projects meet the eligibility conditions and ensure that EU financial support does not exceed the level of requirements necessary for dual use.

(Target implementation date: end of 2025)

The Commission **does not accept** this recommendation as the current processes already check whether dual-use infrastructure projects meet the eligibility conditions.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 9: NEIGHBOURHOOD AND THE WORLD

I. COMMISSION REPLIES IN BRIEF

The Commission takes note of the ECA findings for this chapter and is committed to implementing the appropriate remedial actions where necessary. The Commission welcomes the examples of effective controls implemented by the Commission reported by the ECA. The Commission also notes that the ECA assessed four of five recommendations it issued in its 2021 and 2022 annual reports as fully implemented, and one as implemented in some respects.

Concerning some observations on the regularity of the audited transactions, the Commission provides clarifications on the errors reported in this chapter of the Annual Report. The Commission considers the errors on clearing of pre-financing to be of a temporary nature, as any over-clearing of costs is adjusted with the final acceptance of costs. For this reason, this type of error will not lead to a recovery.

The Commission further clarifies that it divides expenditure into segments with different levels of risk: low risk (below 2%), medium risk (between 2% and 2.5%) and high risk (above 2.5%). In 2023, the Commission assessed expenditure of the MFF heading 'Neighbourhood and the World' as "medium risk" for the segment corresponding to direct management grants only. The Commission assessed the other segments as being low risk. In 2023, the residual error rate for the whole chapter remains below the materiality threshold of 2%. The assessment of the levels of risk is done according to the Commission's methodology and is disclosed in the Commission's 2023 Annual Management and Performance Report (AMPR)[1].

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. Regularity of transactions

The Commission considers the errors on clearing of pre-financing to be of a temporary nature, as any over-clearing is adjusted with the final acceptance of costs. The corrective capacity of the Commission has not been exhausted when the ECA audits the sampled payments, since controls will still take place, including audits before and after closure of contracts.

However, to address the observations stemming from the Statement of assurance of previous years and reduce these temporary errors, the Commission has already requested its partners to review the reporting templates, to allow for easier identification of incurred expenditure. The Commission keeps raising awareness on this matter also during meetings with partners.

[1] Annual management and performance reports (europa.eu)

Reply to Box 9.1

Contribution not compliant with legal basis for financing not linked to costs

DG INTPA

In relation to the second finding of Box 9.1 related to the contribution agreement signed with an international financial institution, the Commission is of the opinion that the legality of the EU contribution in the form of Financing Not Linked to Costs (FNLC) and the conditions for the payment of the EU financing were in line with the rules in force under the Financial Regulation and the Internal Rules of the Commission for implementing the Budget.
More specifically, in the case at hand, the Commission does not share the ECA's view that results must be achieved before any payment can be made. The use of 'financing not linked to costs' which, as such, constitutes a form of Union contribution, has been authorised, in line with Article 125(1)(a)(ii) of the EU Financial Regulation, based on the achievement of results defined within the results' framework of the initiative. Further the Commission considers compliant with Article 181(4) of the EU Financial Regulation the payment of the Union contribution in the form of 'financing not linked to costs' which has been triggered by the signature of the corresponding agreement with the international finance institution.

Excess clearing in relation to costs not incurred

DG NEAR

For the example described in Box 9.1 the Commission considers that one of the projects under the contract could not be completed. The international organisation proceeded to a negative booking of EUR 925 873 from the audited agreement to another agreement that financed the previous phase.

After the negative booking, the related expenditure no longer represented costs incurred under the audited agreement. The accounting operation for this booking took place after the end of the reporting period.

The organisation reflected the operation in its accounting system but did not include it in its annual report to the Commission, as the reversal booking happened in the time window between the end of the reporting period and the date of issuance of the report The Commission considers that any event after the reporting date affecting the reporting period should be disclosed to the Commission in the subsequent report. Consequently, the organisation did notify the Commission of the accounting operation carried out and of the financial consequences of such operation at a later stage.

The Commission considers that no amount in excess was cleared and the invoice worth EUR 11.8 million correctly reflected the reported data at the end of the reporting period.

Reply to Box 9.2

Incorrect allocation of shared costs

DG NEAR, DG INTPA

The Commission is aware of these [five] cases of implementing partners applying incorrectly the methodology for allocation of shared costs. When these errors are detected, the Commission takes the necessary corrective measures.

Reply to Box 9.3

Fuel purchased for more than the average published price

DG ECHO

The Commission would like to point out to the complex context of the market of fuel products in the concerned region of an African country, characterised by several factors, including the availability and quality of fuel, the fluctuation of the local currency and the resulting price volatility. These circumstances contributed to the discrepancies identified by the auditors between the average published prices and the amounts spent by a beneficiary of EU funds.

When comparing the fuel prices contractually agreed between the beneficiary and the supplier and the average prices reported by the National Bureau of Statistics for the duration of the agreement, the Commission concluded that the average price per liter paid was 24% and 7.4% higher than the average prices reported for Petrol and Diesel respectively.

2. Examination of elements of internal control systems

Reply to Box 9.5

Insufficient budget for field monitoring visits

DG NEAR

The Commission clarifies that monitoring visits are organised regularly, under the existing budgetary allocations and according to the needs: not all projects require the same type and intensity of monitoring, and the Commission has other monitoring approaches that do not require on the spot visits by its own staff, such as results oriented monitoring and third-party monitoring (monitoring done by third parties selected by the Commission when the staff of EU Delegations are not in the country, i.e. for security reasons, or when monitoring sensitive policy areas that require confidentiality for protection of vulnerable beneficiaries).

Reply to Box 9.6

Shortcomings in the functioning of a component of the OPSYS IT ecosystem

DG INTPA

The audit refers to the functioning of a component of the OPSYS IT ecosystem, the access management tool. This is a reusable component owned by another Commission Department and is used in many systems to manage roles and access rights in these systems.

Following the Court of Auditors report, the procedure in place in DG INTPA for managing access rights has been formalised.

Concerning the finding of the Court that four users had an unneeded access right, the Commission agrees for three of them and the issues were fixed.

Regarding the management of administrator accounts from other DGs, the existing working arrangement will be formalised.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up on previous years' recommendations

To address recommendation 1 of the ECA 2020 Annual Report, the Commission intensified communication with international organisations to raise awareness on the need to ensure that ECA auditors obtain access to documents when auditing EU funded projects.

The Commission took many steps in this respect: the Commission has facilitated discussions between the United Nations organisations and ECA and supported all initiatives to find permanent solutions on access to and retention of documents. The issue is regularly included on the agenda of meetings with partners, including the formal meeting of the EU-UN FAFA group and the more operational Joint Reference Group which discusses systematically audit and control issues.

However, the Commission acknowledges that that despite all the efforts, some constraints regarding access to documents persist due to the existing legal frameworks of the implementing partners, which are not expected to change in the near future. The Commission will continue to provide support to the auditors and engage with the partner organisations to facilitate ECA audits.

As for all the other recommendations mentioned in Annex 9.2 of the chapter, the Commission welcomes the conclusion these recommendations were fully implemented.

Recommendation 9.1 Take measures to improve control systems for the clearing of pre-financing

Before clearing pre-financing paid to organisations implementing contracts under indirect management, obtain detailed information on any pre-financing that these organisations, in turn, have paid and included in their claimed expenditure.

Target implementation date: end of 2026

The Commission **accepts** this recommendation and will reinforce ex ante controls, guidance and reporting requirements.

Recommendation 9.2 Provide beneficiaries with guidance on the allocation of shared costs

Provide beneficiaries with guidance to ensure that they base their allocation of shared costs on the actual use of funds for each EU-funded project.

Target implementation date: end of 2026

The Commission **accepts** this recommendation.

Recommendation 9.3 – Ensure compliance with visibility rules

Strengthen controls to ensure that organisations implementing contracts under indirect management comply with visibility rules.

Target implementation date: end of 2026

The Commission **partially accepts** this recommendation.

The Commission is of the opinion that adequate controls are in place and that there is no need to further strengthen them. However, the Commission is aware that errors related to compliance with visibility rules occur, especially with international organisations, and is committed to address this issue. To enhance compliance with the existing rules, the Commission keeps raising awareness about the existing requirements for communication and visibility with organisations receiving EU funds. New communication and visibility guidelines for external actions were published in June 2022 and they apply to external actions. Moreover, the Commission is currently revising the EU/UN joint communication and visibility guidelines, which take into account the lessons learnt. These guidelines and the communication activities related to their launch are expected to produce positive results. Hence, the controls carried out by Commission staff are expected to identify lower levels of errors.

Recommendation 9.4 – Make sure sufficient field monitoring visits by EU delegations take place

Make sure sufficient field monitoring visits by EU delegations take place.

Target implementation date: end of 2026

The Commission **does not accept** this recommendation.

Monitoring visits are organised regularly, under the existing budgetary allocations and according to the needs: not all projects require the same type and intensity of monitoring, and the Commission has other monitoring approaches that do not require on the spot visits by its own staff, such as results oriented monitoring and third-party monitoring.

Considering the budget constraints imposed on the Commission which also affect the availability of staff in EU Delegations, the Commission cannot commit to implementing this recommendation by increasing human and financial resources dedicated to a higher number of field monitoring visits.

Recommendation 9.5 – Enhance the monitoring and steering mechanisms for blending operations

Enhance the monitoring and steering mechanisms for blending operations in order to mitigate the risk of delays in the implementation of actions.

Target implementation date: end of 2026

The Commission **accepts** this recommendation. The Commission plans to enhance the existing monitoring and steering mechanisms through reinforcement of the role of EU Delegations vis-à-vis the International Financial Institutions, so that they can supervise the blending projects as appropriate.

Европейски парламент Parlamento Europeo Evropský parlament Europa-Parlamentet Europäisches Parlament Euroopa Parlament Ευρωπαϊκό Κοινοβούλιο European Parliament Parlement européen Parlaimint na hEorpa Europski parlament Parlamento europeo Eiropas Parlaments Europos Parlamentas Európai Parlament Parlament Ewropew Europees Parlement Parlament Europejski Parlamento Europeu Parlamentul European Európsky parlament Evropski parlament Euroopan parlamentti Europaparlamentet

REPLIES OF THE EUROPEAN PARLIAMENT TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 10: EUROPEAN PUBLIC ADMINISTRATION

I. PARLIAMENT'S REPLIES TO THE OBSERVATIONS

1. Regularity of transactions

10.8. As per Article 1 of the "Rules on the use of appropriations from budget item 400" ("Rules 400"), the political groups manage the funds allocated to them in analogical application of Article 62(1)(c) of the Financial Regulation. These Rules themselves replace the "contribution agreements" (as referred to in Article 155(6) of the Financial Regulation).

Parliament's administration is subject to the Financial Regulation and its procurement rules. However, for political groups, and only for them, the Bureau has adopted the Rules 400, which contain a number of specific provisions for procurement procedures taking into account the specific situation of the political groups.

Parliament takes note of the observations of the Court of Auditors (ECA). According to Article 1.4 of the Rules 400, political groups shall be responsible to the institution for the management of appropriations. They shall ensure that the appropriations are managed in accordance with the Rules 400.

Parliament's administration has made continuous efforts to assist political groups with the aim to guide their respective financial management knowledge and capacity, as it was the case during the training session provided on 30 November 2023 on this subject. Customised advice on general questions and on individual cases is always provided by Parliament's competent services upon request of the political groups. Parliament's administration will continue to provide guidance to political groups.

10.9. Parliament takes note of the observations of the ECA.

With a view to avoiding cases of insufficient coordination between the administration and the political groups in the future, guidance will be improved. These procedural measures will be complemented by training provided to the relevant stakeholders.

10.10. Parliament takes note of the observations of the ECA.

Political groups are responsible for documentation and proper formalisation of procedures. However, Parliament's administration will continue to provide individual advice and appropriate training to them.

10.11. Parliament takes note of the observations of the ECA.

Parliament will continue to perform verifications and provide guidance to all European political parties and foundations in the field of procurement, including internal procedures and avoidance of conflict of interests. A specific training was provided by Parliament to political parties in July 2023 and information meetings take place twice a year.

10.12. Parliament takes note of the observations of the ECA.

Corrective and documented measures have already been put in place. This new procedure shall be applicable for future procurement procedures.

2. Supervisory and control systems

10.19. Parliament takes note of the observations of the ECA.

Parliament concurs with the Court's conclusions on the need for harmonising and professionalising *ex-ante* controls across all Directorates-General (DGs) and services.

In order to increase the standardisation of *ex-ante* control procedures within Parliament, Parliament's Directorate-General for Finance will create a forum for *ex-ante* verifiers, implement a yearly specific training programme and provide regular guidance.

10.20. Parliament takes note of the observations of the ECA.

Please see reply to paragraph 10.25.

II. PARLIAMENT'S REPLIES TO THE RECOMMENDATIONS

10.24. Parliament agrees to increase its administrative guidance to the political groups on the proper implementation of the funds under Rules 400 and assist the political groups with the aim to improve their internal financial management. In particular, it will further clarify the guidelines on procurement by political groups, as was already the case during a training session that took place on 30 November 2023 for that purpose.

10.25.

"Recommendation 10.1 - Enhancing actions to fight fraud at the European Parliament

The European Parliament should build on its existing actions to fight against fraud by developing an institution-wide anti-fraud strategy and ensuring its application throughout the organisation.

Target implementation date: by the end of 2025"

Parliament **partially accepts** the ECA's recommendation.

In line with the Financial Regulation, the prevention, detection, correction and follow-up of fraud and irregularities are core objectives of each Directorate-General's internal control framework.

Parliament will task its competent services to evaluate its existing actions to fight against fraud and, if appropriate, to develop an overarching framework applicable to Parliament's administration.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 10: EUROPEAN PUBLIC ADMINISTRATION

The Commission welcomes that administrative expenditure remains free from material error.

Regarding the follow-up of the recommendation from the 2020 ECA annual report aiming to improve the Commission's system for managing statutory family allowances[1], the Commission has considerably reduced the risk of error by :

- increasing the capacity of its team checking on staff declarations of allowances ;
- developing a system of automated indexation of amounts declared by staff, in deployment as from June 2024.

This should help in the future to avoid cases of errors in receiving and verifying entitlement to allowances as identified by ECA[2]. Therefore, the Commission considers that the recommendation has been implemented in most respects.

[1] See Annex 10.1, Recommendation 2

[2] See ECA observation 10.15

REPLIES OF THE EUROPEAN COMMITTEE OF THE REGIONS TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 10: EUROPEAN PUBLIC ADMINISTRATION

The European Committee of the Regions (CoR) considers, that clear explanation was provided for economic reasons to extend the duration of this specific building maintenance contract to 10 years and the extension was granted, among others, after cross-checking practices in some other Institutions.

Some more specific and detailed explanation was provided to ECA during 2023 audit process.

As a follow-up to the audit process, the CoR will ask its CoR/EESC joint Public Procurement and Financial Management Unit to issue a service instruction to all joint services asking, among others, to explain more precisely and in more detail such extensions of contract in the future.

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REPLY OF THE EUROPEAN DATA PROTECTION SUPERVISOR TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT
CHAPTER 10: European public administration

Following the detection of the non-quantifiable finding, described as 'Delays in receiving and verifying such declarations increase the risk of ineligible payments', the EDPS established a periodic reminder to staff for declaring related changes, in line with the obligation set by the Staff Regulations to inform the appointing authority of any changes. We also note that according to the Staff Regulations Title II Article 13 on staff allowances, the responsibility for informing the institution of any changes lies with the staff member.

Counter-reply of the European Court of Auditors to the Commission's replies to chapter 11

The ECA is an independent audit institution that carries out its audits in line with international audit standards. In accordance with Article 287(4) TFEU, the Commission, as our auditee, has the right to publish a reply to our audit observations and conclusions.

The Commission challenges aspects of our audit approach and the extent to which our observations are aligned with the applicable legislative framework. We believe that challenging our audit approach is not part of the auditee's right to reply, given the distinct and separate roles of our two institutions.

The Commission provides its view on observations not included in our report, and does not accurately and comprehensively present the underlying elements. We note that the different assessments in all these cases result from a different approach. Our assessment of satisfactory fulfilment is based on the actual wording of the Council Implementing Decision. This ensures a consistent and objective basis for our assessment. In contrast, the Commission assessments are mostly based on interpretations of what the legislator's intention was when drafting the Council Implementing Decisions, and consider information from documents which are not part of those decisions.

The Commission disagrees with our observations. We do not agree with the following considerations advanced by the Commission in its reply:

- The Commission contests our eligibility errors, thereby stating that it cannot overrule the Council to decide that a given measure should not be paid under the RRF. We acknowledge that national plans have been approved by the Council. However, our mandate is to audit EU expenditure following the adoption of the national plans.

- The Commission states that, for the purpose of assessing eligibility, a measure starts when costs are incurred. We believe that the date of the legal commitment is the appropriate start date, as it is this point which establishes an obligation, thus resulting in subsequent payment and the recognition of expenditure charged to the budget.

- The Commission does not share our opinion that milestones and targets should cover all the main elements of the underlying reform or investment, in particular its completion. In our view, this aspect is important in order to ensure that measures are fully implemented.

In our special report 07/2023, we reported on the existence of an assurance gap at EU level regarding compliance with EU and national rules. The Commission argues that the assurance provided by DG ECFIN covers the effectiveness of member states' controls on compliance with public procurement and state aid rules. However, while DG ECFIN's Annual Activity Report refers to Commission assessments of the existence and effectiveness of member states' controls, there is no conclusion regarding their effectiveness. In our view, this represents an important limitation of the scope of the Commission's declaration of assurance. It means that the Commission still does not provide full assurance as to whether RRF expenditure – which the Commission manages directly – complies with the rules.

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' 2023 ANNUAL REPORT CHAPTER 11: RECOVERY AND RESILIENCE FACILITY

I. THE COMMISSION REPLIES IN BRIEF

The Commission acknowledges ECA's chapter 11 concerning the Recovery and Resilience Facility (RRF).

In 2023, the Commission made payments based on the satisfactory fulfilment of a total of 741 milestones and targets. For the Statement of Assurance 2023, ECA has audited all 23 grant payments totalling EUR 53.5 billion. These grant payments were made to 17 Member States and concerned 677 milestones and targets. An additional EUR 32.8 bn was paid in relation to nine loan payments.

Chapter 11 reports that 16 milestones and targets were affected by findings which the ECA considers have a financial impact, covering seven payments in seven Member States. Out of those 16 findings, seven concern ECA's view of the incorrect assessment of satisfactory fulfilment, whilst nine concern ECA's view of 'breach of eligibility conditions'.

The Commission welcomes ECA's work regarding the Recovery and Resilience Facility, including in this statement of assurance process. ECA's work over the years has had a positive impact on the Facility, where (i) the Commission approach to assessment of milestones and targets, (ii) the drafting of proposals for Council implementing decisions and (iii) the Commission's approach to the protection of the financial interests of the Union have benefited from considering ECA's findings and recommendations. The Commission fully respects the autonomous right of ECA to determine scope and methodology of its audits, while maintaining its right to not agree with ECA's observations, including on what constitutes the correct interpretation of EU legislation under the control of the European Court of Justice. In this context the Commission notes that a few areas of different interpretations remain amongst the institutions but will continue its efforts to reduce the scope of such issues going forward, including by clarifying the Commission guidance where necessary.

Having carefully examined the ECA's findings concerning the non-fulfilment of seven milestones and targets, the Commission has come to the conclusion that it has correctly applied its methodology on the satisfactorily fulfilment of milestones and targets[1] and maintains its original assessments of 'satisfactory fulfilment'. It notes that ECA's conclusions that some milestones and targets were 'not satisfactorily fulfilled' are principally based on differences in interpretation of the legal requirements or differences in the qualitative judgement.

Regarding the findings of two different types of 'breach of eligibility conditions'[2], ECA maintains its interpretation of the RRF Regulation that the Commission does not share. For each of these nine

[1] COM(2023) 99 final of 21.2.2023: Communication from the Commission to the European Parliament and the Council - Recovery and Resilience Facility: Two years on – A unique instrument at the heart of the EU's green and digital transformation.

[2] In reference to Article 5(1) of the RRF regulation ("*Support from the Facility shall not, unless in duly justified cases, substitute recurring national budgetary expenditure*") and Article 17(2) of the RRF regulation ("*Measures started from 1 February 2020 onwards shall be eligible provided that they comply with the requirements set out in this Regulation*").

findings, the Commission does not agree with the ECA's assessment and maintains that these measures are in line with the provisions of the RRF Regulation and the Commission guidance. Given these fundamental differences of interpretation, the Commission expects that such findings may continue throughout the lifetime of the RRF. Moreover, these findings have, in the Commission's view, no bearing on the legality and regularity of payments. As expressed in the Commission's reply to the RRF chapter of ECA's 2022 annual report,[3] after the assessment by the Commission of the eligibility of measures during the assessment of the Recovery and Resilience Plans, the Council decides by means of a Council Implementing Decision whether a measure is eligible or not. The Commission cannot overrule the Council at the payment stage as to whether a measure is eligible or not. Finally, on the type of finding 'breach of eligibility condition: substitution of recurring national budgetary expenditure', the Commission notes that ECA does not apply the guidance that was published by the Commission and that it has applied a case-by-case assessment. While the Commission took careful note of the explanations in the clearing letters, it has not been able to translate ECA's case-by-case assessment in generally applicable assessment criteria.

In view of the above, the Commission does not consider that any milestones and targets have been paid erroneously and in line with DG ECFIN's Annual Activity Report[4], the Commission considers that in the 2023 RRF payments there was a low level of risk.

The Commission further notes that, in line with its published methodology for suspensions[5], it would have applied adjustments to the suspended amounts differently to fully take into account the progress in the implementation and/or the importance of the measure, resulting in a lower value considered at error. The Commission also notes that without the findings on eligibility – where the Commission and ECA do not agree on how to interpret and apply the provisions of the Regulation - the financial impact estimated by the ECA would be well below the materiality threshold, and that the seven findings that concern satisfactory fulfilment represent less than 1% of milestones and targets assessed by the Commission. Finally, the Commission notes that ECA has changed the application of its methodology from the Annual Report 2022. The ECA no longer considers no financial impact in all the cases when the milestone or target is satisfactorily fulfilled within 6 months. It notes that this leads to a higher value considered at error.

In sum – and after a very careful analysis of all the findings of ECA – the Commission does not share ECA's assessment that the minimum financial impact is above the materiality threshold.

Regarding the Commission's ex-post audits, the Commission notes ECA's finding that it had updated its audit strategy to reflect previously accepted recommendations from ECA. The Commission also notes ECA's finding that it has not updated this audit strategy to reflect previously rejected non acceptance of recommendations from ECA, where in the Commission's view, the recommendation went beyond what is prescribed by the legal basis. The Commission maintains that it is not in a position to accept recommendations that it considers are counter to the RRF Regulation. Given ECA's position, the Commission expects that such findings may continue throughout the lifetime of the RRF.

Furthermore, regarding control and audit milestones, the Commission notes that when it has identified potential risks to the financial interests of the Union through its audits of Member States

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[3] Reply to ECA Annual Report 2022, page 453: https://www.eca.europa.eu/ECAPublications/AR-2022/AR-2022_EN.pdf

[4] Annual Activity Report 2023 of the Directorate General for Economic and Financial Affairs (DG ECFIN): https://commission.europa.eu/publications/annual-activity-report-2023-economic-and-financial-affairs_en

[5] COM(2023) 99 final of 21.2.2023: Communication from the Commission to the European Parliament and the Council - Recovery and Resilience Facility: Two years on – A unique instrument at the heart of the EU's green and digital transformation.

control systems, the Commission has required Member States to take action to address such risks. Where such action has not been implemented by the time an RRP is amended, the Commission has agreed with Member States on the introduction of audit and control milestones, requiring that the issue is addressed before any (further) payment is made. Such audit and control milestones provide an additional level of assurance, coming in addition to the usual follow-up to Commission audits. The Commission notes that this proactive introduction of audit and control milestones further protects the financial interests of the Union and recalls that the potential necessity of such milestones was recognised by the co-legislators who had introduced a specific legal basis to this end in Article 20(5), point (e) of the RRF Regulation.

Finally, the Commission recalls that it has extended the scope of its audit work beyond that required by the RRF Regulation to systematically check whether Member States regularly check compliance with public procurement and State aid rules, including the effectiveness of such checks, and considers that the conclusions of DG ECFIN's Annual Activity Report cover this.

II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

1. State of implementation

The Commission recalls that the RRF is a results-based instrument with the Member States as beneficiaries. Nonetheless, the co-legislators required that the Member States make available information on the 100 largest final recipients of RRF funds. Whereas the Commission is generally in favour of full transparency of final recipients and has in fact made legislative proposals to this effect[6], it notes that the RRF legislation does not contain such obligation beyond the 100 largest financial recipients. (§11.7).

2. Assessment of payment and eligibility conditions

The ECA references that the Commission has a two-month timeline to undertake a preliminary assessment of each payment request, but states that neither the Regulation nor the Financing Agreement provide an option for the Member States to suspend the assessment timeline to provide more information (see §11.16-11.17). The RRF Regulation provides that this assessment starts only upon presentation of a duly justified payment request, where if the Commission or Member State realises during the assessment process that this is not the case, the two-month period does not apply. In this respect, the Financing Agreement explicitly provides for a possibility to suspend the timeline in case additional evidence is requested by the Commission. The Commission thus considers it respected the timelines provided in the legal framework fully.

[6] Proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast) (COM/2022/223 final): EUR-Lex - 52022PC0223 - EN - EUR-Lex (europa.eu)

Differences of view on the fulfilment of milestones and targets

On the basis of its framework for assessing the satisfactory fulfilment of milestones and targets, the Commission does not share the ECA's assessment that for seven milestones and targets the requirements of the Council Implementing Decision had not been satisfactorily fulfilled (§11.20). In most cases, the ECA's conclusions are principally based on differences of interpretation of the requirements set by the Council which the Commission and Member States applied when assessing the milestone or target, or differences in the qualitative judgement. The Commission has transparently published its assessment in each case, justifying its interpretation in line with the applicable framework, receiving both the positive opinion of the Economic and Financial Committee and the comitology committee of Member State experts[7] on its approach and interpretation of each case. The Commission highlights that, in each case, the divergences between the Commission and the ECA assessment are specific to the case.

The Commission takes note of cases where the ECA has a different legal interpretation of the requirements of individual milestones or targets, or of the evidence required to demonstrate their satisfactory fulfilment, and, on this basis, in contrast to the Commission, considers a requirement is not fulfilled. In the interest of transparency, a synopsis of the Commission's reasoning on the seven milestones and targets concerned is set out below.

- The first case concerns a target for the '*Number of students awarded of a research grant*'. The Council Implementing Decision specifies a baseline of 50 representing the situation at the start of the RRF and indicated 300 as the goal of the target. The Commission considered that this clearly indicated that the measure was supporting an additional 250 research student grants, rather than 300. The Commission notes that this '250' figure was supported by both the RRP and the costing. Given this, the Commission considers that the baseline of 50 was fully intended and that the correct interpretation of the target was an additional 250 (a goal of 300 minus a baseline of 50). The Commission therefore maintains that the target was satisfactorily achieved.
- The second case concerns the entry into force of a new construction law. The CID requirement of entry into force of this law was literally met but certain provisions of the law were subject to a delayed date of applicability. Whilst the Commission recognises that in assessing an entry into force requirement it normally insists that the relevant law has entered into full application, it notes that in this specific case, it is clear from the drafting of the CID that elements of the law would only enter into application at later stage. This relates in particular to the creation of a new state structure of the Supreme Construction Office, which is the subject of a subsequent milestone. If all elements in the construction law would have entered into application, the subsequent milestone would have no meaning and in fact any payment under this subsequent milestone would constitute double funding, as payments for the same results were already made under the audited milestone. Therefore, the Commission considers that it has correctly assessed the milestone as fulfilled.
- The third case concerns a target related to access to secure mobile communication, which required that 95% of a set of government employees have access to a secure system for the exchange of secret and classified information. The Commission considered that the concerned Member State correctly excluded access for some employees, such as cleaners or drivers of service vehicles from this target, where the Commission considered that requiring such roles to have access to secret and classified information was evidently not the intention of the RRP and the CID. The Commission therefore maintains that the target was satisfactorily fulfilled.

[7] https://ec.europa.eu/transparency/comitology-register/screen/committees/C102400/consult?lang=en

- The fourth case concerns a target for a cybersecurity measure, which required the Member State concerned to implement 'strengthening interventions' to upgrade security structures. The Commission considers that the reports provided by the concerned Member State, that generally involved risk analysis of procedures, processes and organisation, including action plans to address findings, do represent strengthening interventions. The Commission notes that this type of strengthening interventions is provided for under EU law, since the NIS2 Directive[8] which is referred to in the description of the measure, explicitly considers "*risk analysis and information system security*" as one type of "*Cybersecurity risk-management measures*" that Member States should implement. The Commission therefore maintains that the target is satisfactorily fulfilled.
- The fifth case concerns a target referring to the '*Number of projects for which a grant has been signed for recycling operation of wasteland or of urbanized area.*' While the CID refers to 'owners of the site' as beneficiaries, the fund established by the concerned Member State required beneficiaries to be 'project owners'. The Commission transparently noted in its preliminary assessment, in line with the assessment framework[9], that it considered this difference in wording an acceptable minimal deviation as it did not impact the result considering the nature of the funded projects. The Member State at stake presented evidence that this change had no impact on the result. The Commission therefore maintains that the target has been satisfactorily fulfilled.
- The sixth case concerns a 'no cost' reform which incentivises long-term unemployed persons participation in trainings. The scheme's eligibility condition on training length (i.e., duration of at least 4 months) is part of the national law, as confirmed by the Commission assessment, and accordingly checked by national authorities when establishing eligibility for the incentive. In addition to the Commission's assessment of this issue under this prior milestone, the concerned Member State provided for subsequent milestone screenshots of its internal IT system monitoring of this requirement to demonstrate that in each case of awarded incentive, this requirement was met, together with evidence of how its control system operates to ensure the correctness of the data (along with practical evidence of corrections by its control system). This issue was further audited by the Member State's authorities and finally by Commission auditors, both of whom confirmed the functioning of the systems to monitor and ensure this requirement was complied with. The Commission considered that it had reasonable assurance that the CID requirements were met and further considered that requesting the individual sign-up sheets for each individual day of training would have imposed an unnecessarily high administrative burden on Member States. Therefore, the Commission maintains that the milestone has been satisfactorily met.
- The seventh case concerns a target related to the establishment of mental health units. The Commission did not consider that for units to be fully operational the units needed to employ the minimum number of staff to cover the maximum theoretical number of patients that the unit could handle. For the Commission fully operational means that the units have sufficient staff to handle the actual number of patients rather than the theoretical maximum, which was the case. Therefore, the Commission maintains that the target has been satisfactorily met.

[8] Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive)

[9] Annex I of COM(2023)99 final: https://commission.europa.eu/publications/communication-implementation-recovery-and-resilience-facility_en

RRF eligibility conditions

The Commission recalls its reply to the Annual Report 2022: *"after assessing the eligibility of measures during the assessment of the Recovery and Resilience Plans, the Council decides by means of a Council Implementing Decision whether a measure is eligible or not. At the payment stage, the Commission cannot overrule the Council to decide that a given measure should not be paid under the RRF. In this respect, as long as milestones and targets in the Council Implementing Decision are satisfactorily fulfilled, the related payment from the Commission cannot be affected by an error."*[10] Findings related to individual units or activities reported as part of the fulfilment of a milestone or target therefore do not question whether a measure is eligible or not, but rather question whether some evidence provided by the Member State was eligible (see §11.21).

This consideration notably applies to the six findings of 'Breach of eligibility condition: eligibility period' identified by the ECA. The ECA and the Commission have different views on how to determine the eligibility of investments and reforms, which as per Article 17(2) of the RRF Regulation must have 'started' from February 2020. The Commission has provided guidance to Member States, which focuses on implementation starting after 1 February 2020 and all the associated costs materialising from that date. As such the Commission, differently than ECA, does not link the start of the measure to the date of the first (legal) commitment (see §11.22). The Commission recalls that the RRF legislative proposal was made in May 2020 and the Regulation entered into force in February 2021. The 'eligibility' clause introduced by the co-legislators is in fact a *retroactivity* clause, allowing measures *started from 1 February 2020* to be included in the RRPs. The intention of this retroactivity clause was to provide Member States already during the RRF legislative process reassurance that measures would be included, and ensure that Member States' would not stop or reduce investments in the context of the severe economic and social crisis caused by the pandemic precisely so as not to tighten the economic contraction further.[11] The Commission has provided guidance to Member States in January 2021 (i.e. since even before the RRF Regulation entered into force) on how it would apply this clause, which has then been consistently applied by the Commission and Member States. Box 11.2 provides an example illustrating the difference of views. ECA notes that for seven railway projects in France the purchase orders were issued before February 2020 and on this basis considers the measure ineligible. By contrast, as works under this measure started after 1 February 2020, the Commission considers that the seven projects respect the eligibility period, and that they are in line with Commission guidance. Given these fundamental differences of interpretation, the Commission expects such findings to continue throughout the lifetime of the RRF.

Concerning the ECA's three findings on 'Breach of eligibility condition: substitution of recurring national budgetary expenditure', the Commission recalls that Article 5(1) of the RRF regulation clearly states that "*support from the Facility shall not, unless in duly justified cases, substitute recurring national budgetary expenditure*". As already highlighted in its replies to the ECA Annual Report 2022, the Commission and ECA interpret this provision differently. The Commission interprets this provision to refer to '*substituting recurring national budgetary expenditure'*, rather than a concept of ineligibility of specific types of '*recurring activities*', namely those '*funded from national budgetary expenditure*'. In the Commission's view, the RRF legal text does not support the latter position. Whilst the ECA does not apply the guidance that was published by the Commission, the Commission notes the ECA has applied a case-by-case assessment. Whilst the Commission has taken good note of ECA's argumentation for each individual case, the Commission has not been able to translate ECA's case-by-case assessment in generally applicable assessment criteria.

[10] Commission Replies to the ECA Annual Report 2022, page 453:
https://www.eca.europa.eu/ECAPublications/AR-2022/AR-2022_EN.pdf

[11] Refer in particular to recitals 6-8 of the RRF Regulation.

Finally, and most notably, the Commission notes that all three findings on 'substitution of recurring national budgetary expenditure' relate to reforms. As noted in the reply to the ECA Annual Report 2022,[12] if a Member State has indicated for a measure that no costs will be covered by the RRF, as is the case for most reforms, the Commission considers that the RRF *cannot* be substituting any national expenditure as no RRF funds relate to this measure. The inclusion of 'no cost' measures does not increase the Member State's financial allocation, although the Member State still commits to their implementation (see §11.23). The Commission recalls that the inclusion of reforms in Recovery and Resilience Plans is an essential element to achieve systemic changes in the Member States, and a condition for a positive assessment of the Recovery and Resilience Plans by the Commission.

The different approaches of the Commission and ECA are demonstrated by the example in Box 11.3, concerning Austria's milestone '*Fourth Building Culture report.*' [13] As the ECA notes in the example, Austria previously commissioned 'building culture reports' in 2006, 2011 and 2017, and, as part of a reform included in its RRP, committed to do so again, without indicating any costs for this reform. The Commission considers that this does not represent a case of 'substitution of recurrent budgetary expenditure' (1) as the report does not involve such expenditure, (2) as Austria indicated no costs under the RRF, there cannot be any substitution of national expenditure, (3) as the report is qualitatively different than previous reports, and (4) as it has not been established that this case cannot be a 'duly justified exception' as allowed by the RRF Regulation. In contrast, the ECA considers this a type of recurring activity funded from national budgetary expenditure and so considers this an error.

Clarity of milestones and targets in the CID

The ECA notes that under the RRF financing model clear and unambiguous indicators and a clear definition of 'satisfactory' fulfilment are crucially important. The Commission agrees that clear milestones and targets are fundamental to the programme. It, however, notes that the co-legislators' requirement for the Commission to assess 'satisfactory fulfilment' explicitly provides the Commission with discretion. In its Annual Report 2022, the ECA recognised this broad discretion conferred on the Commission by the RRF Regulation.[14] The Commission has transparently framed its exercise of this discretion through a dedicated framework[15] against which all payments are assessed, ensuring transparency and equal treatment (see §11.26-11.28).

Out of the 452 milestones and targets it has examined, the ECA notes 15 cases of milestones and targets which it considers to be not fully clear (§11.28), 12 of which have been identified and transparently highlighted by the Commission, for instance cases of clerical errors which occurred in the drafting of the Commission proposals for CIDs. The Commission notes that these findings thus represent issues which the Commission has already fully captured and corrected through its control system, and which do not in any way affect the legality and regularity of RRF disbursements.

The Commission does not agree with all of the findings related to the unclarity of milestones and targets, which in some cases reflect policy preferences rather than unclarity. Box 11.4 provides an example of a Spanish milestone, for which ECA considers one specific requirement insufficiently

[12] Ibid, page 449

[13] Refer to the Commission's preliminary assessment (published on 22 March 2023), page 90: https://commission.europa.eu/publications/preliminary-assessment-first-payment-request-austria_en

[14] ECA Annual Report concerning the financial year 2022, §11.22

[15] COM(2023)99 final, Annex I, 'Framework for assessing milestones and targets under the RRF Regulation': https://commission.europa.eu/publications/communication-implementation-recovery-and-resilience-facility_en

specific. The milestone required Spain to amend legislation to introduce new obligations to install electric vehicle charging infrastructure but, as the ECA notes, sets no qualitative or quantitative details for this requirement. The Commission first notes that this is only one of several requirements for this milestone, which explicitly required the introduction of new legal obligation, and second that a CID milestone cannot prescribe every detail of future national legislation – in this case the requirement is clear that a specific obligation must be introduced.

3. Monitoring and control systems

The Commission's ex-post audits

In order to obtain assurance on legality and regularity of payments under the RRF, the Commission carries out extensive ex-ante and risk-based ex-post controls on the satisfactory fulfilment of milestones and targets, in line with its audit and control strategies. For payments made in 2023, the Commission carried out 17 ex-post audits on 82 milestones and targets. As noted by ECA (§11.30), the Commission concluded for all audited milestones and targets that they had been correctly assessed as satisfactorily fulfilled.

The ECA recalls its recommendations of the 2022 annual report and states that they have only partially been implemented (§11.31). The Commission notes that it has only partially accepted recommendation 2022.11.1(a) and fully implemented the accepted part. The non-accepted part relates to disagreements also discussed in section 2 above on how to interpret the term 'start of measures' and on what represents the start of the eligibility period and the concept of 'substitution of recurring national budgetary expenditure'. The Commission has duly integrated checks on the eligibility of evidence in its ex-ante procedures and continued to apply the checks which were already in place for its ex-post procedures. The legal disagreement also explains the ECA's statement that the Commission 'did not identify a breach of the eligibility period', as the ECA provides its own different interpretation of the Commission guidance and of the eligibility concept in the Regulation. The ECA recognises in relation to 2022.11.1(b) that the Commission's ex-post audit strategy has been updated, and the Commission is formalising the updated audit checklists to refer explicitly to reversals, reflecting the practice applied already by the auditors. Finally, the Commission notes that the finding of ECA that the ex-post audit for one target was based on incomplete data stems from different interpretations of the Council implementing decision, where the ex-post audit followed the approach of the Commission's ex-ante work.

The Commission also published the framework for applying Article 24(3) of the RRF Regulation on reversals on 19 September 2023[16]. This framework indicates how the Commission will address reversal cases.

Member State's monitoring and control systems

The RRF Regulation provides that the Commission must assess the Recovery and Resilience Plans, including their control systems, based on their design in the RRPs, and therefore prior to their implementation. Only an overall adequate control system can lead to a positive assessment of the RRP. In this context, Member States may commit to take additional measures and introduce specific 'audit and control milestones', to ensure the full adequacy of their national systems to protect the financial interests of the Union, in line with Article 20(5), point (d) of the RRF Regulation. Throughout the implementation of the RRF, the Commission in addition undertakes system audits

[16] Report on the implementation of the RRF (COM(2023) 545 final)

on the national control systems and, if the Member State revises its RRP, will consider whether it needs to ask Member States on the basis of identified deficiencies, to introduce additional audit and control milestones if they revise their RRPs. These milestones must be fulfilled before any further payment is made and thus provide additional assurance on the adequacy of control systems at the time of payment. Ten such additional audit and control milestones were introduced during the RRP revisions for seven Member States to address deficiencies which do not put the adequacy of the overall national control system in doubt, such as to sign agreements which ensure data collection or specific double funding checks (see §11.33-11.35).

In §11.35, the ECA notes that risks to the protection of the EU's financial interests may have a potential impact on the regularity of expenditure. The Commission recalls ECA's own text from §11.12 that states "*Although member states are required to have effective and efficient internal control systems, compliance of expenditure incurred by final recipients and implementing bodies with EU and national rules is not a condition for RRF payments to member states. As a result, our audit of the regularity of RRF grant payments to member states focuses on whether the predefined milestones and targets have been satisfactorily fulfilled, and whether the eligibility conditions defined by the Regulation were met*". In this respect, the Commission agrees with ECA's position from §11.12 but notes its disagreement with the potential impact on the regularity of expenditure made in §11.35. Specifically, the Commission recalls that regularity is solely based on the satisfactory fulfilment of milestones and targets. When issues related to the protection of the financial interest of the Union are detected, the Regulation establishes: (i) further systems of corrections for the protection of the financial interest of the Union under Article 22(5), which the Commission gives assurance on in the DG ECFIN Annual Activity Report and which are covered by the Framework for reduction and recoveries[17], and (ii) the concept of reversal. On the latter, the Commission has additionally clarified in the reversal methodology how it will apply this RRF Regulation concept to address, *inter alia*, situations of milestones/targets no longer being considered as satisfactorily fulfilled, including where issues related to the protection of the financial interests of the Union that subsequently come to light.

The ECA notes that control milestones vary significantly between Member States (§11.37). The Commission recalls that, as Article 22 of the RRF Regulation allows the Member States to rely on their regular internal control systems, any milestones must necessarily reflect the specificities of these systems. Such findings can vary in their gravity and substance and cannot be compared simply in numerical terms. Furthermore, as the introduction of such milestones is to address deficiencies that have been identified, the Commission considers it is readily apparent that such milestones are tailored towards the specific deficiency of that Member State. In this respect, the Commission insists that it is crucial to tailor milestones towards Member State specific problems, where a horizontal approach would either result in huge redundancies (covering issues that the Commission did not consider problematic in most Member States) or, even worse, leave gaps in the efforts to protect the financial interests of the Union.

Concerning §11.38-11.39, Box 11.5, and Table 11.1, the Commission notes that the audits concerned specific entities within a Member State (such as an individual ministry) and that this does not give a view of the entire internal control system of a Member State. The Commission would like to reiterate that, while there have been findings that were systemic, often they were limited to a specific implementing body and, as such, cannot be generalised to the whole internal control system of a Member State. As the table provides only a static picture of the situation, the Commission notes that many of the findings and related recommendations have in the meantime been resolved.

[17] See Annex IV of the Guidance of recovery and resilience plans
https://commission.europa.eu/publications/draft-guidance-recovery-and-resilience-plans_en

Drawing mainly on the Commission's audit reports, the ECA considers there are persistent weaknesses in the implementation of national control systems and on this basis identifies risks (§11.40). The Commission considers that its increasing audit work has revealed existing weaknesses and that the Member States' subsequent improvements of national control systems have improved the level of assurance. In 2023, the Commission has carried out 14 system audits on the Protection of Financial Interests of the Union and has by now audited every Member State at least once. The ECA also recalls findings of previous reports criticising that the RRF legal basis does not require standardised fraud reporting; in this respect the Commission recalls that the Financial Regulation recast provides for centralised fraud reporting for future programmes. The Commission also notes that while the RRF requires no standardised reporting, the Member States have duly reported cases of suspected fraud to the Commission, OLAF, also outside of the Management Declarations, which is more timely than to wait for the next payment request (see §11.41-42). In addition, based on their legal obligation, Member States reported cases to the EPPO,[18] which the Commission notes reflects a large share of the cases of suspected fraud under investigation reported by the EPPO. An example from 2023 is the suspected fraud in Austria's 'repair bonus' measure[19].

Payment request documentation

The ECA notes that in three payment requests, audit work was not finalised at the time a payment request was submitted. The Commission recalls that the summary of audit provides information on the audits undertaken by the Member State so far and provides the Commission information on the monitoring and control system. However, there is no obligation for the Member State to finalise a specific number of audits prior to each payment request.

For eight payment requests, the ECA considers having found issues on the 'reliability' of management declarations. The Commission agrees in some cases. Nonetheless, the management declaration should be based on the best knowledge of the signatory and its veracity is not altered by later developments, such as follow-up questions by the Commission. Similarly, the management declaration cannot be expected to summarise all other information. For instance, for Portugal's target 8.14, the Member State's documentation correctly indicated a minor delay in part of the implementation, which the ECA considers should have been indicated as a limitation in the management declaration (§11.43). The Commission does not consider that such repetition is required. Similarly, for the example in Box 11.6 on Slovenia's milestone 128, the information of a delay was available to the Commission; while a reservation would have been preferable, the Commission does not consider this to affect the reliability of the payment request documentation, which must be considered in its entirety.

4. Sound financial management

The ECA states that milestones and targets should "*cover all the main elements of the underlying reform or investment, in particular its completion.*" (§11.45). The Commission does not share this interpretation of the legal base, which defines milestones and targets to be 'measures of progress.'[20] For instance, as in the example of Box 11.4 (discussed above), the Commission considers appropriate that milestones on legal reforms require the presence of specific crucial

[18] Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), Article 24.1

[19] https://infothek.bmk.gv.at/nach-betrugsverdacht-reparaturbonus-erhaelt-zusaetzliches-sicherheitsnetz/

[20] RRF Regulation, Art. 2(4): *„'milestones and targets' means measures of progress towards the achievement of a reform or an investment, with milestones being qualitative achievements and targets being quantitative achievements"*

provisions, but that the milestones do not prescribe each element of a national law subject to the democratic process.[21] The Commission has explained in its reply to a previous audit report why completion milestones are not always relevant or possible[22] and notes it has already accepted to verify, when possible in the context of RRP revisions, that all *key* elements of a measure are covered by milestones and targets.[23]

5. AARs and the AMPR

The ECA recalls that it considers there to be an assurance gap at EU level regarding RRF-funded investment projects' compliance with EU and national rules and notes the Commission has revised its audit and control strategy with the roll out of checks on public procurement and State aid. The Commission continues to reject the ECA's finding about the existence of an assurance gap at EU level given the unique control set-up established by the RRF Regulation. Nonetheless, as explained in several places in the Annual Activity Report (AAR) of 2023 of DG ECFIN, the Commission has extended the scope of its audit work beyond that required by the RRF Regulation to systematically check whether Member States regularly check compliance with public procurement and State aid rules, including the effectiveness of such checks, and considers that the conclusions of the AAR cover this. In this respect the Commission does not agree with, the ECA statement that the assurance provided by DG ECFIN does not cover the effectiveness of the checks carried out by Member States (§11.50).

The audit work performed by the Commission in relation to public procurement and State aid covered all 17 Member States that received a payment during 2023. Based on the evidence collected and assessed, the Commission considers that control procedures put in place in the Member States give the necessary assurance that Member States regularly and effectively verify compliance with public procurement and State aid rules for RRF measures. This is further evidenced by the implementation of the risk assessment methodology as presented in Annex 5 of DG ECFIN 2023 AAR. The risk assessment is based among others on the results of audit work performed by the Commission that covers the regularity and the effectiveness of the checks done by Member States regarding compliance with public procurement and State aid rules (see in this respect section 2.2. of DG ECFIN AAR). In other words, should the Commission have concluded on this basis that it did not have the necessary assurance, this would have been translated into higher risk levels, impacting directly the conclusions of the assurance.

[21] Refer to the Commission's preliminary assessment, page 31: https://commission.europa.eu/document/download/401e9dde-6d23-4f96-96bb-67a1952362e1_en?filename=C_2022_8763_1_EN_annexe_acte_autonome_nlw_part1_v2.pdf

[22] Reply to ECA Special Report 26/2023, page 5: https://www.eca.europa.eu/Lists/ECAReplies/COM-Replies-SR-2023-26/COM-Replies-SR-2023-26_EN.pdf

[23] Reply to commendation 2022.11.2; ECA Annual Report 2022, page 460: https://www.eca.europa.eu/ECAPublications/AR-2022/AR-2022_EN.pdf

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Recommendation 11.1 – Apply stricter criteria for assessing compliance with eligibility period

Assess compliance with eligibility conditions by applying the date of the first (legal) commitment as the start of the measure.

Target implementation date: end 2024

The Commission **does not accept** recommendation 11.1.

The RRF Regulation provides for eligibility criteria to be assessed when the initial Recovery and Resilience Plans are submitted, including whether a measure 'started from 1 February 2020'. This assessment has been completed for all Member States. The Commission does not share ECA's interpretation of the RRF Regulation, which is not consistent with the Commission guidance that has been issued and then applied by all Member States when submitting their Recovery and Resilience Plans. As stated in the ECFIN 2023 AAR, the Commission will issue further guidance on the eligibility start date. However, the Commission does not accept to prejudge the content of this future guidance.

Recommendation 11.2 – Define specific criteria for assessing substitution of recurring national budgetary expenditure

Assess compliance with eligibility conditions by defining specific criteria for what constitutes substitution of recurring national budgetary expenditure.

Target implementation date: end 2024

The Commission **accepts** recommendation 11.2.

The Commission accepts to further clarify its existing guidance on 'substitution of recurring national budgetary expenditure'.

Recommendation 11.3 – Address remaining weaknesses in member state control systems

Ensure that member states take prompt remedial action to address remaining weaknesses in their control systems.

Target implementation date: end 2024

The Commission **accepts** recommendation 11.3.

The Commission's audit reports are followed up thoroughly to ensure Member States implement the audit recommendations. In case RRPs are revised, the Commission reconsiders the adequacy of the national control systems based on the available information, such as its own audits. Where necessary, new control milestones are introduced, which Member States must fulfil before another payment can be made. The Commission will continue to closely monitor the implementation of audit recommendations and will take appropriate action in case these recommendations are not implemented by Member States.

Recommendation 11.4 – Provide assurance on the effective functioning of member state control systems

Use the results of the Commission's checks on member state control systems to express a clear conclusion on their effectiveness.

Target implementation date: the 2024 AAR

The Commission **does not accept** recommendation 11.4.

The Commission recalls the unique framework of the RRF that provides that Member States shall take all the appropriate measures to protect the financial interests of the Union. The Commission has already extended the scope of its audit work beyond what the Commission considers is required by Article 22.2(a) of the RRF Regulation, by Article 11 of the Financing Agreement and, where relevant, Article 20 of the Loan Agreement to verify that the control procedures put in place in the Member States give the necessary assurance that Member States regularly and effectively verify compliance with public procurement and State aid rules and eligibility for RRF measures. The Commission recalls that the conclusions of the DG ECFIN 2023 AAR cover this extended scope.

Annual report on the activities funded by the 9th, 10th and 11th European Development Funds for the 2023 financial year

Contents

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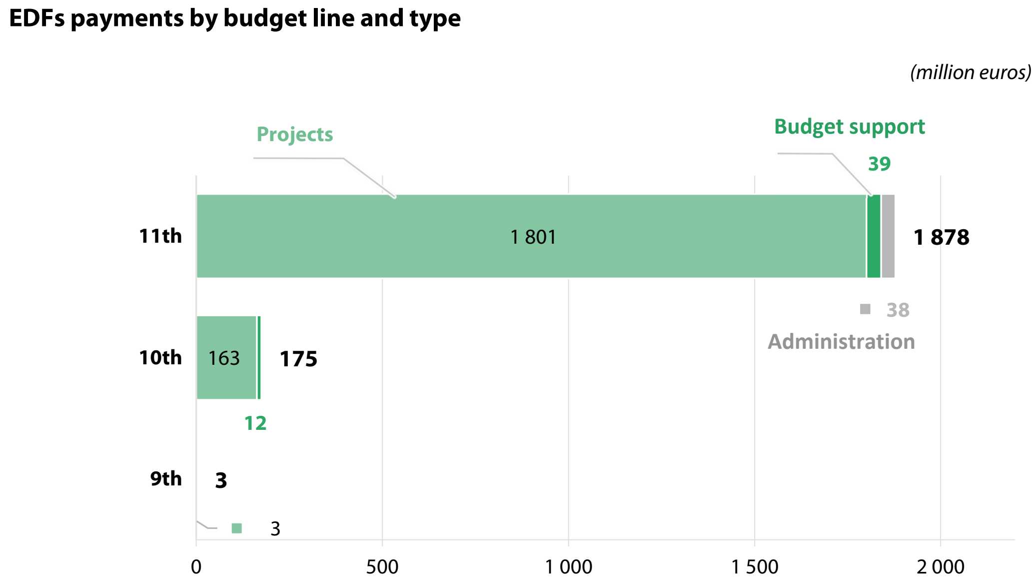
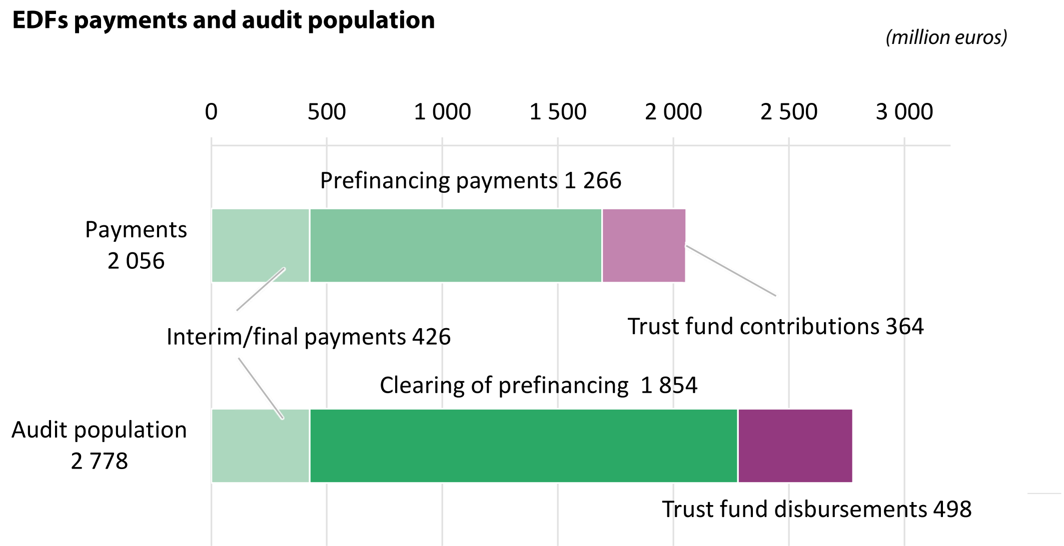
Introduction

01 This annual report presents our findings on the 9th, 10th and 11th European Development Funds (EDFs). *Figure 1* gives an overview of the activities and spending in this area in 2023.

Figure 1 – European Development Funds: 2023 financial overview





Source: ECA, based on the 2023 annual accounts of the 9th, 10th and 11th EDFs.

Brief description

02 Launched in 1959, the EDFs were the main instruments by which the European Union (EU) financed development cooperation with the African, Caribbean and Pacific (ACP) countries and *overseas countries and territories (OCTs*) until the end of 2020. The primary objective of the EDFs is to reduce and ultimately eradicate poverty, in accordance with the primary objective of development cooperation as laid down in Article 208 of the Treaty on the Functioning of the European Union (TFEU). The 11th (and final) EDF covers the 2014-2020 *multiannual financial framework (MFF)*.

03 For the 2021-2027 MFF, development cooperation with ACP countries has been incorporated into the *Neighbourhood, Development and International Cooperation Instrument – Global Europe*, as part of the EU general budget, and cooperation with the OCTs has been incorporated into the Decision on the Overseas Association, including Greenland. However, the 9th, 10th and 11th EDFs have not been incorporated into the EU general budget and continue to be implemented and reported on separately until their closure.

04 The EDFs are particular in that:

(a) they are directly financed by the member states' and UK contributions based on quotas, or 'contribution keys', which were set by the national governments at the Council of the European Union in subsequent internal agreements concluded between the representatives of EU member states meeting within the Council;

(b) they are managed by the Commission, outside the framework of the EU general budget, and the European Investment Bank;

(c) due to the intergovernmental nature of the EDFs, the European Parliament plays a more limited role in their functioning than it does for the development cooperation instruments financed by the EU general budget; notably, it is not involved in establishing and allocating EDF resources. However, the European Parliament is the *discharge* authority, except for the Investment Facility, which is managed by the European Investment Bank. A tripartite agreement concluded in 2012 between the European Investment Bank, the Commission and the ECA (Article 134 of Regulation (EC) No 215/2008 on the Financial Regulation applicable to the 10th EDF) set out the rules for our access and information held by the European Investment Bank concerning these operations.

(d) the principle of *annuality* does not apply to the EDFs: EDF agreements were usually concluded for a *commitment* period of 5 to 7 years, and payments can be made over a much longer time frame as the internal agreement establishing the 11th EDF will remain in force for as long as is necessary for all the operations to be fully executed[1].

05 The EDFs are managed almost entirely by the Commission's Directorate-General for International Partnerships (DG INTPA). A small proportion (7 %) of the 2023 EDF payments was managed by the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations.

06 The expenditure covered in this report relates to support that is delivered in 76 countries (see ***Annex I*** for the main *beneficiary* countries) using a wide range of methods such as works, supply and service contracts, *grants*, *budget support*, *programme estimates* and contribution and *delegation agreements* concluded with *pillar-assessed* entities (such as international organisations).

[1] Article 14(3) of the internal agreement establishing the 11th EDF.

Financial implementation of the 9th, 10th and 11th EDFs

07 The budget of the 9th EDF (2000-2007) was €13.8 billion, and that of the 10th EDF (2008-2013) €22.7 billion. The internal agreement establishing the 11th EDF (2014-2020) came into force on 1 March 2015. The 11th EDF provides €30.5 billion, of which €29.1 billion has been allocated to the ACP countries and €0.4 billion to the OCTs, with €1 billion for administrative costs.

08 ***Figure 2*** shows the use of EDF resources both in 2023 and cumulatively for the 9th, 10th and 11th EDFs.

Figure 2 – Use of EDFs resources as at 31 December 2023

(million euros)

	Situation at end of 2022		***Budgetary implementation during the 2023 financial year*** *(net commitments after decommitments / net payments after recoveries)*				*Situation at end of 2023*				
	Total amount (rounded)	Implementation rate (% of resources)	*9th EDF²*	*10th EDF²*	*11th EDF²*	*Total amount (rounded)*	*9th EDF*	*10th EDF*	*11th EDF*	*Total amount (rounded)*	*Implement. rate (% of resources)*
A – RESOURCES[1,4]	66 021		*-6*	*-96*	*71*	*-31*	*15 239*	*21 146*	*29 605*	*65 990*	
B – USE											
1. Global commitments (financing decisions)	*65 682*	*99.5 %*	*-5*	*-84*	*-168*	*-257*	*15 239*	*21 078*	*29 106*	*65 423*	99.1 %
2. Individual commitments (individual contracts)	*63 891*	96.8 %	*-6*	*158*	*562*	*714*	*15 238*	*20 999*	*28 368*	*64 605*	97.9 %
3. Payments	*57 432*	87.0 %	*3*	*175*	*1 878*	*2 056*	*15 221*	*20 477*	*23 791*	*59 489*	90.1 %
C – *Outstanding commitments* (B1-B3)	8 250	12.5 %					*18*	*601*	*5 315*	*5 934*	9.0 %
D – Available balance (A-B1)[3]	339	0.5 %					*0*	*68*	*499*	*567*	0.9 %

1 Include initial allocations to the 9th, 10th and 11th EDFs, co-financing, interest, sundry resources and transfers from previous EDFs.

2 Negative amounts correspond to *decommitments*.

3 Available balance includes 'non-mobilisable reserve' (unusable without unanimous decision from the Council).

4 The difference in total resources of €335 million compared to the situation at the end of 2022 is due to: (i) a difference of +€377 million resulting from amounts returned by EU delegations that were not taken into account in the total resources at the end of 2022; and (ii) a difference of -€42 million between the amounts disclosed in the preliminary and final 2022 accounts. The amounts disclosed under 'resources' relate to budgetary accounts which are not subject to the ECA's reliability-of-accounts audit.

Source: ECA, based on 2023 annual accounts of the 9th, 10th and 11th EDFs and additional information provided by the Commission. The figures presented do not cover the part of the EDFs managed by the European Investment Bank.

09 Every year, DG INTPA sets itself *key performance indicators (KPIs)* and related targets on *sound financial management* and the efficient use of resources. The indicators and related targets cover DG INTPA's entire area of responsibility, comprising the EU general budget, the EDFs and EU trust funds. For 2023, DG INTPA introduced two new KPIs relating to sound financial management and the efficient use of EU resources (see ***Box 1***).

Box 1

DG INTPA KPIs on timely clearing and decommitment, and on reducing unspent commitments

In 2023, DG INTPA implemented several simplification measures to reduce its number of KPIs from 29 to 24 and reduce their scope. These 24 KPIs included two new ones: KPI 7 on timely *clearing of pre-financing* and KPI 8 on timely decommitment of unused funds.

KPI 7 shows how many pre-financing invoices DG INTPA cleared by the payment deadline stipulated in the Financial Regulation for each contract type. DG INTPA exceeded the target of 85 % across its entire area of responsibility. Under KPI 8, it measures the timely decommitment of unused funds. It fell short of the target of decommitting 85 % of funds on time, achieving 83.48 % for the general budget and 81.62 % for the EDF. This was due to some commitments expiring in the final weeks of the year, leaving DG INTPA with insufficient time to successfully complete the decommitment process.

In relation to KPI 9 on reducing unspent commitments, DG INTPA maintained the previous year´s target of 35 %. It achieved this target for the EU general budget (39.30 %), but not for the EDFs (34.04 %) due to the nature of the portfolio, which includes contracts in countries lately suffering in particular from security issues and political instability.

The ECA's statement of assurance on the EDFs

The ECA's statement of assurance to the European Parliament and the Council on the 9th, 10th and 11th EDFs - Independent auditor's report

Opinion

I. We have audited:

(a) the annual accounts of the 9th, 10th and 11th EDFs, which comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets, notes to the financial statements and the report on financial implementation for the financial year ended 31 December 2023, approved on 25 June 2024;

(b) the *legality and regularity* of the underlying *transactions* of which financial management falls to the Commission[2].

Reliability of the accounts

Opinion on the reliability of the accounts

II. In our opinion, the annual accounts of the 9th, 10th and 11th EDFs for the year ended 31 December 2023 present fairly, in all material respects, their financial position as at 31 December 2023, the *results* of their operations, their cash flows and the changes in their net assets for the year then ended, in accordance with the EDF Financial Regulation and with accounting rules based on internationally accepted accounting standards for the public sector.

[2] Pursuant to Articles 43, 48-50 and 58 of the Financial Regulation applicable to the 11th EDF, this statement of assurance does not extend to the EDF resources managed by the EIB.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue

III. In our opinion, the revenue underlying the accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Expenditure

Adverse opinion on the legality and regularity of expenditure

IV. In our opinion, owing to the significance of the matter described under 'Basis for adverse opinion on the legality and regularity of expenditure', the expenditure accepted in the accounts for the year ended 31 December 2023 is materially affected by *error*.

Basis for Opinion

V. We have conducted our audit in accordance with the IFAC *International Standards on Auditing (ISAs)* and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions (ISSAIs). Our responsibilities under these standards and codes are described in more detail in the 'Auditor's responsibilities' section of our report. We have also met independence requirements and fulfilled our ethical obligations under the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Basis for adverse opinion on the legality and regularity of expenditure

VI. Our overall *estimated level of error* for expenditure accepted in the accounts of the 9th, 10th and 11th EDFs for the year ended 31 December 2023 is 8.9 %. A substantial proportion of this expenditure (amounting to €2.7 billion in 2023 and representing 96 % of our audit population) is materially affected by error. This applies to nearly all expenditure except budget support and administrative expenditure. The effects of the errors we found are therefore both material and pervasive to the year's accepted expenditure.

Key audit matters

VII. Key audit matters are those matters that, in our professional judgement, were of most significance in our audit of the financial statements of the current period. These matters were addressed in the context of our audit of the financial statements as a whole, and in forming our opinion thereon, but we do not provide a separate opinion on these matters.

Accrued charges

VIII. We assessed the accrued charges presented in the accounts which are subject to a high degree of estimation. At year-end 2023, the Commission estimated that eligible expenses incurred but not yet reported by beneficiaries amounted to €5 074 million (year-end 2022: €5 427 million).

IX. We examined the calculation of these accrual estimates and reviewed a sample of 30 individual *pre-financing payments* and 18 invoices recorded but not yet checked to address the risk that the accrual was misstated. The work performed led us to conclude that the accrued charges recognised in the final accounts were appropriate.

Potential *impact* on the 2023 EDF accounts of the United Kingdom's withdrawal from the European Union

X. On 1 February 2020, the United Kingdom (UK) ceased to be an EU member state. Following the conclusion of the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Withdrawal Agreement') between the two parties, the UK committed to remain party to the EDF until the *closure* of the 11th EDF and all previous unclosed EDFs. The UK will assume the same obligations as the member states under the internal agreement by which the 11th EDF was set up, as well as the obligations arising from previous EDFs until their closure.

XI. The Withdrawal Agreement also states that, where the amounts from projects under the 10th EDF or from previous EDFs have not been committed or have been decommitted on the date of entry into force of this agreement, the UK's share of those amounts will not be reused. The same applies to the UK's share of funds not committed or decommitted under the 11th EDF after 31 December 2023.

XII. Based on this and our examination, there is no financial impact to report on the 2023 EDF accounts. We conclude that the EDF accounts as at 31 December 2023 correctly reflect the state of the withdrawal process at that date.

Responsibilities of management (the Commission)

XIII. In accordance with Articles 310 to 325 of the TFEU and with the 11th EDF Financial Regulation, management is responsible for preparing and presenting the EDF annual accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the underlying transactions. This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to *fraud* or error. The management is ultimately responsible for the legality and regularity of the transactions underlying the EDF accounts.

XIV. When preparing the EDF accounts, the management is responsible for assessing the EDFs' ability to continue as a going concern, disclosing any relevant matters and using the going concern basis of accounting unless it either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

XV. The management is responsible for overseeing the EDFs' financial reporting process.

Auditor's responsibilities for the audit of the EDF accounts and underlying transactions

XVI. Our objectives are to obtain reasonable assurance as to whether the EDF accounts are free from material misstatement and the underlying transactions are legal and regular, and to provide, on the basis of our audit, the European Parliament and the Council with a *statement of assurance* as to the reliability of the accounts and the legality and regularity of the underlying transactions. Reasonable assurance is a high level of assurance, but it is not a guarantee that the audit has necessarily detected all instances of a material misstatement or non-compliance that may exist. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence any economic decisions taken on the basis of these EDF accounts.

XVII. For revenue, we examine all contributions from member states and a sample of other types of revenue transactions.

XVIII. For expenditure, we examine payment transactions once expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (other than advances) at the point they are made. Advance payments are examined once the *recipient* of funds has provided evidence of their proper use and the institution or body has accepted that evidence by clearing the advance payment, which might not happen until a subsequent year.

XIX. We exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the EDF accounts and of material non-compliance of the underlying transactions with the requirements of the EDF legal framework, whether due to fraud or error. We design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. Instances of material misstatement or non-compliance resulting from fraud are more difficult to detect than those resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Consequently, there is a greater risk of such instances not being detected.

- Obtain an understanding of internal control relevant to the audit in order to design appropriate audit procedures, but not for the purpose of expressing an opinion on the *effectiveness* of the internal control.

- Evaluate the appropriateness of the accounting policies used by management and the reasonableness of management's accounting estimates and related disclosures.

- Conclude as to the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, as to whether material uncertainty exists owing to events or conditions that may cast significant doubt on the EDFs' ability to continue as a going concern. If we conclude that such material uncertainty exists, we are required to draw attention in our report to the related disclosures in the EDF accounts or, if these disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our report. However, future events or conditions may cause the EDFs to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the annual accounts, including all disclosures, and assess whether the annual accounts fairly represent the underlying transactions and events.

XX. We communicate with management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including findings of any significant deficiencies in internal control.

XXI. Of the matters discussed with the Commission, we determine which were of most significance in the audit of the EDF accounts and are therefore the key audit matters for the current period. We describe these matters in our report unless law or regulation precludes public disclosure or, as happens extremely rarely, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh any public interest benefits.

5 July 2024

Tony Murphy
President

European Court of Auditors

12, rue Alcide De Gasperi – L-1615 Luxembourg

Information in support of the statement of assurance

Audit scope and approach

10 ***Annex 1.1*** to our 2023 annual report on the implementation of the EU budget sets out our audit approach and methods, which we also apply to the audit of the EDFs.

11 Our observations on the reliability of the EDFs' accounts are based on the financial statements[3] of the 9th, 10th and 11th EDFs, as approved by the Commission[4], together with the accounting officer's letter of representation received on 28 June 2024. We tested amounts and disclosures and assessed the accounting

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[3] Article 38 of Regulation (EU) 2018/1877.

[4] Article 38(3) of Regulation (EU) 2018/1877.

principles applied, as well as any significant estimates made by the Commission and the overall presentation of the accounts.

12 To audit the regularity of transactions, we examined a sample of 140 transactions that were representative of the full range of spending from the EDFs. This comprised 31 transactions related to the *Emergency Trust Fund for Africa*, 3 transactions related to the *Bêkou Trust Fund*, 87 transactions authorised by 14 EU delegations (Angola, Benin, Côte d'Ivoire, Fiji, Ghana, Guinea-Bissau, Kenya, Madagascar, Malawi, Mauritius, Mozambique, The Gambia, Togo and Uganda) and 19 transactions approved by Commission headquarters. Where we detected errors in the transactions, we analysed the underlying causes to identify potential weaknesses.

13 We also examined the following for 2023:

(a) all member state contributions and a sample of other types of revenue transaction, such as other countries' co-financing contributions;

(b) the systems used by DG INTPA and the EU delegations for: (i) *ex ante* checks by Commission staff and external auditors (contracted by the Commission or beneficiaries) before payments were made, (ii) monitoring and supervision, notably the follow-up of external audits and the *residual error rate (RER)* study;

(c) the regularity information in the *annual activity report (AAR)* of DG INTPA, the consistency of the methodology for estimating amounts at risk, future corrections and recoveries and their inclusion in the Commission's *annual management and performance report*; and

(d) the follow-up of our previous recommendations.

14 As stated in paragraph ***05***, DG INTPA implements most of the external aid instruments financed from both the EU general budget and the EDFs. Our observations on the AAR refer to DG INTPA's entire area of responsibility, not just the EDFs.

Reliability of accounts

15 We found that the accounts were free from material misstatements.

16 In our 2022 annual report, we noted that the full accounting closure of the 8th EDF had not taken place in a timely manner. In 2023, the Commission cleared all accounting balances for the 8th EDF. The Commission announced that it was working towards the closure of the 9th EDF. In 2023, the Commission continued finalising activities and projects under the 9th EDF. There remained 10 ongoing contracts amounting to €102 million, which are expected to come to an end in 2024.

17 While testing invoices and pre-financing transactions, we noted improvements in relation to the timely clearing of invoices. However, we found that some pre-financing payments had remained uncleared for up to 13 years, including more than €300 million that had remained uncleared for more than 10 years. The Commission did not always clear pre-financing payments on a regular basis to properly reflect the actual amounts repayable to the Commission by beneficiaries. In 2022 and 2023, we informed the Commission about these cases detected in our sample. The Commission's measures to correct these issues did not yield the expected results.

18 During our review of cut-off calculations, we found two cases, out of the 30 examined, in which the contract implementation periods had been extended by means of addenda. These addenda had been signed after the reporting date but before the release of the preliminary accounts to the ECA. The Commission had not taken these extensions into account when calculating the cut-off estimates. This led to an overestimation of cut-off charges in the statement of financial performance (though not resulting in a material misstatement) and a corresponding underestimation of pre-financing assets in the balance sheet.

Regularity of transactions

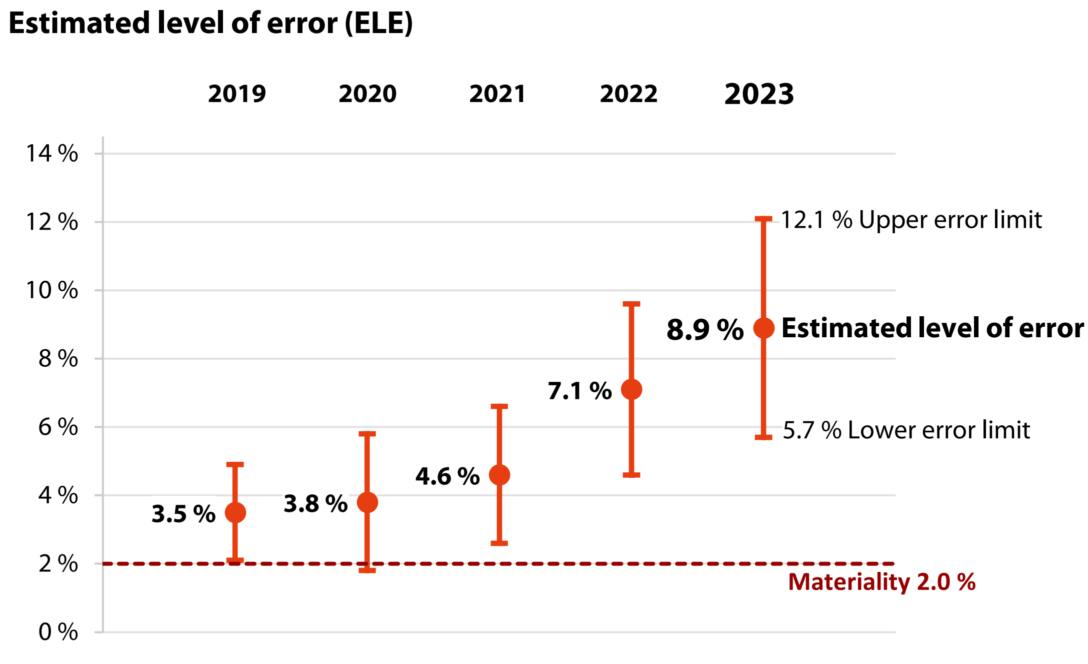
Revenue

19 Revenue transactions did not contain a material level of error.

Expenditure

20 Of the 140 transactions we examined, 62 (44.3 %) contained errors. On the basis of the 52 errors we have quantified, we estimate the level of error to be 8.9 % (***Figure 3***).

Figure 3 – Results of transaction testing



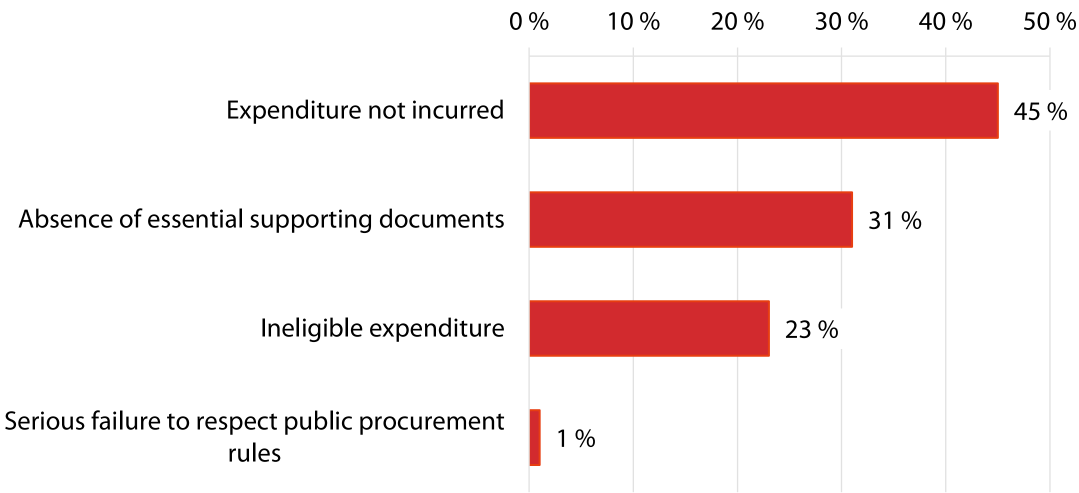
Sample size (transactions)

2019	2020	2021	2022	2023
140	140	140	140	140

Source: ECA.

21 *Figure 4* gives a breakdown of our estimated level of error for 2023 by error type.

Figure 4 – Breakdown of estimated level of error, by error type



Source: ECA.

22 *Box 2* presents examples of errors we have quantified.

Box 2

Expenditure not incurred: excess clearing of pre-financing

We audited an invoice for €2.3 million under a *contribution agreement* signed with an international organisation, which was implemented under *indirect management* and fully funded by the EU.

The invoice related to the clearing of the costs based on the financial report submitted by the international organisation for the period up to 15 April 2023.

During our audit, we found that this financial report included €1.8 million of advance payments, which are not considered costs incurred and are therefore ineligible.

Furthermore, we noted that the Commission had not implemented sufficient controls to mitigate the risk of clearing ineligible expenditure.

We found 14 transactions with similar errors.

Absence of essential supporting documents for a works contract

The Commission entered into a contribution agreement with an international organisation to enhance the capacity of Somali institutions in the areas of food, nutrition, livelihood security, water and land situation. The agreement had a value of €2 million and was fully funded by the EU.

As part of the project, works to repair a perimeter wall and a conference hall were subcontracted to a local construction firm. We audited the initial *interim payment* for these works, which amounted to €33 000. While the supervising engineer issued an interim payment certificate confirming the completion of the works, the beneficiary did not accompany this certificate with essential supporting documents to prove the actual progress made on the works (such as a detailed bill of quantities and the supervisor's measurement sheets). We considered the amount of €33 000 ineligible.

Ineligible *value added tax (VAT)* charged to the project

The Commission signed a contribution agreement with an international organisation for an action to enhance smallholder family farmers' resilience, sustainable production and food and nutrition security. The total cost of the action was €6.6 million, with an EU contribution of €5.5 million.

The international organisation purchased 18 motorbikes to implement the action and charged €24 113 to the project, including €2 961 in VAT. Deductible VAT is not considered eligible expenditure and therefore should not have been charged to the project.

We found six transactions with similar errors.

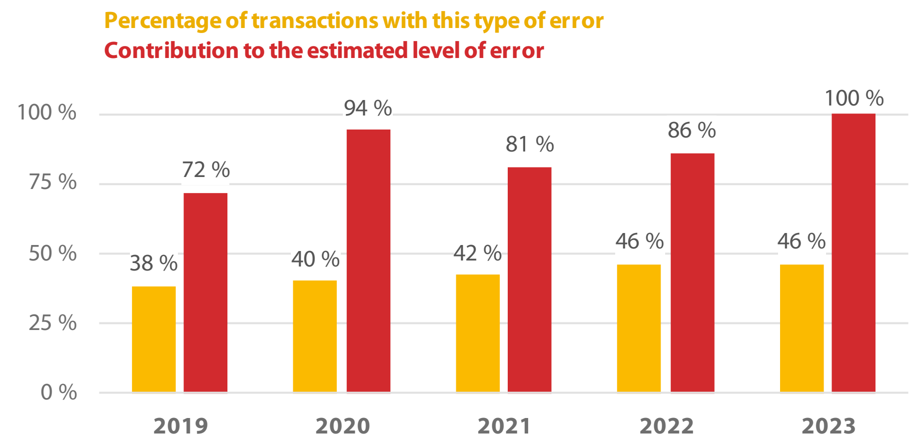
Ineligible expenditure: costs not envisaged in the contract

The Commission signed a delegation agreement with an international organisation in Uganda to promote private sector investment in commercial timber plantations through grants and *technical assistance*. The total value of the agreement was €16 040 000, with an EU contribution of €16 million.

When auditing expenditure claimed under this delegation agreement, we sampled a cost item related to the procurement of industrial machinery worth a total of €27 256. The related invoice covered freight, installation, training and after-sales service costs. However, it also included an additional after-sales service valued at €9 399 that was not originally mentioned in the contract between the international organisation and the supplier and was not included in the purchase order. We therefore considered the amount of €9 399 ineligible.

23 In 2023, all of the *quantifiable errors* we detected were in transactions relating to programme estimates and grants and to contribution and delegation agreements with beneficiary countries, international organisations and member state agencies. Of the 112 transactions of this type that we examined, 52 contained quantifiable errors, which accounted for 100 % of the estimated level of error (see ***Figure 5***). Thirty-two transactions were affected by recurring errors such as advance payments claimed as incurred costs, *indirect costs* claimed as *direct costs* or ineligible VAT (see some examples in ***Box 2***).

Figure 5 – Transactions with quantifiable errors relating to programme estimates, grants, and contribution and delegation agreements between 2019 and 2023



	2019	2020	2021	2022	2023
Number of transactions of this type affected by error	25	27	39	46	52
Number of transactions of this type audited	65	67	92	99	112

Source: ECA.

24 In 10 cases of quantifiable error, the Commission had sufficient information to prevent, or to detect and correct, the error before accepting the expenditure. Had the Commission made proper use of all the information at its disposal, the estimated level of error would have been 3.0 percentage points lower.

25 Of the 76 transactions relating to contracts under indirect management with pillar-assessed organisations (international organisations and state agencies), 38 were affected by quantifiable errors, contributing 7.0 percentage points to the estimated level of error. For such contracts, the Commission accepts expenditure on the basis of a financial report and a management declaration. The latter is a self-declaration from the pillar-assessed organisation certifying that the financial information submitted is properly presented, complete and accurate, and in compliance with the obligations laid down in the contract.

26 Out of the 52 transactions containing quantifiable errors, 12 transactions – contributing 1.6 percentage points to the estimated level of error – were subject to an audit or expenditure verification. DG INTPA's control system is based on *ex ante* checks, which assess the eligibility of expenditure prior to contracting and prior to its acceptance). The information provided in the audit/verification reports describing the work actually done did not allow us, in all cases, to assess whether the errors could have been detected and corrected by these *ex ante* checks. The reports do not cover 100 % of the reported expenditure; nor do they always give sufficient detail to confirm whether the items for which we identified errors had been part of their sample.

27 We also found 13 cases of non-compliance with legal and financial *provisions* (but with no direct financial impact on the EU budget). These related to, for example, *public procurement*, complementary pillar assessments not performed or missing pre-financing guarantees. ***Box 3*** shows an example of the errors we found.

Box 3

Absence of selection and award criteria in the tender file

The Commission signed a grant contract with a non-governmental organisation for a project in Mozambique aimed at strengthening the capacity of the education sector and improving access to education in the country. The project was worth €900 000 and fully funded by the EU.

The non-governmental organisation decided to purchase a car for its activities. It launched a procurement procedure, but the procurement notice did not include technical and economic selection criteria, and also lacked award criteria. It therefore did not adhere to the transparency requirements. In addition, the evaluation committee did not award the contract to the bidder offering the lowest price. Based on the supporting documents that the non-governmental organisation provided, it was not possible to conclude on whether the contract had been awarded to the bidder offering the best value for money and, hence, whether the transaction was affected by an ‘other compliance issue’.

28 We identified two spending areas in which transactions are less prone to errors due to specific payment conditions. These areas are (i) budget support and (ii) multi-donor projects implemented by international organisations and subject to the ‘*notional approach*’. In 2023, we audited two budget support transactions and 14 notional approach projects managed by international organisations. Paragraphs ***9.13-9.14*** in ***chapter 9*** of our 2023 annual report on the implementation of the budget give more details on budget support and the notional approach.

29 As in previous years, we faced delays in receiving requested documentation from some international organisations and, consequently, in carrying out our work. These organisations provided only limited access to documents (for example in read-only format), which hindered the planning, execution and quality control of our audit. These difficulties persisted despite the Commission’s attempts to resolve them through ongoing communication with the international organisations concerned (see ***Annex III***).

Annual activity report and other governance arrangements

30 As in the preceding years, DG INTPA issued an action plan to address the weaknesses in the implementation of its control system. In 2021 and 2022, we reported on the satisfactory progress achieved on the 2020 and 2021 action plans (see ***Annex II***).

31 By April 2024, the implementation status of the 2021 action plan had improved compared to last year. The Commission had completed one more action (C5), bringing the total number of actions completed to five. Three actions remained ongoing. In its 2022 action plan, DG INTPA once again increased the number of actions, this time to ten. Four had been completed and six were still ongoing.

32 The 2023 action plan consists of 13 actions, including four new ones: (i) strengthening analysis and documentation of the reasonableness of budgeted action costs; (ii) implementing the recommendations made in the Commission Internal Audit Service's report on the European Fund for Sustainable Development (EFSD); (iii) checking that accounting balances for closed EDFs are cleared in a timely manner; and (iv) improving guidelines on *ex ante* controls. As of April 2024, five actions had been completed and eight were still ongoing (see ***Annex II***).

2023 RER study

33 In 2023, DG INTPA had its 12th RER study carried out by an external contractor. The purpose of the study is to estimate the rate of those errors that have evaded all DG INTPA management checks to prevent, detect and correct such errors across its entire area of responsibility, in order to conclude on the effectiveness of those checks. The study is an important element underlying the Director-General's declaration of assurance, and feeds into the regularity information on *external action* disclosed in the annual management and performance report.

34 The RER study does not constitute an *assurance engagement* or an audit; it is based on the RER methodology and manual provided by DG INTPA. Our previous annual reports[5] on the EDFs have already described limitations in the studies that may have contributed to the RER's underestimation. For the 2023 RER study, DG INTPA

[5] 2017, 2018, 2019 and 2020 annual reports on the EDFs.

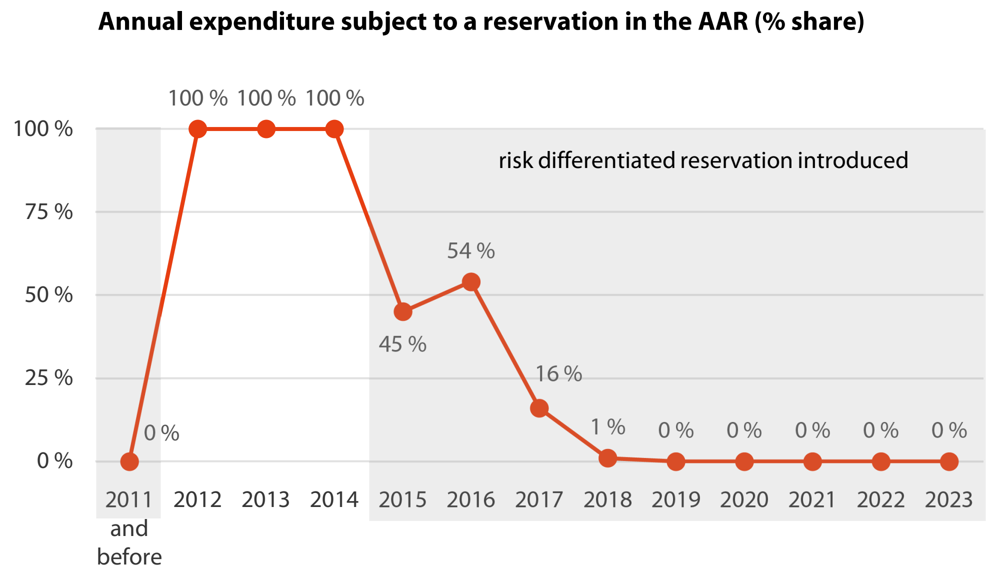
used a sample size of 480 transactions, as in previous years (some of the sampled transactions had a value higher than the *sampling interval*; therefore, the final sample size was 413). The study estimated the overall RER at 0.97 % – below the Commission's 2 % *materiality threshold* for the eighth year in a row.

35 As in previous years, we observed, among other things, that the RER methodology allows the contractor to rely entirely on the results of DG INTPA´s management checks. We maintain our view that placing reliance on the work of other auditors is contrary to the purpose of an RER study, which is to estimate the rate of errors that have evaded all DG INTPA management checks to prevent, detect and correct such errors. In cases where these previous checks were carried out under the *Financial and Administrative Framework Agreement (FAFA)* between the European Commission and the United Nations, the contractor is not always able to carry out additional substantive testing as the FAFA limits the Commission's verification rights.

Review of the 2023 AAR

36 The Director-General's declaration of assurance in the 2023 AAR does not include any *reservations*. From 2018 onwards, DG INTPA significantly reduced the scope of reservations (i.e. the share of expenditure covered by them), initially from 16 % to 1 % and then to zero. ***Figure 6*** shows the scope of reservations presented in the AARs each year from 2011 to 2023.

Figure 6 – DG INTPA AAR reservations 2011-2023



Source: ECA, based on data from DG INTPA annual activity reports, 2011-2023.

37 DG INTPA estimates the overall amount at risk at payment to be €75.2 million (1.05 % of 2023 expenditure) and the overall amount at risk at closure to be €63.9 million (0.89 % of 2023 expenditure). Of the amount at risk at payment, DG INTPA estimates, based on average historical data, that €11.3 million (15 %) will be corrected by its checks in subsequent years (this amount is known as the '*corrective capacity*'). Out of this estimated amount, the Commission reported €5.3 million as actually implemented for 2023. Having tested 62.7 % of this implemented amount (€3.3 million), we found that €0.7 million should not have been reported as implemented corrective capacity.

Conclusion and recommendations

Conclusion

38 The overall audit evidence indicates that the annual accounts of the 9th, 10th and the 11th EDFs for the financial year ending 31 December 2023 present fairly, in all material respects, their financial position, the results of their operations, their cash flows and the changes in net assets for that year, in accordance with the provisions of the EDF Financial Regulation and the accounting rules based on internationally accepted accounting standards for the public sector.

39 The overall audit evidence indicates that, for the financial year ending 31 December 2023:

(a) the revenue of the EDFs was not affected by a material level of error;

(b) EDF payment transactions were affected by a material level of error (paragraphs ***21***-***30***). We estimate the level of error to be 8.9 %, based on our transaction testing.

Follow-up of previous recommendations

40 ***Annex III*** shows the findings of our follow-up of the three recommendations we made in our 2020 annual report. The Commission had implemented one recommendation in full, while one had been implemented in some respects and one had not been acted upon at all.

41 We also reviewed two recommendations from our 2021 annual report on the EDFs and one recommendation from 2022 annual report on the EDFs that required immediate action. The Commission had implemented the two 2021 recommendations in some respects, and the one from 2022 in full (see ***Annex III***).

Recommendations

42 We recall the recommendations we made to the Commission in our 2018 and 2020 annual reports about international organisations providing us with access to the documents we need to carry out our tasks in accordance with the TFEU. Based on our findings for 2023, we still consider this recommendation highly relevant.

43 Based on this review and our findings and conclusions for 2023, we make the following recommendations to the Commission:

Recommendation 1 – Take into account changes made to contracts after the reporting period when calculating cut-off estimates

When calculating cut-off estimates during the preparation of the provisional accounts, take into account changes to contracts that have occurred after the end of the reporting period.

Target implementation date: from the 2024 accounts onwards

Recommendation 2 – Strengthen checks before making payments

Apply more thorough checks to avoid errors related to advance payments claimed as incurred costs, indirect costs claimed as direct costs and ineligible VAT.

Target implementation date: end of 2025

Recommendation 3 – Take measures to improve control systems for the clearing of pre-financing paid to pillar-assessed organisations

When clearing pre-financing paid to pillar-assessed organisations, enhance controls to identify and exclude pre-financing claimed in financial reports as expenditure incurred.

Target implementation date: end of 2025

Assessment of project performance indicators during our audit visits

44 This year, as part of our audit visits, we also assessed the achievement of performance indicators for projects that were either completed or close to completion. Our aim was to make observations on *performance* aspects going beyond the regularity of transactions. Our assessment included, but was not limited to, a review of *output* and outcome indicators, as well as project results.

45 Our checks revealed cases where funding had been used effectively and contributed to the achievement of project objectives. We also identified cases where EU funds had been lost due to inefficiencies in a project's set-up, and where project results had been negatively affected by lack of political will and communication and coordination between local stakeholders – see ***Box 4***.

Box 4

Examples of performance observations

(a) EU funds lost due to inefficient project arrangements

The Commission signed a grant agreement with an international organisation to contribute to improving social protection for vulnerable groups in an African country. One aspect of the project was the transfer of funds to help meet the nutritional needs of children under 5 years old. These transfers were made to bank accounts held by their legal guardians (either the mothers or grandmothers of the beneficiaries). Our examination of the underlying items in our sample revealed that a portion of the funds transferred to these bank accounts was never withdrawn, meaning it did not reach the intended recipients and achieve the anticipated outcomes.

We found out, from discussions on-site, that some of these unclaimed funds were being held in accounts whose holders were deceased. National law does not allow funds to be retrieved once they have been transferred to a legal guardian's bank account. The complexity of the existing administrative procedures prevents other relatives from withdrawing the funds. Consequently, a portion of the EDF funding was effectively lost and its intended purpose not achieved.

(b) Project results affected by lack of political will and poor communication between local stakeholders

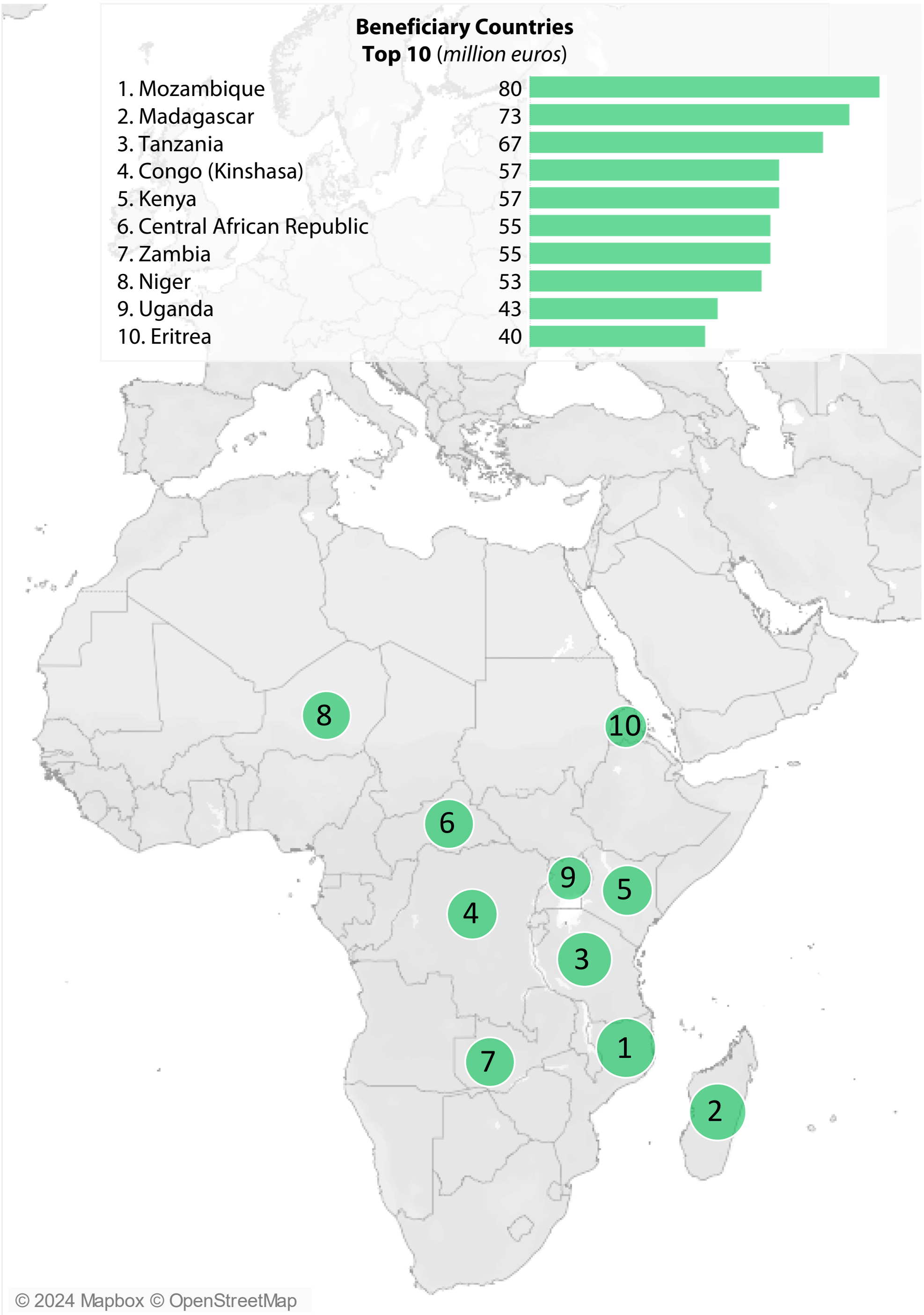
The Commission signed a services contract for €285 000 with a consultancy company to strengthen agricultural monitoring and evaluation systems in an African country. These objectives were to be achieved by improving local authorities' capacity to collect, analyse and report agricultural data. By the end of the project, the budget had increased to €405 000 and the duration had been extended from 18 to 34 months.

Our audit visit confirmed that the project's implementation had been affected by a lack of political will and ownership within one ministry, as well as poor communication among different ministries. This lack of coordination negatively affected the project's outcomes.

Annexes

Annex I – EDF payments to main beneficiary countries: Africa, Pacific and Caribbean

European Development Fund Payments – Africa



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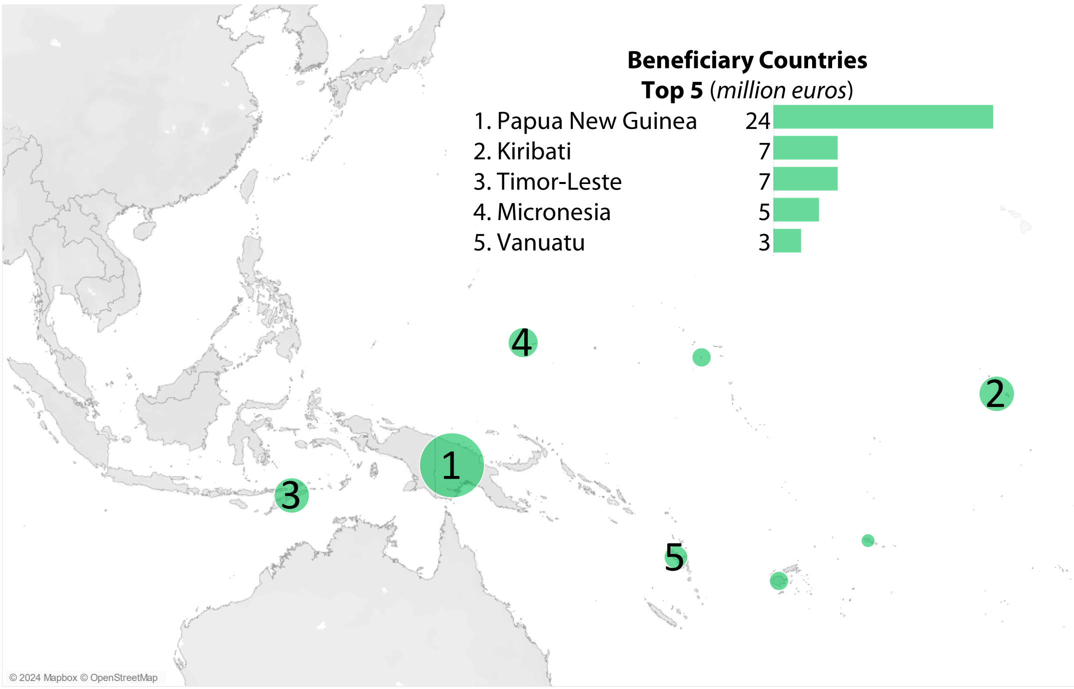
Top 10 - Beneficiary countries (in million euros)							
2022		2021		2020		2019	
Mozambique	104	Somalia	219	Senegal	141	Nigeria	119
Sudan	100	Congo (Kinshasa)	109	Burkina Faso	141	Mali	103
Uganda	60	Tanzania	101	Benin	116	Burkina Faso	94
Congo (Kinshasa)	57	Uganda	84	Mozambique	114	Ethiopia	91
Zambia	56	Niger	81	Nigeria	104	Congo (Brazzaville)	91
Malawi	51	Malawi	79	Niger	104	Nigeria	91
Chad	48	Mozambique	74	Ghana	100	Malawi	87
Tanzania	48	Sudan	70	Chad	95	Tanzania	71
Burundi	48	Nigeria	66	Congo (Kinshasa)	93	Uganda	64
Kenya	48	Kenya	65	Uganda	90	Rwanda	60

European Development Fund Payments – Pacific



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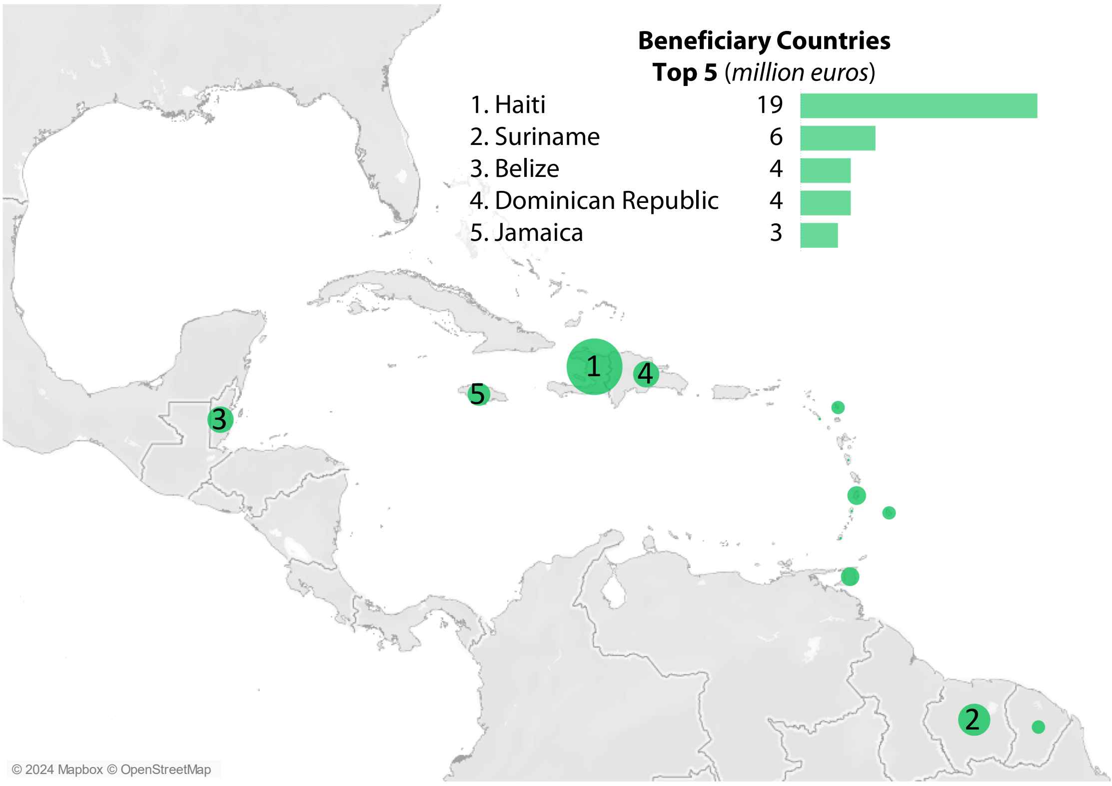
Top 5 beneficiary countries (in million euros)							
2022		***2021***		***2020***		***2019***	
Papua New Guinea	23	Papua New Guinea	29	Timor-Leste	19	Papua New Guinea	14
Timor-Leste	11	Timor-Leste	9	Vanuatu	12	New Caledonia	13
Fiji	5	Vanuatu	6	Fiji	11	French Polynesia	11
Vanuatu	4	Fiji	5	Papua New Guinea	10	Timor-Leste	7
Kiribati	4	Marshall Islands	3	Solomon Islands	8	Solomon Islands	4

European Development Fund Payments – Caribbean



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Top 5 beneficiary countries (in million euros)							
2022		***2021***		***2020***		***2019***	
Haiti	18	Haiti	47	Haiti	76	Haiti	35
Jamaica	7	Jamaica	11	Jamaica	23	Dominican Republic	19
Dominican Republic	6	Guyana	8	Dominican Republic	15	Jamaica	10
Belize	3	Belize	7	Guyana	10	Dominica	9
Dominica	3	Dominican Republic	6	Suriname	3	Curaçao	7

Annex II – Status of implementation of action plans

Action Plan 2021			
A.1	Simplify and clarify procedures and contractual conditions for grants.	●	Ongoing
B.1	Continue and reinforce cooperation with International Organisations in view of sustainable reduction of errors.	●	Implemented
B.2	Address the high-risk observations from the IAS audit on pillar assessment of external actions (new action)	●	Implemented
C.1	Clarify and promote use of results-based financing	●	Ongoing
C.2	Improve the methodology and manual of the RER study	●	Implemented
C.3	Address vulnerabilities to excess clearing of prefinancing	●	Ongoing
C.4	Conduct an evaluation on the use of ToR for Expenditure Verifications (EV)	●	Implemented
C.5	Share information on frequently occurring errors with relevant control stakeholders (new action)	●	Implemented
Action Plan 2022			
A.1	Simplify and clarify procedures and contractual conditions for grants.	●	Ongoing
B.1	Continue and reinforce cooperation with International Organisations in view of sustainable reduction of errors.	●	Implemented
C.1	Clarify and promote use of results-based financing	●	Ongoing
C.2	Address vulnerabilities to excess clearing of prefinancing	●	Ongoing
C.3	Reinforce the ToR for Expenditure Verifications (EV) (Builds on AP2021/C4)	●	Ongoing
C.4	Share information on frequently occurring errors with relevant control stakeholders (Builds on AP2021/C5)	●	Implemented
C.5	Improve the follow up of ECA/RER findings	●	Implemented
C.6	Strengthen controls when drafting financing agreement for budget support operations	●	Implemented

C.7	Strengthen controls in respect of legal bases before signing contracts		Ongoing
C.8	Remind partners to fulfil their obligation to notify the Commission when counterparties are identified as being in exclusion situations (new action).		Ongoing
Action Plan 2023			
A.1	Simplify and clarify procedures and contractual conditions for grants.		Ongoing
B.1	Continue and reinforce cooperation with International Organisations in view of sustainable reduction of errors.		Implemented
B.2	Strengthen analysis and documentation of the reasonableness of the budgeted costs of actions.		Ongoing
C.1	Clarify and promote use of results-based financing (Builds on AP2022/C1)		Ongoing
C.2	Address vulnerabilities to excess clearing of prefinancing (Builds on AP2022/C2)		Ongoing
C.3	Strengthen and review contractual Expenditure Verifications (CEV) (Builds on AP2022/C3)		Ongoing
C.4	Share information on frequently occurring errors with relevant control stakeholders (Builds on AP2022/C4)		Implemented
C.5	Improve the follow up of ECA/RER findings (Builds on AP2022/C5)		Implemented
C.6	Strengthen controls in respect of legal bases before signing contracts (Builds on AP2022/C7)		Implemented
C.7	Remind partners to fulfil their obligation to notify the Commission when counterparties are identified as being in exclusion situations (Builds on AP2022/C8)		Ongoing
C.8	Implement the recommendation from IAS audit report on EFSD (new action)		Ongoing
C.9	Check that accounting balances for closed EDFs are cleared in a timely manner (new action)		Implemented for the 8th EDF
C.10	Improve guidelines on *ex ante* controls (new action)		Ongoing

Source: EC Action Plans 2021, 2022 and 2023.

Annex III – Follow-up of recommendations

Level of implementation: fully; in most respects; in some respects; not implemented.

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2020	**Recommendation 1:** Take steps so that international organisations provide the ECA with complete, unlimited and timely access to documents necessary to carry out its task in accordance with the TFEU, and not just in read-only format. Timeframe: by the end of 2021.		The Commission stepped up communication with international organisations regarding our access to documents. Some United Nations (UN) organisations, such as the United Nations Children's Fund (UNICEF), the World Health Organisation (WHO) and the United Nations Development Programme (UNDP), continue to provide read-only access to supporting documentation.
	Recommendation 2: Issue reservations for all areas found to have a high level of risk, regardless of their share of total expenditure and their financial impact. Timeframe: by the time the 2021 AAR is published		
	Recommendation 3: Establish obligations for the RER study contractor to report to the Commission any suspected fraud against the EU budget detected during its work on the RER study. Timeframe: by the end of 2022.		

Year	ECA recommendation	ECA analysis of progress made in implementing recommendation	
		Level of implementation	Remarks
2021	**Recommendation 1:** Strengthen internal control to ensure that no contracts are signed without the existence of a valid legal basis. Timeframe: by the end of 2023.		Harmonisation and simplification of procedures and contractual conditions for grants will be achieved through the adoption of the 'model grants agreement' and onboarding in eGrants, which are being finalised.
	Recommendation 2: Take appropriate measures aimed at ensuring that any commitments or advance payments claimed as incurred costs by beneficiaries in their financial reports are deducted before carrying out payments or clearings. Timeframe: by the end of 2023.		The Commission took measures such as issuing of guidelines, introducing of an additional checklist and awareness raising.
2022	**Recommendation 1:** Check that all accounting balances for closed EDFs are cleared and that information in the annual accounts is updated in a timely manner. Timeframe: in time for the preparation of the 2023 accounts.		Fully implemented for the 8th EDF.

Source: ECA.

European Commission replies to the annual report on the activities funded by the 9th, 10th and 11th European Development Funds for the 2023 financial year

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS’ REPORT ON THE ACTIVITIES OF THE 9th, 10th AND 11th EDFs FOR THE FINANCIAL YEAR 2023

I. COMMISSION REPLIES IN BRIEF

The Commission welcomes the report of the European Court of Auditors (ECA) on the European Development Funds (EDFs). The Commission wishes to underline that the implementation of EDF takes places in risky, complex and increasingly fast-evolving environments. It is characterised by diversity:

- in terms of geographical dispersion, covering many different EU Delegations (EUD) around the world;
- in terms of implementing entities and partner countries with their diverse management and control capacities, ranging from small local NGOs to International Organisations; and
- in terms of assistance delivery methods, including traditional projects, budgetary support, sectoral policy support programmes, contributions to global instruments, blending, budgetary guarantees, and other aid implementation modalities. In addition, there are difficulties to deploy staff to Delegations in hardship countries and shortage of specialized profiles both in EUD and in headquarters (HQ).

The Commission takes all necessary measures to ensure full and efficient implementation of the EDF in accordance with the existing legal and financial framework. The Commission continues to adapt and refine its procedures to further reduce the risk of errors, taking into account, amongst others, the results of the ECA’s statement of assurance. A review of the overall control strategy of DG INTPA[1] is currently ongoing and the Commission will propose actions that are expected to help addressing the ECA’s recommendations and reduce the error rate.

[1] Later referred to as: ‘the control strategy’.

II. COMMISSION REPLIES TO THE MAIN OBSERVATIONS OF ECA

1. Reliability of the accounts:

As regards §17, the Commission notes that the EUR 300 million prefinancing open since 2014 and referred to in the findings, relate to two contracts under the EU-Africa Infrastructure Trust Fund (AITF). The aim of this Trust Fund is to provide financial support with grants to infrastructure projects leveraging thus alongside long-term financing made available by Project Financiers. The two contracts end in 2030 and the annual clearing of the AITF's old pre-financing is very limited and spreads out over the years. With the view to better reflect the contract conditions, EUR 300 million are re-classed to long term, and for the final EDF accounts a note was added (note 2.2), to explain this case to the reader.

2. Regularity of transactions

Regarding expenditure not incurred that accounts for 45% of the total error (§21 and figure 4), the Commission considers that these errors on clearing of pre-financing are of a temporary nature, as any over-clearing is meant to be adjusted with the final acceptance of costs. For this reason, this type of error will not lead to a recovery.

Reply to Box 2

Expenditure not incurred: excess clearing of pre-financing

The Commission takes note of this finding but would like to clarify that the financial reports provided by the implementing entity (pillar-assessed international organisation) did not give sufficient information to distinguish between expenditure incurred and advances paid. However, by the end of the project, all advances paid should be used to implement the foreseen activities and these advances should, in principle, become expenditure incurred.

Absence of essential supporting documents for a works contract

The Commission acknowledged the lack of the requested evidence but would like to clarify that the follow-up of the supporting documents confirming the details of the performed works is under the responsibility of the implementing entity (pillar-assessed international organisation).

Regarding the cases mentioned in the report in §23-25 with quantifiable errors, the Commission is currently working (within the framework of the review of the control strategy of DG INTPA) on reviewing the reporting templates and on reinforcing its controls before accepting the expenditure.

Regarding §26, DG INTPA revised the Terms of Reference of expenditure verifications in 2018 in order to improve reporting. More specifically the report should:

- provide basic information about the Contract
- describe the outcome of the risk analysis and its implications on the sampling,
- give an overview of the substantive testing
- fully disclose the information regarding the items included in the expenditure population and in the sample
- detail the findings identified through the performance of the agreed-upon procedures.

DG INTPA is committed to improving the reporting of expenditure verifications and this is expected to be one of the outcomes of the revision of its control strategy.

Annual activity report and other governance arrangements

The Directorate-General for International Partnerships (DG INTPA) continues to take action to appropriately address all issues in its control system. While DG INTPA adopts a new action plan related to internal control improvements every year, each new plan is based on the assessment of the previous action plan, findings by the ECA, the Commission's Internal Audit Service and an evaluation of underlying risks. The implementation of the current action plan 2023, addressing the identified control weaknesses and high risks, is on track.

2023 RER Study

The Residual Error Rate (RER) study is an important element underpinning the declaration of assurance of the Director-General, however, is not the only source of assurance. DG INTPA has a comprehensive internal control framework and a control strategy covering the full implementation cycle. All elements of the control framework serve as building blocks for its assurance which is reported in its Annual Activity Report. The latter is the basis for the regularity information in the Annual Management and Performance Report (AMPR).

Regarding §34, the Commission recognises the limitations in terms of controls set in the Financial and Administrative Framework Agreement (FAFA) with the United Nations and is looking for workable solutions, acceptable to both parties.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS

Follow-up of previous recommendations

To address recommendation 1 of the ECA 2020 Annual Report, the Commission intensified communication with international organisations to raise awareness about the need to ensure that ECA auditors obtain necessary access to documents when auditing EU-funded projects.

The Commission took many steps in this respect: the Commission has facilitated discussions between the United Nations organisations and ECA and supported all initiatives to find permanent solutions on access to and retention of documents. The issue is regularly included in the agenda of meetings with partners, not least of the formal meeting of the EU-UN FAFA group, as well as the more operational Joint Reference Group which systematically discusses audit and control issues.

However, the Commission acknowledges that despite all the efforts, some constraints regarding access to documents persist due to the existing legal frameworks of the implementing partners, which are not expected to change in the near future. The Commission will continue to provide support to the auditors and to engage with the partner organisations to facilitate ECA audits.

Recommendation 1 – Take into account changes made to contracts after the reporting period when calculating cut-off estimates

When calculating cut-off estimates during the preparation of the provisional accounts, take into account changes to contracts that have occurred after the end of the reporting period.

(Target implementation date: from the 2024 accounts onwards)

The Commission **accepts** this recommendation and will incorporate an additional control during the calculations of the estimated accruals by the 1st of February. This additional control will check dates and contracted amounts that were amended after the end of the year.

Recommendation 2 – Strengthen checks before making payments

Apply more thorough checks to avoid errors related to advance payments claimed as incurred costs, indirect costs claimed as direct costs and ineligible VAT.

(Target implementation date: end of 2025)

The Commission **accepts** this recommendation and will reinforce ex-ante controls, guidance and reporting requirements.

Recommendation 3 – Take measures to improve control systems for the clearing of pre-financing paid to pillar-assessed organisations

When clearing pre-financing paid to pillar-assessed organisations, enhance controls to identify and exclude pre-financing claimed in financial reports as expenditure incurred.

(Target implementation date: end of 2025)

The Commission **accepts** this recommendation and will reinforce ex-ante controls, guidance and reporting requirements.

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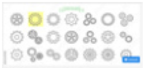
  The gear used   was modified by the ECA, © **By Ramziia –** stock.adobe.com

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Our annual report presents our opinion on whether the EU's annual accounts are reliable and whether the underlying revenue and expenditure transactions comply with the applicable rules and regulations. It also presents our analysis of the budgetary and financial management and performance aspects of the EU budget´s implementation.

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