

Systems for ensuring compliance of RRF spending with public procurement and state aid rules

Improving but still insufficient



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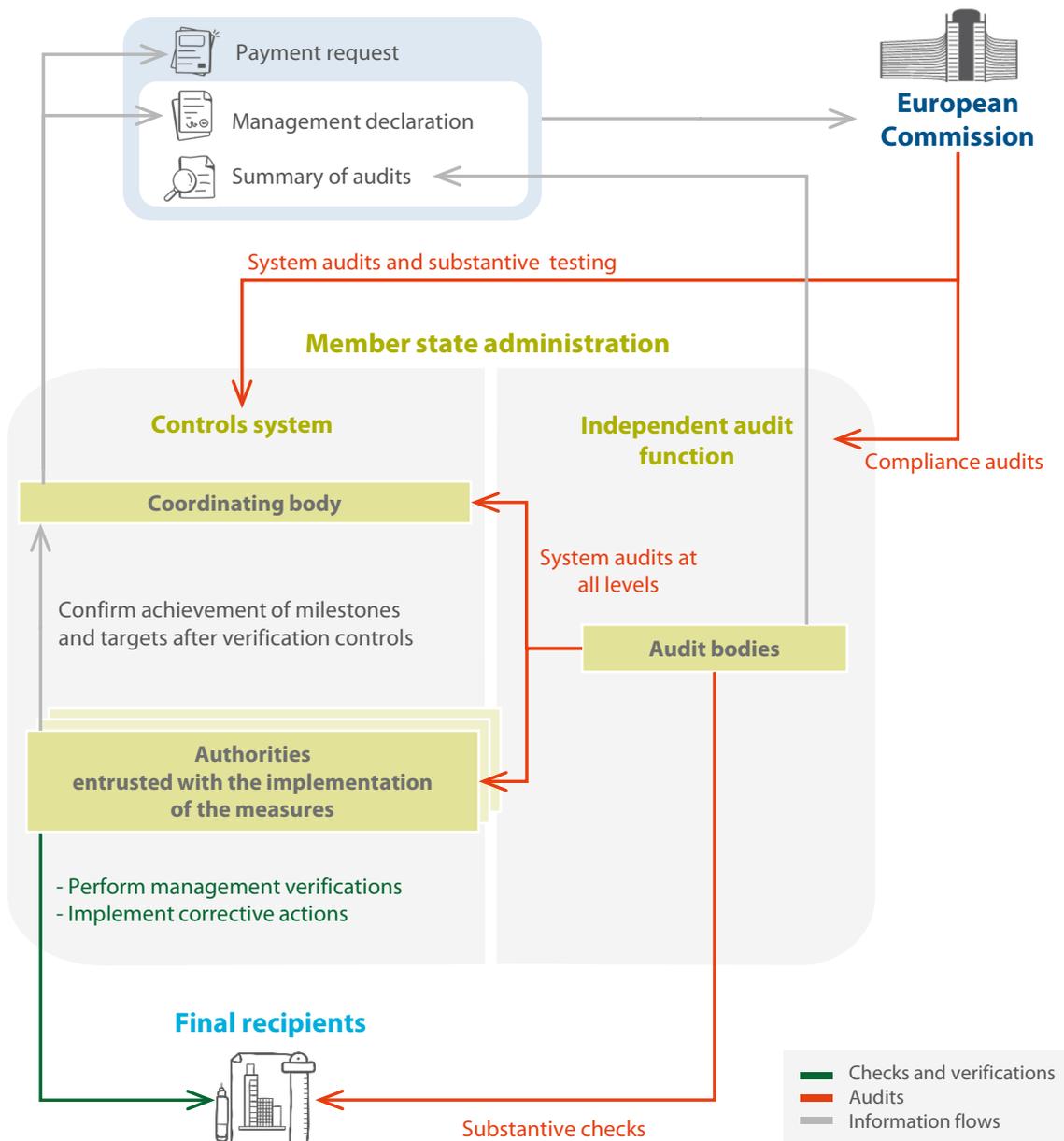
01

Main messages

Why this area is important

- 01** The Recovery and Resilience Facility (RRF) is based on the “financing not linked to costs” funding model. The main condition for RRF payments to member states is the satisfactory fulfilment of predefined milestones or targets. Member states are required to have effective and efficient internal control systems for RRF implementation to protect the EU financial interests. This includes measures to ensure that RRF funds are spent in line with all applicable EU and national rules, including those on public procurement and state aid, and that fraud, corruption, and conflict of interest (i.e. serious irregularities) and double funding are prevented, detected and corrected. Although non-compliance with EU and national rules has in general no impact on the regularity of the RRF funds paid by the Commission to the member state, the Commission should, in line with the [RRF regulation](#), obtain sufficient assurance that member states regularly and effectively check compliance with public procurement and state aid rules. [Figure 1](#) presents a high level overview of the RRF control and audit arrangements.

Figure 1 | Overview of the RRF control and audit arrangements



Source: ECA.

02 This audit complements our [previous audit on the design of the Commission’s control system for the RRF](#), in which we identified an assurance gap at EU level regarding the compliance of RRF-funded measures with EU and national law. For this audit, we assessed the RRF control systems at Commission and member state level, and whether the Commission has been able to draw sufficient assurance that member state internal control systems are effective in ensuring that RRF-funded measures complied with public procurement and state aid rules. To this end, we examined whether:

- o in the initial phase, from February 2021 to early 2023, the Commission sufficiently defined public procurement and state aid audits and controls in its guidance to member states, properly assessed national recovery and resilience plans and carried out sufficient audit work in this regard;
- o member states' RRF control systems provide a sufficient level of assurance that irregularities are prevented, detected and corrected; and
- o the Commission's recent audit work, together with member states' control systems, provides a sound basis for its annual declaration of assurance.

03 The aim of this report is to contribute to strengthening assurance at EU level on the compliance of RRF investment projects with public procurement and state aid rules. This is important because a significant proportion of investments involving public procurement and state aid are still to be implemented over the remaining duration of the RRF until the end of 2026. Non-compliance with public procurement and state aid rules is a perennial problem in the Cohesion policy area and other EU budget expenditure. Our recommendations will also be useful for any potential future programmes and instruments using the “financing not linked to costs” model.

04 For this audit, we selected five member states (Croatia, Czechia, France, Italy and Spain) from those that had submitted payment requests by end of April 2023, which included targets where public procurement and state aid were relevant. We examined the Commission audit work until May 2024. Further background information and details of the audit scope and approach are presented in [Annex I](#).

What we found and recommend

05 Overall, we conclude that despite improvements in its audit work, the Commission has not been able to draw sufficient assurance on whether member states have an effective internal control system to ensure that RRF spending complies with public procurement and state aid rules.

06 In the initial phase of RRF implementation, the Commission did not ensure that member states put in place effective checks and audits of compliance with public procurement and state aid rules. There was a lack of guidance regarding member state control and audit systems in terms of coverage, quality, timing and documentation. We found that some member states we sampled provided an insufficient level of assurance with some significant weaknesses in their control and audit systems. Since mid-2023 the Commission has stepped up its audit work and started checking the effectiveness of member state

systems. However, in many cases these audits suffered from gaps in their scope and it is not clear how preliminary audit work impacted the Commission's 2023 assurance.

In the initial phase of the RRF, the Commission did not ensure that member states put in place effective public procurement and state aid compliance checks

- 07** Although the [RRF regulation](#) requires member states to ensure compliance with all applicable EU and national rules, we found that requirements laid down in the regulation and guidance did not sufficiently define public procurement and state aid checks in the initial phase. In particular:
- The criterion specified in the [RRF regulation](#) for the assessment of member state audit and control systems focused solely on systems to prevent, detect and correct fraud, conflict of interest, corruption and double funding, and there was no assessment criterion covering compliance with EU and national rules, including those on public procurement and state aid. (paragraph [25](#)).
 - The Commission's 2021 guidance to member states on drafting their national recovery and resilience plans did not make clear the extent to which their control and audit systems should cover public procurement and state aid compliance. (paragraph [26](#)).
 - The Commission's checklist for the assessment of national plans included a question on whether member states had indicated that procedures ensuring compliance with public procurement and state aid rules were in place but there was no assessment of these procedures when approving national plans. (paragraphs [27-28](#)).
 - The key requirements of member state's control systems laid down in the financing agreement require member states to identify the responsible authorities but do not provide predefined system requirements. (paragraph [28](#)).
 - The Commission's 2021 guidance on the summary of audits that member states have to submit with their payment claims stated that audit bodies should undertake targeted audits to ensure compliance with public procurement and state aid rules. While the guidance required audit bodies to apply professional judgement and to use representative samples, it did not provide details on the coverage and quality of such audits. (paragraph [29](#)).

- 08** The Commission's 2021 audit strategy, which stated that compliance with EU and national law falls under the responsibility of the member states, also demonstrated the lack of focus on public procurement and state aid. In line with this, the Commission's initial audit work up to mid-2023 did not include coherent and complete checks of member states' control and audit systems for public procurement or state aid compliance. (paragraphs [31-36](#)).
- 09** The [RRF regulation](#) allows member states to use their existing national management and control systems. The lack of pre-defined system requirements on public procurement and state aid, coupled with insufficient focus on member state checks, created an environment which was not conducive to member states implementing control systems that would generate a sufficient level of assurance on these areas consistently across the EU. (paragraph [37](#)).



Recommendation 1

Ensure compliance with public procurement and state aid rules in future EU programmes

If designing instruments based on financing not linked to costs to be implemented by member states, the Commission should:

- (a) define requirements for the member state control and audit systems, for example in terms of coverage, quality, timing, documentation and corrective measures, to ensure compliance with public procurement and state aid rules;
- (b) check whether member states provide sufficient assurance at the start of any proposed instrument, and throughout its implementation.

Target implementation date: When designing instruments based on financing not linked to costs.

Some member state systems were affected by significant weaknesses

- 10** When submitting an RRF payment request, member states are required to provide assurance in their management declaration that the funds were managed in accordance with all applicable rules, including public procurement and state aid rules. Member states base this assurance on checks carried out by national bodies responsible for managing RRF implementation and independent audits carried out by national audit bodies. (paragraph [38](#)).

- 11** The design of RRF control and audit systems varied considerably in the five member states we sampled. The control systems in France and Spain relied entirely on existing national budgetary control institutions. In Czechia and Italy, they relied on implementing bodies that assume responsibility for control, with each designing its own control arrangements for RRF implementation, sometimes using the same approach as for other EU funds and sometimes using existing procedures under their national systems. In Croatia, they mirrored closely the institutional arrangements used for implementing other EU funds. (paragraphs [42-53](#)).
- 12** In our [annual reports](#), we noted that the work of national audit authorities on European Structural and Investment Funds cannot be fully relied upon. The national RRF audit bodies in four of the five member states (Czechia, Croatia, France and Spain) also audited European Structural and Investment Funds. In cases where the same body audits both funds, there is a risk that control and audit systems are not sufficiently effective in detecting non-compliance of RRF funded investment projects with public procurement and state aid rules. (paragraphs [51-52](#)).
- 13** In some member states, the work in support of their management declaration provided insufficient assurance because of weaknesses in coverage, quality, timing, and documentation of checks. We found serious deficiencies in most of the implementing bodies that we assessed in two sampled member states (Czechia and France) and in one member state's audit arrangements (France). We found no evidence of controls or audits (system and/or substantive testing) on public procurement procedures (France) as well as audits not covering all relevant risks, such as artificial splitting of contracts and modifications of contract elements (Czechia). In addition, we found issues related to the timing of controls and audit work in Italy, and documentation of controls and timing of audit work in Spain (see [Table 2](#) and [Table 3](#)). (paragraphs [54-68](#)).
- 14** On the other hand, member state controls on the granting of state aid were mostly in place and covered the main risks. The RRF [regulation](#) has no specific requirements on the timing of audits. Audit bodies' checks on the granting of state aid were absent or conducted only after payment requests had been submitted, resulting in a lack of independent assurance on state aid before initial RRF payments were made to the member states. The time available for member state RRF audit bodies to complete audit work before submitting the payment request can be short. (paragraphs [69-78](#)).



Recommendation 2

Define requirements for member state control and audit systems for public procurement and state aid

For the remaining implementation of RRF, the Commission should communicate to member state authorities that:

- (a) they should provide evidence of controls covering all main public procurement and state aid risks at least by the time the member state submits the payment request to the Commission;
- (b) audit bodies should provide assurance on such controls through a mix of systems and substantive testing.

Target implementation date: September 2025.

The Commission has improved its audit work on public procurement and state aid but it was still insufficient to provide assurance

- 15** In December 2023, the Commission updated its audit strategy, which now provides for Commission checks on member state audit and control systems for public procurement and state aid. The Commission has included such checks in all its audits and adopted dedicated audit checklists in September 2023. As of the cut-off date of our work in May 2024, the Commission had used these checklists in its audits in 14 member states. (paragraph [80](#)).
- 16** The updated audit strategy and checks on public procurement and state aid are a positive development with the potential to narrow the assurance gap at EU level that we identified in our previous report (paragraph [02](#)). However, we found several problems with the scope of checks and the impact of findings on the Commission's overall assurance. The Commission's audits did not include checks on member state granting authority controls under important exemptions such as the [General Block Exemption Regulation \(GBER\)](#) or the [Research, Development and Innovation \(RDI\)](#) framework. For public procurement, the sample size used by the Commission until September 2024 for testing member state systems was not clearly defined, resulting in a risk of inconsistent coverage of checks. (paragraphs [81-83](#)).

- 17** The annual activity report for 2023 did not disclose the proportion of implementing bodies with procurement and state aid relevant investments in each member state covered by audits. As a large proportion of payments were made at the end of the year, related audits started only towards the end of 2023 or in 2024. Therefore, for 12 out of 14 member states, the Commission had not formally communicated its findings to the member state through draft reports by the time of the 2023 assurance declaration. It is not clear in the risk assessment methodology how potentially critical or important issues identified by preliminary audit work impacts the assurance provided by the Commission. We also found issues in the risk criteria used. For example, the Commission classifies member states' control systems as low risk if it has not yet carried out any audit work or, when important issues are identified, the member state confirms that corrective action will be implemented in the future. While France receives significant RRF funding, we found that the Commission had not yet checked its RRF public procurement control and audit system. Our work showed significant deficiencies in France. (paragraphs [84-85](#)).
- 18** Based on our findings concerning the Commission audits, and the varying levels of assurance provided by the member state systems selected for this audit, we consider that the Commission could still not draw sufficient assurance that all member states have an effective internal control system to ensure that RRF funded measures comply with public procurement and state aid rules. This is not consistent with the Commission's annual declarations of assurance issued up to June 2024, which have been without reservations linked to member states control systems for public procurement and state aid. (paragraphs [86-87](#)).



Recommendation 3

Further strengthen Commission checks on member state systems ensuring compliance with public procurement and state aid rules

The Commission should:

- (a) disclose in its annual activity report the proportion of implementing bodies with procurement and state aid relevant investments in each member state covered by the Commission audits;
- (b) check controls on the granting of state aid at granting authority level, or when not feasible, disclose in its annual activity report any elements not covered by the Commission's audit work;
- (c) use the work of audit bodies on the control systems only if a compliance audit has shown that such work can be relied upon.

Target implementation date: May 2025, when preparing the next assurance declaration.



Recommendation 4

Improve EU level assurance on compliance with public procurement and state aid rules

The Commission should:

- (a) clarify in its risk assessment methodology how the results of checks made before the draft report stage are reflected in its assessment of member state risk;
- (b) disclose in its annual activity report where it has not performed audits;
- (c) classify member state systems as high risk where the audits have identified critical or very important findings for more than one implementing body until evidence has been obtained that the member state has taken the recommended corrective action.

Target implementation date: May 2025, when preparing the next assurance declaration.

- 19** Member states may use their national budget management systems for correcting breaches of public procurement and state aid rules. For state aid, EU legislation sets out the corrective measures to be taken where state aid is unlawful and incompatible with the EU internal market. (paragraphs [90-91](#)).
- 20** For public procurement, we found that corrective measures in the five sampled member states varied considerably. In France and Spain funds are not recovered from final recipients, except in the case of serious irregularities. In member states where funds are recovered, these are not returned to the EU budget. If member states do not apply recoveries for individual breaches of the rules, this could reduce the deterrent effect. (paragraph [91-92](#)).
- 21** The Commission has to take corrective action when it detects serious system weaknesses but cannot make corrections for individual breaches of public procurement rules except in cases of serious irregularities (fraud, corruption, conflict of interest and double funding) which have not been corrected by the member state. This means that, in line with the design of the RRF, payments can be made in full, even in cases of public procurement irregularities. To date the Commission has not applied any reductions to member states' RRF allocations for breaches related to public procurement or state aid controls. (paragraph [88-89](#)).



Recommendation 5

Define consistent corrective measures for breaches of public procurement rules

The Commission should define corrective measures to be applied consistently among member states for breaches of public procurement rules.

Target implementation date: May 2025

A closer look at our observations

In the initial phase of the RRF, the Commission did not ensure that member states put in place effective public procurement and state aid compliance checks

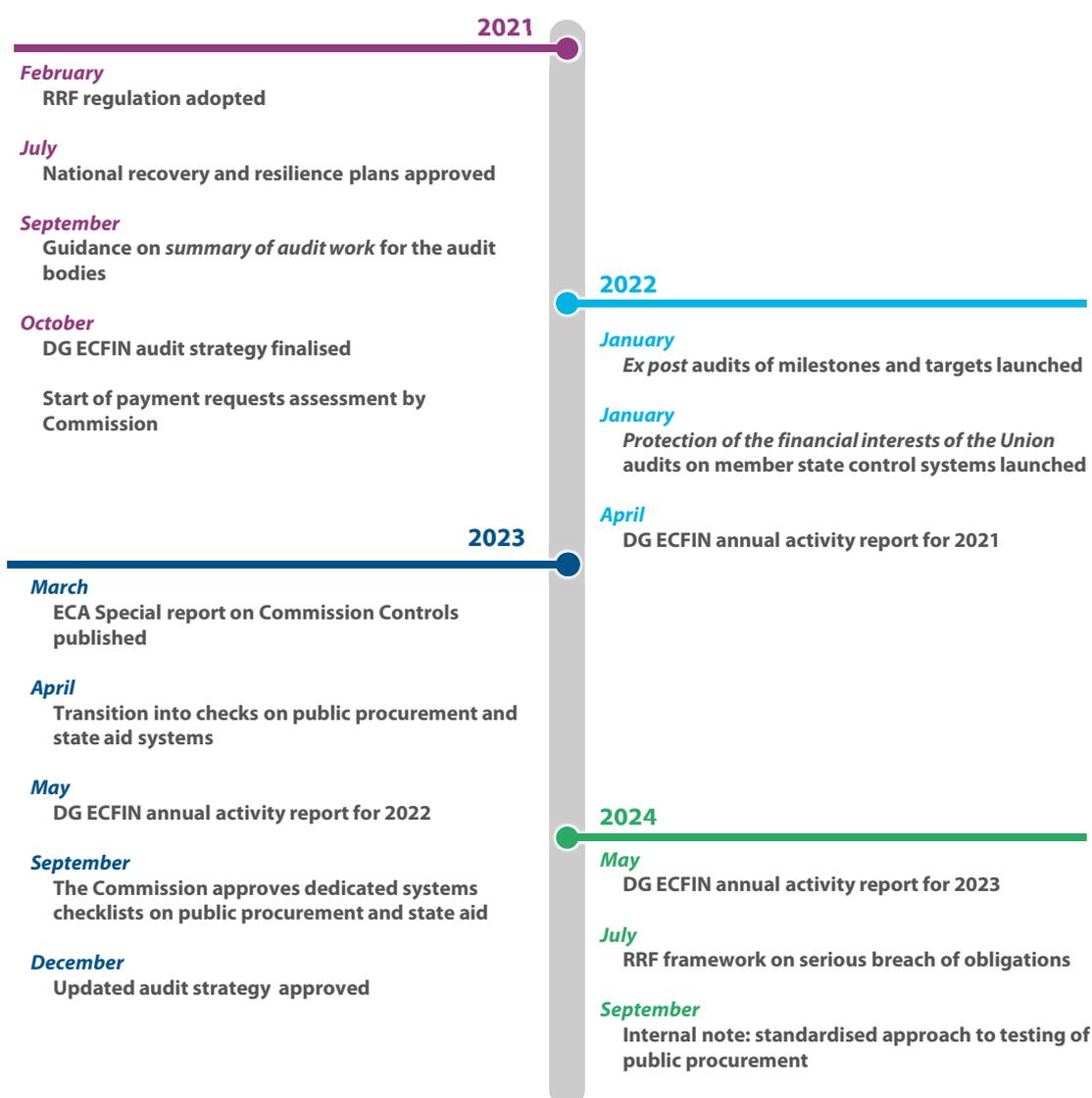
- 22** The Commission is ultimately responsible for the implementation of the RRF as it manages the facility directly. However, the [RRF regulation](#) outlines that the member states, as the beneficiaries and borrowers of funds, must ensure compliance with relevant EU and national law, including public procurement and state aid rules. The [regulation](#) allows member states to use their own national systems. However, in line with the financing agreement, member states have to provide assurance that their systems are effective. Therefore, the Commission could reasonably be expected to have provided guidance to member states on the design of control systems, assessed the systems in place and continuously checked how the systems function in practice.
- 23** In a [previous report](#)¹, on the design of the Commission's control system for the RRF, we identified an assurance gap at EU level regarding the compliance of RRF-funded measures with EU and national law. In mid-2023, the Commission started to check member state control systems for public procurement and state aid. We examined how the Commission had derived assurance on compliance with public procurement and state aid rules from the beginning of RRF implementation up to June 2024, when the Commission's

¹ [Special report 07/23](#).

Directorate-General for Economic and Financial Affairs (DG ECFIN) issued its declaration of assurance for RRF payments made in 2023.

24 *Figure 2* describes the evolution of the Commission’s RRF control framework for public procurement and state aid from 2021 to June 2024.

Figure 2 | Timeline: evolution of the Commission’s RRF control framework for public procurement and state aid



Source: ECA.

The Commission initial guidance on and assessment of member state national plans did not sufficiently cover public procurement and state aid controls

- 25** In line with the [RRF regulation](#), member states defined their own control and audit arrangements in their national recovery and resilience plans (NRRPs), which had to meet an assessment criterion on preventing, detecting and correcting serious irregularities, and double funding². There was no assessment criterion in the [regulation](#) covering compliance with EU and national rules on public procurement and state aid even though the Article 22 of the [RRF regulation](#) defines that member states shall take all the appropriate measures to protect the financial interests 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.
- 26** The Commission's 2021 guidance to member states for the preparation of their NRRPs included a section on control and audit arrangements³ which recommended that member states describe in detail the structure and functioning of their arrangements. This guidance did not provide details on how controls and audits on public procurement and state aid compliance should be implemented in order to obtain a sufficient level of assurance at EU level. It did not specify the coverage, quality and timing of checks. Neither did the subsequent [guidance on NRRPs issued by the Commission in 2023](#).
- 27** At the beginning of the RRF, the Commission assessed all NRRPs as having adequate audit and control arrangements. We reviewed the Commission's assessment of these arrangements in our sample of five member states (Croatia, Czechia, France, Italy and Spain). We noted that the Commission did not assess control systems for ensuring compliance with EU and national rules, including public procurement and state aid, which was not specifically required by the RRF regulation.
- 28** In 2021, the Commission developed internal guidance, including a checklist, so that all NRRPs would be assessed in a consistent manner. It included a question on whether member states had indicated that procedures ensuring compliance with public procurement and state aid rules were in place. However, the Commission did not assess these procedures because its guidance stated that such a check would go beyond the formal requirements of the [regulation](#). The key requirements of member state's control

² [RRF regulation](#), Article 19 and Annex V, assessment criterion 2.10.

³ [Commission staff working document](#), guidance to member states, Recovery and Resilience Plans, SWD(2021) 12, pp. 47-51.

systems laid down in the financing agreement obliged member states to identify the responsible authorities but did not provide predefined system requirements.

- 29** In September 2021, the Commission issued separate guidance regarding the summary of audits that member states are required to submit with each payment request. Among other things, it specified that audit bodies should undertake targeted audits to ensure compliance with all applicable rules, including public procurement and state aid. It did not provide detailed instructions, checklist templates or methodologies for obtaining assurance. The guidance recommended that member states take corrective measures if they identified weaknesses in internal control systems or serious irregularities. It did not specify criteria or the type of corrective action to be taken for individual breaches of public procurement or state aid rules.
- 30** We reviewed the minutes of formal bi-lateral meetings that took place between the Commission and member state audit bodies in 2021 and 2022. In many cases, little or no discussion took place on what the Commission expected of member state control and audit systems for public procurement and state aid. When member states enquired about the work to be done in these areas, the Commission did not emphasise its importance. We noted that, as of mid-2023, the Commission placed more emphasis on compliance in these areas.

Commission RRF audit work before mid-2023 did not focus on public procurement and state aid controls, affecting the level of assurance

- 31** [DG ECFIN's 2021 RRF audit strategy](#) states that: "Compliance with national and EU law falls under the responsibility of the member states and hence this audit strategy will not cover issues related to these matters." The Commission focused its audit work programme on fraud, corruption and conflict of interest, meaning it did not include dedicated checks on member states' control and audit systems for public procurement or state aid compliance in the audits performed until September 2023.
- 32** As a result, DG ECFIN's audits up to mid-2023 were not designed with a focus on public procurement and state aid compliance issues, and no specific checklists had been developed for the purpose of examining member state systems.

- 33** This approach was also reflected in DG ECFIN’s 2021 annual activity report, published in May 2022, in which the Director-General’s assurance declaration did not cover member state control systems for public procurement and state aid⁴. The declaration covered only the legality and regularity of underlying transactions and the implementation of Article 22(5) of the [RRF regulation](#) (reduction of support for serious breaches of obligations laid down in financing or loan agreements). The only payment made in 2021 covered milestones relating to reforms which did not concern public procurement or state aid checks.
- 34** DG ECFIN’s 2022 annual activity report, published in May 2023, did, however, include a declaration of assurance on state aid and public procurement. It provided assurance that member states regularly check that RRF financing and implementing measures have complied with all applicable rules⁵. In our [2022 annual report](#), we noted that the Commission’s statement was unclear about whether the regular checks carried out by member states provide reasonable assurance that their control systems ensure compliance with state aid and public procurement⁶.
- 35** DG ECFIN relied almost entirely on alternative sources of assurance: member states’ RRF audit bodies and the Commission’s joint audit directorate for cohesion policy (DAC) which checks the member states systems under the European Structural and Investment Funds (ESIF).
- 36** In our view, the assurance provided for 2022 concerning member state controls on public procurement and state aid rules was not sufficient because:
- the DAC does not audit the RRF. Where the same member state audit bodies were responsible for both the RRF and ESIF, DG ECFIN derived assurance from the work of DAC where their work led to unqualified or qualified opinion with limited impact. Whereas harmonised requirements exist for member state audit and control systems under ESIF, there are none for the RRF. Therefore, even if the member state RRF audit body is the same as ESIF, many aspects of the audit work carried out for the RRF frequently differs. We found this to be the case in member states we visited (Croatia, Czechia, France and Spain) (see paragraph [51](#)). In addition, for our annual report, we found that the work of audit bodies in ESIF cannot be fully relied upon⁷;

⁴ [DG ECFIN 2021 annual activity report](#).

⁵ [DG ECFIN 2022 annual activity report](#).

⁶ [2022 annual report](#), paragraph 11.58.

⁷ [2023 annual report](#), paragraph 6.73.

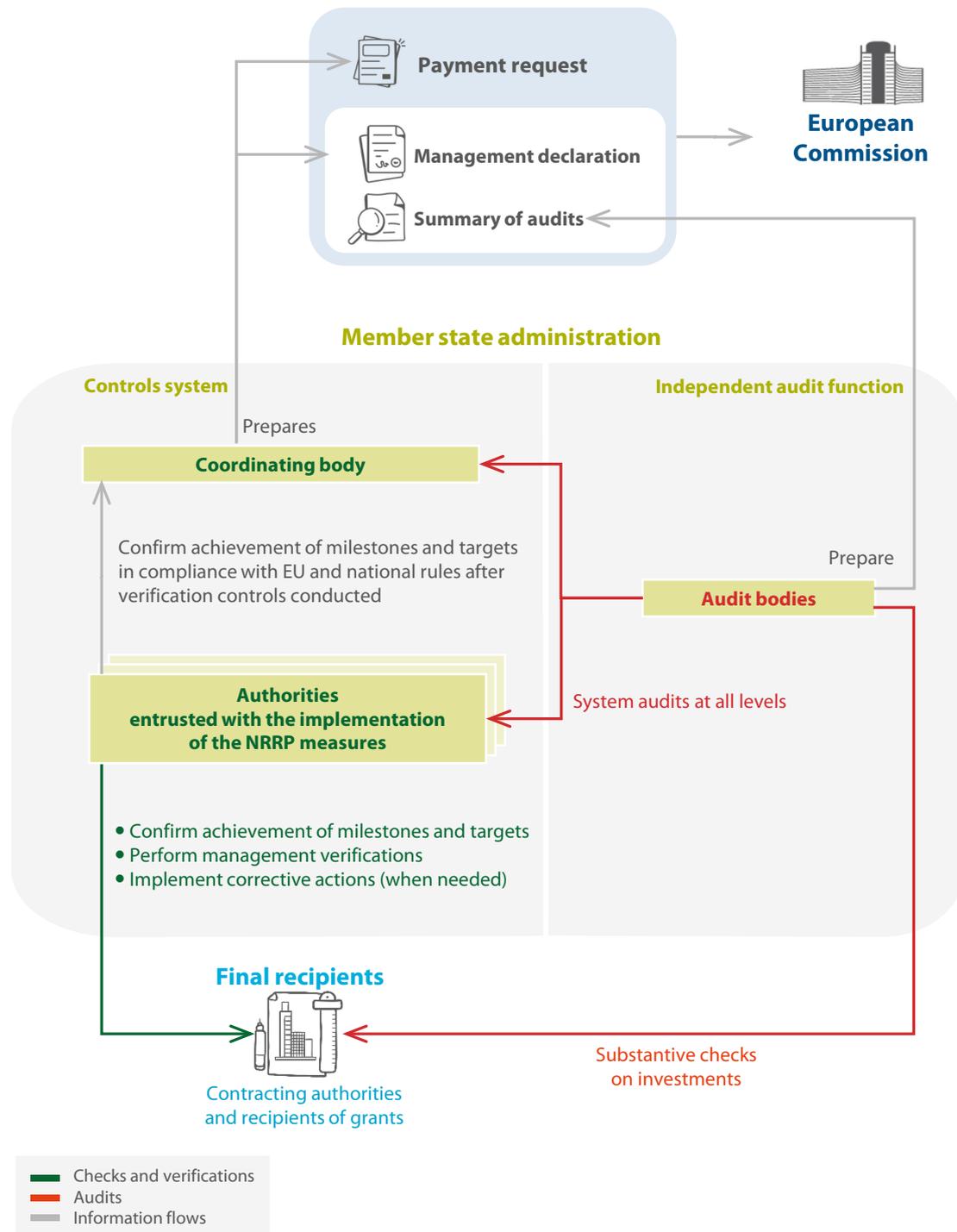
- o DG ECFIN relied on the work of member state RRF audit bodies directly without performing checks on their audit methodologies and checklists;
- o DG ECFIN's own work up to April 2023 did not include dedicated checks.

37 The RRF regulation allowed member states to implement the RRF using their own national budget management systems and did not specify any further requirements. The Commission did not provide detailed guidance to member states about checks on compliance with EU public procurement and state aid rules, and up until 2023 also did not include detailed checks on such aspects in its own audits. In practice this created, until mid-2023, an environment that was not conducive to member states implementing public procurement and state aid control systems that would generate a sufficient level of assurance consistently across the EU.

Some member state systems were affected by significant weaknesses

38 To receive RRF funds, member states submit payment requests to the Commission covering milestones and targets that they consider satisfactorily fulfilled. Payment requests must be accompanied by a signed management declaration and a summary of the relevant audits carried out by the member state. The management declaration confirms that the control systems in place provide the necessary assurance that the funds were managed in accordance with all applicable rules, including public procurement and state aid rules. The summary of audits includes an analysis of the weaknesses found by the audit body and the corrective action taken or planned by the member state. The RRF audit and control arrangements in member states are summarised in [Figure 3](#).

Figure 3 | RRF audit and control arrangements in member states



Source: ECA.

39 We assessed whether the design and implementation of RRF control and audit systems for public procurement and state aid in a sample of five member states (Croatia, Czechia, France, Italy and Spain) constituted a sound basis for the Commission to obtain sufficient assurance on these member states. We covered payment requests submitted up to the end of April 2023 and the ministries responsible for implementation, as well as member state audit bodies.

- 40** The sampled member states reported that all milestones and targets in submitted payment requests (see [Annex I](#)) had been achieved and their control systems gave the necessary assurance that the funds were managed in accordance with all applicable rules. In addition, the member states confirmed that the irregularities identified in final audit or control reports in relation to the implementation of their NRRPs had been (or were being) appropriately corrected and the corresponding funds recovered from final recipients, and adequate follow-up was given when deficiencies in the control system were identified.
- 41** As the summary of audits underpins the assurance given by the management declaration, we assumed that member state audit bodies had also already audited the public procurement and state aid elements of their control systems and ensured that any deficiencies had been addressed at the time of our fieldwork.

Control systems varied considerably in their design

- 42** The degree of assurance provided by member state authorities' checks depends on their nature and extent. The more extensive and detailed the checks, the higher the assurance they provide.
- 43** The [RRF regulation](#) allows member states to implement the RRF using their own national budget management systems and does not specify any further requirements. This has resulted in a complex control framework at EU level. The control systems and audit arrangements for RRF implementation in the sampled member states either:
- rely entirely on existing national budgetary control institutions or
 - closely mirror the institutional arrangements used for implementing other EU funds, especially the ESIF funds, or
 - rely on implementing bodies that assume responsibility for control, with each designing its own control arrangements for RRF implementation. These bodies sometimes use ESIF systems, sometimes simply use existing procedures under their national systems, and sometimes redesign a specific approach for the RRF where new functions are developed.
- 44** We visited each of the five member states to obtain an understanding of their control and audit systems. [Table 1](#) sets out the main characteristics of RRF control and audit system for public procurement and state aid in five member states.

Table 1 | Main characteristics of RRF control and audit system for public procurement and state aid

Member state (implementing bodies)	Main characteristics	
	RRF control system	RRF audit body
Czechia 12 ministries and one agency	Relies on a large variety of systems, ranging from existing controls used for the national budget to institutional arrangements used for implementing other EU funds.	Audit body is based in the ministry of finance. The audit function of other EU funds is also based in this ministry.
Spain 12 ministries 17 regions	Relies on already existing controls used for the national budget. The centralised national authorities (State Attorney's Office and Intervención General de la Administración del Estado (IGAE)) supervise public procurement and state aid within the scope of the central administration. In the regional administrations, supervision is carried out by their own authorities.	Audit body based centrally within IGAE, which audits all EU funds. It also uses the services of regional audit bodies.
France 8 ministries	Relies on existing controls used for the national budget, with ministries being responsible for their own RRF controls.	Audit department established within an inter-ministerial committee for coordination of controls. The committee audits all EU funds. For the RRF, it relies extensively on the internal audit functions of the managing ministries.
Croatia 20 ministries	Closely mirrors the institutional arrangements used for implementing other EU funds (ESIF).	Dedicated authority which audits most other EU funds.
Italy 27 ministries and other public bodies	Relies on a large variety of systems, ranging from existing controls used for the national budget to RRF-specific controls implemented by responsible ministries	Audit body is based in the ministry of finance. It is not responsible for auditing other EU funds.

Source: ECA, based on description provided by member states.

- 45** Croatia's RRF control and audit arrangements mirror those used for other EU funds (e.g. ESIF). This is achieved through common national rules requiring detailed management verification of public procurement and state aid. The Croatian audit body is separate from the ministries overseeing the implementation of the RRF.
- 46** In Czechia, while 12 ministries and one agency were identified in the latest NRRP as implementing bodies, in practice the RRF implementation is spread across many departments even within these ministries. They must design and implement checks and controls themselves to gain assurance on compliance with EU and national rules but are not required to apply consistent controls. Because of this, we observed different approaches with some bodies using verification methods obtained from shared management, some using approaches redesigned specifically for RRF, and some relying entirely on their national budget procedures.
- 47** In France, RRF authorities rely solely on their existing national budget management systems for the control of public procurement and state aid. The RRF audit body, which is separate from the implementing ministries, relies on the work of the internal audit functions of those ministries or other local audit functions.
- 48** In Italy, ministries are responsible for designing and implementing checks and controls themselves in order to gain assurance. The coordinating body establishes key requirements on reporting and implementation, however there are different approaches to control, with some ministries and public bodies using verification methods obtained from shared management and some using approaches redesigned specifically for the RRF.
- 49** In Spain, public procurement and state aid control systems rely on the national budget management systems used to oversee all verification of public expenditure. This function is performed by the [Intervención General de la Administración del Estado \(IGAE\)](#) together with the State Attorney. IGAE, which is separate from ministries, is responsible for first level control (i.e. ensuring the legality and regularity of RRF expenditure in the first instance) while also serving as the RRF audit body, which could give the impression of a lack of segregation of duties. However, there is a degree of functional separation across departments of IGAE, and this arrangement has been in place for the implementation of other EU funds, such as ESIF.
- 50** The number of ministries and bodies involved in the implementation of the RRF varies between the sampled member states, ranging from eight in France to 27 in Italy. We observed that some implementing bodies bring a lot of experience from shared management, while others have no experience in implementing controls for EU funds.

- 51** The designated RRF audit bodies in four of the five member states (Croatia, Czechia, France and Spain) were involved in auditing different EU funds. In three of these audit bodies (Croatia, Czechia, and France), the units responsible for auditing the RRF were using different procedures and methodologies compared to other EU funds, despite being located within the same audit body or based in the same ministry as the units auditing those other funds.
- 52** In our annual reports, we found that in the area of Cohesion not all national or regional control and audit systems are sufficiently effective in preventing or detecting irregularities including non-compliance with public procurement and state aid rules⁸. In more than half of the assurance packages we audited from 2017 to 2022, we found errors that had not been detected by the audit authorities' checks.
- 53** The RRF regulation has no specific requirements on the timing of audits. The Commission guidance provides for the possibility for member state audit bodies to carry out their work after payment requests have already been submitted, because the audits are not required to be specific to the investments and reforms that underpin the respective payment request. The time available for member state RRF audit bodies to complete audit work before submitting the payment request can be short. This is because milestones and targets can be fulfilled up until submission of the payment request to the Commission.

The assurance provided by member states' controls and audits of public procurement was undermined by several issues

Most of the member states sampled had weaknesses in their controls on public procurement compliance

- 54** We defined four audit criteria to assess the RRF control systems for public procurement in the five sampled member states, based on a review of those systems and an analysis of the controls applied to procurement procedures for 18 targets (*Annex II*):
- coverage, i.e. the extent to which bodies implementing RRF measures check public procurement procedures;

⁸ Review 03/2024: "An overview of the assurance framework and the key factors contributing to errors in 2014-2020 cohesion spending", paragraph 56-64.

- o quality, i.e. whether checks cover all main risk areas specified in the [Public Procurement Directive](#);
- o timing, i.e. whether checks are performed before a member state submits a related payment request with management declaration to the Commission; and
- o audit trail, i.e. whether there is sufficient documentation of the checks.

55 **Table 2** shows our analysis of sampled member states' control systems with respect to public procurement compliance.

Table 2 | Assessment of RRF control systems for public procurement in sampled member states (based on our sample of targets)

Member state ministries (no. of audited targets per responsible ministry)		Coverage	Quality	Timing: before payment request and management declaration?	Audit trail of RRF control bodies
Czechia	Agriculture (1)	⊘ None	⊘ None	⊘ No	⊘ No
	Education (1)	⊘ Insufficient coverage	⦿ Some risks	⊘ No	⦿ Yes
	Transport (3)	⦿ Risk-based sample	⦿ All main risks	⦿ Yes	⦿ Yes
Spain	Agriculture (2)	⦿ All	⊘ Not documented**	⦿ Yes	⊘ No
	Culture (1)				
France	Planning (1)	⊘ None*	⊘ None*	⊘ None*	⊘ None*
	Economy (1)				
	Ecology (1)				
	Interior (1)				
Croatia	Economy (2)	⦿ All	⦿ All main risks	⦿ Yes	⦿ Yes
	Labour (1)		⊘ N/A		
Italy	Labour (2)	⦿ Risk-based sample	⦿ All main risks	⦿ Partially	⦿ Yes
	Environment (1)				

*No information available on public procurement assurance for RRF targets selected.

**Legislation specifies the checks to be carried out, but unable to review the quality as no checklists used.

56 French authorities rely on their existing national budget management systems for the control of public procurement, including under the RRF. Therefore, ministries do not carry out management verifications for the RRF. Authorities at local level (e.g. prefectures) are empowered to confirm the legality of public spending, including on public procurement, but there are no established reporting lines to the ministries. The extent to which the prefectures check the public procurement compliance of RRF expenditure in practice was not clear to the coordinating body or the implementing bodies because it was not possible to identify individual RRF-financed procurements in information systems. As a result, French authorities were unable to provide evidence of the coverage, quality or timing of any such checks related to our sample (*Box 1*).

Box 1

Example of lack of evidence of checks on public procurement procedures for an RRF project in France

In the first payment request submitted by France to the Commission, French authorities stated that target 1-8 (energy renovation of public buildings) had been fulfilled. The payment request was accompanied by a management declaration outlining that the control systems in place give the necessary assurances that the funds were managed in accordance with all applicable rules. This target included numerous public procurement procedures.

The Ministry of Economy, Finance and Recovery had been responsible for fulfilling the target. It stated that routine national budgetary management systems had been applied, but was unable to provide evidence of any checks by prefectures or any other body. The ministry did not carry out their own checks on the public procurement procedures before submitting the payment request.

57 In Czechia, where controls on public procurement were not standardised, there were notable differences in the controls in place in the three ministries observed. The first ministry (Transport) performed detailed checks on a risk-based sample before submitting payment requests. The second ministry (Agriculture) gathered only necessary documentation without performing checks, and the third ministry (Education) did not conduct checks before submitting payment requests but performed some checks after. According to Czech authorities, checks can vary within some responsible ministries. *Box 2* shows an example of weak controls.

Box 2

Example of weakness in control of public procurement procedures in Czechia

In the first payment request submitted by Czechia to the Commission, Czech authorities stated that target T-135 (completion of 50 % of small watercourse and water reservoir projects) had been fulfilled. The payment request was accompanied by a management declaration outlining that the control systems in place give the necessary assurances that the funds were managed in accordance with all applicable rules.

This target included numerous public procurement procedures. However, before submitting the payment request, the responsible ministry obtained only some of the procurement documentation from contracting bodies and did not check the compliance of the public procurement procedures.

- 58** In Spain, procurements are checked by the IGAE and the State Attorney, before payment requests are submitted to the Commission. Their approval is needed before each stage of a procurement procedure can move forward. There is a simplified procedure for RRF compared to other areas of the national budget, the results of which are summarised in reports issued by these bodies as specified in Spanish law. However, the details of the checks are not documented, therefore we were unable to verify the quality of checks performed on the sample we examined. Given the simplified procedure, documentation of checks performed is important to ensure a homogeneous verification of public procurement.
- 59** In Croatia, detailed checks on all procurements are performed and documented before payment requests are submitted. The coordinating body maintains a database of all irregularities detected. This good practice is presented in [Box 3](#).

Box 3

Example of good practice in control of public procurement procedures in Croatia

In Croatia's second payment request, submitted to the Commission in 2022, the national authorities stated that targets 63 (Public sewerage network constructed or reconstructed) and 68 (Public water supply network constructed or reconstructed) had been fulfilled. These involved many high-value public procurement procedures for the construction of water and sewage pipe systems. The payment request was accompanied by a management declaration giving assurance that all funds used to achieve these targets were managed in accordance with all applicable rules. The Ministry of Economy delegated responsibility for implementation to the main body for water infrastructure, Croatian Waters, which also had to check all public procurement contracts. For a sample of these, we confirmed that such checks had been performed.

Furthermore, where Croatian Waters identified breaches in procurement processes, it recovered irregular amounts and reported all irregularities and corrective action to the coordinating body.

- 60** In Italy, before payment requests are submitted, ministries check the completeness of public procurement files. In addition, responsible ministries perform detailed checks on a risk-based sample of procurement procedures for which final recipients have requested reimbursement from the ministry. As a result, procurement checks can take place either before or after payment requests are submitted to the Commission. For all three targets in our sample, the ministries carried out such checks after the payment request was submitted to the Commission.
- 61** The work of the bodies responsible for implementation within member states is a key level of control in the RRF framework, as it is the basis for the member states' management declarations. However, we noted a serious absence of control in the area of public procurement by implementing bodies in two member states (Czechia and France). We also noted issues regarding the timing (Italy) and documentation (Spain) of controls in two other member states.

RRF audit bodies' assurance on public procurement compliance is affected by coverage and timing issues

- 62** We examined the work of RRF audit bodies on public procurement compliance in our sample of payments. We used the same criteria as for our assessment of RRF control systems (see paragraph 54), except that for "coverage" we analysed the extent to which RRF audit bodies conducted work on the control systems (systems testing) and audited individual public procurement procedures (substantive testing).

63 We found that the work of audit bodies varied significantly among the sampled member states. The results of our assessment are presented in [Table 3](#).

Table 3 | Assessment of audit bodies' work on public procurement in sampled member states (based on sampled targets)

Member state	Coverage (substantive and systems testing)	Quality (substantive testing)	Timing: before payment request and management declaration?	Audit trail
Czechia	✓ Systems	Some risks	✓	✓
	✓ Substantive		✓	
Spain	✗ Systems	All main risks	N/A	✓
	✓ Substantive		✗	
France	✗ Systems	None	N/A	N/A
	✗ Substantive		N/A	
Croatia	✓ Systems	All main risks	✓	✓
	✓ Substantive		✓	
Italy	✓ Systems	All main risks	✓	✓
	✓ Substantive		✗	

64 In Croatia, Czechia and Italy, the audit bodies carried out a mix of systems-based and substantive checks on public procurement. Spain's audit body carried out only substantive testing. While France's audit body focused on serious irregularities, it did not conduct any systems audit or substantive testing on public procurement before the first payment request (see paragraph [67](#)).

65 In Spain and Croatia, the audit bodies carried out detailed substantive checks based on ESIF checklists. In Italy and Czechia, the audit bodies developed a new RRF-specific checklist for substantive testing. However, in Czechia the checks did not cover all public procurement risks such as artificial splitting of contracts, modifications of contract elements or collusion among tenderers (known as "bid-rigging").

- 66** In Croatia and Czechia, the audit bodies' work was done before the relevant targets were included in a payment request and the related details were included in the accompanying summaries of audits. Conversely, in Spain and Italy, the audit bodies tested individual procedures after the relevant targets had been included in a payment request, and the details of this work only accompanied subsequent payment requests. Conducting audits after the payment request had been submitted reduces their usefulness in underpinning the management declaration.
- 67** In 2021, before France submitted its first payment request to the Commission, the country's audit body carried out a general audit on the RRF control system at the level of ministries and the coordinating body. The general audit did not identify the weaknesses in public procurement controls that we identified (see paragraph 56). Later, in 2022, the audit body conducted a thematic audit (systems audit) on public procurement controls which only examined 15 RRF public procurement procedures across a sample of contracting authorities and did not identify any problems with them. However, this audit did not examine any public procurement controls. The audit report did not highlight the systems weakness we identified and have described above in **Box 1**, namely that the responsible ministries did not carry out their own checks on public procurement conducted by the contracting authorities and were unaware of any such checks or controls by any other public body.
- 68** The work of the audit bodies is important to underpin management declarations and give the Commission independent assurance regarding checks by the member states authorities responsible for implementing the RRF. The issues we have identified regarding the coverage, quality and timing of checks by the audit bodies in the sampled member states raise concerns around this assurance.

Member state control systems for state aid in place but some audit bodies' checks absent or conducted only after payment requests

Member state controls covered the main state aid risks

- 69** We assessed the RRF control systems for state aid in the five sampled member states by examining 13 targets (**Annex III**) potentially involving state aid. As part of their checks on state aid, the member states assessed five of these targets as not involving state aid. Of the other eight, the **GBER** was relevant for two, the **RDI** framework was relevant for three, **de minimis aid** was relevant for two and the remaining target related to notified aid. At the time of the audit, only a small number of payment requests made by member states

included targets potentially involving state aid. For this reason, we were unable to assess controls for all types of state aid in all the sampled member states.

70 We defined five audit criteria to assess the state aid controls:

- existence, i.e. whether responsible bodies had assessed if measures were relevant for state aid, and notified the Commission where appropriate;
- grant compliance, i.e. whether responsible bodies check the granting of aid under specific regimes (for example GBER);
- quality, i.e. that all requirements of the state aid type are checked;
- timing, i.e. whether checks were performed before a member state submitted a related payment request with management declaration; and
- audit trail, i.e. whether checks were sufficiently documented.

71 **Table 4** shows our analysis of sampled member states' control systems with respect to state aid compliance.

Table 4 | Assessment of RRF control systems for state aid in sampled member states (based on sampled targets)

Member state ministries (no of targets potentially involving state aid)		Existence	Grant compliance	Quality	Timing: Before payment request and management declaration?	Audit trail
Czechia	Education (1 RDI schemes)	✓	✓	All requirements	✓	✓
Spain	Science (2 RDI schemes)	✓	✓	All requirements	✓	✓
	Agriculture (1 <i>de minimis</i> , 1 notified)					
France	Economy (1 GBER scheme)	✓	✓	Some aspects**	✓	Partly**

Member state ministries (no of targets potentially involving state aid)		Existence	Grant compliance	Quality	Timing: Before payment request and management declaration?	Audit trail
	Labour (3)		N/A*	N/A*		✓
Croatia	Economy(a) (1 GBER scheme)	✓	✓	All requirements	✓	✓
	Economy(b) (1)		N/A*	N/A*		
Italy	External affairs (1 <i>de minimis</i>)	✓	✓	All requirements	✓	✓
	Environment (1)		N/A*	N/A*		

*Member state assessed that there was no state aid, thus no need for further checks.

**Member state presented self-declarations from recipients, but checks on these were not documented.

72 In our sample of targets, we found that member states generally had good state aid existence checks. Where state aid was confirmed, we observed good grant compliance and that most important aspects of state aid were checked. All checks were conducted before payment requests were made, and there was sufficient documentation of checks in most cases.

73 In France, we reviewed a GBER scheme that provided grants to private companies for decarbonisation. Insufficient evidence was available about the checks performed by the granting authority at the time the individual grants were provided. Checks were mainly based on applicants' self-declarations but were not documented. From the files provided, it was not clear how assurance was obtained that specific requirements from the GBER regulation were applied, resulting in a risk of incorrect application. We have previously recommended that member state authorities have appropriate methods in place to check the validity and reliability of self-declarations⁹.

74 Three targets in France, one in Italy and one in Croatia that we identified as potentially relevant for state aid were considered compatible with the rules by the national authorities. Therefore, they did not notify such cases to the Commission's Directorate-General for Competition (DG COMP) and did not carry out further checks. However, while state aid existence checks were performed, we considered that for the three targets in

⁹ 2022 annual report, recommendation 6.5.

France the national authorities should have notified the schemes to DG COMP for state aid compatibility analysis before implementing them. **Box 4** shows one such example examined.

Box 4

Example of a state aid scheme in France that was not notified to DG COMP for analysis

Although analysed for state aid existence by the responsible French ministry, we consider that the aid scheme under target 8-10 (hiring subsidies paid for apprenticeship contracts) fulfils all cumulative criteria for state aid set out in [article 107\(1\) of TFEU](#) to be considered incompatible with the internal market, including by favouring undertakings with fewer than 250 employees. In our view, this scheme should have been notified to DG COMP for state aid compatibility analysis.

Member state RRF audit bodies had no assurance on state aid before RRF payments were made

- 75** We assessed the work of RRF audit bodies in respect of state aid compliance in the five sampled member states, based on the same criteria used for the control systems (see paragraph 70). **Table 5** summarises our assessment.

Table 5 | Assessment of audit bodies' work on state aid in sampled member states (based on sampled targets)

Member state	Existence	Grant compliance	Quality	Timing: before payment request and management declaration?	Audit trail
Czechia	X	X	None	N/A	N/A
Spain	✓	✓	All requirements	X	✓
France	X	X	None	N/A	N/A
Croatia	✓	X	None	✓	✓
Italy	✓	✓	All requirements	X	✓

- 76** The RRF regulation has no specific requirement on the timing of audits. None of the five sampled member states had audited the granting of state aid to recipient companies before submitting the payment requests we examined resulting in a lack of independent assurance on the control systems in place. This was despite the fact that each request included targets subject to state aid rules, as well as a number of targets potentially involving state aid. In Croatia, checks on the existence and details of the scheme were performed before the payment request was submitted to the Commission. In France and Czechia, no audit work on state aid compliance was done either before or after the payment requests on the sampled targets.
- 77** In Italy and Spain, detailed audit work was done on the state aid schemes only after the relevant payment requests have been submitted and paid. In Spain, checklists based on DG COMP's checklists were used. Summaries of this audit work were submitted with subsequent payment requests, a practice that is allowed in the Commission guidance. Audit work conducted after payments are already made reduces the assurance provided for the payments related to the targets involving state aid. In Italy, although audits on the granting of state aid to recipients are carried out after payment requests are submitted, systems checks on the first-level control procedures of the ministries responsible for granting aid are generally carried out before submission.
- 78** The audit bodies in Croatia and Czechia informed us that, for subsequent payment requests, they plan to audit state aid compliance in detail, including at grant level, with checks based on DG COMP checklists. Although France's audit body had not done any work focusing on state aid, it intended to conduct a thematic audit on state aid compliance in the future. Spain has indicated that it may change its approach to conduct audit work in future before submitting payment requests.

The Commission has improved its audit work on public procurement and state aid but it was still insufficient to provide assurance

- 79** We assessed the basis for the Commission's 2023 assurance on member state public procurement and state aid systems by examining the coverage, quality and timing of its audits and the impact of findings on the assurance it provides. We also examined, at both Commission and member state level, the corrective measures for breaches of public procurement and state aid rules.

The Commission updated its audit strategy to cover member state systems on public procurement and state aid compliance, but some weaknesses remain

- 80** In May 2023, the [European Parliament's 2021 discharge resolution](#) echoed the findings and recommendations from our [special report 07/2023](#), calling on the Commission to “ensure a reasonable number of tests of individual procurement files in order to guarantee the effectiveness in practice of the internal control systems”.
- 81** In September 2023, the Commission introduced standardised checklists concerning member states' systems for ensuring compliance with public procurement and state aid rules. In December 2023, DG ECFIN updated its audit strategy to reflect the use of these checklists. The checklist for public procurement covered all main risks. However, the state aid checklist did not cover the member states' controls for grants to undertakings under [GBER](#) or [RDI](#) schemes.
- 82** By the end of May 2024, the Commission had launched audits across 14 of the 17 member states that received payments in 2023 using the approved standardised checklists for public procurement and state aid. The Commission intends to continue using the new checklists in its audit work to cover all member states.
- 83** For the audits launched up to mid-2024, there were no clear instructions on the level of testing to be performed, such as the number of implementing bodies to be checked or number of individual public procurement controls to be reperformed to have confidence in the effectiveness of the controls. This raises a risk of inconsistent coverage of checks across the Commission's audits of member state systems. Not until September 2024 did DG ECFIN's internal instructions require each systems audit to cover at least three procurement procedures per implementing body. This guidance does not make clear the coverage needed for assurance i.e. how many implementing bodies should be checked per member state system, as the number of these bodies can vary considerably (see [Table 1](#)).

The Commission's 2023 assurance declaration in the area of state aid and public procurement has limitations

- 84** For its 2023 annual activity report, DG ECFIN relied on its own audit work for its assurance on the control systems of member states that received payments in 2023. [Table 6](#) presents an analysis of the different audits on public procurement and state aid in support of its 2023 declaration of assurance and their completion status when the declaration was issued in May 2024.

Table 6 | DG ECFIN audit work on public procurement and state aid underlying the 2023 declaration of assurance

Member state	Q1 2023	Q2 2023	Q3 2023	Q4 2023	Q1 2024
Czechia					
Denmark					
Germany					
Estonia					
Greece					
Spain					
France					
Croatia					
Italy					
Lithuania					
Luxembourg					
Malta					
Austria					
Portugal					
Romania					

Member state	Q1 2023	Q2 2023	Q3 2023	Q4 2023	Q1 2024
Slovenia					
Slovakia					

Notes: **Audits/Fact finding mission undertaken:**  finalised;  not finalised.

Checklists used:   no detailed checklists used;     approved detailed checklists;     draft versions of detailed checklists.

Audited:  no detailed public procurement or state aid checklists used; **PP** detailed public procurement checklist used; **SA** detailed state aid checklist used.

Source: ECA, based on information received from the Commission.

85 In our review of DG ECFIN's audit work, we found several issues which undermine the assurance:

- Out of 14 member states where DG ECFIN's audits used the new approved checklists (see paragraph 81), audit work had been finalised in only two (Germany and Slovakia) by the date of the 2023 declaration of assurance. For the remaining member states, the Commission had not formally communicated its findings through draft reports and thus it is not clear how potentially critical or very important issues identified by preliminary audit work impact the assurance provided.
- The Commission's state aid checklists did not cover member state controls for checking the granting of aid under various state aid schemes (see paragraph 81).
- For three member states (Austria, Denmark and Spain), the Commission relied on audit work completed in early 2023 that did not use the approved standardised public procurement or state aid checklists.
- The Commission did not clearly define the methodology and the sample size used for testing member state public procurement systems (see paragraph 83). The annual activity report did not disclose the proportion of implementing bodies with procurement and state aid relevant investments in each member state covered by audits.
- For France, which receives significant RRF funding, the Commission has not yet checked the RRF public procurement control and audit system. Our work in France showed significant deficiencies (see paragraphs 56, 64 and 67).

86 Based on the results of its audit work, DG ECFIN classifies member state control systems as low-, medium- or high-risk using the criteria set out in its annual activity report (see Annex IV). If the Commission identifies a payment to a member state as high-risk in the reporting year, its annual declaration of assurance should generally include a reservation,

unless it falls under the *de minimis* rule. For 2023 payments, the Commission did not assess any member state control systems related to public procurement and state aid as high-risk, so it did not issue any reservations. It assessed the control systems of seven member states for public procurement and state aid as medium-risk and ten as low-risk.

- 87** We reviewed the Commission’s risk categorisation and found the following issues, which impact the basis for the Commission’s assurance:
- If DG ECFIN’s audits, or audits by other bodies, identify critical or very important issues but the member state has confirmed that corrective action will be implemented in the future, the risk is categorised as low. If the member state has not yet agreed to implement corrective action, or if corrective action is delayed, the risk is classified as medium. Categorising risk as low or medium based on a future member state commitment or in cases of delayed corrective action might not truly reflect the actual level of risk at the time of the assurance declaration. This is because correcting insufficient or non-existent checks on public procurement or state aid compliance often takes a long time.
 - The Commission also categorises member state control systems as low-risk where it has not yet carried out audit work. Assigning low risk to cases in which no audit has occurred may not appropriately reflect the situation. For example, this is the case in France, where the Commission classified the control system as low-risk as it had not performed audits covering public procurement. However, our audit showed serious deficiencies (see paragraphs 56, 64 and 67). In addition, it is not clear for 12 member states how the non finalised (no draft report sent) audit findings are considered in the risk assessment. As these audits were still ongoing as of 31 May 2024, any potential critical or important findings were yet to be notified and corrected.

The Commission has not applied reductions for system weaknesses and member states do not always recover from final recipients

- 88** If the Commission identifies serious deficiencies in a member state’s control or audit systems for public procurement and state aid, then that member state is in serious breach of its obligations under the financing and loan agreements. If the member state fails to correct the identified weaknesses or any of its past effects, the Commission may apply a flat-rate reduction to the member state’s entire RRF allocation¹⁰. The size of the reduction depends on the seriousness of the weakness. As of the end of May 2024, the Commission

¹⁰ Commission notice, Guidance on recovery and resilience plans, Annex IV (C/2024/4618).

had not applied any flat-rate corrections for public procurement or state aid system weaknesses, as it considered all identified deficiencies as either having been appropriately corrected or in the process of being addressed by the member state.

- 89** In individual cases of serious irregularities (fraud, corruption and conflict of interest), the [RRF regulation](#) and financing agreements clearly stipulate that the Commission is obliged to recover the affected amounts if the member state has not made sufficient corrections. They do not stipulate any corrective action to be taken by the Commission or the member state for individual breaches of public procurement or state aid rules which are not deemed to be fraud, corruption or conflict of interest.
- 90** The Commission 2021 guidance for NRRPs clarifies that if a member state finds irregularities in RRF spending, it is the duty of the member state itself to recover the related amounts from the recipient¹¹. For state aid, EU legislation sets out the corrective measures to be taken where state aid is unlawful and incompatible with the EU internal market: that 100 % of the aid granted, plus applicable interest, should be recovered from the recipient¹². The EU Public Procurement Directives do not provide for any corrective measures.
- 91** As member states may use their own national budget management systems, the Commission did not issue further guidance on what kind of corrective action member states should take for public procurement irregularities. [Table 7](#) presents the five sampled member states' approaches to recoveries in cases of breaches of public procurement rules. It shows that the corrective mechanisms used vary considerably.

¹¹ [SWD\(2021\) 12](#).

¹² Communication from the Commission notice on the recovery of unlawful and incompatible state aid, [2019/C 247/01](#).

Table 7 | Recoveries in cases of breaches of public procurement rules

Member state	Recoveries due to breaches of public procurement rules (not related to fraud, corruption or conflict of interest)
Czechia	National competition authority may recover up to 10 % of contract value for certain breaches. This is in line with budget management rules in place for all national bodies. One of the three ministries visited had also adopted the guidance on corrections issued by Commission for ESIF.
Spain	RRF control authorities have no legal basis to recover funds from recipients, except in cases of serious irregularities. This is in line with national budgetary management rules.
France	RRF control authorities do not seek to recover any funds from recipients/contracting authorities, except in cases of serious irregularities. This is in line with national budget management rules.
Croatia	The amounts to be recovered from RRF recipients are in line with the amounts specified in the Commission’s guidance for the same breaches under ESIF.
Italy	The amounts to be recovered from RRF recipients are in line with the amounts specified in the Commission guidance for the same breaches in the ESIF implementation.

92 Any funds recovered by member states due to individual public procurement irregularities (other than fraud, corruption or conflict of interest) are retained in the national budgets and are not returned to the EU budget or deducted from subsequent RRF payments. This is in line with the design of the RRF where the satisfactory fulfilment of milestones and targets is the main payment condition from the EU budget. However, this means that RRF payments from the EU budget can be made in full, even in cases of public procurement or state aid irregularities. The recovery of irregular amounts is a key tool to deter beneficiaries from committing further irregularities. If member states do not apply recoveries for individual breaches of the rules it could reduce the deterrent effect.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 27 February 2025.

For the Court of Auditors

Tony Murphy
President

Annexes

Annex I – About the audit

Introduction

The RRF in brief

- (1) The Recovery and Resilience Facility (RRF) was established by [Regulation \(EU\) 2021/241](#) (“the RRF Regulation”), which entered into force on 19 February 2021. It is the largest financial element of the EU’s recovery plan, NextGenerationEU. It was amended in February 2023 by [Regulation \(EU\) 2023/435](#), allowing member states to add a “REPowerEU chapter” to their national recovery and resilience plans (NRRPs). The RRF has supported reforms and investments in member states since the start of the COVID-19 pandemic in February 2020 and will run until 31 December 2026.
- (2) The RRF had a maximum financial allocation of €723 billion in grants (€338 billion) and loans (€385 billion). By the end of 2024, €650 billion had been committed, consisting of €359 billion in grants and €291 billion in loans. This number includes the REPowerEU amendment.
- (3) The RRF is based on the “financing not linked to costs” funding model¹. 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 approving their NRRPs. A further element to be considered is that targets or milestones that member states have previously satisfactorily fulfilled should not have been reversed. The eligibility conditions laid down in the [RRF regulation](#) also include compliance with the eligibility period, the “do no significant harm” principle, and non-

¹ [Financial regulation](#), Article 125(1)(a)(ii).

substitution of recurring national budgetary expenditure². Member states are required to have effective and efficient internal control systems³.

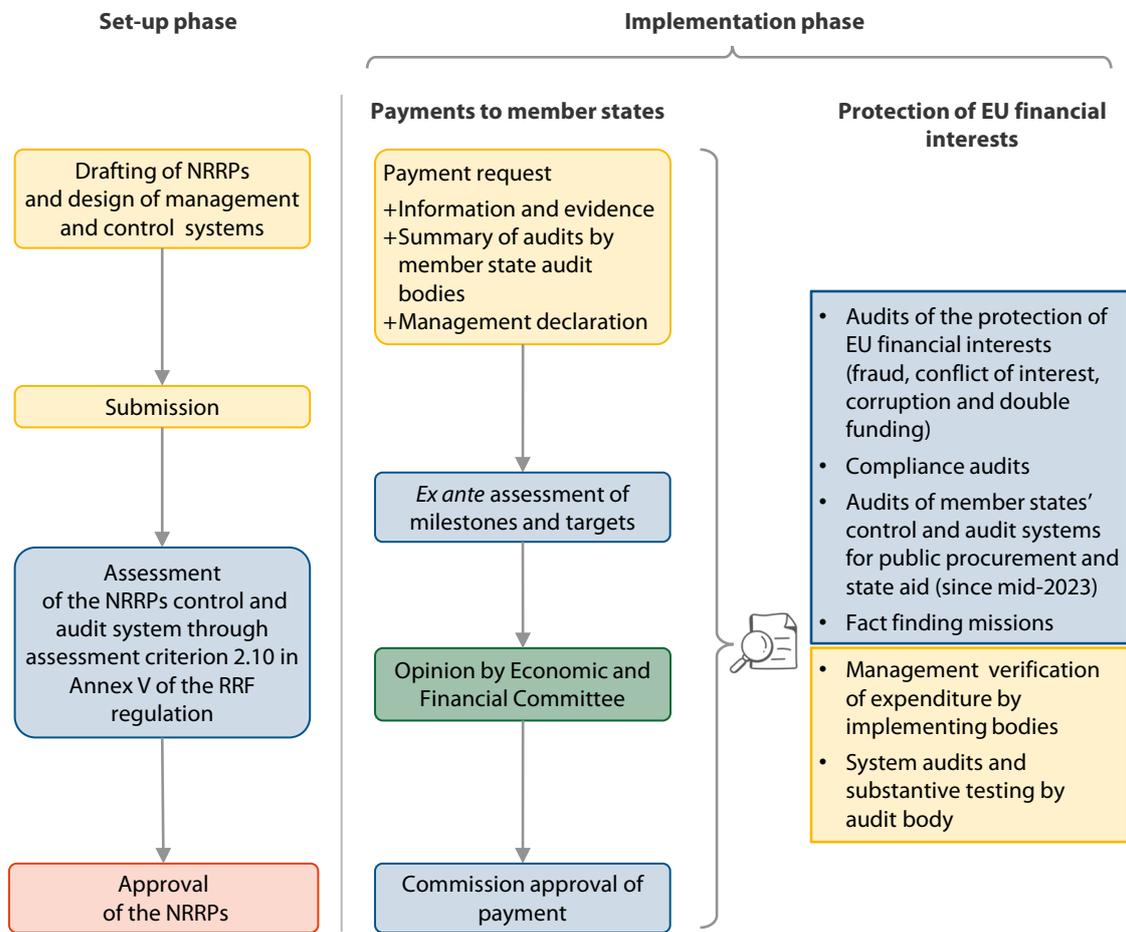
RRF management and control framework for the protection of EU financial interests

- (4) The RRF delivery model requires a dedicated control framework at Commission and member state level ensuring that EU financial interests are protected. *Figure 1* shows the Commission's and member states' roles and responsibilities in ensuring the legality and regularity of payments and protecting EU financial interests.

² Regulation (EU) 2021/241, Articles 5, 9, 17(2) and 24(3).

³ *Ibid.*, Article 22.

Figure 1 | Commission and member state responsibilities for protecting the EU’s financial interests



- Action by member states
- Action by European Commission
- Action by Council of the European Union
- Action by Economic and Financial Committee*

*The committee promotes policy coordination among the member states and is composed of senior officials from national administrations and central banks

Source: ECA.

Commission control framework

- (5) The Commission is responsible for ensuring that EU financial interests are protected. In that regard, it must obtain sufficient assurance from the member states that their systems ensure compliance with all applicable EU and national rules and that fraud, corruption, conflict of interest (i.e. serious irregularities) and double funding are prevented, detected and corrected⁴.
- (6) The Commission's control framework for the protection of the EU's financial interests includes:
- an assessment of member states' NRRPs, which also includes checking the appropriateness of the control systems outlined in their plans;
 - system audits on member states' control systems for the prevention, detection and correction of serious irregularities and compliance with the conditions laid down in the financing and loan agreements (audits on the protection of EU financial interests). The Commission's initial audit strategy states that the Commission will carry out at least one separate system audit per member state during the RRF implementation.
- (7) The Commission can reduce a member state's RRF support (by reducing its allocation or recovering 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 obligations laid down in financing or loan agreements⁵, such as the obligation to regularly check that RRF measures comply with all applicable EU and national rules, including those on public procurement and state aid.
- (8) The Commission DGs provide an assurance declaration with their annual activity report, which is the main tool for reporting whether they have reasonable assurance that control procedures ensure the regularity of expenditure.

⁴ RRF Regulation, Recital 54 and Article 22(1).

⁵ *Ibid.*, Article 22(5).

Member state control framework

- (9) Member states have an obligation to operate an effective and efficient internal control system, regularly check that RRF measures have been properly implemented in accordance with all applicable rules and recover amounts wrongly paid or incorrectly used⁶. Member states may use their existing national management and control system(s) and related bodies, including those used for other EU funds such as the ESIF funds, or those involved in the management of their national budget. Although not stated in the [RRF regulation](#), the same applies to the application of corrective measures.
- (10) When submitting their initial or revised NRRPs to the Commission, member states have to provide information on the arrangements for their system to prevent, detect and correct serious irregularities, and the arrangements that aim to avoid double funding⁷. More detailed key requirements (six in total) are outlined in the financing/loan agreements. These key requirements do not include specific provisions for the member state audit and control systems ensuring compliance with EU and national rules.
- (11) The main bodies within the member state control and audit systems are:
- (a) **Coordinating body** is an authority nominated by the member state as the “coordinator” for RRF implementation. It bears overall responsibility for monitoring the implementation of the country’s NRRP on behalf of the member state and is the single point of contact for the Commission;
 - (b) **Implementing bodies** are authorities entrusted by the member state with implementing individual measures. These bodies, along with delegated implementing or control bodies, are tasked firstly with ensuring the fulfilment of measures, but also must implement sufficient controls to obtain necessary assurance on compliance with EU and national rules for the coordinating body and the signing of the management declaration;
 - (c) **Audit body** is an authority (or authorities) nominated by the member state which carries out audits of systems and individual cases of support for investments and reforms. This body must have functional independence from the implementation of RRF measures within the member state, as well as having sufficient resources to carry out its audit responsibilities for the RRF.

⁶ [Ibid.](#), Article 22(1) and (2).

⁷ [RRF Regulation](#), assessment criterion 2.10, Article 18(4)(r) and Annex V.

- (12) During the implementation phase, member states have to accompany each payment request with a management declaration certifying that their control systems give the necessary assurances that funds were managed in accordance with all applicable rules, in particular those on avoiding serious irregularities and double funding. Member states must also provide a summary of audits carried out, including weaknesses identified and any corrective action taken.
- (13) The RRF control framework for ensuring the protection of EU financial interests includes member states' obligation to take all necessary measures to ensure compliance with all applicable rules, including those on public procurement and state aid.

Importance of EU public procurement and state aid rules

- (14) The EU's legal framework⁸ for public procurement aims to ensure that a harmonised set of rules and procedures is applied when contracts are awarded. The main objective of the EU directives is to ensure openness and transparency of procurements, free competition among economic operators, and equal and fair treatment of economic operators, considering also the efficient use of public funds.
- (15) The objective of EU state aid regulation is to prevent distortion of fair competition within the internal market. State aid is generally prohibited, unless justified in exceptional circumstances. For all new aid measures, member states must give prior notification to the Commission and wait for its decision before they can put the measure into effect. The regulatory framework allows a few exceptions to mandatory notification, such as:
- o aid covered by a [block exemption](#);
 - o *de minimis aid*, which, among other limits, may not exceed €300 000 per undertaking over any period of 3 fiscal years; or
 - o aid granted under an [aid scheme already authorised by the Commission](#).
- (16) In our audits on the legality and regularity of EU cohesion policy expenditure, we found non-compliance with state aid and public procurement rules is a perennial problem⁹. Unlike for ESIF, 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. However, considering that ESIF and some RRF projects are similar

⁸ Directive 2014/23/EU, Directive 2014/24/EU, Directive 2014/25/EU.

⁹ Review 03/2024, paragraph 71 and figure 6.

and often controlled by the same national bodies, in our view there is a risk that similar cases of non-compliance may exist in RRF expenditure.

Audit scope and approach

- (17) The objective of this audit was to assess the RRF control systems at Commission and member state level and whether the Commission has been able to draw sufficient assurance that member state internal control systems are effective in ensuring that RRF-funded measures complied with public procurement and state aid rules. To this end, we examined whether:
- in the initial phase, from February 2021 to early 2023, the Commission sufficiently defined public procurement and state aid audits and controls in its guidance to member states, properly assessed national recovery and resilience plans and carried out sufficient audit work in this regard;
 - member states' RRF control systems provide a consistent level of assurance that irregularities are prevented, detected and corrected; and
 - the Commissions recent audit work, together with member states control systems, provides a sound basis for its annual declaration of assurance.
- (18) This audit complements our [previous audit on the design of the Commission's control system for the RRF](#), in which we identified an EU-level assurance gap in the protection of EU financial interests due to limited verified information that RRF-funded investment projects comply with EU and national rules.
- (19) We first examined whether, in the initial phase, the Commission emphasised the importance of public procurement and state aid through its guidance to member states, its assessment of NRRPs and its own audit work. We also examined the RRF control and audit systems of a sample of five member states from those who had made payment requests that contained targets relevant for public procurement and state aid compliance. We assessed their controls and checks to prevent and detect public procurement and state aid irregularities, as well as how they correct any irregularities found. In addition, we analysed the extent to which the Commission has covered compliance with public procurement and state aid in its audit work and to which this work supports the assurance it provides.

(20) For this audit, we:

- examined the responsibilities and requirements of the Commission and member states as defined in the legal framework (the [RRF regulation](#), as well as other relevant documents such as financing agreements and management declarations);
- conducted interviews and meetings with representatives from the Commission (DG ECFIN and the Recovery and Resilience Task Force (SG.RECOVER));
- conducted interviews and meetings with representatives from a sample of five member state authorities (implementing bodies, coordinating bodies and audit bodies);
- analysed the Commission’s procedures for *ex ante* verifications and *ex post* audits, as well as its audit strategy, sampling guidance, internal checklists and guidelines;
- analysed member states’ procedures, controls and audits on public procurement and state aid, including national guidance on the RRF, management verification checklists, audit checklists and corresponding corrective measures;
- consulted DG ECFIN’s annual activity reports for 2021, 2022 and 2023 to understand whether and to what extent the Commission obtained assurance that member state carry out regular and effective checks in the areas of public procurement and state aid.

(21) We selected our sampled five member states from the 18 that had submitted payment requests which included targets potentially involving public procurement procedures and/or state aid compliance by the end of April 2023. We reviewed 10 payment requests totalling €98.2 billion, covering 58 targets and 348 milestones. All the amounts had been disbursed prior to our audit visits (see [Table 1](#)).

Table 1 | RRF payment requests and disbursements up to end of April 2023 (excluding pre-financing)

Member state	Number of requests	Amount
Czechia	1	€0.9 billion
Spain	3	€28 billion
France	1	€7.4 billion
Croatia	2	€1.4 billion
Italy	3	€60.5 billion

Source: Based on data from the European Commission.

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- (22) In the Recovery and resilience plans of the sampled member states, we identified 23 targets potentially involving public procurement procedures and 16 targets relevant for state aid, of which a sample of 18 involving public procurement procedures and 13 involving state aid were selected for the audit. In our selection we also took into account financial materiality and geographical coverage.
- (23) The audit was carried out in the early-to-medium phase of RRF implementation in 2023, after a number of payments had already been made to the member states, but these included only 38 targets that potentially could have been subject to public procurement rules and only 18 targets potentially subject to state aid rules. This audit did not cover the effectiveness of the Commission's and member states' RRF control systems in relation to serious irregularities or double funding¹⁰, but these topics are addressed in other audits.
- (24) With this audit and our recommendations, we aim to contribute to strengthening the systems that ensure compliance with public procurement and state aid rules under the RRF, at both Commission and member state level. This is important because there is still a significant number of outstanding payments covering milestones and targets involving public procurement and state aid over the remaining duration of the RRF. Our observations and recommendation could also be considered when rolling out instruments with similar funding models to the RRF in the future.

¹⁰ Special report 22/2024.

Annex II – Targets sampled for public procurement

Member state	Responsible and /or implementing bodies	Target	Name of target
Czechia	Ministry of Agriculture	135	T1: Completion of 50 % of the small watercourses and water reservoirs projects
Czechia	Ministry of Transport	92	Completion of level crossings with an increased safety
Czechia	Ministry of Transport	93	Completion of built cycle paths, sidewalks and barrier-free routes
Czechia	Ministry of Transport	94	Completion of modernised railway bridges or tunnels
Czechia	Ministry of Education	172	Number of digital devices purchased by schools for distance learning
Spain	Ministry of Agriculture, Fisheries and Food	46	Entry into force of the contractual agreement between the Ministry of Agriculture, Fisheries and Food (MAPA) and SEIASA to support the improvement and the sustainability of irrigated areas (Phase I)
Spain	Ministry of Agriculture, Fisheries and Food	57	Acquisition of acoustic probes for research in fisheries
Spain	Ministry of Culture and Sports	360	Digitisation and promotion of major cultural services
France	Directorate-General for Planning, Housing and Nature (DGALN) - (DHUP)	1-6	Number of dwellings within the category of social housing receiving a grant for renovation

Member state	Responsible and /or implementing bodies	Target	Name of target
France	Ministry of Economy, Finance and Recovery, Department of State Real Estate	1-8	Number of renovation projects of public sites belonging to the State, for which the renovation works contract has been notified
France	Ministry of Ecological Transition Directorate for Habitat, Urbanism and Landscapes	2-6	Number of municipalities benefiting from the aid
France	Ministry of Interior - SG/DEPAFI	3-27	Number of electric and plug-in hybrid vehicles purchased by the French administration
Croatia	Ministry of Economy and Croatian Water	63	Public sewerage network constructed or reconstructed
Croatia	Ministry of Economy and Croatian Water	68	Public water supply network constructed or reconstructed
Croatia	Ministry of Labour	309	Training of social mentoring professionals
Italy	Ministry of Labour and social policy	M5C2-7	Social districts have delivered at least one project in relation to the renovation of home spaces and/or provision of ICT devices to disabled people, accompanied by training on digital skills
Italy	Ministry of Labour and social policy	M5C1-6	Public Employment Services (PES) are implementing the activities envisaged in the Strengthening Plan over the three years period 2021–2023
Italy	Ministry of environment and energy security	M2C4-19	Plant trees for the protection and valorisation of urban and peri-urban green areas T1

Source: Based on Council implementing decision and operational arrangements for members states.

Annex III – Targets sampled for state aid

Member state	Responsible and /or implementing bodies	Target	Name of target
Czechia	Ministry of Education	224	Award of public contracts to at least four Research & Development consortia
Spain	Ministry of Science, Innovation and Universities and CDTI	258	Agreements signed by the Ministry of Science and Innovation with the Autonomous Communities for the implementation of “Complementary R&D plans”
Spain	Ministry of Science, Innovation and Universities and CDTI	270	Support to R&D&I projects in sustainable automotive
Spain	Ministry of Agriculture, Fisheries and Food	51	Investment plan to promote the sustainability and competitiveness of agriculture and livestock
Spain	Ministry of Agriculture, Fisheries and Food	61	Financing of investment projects in the fishing sector
France	Ministry of Economy, Finance and Recovery - DGE	2-4	Greenhouse gas emissions avoided
France	Ministry of Labour - (DGEFP)	8-10	Hiring subsidies paid for apprenticeship contracts
France	Ministry of Labour - (DGEFP)	8-12	Hiring subsidies paid for contracts hiring youth under 26
France	Ministry of Labour - (DGEFP)	8-22	Subsidies paid

Member state	Responsible and /or implementing bodies	Target	Name of target
Croatia	Ministry of Economy and Ecofund	46	Number of companies receiving support for energy efficiency and renewable energy use in industry
Croatia	Ministry of Economy	6	Implementation of the Action Plan to reduce non-tax and parafiscal charges 2020
Italy	Ministry of external affairs and international cooperation	M1C2-27	SMEs that received support from Fund 394/81
Italy	Ministry of environment and energy security	M3C2-8	Green ports: assignment of works

Source: Based on Council implementing decision and operational arrangements for members states.

Annex IV – Commission criteria for assessing the level of risk for checks on public procurement and state aid

Assessment	Criteria
Low level of risk	<ul style="list-style-type: none"> ○ no relevant audits have been conducted by DG ECFIN audit unit; or ○ audits have been conducted by DG ECFIN audit unit, with findings that are not concerning the member state system for checks of public procurement or state aid or such findings are not critical or very important; or ○ audits have been conducted by DG ECFIN audit unit with issue(s) regarding the member state system for checks of public procurement or state aid identified that are critical or very important and corrective action by the member state has been/is confirmed to be going to be implemented; <p>And</p> <ul style="list-style-type: none"> ○ no relevant ECA clearing letter has been received; or ○ a relevant ECA clearing letter has been received and it includes no findings concerning the member state system for checks of public procurement or state aid; or Commission disagrees with the findings raised by ECA; or considers that they would not warrant a finding that is critical or very important; or corrective action by the member state has been/is confirmed to be going to be implemented.
Medium level of risk	<ul style="list-style-type: none"> ○ audits have been conducted by DG ECFIN audit unit that identified issues concerning the member state system for checks of public procurement or state aid that are critical or very important and <ul style="list-style-type: none"> (a) member state has not yet accepted to implement corrective action, or corrective action is delayed, or (b) the member state failed to implement corrective action but the Commission has launched a corrective action; or

Assessment	Criteria
	<ul style="list-style-type: none"> ○ a relevant ECA clearing letter has been received and it includes findings concerning the member state system for checks of public procurement or state aid, the Commission agrees with the findings raised by ECA and considers that they would warrant a finding that is critical or very important and <ul style="list-style-type: none"> (a) member state has not yet accepted to implement corrective action, or corrective action is delayed, or (b) the member state failed to implement corrective action but the Commission has launched a corrective action.
High level of risk	<ul style="list-style-type: none"> ○ audits have been conducted by DG ECFIN audit unit that identified issues concerning the member state system for checks of public procurement or state aid that are critical or very important and the member state failed to implement corrective action; and the Commission has not yet launched a corrective action; or ○ a relevant ECA clearing letter has been received and it includes findings concerning the member state system for checks of public procurement or state aid, the Commission agrees with the findings raised by ECA and considers that they would warrant a finding that is critical or very important, the member state failed to implement corrective action; and the Commission has not yet launched a corrective action.

Source: DG ECFIN 2023 annual activity report

Abbreviations

AAR: Annual Activity Report

DAC: Commission's joint audit directorate for Cohesion policy

DG COMP: Directorate-General for Competition

DG ECFIN: Directorate-General Economic and Financial Affairs

ESIF: European Structural and Investment Funds

GBER: General Block Exemption Regulation

IGAE: The General Comptroller of the State Administration (Spain)

NRRP: National Recovery and Resilience Plan

RDI: Research, Development and Innovation

RRF: Recovery and Resilience Facility

SG RECOVER: Secretariat-General Recovery & Resilience Task Force

Glossary

Do no significant harm: Principle that investment measures should have no major detrimental environmental impact.

Management declaration: Statement accompanying a member state's payment request, confirming that the conditions for receiving funding have been met, all supporting information is complete and accurate, and the member state has obtained assurance that all applicable rules have been followed.

Milestone: Qualitative measure of progress towards the achievement of a reform or investment.

Recovery and Resilience Facility: The EU's financial support mechanism to mitigate the economic and social impact of the COVID-19 pandemic and stimulate recovery, and meet the challenges of a green and digital future.

Recovery and resilience plan: Document setting out a member state's intended reforms and investments under the Recovery and Resilience Facility.

Target: Quantitative measure of a member state's progress towards the achievement of a reform or investment.

Replies of the Commission

<https://www.eca.europa.eu/en/publications/sr-2025-09>

Timeline

<https://www.eca.europa.eu/en/publications/sr-2025-09>

Audit team

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber V – Financing and administering the Union, headed by ECA Member Jan Gregor. The audit was led by ECA Member Jorg Kristijan Petrovič, supported by Martin Puc, Head of Private Office and Mirko Iaconisi, Private Office Attaché; Judit Oroszki, Principal Manager; Raymond Larkin, Head of Task; Adrian Rosca, Aleksejs Cekalovs, Gareth Roberts, Georges Kohn, Jan Olsakovsky, Jaroslav Pavlik and Paolo Murgia, Auditors. Michael Pyper provided linguistic support. Jesús Nieto Muñoz provided graphical support.



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A significant proportion of investments involving public procurement and state aid are still to be implemented over the remaining duration of the RRF. Non-compliance with public procurement and state aid rules is a perennial problem in EU budget expenditure.

In this audit we examined the RRF controls systems at the Commission and in member states and whether they provide sufficient assurance on compliance with public procurement and state aid rules. We found that despite improvements in its audit work, the Commission has not been able to draw sufficient assurance on whether member states have effective control systems to ensure that RRF spending complies with the rules.

We make recommendations to improve guidance and transparency and to increase EU level assurance in these areas.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.



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