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Cohesion and NextGenerationEU: concord or clash?

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> Cohesion policy is a crucial part of democracy

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Cohesion and the NGEU – plugging the gap to create a fair Europe

When interviewing the various contributors to this ECA Journal on cohesion and the NextGenerationEU (NGEU), one of my first questions was often about their perception and understanding of the concept of cohesion. This was instigated by the fact that the concept has puzzled me for several years. Personally, since I joined the ECA, I have dealt with more or less all the major policy areas, except cohesion policy. To me, achieving the EU's goal of convergence was not necessarily congruent with the idea of an effective and efficient single market. I also thought that this could be achieved much more easily by a simple redistribution of financial resources between Member States, through a sort of budgetary support that they could spend according to their specific national preferences. I quickly learned that many EU insiders considered this 'pay out and claw back' approach a 'no-go' that might even risk undermining higher EU objectives. Hence the more complicated framework under the heading 'cohesion'.

Further valuable insights came to me not only through the interviews for this edition of the ECA Journal, but also through a television programme I saw, although it had nothing to do with the EU as such. It was called *Sander and the gap* (originally in Dutch) and was made by a journalist from a rather wealthy background, a member of the economic elite. By looking into the housing market, education and healthcare, he reviewed the extent to which we can compare the opportunities of wealthy people with those of ordinary mortals. The wealthy can afford to have their children tutored, offer them financial support allowing them to snap up starter homes, or skip healthcare waiting lists. The average person has no such support, no such financial infrastructure to back them. He concluded that this leads to an everlasting gap, followed by frustration and vanishing hopes of doing better in the future, undermining the idea that merit will prevail. The central issue here is equal opportunities as a starting point to offer a fair chance of participation on a truly level playing field. In theory, many of us will agree that such gaps need to be prevented. But in practice, many of us will nonetheless support our children to enable them to get ahead, no matter what.

If we transcend from this micro level to the EU macro level, the idea of offering everyone a fair chance is one of the key objectives, if not the key aim, of the EU's cohesion policy. The idea is to provide financial support to create equal opportunities, which in turn should facilitate convergence. Not in contradiction of the single market idea, but to make the single market *function* fairly. The EU Commissioner for Cohesion and Reforms, Elisa Ferreira, actually argues (see page 21) that by enabling Member States and regions to 'play the game', cohesion policy is essential to the functioning of Europe. This is even truer of a democratic Europe, a characteristic that stands out now more than ever, against the backdrop of war in Europe. Younous Omarjee, MEP and Chair of the Parliament's Committee on Regional Development (REGI), underlines that diversity as an EU asset should not be used to justify inequality and inequity when it comes to salaries, education or healthcare (see page 112).

The regions that qualify for cohesion funding to 'catch up' are, unsurprisingly, also the least resilient to sudden shocks. And we have had a fair share of such crises in recent years, ranging from the financial crisis to the COVID-19 pandemic, and most likely now also the multiple consequences of the war in Ukraine. Somehow, albeit at differing paces, the EU has shown itself to be more resilient to these crises than many of its critics had expected. The clearest example – certainly in financial terms – is the creation of the NGEU initiative, with the Recovery and Resilience Facility as its key component. The initiative will result in a doubling of the EU's budget for investments and reforms in response to the economic and social consequences of the COVID-19 pandemic.

While various European Commission experts, for example Director-General Gert Jan Koopman (see page 27), underline the complementarity between cohesion policy and the NGEU initiative, other experts focus on their similarities and the risks this may represent (pages 61 and 104). MEP Andrey Novakov labels this aspect of the two EU instruments as 'frenemies and coopetition' (see page 117). The crisis called not only for flexibility, but also

for speed, as Gašper Dovžan, State Secretary of Slovenia explains (see page 37), recounting how 22 national recovery and resilience plans were approved at record speed during the Slovenian EU Presidency last year. But, as he also indicates, the plans were not pushed through no matter the cost. The innovative concept of rule of law conditionality was introduced, posing not only judicial challenges, as further explained by Professor Laurent Pech (see page 141), but also audit challenges, not least for the ECA (see page 84).

How the NGEU will influence the future of cohesion policy after the current multiannual financial framework, so beyond 2027, still remains to be seen. Certainly, cohesion policy has evolved over time against the backdrop of various crises, as Professor John Bachtler explains (see page 7). It has become more flexible, notably during the COVID-19 pandemic and the war in Ukraine, and ties into transition goals such as the Green Deal (see page 133). Likewise, it is geared more towards specific needs, as Friedemann Zippel points out (see page 13). The general feeling among the contributors to this Journal is that cohesion policy is here to stay, as argued by Lilyana Pavlova, Vice-President of the EIB. She underlines the need to work together and join forces instead of merely competing, aided by cohesion programmes through EIB investments in cohesion regions (see page 32).

If cohesion policy is here to stay, it is all the more important to assess what works well and what less so, to improve cohesion as a policy instrument. Many of the contributors agree that cohesion policy has had a positive impact on the economic and social development of the EU (see for example pages 128 and 146). But how much, in clear numbers, is difficult to say, simply because of the many variables that come into play. These are then multiplied by the numerous aspects covered by cohesion programmes, ranging from infrastructure investments to combating child poverty.

Both internal and external auditors agree that compliance with EU rules has improved over the past few decades (see pages 61), although there is ample room for improvement, including when it comes to fraud prevention and detection (see pages 77 and 137). Another side of the cohesion coin relates to performance. According to Iliana Ivanova, ECA Member and Chair of the audit chamber dealing with cohesion policy, by highlighting what works well and what does not, the ECA contributes to a more effective and cross-cutting cohesion policy (see page 49). Nonetheless, several worries remain, such as the use of performance incentives (see page 70). According to ECA Director Martin Weber, the fact that in the coming years cohesion policy will be implemented in parallel to the RRF presents a unique learning opportunity (see page 90). External auditors at both Member State and EU level are eager to identify what lessons can be learned from implementing the various national recovery plans, posing new challenges for audit (see pages 98, 108 and 121).

The production of this edition of the ECA Journal suffered due to the departure earlier this year of our deputy editor, Derek Meijers, who moved to the European Commission's Publication Office, leaving a gap in our team. We hope he will have the chance to use his various qualities, not least regarding innovation and inspiration. Another staunch supporter of the ECA Journal also left us, in sad circumstances: on 14 April 2022, ECA Member Alex Brenninkmeijer passed away, leaving a gap in the ECA. Not only did Alex Brenninkmeijer contribute articles to the ECA Journal, he also served as chair of this Journal's Editorial Board. He considered the Journal as one of the feedback mechanisms regarding EU policies and EU public governance, providing an accessible platform, including stories with a human touch, the citizen's dimension, which he highlighted throughout his life.

The human aspect should perhaps be expressed more clearly in cohesion policy and the NGEU, as highlighted by ECA Member Iliana Ivanova, who points out that '…it is the closest to EU citizens, even though they may not often realise how projects supported by its funds are actually improving their lives.' As complex as cohesion policy may appear, it plugs gaps regarding aspects we tend to take for granted, offering the prospect of a worthy future, including in its most vulnerable regions. With a war raging in Europe, this vulnerability may surface even more. Ultimately, cohesion policy reflects our choice of what the EU should be about: solidarity to build a society that offers its citizens equal opportunities, wherever they may live.

Cohesion policy - Where has it come from? Where is it going?

By Professor John Bachtler, European Policies Research Centre

Source: pictograph/ Depositphotos

Cohesion policy is one of the oldest EU policies, dating back in one form or other to the 1960s. The mission, diversity, complexity and major budget of this EU policy has generated extensive research interest on the part of think tanks, evaluators, auditors and of course academics. The latter includes Professor John Bachtler who throughout his career has researched regional and local development policies in Europe, with a particular focus on cohesion policy. John Bachtler is Professor of European Policy Studies and a Director of the European Policies Research Centre (EPRC) based at the University of Strathclyde in Glasgow and at Delft University of Technology. He has led EPRC research on regional policy, rural development, territorial development, foreign investment, RTDI and policy evaluation and has been an expert adviser to numerous government departments and European organisations. In this article, he presents an overview of how cohesion policy has evolved and the key aspects he considers most relevant for cohesion policy in the future.

Correcting territorial imbalances and promoting *harmonious development*

EU cohesion policy is one of the most complex and interesting policies of the European Union. For over three decades, it has been allocated a major share of the EU budget – currently €392 billion for 2021-27 – dedicated specifically to the Treaty goal of strengthening the economic, social and territorial cohesion of the EU by correcting territorial imbalances and promoting 'harmonious development' between countries and regions. Implementation of this funding is through co-called 'shared management': multiannual programmes are developed by national and regional authorities, but under European Commission oversight, and delivered through projects that meet specified strategic objectives and targets. Programmes and projects are supported by EU funds (currently the European Regional Development Fund (ERDF), Cohesion Fund, European Social Fund+ (ESF+) and Just Transition Fund) to meet political priorities in key areas – physical and digital infrastructure, business development, research and innovation, employment and training, low carbon and sustainability, and poverty reduction. The policy's reach at regional and local levels is huge: during the 2014-20 period, cohesion policy funded over 392 operational programmes (OPs), and around 1.5 million projects administered by about 500,000 project beneficiaries[1].

Since the reform of the Structural Funds in 1988, the funding, performance and added value of cohesion policy has been frequently contested, with periodic reforms reshaping the policy according to EU priorities and administrative requirements. The evolution of the policy through these reforms (see **Table 1**) provides insights into the changing

1 European Commission Kohesio online platform

balance of policy influence between and within the main EU institutions (Council, Parliament, Commission) and between the EU and Member States[2].

Table 1: Evolution of cohesion policy, 1988-2027

Period	EU context	Policy shift	Implementation shifts
1989-93	Single market programmeEnlargement: EU9→EU12	Reform of the Structural Funds – integration into a 'Cohesion Policy'	Focus on poorest, least developed regions Multi-annual programming Strategic orientation of investments Involvement of regional and local partners (partnership principle)
1994-99	Preparation for monetary union Enlargement: EU12→EU15	Creation of Cohesion Fund for poorest countries Creation of special objective for sparsely populated regions Doubling of resources	Greater flexibililty for spatial coverage Broadening of thematic priorities Decentralisation of management responsibilities
2000-06	Retrenchment in growth of spending Enlargement: EU15→EU25	Agenda 2000 – recognition of need to reform Lisbon Strategy – shift of EU priorities to growth, jobs, innovation.	Decommitment rule (for faster spending) Stricter monitoring & evaluation rules Emphasis on financial compliance (control and audit)
2007-13	Adapting to an enlarged EU Enlargement: EU25→EU27/28	Emphasis on policy effectiveness & added value All regions eligible for support	Alignment of Cohesion Policy objectives with EU goals National strategic documents for cohesion policy spending Ring-fencing of thematic expenditure Strategic reporting Ex-ante finanical compliance assessment
2014-20	Financial & economic crises First reduction in EU budget European Semester process	Place-based approach Europe 2020 strategy Focus on policy performance	Performance framework and results-orientation Thematic concentration Alignment with EU economic governance Use of conditionalities on spending
2021-27	White Paper on Future of Europe Brexit Recovery Plan for Europe (NGEU)	Reduction in budget for EU cohesion policy Influence of sectoral EU priorities Links with EU economic governance	Synergies between funds/policies Further thematic concentration (policy objectives) Mid-term review Simplification of rules Additionality principle discontinued

Source: Bachtler and Mendez (2020), *op. cit.*

2 Bachtler J and Mendez C, 'Cohesion Policy: Doing More with Less', H.Wallace, M.A.Pollack, C.Roederer-Rynning and A.R.Young (Eds), *Policymaking in the European Union (8th edition), 2020,* OUP, 233-253.

Below, the development of cohesion policy is reviewed over time, highlighting the 'turning points'[3], and then discuss the main challenges facing policymakers.

Evolution of cohesion policy

The origins of cohesion policy date back to the creation of the ERDF in 1975 (although the ESF was operating from 1965 onwards), initially with a small budget to fund projects under the domestic regional policies of Member States. From 1984, funding began to be used increasingly for programmes – either undertaken at the initiative of the EEC (Community Programmes) or at the initiative of Member States (National Programmes of Community Interest). The 1980s also saw the piloting of 'integrated development operations', most notably the Integrated Mediterranean Programmes, which foreshadowed the Structural Funds model introduced in 1988.

By the late 1980s, the accession of Portugal and Spain, and the adoption of the Single European Act, brought pressure for a more substantial Community commitment to territorial imbalance particularly associated with the anticipated effects of the single market programme. The 1988 reform 'marked the arrival of cohesion policy as a core EU policy in its own right underpinned by a Treaty commitment to cohesion, a substantial budget, bringing all three Structural Funds[4] under a common governance framework'.[5] In particular, the reform established a set of principles that have mostly continued in some form up to the present: *concentration* on less developed regions; *programming* through multiannual strategies; *partnership* with subnational governments, economic and social stakeholders, and civil society; and *additionality* to ensure EU funding did not substitute national funding.

Subsequent reforms during the 1990s responded to the deepening of economic integration with preparations for a single currency. Eonomic and social cohesion became a core Treaty objective in the Maastricht Treaty, the Cohesion Fund was created to support infrastructure development, and the budget of the policy was again increased significantly. The expansive trend, which saw budgetary appropriations for cohesion policy reach a high point of 0.45 percent of EU GDP, came to end in 1999.

Preparations for the EU accession of Central and Eastern European countries, and fiscal consolidation in advance of the launch of the euro began a slow process of budgetary retrenchment from the 2000-06 period onwards, and also a redirection of spending from southern Europe to the 'new' and poorer Member States to the east. In the reforms of 2006 and 2013, the focus of cohesion policy progressively became determined by wider EU political priorities (Lisbon Strategy, Europe 2020), through strategic frameworks for programmes, and minimum levels of spending on key objectives. The policy was increasingly criticised for its administrative complexity, leading to successive simplification initiatives though with mixed influence. From the early 2000s, cohesion policy became scrutinised more (and criticised) for levels of irregularity, leading to greater emphasis at EU and national levels on the financial control and audit of spending.

Alongside these trends[6], an important set of reforms were introduced to the policy's governance in the 2013 reform to address criticism of the policy's performance and effectiveness. New measures for 2014-20 included a stronger focus on results in the programme strategies, an obligatory performance reserve to reward the achievement of spending targets at the mid-point of the programme cycle, and the introduction of ex-ante conditionalities to improve the institutional, regulatory and strategic conditions for cohesion policy spending. Macro-economic conditionality was extended from the Cohesion Fund to all Structural Funds.

3 Manzella, G P and Mendez C, *The turning points of EU cohesion policy*, Working Paper for the Barca Report, 2009.

4 European Regional Development Fund (ERDF); the European Social Fund (ESF); and the Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF).

5 Bachtler, Mendez and Wishlade (2013), *op. cit.*

6 A more detailed account of the history of the policy can be found in Bachtler and Mendez (2020), op.cit., and Bachtler J, Mendez C and Wishlade F, *EU Cohesion Policy and European Integration: The Dynamics of EU Budget and Regional Policy Reform*, 2013, Aldershot, Ashgate.

Greater external influence on the policy in the 2014-20 period came from the European Semester process to coordinate Member State economic and employment policies, and promote reforms. Cohesion policy was expected to contribute to Country-Specific Recommendations through the investment priorities of programmes.

Lastly, the 2013 reforms promoted a more 'place-based' policy approach through sustainable urban, integrated territorial investment and community-led local development strategies. The wider use of financial instruments (loans, equity, guarantees) was also encouraged to create revolving funds and reduce the dependency on grants.

The latest turning points in the policy are against the backdrop of three crises for the EU: Brexit; the COVID-19 pandemic; and the Russian invasion of Ukraine. Brexit was essentially a political challenge to the dynamic of European integration and highlighted the 'geography of discontent', pushing the EU to re-assess how it engages with citizens, including – as part of the 2020 reforms – a new cohesion policy objective called 'Europe closer to citizens'. The COVID-19 pandemic challenged the EU in terms of health policy and economic resilience; the Recovery Plan for Europe enabled the EU to borrow for the first time to part-fund the NextGenerationEu with a new policy instrument – the Recovery and Resilience Facility - to rival Cohesion Policy. The pandemic also demonstrated the ability of cohesion policy to respond quickly to crises in the form of the Coronavirus Response Investment Initiative (CRII/+) to redirect existing funding, followed by the Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU). The latest crisis resulting from the Russia-Ukraine war is presenting new demands for cohesion policy, first to provide emergency support to refugees and then to assist their integration into labour markets and support the reorientation of energy supplies.

Over almost half a century, therefore, cohesion policy has evolved from a relatively minor fund to one of the most important spending priorities of the EU (see **Table 2**) despite recent cuts. What of the future?

Table 2: Share of EU spending on cohesion policy

		Cohesion policy % of EU budget	EU budget as % of GNP or GNI
Annual budgets	1965	1.4 [b]	0.11
	1975	6.2	0.53
	1980	11.0	0.80
	1985	12.8	0.92
Multiannual financial frameworks	1988-1992	22.4	1.20
	1993-1999	34.1	1.25
	2000-2006	34.7	1.09
	2007-2013	35.7	1.12
	2014-2020	33.9	1.00
	2021-2027	30.8	1.21

Source: Bachtler and Mendez (2020), *op. cit.*

Notes: (a) Outturn in payments for annual budgets 1975-1985, appropriations for commitments for multiannual Financial Perspectives from 1988 onwards. GNP from 1988. (b) The 1965 budget corresponds to the ESF created in 1962. The 1975 and subsequent budgets include the newly created ERDF as well as the other Structural Funds (ESF and EAGGF guidance section).

Future challenges

The latest Commission's Cohesion Report makes clear the scale of the challenges for cohesion. While there has been positive progress with convergence between less-developed regions and the EU average, some middle-income and less developed regions have declined, especially in southern EU Member States. Regional disparities in key labour market indicators are still higher than before 2008, indicating the long shadow of

the 2008-10 financial and economic crises. There has been mixed progress in reducing disparities in some of the key growth factors (e.g. innovation, entrepreneurship) that help explain the widening differences between so-called 'frontier regions' or 'regional high-income clubs' and the rest of the EU.

These differences in regional development need to be addressed against the backdrop of ambitious EU political and policy objectives for the 2021-27 period[7]. Most immediately, the EU needs to channel investment from the Recovery and Resilience Facility (RRF) quickly and effectively to projects that can spur economic recovery from the pandemic, manage the social consequences and increase resilience to future shocks. Beyond the recovery, the EU seeks to accelerate a green transition to help manage climate change, and digital transformation, both of which have differential social and territorial impacts. Further, the EU is promoting far-reaching structural reforms and stronger EU-level governance in order to improve the EU's long-term development prospects. And the generational challenge for the EU is how to ensure that recovery and the transitions are 'just and fair', recognising popular discontent with so-called 'places left behind'.

Looking forward to the period 2021-2027, there are important questions for cohesion policy. The first relates to the purpose of the policy. The implication of the analysis in the Cohesion Report is that cohesion policy needs to maintain a strategic, long-term focus on convergence and the reduction of regional disparities. Yet, the policy is also expected to respond to short-term crises. While it provided a fast and effective response during the pandemic, the use of the policy as a crisis-response tool absorbs substantial administrative resources, and it risks diverting policy attention and funding from the core purpose of the policy.

A related question is whether there is a need to reassess the principles of the policy. While cohesion policy still refers to fundamental principles set out in the reform of the Structural Funds in 1988, their application has changed. The *concentration* on the less-developed regions has fallen over time. In 1989-93, the so-called Objective 1 regions accounted for half of the European Communities' population in designated areas and 73% of funding; in 2021-27, the Less Developed Regions covered 28% of the EU population and accounted for 61% of the cohesion policy budget. Since 2007, all regions have been eligible for Structural Funds including the more prosperous parts of the EU. *Programming* of resources through multiannual strategies continues, but the scope to respond to local needs and opportunities has become increasingly constrained by requirements to deliver wider EU objectives, to transfer tranches of funding to other EU instruments, to respond to emergencies, and to comply with conditionalities. The *partnership* principle also still applies, but there has been a rationalisation of regional programmes and centralisation of decision-making in several Member States, particularly where the scale of cohesion policy funding has diminished over time. And the *additionality* principle requiring that EU funding does not substitute for national funding was discontinued for 2021-27.

Of particular note is the way in which the 1988 ambition of a coordinated application of EU Funds (ERDF, ESF, European Agricultural Guigance and Guarantee Fund:Guidance Section) has been weakened. Rural development under the European Agricultural Fund for Rural Development and fisheries/maritime support under the European Maritime and Fisheries Fund are now completely divorced from cohesion policy, and the ESF+ now has much less of a regional development commitment and role.

A broader question concerns the relationship between cohesion policy and other EU policies. In 2021-27, the EU funding landscape has become more multi-faceted with a range of instruments that have implications for economic, social and territorial cohesion. The RRF is the main new funding stream, but other spatially relevant interventions include the Common Agricultural Policy, Horizon Europe, Connecting Europe Facility, Asylum, Migration and Integration Fund, the LIFE programme, InvestEU, the Digital Europe Programme, EU4Health Programme and Erasmus+.

The European Commission has identified strengthening coordination, ensuring clear demarcation and developing complementarities between EU Funds and instruments, as fundamental objectives for the 2021-27 period. The need for such an approach is evident from the experience hitherto with the RRF and National Resilience and Recovery Plans (NRRPs). Although the NRRPs are expected to address social and territorial cohesion as one of the six pillars of the RRF, only ten percent of RRF funding has the 'primary policy' aim of social and territorial cohesion, although a further 33 percent has cohesion as a 'secondary policy' aim[8]. Concern over the extent of synergies is heightened by the separate institutional arrangements for designing and implementing the NRRPs and Partnership Agreements in many Member States[9], and the lack of involvement of local and regional authorities[10].

Lastly, with respect to implementation, one of the most persistent problems for the policy since the early 2000s has been the growing complexity of the management and implementation system. Driven by external criticism of the financial management and performance of the policy, there has been a 'layering' of regulatory requirements (including an 'audit explosion')[11] that have placed growing demands on coordinating and managing authorities, intermediate bodies and beneficiaries.

The administrative capacity to cope with these rules and manage cohesion policy funding effectively varies greatly across the EU, reflecting differences in quality of government within and between Member States. This varation in capacity influences the degree to which national and regional authorities can absorb funding, ensure regularity and avoid errors, and achieve strategic objectives and outcome targets[12]. Currently, even in Member States with high quality of governance, the multiple challenges in current programming of mainstream OPs, REACT-EU and Just Transition Fund, meeting the ambitious targets of the green and digital transition, and ensuring coherence with other EU instruments, are daunting.

Under pressure from Member States, the Commission has undertaken successive attempts at simplifying management of the Funds dating back to 1998. However, there remains an unresolved tension between the EU-level aspirations for 'good management' and the cost and capacity to comply with the regulatory requirements. A question for the EU to consider is whether complexity is endemic to a system that requires a single regulatory framework for managing and delivering the Funds over 27 Member States. The time may be right to reflect on whether the shared management model needs to be reconsiderd.

8 European Commission, *Report from the Commission to the European Parliament and the Council on the implementation of the Recovery and Resilience Facility*, Brussels, 1.3.2022 COM(2022) 75 final.

9 Bachtler J and Mendez C (2021) *op.cit.*

10 Valenza A, Iacob A, Amichetti C, Celotti P, Zillmer S and Kotrasinski J, *Regional and local authorities and the National Recovery and Resilience Plans*, 2021. Study for the European Committee of the Regions, Brussels.

11 Mendez C and Bachtler J, 'Administrative reform and unintended consequences: an assessment of the EU Cohesion Policy "audit explosion"', *Journal of European Public Policy* 18(5): 746–765, (2021).

12 Bachtler, Mendez & Wishlade (2014) op. cit. Mendez C and Bachtler J (forthcoming, 2022) The quality of government and administrative performance: Explaining Cohesion Policy compliance, absorption and achievements across EU regions, *Regional Studies*

Cohesion policy – EU investment to reduce development disparities between regions

By Friedemann Zippel, Investment for Cohesion, Growth and Inclusion Directorate

Source: Boris15/ Depositphotos

Cohesion is a term in which, in the EU context, a lot comes together: addressing development disparities between regions through multiannual strategies, providing EU financial support to a multitude of regional and national projects, involving numerous stakeholders – all of it designed to improve EU citizens' living conditions in various ways. With cohesion expenditure accounting for about a third of the current EU budget, compliance with the legal framework and securing value for money from EU-funded activities are both key for the policy to be successful in bringing European regions and citizens closer together. In this article, Friedemann Zippel, a principal manager at the ECA with almost ten years' experience of auditing cohesion spending, gives us the 'must knows' about cohesion policy. In doing so, he also touches on some performance and compliance challenges and explains how solidarity and accountability are essential for the success of the policy.

Tearing down the walls, physically, economically and socially

When I was growing up in the 1980s in East Germany, Europe was still divided by a deadly iron curtain. And when President Reagan asked Secretary-General Gorbachev in 1987 in front of the Reichstag in Berlin to 'tear down this wall,' I found that thrilling and absurd at the same time, a theatrical claim by a former actor rather than a serious political call.

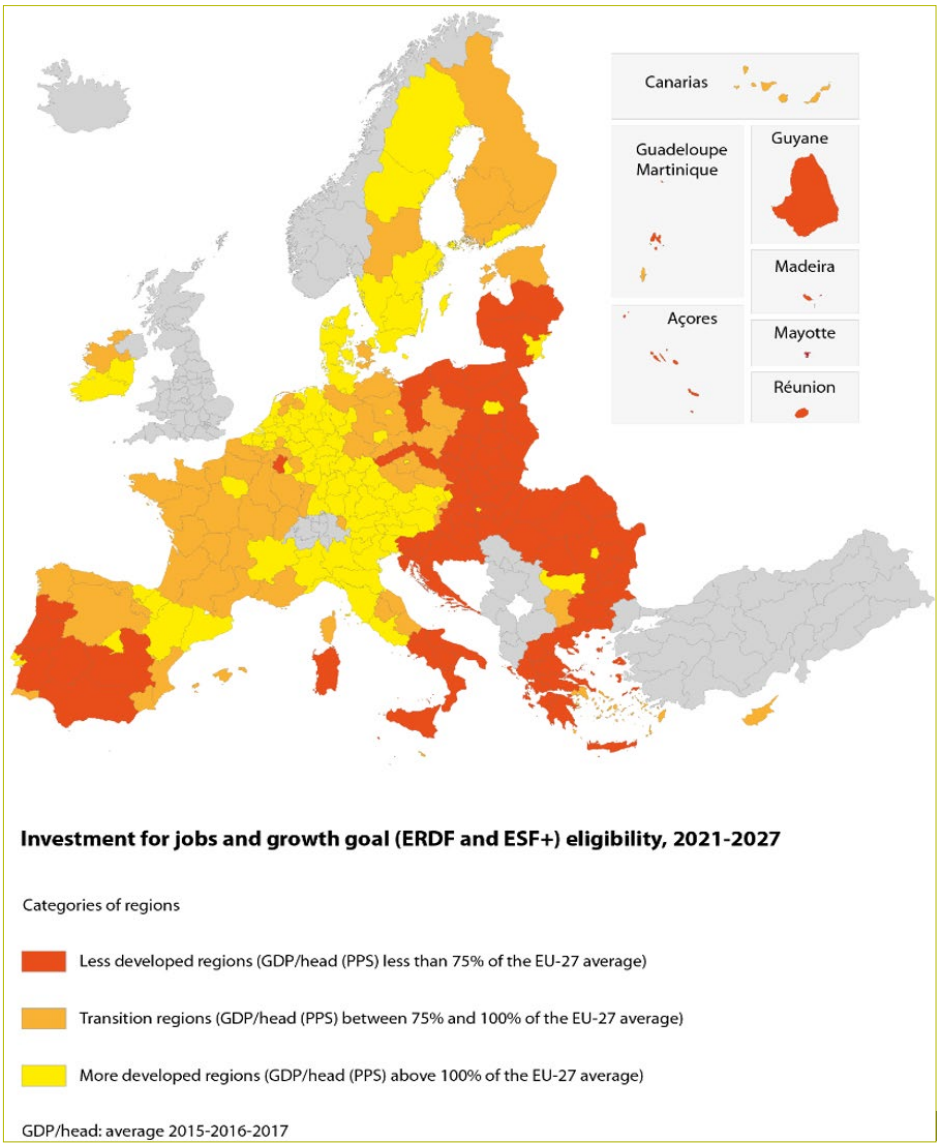
But history has proved me wrong, and there is no longer an iron curtain in Europe. Northern and southern, central, eastern and western Europe have come together in many respects, and the more fortunate countries have been able to join the European Union, the largest political alliance of free and democratic countries in history. Nevertheless, even within the European Union there are still very different levels of social and economic development between and within Member States and regions. This is an economic kind of wall, one which puts the cohesion of the Union at risk. Many of us are well aware of it from our experience of what is happening in our own countries.

This is where cohesion policy kicks in. It is not a new policy: in the 1950s, the founders of what later became the EU realised that there would be no cohesion among Member States and regions unless their citizens could benefit from progress towards similarly high levels of development and living conditions.

With this in mind, the EU is bound by the political objective of cohesion policy: *to strengthen economic and social cohesion by reducing disparities in the level of development between regions* (Article 174 TFEU). As the EU's main investment policy, cohesion policy targets all eligible regions by supporting job creation, business competitiveness, economic growth and sustainable development, with the aim of improving EU citizens' quality of life. Almost a third of the total EU budget, over €390 billion, has been allocated to cohesion policy for 2021-2027.

As you might expect, the focus is on the less developed regions, defined as those whose GDP per capita is under 75 % of the EU average (see **Figure 1**). Co-financing rates – the proportion paid by the EU – vary from 40 % for the wealthiest regions to 85 % for the least developed regions.

Figure 1 – Categories of regions



Source: European Commission

Multiple instruments implemented through shared management

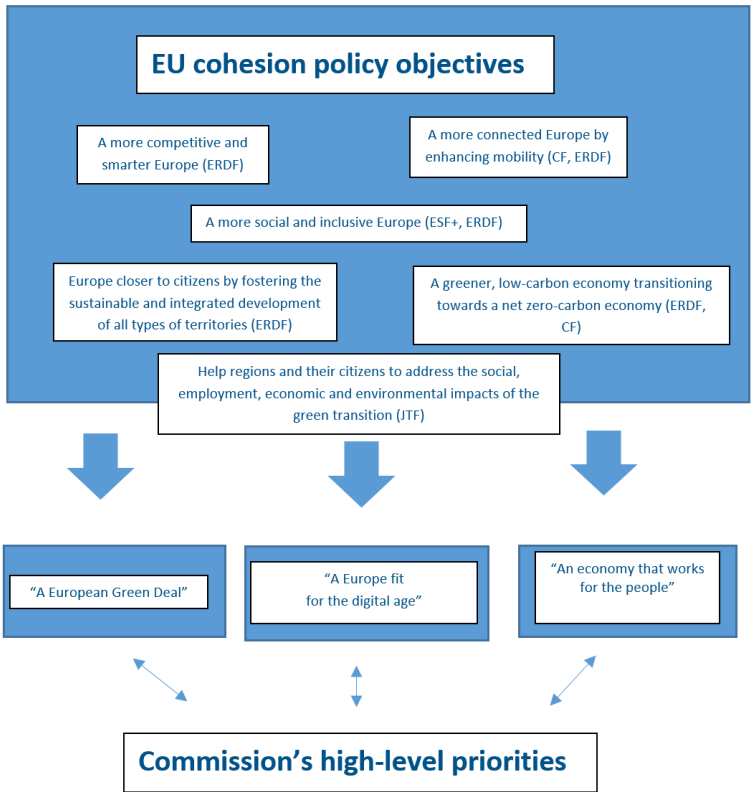
Cohesion policy is *delivered through different funds that address specific policy areas.* For the 2021-2027 period, there are four such funds (see **Box 1**).

When adopting the legal framework for the 2021-2027 period, the European Parliament and the Council agreed on five EU cohesion policy objectives for 2021-2027 to which these four funds should contribute. The objectives are aligned with three of the EU's current high-level priorities (see **Figure 2**).

Box 1 – Cohesion policy funds (2021-2027 period)

- The European Regional Development Fund (ERDF) invests in the social and economic development of all EU regions and cities.
- The Cohesion Fund (CF) invests in environment and transport in the less prosperous EU countries.
- The European Social Fund Plus (ESF+) supports jobs and aims to create a fair and socially inclusive society in EU countries.
- The Just Transition Fund (JTF) supports the regions most affected by the transition towards climate neutrality. The Just Transition Fund (JTF) supports the regions most affected by the transition towards climate neutrality.

Figure 2 – EU cohesion policy objectives aligned with Commission high-level priorities for 2021-2027



The funds are implemented under partnership agreements between the European Commission and each Member State – political contracts defining how much each fund will provide and setting out the country-specific strategy and investment priorities for the programming period. Partnership agreements are also designed to balance EU and national/regional development priorities and provide a framework for the subsequent development of programmes through which the funds will be implemented – more detailed plans on where, how and on what the money will be spent.

On the ground, cohesion policy is usually delivered through projects. From infrastructure investments (e.g. transport, digital, health) to training, education and research, the EU logo is a familiar sight, flagging the support that has been provided. Projects can be implemented by public or private beneficiaries or a mix of both.

Traditionally, funding takes the form of *grants reimbursing project expenditure* at the relevant EU co-financing rate, alongside national/regional funding. In recent years, other forms of support, such as financial instruments and performance-based funding, have become increasingly important.

Source: European Commission

In cohesion policy, Member States/regions and the Commission are jointly responsible for the performance of the funds and their use in compliance with the rules. This arrangement is known as *shared management*. While in legal terms the Commission bears the ultimate responsibility for implementing the EU budget (Article 317 TFEU), national and regional programme authorities in the Member States spend most of the money. Projects are selected, implemented, monitored and audited *in* and *by* the Member States. This is an important point to keep in mind when cases of waste, error or fraud in EU cohesion spending are discussed. And it is also what makes ECA audit recommendations to Member States and regions so vital.

But how effective is cohesion policy in reducing development disparities?

There is no easy answer. It is clear that cohesion policy measures have become a cornerstone of Europe's economic governance, and a key contributor to public investment and structural reforms. It is also clear that cohesion spending was a significant part of coping with the aftermath of the 2008 financial and economic crisis and the more recent economic downturn caused by the COVID-19 pandemic. In the ECA's 2020 and 2021 reports on the performance of the EU budget we concluded that, during the 2014-2020 programming period, the ERDF and ESF undoubtedly contributed to the objectives of the Europe 2020 strategy, and that the indicators were on track for many programme milestones and targets.

The 2014-2020 period saw performance considerations figuring more prominently in the arrangements put in place by the Commission for programme and project management. We recognised this trend in the context of cohesion policy in our special report 24/2021, where we also pointed to shortcomings that still needed to be addressed.

At *project or micro level*, the question is whether cohesion projects support the policy's objectives and deliver what they are supposed to. However, the systematic recording and auditing of project performance data started relatively recently, and the sample projects that we audit for compliance with the rules are often not yet finished, making it too early to conclude on performance. While it is usually possible to measure the outputs of projects – for example kilometres constructed or square metres renovated as part of infrastructure projects, or the number of lessons provided through education and training projects – measuring project results is more difficult. So the renovation of railway lines makes it possible for more goods trains to use them: but to what extent is that 'result' also influenced by other factors, such as the impact on road transport of increasing diesel costs, driver shortages, or state incentives subsiding rail freight fees? Or, to take another example, how can the results of fundamental research projects be measured? Another complicating factor is that clear project results often take a long time to materialise.

From a *programme or macro perspective*, impact comes into play, and measuring this is not straightforward either. Consequently, overall conclusions are hard to find in the relevant literature and, where they are present, they are often mixed. External factors play an even more important role in this context: geo-political developments, the world economy, financial markets, energy prices, climate change, migration and the pandemic are just a few examples. How much GDP growth over the decades can be attributed to effective cohesion policy spending, and how much to the success of national policies? And what share is due to neither of these factors?

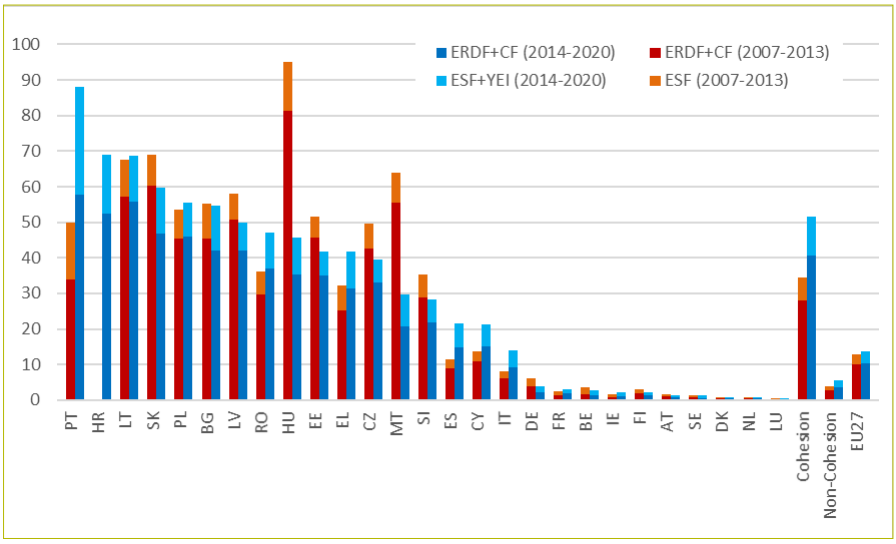
One empirical study concluded that the disbursement of EU structural funds from 1994 to 2007 was negatively correlated to regional growth in the EU15 area, that structural funding did not seem to have contributed effectively to convergence across regions, and that funding had not promoted income growth in less developed regions over and above the average income convergence rate for the EU15[1].

Against this background, an evaluation of the main achievements, effectiveness and utility of cohesion policy programmes over the longer term – 1989 to 2013 – concluded that the traditional strategic justifications and accountability channels for cohesion spending had been inadequate, but also that there had been improvements over time and across programmes. The evaluation also confirmed that programmes were relevant to regional needs, increasingly met objectives and had contributed to economic development. The objectives of public sector interventions were met more consistently than those relying on private sector investment or entrepreneurial activity. Another conclusion was that there had been varied levels of commitment by Member States and regions in terms of ambition, competence and expertise, and considerable differences in the way EU and national/regional priorities were aligned[2].

In its 8th Cohesion Report, published in February 2022, the Commission states that 'Since 2001, less developed eastern EU regions have been catching up with the rest of the EU […]'. But it also writes that 'Several middle-income and less developed regions, especially in the southern EU, have suffered from economic stagnation or decline […], suggesting they are in a development trap'. For the 2014-2020 period, the Commission reports economic modelling which reveals that, in 2023, GDP per head will be 2.6 % higher in less developed regions due to EU cohesion policy investments, while the GDP gap per head between best and worst-performing regions will fall by 3.5 %.

Evaluations of this kind aim to identify policy impact by neutralising external factors. However, the research literature recognises that there are limitations in the existing evaluation methods[3]. What is true, of course, is that for a number of countries cohesion policy funding accounts for such a significant share of total public investment that it is likely to have a positive effect on GDP (see **Figure 3**).

Figure 3 – Cohesion policy allocations relative to public investment, 2007-2013 and 2014-2020



1 P. Breidenbach, T. Mitze, and C.M. Schmidt, *EU Structural Funds and Regional Income Convergence – A sobering experience*, 2016, available as SSRN paper.

2 John Bachtler, Iain Begg, David Charles and Laura Polverari, *The long-term effectiveness of EU Cohesion Policy – Assessing the achievements of the ERDF, 1989-2012*, 2016.

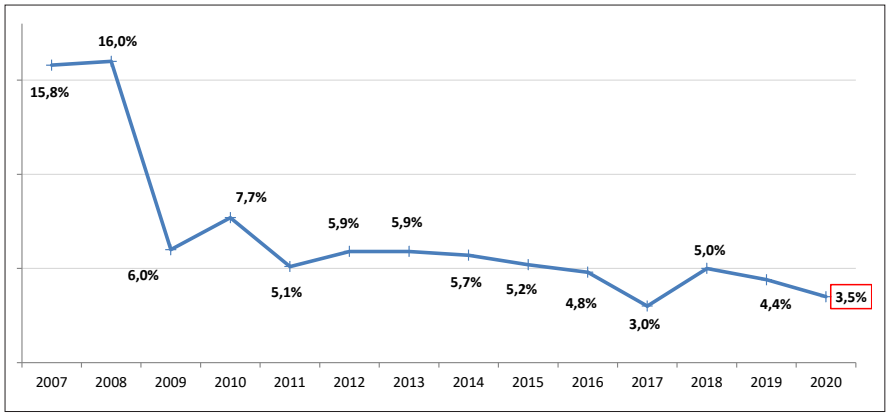
3 E.g. John Bachtler and Colin Wren, *Evaluation of European Union Cohesion Policy: Research Questions and Policy challenges*, in: Regional Studies, Volume 40, 2006 – Issue 2: The Evaluation of European Union Cohesion Policy, pages 143-153; and Paolo Graziano and Laura Polverari, *The social impact of EU cohesion policy*, in: Social policy in the European Union 1999-2019: the long and winding road, Brussels 2020, pages 167-182.

As the EU's external auditor, we often assess the *administrative performance* of the Commission and national/regional administrations in preparing, implementing and closing programmes and projects. We do this because of our high-level goal of using our robust audits of cohesion policy spending to strengthen the accountability of those in charge of policy design and implementation.

Performance is essential, yet compliance is another important yardstick

But how about the *compliance* of cohesion spending with the rules? The annual error rates we report have decreased considerably over time (**Figure 4**), indicating improvements in management and control systems, particularly on the part of Member States' audit authorities.

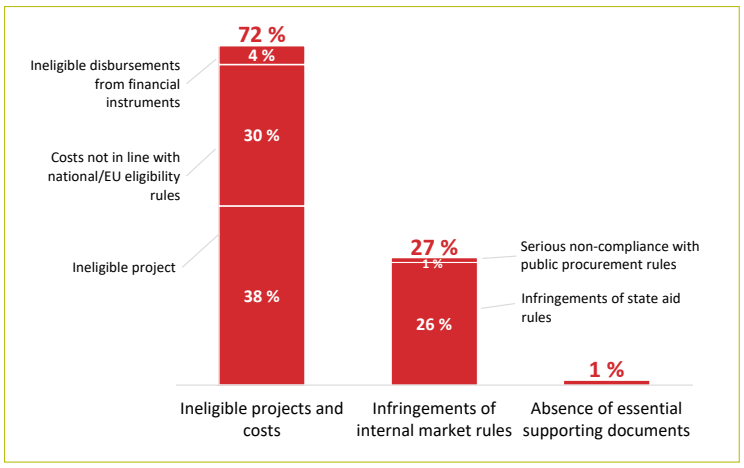
Figure 4 – Evolution of ECA error estimate in cohesion spending



However, in our annual report for 2020, which includes our statement of assurance (SoA) for that year, we reported a most likely error of 3.5 % for cohesion policy, clearly above the materiality threshold of 2 % set in cohesion legislation. This threshold is ambitious in the context of assessing the regularity of budget expenditure from multiannual programmes that are managed by about 300 different national and regional administrations, each with their own procedures and systems, and involve hundreds of thousands of projects, beneficiaries and expenditure reimbursements. Traditionally, the 2 % threshold was used for auditing financial statements, a far less complex matter involving a far smaller number of players capable of making mistakes (or committing fraud). Some are of the view that applying a 2 % threshold to cohesion policy spending might be over-ambitious.

Figure 5 shows the contribution of different error types to the 3.5 % 'most likely' error rate reported for the SoA for 2020.

Figure 5 – SOA 2020: Contribution of error types to the overall cohesion error rate



What are the reasons behind these irregularities? First, the legal framework is very complex, and EU eligibility rules are complemented by comprehensive additional layers of national and regional rules, which sometimes leads to what we call *gold-plating*. This makes the system error-prone and explains a good part of the reported rate. Another likely reason for error is the pressure on programme authorities to spend ('absorb') the EU money available to them rather than return unspent funds to Brussels – particularly towards the end of programming periods. Administrative (and economic) capacity is needed to spend funds efficiently, something to which the Commission gave more prominence in the 2014-2020 programming period, with help from the OECD. Capacity issues in the Member States have become even more crucial recently, with huge amounts of additional NGEU money coming into play.

Of course, in our audits we also see potentially fraudulent activities, such as overdeclarations of project expenditure by beneficiaries, or the use of funded equipment for non-eligible purposes. In most cases, we conclude that the errors we find are not fraudulent, as is also the case for most of the irregularities reported by Member States. However, the Commission's 2020 PIF report[4] discloses that almost 90 % of all fraudulent expenditure reported by Member States, some €225 million, lay in cohesion policy. The types of fraud reported were familiar to us from our compliance audit work. Sometimes the line between a non-fraudulent and a fraudulent irregularity is razor-thin. Where we suspect fraud, we inform OLAF, the EU's anti-fraud office, or the European Public Prosecutor's Office (EPPO).

In the end, we also need to consider that compliance with the rules and good performance are not necessarily interdependent. We have seen that projects perfectly compliant with the rules can perform poorly. Equally, some projects with ineligible expenditure are capable of delivering real value for EU citizens. In putting together a balanced portfolio of audits we need to be alive to both aspects, and this also applies to meaningful discharge decisions.

Looking beyond economics – cohesion as a solidarity instrument to underpin the Union

Having audited the area for almost ten years in all, I believe that it is important to maintain realistic expectations when looking at cohesion policy. Designing and implementing a regional policy with the ambitious aim of addressing overarching EU priorities at the same time as a multitude of national and regional priorities is a unique challenge, as is the need for the Commission in Brussels to work together with hundreds of programme authorities in the regions. While a common legislative and performance framework and effective monitoring by the Commission are indispensable, ultimately it is dedication and commitment at the national and regional levels which will get the most out of EU money. While assessing the overall effectiveness of the policy is problematic, measuring the performance of those designing the policy and implementing it on the ground is feasible – and crucial, since the administrative capacity of the Commission and Member States is key to the policy's success!

In the coming years, the implementation in parallel of traditional cohesion policy and the NGEU – with its unprecedented funding opportunities and risks – will present a huge administrative challenge for programme authorities, in terms of both project performance and regularity of expenditure. The challenge will be all the greater as the additional money available will inevitably attract fraudsters. All those active in the administrative system, including auditors, need to remain vigilant to this threat.

Greater use of simplified delivery mechanisms, such as financial instruments or simplified cost options, has the potential to further reduce error rates in cohesion expenditure. However, the pressure to spend and the consequences of simplified verification procedures for the 2021-2027 period might outweigh that effect. In any case, the move to more performance-based funding models will require a fresh look at the traditional error rate debate, the way we draw audit conclusions and the basis on which discharge

4 2020 report from the Commission to the European Parliament and the Council, 32nd Annual Report on the Protection of the European Union's financial interests, 2021.

decisions are taken. There may also be implications as a result of the new rule of law conditionality arrangements.

Going back to my own roots in the GDR, my experience is that solidarity among the better-off can help significantly to overcome economic development disparities and strengthen cohesion in society over time. Where solidarity is compromised, more people feel left behind, which in turn can feed extreme political views and lead more people to question the EU fundamental rights and the merits of democratic systems.

Solidarity is the human factor that can make us stay together as societies. In the end, it is what cohesion policy is all about. The counterpart of solidarity and the significant financial transfers that accompany it is accountability. And this is the whole purpose of our work at the ECA.

'Cohesion policy is essential to the functioning of Europe'

Interview with Elisa Ferreira, European Commission for Cohesion and Reform

By Gaston Moonen

Source: European Commission

Elisa Ferreira

With the transition goals it presented in its Green Deal and Digital Strategies, the Von der Leyen Commission made it clear from the outset that multiple instruments, both traditional and new, would be used for targeted investment and inclusive growth. Cohesion is one of the core EU policies which, from its early days, has aimed to support transition and promote convergence. Elisa Ferreira, EU Commissioner for Cohesion and Reforms, not only has many years of experience in various economic and social convergence roles, but is also very much aware how essential cohesion investments and reforms can be to achieve the overall goal of ensuring that no one is left behind. An interest that should motivate all Member States and one which, in her view, is essential to the democratic fabric of the Union.

Cohesion as the antidote to a segmented Europe

Although for many people the word 'cohesion' may sound like a technical EU term, Elisa Ferreira connects it to core EU values. 'For me, cohesion policy is a crucial part of what we Europeans call "democracy". Democracy provides equal opportunities for people to have a decent life and a good job, and to be able to participate in and contribute to our community'. She explains that 'free competition in the internal market is good', but to work properly, the internal market needs to operate on a level playing field to which cohesion policy contributes by rebalancing opportunities between unequal partners. Thanks to cohesion policy, less developed countries and regions can 'play the game' and be an integral part of the common market.

> *… cohesion policy is a crucial part of what we Europeans call "democracy".*

When discussing how successful cohesion policy has been in recent decades, Elisa Ferreira highlights its role as a convergence machine for the European Union. She then adds decisively: 'Honestly, it would have been very difficult to keep Europe together throughout all these years if cohesion policies had not existed. Because when we enlarged the EU from the initial six Member States to the current 27, incorporating economies that were really lagging, if you had not supported the new economies, you would have created a very fractured and segmented Europe'.

She argues, however, that this risk still exists: 'Even now, we see that if you overlook parts of European territory – and when I say "territories", I mean the communities living these territories – and if they feel or are actually left behind, and do not have a stake in overall growth and well-being, if they feel that Europe does not include them, then very often the reaction is: "they don't care about me, so I don't care about them"'. And this completely destroys the political unity that is required for Europe to be the community of destiny that we all want it to be… and which we have managed to achieve in recent decades. So I think cohesion policy is essential to the functioning of Europe!'

> *… cohesion policy is essential to the functioning of Europe!*

Encouraging convergence data

The Commissioner points to research and data which, in her view, confirm the link between cohesion and the capacity to catch up, thereby preventing the sort of extreme polarisation which would undermine the democratic basis of the EU. 'We have just published the 8th Cohesion Report, where we carry out this evaluation of the policy every three years. In this report, we present some very detailed figures, and conclude that the convergence machine is working, the most backward regions have substantially caught up, and that the convergence rate has been substantially increased by cohesion policy'.

She explains that, thanks to cohesion policy in the 2014-2020 period, the GDP per capita of less developed regions is expected to increase by up to 5% by 2023. We also observed 'a 3.5% reduction in the gap between the GDP per capita of the 10% least developed regions and the 10% most developed regions. These are telling indicators, but the evidence is not only quantitative. When you look at health systems, the increase in life expectancy across Europe, education indicators, the provision of common goods and universal services such as sewage, clean water, and waste treatment … If you look at how much has been achieved all over Europe, this is also a consequence of cohesion policy'.

> *If you look at how much has been achieved all over Europe, this is also a consequence of cohesion policy.*

Addressing cracks and possible fractures

Besides successes, the 8th Cohesion Report also identifies what it calls *cracks* or fractures that need to be repaired. Elisa Ferreira is very much aware of these internal divides, and the reasons why they occur. 'The initial phase after accession to the EU is usually characterised by a very strong growth impetus'. She points out that this happened with the accession of Member States from southern Europe, and clearly also with those from central and eastern Europe. 'However, after a certain period, several of these regions reach a ceiling or fall into a development trap, very often because growth tends to concentrate in capitals or metropolitan regions. That's when the cracks start to appear, because some of the most backward regions just miss the growth train'.

> *… growth tends to concentrate in capitals or metropolitan regions.*

The Commissioner explains that some parts of southern and south-western Europe, 'are caught in a middle-income trap, as they have to move from low-cost labour and infrastructure-based development towards more sophisticated levels of competitiveness. This is another kind of crack'.

In Elisa Ferreira's view, the EU's political priorities, such as the green and digital transitions, despite their growth potential, also need to be managed carefully. 'When we concentrate our future efforts more on green and digital innovative technologies, we have to realise that different people have different starting points. Tailored regional strategies are

> *… we have to realise that different people have different starting points.*

necessary so that all can share in the benefits of these transitions'. She cites the example of digitalisation. 'As we enter the digital age, with many services going online, if you have some regions without connectivity, the people who live in those areas will be even more excluded than before, because they cannot do basic things like renewing their identity card. That is a real problem'.

Besides infrastructure capacity, she raises another issue: the ability to use networks and digital services: 'If you look across Europe, you will see that there are still segments of the population that don't know how to use these services. You still have digital illiteracy or limited ability. So this requires special attention to make sure that we don't create new divides – digital divides – and that we don't increase internal fractures'.

Cohesion support consistent with single market principles

When discussing how cohesion policy aligns with single market principles and objectives, Elisa Ferreira makes it clear that there is great awareness in the Commission of the need to make these areas compatible. 'Our objective is to speed up convergence in the regions. Of course, in reality, differences still exist and some of them will persist. But we have to make sure that the differences do not lead to permanent, structural divergence'. She argues that market forces do not create convergence by themselves, and so it is important to be aware of the different territorial impacts of horizontal policies. 'Because whatever horizontal policy we have – commercial policy, industrial policy, you name it – you will necessarily have different impacts across different territories, not only across countries but also across regions. So you need a balancing factor to ensure sustainable competitiveness in an open single market'.

> *… you need a balancing factor to ensure sustainable competitiveness in an open single market.*

Control is one thing, capacity another

Besides inherent differences between regions, another element influencing the impact of policy on the ground is implementation capacity. The Commissioner identifies two sides to this issue. 'One is the formal dimension of complying with regulations, monitoring costs, and following management and control procedures'. She explains that this is based on a robust structure, building not only on the audit activities of the Commission and the managing and audit authorities in the Member States, but also on the European Court of Auditors' work. She also refers to the Commission's zero tolerance policy towards fraud, transparency requirements, and information about the ultimate recipients ('beneficial owners') of EU funding: 'And to fight fraud, we are working on even more sophisticated ways to obtain information about conflicts of interest'.

However, for the Commission, the control framework is not the only aspect. The other element is *content*: the objectives of the multiannual programmes and their results on the ground. 'You can have all the formalities you like, but if you have a training course where the quality of what you're teaching isn't good enough and participants are not deriving sufficient benefit from it, then you end up with something that did not perform as you wanted'.

Stressing the need for good institutions and good public administration, the Commissioner also explains the work of DG Reform, 'a directorate-general that is perhaps not so well known yet because it is more recent', but which serves as the main source of technical support and exchange of best practices that benefits Member States' administrations and reform efforts.

Capacity building to enhance absorption capacity

When discussing how versatile cohesion policy is, Elisa Ferreira cites the recent example of the pandemic. 'Cohesion policy is a traditional policy, but also a flexible policy. We are always trying to find out which improvements we can introduce, building on previous experience and the needs experienced by Member States and citizens. As I said in the article I wrote for an earlier edition of the ECA Journal[1], during and especially at the start of

> *Cohesion policy is a traditional policy, but also a flexible policy. (…) we used the unspent amounts that we had in the EU budget to provide an immediate response to the crisis.*

1 Elisa Ferreira, *Why EU added value is in the fabric of cohesion policy*, in: ECA Journal No 3/2020, *Realising European added value*.

the pandemic we used the unspent amounts that we had in the EU budget to provide an immediate response to the crisis. 'With unanimity in the European Parliament and the Council, we created the Coronavirus Response Investment Initiatives. This enabled us to redirect a substantial amount – €23 billion, to be precise – to buy masks and ventilators, and to provide working capital for companies and online teaching, the aim being to support the Member States' emergency expenditure. And this was really one instance of adapting to emergency'[2].

Another example she gives is the Recovery Assistance for Cohesion and the Territories of Europe instrument – REACT-EU. 'With this programme, we are topping up the 2014-2020 Multiannual Financial Framework and adding extra flexibility to move from crisis support to repair and transition'.

As regards synergies with the new instruments created to cope with the crisis, such as the Recovery and Resilience Facility (RRF), Elisa Ferreira explains that the main purpose of the Facility is to support the overall recovery, 'since it is mostly a kind of counter-cyclical instrument. This meant it was a much more targeted and short-term instrument'. She points out that the innovation here is that the Commission ties reforms to it, not only investments, as well as mandatory objectives for climate and digitalisation. 'But in fact, it was an emergency instrument'.

The Commissioner also notes that national recovery and resilience plans often do not sufficiently factor in regional differences, and do not entail a place-based strategy because they were created, 'due to time pressure, to be managed at the national level. But we need to ensure that the projects that we do, the reforms that we support, don't do harm to internal cohesion, within Member States themselves'.

In the meantime, cohesion policy for the 2021-2027 period, with the objective of longer-term development, is currently being agreed with Member States. 'The first Partnership Agreement was concluded with Greece[3] and we have about a dozen Member States that have already formally submitted their draft plans, which we are currently discussing in detail with them. It requires a lot of work and effort to achieve the best possible programmes'. Elisa Ferreira explains that Member States that have difficulties with execution often face the issues she mentioned above: low administrative capacity, problems with procurement, and bureaucracy. She underlines that her staff help Member States address these bottlenecks, and that the National Recovery and Resilience Plans also help to improve procedures, checks for conflicts of interest, and management. 'Work is ongoing, but there is progress – very substantial progress, I would say – in the area of management'.

Performance as a condition for cohesion funding

When discussing whether performance will become the main yardstick for cohesion spending, as is envisaged for RRF expenditure, the Commissioner is prudent. 'Well, we'll see when we have results and a proper evaluation of how the new mechanism and methodologies are actually performing. We have also introduced – and the ECA is already aware of this – considerable simplifications in the last Common Provision Regulation and the Cohesion legislation. The fact is that there was a general complaint about excessive bureaucracy and a disproportionate number of procedures, in particular for small projects'. She underlines the importance of evaluating the effectiveness of the simplifications introduced for the 2021-2027 period to see if the concerns raised have been properly addressed.

> *… there was a general complaint about excessive bureaucracy and a disproportionate number of procedures, in particular for small projects.*

2 The interview took place on 24 February 2022, the day Russia invaded Ukraine. At the time of publication, Cohesion policy flexibility had been called upon once more to deal with an emergency situation. The CARE (Cohesion Action for Refugees in Europe) instrument was introduced to channel unspent Cohesion funds to help Member States to provide accommodation for people fleeing the war in Ukraine.

3 As of 24 May 2022, the Commission has adopted six Partnership Agreements – Austria, Czechia, Finland, Germany, Greece, Lithuania.

Elisa Ferreira concludes that, with this in mind, she is very interested in seeing how the situation will actually develop, and in drawing lessons from the recovery for the purposes of regional policy. 'We are completely open to reassessing certain methodologies which are important for improving cohesion policy,' and, with an eye to the future, adds 'Let's see what we can learn from other areas to better prepare for the future'.

> *We are completely open to reassessing certain methodologies which are important for improving cohesion policy…*

The Commissioner is clearly aware of the concern expressed by politicians and others about how the new instruments align with existing programmes and projects, including the risk that traditional and new policy instruments may compete with each other. She also mentions the new rule-of-law conditionality that will help protect the EU budget further: 'We have to make absolutely sure that the mechanisms within a Member State are sufficiently robust so that we can guarantee that taxpayers' money is used for its intended purpose and in line with our values'.

A call for further dialogue on audit methods

For several years now, various ECA reports have covered multiple aspects of cohesion programmes and their mixed results, reporting on successful programmes but also on gaps between plans and their implementation. The Commissioner finds these reports extremely useful. 'We take them very seriously, analyse them closely, and do our utmost to correct what the ECA identifies as critical areas. We also present the findings to the European Parliament's Budgetary Control Committee, and we take their feedback very seriously'.

She also thinks there are opportunities for both institutions to clarify their respective methodologies to assessing the financial management and performance of cohesion policy instruments. 'I often say that the options for our methodology, for example when calculating the overall error rate, might justify us sitting down together and discussing very carefully how we can adjust and improve our methodologies. Quite frankly, I think we should, without interfering with the competences that the auditors have, including of course their independence, engage in continuous dialogue about our methodology'. 'The fact is that we are as interested in the sound financial management of taxpayers' money and in reaching our planned targets as the auditors are'. She notes that the error rate for cohesion policy has decreased over time, and stresses the importance of presenting reliable but also clear and comprehensible information to the public and the media so as to ensure that a clear distinction is made between administrative errors and fraud.

> *… we are as interested in the sound financial management of taxpayers' money and in reaching our planned targets as the auditors are.*

Another point she highlights, more in relation to the performance of the instruments, is that not everything can be orchestrated. 'We are not in a planned economy and so some of the instruments are used by beneficiaries, by promoters, by companies, by people. It is up to the free economy to react to the stimuli and objectives we present'. She notes that, unlike in chemistry, reactions might be different than expected. 'So I think there is an element of substance that we can highlight and which is useful for the overall picture regarding performance. After all, not all readers of the ECA's assessments are experts'.

Achieving convergence is in the common interest of *all* Member States

When discussing her aims for the future and the legacy she would like to leave behind when it comes to cohesion policy and the objectives of this policy, Elisa Ferreira comes back to the importance of convergence. 'I am an economist by training. I was a university teacher, then eventually became minister for environment and planning. But I actually started my career addressing the very same issues of regional convergence. So this is a subject very close to my heart, and even if I have done many other things in the meantime, I am back where I started'.

The Commissioner explains that she has always been attentive to the issue of stimulating growth and aiming for convergence across different territories. 'And the tensions in these territories – the economic tensions that drive them apart – have increased with globalisation and the use of certain technologies. And they increase every time there is a crisis'. She notes that the 2008 financial crisis opened new fractures, as did the pandemic. 'So what I would like to leave behind, as my legacy, is a kind of common understanding across Europe that even the wealthiest regions and countries are better off if their neighbours are equally developed. Because if that is not the case, the divergences are harmful, even to the growth of the most developed areas, because those areas would then be crowded with people who have been forced to leave the places where they were born. For the sake of balanced development, convergence is in the interest of *all* of us, be it rich or poor regions. If all politicians and citizens could understand this reality – this common interest – and take ownership of this agenda, I would be extremely happy'.

“… to leave behind, as my legacy, is a kind of common understanding across Europe that even the wealthiest regions and countries are better off if their neighbours are equally developed.

Cohesion policy and the Recovery and Resilience Facility: not just two sides of the same coin

By Gert Jan Koopman, Director-General for Budget, European Commission

Source: © European Communities, 2006.

Economic convergence is one of the key objectives of EU cohesion policy. The COVID-19 pandemic, however, has had precisely the opposite effect. With a focus on green and digital transition, the Von der Leyen Commission is trying to gear several policies towards transition in the EU. Gert Jan Koopman has been Director-General for Budget at the European Commission since 2018 and has been at the heart of both the most recent multiannual financial framework negotiations and discussions on new EU initiatives following the outbreak of the COVID-19 pandemic. He explains how the new instruments, despite having similar transition objectives and complementing each other in some respects, differ in several other respects such as their design, drivers, timeframe and financing arrangements.

Transition aligned but different outlook

The 2021-2027 multiannual financial framework (MFF) and NextGenerationEu (NGEU) have strengthened the EU budget's focus on economic, social and territorial cohesion. The current MFF dedicates €374 billion[1] to this goal (including €274 billion for regional development and cohesion), plus over €774 billion from the Recovery and Resilience Facility (RRF)[2] and REACT-EU within NGEU.

Investments under cohesion policy and the RRF are playing an important role in the context of the recovery from the COVID-19 pandemic and its economic and social fallout. At first glance, cohesion policy and the RRF appear to be two sides of the same coin: both are investment-driven and with a macroeconomic impact; both contribute to the EU's green and digital transition. However, as I will discuss in this piece, their design is fundamentally different, reflecting different purposes: whereas cohesion policy pursues the long-term objective of convergence, the RRF and NGEU are temporary instruments

1 Including the European Regional Development Fund, Cohesion Fund, European Social Fund+. Amounts are in current prices.

2 The RRF envelope is €723.8 billion (€338 billion in grants and €385.8 billion in loans).

for the EU to respond to the economic and social challenges posed by COVID-19, with commitments running until 2023 and payments until 2026.

Role of cohesion in EU budget negotiations and implementation

The large amount dedicated to cohesion policy in the budget makes it the EU's largest investment programme. Its predecessor – the EU regional policy – had its origins in 1957 with the Treaty of Rome. In 1988, an overarching cohesion policy was established, focusing on the poorest regions and geared towards investment. In the 1990s, the policy's budget doubled, and it has accounted for around one third of the EU budget ever since.

Cohesion also plays an important role in the long-term decision-making process for the EU budget. The time it took to negotiate and agree the legislation governing the 2021-2027 cohesion policy funds is commensurate with their value as a proportion of overall expenditure. Although the Commission made its initial proposal in May 2018, the political agreement on the MFF was not reached until July 2020, and the process of adopting cohesion legislation lasted until June 2021. Cohesion was a focal point in the MFF discussions, not only because it brings Member States substantial public investment, but also because it is a key factor in determining the size of the EU budget and, consequently, of Member States' contributions.

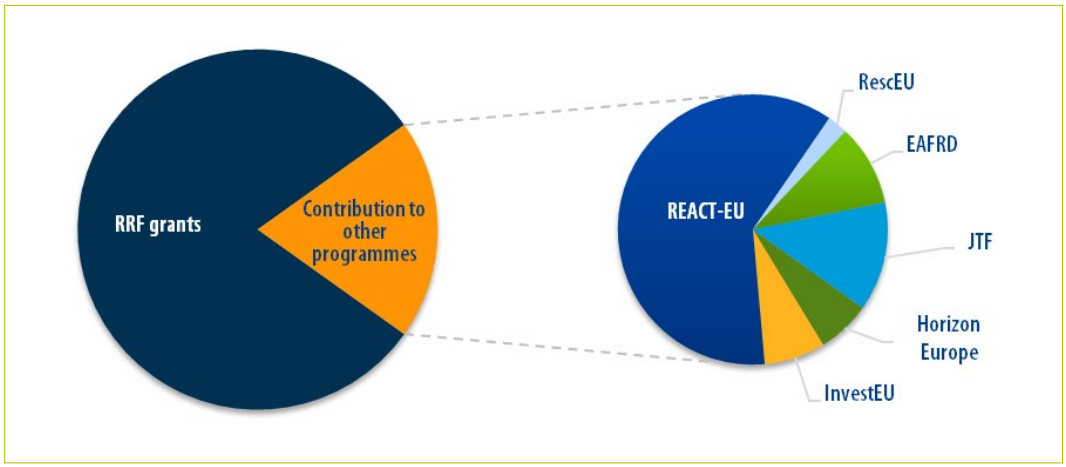
Smooth implementation of the EU's annual budgets depends largely on the pace of cohesion policy implementation. This is because cohesion is the EU budget's biggest spending policy based on multi-annual programmes. As cohesion policy is delivered under shared management, its implementation speed is very much in the hands of Member States. This makes it challenging to forecast long-term needs and to achieve stability in the size of annual budgets. Given the long-term nature of cohesion investment, the way such funding is delivered and the types of projects it covers, the cohesion policy implementation cycle is typically characterised by low absorption in the early years of an MFF, increasing over the course of the period. This is, to some extent, traditionally compensated for by overlaps with the preceding programming period, as absorption is much quicker in the final stages of the previous cohesion policy cycle.

The 2014-2020 programming period started with a delay, which was made up for towards the end of the period. The Commission proposed simplifications to the implementation of cohesion policy in 2021-2027 to make it smoother and contribute to more stable budgets. Most of these proposals were retained in the final political agreement. However, the delays in agreeing the new cohesion legislation and, to some extent, the work on national recovery and resilience plans, have in turn led to delays at the start of the 2021-2027 programming period. The Commission will continue to closely monitor progress and support Member States in their efforts to overcome the delays experienced in 2021 and press ahead with implementation in the coming years.

NGEU and the RRF powering recovery from an exceptional shock

Significant fiscal effort and a quick policy response were needed to tackle the economic and social fallout of the COVID-19 crisis. Member State governments responded with a wide range of fiscal measures, but the nature of the crisis required additional efforts at EU level on top of the measures taken at the onset of the pandemic. The crisis risked creating a large and persistent investment gap, and redirecting resources from Member States or from other programmes would not have been an effective way to fill that gap. NGEU, and in particular the RRF, is thus a temporary and exceptional instrument created to prevent the COVID-19 crisis from causing further economic divergence across EU Member States, and to limit exposure to future unforeseen events by making their economies more resilient.

Figure 1 - NextGenerationEu: RRF grants and contributions to other programmes



Source: European Commission.

Note: RescEU: Union civil protection mechanism; EAFRD: European Agricultural Fund for Rural Development; JTF: Just Transition Fund; InvestEU: InvestEU Fund.

NGEU is also strengthening cohesion policy thanks to the new Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU) programme. REACT-EU is the second largest component of NGEU, with a budget of €50.6 billion (see **Figure 1**). REACT-EU continues and extends the measures delivered since 2020 through the Coronavirus Response Investment Initiative (CRII) and the Coronavirus Response Investment Initiative Plus (CRII+). These additional resources will be used for projects to foster crisis repair capacity in the context of the COVID-19 crisis[3].

Cohesion policy and the RRF: few overlaps, many complementarities

The RRF's features and coordination mechanisms ensure that it complements support from other funds. Such complementarity is an obligation imposed upon both the Commission and the Member States by the RRF legislation[4]. Member States also had to explain in their national recovery and resilience plans how they intended to use other funds, and how they would ensure complementarity. Overlaps between the RRF and cohesion policy are thus limited due to their fundamental differences in terms of:

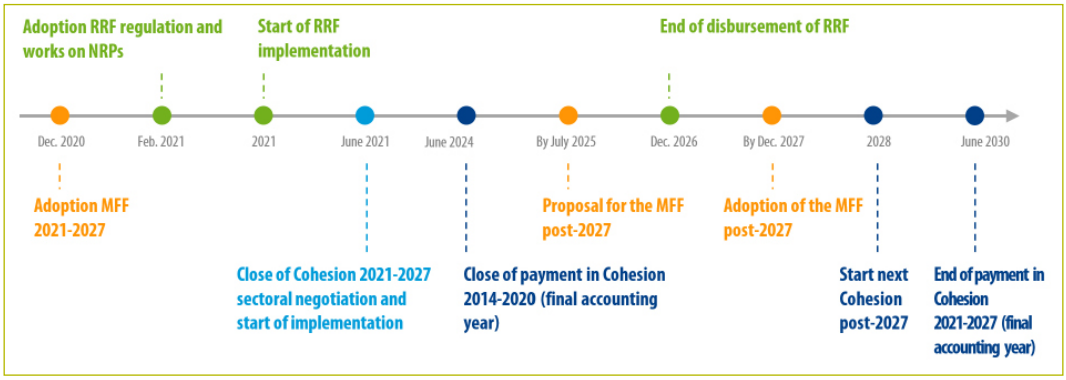
- general objectives;
- timeline;
- management mode;
- financing.

As mentioned above, cohesion policy and the RRF have some common aims, but different general objectives. The RRF has a broad scope by design, given the need to support the EU's recovery from a crisis that affected all aspects of European society. It would not have been possible, from the outset, to carve out distinct RRF policy areas separate from those other EU funds. However, whereas cohesion policy is a place-based, regionally anchored long-term investment policy, with a focus on territorial development and ultimately aimed at fostering economic convergence and growth and jobs, the RRF is a reform and investment-oriented instrument, operating predominantly at national level. These different objectives are reflected in the different methods used to allocate funding ('allocation keys') under cohesion funding and the RRF.

3 With a top-up of €10.87 billion, NGEU also strengthens the Just Transition Fund (JTF). Although the JTF is formally not part of cohesion policy, it is under the same framework and integrated into its programmes.

4 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17–75.

Figure 2 - RRF and cohesion timeline



Source: European Commission.

The timeline for the implementation of the RRF is ambitious, but it has limited overlap with cohesion policy or other funds. RRF disbursements, whose purpose is to fund timely and sizeable investments for economic recovery, are frontloaded and concentrated between 2021 and 2026. By contrast, implementation of the new cohesion policy, which will address structural and long-term objectives, is expected to start gradually and continue for as long as expenditure is still eligible (until June 2030, see **Figure 2**). Member States had originally presented their roadmaps with the target of having their programmes ready for adoption by the end of 2020. However, the pandemic has delayed this for various reasons:

- it delayed the adoption of the MFF;
- lockdowns hindered national public administrations in their activity; and
- administrative capacity was redirected towards new instruments to tackle the crisis (CRII, CRII+ and REACT-EU) and, to some extent, the RRF.

The RRF and cohesion funds have different management modes. The RRF is implemented under a unique form of direct management, with Member States preparing national recovery and resilience plans in consultation with the European Commission. The plans include a set of milestones and targets related to the implementation of investments and reforms. Disbursements are based on the achievement of the milestones and targets, and the Member States are the ultimate beneficiaries of funding. The RRF is thus performance-based, and it directly incentivises the implementation of reforms on a larger scale than any other EU programme.

The cohesion policy funds, by contrast, are implemented under shared management: the European Commission agrees on the programmes with Member State authorities (e.g. ministries and regional authorities), based on drafts prepared by the latter, and ensures that they reflect the relevant EU priorities and abide by the legal framework. Member State administrations then select the projects to finance and are responsible for day-to-day management. Payments are based on eligible costs, not performance.

RRF financing reflects the Facility's peculiar nature. Given the need to provide sizeable and timely support, financing the recovery from the crisis with the EU's available own resources would not have been effective. Common EU borrowing to finance the RRF, however, increased the available resources. It also creates added value at EU level: it strengthens the international role of the euro by increasing the supply of highly-rated euro-denominated bonds and, thanks to the EU's high standing as a borrower, it allows Member States to access loans on better terms than most could obtain on financial markets.

EU budget increasingly investment-oriented

The EU budget is increasingly focusing on investment thanks to cohesion policy and the RRF. Whereas, in the year 2000, EU investment funding made up around 40 % of the EU budget, in the current MFF this share is expected to rise to almost two thirds (of the combined value of the EU budget and NGEU). Between them, cohesion policy and the RRF account for the largest share of such EU investment funding.

Cohesion policy funding will continue to foster economic, social and territorial convergence in the current and future MFFs. Ensuring its effective uptake and use will be key to maximizing the policy's economic and social impact . The RRF will play a key role in economic recovery under the current MFF. NGEU is a temporary, one-off programme, and RRF disbursements are frontloaded and largely concentrated between 2021 and 2023. The gradual start to the implementation of the cohesion policy funds will then ensure that EU public investment is sustained even as the RRF reaches its completion.

Finally, cohesion policy can also play an important role in addressing the economic, energy and humanitarian impact of Russia's invasion of Ukraine. For example, the recently adopted initiative 'Cohesion's Action for Refugees in Europe' (CARE) introduces the necessary flexibility in the 2014-2020 cohesion policy rules so that Member States and regions can swiftly reallocate funding for such emergency support[5].

5 Ukraine: Cohesion funding to support people fleeing (europa.eu).

Cohesion in a time of transition

By Lilyana Pavlova, Vice-President of the European Investment Bank

Source: Robertsrob/Depositphotos

Cohesion was one of the drivers of the creation of the European Investment Bank (EIB) in 1958, and remains one of the Bank's top priorities today. The Bank supports cohesion in the European Union by financing projects in regions that have a lower-than-average gross domestic product per capita and by complementing EU grants with loans. To adapt to the challenges of climate change and the transition to a modern, digital and low-carbon economy in a fair way, the EIB adopted a new Cohesion Orientation in October 2021. Lilyana Pavlova is the Vice-President of the European Investment Bank responsible for overseeing the Bank's support for cohesion. Below she explains how the EIB plans to expand and modernise its investment in EU cohesion regions over the period of the EU's current long-term budget, 2021-2027.

EU faced with a double bind

With the effects of climate change ever more apparent, and the need for immediate action even more urgent, the European Union has embraced a bold strategy to cut its carbon emissions by radically transforming its economies and embracing digitalisation. This transformation, supported by unprecedented financial backing from the NextGenerationEu recovery plan, will create opportunities and challenges for all of Europe, but the stakes are highest for those living in regions that are less developed or already struggling economically.

Many of Europe's poorer regions, which the EU's cohesion policies are designed to support, are highly exposed to the effects of climate change, or are economically dependent on fossil fuels that will have to be phased out on the road to decarbonisation. In the south, higher temperatures in already warm European countries such as Greece, Spain and Italy will affect agriculture and increase the frequency and intensity of natural disasters, like the devastating wildfires last summer. The shift away from coal, which is essential for reducing our emissions, will hit many coal-dependent regions in the East - communities and industries in countries like Poland, Slovakia and Bulgaria - particularly hard.

Faced with this double bind, we need to focus investment on building modern, competitive, innovative, and sustainable economies in these countries. Much of the investment in the EU's poorer countries has historically been in infrastructure, such as highways and railways, and the intention has been to promote growth through easier trade. But our investment priorities need to evolve if we are to confront the existential threat of climate change, promote innovation, and transition to modern, digital,

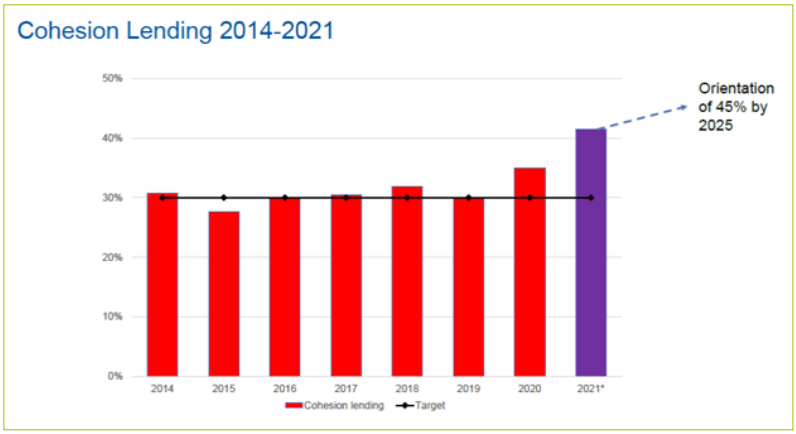
low-carbon economies in a fair way. We will not achieve our climate goals unless we help everyone deal with the costs and fallout of the green transition, and we must address the relative paucity of climate and sustainability investment in our economically weaker regions.

The EIB's new Cohesion Orientation

Supporting the economic, social and territorial cohesion of the European Union is a core mission of the European Investment Bank (EIB), which was founded in 1958 to help foster European integration, support EU policies, and promote development at home and around the world. Over the last long-term EU budget period from 2014 to 2020, cohesion accounted for as much as 30 % of our lending (€124 billion). That investment has paid off handsomely. Our internal models show that the impact of our lending in cohesion regions has been particularly positive, boosting growth by an estimated 2 % and employment by as much as 1 % in some cases (see also page 128). We would not be able to achieve this without fruitful cooperation and constant dialogue with the European Commission, the European Parliament, the European Committee of Regions, and other partners.

In order to support the European Union in its bold climate vision, the EIB has adopted a new approach towards its lending in Europe's economically weaker regions. Our new *Cohesion Orientation*, set out in a paper last October, includes a goal of raising the amount we lend in these regions to 45 % of total lending by 2025 (see **Figure 1**). At the same time, we are also expanding our support to include all regions whose economic development is below the EU average.

Figure 1 – The EIB's realisation and orientation in cohesion lending 2014-2021



Source: European Investment Bank.

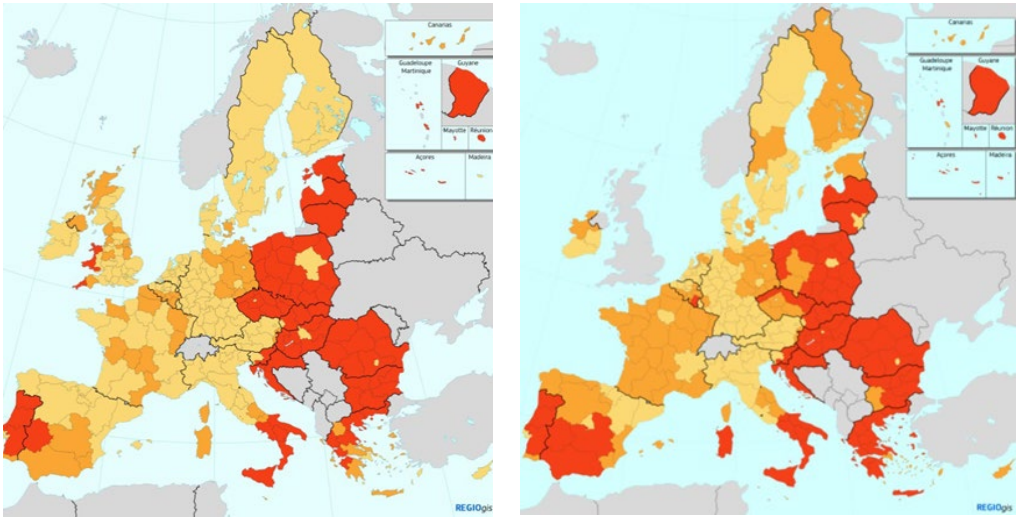
The EIB Group's new orientation concentrates the Bank's support in cohesion regions on five key objectives:

- a more competitive and smarter Europe;
- a greener, low-carbon transition towards a net zero carbon economy;
- a more connected Europe by enhancing mobility;
- a more social and inclusive Europe; and
- a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories.

Under our new approach, less-developed regions, by which we mean those with a gross domestic product per inhabitant of less than 75 % of the EU average, will receive greater attention and up to 23 % of our total EU lending by 2025. Regions with an intermediate level of income (75 %-100 % of the EU average) struggling with economic challenges

such as high unemployment or declining competitiveness ('transition regions') have been identified by the European Commission as a new vulnerable group (see **Figures 2** and **3**). Transition regions, which can be found even in the European Union's richer Member States such as Finland and the Netherlands, need targeted support to deal with challenges such as dependence on low-tech manufacturing, rising unit labour costs, relatively low levels of education, and a decline in industrial employment.

Figure 2 - EU Cohesion Policy map 2014-2020 & Figure 3 - EU Cohesion Policy map 2021-2027



Source: European Commission

Notes: Thick borders separate countries. Thin borders delimit NUTS2 regions. Regions in red represent the less-developed regions (per capita GDP).

Green transition

The EIB is also the EU climate bank, and we see no contradictions between our new Cohesion Orientation and our ambitious climate goals—just synergies and opportunities. In our new Cohesion Orientation, we stress the *role of climate action as a motor for economic development*, and we therefore want our lending to less-developed and cohesion regions to be as 'green' as our lending to the more developed regions. We are confident that we can increase our lending to cohesion regions *and* raise the proportion we lend to climate action to 50 % by 2025, a target that we have been working towards since November 2019 (see **Figure 3**).

We can do this by carefully choosing the projects we support so as to ensure they advance EU climate goals, such as clean, safe and connected mobility; energy efficiency; renewable energy; water and wastewater; as well as industry, the circular economy, food and agriculture. Massive investments in renewable energy are needed to decarbonise power production, especially in Eastern and Southern Europe. Moreover, soaring energy prices have reminded us how critical the 'renovation wave' has become, not only to decarbonise the residential sector but also to keep housing affordable for all Europeans. Making buildings more energy-efficient will create many jobs in construction and related trades, but it will also require a huge amount of vocational training. Lastly, achieving energy savings in industry and services will help not only to achieve Europe's 55 % reduction target by 2030, but also to boost the competitiveness of our companies.

The EIB's advisory services have a major role to play in this effort. Member States have access to unprecedented financial support to recover from the COVID-19 crisis through the NextGenerationEu's €723.8 billion Recovery and Resilience Facility. But ensuring that these funds are put to good use in less-developed and transition regions is often a challenge. Our advisory services can help raise awareness, assist promoters in the design and structure of their projects, and even help public authorities to develop the skills and processes needed to take full advantage of all the support the European Union has to offer.

Digital transition and innovation

The potential disruption to jobs and industries from the digital transition and from automation is sometimes overshadowed by the dramatic changes needed for decarbonisation. But structural gaps in digital and innovation activity and skills in cohesion regions are also significant, and have been exacerbated by the pandemic. Firms in cohesion regions generally innovate less, and they were more likely to cut back on innovation during the crisis. The EIB's Investment Survey 2021 shows that fewer firms in cohesion regions are taking steps to transform digitally or to tackle climate change than in non-cohesion regions. New policies are needed to spur innovation in these regions, to raise their income levels and to help them adjust to the digital transition. Innovation is crucial for economic competitiveness and the fight against climate change. This is because much of the technology we need to reach our climate goals is either not yet mature or has yet to be invented.

Thus, the second driver of development stressed in our recent EIB Group Cohesion Orientation is boosting private-sector innovation. As part of our new approach to cohesion, we plan to tackle this by helping mid-cap companies in less-developed regions adopt proven technologies, and when their projects show clear economic spill-over impact at the local level. Mid-cap companies are particularly important, because research shows that their activity has a strong, positive ripple effect in their communities. We will also help improve mid-cap companies' access to finance by lending to them directly, and through the funds we provide to other lenders.

A just transition

Decarbonisation, digitalisation and automation are particularly challenging for less-developed and transition regions. We will not succeed in transforming our economies if we leave a trail of disaffected communities in our wake. Investing in these regions to ensure a just transition is therefore vital to the European Union's economic, social and territorial cohesion, as well as its climate goals.

The EIB Group is committed to cohesion, and is deeply involved in the European Commission's Just Transition Mechanism, which will generate additional investment to benefit the most affected regions in three ways. First, we will co-finance investments under the €19.32 billion Just Transition Fund the same way we co-finance investment under EU structural funds. Second, as the main financing partner of the InvestEU programme, the EIB will be involved in implementing the programme's Just Transition Scheme, by supporting private projects that contribute towards a just transition as defined by InvestEU's different public policies. Third, the EIB will provide lending under the public-sector loan facility, which will be complemented by grants from the European Commission, to support national and regional investments in green energy, transport, energy efficiency, and social infrastructure projects.

The EIB has been supporting the just transition for many years. An example is the work we have done with the city of Katowice over the last 20 years. Our loans helped to transform Katowice from a stagnating coal-mining town in Poland into a vibrant urban centre, offering new business opportunities and a much healthier environment for residents. In Slovakia, the EIB and the European Commission are supporting the transition in the historically coal-dependent region of Upper Nitra. With the region's Novaky coalmine closing, the EIB's Joint Assistance to Support Projects in European Regions programme, known as JASPERS, is helping to find alternative sources of energy for district heating and to improve public transport.

Stimulating comparable development opportunities

We cannot change physical constants such as 'distance to the capital' or 'population density'. This is why public policies and investors have to focus on the factors they can help to shape such as the availability of growth-enhancing and low-carbon infrastructure, and the skills of our young people, but also lifelong learning opportunities for our workforce and maintaining public and private R&D capabilities throughout Europe.

Public funds alone cannot hope to fulfil all these needs. Therefore, EU cohesion funds and EIB Group lending will have to crowd in more private-sector finance, for example by using financial instruments instead of grants.

Europe and the world face huge challenges. We are living in the make-or-break decade that will determine just how catastrophic climate change will be. The competition we face from other regions to innovate and exploit digital technologies is greater than ever before. Europe's best chance to secure a bright future is for us to work together and stand united. This is what EU cohesion policy is all about, and why the European Investment Bank is sharpening its focus on this fundamental EU priority.

EU integration for a shared space of common values

Interview with Gašper Dovžan, State Secretary of Slovenia

By Gaston Moonen

Source: Government of Slovenia

Gašper Dovžan

Cohesion policy is typically a shared-management area within the EU policy framework. The Member States' decisions and aims at Council level are therefore most relevant. This is even truer with the advent of the Recovery and Resilience Facility (RRF), where Member States have a large say not only in implementation but also in ultimately deciding whether funding has been allocated correctly, not least in view of the conditions on rule of law. Slovenia held the Council presidency for the second half of 2021. It led the process of having 22 national recovery and resilience plans approved by the Commission, one of its aims being to prevent unnecessary delays in paying the first instalments of NextGenerationEu money to the Member States. As State Secretary at the Slovenian Ministry of Foreign Affairs, Gašper Dovžan led many Council meetings. He looks back* at some core issues discussed during the Slovenian presidency, ranging from the rule of law to progress towards EU membership for candidate countries.

Resilience in a crisis, whatever its nature

With the war in Eastern Europe raising concerns of an entirely different nature, State Secretary Gašper Dovžan is clearly pleased to discuss the recent Slovenian EU presidency, which was an intense and interesting period for him. 'This presidency is very precious for us because we take it very seriously and try to do as much as we can. In Slovenia, as one of the 27 EU Members, we are glad the presidency brings some attention to less visible Member States and can give them more leverage. We used our brain power to make the most of it, and I think we were quite successful'.

Since then, the war in Ukraine has occupied much of his attention, in several respects. 'We had an immediate crisis with our staff at the embassy. We led a successful evacuation to save our diplomats, including one journalist, from the zone in Kyiv which was being

* This interview was held on 10 March 2022.

bombed at the time'. He points out that agendas had to be adapted everywhere in the Council: in the working parties, in the different Council configurations, etc. 'This aggression really became the top issue , including bilaterally with many Member States, but also with many other countries in the world with whom we had to coordinate our actions. We were also very much engaged in dialogue with Ukraine on how we could help and what we could do'. He also underlines the dialogue his ministry undertook with Russia several times, starting with the handover a protest note, to get the message across clearly to the ambassador. 'We were very active in making clear we disagree profoundly with what is going on and that this is definitely not the same country we used to maintain friendly relations with'.

> *This aggression really became the top issue…*

He gives an example of how the war has changed narratives, including outside the EU context. 'Slovenia is currently running for the UN Security Council seat for 2024 and 2025. Among the group of Eastern European states from which one non-permanent member can be elected, the other candidate running against us is… Belarus. So you can imagine that this now puts our candidacy into a totally new perspective. And I think the voting in the General Assembly on the resolution was a good indicator, but we have to make sure that Belarus is also recognised as a country that is really instrumental to Russian aggression. I think in the EU this is very much the perception. But in Africa and some other continents this may not be the case, so there is a lot of work for us in this respect'.

Another important matter demanding his attention was facilitating the process of adopting sanctions. 'Our Ministry of Foreign Affairs has a major role in facilitating the implementation of these sanctions in the line ministries, which is so complex'. He gives an example illustrating the urgency needed. 'We were really happy that the Central Bank was very cooperative and invested a lot of forward thinking on what is good for the people. We had a Russian bank, Sberbank, in Slovenia. The Central Bank took over a closure, shutting down and selling the Slovenian branch of Sberbank to one of the systemic banks in Slovenia. Basically, the only impact onthe bank's rescuers was that the bank was closed for one day'. He points out that the smoothness of such an operation is very important for financial systems all over Europe and other Member States have faced similar issues. 'For us it was stunning to implement such a complex operation in two days. And interesting to see how difficult measures enjoyed broad public support, even from the business community'.

The State Secretary also highlights the humanitarian aspect. 'Of course we participated in the first donor conference on Ukraine, donating substantial sums to various UN-led agencies like OCHA and UNHCR, but also to the International Committee of the Red Cross and Caritas International'. He explains that, through the line ministries, Slovenia is also involved in welcoming refugees. 'Not that many have arrived yet [in March], but we are preparing to take some of the burden off the neighbouring states around Ukraine'. He also refers to how Russian aggression directly affected Slovenia, in connection with the bombing of Kharkiv in eastern Ukraine. 'Our consulate has been demolished. This has placed additional strain on relations between Slovenia and Russia. Our flag was burned, but fortunately our honorary consul and his staff were safe because they were in the shelter at the time. But some others in the same building did not survive. So the war has also hit Slovenia directly'.

The war in Ukraine and the subsequent crisis affecting Europe touches upon an issue that was a key priority during the Slovenian presidency: 'The question of resilience was at the centre of our policy'. He explains that all sorts of crises have hit the EU in the last decade and a half and that the EU has needed a lot of time to come up with appropriate responses. 'Our assessment was – and still is – that crises are in a way part of our lives. They just shift from one area to another but come constantly. We wanted to develop mechanisms that would be ready to use whenever the EU is faced with a major crisis, in whatever area '.

> *We wanted to develop mechanisms that would be ready to use whenever the EU is faced with a major crisis, in whatever area.*

Gašper Dovžan notes that crises should be approached not only defensively but also proactively. 'Because every crisis is also an opportunity. And this is what we have been pushing for'. In his view, the Council has had some successes but the debate is far from over. 'We developed a set of conclusions that were adopted at the General

Affairs Council in November 2021, but there is still a long way to go since there are many aspects. At that time, we focused on specific crises like cyber-attacks and natural disasters, but also migration and refugee waves'. He explains that, even when they had previous experience and there was some form of preparedness, the discussions were sometimes quite theoretical. 'But now we have been struck by this huge multifaceted crisis and I think that the preparations we initiated, and our new approach of seeing the EU also as a community that has to be able to react when a crisis comes, helps us to not lose focus on the EU's policy priorities'. He sees the success of this new approach reflected in the EU's reaction to Russia's aggression. 'This time the reactions to the crisis in Ukraine were very fast and covered a lot of areas, and the mechanisms agreed upon were tested. In a way, it is good to see this follow-up. As the European Union, we are constantly challenged and forced to develop and adapt to all sorts of emerging threats'.

> *This time the reactions to the crisis in Ukraine were very fast and covered a lot of areas, and the mechanisms agreed upon were tested.*

Offering not too distant prospects

One of the focal points for the Slovenian presidency was good neighbourhood relations, not least with the Western Balkans. He observes that there are many issues still to be resolved in this region, but there is also huge potential. 'The fact is that the region is surrounded by EU Member States and that the countries all have EU prospects. Ever since the Thessaloniki Agenda, they have all basically entered into that process of convergence, some having made big steps, some of them smaller steps'.

The State Secretary highlights the importance of not losing sight, including within the Member States' capitals, of the strategic dimension of this enlargement process amid its difficulty and technical complexity. 'Because if the EU is not enlarged, and if this process is too slow, then of course the countries that would like to join the EU as soon as possible will seek other opportunities and may even lose focus. If it is going to take so long for enlargement to actually happen, they may not be really that committed and seek and develop very good relations with other third countries that are not necessarily pursuing the same goals. There is not always such a clear commitment if the EU is too slow and sends ambiguous messages. This is why we were so committed to the EU-Western Balkans summit and to the messages emerging from the summit: that enlargement is really a key priority for the EU and the only prospect the EU has in mind for the region'. He adds that there will be additional efforts, such as a political push forward, including through annual high-level political meetings between the EU and the Balkan region to assess and increase progress towards enlargement.

> *… if the EU is not enlarged, and if this process is too slow, then of course the countries that would like to join the EU as soon as possible will seek other opportunities…*

Gašper Dovžan points out that the current crisis in Ukraine puts everything into a totally new perspective. 'I think that, apart from Ukraine, Moldova and Georgia have provided wake-up calls. We see a major shift in the eastern partnership, with consequences for EU policy in the region'. He observes that now, partly because of the EU's constructive responses, the number of countries wanting to join has grown again. 'We would like to persuade our EU partners that we should really treat this situation very similarly to the way we treated the fall of the Berlin Wall . At that time, it was seen and used by the West to integrate the East in order to reconcile the continent and to ensure a bigger area of stability, human rights, rule of law and all the values that were already present in the West and not in the East. And I think that we are now in a similar moment'.

> *We would like to persuade our EU partners that we should really treat this situation very similarly to the way we treated the fall of the Berlin Wall.*

He explains that enlargement is of course a difficult process that requires various reforms. 'But we should not forget that it is a driving force for people to still believe in and seek a future in their own country. If they don't have this prospect, why should they stay at home? If the outlook for Ukraine is that it will sooner or later fall into Russia's sphere of influence, even if there is no more war, then the people will leave anyway, leading to migration flows. So this is not the answer'. He ponders the need to keep this strategic goal in mind. 'And the same goes for the Western Balkans. We really have to invest

some forward thinking in the enlargement debate, as well as ensuring that the political messages are very clear and that the EU is committed to integrating those countries as soon as possible. It's the only policy that has a transformative power'.

The State Secretary also notes there has been some backsliding. 'It is very difficult to maintain the same standards across the EU. But in moments like this, we see how important it is not to leave countries in a vacuum without clear future prospects in Europe. Because otherwise things can deteriorate'. He also raises the spectre of spill-overs from Ukraine to some other countries in the Western Balkans. He considers this a dangerous development, making it all the more important to underline the EU's commitment and role in offering the legal, economic and political framework for a way forward. 'It does not really matter if the national and ethnic borders are not in line. That is not the point. The point is that there is shared space of common values where cross-border trade is ensured, where a free flow of capital and people is ensured. And, of course, where human rights are guaranteed '.

> *The point is that there is shared space of common values where cross-border trade is ensured, where a free flow of capital and people is ensured. And, of course, where human rights are guaranteed.*

Source: Council

Press conference at the Council in December 2021 with Commissioner Věra Jourova, State Secretary Gašper Dovžan and Spokesperson Damijan Fišer.

Gašper Dovžan puts such commitment into a wider historical perspective, referring to the European Communities in the eighties when there were profound discussions on how to deal with Greece and Spain. 'Back then, there wasn't this idea of complete legal alignment, that all the reforms had to be implemented at short notice. The idea was to ensure that they were part of the same family and that they had a chance at convergence'. He notes that new members' convergence trajectories have often been linear and thinks that, for these countries, being in the EU economic area creates very strong forces towards convergence. 'I don't believe we would see divergence in the long run. Nowadays some sceptic voices refer to Article 7 of the Treaty and to backsliding. But I don' think this is an argument against enlargement. It just demonstrates we have instruments we can use'. He adds that in Europe there is an increasingly common media space that draws attention to any potential backsliding. 'I think that in the long run this also ensures convergence, and is something we need to take into account when talking about future enlargement. This is one of the aspects we have tried to explain, including during our presidency. Now, with the crisis in Ukraine, I think it is more understandable for others'.

> *Nowadays some sceptic voices refer to Article 7 of the Treaty and to backsliding. But I don' think this is an argument against enlargement. It just demonstrates we have instruments we can use.*

A new boost to convergence

Given the economic and social downturn caused by the pandemic, convergence within the EU itself was also a major issue to tackle during the Slovenian presidency, including through the national recovery and resilience plans (NRRPs) in particular. During the Slovenian presidency, the Finance Ministers approved all NRRPs assessed by the

Commission – 22 in total. The State Secretary highlights the importance for his country of getting this process started and keeping it moving in order to avoid delaying the recovery. 'Our presidency was very concerned to keep the EU progressing and avoid the impression that the EU is not really a union, where nothing is possible or everything takes too much time. For me, coming from the Ministry of Foreign Affairs, and sitting on the General Affairs Council, it was pretty much about ensuring that the EU was capable, within a year or so, of moving from political commitments to concrete deliverables. I think this was one very important thing for us'.

He explains that every Member State has different challenges with its NRRP. 'And the Commission was very careful about what these recovery plans could include. So it was really tough negotiating with each and every Member State before the adoption'. He says that there was also an awareness that, in macro-economic terms, this all meant expanding the Maastricht rules. 'This is not necessarily good in the long run. And the Germans made a huge concession, a huge step towards integration, somehow accepting the idea of a *communautarisation* of common debt. Basically, this was something new and therefore it was understood that the Commission needed to be fully involved, so that even the most sceptical Member State would maintain the necessary trust in the whole process'.

> *… accepting the idea of a communautarisation of common debt.*

Another point requiring the Slovenian presidency's attention was conditionality. 'This was part of the deal: some of the Member States, as well as the European Parliament, were really insisting on getting this conditionality instrument in place so that the funds would be scrutinised and would actually be used in the future according to the goals set'. He reiterates how important it was for Slovenia's presidency to keep the process moving quickly. 'Regarding the substance of the issues, ensuring compliance in relation to the projects and the set priorities was really in the Commission's own hands. As was ensuring that the Recovery and Resilience Fund would be used not only to relieve economic regression, but also towards transition – a real transition to make the EU more resilient and increase its potential for development and growth in the future'.

He expects the crisis in Ukraine to have a different impact on those programmes. 'But not necessarily a negative impact, because the green transition will now become even more important with the need to move away from oil and gas. As will the digital transition, in the face of cybersecurity and similar threats, so that we also develop security capacities in a really robust manner. This should really be our thinking: to use the current crisis to adapt and transform better'.

Rule of law and mutual trust

Slovenia had identified another priority for its presidency, the third on its official list: 'a union of the European way of life', the rule of law and equal criteria for all. The State Secretary believes these discussions on rule of law will continue, possibly influenced by what is going on in Ukraine. 'It will stay on the agenda for various reasons because sensitivities are there. The Court of Justice of the European Union will continue and further develop its jurisdiction. The Commission will also not hesitate to use all its powers and legal instruments to ensure that its interpretation of 'rule of law' prevails when it comes to certain breaches of EU law. When it comes to the question of unsound financial management of EU funds, too, I think that all legal obstacles are now gone '. He expects that all this will raise a lot of attention in the European Parliament and concludes that the discussions will definitely continue.

> *When it comes to the question of unsound financial management of EU funds, too, I think that all legal obstacles are now gone.*

Our presidency was very active in the Council to ensure a spirit of mutual trust, including in our rule of law discussions, trying to ensure some convergence. I think the atmosphere during those discussions was always good and respectful. And I think we progressed'. He specifies that, during the Slovenian presidency, the Rule of Law Report was debated twice. 'Including the country-specific part regarding two of our neighbours, Italy and Croatia, which was not a very easy thing to do. We also had a debate regarding Article 7 with the two Member States involved in this procedure. We somehow succeeded in

increasing mutual understanding and refocusing on respect, learning from each other and understanding each other's sensitivities, while at the same time being very clear about what we understand by European values, rule of law, etc'.

ECA findings can build trust in equal treatment

Discussing the role the ECA could potentially play in these discussions on rule of law, particularly in view of the financial conditionality governing RRF expenditure, the State Secretary believes it was logical to link financial aspects to values, as one of many aspects of the rule of law. 'Of course in 2020 the major step forward was agreeing on NGEU and, as I said before, this *communautorisation* of public debt. This platform gave several Member States standing in the sense of an even greater stake where and how this money will be spent. I think this is very major and also more than just a justification. Since we are all spending EU taxpayers' money, it has become very crucial that the rule of law is also ensured in practice'.

> *Since we are all spending EU taxpayers' money, it has become very crucial that the rule of law is also ensured in practice.*

In this context, the State Secretary finds it only logical that the Commission, too, should be subject to a certain balance of power, including oversight. 'And here I think the ECA can do a lot to ensure that there are no double standards, really focusing on how everything is being assessed and how the Commission is handling the cases. I think it is very valuable to have an external institution that is not so political and analyses things mainly through numbers and facts and can ensure that the work done by the Commission also enjoys credibility: one that cannot easily be criticised or even accused of double standards. I think it is very important to have such an analysis, including for the Commission'.

Here Gašper Dovžan raises another point about the rule of law: 'The EU institutions all take very important decisions, often including through legal acts. But they aren't subject to any external oversight when it comes to the rule of law. Just think of how long we have been debating the question of the EU joining the Charter of Human Rights, which would at least provide some external checks for the people working on the legal cases in question'. He observes that whenever there is discussion about the rule of law, it is always the institutions, and the Commission in particular, making some assessment about the situation in the Member States. 'But the Commission also needs to respect the rule of law. So the checks that exist for this purpose should be used. I have high hopes that the ECA will also play a part at least in the financial aspect of this to ensure that the Member States feel they have been treated fairly, and that rather than being only the Commission's assessment, the ECA has also had a second look. If the ECA and the Commission are of the same opinion, then of course I think this is much more critical and powerful'. In this respect, he sees an analogy with previous ECA reports relating to the European Semester and the Stability and Growth Pact, which assessed whether the Commission had treated Member States in a consistent, coherent and equal manner.

> *I have high hopes that the ECA will also play a part at least in the financial aspect of this to ensure that the Member States feel they have been treated fairly…*

Asked which topics could be interesting, in the Council members' view, for the ECA to look at more closely, the State Secretary has to contemplate for a while. 'Many policy areas are critical at the moment, such as enlargement or migration. You know we had a number of bilateral policies towards third countries. And when it comes to migration, the Commission has been doing a lot of work to ensure consistency between those policies. I think that this is something worth looking at. Because we are investing, or should be investing, in making sure people who might consider migrating have prospects at home. How do we organise those policies when it comes to environment, when it comes to economic development, the rule of law, etc.? Sometimes we see that these policies are not consistent and I think it would be very good to have a more financial analysis in this respect'.

In Gašper Dovžan's view, these remain key issues for the future. 'We will have to invest a lot of money to be able to contain irregular migration flows. We need to make sure EU policies from various departments, but also Member States policies – because what we have to attempt here is to develop a common approach – are all consistent,

coherent and mutually supportive – this is very important!' He identifies enlargement as another policy area where further improvements can be made. 'There must come a point when we see that integrating candidate countries into the EU will cost less than delays in doing so. This is an argument that should also appeal to the frugal ones among us, because sometimes they only see one side of the coin. But the problem is that if you lose those third countries in the long run, you will have nothing. This is very easy to say politically, but if there were some numbers to clarify and support this, this would be very relevant'.

> *There must come a point when we see that integrating candidate countries into the EU will cost less than delays in doing so.*

Another possible topic where he believes the ECA could make a contribution is the single market. 'We see a very big asymmetry between the integration of various fundamental freedoms. For example, when we speak about the free flow of goods, people and capital – in this area there is a high level of integration, and major progress has been made. The big question, though, concerns services. Services are something that many Member States require – more integration can be achieved here. And our feeling is that this integration is lagging behind'. Gašper Dovžan suspects there are various reasons for this and mentions two: 'First, it is a highly complicated area, partly because it is very much regulated at the national level. And second, the more developed Member States that can compete with higher wages obviously prefer to use the freedom of movement of people to attract highly skilled people for services. So the question is: where is the right balance?'

He gives a concrete example. 'We see that less developed regions are losing many doctors to western and northern Europe. But insurance companies in these countries that are *losing* doctors are not willing to pay for the cost of treatment in the other countries, which sometimes would be more beneficial. He considers this to be a fundamental problem of which only the political aspect is visible, not the financial one. 'The fact is that Member States on the periphery sometimes get very frustrated. This balance should be part of the debate on cohesion and convergence'.

> *The fact is that Member States on the periphery sometimes get very frustrated. This balance should be part of the debate on cohesion and convergence.*

In relation to the ECA, the State Secretary underlines his very positive impressions of our institution and the good cooperation he has experienced with us. 'During the presidency, we really had good relationships. We also tried to be of use to the ECA. We also benefitted very much from the work of the press representative for the Council, who came from the ECA and was very much appreciated'.

The 'future of Europe' debate revisited

The war going on in Eastern Europe will undoubtedly affect the future of Europe, including that of the EU. According to the State Secretary, the conflict and all its impact will influence the Conference on the Future of Europe, giving it a different dimension. 'I expect the influence to be a positive one. We see that we need more unity, and only when we achieve unity can we take a step forward. This is very important to learn. And of course we should also hear what the citizens have to stay, ensuring that all those proposals find their way into the final report'.

> *… we need more unity, and only when we achieve unity can we take a step forward.*

He refers to the big role the French presidency has to play in this process. 'It's also very important that we keep the Conference as a conference – it is not a decision making body, more a consultative one. But we have to take the final recommendations very seriously. This is where I see the role of the French presidency – really including the Member States very early in the debate, so that they are on board when they discuss the implementation of the recommendations. I am under no illusion that all the recommendations will be implemented but I think we need a debate on that'. He adds that it is also important to close the Conference chapter as soon as possible so that citizens can see that something is being done, having made a commitment as far back as the 2019 European Parliament elections. 'It is important for citizens to see they have

had an impact in contributing to proposals, some of which will be implemented and some not. But the proposals that aren't implemented may be politicised in a positive manner and debated in election campaigns'.

Another argument Gašper Dovžan sees for involving the Member States sooner than later is to rally support for the most crucial proposals. 'If really far-reaching changes need to be made, then Treaty changes possibly come into the picture. And whenever we're speaking about such steps, all Member States have to be on board. My hope, my wish, is that we maintain unity and the citizens will feel they have contributed – not only symbolically but also intellectually –to the EU taking a step forward'. He admits that for him the whole Conference exercise was challenging, navigating between, on the one hand, Member States' positions and to get them on board and, on the other hand, the ambitions – 'sometimes big ambitions' – of the European Parliament. 'But I think that somehow we manoeuvred successfully through the whole process. I hope the French presidency will be able to do the same. And we will be able to say that, on the whole, the Conference – despite the pandemic and despite the delays – has been a success and has at least contributed to the next step in EU integration'.

Complementarity between the RRF and cohesion: EU public policy governance in France

By Philippe Cichowlaz, French National Agency for Territorial Cohesion (ANCT)

Sources: Government of France, European Commission.

For every multiannual financial framework period, setting up the right regulatory and procedural framework, and involving all actors well in advance, already poses quite a challenge. But the situation with regard to the new cohesion policy for 2021-2027 was exacerbated in 2021 by a new kid on the block: the Recovery and Resilience Facility (RRF) - the funding instrument at the heart of NextGenerationEu (NGEU) - which also came with a new modus operandi. Philippe Cichowlaz is Head of the European Cohesion Policy Division at the French National Agency for Territorial Cohesion, the body in charge of coordinating the EU structural funds in France. He explains how the French regional and national authorities prepared to implement the RRF, adapting their budget governance procedures to absorb the changes imposed by the new fund.

Shared regulatory analysis as a starting point

The European regulations are very specific – expenditure can never be covered by two different sources of EU funding[1]. Auditors whose work involves EU funds will readily understand the intentions behind this legislative provision, which safeguards the inherent added value of each policy and provides a mechanism to prevent duplication and consequently the risk of double funding.

While double funding is theoretically possible for any project in the interest of complementarity, in practice it is impossible to balance the equation in this way. For the average project it could even be counter-productive, given the administrative burden involved. Only a few major investment operations in cohesion countries and regions might provide sufficient justification, and then only in rare cases.

Shared acceptance of this principle between the technical services of the state (French National Agency for Territorial Cohesion) and the European directorates in the French regions (in their capacity as managing authorities for most EU funds) was the unavoidable prerequisite for them to negotiate a common methodology on the complex issue of coordinating the RRF and cohesion policy.

1 From Article 9 of the RRF Regulation (Regulation (EU) 2021/241): 'Support under the Facility shall be additional to the support provided under other Union programmes and instruments. Reforms and investment projects may receive support from other Union programmes and instruments *provided that such support does not cover the same cost*'.

Joint state/regional governance of EU funds in France allows for ongoing structured dialogue

In 2013, France set up a joint State/Regions Committee to steer cohesion policy. The committee meets on average every three months during intense negotiation phases, as was mostly the case between 2018 and 2021. It was co-chaired during this period by the Minister for Cohesion Policy and the President of *Régions de France* (the representative body of French regions). The committee brings all regional elected representatives together with the main ministries, and enables key decisions on the implementation of EU funds to be taken on the basis of a shared agenda and prior technical analysis. The establishment of governance in partnership addressed the need for coordination arising from the new decentralisation laws, which delegated management of the European Regional and Development Fund (ERDF), the European Agricultural Fund for Rural Development (EAFRD), 35% of the European Social Fund (ESF) and half of the European Maritime and Fisheries Fund (EMFF) to the regions for 2014-2020.

Cohesion policy, the main European investment policy (around 2% of total public investment), is therefore mainly implemented in France by regional authorities. The 2021-2027 programming process began relatively early, just after the draft regulations were published on 28 and 29 May 2018. At that time, the Commission was still hoping for the adoption of the 2021-2027 regulations before the end of the European parliamentary term, and made this known to the entire partnership. To ensure a certain political and budgetary discipline this meant being ready by 1 January 2021, so the partnership agreement and programmes would need to be submitted in mid-2020. The strategic basis for cohesion policy was already confirmed, and the Commission's intentions – as expressed through the regulations and country reports – were sufficiently precise to allow progress as soon as both the regulations and country reports became available in early 2019.

In 2019, therefore, the first meetings of the State/Regions Committee approved the architecture for EU funds in France for 2021-2027. This involved appointing managing authorities, reducing the number of programmes, dividing the budget envelope among programmes, diagnosing and evaluating thematic investment priorities, etc.

Thus, when the COVID-19 crisis hit Europe at the beginning of 2020, each managing authority already had in mind how it intended to use the 2021-2027 EU funds. In France, regional elections were still a long way off (June 2021), and even though everyone was beginning to doubt that the regulations would be adopted in trilogue in time for the launching of the programmes by the 1 January 2021 deadline, this did not adversely affect the carefully decided substance of the initial programming intentions. The projected €17 billion for cohesion policy had been distributed in an indicative manner to programmes, and the regions which had absorbed the lion's share of 2014-2020 funding were already thinking of their future priorities. Thus, when the Heads of State and Government agreed on NGEU in July 2020, the draft partnership agreement for cohesion policy was already well advanced and some regions had already inked in their main schemes. At that time, nobody had any idea that the regulations would not be validated until June 2021.

When, in the run-up to summer 2020, it became clear that the priorities of the French National Recovery and Resilience Plan (NRRP) would be those that had prevailed for cohesion policy (namely as described in the 2019 country report and its 2020 update), it became obvious that there was a risk of direct technical and political competition. Competition between the €16.77 billion under cohesion policy (supplemented by more than €3.9 billion in appropriations from Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU) and the Just Transition Fund (JTF)) and the almost €40 billion estimated at the time under the NRRP. At the time, regional authorities still considered it quite likely that the partnership agreement and programmes would be submitted before the NRRP. It was also believed that the regions would be able to rely on their earlier discussion of the operational implementation of country-specific recommendations, a factor which might have meant the NRRP having to adapt to regional choices rather than the other way round.

On the other hand, the need for rapid recovery had become clear to all, including the regions. Pre-empting official approval for the regulations, France had already started preparing a €100 billion national recovery plan, which was adopted in early September 2020. This rapid response meant that it would be difficult for France to enter into the extremely complex exercise of incorporating specific regional programming intentions. While the cohesion discussions had indeed begun first, specific measure-by-measure programme choices were still a long way from official approval and had not been put to a formal vote in any region.

In other words, the *lengthy preparation time* imposed by the structural nature of cohesion policy had been *outpaced* by the *urgent need* for recovery. France's territorial needs, in the midst of an economic crisis, had to be met by combining the two policies. Even so, they were still insufficient to meet all the economic, social, environmental, technological, digital and public health challenges, to name but the main ones. The recovery package involved a tremendous acceleration in priority investments while enabling cohesion policy to continue in the medium to long term with a much stronger territorial focus. The challenge was to avoid pitting cohesion against recovery, and instead make the two complementary. It was also to anticipate the administrative capacity to absorb the €61 billion[2] by simplifying coordination as much as possible. It was therefore becoming essential to prevent double funding by clearly marking a policy divide.

A best practice guide to building policy solutions that work

At this time, the regions had just taken advantage of the flexibility offered by the Coronavirus Response Investment Initiative (CRII) to reorient their 2014-2020 programmes, demonstrating real agility in the midst of the crisis. It became clear that the same agility should override the risk of double funding. A solution had to be found in the form of swift political compromise to establish clear dividing lines that would allow each party to move forward safely at its own pace amid shifting EU negotiating schedules.

The State/Regions Committee met at the end of 2020 to discuss this complex calibration issue. The permanent nature of collaboration between the state and the regions greatly facilitated their reaching a technical consensus. What might have appeared to be a major regulatory difficulty thus became a purely political issue, although this too might be difficult to arbitrate if one or more parties were asked to abandon priorities that were already firmly established in their policies.

The initial discussions were not easy, as the regions were already more advanced in their programming than the state. It quickly emerged that specific work in all areas was the key to moving forward pragmatically. The State/Regions Committee therefore decided to draw up a guide[3] dealing with the calibration issues specific to each area of policy, and to postpone final decisions to a later date (see also **Box 1**).

Box 1 – Principles for calibrating the ERDF and the RRF on thermal renovation

The calibration guide published by the ANCT suggests drawing the dividing line for complementarity according to the type of beneficiary of thermal renovation projects. For example, the guide says that, when contemplating the energy retrofit of public buildings under the supervision of the state or state bodies, operators should give priority to RRF funding even if ERDF funding is also available.

What one might label *impossible negotiation* on the primacy of one mechanism over the other thus rapidly *gave way to operational calibration work*. Some 30 thematic meetings took place over a two-month period in early 2021 to discuss the most suitable dividing lines between cohesion and recovery, particularly in areas which both marked as priorities – most importantly the green/digital deal.

2 The €100 billion NRRP includes €40 billion in EU funding from the RFF to France, as well as €16.77 billion in cohesion funding and €3.9 billion from REACT-EU and the JTF. The total EU contribution to France NRRP was therefore just under €61 billion.

3 *[Guide] Articulation de la facilité pour la reprise et la résilience avec les fonds de la politique de cohésion européenne*, at *L'Europe s'engage en France*, the portal for EU funds.

At these meetings, officers responsible for managing NRRP measures shared the specific nature of each measure with a panel of programme representatives and all present concluded on the simplest and most efficient dividing lines. It soon became clear that the key to efficiency lay in the unrestricted sharing of information and arbitration at national level to avoid the confusion of 'à la carte' dividing lines, which would have made overall management even more difficult and slowed implementation.

The comprehensive approach also made it possible to address potential areas of overlap with funds remaining from the 2014-2020 period. Management of those funds must give clear primacy to cohesion projects that, for the most part, were already underway. The need for meticulous examination led to the creation in each region of a co-funding committee comprising representatives of the state, state agencies responsible for the RRF, and the regional managing authorities, which had comprehensive lists of operations.

Progress on the RRF was significantly faster than scheduled in the first quarter of 2021, giving rise to the hope that submission might be imminent. On the cohesion side, however, it became clear that it would no longer be possible to adopt the 2021-2027 rules before the end of the first half of 2021. The COVID-19 crisis and the European Parliament's legislative calendar had thus inadvertently contributed to a reversal of the schedules. After several iterations, the calibration guide was thus formally adopted by the State/Regions Committee. It was also used to inform Chapter III of the NRRP, which was finally submitted in spring 2021 and adopted by the Commission on 21 July 2021.

All's well that ends well

The delays affecting the finalisation of cohesion policy for 2021-2027, which were largely offset by the mobilisation of REACT-EU, meant that the French partnership agreement was eventually submitted on 17 December 2021, to be followed by the programmes on 17 March 2022. There was thus every opportunity to ensure that no programme priorities overlapped with the NRRP, and plenty of time in which to justify and negotiate priorities with regional partnerships, even though this undoubtedly gave rise to some legitimate regrets, which the simplification process was able to mitigate.

From this point of view, this topic is a perfect illustration of the difficulties in budget governance when it is not made a prerequisite to clarify responsibilities. However, since in this case the Commission's aim was to increase the leverage of EU policies in a crisis situation, the efforts made were perfectly justified.

Auditing EU cohesion policy – aiming for tangible change in the daily life of EU citizens

Interview with Iliana Ivanova, ECA Member and Chair of the ECA audit chamber Investment for cohesion, growth and inclusion

By Gaston Moonen

Iliana Ivanova

Cohesion funds constitute a substantial part of the EU budget. They are spent through 'shared management', meaning that both the European Commission and authorities in the Member States are jointly in charge of running a particular programme. Around 70% of EU programmes are funded this way, including most of the cohesion programmes. This is all the more reason for the ECA to have an audit chamber dedicated to auditing cohesion funds. Iliana Ivanova has chaired this audit chamber, 'Investment for cohesion, growth and inclusion', since 2016 and hence has wide experience in auditing cohesion expenditure and its peculiarities. We interviewed her on how a range of factors, including the war in Ukraine and the pandemic, as well as disparities between regions, influence ECA audit activities in this policy area.

Cohesion – a concept with impact

Having audited cohesion policy programmes for almost ten years now, Iliana Ivanova is very familiar with the challenges and opportunities this key EU policy presents. 'Obviously the main aim of Cohesion is to reduce disparities between EU regions. It is also the policy which is the closest to EU citizens, even though they may not often realise how projects supported by its funds are actually improving their lives – through, for example, better roads, better drinking water, improved waste treatment facilities, digitalisation and even vocational training and support for our youth. On the surface cohesion policy can come across as something very technical and distant, but its results are definitely not !'. She explains that cohesion projects can lead to very tangible results. 'I always insist that we report not only on weaknesses but also on good practices when we come across them. After all, it is these successful outcomes that actually matter for the citizens. Those managing cohesion funds can learn lessons from both failures and successes; it is important that,

> *On the surface cohesion policy can come across as something very technical and distant, but its results are definitely not!*

as auditors, we give due prominence to good examples, as sometimes these can be more inspiring than the bad practices we find'.

The relevance of cohesion for achieving the EU's long term objectives was one of the topics discussed during the 8th Cohesion forum held on 17 and 18 March 2022. Iliana Ivanova explains that this was a timely event with a good range of interesting speakers, including Commissioners Ferreira and Schmit. 'I think in these particular times we need cohesion more than ever. It is not always easy to measure success in cohesion policy. But that is exactly why we need these sorts of discussions where we can exchange experiences on what we've achieved and the factors that can contribute to securing good results from cohesion programmes'. She notes that another reason contributing to the success of the event was that it was again finally possible to meet in person. 'We were there with three ECA representatives – Annemie Turtelboom, Lazaros Lazarou and myself - and I think I speak for all of us when I say that that we found it an extremely interesting and valuable event'.

The 8th Report on Economic, Social and Territorial Cohesion points to the many variables involved in cohesion policy, making it difficult to determine the exact impact of cohesion when it comes to economic growth. The ECA Member agrees: 'A number of studies have tried to quantify the benefits of cohesion policy, not only for the less developed regions but also for the EU as a whole, arguing that more developed regions also benefit in macro-economic terms. The quantifications of these estimates may vary. But they tend to show that cohesion policy actions certainly have an added value for the EU; this is an undeniable fact'. She points out that historically the EU focused on making sure that its budget spending complied with relevant rules. 'But in recent years we have seen in the EU as whole an increased performance-orientation and a willingness to identify where EU funds have led to positive changes for citizens'.

> *… cohesion policy actions certainly have an added value for the EU; this is an undeniable fact.*

Identifying what works well and what not

For Iliana Ivanova it is clear that the ECA has contributed significantly to this increased focus on results and impact through its various special reports examining different aspect of cohesion policy. 'Our role as auditors is to look at the past, identify weaknesses and recommend improvements in financial management in the future. Obviously, this may lead to relatively negative reports, sometimes with critical titles. However, I personally - and I am not alone within the ECA - strive for balanced reports, as it is rare to find a black or white situation'. She underlines that as the external auditor the ECA needs to maintain and present an objective and independent view of the facts. 'Of course, we see success stories and we see failures. As I said, it is important to be objective and balanced and we do not shy away of reporting on good examples when we see them'.

> *… we see success stories and we see failures. As I said, it is important to be objective and balanced…*

Iliana Ivanova has a number of examples of this in ECA reports. 'For instance, I have seen investments in transport which helped to improve connectivity and accessibility. In 2020 we published an audit report on support for the core road network, special report 9/2020, in which we concluded that the EU programmes definitely contribute to the EU's network development. For these roads we analysed core travel times, the kilometres driven on motorways, the improved safety, and overall improved quality of travel'.

She indicates there are also several examples in the social area, where performance measurement can be even more difficult. 'The social area is very interesting and I have been following that for quite some years now'. She explains that for its legality and regularity audits the ECA used to report two separate most likely error rates for cohesion expenditure: one relating to social policy and one for regional development. 'The most likely error rate for the social area was always lower and closer to the 2% materiality threshold. In terms of legality and regularity the social area performed better throughout the years, but in terms of performance it is more difficult to measure because the results

are more intangible'. She points out that EU money often funds qualifications and training. 'It is about courses that people undertake, but it is often difficult to measure the real improvement in employability, for instance. But this is where the real added value of a good special report can be seen. Because our work is not done through a generic sample of questions that you can use for any kind of area, for any kind of portfolio. Our questions need to be specifically targeted and tailor made for the relevant policy area so that you can assess whether EU funding has actually contributed or not to improving the situation'. She reiterates that improvements can manifest themselves in various ways. 'Of course, we have also examples of failures, but that is how it is'.

> *… it is often difficult to measure the real improvement in employability, for instance. But this is where the real added value of a good special report can be seen.*

She observes that some audit topics get more media attention than others. 'An example is our special report 5/2021 on the infrastructure of recharging electric vehicles, or our special report 3/2022 on the 5G roll-out in the EU'. She says that the easiest examples for her to give relate to the reports on cohesion for which she was the reporting Member. 'One that comes immediately to my mind is the series of reports we did on the design of the youth guarantee, an EU policy aiming to improve the employment prospects of young people. For instance, we recommended that the Commission promote a set of qualitative attributes, defining what is 'a good quality offer,' because at the time this element was missing. Shortly after the publication of our report, action was taken to change the definition – a clear indication where the recommendation added value'. She explains that, following the series of reports the ECA issued on this topic, 'we still receive questions from the European Parliament Committee on Employment and Social Affairs on this issue'.

Different players, diverging interests, various orientations

Cohesion is an explicit example of a policy area with a shared management set-up and in which various stakeholders can have different perspectives on the priorities to be addressed. For Iliana Ivanova what matters is that ultimately a compromise is reached and a solution is found. 'Starting with the European Parliament, particularly the Committee on Regional Development, they have a crucial role in the design of cohesion policy framework . They are working with Commission and the Council, shaping the rules in that policy area. I personally really support the active role of MEPs as they often have different perspectives that can contribute to a more effective and efficient EU policy design'. She highlights the constructive relations the ECA has with the European Parliament, taking into account their suggestions when the ECA formulates its work programme and presents its reports. 'Here I have to say that I'm really grateful and happy about the excellent relation that we have with the REGI committee. This is thanks to the chair, his team, and of course all the MEPs that actively participate. They always express their appreciation for our work'.

> *… the European Parliament, particularly the Committee on Regional Development, they have a crucial role in the design of cohesion policy framework.*

She points out that the national and regional authorities also have an important role to play when it comes to the design and implementation of programmes. 'At the end of the day, we should not lose the perspective that we all work for the benefit of the European citizens; it is incumbent on all of us to work together and achieve the most that we can with the EU's scarce resources. Our interests may not be exactly the same, but, especially in these difficult times, it is important that we reach agreement. The Ukrainian crisis has showed that when it wants to the EU can agree and find solutions in a very short time'!

> *… we should not lose the perspective that we all work for the benefit of the European citizens; it is incumbent on all of us to work together…*

Sometimes EU-level solutions run into problems at Member State level in terms of their ability to implement programmes properly. The ECA Member identifies this as a problem that the ECA has raised for many years now, across a number of Member States. 'We've been seeing this for years and years, and in 2019 we published a review on the *reste à liquider* issue called Rising budget backlog could impact future EU-funded project, in which we provided a number of recommendations'. She explains that this problem happens in every programme period. 'You can ask me why. And I can tell you that

we have made all kinds of recommendations. And over time of course, there is some improvement. But there is always something that exacerbates the problem'.

She points out that recent decades have seen one crisis after another, often overlapping. 'That is not helping at all, on the contrary. And I would expect that it is quite likely, given the recent developments, we will have a bigger problem with absorption in the future'. She concludes that absorption is one of a number of challenges in the cohesion policy area that the EU, including the ECA, has been seeking to address. 'And there has been improvement, of course. But there is a lot more work to be done'.

> *… given the recent developments, we will have a bigger problem with absorption in the future.*

Triggering changes going beyond publishing error rates

One of the improvements relates to cohesion policy spending complying more with the regulatory framework. 'I often refer to the situation that in the first decade of this century the most likely error rate we found in cohesion expenditure was at double digit level. Each year, we present an objective and comparative figure and cohesion is one of the most error prone areas in terms of compliance. As the ECA, we also report on deficiencies in performance, such as delays in implementation, the underutilisation of infrastructure, cost overruns, and poor monitoring. But that is separate from the legality and regularity issue'. She highlights that cohesion expenditure has gone a significant way to improving both these compliance and performance aspects. 'From my perspective for each programme period I see that the rules are being improved and simplified; things are getting better. But despite these improvements, we should not forget that the cohesion policy error rate is still above the materiality level of 2%: for 2020 it was 3,5%'.

> *… for each programme period I see that the rules are being improved and simplified; things are getting better.*

According to the ECA Member, there remains scope for improving also the performance – efficiency, effectiveness issues - besides legality and regularity elements. 'You know, several years ago, we introduced a new approach for our Statement of Assurance work in cohesion policy. A key part of this new approach is that we also review the work of Member State audit authorities. By doing so we help them to improve the quality of their checks on the spot, which, obviously, has an impact on the error rate detected by the Commission and ourselves'. It is in this context that she also sees an important role for the ECA as external auditor of the EU budget. 'Proactively we also participate in different technical meetings organised by the Commission, and by the audit authorities of the Member States. These meetings give us the chance to we exchange good practices and lessons learned at every level. I heard from audit authorities themselves that they really appreciate some early guidance on what should be done and what should not be done. They say 'If we knew that earlier that would have helped us to avoid some future mistakes. We want to keep doing that because it is obviously giving results. It must continue'!

> *Proactively we also participate in different technical meetings organised by the Commission, and by the audit authorities of the Member States. These meetings give us the chance to we exchange good practices…*

Another topic to which the ECA has been paying increasing attention is avoiding fraud in the cohesion area. In 2019 the ECA issued its special report 6/2019 *Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination*, in which the ECA was particularly critical regarding fraud detection actions. Since then, according to Iliana Ivanova, the issue has remained high on the ECA's agenda. 'It is very important, also for us. Of course, fraud prevention is not the primary responsibility of the external auditor. But we take it very, very seriously in our work and we try actively to contribute to the fight against fraud in the EU budget. We do this by reporting on what we find – any suspicion of fraud, corruption or any other illegal activity affecting the EU financial interests – through a cooperation agreement, to OLAF, the European Anti-Fraud Office. Obviously OLAF is responsible for further investigating such cases'.

> *… fraud prevention is not the primary responsibility of the external auditor. But we take it very, very seriously in our work…*

She also refers to the latest working arrangements signed between the ECA and the EPPO, the European Public Prosecutor's Office. 'We submit to EPPO any evidence where we consider that criminal conduct may exist and we think they could exercise their competence. Our attention to fraud and corruption also features in our 2021-2025 strategy, which states our firm intention to contribute to combating fraud against the EU budget. In our selected audits we will help prevent fraud by examining at all levels whether the EU financed programs are affected by weaknesses, making them fraud-prone, taking into account our experience from our Statement of the Assurance audit work'. Iliana Ivanova also explains that the ECA wants to intensify its audit work with bodies in charge of fraud detection. 'We regularly assess their activities. In fact, we recently discussed internally our strategic approach to the topic. It is now a multi-annual approach, in my view a very good step to ensure a more holistic, coordinated approach for our audits. It is definitely an across the board issue, a horizontal topic, receiving attention and resources throughout the ECA'.

> *We submit to EPPO any evidence where we consider that criminal conduct may exist…*

Cohesion as flexible policy instrument to address crises

Another topic that received a lot of attention and resources within the ECA has been the impact of the pandemic. Iliana Ivanova indicates they have triggered new EU initiatives, as has the war situation in Ukraine. 'Regarding the COVID-19 crisis and related action I think we managed quite well to deliver timely and relevant products. But the world is moving very fast and a new crisis emerged. Until the end of last year, we were mostly worried about COVID-19 and its effect on the economy, with economic recovery at the centre of the political debate'. She says that the start of the pandemic seriously slowed down the absorption of cohesion funds and that cohesion actions had to be very quickly adapted by allowing extra flexibility. 'This meant extending the scope of the eligible operations of the old period rules through a number of amendments to the existing legislation such as the Coronavirus Response Investment Initiative, called CRII, the Coronavirus Response Investment Initiative Plus, and additional funds for the Cohesion policy, REACT-EU, the Recovery Assistance for Cohesion and the Territories of Europe. This actually helped absorption for the 2014-2020 period'.

The ECA Member points out that the legislators have done something similar for the Ukraine crisis. 'Responding to the war in Ukraine by providing additional flexibility through the Cohesion's Actions for Refugees in Europe, known as CARE. For example, this change allows 100 % EU co-financing for the 2014-2020 policy funding and simplifies procedures for reporting and modifying programmes. However, since the attention of the relative authorities was focused on the implementation of the CRII of the REACT-EU and now CARE, there have been delays for the start of the new programme period, 2021-2027'.

She explains how the ECA contributed to these crisis modifications of rules. 'We provided three urgent opinions on the modifications proposed by the Commission on the Common Provisions Regulations, the CPR. I remember we did the first one in three weeks. I'm really grateful to the team, which managed to deliver a very high quality opinion in extremely challenging circumstances. Of course, the others on the CPR and REACT-EU followed. We recognise well when we have to move quickly. The Commission came up with these urgent proposals; our response had to be just as fast'.

> *We provided three urgent opinions on the modifications proposed by the Commission on the Common Provisions Regulations, the CPR. I remember we did the first one in three weeks.*

As to the audit work, Iliana Ivanova explains that across the ECA different audit chambers are involved in delivering performance assessments on the overall action taken regarding the pandemic. 'As to the audit chamber I am in, Investment for cohesion, growth and inclusion, our audit work is focused on the implementation of CRII and REACT-EU modifications, examining whether the Commission effectively adapted its 2014-2020 policy to respond to the COVID-19 pandemic'. She thinks this kind of work will continue since it remains to be seen what the effects of these urgent measures were. 'We warned in the very first opinion that we delivered, that this urgency also comes at a cost, in terms of a relaxation in the control arrangements and the guarantee that the funds have been spent properly, within the legality and regularity rules'.

New kid on the block - NGEU

Besides adapting existing cohesion instruments, one of the main initiatives responding to the crisis has been the creation of the Recovery and Resilience Facility as part of the NextGenerationEu package of support. 'Auditing this is one of the challenges we currently face as the ECA. Starting with NGEU, we know that this is a new temporary instrument, designed to help the economic recovery following the pandemic. Within the NGEU, the RRF, provides the bulk of the money and uses a new delivery mechanism'. Iliana Ivanova explains that for the RRF disbursements are not linked to costs but to the achievement of milestones and targets. 'In essence, they are measured by performance indicators'.

She highlights that the 2021-2025 ECA strategy includes for the NGEU and RRF comprehensive coverage in terms of financial compliance, together with a range of performance audits. 'Auditing the RRF is really a cross-cutting challenge for our institution as it covers many different areas, EU policies, and EU spending. In that context, it will require a strategic and coordinated audit approach. For the part relating to our Statement of Assurance work on the NGEU, another ECA audit chamber – *Financing and administering the Union* - is doing a pilot audit developing the appropriate methodology'. She underlines that it still needs to be seen how best to approach the compliance elements related to this expenditure. 'It might dramatically change the model and the way we look at our compliance task regarding this instrument. We are on top of the developments here, it will take some time, even the Commission itself is still in this enquiring phase'. She notes that for the upcoming ECA annual report regarding compliance the impact might be limited since very few payments were made in 2021. 'The financial year 2021 will not be representative, but the subsequent year will be, for sure'.

> *Auditing the RRF is really a cross-cutting challenge for our institution as it covers many different areas, EU policies, and EU spending.*

Concerning performance audits, Iliana Ivanova cannot speak too much for the other ECA audit chambers but focuses on the link with the cohesion area. 'My colleague Ladislav Balko is in charge of a review, also assessing the links and potential overlaps between the RRF and cohesion policy'. She considers this is a very important point, which will hopefully shed more light on any risks and challenges. 'Overall, I think the RRF and Cohesion policy should be complementary, not overlapping each other through really good coordination, aiming for synergies that could be achieved between the two instruments, also regarding performance. With as goal, of course, to improve the life of the European citizens after this crisis'.

> *… the RRF and Cohesion policy should be complementary, not overlapping each other through really good coordination, aiming for synergies…*

A full audit work programme, also addressing cross-cutting cohesion topics

For the current seven year multiannual financial framework period, the ECA Member observes that several themes are embedded in the implementation of cohesion policy, addressing key policy objectives such as the green transition, digitalisation, reforms, etc. 'We consider these aspects and their interconnections as part of our analysis in our audit chamber's knowledge nodes, where we prepare audit proposals for the new work programme. I'm very grateful to all colleagues who work very hard on keeping our corporate knowledge up to date with the result that they are able to make excellent proposals for audits each year in our audit chamber'. She proudly refers to the presentation of her chamber's knowledge node project to other colleagues within the ECA. 'It was accepted with great interest. I think other audit chambers are also interested in further developing these cross-cutting aspects of our thinking when we design the annual work programme'.

She finds that these cross-cutting topics surface more and more and need to be properly assessed. 'For instance, look at the issue of natural gas infrastructure. Now we have at least three audit chambers within the ECA that for the new programme period would touch upon this very important subject one way or the other. Coordination and cooperation is extremely important. I see more and more willingness to work together

constructively and I hope this will be the case, indeed, when we design our next annual work programme. Of course, I also welcome the new multi-annual focus, which I think is an important good step forward, allowing for a more strategic approach'. She points out that another important aspect here is timing. 'We should also consider that some important initiatives at the Commission might require time for some progress to be made before we start auditing. This is another reason why we should maintain good and constructive relations with our key stakeholders, so that we are aware of the best timing and can really maximise the impact of our work'.

As to the ECA's future audits on cohesion, Iliana Ivanova refers to a full audit work programme. 'But all the audit topics that have been included merit being there. Personally, I believe that we will have particular added value in the areas of digitalisation, energy, youth, economic recovery, security of course, and, last but not least infrastructure. These are just to name a few'.

A topic that she is currently involved with as reporting Member and which has received some attention from the European Parliament relates to EU actions to help people with disabilities. 'I would not say it is a brand new topic. But it covers an important part of the social area. I'm grateful to the good team that we have and I am really hopeful we will deliver a good and timely quality product. Clearly the interest in it is there. It is not something that is a consequence from a recent crisis. But helping people with disabilities is a very, very important subject, touching upon some core values of the EU. And this is why we have such policies in the first place: addressing disparities to contribute to positive changes for citizens'.

> *… helping people with disabilities is a very, very important subject, touching upon some core values of the EU. And this is why we have such policies in the first place: addressing disparities to contribute to positive changes for citizens.*

Cohesion – What is it good for?

By Zsuzsanna Csak, Lars Michael Luplow and Mihaela Pavel, Investment for Cohesion, Growth and Inclusion Directorate

Source: Phb.cz/Depositphotos and European Court of Auditors.

Visible cohesion spending: from impressive road connections to underused ports.

As cohesion expenditure constitutes a large part of the EU budget, auditing compliance and performance aspects of this policy area may require substantial resources. This is certainly true for the ECA, given also the shared management of most cohesion spending, the many different variables – from multiple objectives to a daunting variety of rules – and the links to new initiatives such as NextGenerationEu (NGEU). Zsuzsanna Cask, Lars Michael Luplow and Mihaela Pavel bring a wealth of experience to their job of assisting the director of the ECA audit chamber for cohesion, growth and inclusion. They explain here how the ECA justifies its choice of audit tasks in the cohesion policy area, and they describe the two main strands of their work on cohesion, providing examples. They then clarify just how the new Recovery and Resilience Facility (RRF) ties into this audit work.

Bread and butter of the ECA audit chamber for cohesion

It is challenging for us to write an article for this Journal. As auditors, we are happy to remain in our own world of regulations, programme logic models and risk analysis. That is what we know, and it is what feels familiar to us. Writing an article for a broader public is a different exercise that leads us outside our comfort zone and away from our usual jargon. Nevertheless, we gladly take this opportunity to present an overview of the work of our audit chamber. This is one of five audit chambers at the ECA, each covering different parts of the EU budget. Our chamber, led by five ECA Members, consists of about 125 individuals whose job is to audit EU expenditure, mainly in the area of cohesion. In terms of expenditure audited and staff numbers, we are one of the larger ECA audit chambers.

The chamber covers two key headings of the multiannual financial framework (MFF): 'Cohesion, resilience and values' and parts of 'Single market, innovation and digital'. The former embraces the subheadings 'Regional development and cohesion' and 'Investing in people, social cohesion and values'. Under these headings, the EU gives financial

support for projects and actions that promote economic and social cohesion between and within Member States. It does so through funds or programmes, each underpinned by legislation and granted a separate budget.

We look at spending from several funds: the Connecting Europe Facility (CEF) for Transport, the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European Social Fund (ESF+), Erasmus+, the EU Solidarity Fund, and Creative Europe. But also, as regards investment in areas for which our chamber has an audit responsibility, the Recovery and Resilience Facility (RRF). These funds address a range of policies and therefore may also have different objectives. Some, like the Solidarity Fund and Erasmus, are not even cohesion policy funds. Obviously this fact affects our way of working.

Cohesion – a broad concept in a few words

Articles 174-178 of the Treaty on the Functioning of the EU provide the legal basis for EU cohesion policy. Put very simply, cohesion is about supporting less developed regions so as to reduce economic and social differences in Europe.

The 1957 Treaty of Rome establishing the European Economic Community provided a first basis for developing what we recognise today as a regional development policy, through the European Social Fund (ESF) and the European Agricultural Guidance and Guarantee Fund (EAGGF). The Commission set up a Directorate-General for Regional Policy in 1968. The ERDF was established in 1975 as the first fund assisting Europe's 'least favoured' regions.

Cohesion policy as we understand it today dates from the late 1980s, following the accession of Greece, Spain and Portugal. This was also the time when the Committee of the Regions was created, as an advisory body representing regions and municipalities at European level.

Impact assessment – the holy grail of cohesion policy

Assessing the results and impact of cohesion policy poses a number of methodological problems. First, cohesion covers an extremely broad field of economic and social policies. Second, the main impacts of EU action to promote economic and social cohesion stem from legislation, not money. What is more, whether regulatory or financial, this action always engages both the EU and the Member States. As regards the EU's financial support, there is another problem of attribution, since in most Member States EU funding plays only a secondary role. This is because EU co-financing generally accounts for less than half of total public spending. Third, results generally take quite some time to materialise, and much of the impact may come through indirect or 'spill-over' effects. This makes it very difficult to link cohesion funding directly und indisputably to specific results and impacts on the ground.

Against this background, it is not surprising that eminent scholars recognised in a 2017 assessment of cohesion policy that '… one of the major challenges for EU Cohesion Policy is that, after 25 years of implementing the policy, the evidence for its effectiveness is so inconclusive'[1].

Our performance audits

As the EU's external auditor, the ECA faces the same difficulties as evaluators when it comes to assessing the results and impact of cohesion policy. Nevertheless, since the early years of the EU's regional policy, the ECA has carried out audits examining the quality of cohesion spending, and checking whether the principles of sound financial management have been applied – economy, efficiency and effectiveness, to use the audit jargon. Put more simply, we ask: 'What is it good for?'

While performance audits share many methodological similarities with evaluations, the main differences lie in the ECA's institutional independence and our particular focus on quantifiable performance data and financial aspects. The main thing is that we have

1 Bachtler, J., Berkowitz, P., Hardy, S. and Muravska, T., *EU Cohesion Policy: Reassessing performance and direction*, Routledge UK, 2017.

to apply professional standards when auditing and clearing facts with our auditees. Generally, we examine the performance of specific policy areas or measures funded from the EU budget, which will mean assessing them against the requirements and targets laid down in legislation by the European Parliament and Council. Alternatively, we look at the policy objectives in EU, Commission or national strategies or what has been agreed in specific funding programmes.

Very recently, we in the audit chamber have been thinking about reviewing our *knowledge nodes*. This is another piece of jargon that relates to how we continuously acquire, preserve and disseminate the knowledge and expertise we need to do our work well. Imagine knowledge nodes as neurons which help the body of auditors to learn and develop. We have identified four nodes.

The first three are thematic areas that reflect all aspects of our responsibilities and work: 'Competitiveness and innovation,' 'Networks,' and 'People and living conditions'. These areas cover funding (expenditure), but also action not directly linked to expenditure, such as the Commission's policy-making, guidance and legislation. The fourth node is more horizontal and relates to what we have described before as our technical expertise, and we have called that 'Governance and audit'.

Examples of reports we have published recently in each of these areas are shown in **Figure 1**. In addition to these reports, we have also carried out compliance audits and published reviews and opinions. A complete overview of our reports on cohesion policy can be found on the ECA's publication portal.

Figure 1 - Examples of reports we have published, grouped by knowledge node

Competitiveness and innovation This area deals with *fostering business competitiveness*, such as EU financial support for SMEs. It also covers *industrial policy and innovation*, such as investments in research, development and innovation (RDI). 	**Has the ERDF successfully supported the development of business incubators?** The EU funds business incubator projects through cohesion to support the development of SMEs, which are crucial to creating jobs. We assessed whether these projects offered real support for SME start-ups but found disappointing results, with too little attention to the effectiveness of incubators. ECA special report 07/2014	**Digitising European Industry**: an ambitious initiative whose success depends on the continued commitment of the EU, governments and businesses The Commission launched the DEI initiative in 2016 to boost the digitalisation of EU businesses. We found that, despite good support from the Commission, the initiative had progressed unevenly among the Member States, some of which still did not have national digitalisation strategies or Digital Innovation Hubs. ECA special report 19/2020

Networks – bridging Europe This area deals with *transport networks and investments in mobility*, *energy networks and infrastructure*, and *communication networks and infrastructure*. 	**EU-funded airport infrastructure**: poor value for money We audited 20 airports in five Member States and found that EU support was often given to airports in close proximity to each other, generating poor value for money and resulting in oversized infrastructure. ECA special report 21/2014	**Infrastructure for charging electric vehicles**: more charging stations, but uneven deployment makes travel across the EU complicated The EU set a target of 1 million electrical car-charging points by 2025. We found that, despite achieving a common EU plug standard for charging electric vehicles, the EU was still far from its goal, mainly because the availability of stations varied between countries and payment systems were not harmonised. ECA special report 5/2021
People and living conditions This area deals with *employment and social inclusion, education and training*, and *spatial and urban development*. 	**Fund for European Aid to the Most Deprived (FEAD)**: valuable support, but its contribution to reducing poverty is not yet established The FEAD supports national poverty alleviation measures, though we found these mainly focused on food support and did not always target extreme forms of poverty. ECA special report 05/2019	**Combating child poverty**: better targeting of Commission support required Child poverty remains a challenge in the EU. However, we found it was impossible to assess how EU action contributed to Member States' efforts to reduce child poverty, and the effectiveness of EU instruments was limited. ECA special report 20/2020
Governance and audit This area covers *values, reforms and protection of the EU's financial interests* (including the rule of law, the fight against fraud and corruption, and conflicts of interest), *internal market rules* (including EU and national public procurement rules and the EU's state aid rules), and *programme and performance management* (including EU programmes design and implementation and the performance framework). 	**Tackling fraud in EU cohesion spending**: managing authorities need to strengthen detection, response and coordination The Commission and the Member States share responsibility for protecting the EU's financial interests. In cohesion, there is a significantly higher incidence of reported fraud than in other EU spending areas. We assessed whether Member States had fulfilled their responsibilities and found that they still needed to strengthen fraud detection, response and coordination among national bodies. ECA special report 06/2019	**Performance-based financing in cohesion policy**: worthy ambitions, but obstacles remained in the 2014-2020 period To improve the economic, social and territorial cohesion of its Member States, the EU introduced instruments in the 2014-2020 period to incentivise the performance of its cohesion spending. We assessed the use of these instruments and found that they still did not ensure that funding is given to the projects that deliver the best results. ECA special report 24/2021

Second strand of our audit work – the statement of assurance for cohesion spending

Another key aspect of cohesion spending is the comparatively higher risk of irregularities. The ECA reports on this in its annual statement of assurance (SoA), in which we provide an audit opinion on the EU's finances. The results of our SoA audit work are published in our **annual reports**, which include a specific chapter on cohesion spending.

Almost half of the cohesion chamber's staff is assigned to tasks relating to the SoA. The chamber covers 35% of the EU budget, making us the biggest internal contributor to the SoA. The SoA is the result of audit work comprising financial and compliance checks. Our contribution consists in auditing some 240 individual transactions (for 2021) and reviewing relevant control systems. On this basis we calculate a statistical estimate for the level of error in annual cohesion expenditure.

This work requires a high degree of familiarity with audit techniques and the relevant EU rules. Moreover, as most expenditure is under shared management by both the Commission and the Member States, our auditors also need to be familiar with national rules. Over the years, they have thus developed considerable expertise with internal market rules (state aid and public procurement rules), financial management, issues relating to the protection of the EU´s financial interests, and programme and performance management in each of the 27 Member States.

Auditing NGEU and RRF spending

In December 2020, the European Council established NGEU to support Member States in reducing the socioeconomic impact of the COVID-19 pandemic. The NGEU is worth €750 billion and will be implemented from 2021 to 2026, alongside the MFF for the 2021-2027 programme period, which amounts to €1 074 billion. The bulk of NGEU funding has been allocated to the RRF.

Both funds contribute to the priorities of fostering green transition and digital transformation, which are expected to receive a large share of funding, and they both support territorial cohesion investments (see also page 117). This is underpinned by the obligation for the Commission and the Member States to coordinate and foster synergies between the RRF and cohesion spending.

A notable difference, though, lies in the performance approach of the RRF, where EU funding is linked to national structural reforms to be included in Member States' programming documents, such as for the labour market or the pension schemes, and financing depends on the achievement of performance milestones. The MFF cohesion approach remains mainly project-based, where financing largely depends on cost declarations for projects implemented under a broader regional or national development programme.

In our audit chamber, we are well prepared for auditing this new kid on the block, for the very reasons described above: our auditors have particular experience of auditing shared-management schemes and have gained intimate knowledge of the national authorities implementing cohesion – often the same authorities will be implementing the RRF. Above all, we feel confident that we can draw on the lessons we have learned from performance management and auditing the instruments that contribute to performance-based cohesion funding.

We are in fact already scrutinising the RRF in several of our ongoing performance audits. Moreover, we are currently reviewing the similarities and differences between the RRF and cohesion spending, both in terms of opportunities for effective complementarity, and in terms of coordination risks.

In the coming years, therefore, there will be more reports from our audit chamber both on the traditional strands of cohesion policy and on new instruments devised to address specific objectives. Reports in which, hopefully with as little audit jargon as possible, we try to identify 'what is it good for?'.

Auditing EU cohesion fund – triggering policy improvement by joining forces

Interview with two experts on auditing cohesion funds - Franck Sébert, European Commission, and Juan Ignacio Gonzalez Bastero, ECA

By Gaston Moonen

Franck Sébert

Juan Ignacio Gonzalez Bastero

As cohesion policy is one of the largest EU expenditure areas, many people deal with it on a daily basis. And consequently, many people review it on a daily basis. Franck Sébert and Juan Ignacio Gonzalez Bastero belong to the second, smaller group. Franck works as Director of the European Commission's Joint Audit Directorate for Cohesion (DAC), while Juan Ignacio is a Principal Manager at the ECA with many years of experience auditing cohesion compliance issues to substantiate the ECA's annual statement of assurance. What does their work actually entail? Where do they see key risks? How can performance audit be accommodated in cohesion spending? These are only some of the questions the two experts address below.

Cohesion policy not set in stone

Beside the Common Agricultural Policy (CAP), cohesion policy constitutes the second 'shared management' policy area in the EU, meaning that the European Commission entrusts the Member States with implementing programmes at national, regional or lower level. To accommodate this set-up, numerous regulations, guidelines and programmes have been created to ensure the proper implementation of cohesion policy. But this does not mean cohesion policy is set in stone, as can be seen from the EU's reaction to the war in Ukraine. Franck Sébert explains that the crisis has not had any immediate impact on his work, but that he expects to see an impact at a later stage. 'The impact is very much on the implementation side of the managing authorities of EU funds of course for the European Neighbourhood instrument – the cross border programmes – but also for some mainstream programmes. So when we need to audit the managing authorities in eastern Poland or Romania, there may have been delayed activities in view of taking care of refugees from this crisis.' He highlights that, for cohesion, the Commission has adopted CARE – Cohesion's Action for Refugees in Europe. 'This is a package to welcome the refugees and offer them a status in the EU so that they can live in security and work. And that the managing authorities for cohesion fund can reallocate funding to the refugees. It is really allocation of existing money, showing that cohesion is not a fixed traditional policy, but can be agile and flexible. As we have seen during the pandemic, with the creation of the Coronavirus Response Investment Initiative – CRII – as part of cohesion policy actions against the virus.'

Juan Ignacio Gonzalez Bastero concurs, saying that for now the war in Ukraine has not influenced his work. 'But at the start of the COVID-19 pandemic, we had to adapt because some of our auditees were busy with that. For instance, we were auditing the Cohesion Solidarity Fund. But our main contact person in Italy for this was also the person responsible for responding to the COVID-19 crisis. We had to stop the audit because we could not persist in doing this audit while the beneficiary had major problems.' For him, the pandemic shows how flexible cohesion funds can be. 'We have been affected for two years by the pandemic which, as Franck indicated with various initiatives also within the cohesion policy range to adapt quickly the funds to the new challenges and reality.'

Different roles but similarities in work and environment

As far as their day-to-day work is concerned, both Franck and Juan Ignacio spend a lot of time in meetings with various parties and reviewing audit findings. This is heavily influenced by the time of year. Franck: 'Our activities are very cyclic. They range from desk reviews to audit activities on the spot, with difficulties during the last two years where we had to review our approach .' He points out that they are currently deep in the process of reviewing all the audit opinions, including those received from the Member States' audit authorities. 'This will allow us to establish our level of assurance, which will feed into the annual activity report where the Director-General will be able to disclose the assurance he has on all the programmes.' He also highlights work for risk assessment, working on the spot, ranging from re-performing the work of audit authorities to visiting beneficiaries in order carry out their audit plan. 'Our work as management will then involve reviewing and validating our auditors first findings and seeing how they can be sustained and whether they are based on clear breaches of the regulations. We need to ensure the quality and have equal treatment across the board and over time.'

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Franck explains that, during the audit cycle, many stakeholders beyond Member States become involved, ranging from meetings with the ECA on both compliance and performance issues, to responding to requests from the European Parliament. 'We have this democratic scrutiny on our activities and colleagues and I have to explain our views and our results in the European Parliament, particularly during the discharge procedure, preceded of course by meetings with the Director-General and the Commissioners. And sometimes also going to the Council to do the same.' He adds that his services are invited almost every month to a public hearing or an information session. 'For example with the European Parliament on an audit on conflict of interest in the Czech Republic. The Parliament, in particular the Budgetary Control Committee, wants to understand what happens on the ground. It is very interested in issues related to fraud, corruption and the possible involvement of oligarchs in the implementation of EU funds. Of course our daily work is not about fraud investigations - there is a dedicated investigative office for this, OLAF, and also the European Public Prosecution's Office. Our work is rather about obtaining assurance on the proper functioning of the systems and how they ensure the legality and regularity of expenditure certified in the programmes' accounts.'

However, the most important partner for him is the audit authorities. 'Our audit community, where we regularly discuss audit results, methodology, revise practices, explain the evolution in regulations.' Franck explains that, in July 2021, the two audit directorates of DG EMPL and DG REGIO merged into the Joint Audit Directorate for Cohesion (DAC). 'We have a merged audit capacity of 145 people altogether, with around 100 auditors, providing assurance on more than 440 programmes, with some €45 billion spent per year .' He points out that, being at the edge of the pyramid in the cohesion audit community, they rely very much on the audit services in the Member States and for this, ensure a continuous monitoring and supervision of their work. 'In the DAC we have a good mixture of competences and its creation allowed us also to bring in new competences. With a majority of colleagues who are certified auditors, other colleagues with a legal background or an engineering education.' He considers it crucial to have a good mix of profiles, making it possible to

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bring in different capacities when organising audit teams. 'Another particular feature of our work in the DAC is that, despite different profiles and statute, everyone is doing the same job and this is very motivating, for example for assistants or contractual agents, delivering the same type of work as officials.' Franck adds that, beside exchanges within his directorate, there is a lot of interaction with services within the Commission. 'To explain our results and to warn our colleagues to interact when we found problems. I also refer to the committees, which are set up in both DGs to review the audit results and assess whether we need to suspend or interrupt payments. Not always to the liking of the people who implement the programmes of course, but over time we developed working relations, characterised by trust, with the geographical units who also provide good support when problems are detected.'

Juan Ignacio explains that, regarding the work of his team, there are many similarities with the DAC. 'Until very recently, when I moved to another audit chamber, I was in charge of a large team of auditors, between 40 and 50 people. This is the largest audit task in the ECA. We audit the policy that Franck is assessing and review the DAC's work, also assessing the quality of the Commission's work after they are finished. We plan our work with our colleagues at the Commission, contact them and cooperate with them on methodology and establish what needs to be done.' He underlines that it is a lot of work. 'Quite often the team has hardly time to breathe, a lot of work in a complex area.'

> *[auditing compliance to cohesion policy] … is the largest audit task in the ECA. We audit the policy that Franck is assessing and review the DAC's work, also assessing the quality of the Commission's work after they are finished.*

While there are many similarities, he explains there are also differences. 'In our audit, we check the work of more or less the same entities, mainly the audit authorities but also including the Commission. 'We go to beneficiaries when we don't get enough assurance from the previous levels of control. But the objective of our work is different in the sense that we are more concerned with giving assurance at EU level , using of course as much as we can the Commission's work. While the Commission normally has to provides assurance on each of the programmes, based mainly on risk assessments, but nevertheless, all the programmes.' He points out that the ECA does not look at all programmes, but a sample. 'The result we give is at EU level and needs to be representative at that level.'

> *… the objective of our work is different in the sense that we are more concerned with giving assurance at EU level…*

As for building on the audit authorities and subsequent on DAC's work, he indicates that the ECA will assess what was done. 'During the last four years we found that a number of audit authorities reported unreliable residual rates below 2 % for the programmes in our sample. This limits the reliance that we can place on this crucial indicator so far.' With regard to the DAC's work he points out that in nearly all cases the Commission adjusted those rates above 2 %. 'Building on the work done by the audit authority in the Member State, the Commission's services will find most of the remaining issues, but in a number of cases we still find something else. Last year we published special report 26/2021 on regularity of spending in EU cohesion policy, where we provided details on these issues and highlighted some areas in which the robustness of the Commission's control system could be improved. Normally they do good work, but sometimes an audit authority audits a different programme, which is riskier, different types of operations and actors or beneficiaries. And they might miss an error which they would have found in less risky programmes. So also the type of programme plays a role whether we can rely on the result or not.'

Building a single audit structure

When discussing the possibility of relying on other auditors' work, Franck observes that a lot is done to avoid overlap or duplication, decreasing the burden for the auditee. 'When Juan Ignacio referred to the audit authorities, we need to realise that we are working with a community of 116 audit authorities, having more than 2500 auditors across the EU. And it is not that easy to ensure they all come with the same approach and methodology, and have the same understanding .' He refers to two ECA publications, opinion 2/2004 on single audit and special report 16/2013 on

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relying on national audit authorities in cohesion. 'Since then, a lot of work has been done to ensure a common approach. A few days ago, I met with the General Inspector of the Lebanese government. He was very interested to see how we coordinate – or in French *animer* – this big community of auditors in the Member States, trying to ensure that the robust internal control framework system we have set up is followed by everyone.'

Franck points to the number of system audit reports received yearly (over 800) from these audit authorities that his directorate needs to assess. 'We do not only have the compliance part, the main issue for which Juan Ignacio and his team are looking into the systems. From our side we really have another work strand: assessing the effective functioning of the systems through walk-through testing, control testing, etc.' Franck emphasises that single audit is a given and that his services have had to develop an approach and methodology over time to ensure that all auditors, when faced with the same evidence in the same situation, come to the same conclusion. 'This is not easy because the audit work is also based on professional judgement.' Franck refers to several instruments his services use to enable this. 'Like the workshop we organised in November 2020, where we presented to the audit authorities all the errors we had found for the 2014-2020 period and they had missed themselves. To discuss the differences and the correct interpretation. And to strengthen administrative capacity, also through our re-performance work.' For him, doing and redoing this again and again is part of the learning curve and part of the game, including being reviewed by the ECA. 'And things evolve, also because of new legislation for CRII measures, or because of staff turnover.'

Juan Ignacio concurs and explains that part of the work is redoing work already done by audit authorities, even the DAC. 'We are not part of the single audit structure as internal control or internal auditors are. But we use as much as we can the results of the single audit approach, relying where we can on the work of others.' This does not mean that the audit authorities and the Commission are not burdened by the ECA's work. 'But we went only to 20 % of the beneficiaries that we used to go to in previous periods. For most of the beneficiaries this is the one that has been visited by the audit authority, which they obviously see as a big burden. But there we limit the work only to the aspects we could not confirm, so not re-performing the whole audit again. So we try as much as we can to rely on the work of the previous layer.'

> *"We are not part of the single audit structure (…) But we use as much as we can the results of the single audit approach, relying where we can on the work of others.*

Both experts agree that the work done by the Commission and the ECA is rather unique compared with what is done at national level. Juan Ignacio: 'It is very difficult to compare because the work we do, the work the Commission does, is not done at national level for most of the national schemes. For these schemes they don't provide reasonable assurance every year on the regularity of underlying transactions.' Franck concurs: 'First, at the level of the supreme audit institutions. I don't know any institution which does the type of work that the ECA is doing, and if anything you don't have any error rate in any of these reports. Based on my experience, for example in France, the work of these supreme audit institutions relates more to the evaluation of policies, to the performance of the policies globally instead of legality and regularity.' When it comes to the administration and control structure embedded in the implementation framework, he thinks the Commission and the ECA are unique. 'The cohesion policy has set very strict system of controls across the board to protect the EU budget, and that's why there was also this huge criticism in in 2016/17/18 that there were too many controls for cohesion policy and the Member States called for real simplification.'

Franck observes another change. 'When ten new Member States joined in 2004, it was in a way simpler to introduce the implementation and control framework there than in the older Member States. In a way, we had to develop a new system in these countries and they were very open to develop modern internal control systems.' He refers back to his recent meeting with his Lebanese colleague, which was organised by the French Ministry of Finance. 'I remarked then that 20 years ago, you couldn't go to France, Germany or the UK at the time, or even Spain, and tell them about requirements of Brussels for the systems. They would tell you, "We have our administrative system and that's it." And then we told them it's not enough for us because you don't protect the EU budget sufficiently.' He explains that Brussels had then developed a number of

legal requirements. 'Systems are thus now marked by 18 key requirements for any internal control system to be considered efficient. This is currently applied across the board for all programmes in Member States or regions. And considered as normal, 20 years ago, it was certainly not !' He concludes that cohesion policy has really helped national administrations to evolve and strengthen internal controls and sound financial management.

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Applying mutually beneficial audit approaches

While it is clear that there are various exchanges between the Commission and the ECA on methodology and approach, the results of their work nevertheless differ, notably on the most likely error rates they find for cohesion expenditure. Franck explains why. 'As Juan Ignacio indicated, we have a different methodology. The ECA is establishing an overall error rate for all cohesion funds and programmes at the level of the EU as a whole , based on a statistical approach, with a sample of 220 to 240 operations per year out of the 2 million operations being implemented in the Union.' He points out that this is a top-down approach, while the Commission uses more a bottom-up approach. 'For each of the 440 programmes, our Directors-General have to obtain assurance on the payments. So we need to aggregate our data at programme level. And we need to go further than saying that error are material or not, transforming them into concrete actions to remedy the individual issues, which can be at programme level or below that.'

> *The ECA is establishing an overall error rate for all cohesion funds and programmes at the level of the EU as a whole…(…) [which is different from the Commission] For each of the 440 programmes, our Directors-General have to obtain assurance on the payments.*

Franck explains that the assessment at programme level provides error rates at that level. 'Our audit authorities use statistical sampling which roughly agree with the ECA's approach. We aggregate all the results, review them, re-perform part of the work done. And then we come to a comparison. We thus calculate a key performance indicator – a KPI – expressed as a range with a prudent maximum risk to take account of further possible risks, not to become too technical. I am pleased to see that in the last two years our range falls within the statistical interval of the ECA.' For him, this indicates that even though the methodologies are not completely the same, the results globally are. 'We say the error is material and that within the individual programmes we still need to work to bring down the error rate.'

Juan Ignacio points out that if you apply two methodologies with different approaches and objectives, it is only natural that you may come to different results. 'It would be nice to arrive at the same figure. But clearly the gap between the two results is much smaller than it was five years ago.' He considers it quite understandable that with over 400 programmes the DAC cannot provide the same intensity for all of them. 'There are limitations on the amount of work that can be done. The main difference is that with our approach we are able to extrapolate to the non-audited part of the population, and with the DAC approach this is more difficult.' He underlines the positive evolution in the work of the Commission from 2017 to 2021. 'Based also on our exchanges, the Commission has further developed their approach and this has made the indicator stronger . I think this is important because our work is not only to criticise but also try to help the Commission and others to prevent problems and make systems stronger.' Franck concurs: 'The ECA's recommendations are quite helpful for us to reflect and evolve. It is just that the extrapolation based on statistical sampling is sometimes a bit blind when looking across the board. We have a wealth of information on the systems which we want to put into the equation. We think it is important to use such data, big data if you want.'

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Protecting EU financial interests and the rule of law

Big data is also an issue when discussing the issue of fraud in cohesion, a topic that attracts particular attention from the European Parliament in view of the fraud cases

found in relation to this particular policy area. Although the ECA and the Commission's DAC deal with numerous financial operations, the number of cases of suspected fraud they refer to the European Anti-Fraud Office (OLAF) remains relatively low. Both experts underline the importance of the fight against fraud but emphasise that it is not their main role.

Juan Ignacio makes it clear that when the ECA finds indications of fraud, it can only refer the case, to OLAF and, where appropriate, to the European Public Prosecutor's Office (EPPO). 'Normally fraud is not done by stupid people. You might find something irregular in an offer made but that is more the exception. For a normal auditor, fraud can be difficult to identify. Many fraud cases actually surface because there is someone who says there is a problem . Like a whistleblower or when you use complex data analytics systems.' He explains that the Commission and the ECA are trying to help audit authorities, offering to include in their checklists specific questions related to fraud. 'To raise awareness on these aspects so that the auditors ask themselves: do I see a red flag on this issue? And if this is the case, we should not start acting as a police officer because what you might achieve then is that the other side destroys the evidence before the real investigators come.'

Franck underlines that fraud and irregularities are not the same thing. 'In the Budgetary Control Committee, they look for legal ways to get money away from oligarchs or pull funds for specific people. The Commission has accepted to provide more transparency to the system and ensure more data to be obtained and used for data mining in our checks. The commission will propose a modification of the Financial Regulation into that direction.'

The concerns of the Budgetary Control Committee also extend to systems enabling oligarchs to optimise receipt of EU funds, raising concerns over the rule of law in Member States. Franck specifies that in relation to the rule of law, there is now the conditionality regulation as an additional tool. 'The Commission has issued guidelines and has started to write letters to some Member States and even a notification in the case of Hungary. So things are moving but, as already said, we auditors cannot do an investigation against fraud and corruption, we have OLAF for that to whom we communicate any suspicion we may have. And we require the programme authorities to do verifications and corrections where needed.'

He adds that through data mining and the use of artificial intelligence, risks can be mapped more clearly. 'In this respect we are also pushing very much for the use of ARACHNE, the data mining tool designed by the Commission and made available free of charge to programme authorities. We are also looking to add more elements of artificial intelligence into the tool and make its use mandatory for the Member States .' He observes that the tool also meets resistance from the Member States. 'Not all of them want this, also because of data protection issues. We are well equipped to ensure a democratic life in our societies. But it can sometimes turn against us. Meaning that sometimes we are blocked by issues like data protection, particularly in this new area of big data analysis.' Franck explained these constraints also to the Budgetary Control Committee. 'I said to them that we are a Union of the rule of law. So we also have to respect all due audit and contradictory procedures. Even if this takes time and we are not always as agile as we – or the European Parliament - would like us to be. It is the right balance to find here.'

> *"We are also looking to add more elements of artificial intelligence into the tool [ARACHNE] and make its use mandatory for the Member States.*

Moving from compliance to performance

Both experts agree that, in recent years, the focus of cohesion policy has moved from legality and regularity to performance. Franck: 'You need the two legs and the annual activity report is really a document to present these two legs on what we achieved in terms of performance and how we ensure that Member States respect compliance with the rules. Logically, the shift to performance had an impact on our audit work. We ask auditors at Commission and national level to look also at performance indicators : are they correct and is there a

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performance trail to get all these data to Brussels?' He adds that over time, with schemes such as simplified cost options, the focus has also turned more towards delivery. 'And whether this was in line with the objectives or the operations or programme.'

He does not necessarily equate these results with impact. 'Impact is a big story which you can only see after many years for a policy like cohesion. For the European Social Fund, the periods are much shorter – has a person six months after he or she has left the training found a job? For investments it is much more difficult.' He considers results and impact to be more the work of the evaluation teams.

Juan Ignacio finds that a more performance-based compliance approach is smarter than an input-based approach. 'With the latter you have in the end many rules that need to be complied with, increasing the risk of errors, many of which, in my view, are not really that useful. But performance-based does not mean that suddenly EU funds are provided with blind eyes.' He believes that, with all their experience, Member State authorities and the Commission know how much it costs to build a bridge or a road. 'What you want is an effective policy, otherwise we may see things that I call *legal waste*: in full compliance with the rules but not making sense at all .'

> *What you want is an effective policy, otherwise we may see things that I call legal waste: in full compliance with the rules but not making sense at all.*

Franck adds that this is why the Commission has introduced ex-ante conditionalities regarding investment plans at the start of the period. 'To prevent issues from occurring which the ECA found in the past, for example airports which one from the other were a couple of kilometres away, creating white elephants. Now we tell programme authorities that this is not possible, you need to have a clear strategy.' Juan Ignacio points out that internal market concerns remain important. 'Such as public procurement and state aid conditions. For the Recovery and Resilience Facility there are perhaps no longer conditions for payment, but they should not be neglected.'

After seeing so many cohesion projects implemented over the years, the two experts agree that over time they have seen convergence taking place in Europe. Franck refers to the 8th Cohesion Report recently published by the Commission. 'There was very clear convergence of the richest and poorest regions up to 2008, when we had the crisis. This crisis led to divergence. Again a gap, but after a while once again convergence took place.' He refers to Crete, an area he often visits. 'A rather rural area 30 years ago, but the infrastructure developed extensively, which means that people doing business in remote areas can easily access airports and ports and export their products to the rest of Europe. There I literally see convergence taking place.' For the future, he expects cohesion to contribute increasingly to smart specialisation strategies. 'Where your endogenous development will be based on your comparative advantages and capacities, with authorities focusing on its added value. And trying to link up to digital means to mainstream your advantages.' He refers to an ex-post evaluation for the 2007-2013 period which said that one euro invested under cohesion policy in the period will generate 2.74 euros of additional GDP in the Member State by 2023. 'That's huge!'

Juan Ignacio recalls that early in his career he spent some years in Germany, and remembers how impressed he was with how well the country was working, with its infrastructure. 'And now Germans say that many countries have a better infrastructure than theirs. As Franck said, these infrastructures helped to develop the economies.' He fears that when a big crisis comes, development gaps may easily arise. 'And then it can take years to solve that. Here the NextGenerationEU may help to find the balance in the economic architecture of regions, fostering also reforms, supporting a more balanced economy.'

NGEU and the RRF – a medium-term boost to support long-term objectives

Both experts see great potential for NGEU and the related Recovery and Resilience Facility (RRF). Franck: 'The RRF is a big, yet temporary instrument, it has created a lot of expectations and its use will certainly impact other areas.' For him, it is clear that cohesion policy has to work hand in hand with the RRF. 'Because we have scopes and objectives which are not necessarily the same, but which are very much complementary. The RRF is supposed to be a rather short-/medium-term instrument to address some reforms

which are much needed. In a way, reforms that we have not been able to impose over the years through cohesion policy. Using this opportunity to introduce reforms is certainly a good thing.'

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The RRF also introduces financing not linked to costs. Franck has seen this before in relation to cohesion and relates this to ECA special report 24/21 on performance incentives. 'The ECA raised then this issue of the balance between legality, regularity and the conditions for payments. For the RRF this means: you wanted 10 kilometres of road, they have been realised so the payment can be made.' But, as under cohesion issues, he thinks there can be compliance issues under the RRF. 'What happens if you later on find a basic problem with public procurement? I know that the colleagues in DG ECFIN and the Secretariat-General have developed views on this.' He hopes the legal framework will be clear enough. 'We will have to reassure the Cohesion programme authorities that they have to monitor compliance with the rules, but at a higher level, not going on each set of expenditure. This will be a challenge for us in the years to come.'

Coming back to the RRF and cohesion, Franck points out that cohesion is a more long-term investment policy, which also addresses the green and digital transition, and that it also targets the issues of a sound economy and reform. 'I refer to the governance provided for in the rules for 2021-2027, which indicates that the Commission may ask the Council for suspension of funds in a Member State if we consider that the Member State did not take the necessary reforms or measures to ensure a sound implementation of EU funds.' He observes that the needs are enormous but it will be challenging for the systems to allow delivery. 'I am not that worried about the capacity to find the right projects , investments and reforms, the latter very much stimulated by the RRF. I am more worried about the capacity of the administrative systems to absorb all the EU funds in a short period of time.'

Franck refers again to the impact these additional funds have on the administrative capacity in the Member States. 'Each time this puts additional strain on the administrative capacity. We were able to discuss with DG ECFIN and the Secretariat-General how to ensure complementarity between Cohesion programmes and the financing priorities coming out of the national recovery plans.' He illustrates the point with the fact that the Cohesion audit authorities were often identified as the auditors for RRF expenditure as well. 'Which works fine for us but it should not be at the detriment of our audit capacity and our assurance system. We made that also clear in some letters we sent to some Member States. That this additional work cannot be done without giving additional resources to the audit authorities concerned.' Overall, he finds the timing of the RRF and the choice of implementation bodies to be logical.

> *[on the impact of NGEU/RRF] For our work it will be enormous. We have to audit another programme scheme nearly as big as the current multiannual financial framework.*

As to the impact of the new instruments for the ECA, Juan Ignacio is clear: 'For our work it will be enormous. We have to audit another programme scheme nearly as big as the current multiannual financial framework. We are now with slightly over 900 people at the ECA but will not be with 1800 in the future. We only got 20 posts more to audit this.' He thinks that the ECA will have to develop a very intelligent approach to cover both compliance and performance. 'This will be a big challenge for Member States and the Commission. There were already absorption problems, concerns on performance. Now you will have at the same time still a few years of the 2014-2020 period, the first years of the current period, and NGEU!' He expects to see a lot of funding become available, to be used for various things to enable Member States to become more resilient and address deficits that occurred during the pandemic. 'We will see now, also with the war in Ukraine, perhaps a shift in some of the priorities, for example to migration issues or energy independence, becoming an ever bigger concern. Which aligns well with the Green Deal anyway.'

Franck remarks that crises reveal the presence of more and less resilient regions in the EU economy. 'We spoke about Spain compared with other regions, or Italy. And now we see Germany with Ukraine and a gas crisis that might arrive, forcing Germany and others to totally rethink their energy priorities. That is where the EU can kick in, be it with cohesion

policy or the RRF, under the Green Deal, to readjust.' He thinks that, following several rounds of negotiations, more EU money will be injected into the system. 'We may face a huge revolution of our economies and societies and even more money will be needed.'

Error rates with a purpose

Both Franck and Juan Ignacio say that they do not want to be mere observers of change, but are keen to contribute to it themselves. Juan Ignacio: 'What motivates me in my work is not to present an error rate of 5 or 6%. But to have a great team that gives meaning to the work we are doing by stimulating change.' He gives the example of public procurement, which ten years ago was the source of half of the many errors found. 'We decided to have a special report on that, as we did for state aid and for other important areas, for example financial instruments.' He is happy to see that all this has triggered change for the better. 'Now we don't have many procurement errors any more. Both the audit authorities and the Commission are more effective in detecting them and I recall years where we had only one or two.' Another example he gives relates to consistency in the handling of such errors, with agreement on the type of irregularities, their classification and the way to calculate financial impact. 'So identifying major problems and tackling them, contributing to changes in legislation to make systems stronger, more robust and simpler, that is the motivating part for me .'

For Franck, too, the error rate is a vector for change. 'But what has motivated me throughout the years is first of all the teamwork. The team we have and the creation of the DAC is for me a great achievement, giving really the possibility to harmonise, to work together and to appear as one interlocutor for our stakeholders.' He observes that there are many ongoing issues within the EU. 'But at least we have internal discussions on several of them and go to the outside world with one voice.' Another of the issues he finds most motivating is having contributed to the development of a structured internal control framework that is applicable to all Member States. 'When I joined the Commission almost 30 years ago you had no framework to compare with. Now we have it, with a very lively audit community to reflect together , in a professional and serious way. Audit authorities really feel like our right hand in the Member States. They trust us and most rewarding is that, together with the ECA and with all our audit authorities, we managed to solve several problems in the programmes and improve systems.'

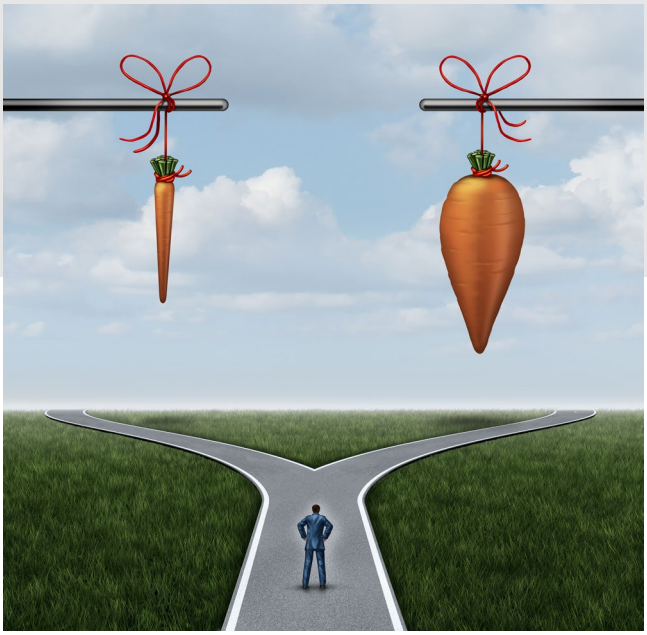
> *… identifying major problems and tackling them, contributing to changes in legislation to make systems stronger, more robust and simpler, that is the motivating part for me.*

Both Franck and Juan Ignacio observe that, putting things into perspective, the results of the changes introduced translate into a much lower estimated level of error. Franck: 'If I take the error rate from the ECA or our own error rate… before 2007 we started with a lower error limit of 12 %.' With a loud laugh, Juan Ignacio adds that this was not even the upper error limit. Franck continues: 'For 2007 to 2013, the ECA estimated an error rate for cohesion which was between 5 to 7 %, and over the last years – between 2014 to 2020 – we see that we are between 3 and 5 %. So even though I don't like to reduce the discussion to the error rate, I think this is an indication that things are going in the right direction .' He concludes that with a common framework auditors can collectively contribute to this type of improvement. Juan Ignacio adds that auditors are there to help and do not aim to bother people. Franck: 'This really motivates us. And here we see that, as in several other areas, cooperation pays better off than competition.' the results of the changes introduced translate into... a much lower estimated level of error. Franck: 'If I take the error rate from the ECA or our own error rate… before 2007 we started with a lower error limit of 12%'. With a loud laugh Juan Ignacio adds that this was not even the upper error limit. Franck continues: 'From 2007 to 2013 the ECA gave an error rate cohesion which was between 5 to 7% and over the last years - between 2014 to 2020 - we see that we are between 3 and 5%. So even though I don't like to reduce the discussion to the error rate I think this is an indication that things are going into the right direction'. He concludes that with a common framework auditors can collectively contribute to these type of improvements. Juan Ignacio adds that auditors are there to help and do not aim to bother people. Franck: 'This really motivates us. And here we see that, as in several other areas, cooperation pays better off than competition'.

> *[on the decreasing error rate] … even though I don't like to reduce the discussion to the error rate, I think this is an indication that things are going in the right direction.*

Incentives for performance in cohesion policy – reality or wishful thinking?

By Cristina Jianu, Investment for Cohesion, Growth and Inclusion Directorate, and Bernard Witkos, cabinet of Marek Opiola, ECA member



Source: Lightsource/Deposit Photo

Cohesion policy is the EU's main investment tool for promoting economic, social and territorial development. Increasing focus on the performance of cohesion policy has been on the agenda for many years, but it has gathered pace since the financial crisis in 2008, when shrinking public finances in many Member States called for increased attention to the impact of EU spending. The legislative package for 2014-2020 introduced a series of developments as regards the performance orientation of cohesion policy, including a set of financial incentives to reward good performance and sanction under-performance. Bernard Witkos, Attaché, and Cristina Jianu, Senior Auditor, respectively head of task and deputy head of task for the recent audit in this area, report on the audit that was published as ECA special report 24/2021, and consider the effectiveness of these incentives.

The long quest for incentives to improve performance in cohesion policy

Cohesion policy has undergone reforms aiming to strengthen result orientation over the last two decades. The most relevant changes concern two interlinked elements:

- the framework for measuring performance with output and result indicators to articulate what achievements are expected from investments and to enable monitoring; and
- mechanisms to incentivise performance and encourage authorities to pursue the priorities of cohesion policy.

Performance incentives have been used in cohesion policy since 2000. The legislative package for the 2000-2006 period introduced a mandatory 'performance reserve' of 4% at OP level[1] for the very first time. The idea was that such a mandatory performance reserve would retain a share of allocated funding until a satisfactory performance was demonstrated based on indicators. The instrument did not meet expectations, as it placed emphasis on spending rather than on other dimensions of performance, and was therefore abandoned in the 2007-2013 period.

A major shift occurred in the 2014-2020 programme period. This was triggered by criticism of insufficient alignment between cohesion policy and the Lisbon strategy, by

1 See Article 7(5) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01999R1260-20050222.

mixed evidence of achievements in previous periods, and by the financial crisis of 2008. In 2009, the European Commission asked Fabrizio Barca, the former Director-General of Italy's Ministry of the Economy, to prepare an independent assessment of the EU's cohesion policy and to submit proposals for reform for the post-2013 period. The Barca report concluded that '*orienting grants to results*' should be a reform priority, and suggested, among other things, that objectives and results should be clearly identified. The report recommended creating adequate incentives to link financing to verifiable results. The Commission further expanded these considerations in its budget review of 2010 and the new 10-year Europe 2020 strategy for smart, sustainable and inclusive growth.

The 2014-2020 legislative framework required Member States to set up a performance framework and identify objectives and indicators for output and results. In addition, the following specific instruments were introduced to provide Member States with financial incentives, and to optimise their use of EU funding:

- *ex ante* conditionalities (EACs);
- a performance reserve; and
- performance-based funding, in particular Financing Not Linked to Costs (FNLTC).

All except the performance reserve were retained in the 2021-2027 programme period, as shown in **Table 1** below.

Table 1 – Performance incentivisation in cohesion policy

	Programme period			
	2000-2006	2007-2013	2014-2020	2021-2027
Mechanisms to incentivise performance in the Cohesion Policy				
Need to fulfill certain strategic/regulatory conditions (EACs/enabling conditions)			✓	✓
Mandatory performance reserve	✓		✓	
Direct performance budgeting, JAPs and FNLTC (optional)			✓	✓
Performance measurment framework				
Output indicators (programme-specific)		✓	✓	✓
Output indicators (common for the ERDF/CF/ESF)			✓	✓
Result indicators (programme-specific)		✓	✓	✓
Result indicators (common for the ERDF/CF/ESF)			✓☒	✓
Harmonised definition of output and result indicators in the area of Cohesion				✓

✓☒ only for ESF

Carrots and sticks to incentivise better performance in 2014-2020 cohesion policy

The three instruments examined all involve 'positive' financial incentives or rewards for meeting the required conditions and for satisfactory performance, but also the possibility of imposing financial sanctions in the form of payment suspensions, i.e. 'negative incentives', as described in **Table 2** below.

Table 2 – Performance incentives in 2014-2020 cohesion policy

Condition	Financial incentive	Negative consequence
***Ex ante* conditionalities** Regulatory, strategic and institutional conditions that Member States had to fulfil when adopting the Operational Programmes or by the end of 2016 (mandatory)	Access to funding	Suspension of payments
Performance reserve Milestones set in the programmes to be fulfilled by the end of 2018 (mandatory)	Release of performance reserve of 6% of Member States' allocation to cohesion policy funds (€20 billion)	Re-programming and re-allocation of the performance reserve to other priorities Payment suspension for significant under-performance
Performance-based funding (in particular FNLTC) Fulfilment of conditions set out in sector-specific rules or the achievement of results (optional)	Release of funding, based on conditions or results Flexible, can be used throughout the programme period No need to justify and examine the real costs (a lighter administrative burden for both beneficiaries and authorities)	No payments if conditions not fulfilled or results not achieved Conditions or results may be influenced by external factors, which makes them risky for beneficiaries

Auditing these instruments

The preparatory work for the audit published as ECA special report 24/2021 *Performance-based financing in Cohesion policy: worthy ambitions, but obstacles remained in the 2014-2020 period* started in April 2020, at a time when lockdowns and restrictions had just begun in the Member States. From mid-March 2020, the ECA introduced teleworking as a default working mode. While none of us had the slightest idea how long and how far-reaching the COVID-19 pandemic would be, we decided to adapt the audit to the new working conditions. Based on our previous audit work, and not least because of the Commission's significant progress in digitalising cohesion policy, we were relatively confident that we would be able to obtain the necessary audit evidence without on-the-spot visits.

We should probably also mention that we were lucky enough not to have to start this audit from scratch. Previous horizontal audits covered performance orientation in cohesion policy at different stages of the 2014-2020 programme period: ECA special report 2/2017 and ECA special report 15/2017, review 08/2019, and our annual reports for 2013 (chapter 10) and 2014 (chapter 3).

Our audit assessed whether:

- the performance-based instruments were well designed to incentivise performance and shift the focus towards achieving results;
- the Commission and the Member States used them effectively; and
- their use made a difference in the way cohesion funding was allocated and disbursed.

For this audit, we analysed data provided by the Commission and 14 operational programmes (OPs) from four Member States (Germany, Italy, Poland and Romania).

An attractive idea hampered by design flaws

Overall, we concluded that the Commission and Member States have been only partially successful in using the three instruments to make the financing of cohesion policy more performance-oriented. *Ex ante* conditionalities (EACs) were designed to set the conditions for effective spending, but their assessment was a one-off exercise without subsequent monitoring. The performance reserve was released almost exclusively on the basis of progress in spending and outputs. Financing not linked to costs (FNLTC) was hardly used.

These mixed results were largely the consequence of design weaknesses, in particular a lack of clarity about the rules. This led to difficulties in implementation and repeated revision of the rules throughout the programme period. These were less-than-ideal conditions for the uptake of new instruments. Performance-based funding is an attractive idea in principle, but it needs to be codified in the rules that apply to cohesion policy funds. Robust design is critical for the success of such instruments.

Working on this audit allowed us to develop five common non-exhaustive criteria that we consider critical to the effective functioning of incentives. For each of these criteria, we assessed the degree of fulfilment for the three instruments using qualitative scores: from 'low' (representing the poorest degree of fulfilment) to 'high' (representing the most satisfactory; see **Table 3** below). These scores are only proxies that allow for a simpler presentation of the findings from the report.

Table 3 – Qualitative assessment of the functioning of incentives

Criteria to strengthen incentives	EACs	Performance reserve	FNLTC
a. Predictability of rules (incl. audit arrangements)	Medium	Medium	Low
b. Clear assessment criteria known upfront	Medium	High	Medium
c. Reliability of data	Medium	Medium/High	Unknown
d. Credible enforcement	Low	Low	N/A
e. Result orientation	Low	Low	Medium

a. Predictability of rules, including audit arrangements

The stability of rules affects medium- and long-term planning. Modifying the initial rules should be possible to ensure flexibility, but without softening them to such an extent that it undermines their incentive effect; it should also be limited to exceptional cases. The basic rules for *EACs* were set out in the legislation, but the guidance clarifying how to assess progress was developed late, in parallel to programming. For the *performance reserve*, we pointed out that the Commission progressively modified the underlying rules, changing the conditions for assessment and adding flexibility for Member States. The first dedicated regulation specifying *FNLTC* for cohesion policy funds also left several key elements to the discretion of programme authorities, such as the amount of funding per unit of energy savings. Audit arrangements were also unclear. As programme authorities did not have experience of using this new instrument, and the Commission had not provided guidance or replicable examples, uptake was extremely low: only one pilot project was implemented in Austria by the end of the 2014-2020 period.

b. Assessment criteria should be clear and known upfront

What constitutes good performance should be agreed at the start of a programme period. Uncertain and ambiguous criteria may lead to inconsistent assessments that can transform into a box-ticking exercise. For *EACs,* we found that assessment criteria were broad, leaving considerable room for interpretation. There were no specific quantifiable targets even where such targets could be derived from EU legislation, and this led to instances of inconsistent assessment. Unlike in the 2000-2006 period when the criteria

for assessing performance were not set out in the OPs, the milestones for releasing the *performance reserve* in 2014-2020 were defined for each priority axis at the beginning of the period in the adopted OPs.

c.Performance data need to be reliable and comparable

The foundation of a performance-based system is the quality of underlying data. For *EAC*s, we found that Member States had no obligation to provide information to the Commission that would allow a systematic and consistent assessment. For the allocation of the *performance reserve*, we were able to confirm the reliability of 89% of the indicators we examined. At the same time, we found that data quality varied between programmes. We have not examined the quality of data reported for the pilot *FNLTC*.

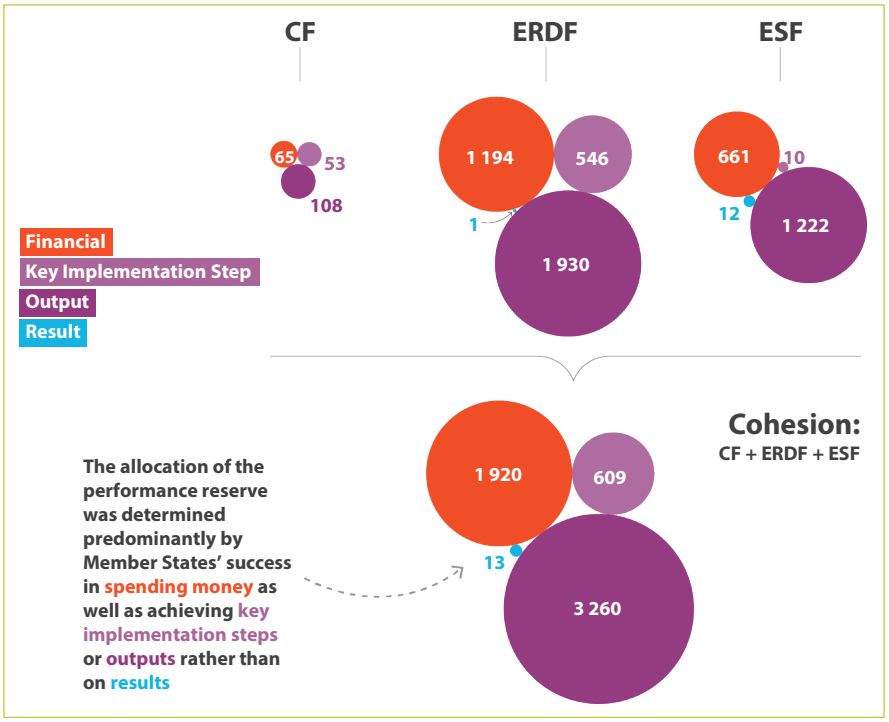
d. Enforcement should be credible

Changing the criteria that were initially set for the performance assessment, combined with sanctions that are unlikely to be applied, weaken the incentivising effect of performance-based instruments. The Commission had the power to suspend payments if Member States failed to fulfil relevant EACs, if it became aware of serious deficiencies in the quality and reliability of the monitoring system or of the data on indicators, or for 'serious failure' to achieve at least 65% of the milestone value by 2018. For *EACs*, the Commission did not suspend any payments upon OP adoption, and subsequently applied payment suspensions for two OPs that had not completed their action plans. In the other two possible scenarios, the Commission launched several pre-suspension procedures, but ultimately did not suspend any payments. We also concluded that out of the 5 802 indicators and related milestones used for the allocation of the *performance reserve*, Member States had modified more than half of them. Consequently, the Commission allocated 82% of the performance reserve, i.e. significantly more than the 56% of the reserve that would have been released if the indicators and milestones had not been amended.

e. Performance measurement should go beyond input and outputs (result orientation)

Pre-defining output and result indicators to measure the contribution to EU objectives and to serve as a basis for payment can be challenging, but allocating EU funds based on absorption and progress on implementation is difficult to justify. *EACs* aim to create favourable conditions for investments from cohesion policy funds that contribute to generating results, although there is no direct link between the fulfilment of EACs and results. For the *performance reserve*, we established that it was primarily released on the basis of Member States' success in spending cohesion policy funds and progress on implementation, as reflected by the delivery of key implementation steps and outputs rather than results (see **Figure 1**). For *FNLTC*, the dedicated regulation provided that funding be offered for results (kWh of energy savings or tonne of CO_2 emission reductions). However, in practice it may also be disbursed for interim procedural steps (such as project selection).

Figure 1 – Indicators used in the 2019 performance review per fund



What can we learn for the future?

With the introduction of performance-based funding instruments in the 2014-2020 period, the EU took a new path that shifted the focus from inputs to results in cohesion policy. The outcomes of these efforts were mixed. Nevertheless, performance-based funding has now become a dominant form of EU financing, as it is the default for the Recovery and Resilience Facility and is optional under cohesion policy. Our examination offers a number of useful lessons to strengthen these instruments in the future and make them more effective.

First, performance orientation needs to be more than just a concept. It requires careful preparation and operational models, including robust methods for estimating costs, and meaningful criteria for funding and for partial payments. It should not be forgotten that this innovative form of funding might not be suitable for all areas and investments. This is especially the case when there is a time lag between investment and the achievement of results, or when the delivery of results can be significantly influenced by external factors. Programme authorities or beneficiaries also bear higher financial risks, as payment is dependent on the delivery of results. Performance orientation also requires the selection of meaningful indicators that genuinely reward concrete achievements and ensure good value for money for the EU.

Second, control arrangements regarding compliance with internal market rules (public procurement and state aid) need to be clarified. While the control of performance-based instruments should be limited to the delivery of agreed conditions or results, national authorities must ensure that internal market rules are applied correctly. An alternative system of checks needs to be developed in order to guarantee this.

Third, for such instruments to be attractive, they need to offer a lighter administrative burden and simpler implementation. However, setting up performance-based instruments requires an initial investment in terms of administrative resources, and this should not be underestimated.

Overall, however, as already recognised by the OECD in 2017[2], cohesion policy compares favourably with most OECD countries where financial incentives are rarely used in practice. Its performance orientation has been gradually increasing from one programming period to the next, through innovation and experimenting with new elements, some of which were subsequently even mainstreamed in other areas of the EU budget. As the EU's external auditor, the ECA has contributed to and supported this development in the past, and we will undoubtedly continue to do so in the years to come.

2 In 2017, in the *OECD Journal on Budgeting*, the OECD published a review entitled 'Budgeting and performance in the European Union: A review in the context of EU budget focused on results' as part of a comparative review on incentivising performance in public investment policies delivered at national and subnational levels.

Anti-fraud set-up in the cohesion landscape

By Plamen Petrov, Chamber 2 - Investment for cohesion, growth and inclusion

Source: montree104/Depositphotos

Visible cohesion spending: from impressive road connections to underused ports.

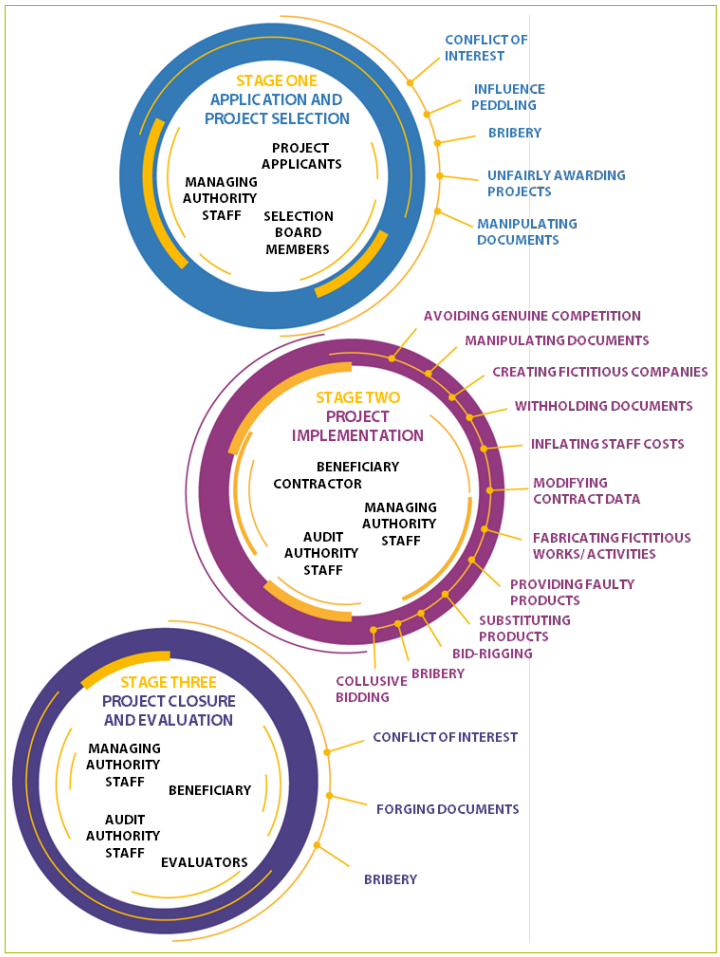
The EU institutions and Member States have an important role to play in the quest to optimise the protection of EU financial interests. This includes preventing, detecting and prosecuting possible cases of cohesion expenditure fraud. In 2019, the ECA published a dedicated report on how fraud was tackled in this policy area. Plamen Petrov, an ECA auditor and former fraud investigator at the European Anti-Fraud Office, looks at the risk of cohesion expenditure fraud and the main findings of the ECA's 2019 special report in this area. He also provides an overview of the key tools in the EU's anti-fraud toolbox. This is particularly relevant in view of the substantial increase in EU spending through the NextGenerationEu initiative and corresponding new implementation methods. Mr Petrov also identifies several risks that are relevant for public auditors.

Cohesion project stages, stakeholders and fraud risks

In the vast majority of cases, cohesion policy is delivered through projects selected, monitored and audited by Member State authorities. Traditionally, beneficiaries receive funding in the form of grants, which reimburse expenditure that is eligible under EU and national/regional rules. In recent years, other forms of support have become available with the increased prevalence of financial instruments and performance-based funding models. Nevertheless, the main phases of the supported projects are still the same – project application and selection, project implementation, and project evaluation and closure.

A comprehensive overview of fraud risks related to the different project phases, together with case studies, can be found in the OECD's 2019 study Fraud and corruption in European structural and investment funds. The study identified the key risks for the main phases of projects funded through cohesion and described the different stakeholders (see **Figure 1**).

Figure 1 - Cohesion project stages, stakeholders and fraud risks



Source: ECA, based on the model presented in the OECD's 2019 study Fraud and corruption in European structural and investment funds (see page 9).

According to this study, the conflict of interest between public officials, applicants and third parties could result in projects being unfairly awarded and could play a role during project implementation. Although the perpetrators may employ various schemes in later stages to conceal the original arrangement, the fraud attempt may be set up as early as the project application and selection phase. As auditors, we quite often come across incorrect information and falsified supporting documents provided in order to meet eligibility criteria. Bidders may bribe employees of contracting authorities to award them the contract. In addition, there are fraud risks as regards the (timely) delivery of the contracted goods and services, where poor quality or even failure to deliver might be concealed. Those in charge of confirming the receipt of goods or services might be bribed to confirm incorrect delivery information.

Project closure and evaluation bears fewer new fraud and corruption risks, but again, the contractors may submit forged or falsified documentation regarding the delivery of the contracted goods or services. At closure, auditors or evaluators might be bribed to confirm project implementation or delivery in accordance with contract terms and conditions, achievement of objectives or compliance with rules.

In general, any cohesion project (or indeed other project) could be susceptible to fraud, and the fraudsters could be active in each phase from project application and selection through implementation to evaluation and closure.

Encounter with a fraudster

During one mission in my previous life as an OLAF investigator, an official from the local authority approached me between meetings with the following comment: 'I'm still not sure why you are digging into one of our most successful projects. The beneficiary did a good job, the results are visible and the constructed facility is beautiful. The auditors also

checked the project last year and they were happy as well. Probably it is more expensive than similar ones in the area, but this is after all EU money for cohesion, its main purpose is to be spent'.

I was unable to share with the official that it was in fact those very same auditors who had sent the initial information about this project to OLAF. They did so without sharing with the auditee their suspicion that there might be a conflict of interests. It later turned out that about half the project budget was spent on 'consulting services' rendered by a close relative of the local mayor.

When I started at the ECA in October 2021, I was not only welcomed by my colleagues, but also by an avalanche of paperwork relevant to my new role. This included special report 6/2019 *'Tackling fraud in cohesion spending'*, and several internal documents concerning the ECA's handling of matters relating to fraud against the EU's financial interests. Mandatory material for any ECA auditor who wants to better understand the EU anti-fraud set-up. In early 2022, we consolidated the significant amount of knowledge the ECA has in this field. Beside a detailed analysis of the relevant landscape, we identified some areas for improvement.

Further improvements needed in fraud detection and response, together with increased coordination

In 2019, the ECA looked at what the institutions, authorities and bodies that spend EU cohesion funding were doing to mitigate the risk of fraud, and whether they had an appropriate fraud risk management process. This led to the above-mentioned ECA special report 6/2019. The audit assessed whether Member State managing authorities properly met their responsibilities at each stage of the anti-fraud management process. We evaluated whether they had developed anti-fraud policies, performed a thorough risk assessment and implemented adequate prevention and detection measures. We also assessed whether they properly responded to the cases of fraud detected, in coordination with other anti-fraud bodies. By surveying managing authorities, we identified the most common prevention and detection measures taken and their perceived effectiveness.

The ECA's overall conclusion was that, although there had been improvements in the way managing authorities identify fraud risks and design preventive measures, they still needed to improve fraud detection and response and increase coordination. In particular, we concluded that:

- managing authorities generally had no specific anti-fraud policy;
- their fraud risk assessments needed to be improved;
- proactive fraud detection was still weak; and
- there were considerable differences in Member States' fraud detection rates.

Furthermore, our audit showed that managing authorities underreported the fraud cases used for the European Commission's PIF reports (annual reports on the protection of the EU's financial interests) and failed to refer them to investigative and prosecution bodies. One factor facilitating fraud in cohesion was certainly the length of time usually taken to detect, report and penalise fraudulent actions.

EPPO as a new key player

When we ask ourselves what has changed since 2019, the most important new aspect that has surfaced is the new key player in this area, the European Public Prosecutor's Office (EPPO). The EPPO officially began operations on 1 June 2021, and in September 2021 signed a working arrangement with the ECA, setting out a structured framework for cooperation.

The EPPO operates on two levels:

- the central office at EU level, which supervises investigations and prosecutions in each participating EU country to ensure independence, effective coordination and a uniform approach; and

- a decentralised level consisting of European delegated prosecutors located in each participating EU country, who are responsible for carrying out investigations and prosecutions in that country, using national staff and generally applying national law.

Currently, 22 EU Member States participate in the EPPO following the enhanced cooperation method. So far, Hungary, Poland and Sweden have decided not to join the EPPO. Denmark and Ireland have an opt-out from the area of freedom, security and justice (AFSJ). Each of the 22 participating countries has a European Prosecutor based in the College of the EPPO in Luxembourg, which is chaired by the European Chief Prosecutor. Each participating country will also have at least two European Delegated Prosecutors (EDPs), who will conduct investigations in their home country (see also ECA Journal No 2/2019 *Fraud and Corruption – Ethics and Integrity*, page 65).

Despite delays in appointing delegated prosecutors in some Member States, the great majority have taken up their duties. Furthermore, EPPO press releases reveal that it has launched investigations in several Member States (Italy, Lithuania, Portugal, etc.). This information was also reflected in the EPPO's recently published first annual report. In this annual report, the EPPO gives an account of the first seven months of its operational activity. For the first time, statistics are shared on EPPO operations for each participating Member State, covering crime, seizures, number of indictments and other key figures. Beside the reported number of opened and ongoing cases (576 and 515, respectively), the EPPO reported one final court decision and one conviction. Some of the active cases were opened based on information provided by the ECA, either directly or through OLAF (for cases reported before 1 June 2021). For the next few months, the general expectation is that the EPPO will present some strong cases to the national courts in various Member States.

OLAF's role

The mission of the European Anti-Fraud Office – OLAF – is to protect EU revenue and expenditure. It does this by carrying out independent operations and investigations into irregularities, fraud and corruption involving EU funds, and making recommendations to the relevant EU and/or national authorities.

The EU legal framework highlights the administrative nature of OLAF's investigations. This means that they do not affect national or EPPO competence regarding the prosecution of criminal offences. Nor does OLAF have sanctioning powers; OLAF's investigations normally conclude with a report sent to the relevant authorities, which are not compelled to take any action. The report indicates the facts established and the precise allegations, as well as recommendations on the appropriate follow-up to be undertaken. At the same time, the EU legal framework provides that final OLAF reports constitute admissible evidence in administrative or judicial proceedings in the Member States, in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors.

The OLAF Regulation provides for the designation, in each Member State, of an anti-fraud coordination service (AFCOS) to facilitate cooperation and the exchange of information with OLAF. The rules state that the AFCOS should provide any assistance necessary for OLAF to carry out its investigations in the Member States, either directly or through coordination with other services. The AFCOS can support OLAF in external and internal investigations, as well as in coordination cases.

OLAF and EPPO cooperate in new institutional setting

Following the creation of the EPPO, in most Member States, OLAF will focus more on irregularities while the EPPO will take the lead on cases of suspected fraud and corruption. For non-EPPO countries (Hungary, Poland, Denmark, Ireland and Sweden), OLAF is still *the* competent EU body for investigating criminal matters linked to EU funding.

Taken together, the OLAF Regulation and the EPPO Regulation establish that:

- OLAF must report without delay to the EPPO any suspected criminal offence it comes across that falls within the remit of the prosecutor's office;

- OLAF will not open an investigation if the EPPO is conducting its own investigation into the same facts;
- OLAF will inform the EPPO when it considers that it should open an investigation complementary to an EPPO investigation already underway;
- the EPPO can reject calls for a complementary OLAF investigation, or specific measures within that investigation, if it considers them a risk to its own investigations;
- any complementary investigation by OLAF must be carried out in close cooperation with the EPPO; and
- constant exchanges of information and operational contacts will enable OLAF and the EPPO to avoid duplication while allowing full complementarity of their work.

Recently, the EPPO and OLAF have reported effective cooperation, as confirmed by successful joint operations. So far, it appears that the doubts expressed by some external observers regarding the potential for competition and even clashes due to overlapping competences have not materialised.

Other instruments in the EU' anti-fraud toolbox

ARACHNE

ARACHNE is an integrated IT tool for data mining and risk scoring, developed by the European Commission. The Commission Directorates-General DG Regio and DG EMPL consider it a key fraud prevention tool in the area of cohesion. The tool can help Member State authorities identify the riskiest projects and beneficiaries during ex-ante and ex-post checks. Member States use ARACHNE on a voluntary basis, and some more hesitant countries continue to rely on their own national systems (see page 136). At the same time, many of the Member States' Recovery and Resilience Plans state that they will use ARACHNE for verifications during the selection of operations and for financial management and control of beneficiaries under the Recovery and Resilience Facility (RRF). More consistent use of ARACHNE by a larger number of Member States will certainly lead to more comprehensive information, further increasing future quality.

IMS

To make it easier to report irregularities, the Commission has developed a dedicated electronic Irregularity Management System (IMS) and made it available to Member States and other beneficiary countries. The IMS is operated by OLAF under the Anti-Fraud Information System (AFIS) and is used by 35 countries. The old Common Provisions Regulation (CPR) from 2013 already required Member States to use the IMS to notify the Commission of irregularities exceeding €10 000 that caused them to suspect or establish fraud.

However, in ECA special report 6/2019, we established significant differences in the extent to which Member States actually used the IMS to notify the Commission. We concluded that the fraud detection rates published by the Commission were actually fraud reporting rates and that some countries did not adequately report irregularities, including suspicions of fraud.

The new Common Provisions Regulation contains more specific, detailed rules on when and how to encode suspected cases of fraud. The IMS is therefore a good starting point for looking up information on reported cases of suspected fraud, but it remains to be seen whether it will better serve its purpose in the future. The same is true of ARACHNE.

EDES

In addition, there is another potentially interesting tool, which unfortunately cannot currently be used in the domain of EU cohesion. This is the Early Detection and Exclusion System (EDES). The purpose of the system is to protect the Union's financial interests against unreliable persons and entities that are applying for EU funds or have concluded

legal commitments with the Commission or other EU institutions, bodies, offices or agencies. It replaced the Early Warning System and the Central Exclusion Database as of 1 January 2016. The EDES rules can be found in the Financial Regulation. Apparently, the Commission is also considering using the EDES in the area of cohesion in the future.

Annual overview of measures taken - the PIF report

The significant differences in the extent to which Member States notify the Commission through the IMS are still present, and there have been no major changes since the publication of ECA special report 6/2019. These differences still need to be considered when reading the Commission's annual PIF reports. These annual reports present the measures taken by the Commission and Member States to protect the EU budget and to counter fraud and other illegal activities affecting EU financial interests. For shared management, the Commission draws up this report based on the information reported by Member States through the IMS.

In recent PIF reports, the incidence of suspected and established fraud reported for EU cohesion policy is much higher than in other areas. The latest PIF report (2020) discloses that almost 90 % (€222,4 million) of all expenditure reported in relation to fraudulent irregularities concerns cohesion policy. Over €150 million (67 %) in irregularities was reported by Romania alone. At the same time, eight Member States (Denmark, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Austria and Finland) reported zero irregularities in the same domain.

According to the PIF report, cohesion projects in the fields of research and technological development, innovation and entrepreneurship were those most frequently affected by reported fraudulent and non-fraudulent irregularities. EU Member States are reporting an increasing number of fraudulent irregularities related to measures to improve employability. In addition, fraudulent irregularities concerning infrastructure intended to provide basic services to Europeans (such as energy, environment, transport and ICT) and social, health and education infrastructure are increasingly being reported. The highest financial amounts related to non-fraudulent irregularities are associated with infrastructure projects, in particular TEN-T motorways and roads (core network). In general, the high share of fraudulent irregularities reported in cohesion policy as compared to other policy areas might be explained by the fact that cohesion operations tend to be financially large and frequently involve public procurement.

The most frequently reported types of fraudulent irregularities for projects financed under the 2014-2020 programming period are incorrect, missing, false or falsified supporting documents, contract infringements, ineligible projects and/or expenditure and infringements of public procurement rules. Basically all irregularities we know very well from our compliance audit work for the ECA's annual statement of assurance. As auditors, we need to be mindful of the risk of fraud when we come across such irregularities.

The 2020 PIF report also refers to the significantly increased risk of fraud in the context of the COVID-19 pandemic. In response to the outbreak of the pandemic, EU institutions and Member States swiftly made the remaining 2014-2020 budget allocations available and allowed more flexibility and simplification in the application of financial rules for absorption. The €750 billion NextGenerationEu programme (NGEU), with the RFF as its main component, makes an unprecedented amount of funding available in addition to the new MFF 2021-2027 budget allocations.

More EU funds, other conditions, different fraud risks

In the years ahead, an historical amount of EU funding will be made available to Member States and beneficiaries. More money means increased opportunities for fraud. In addition, the NGEU programme will be implemented within a short timeframe and in parallel with the final 2014-2020 payments and new payments for 2021-2027. This will greatly attract fraudsters, be they individuals or networks of companies. The vast majority of the NGEU budget is implemented through the RRF, which helps to finance activities with similar objectives to the traditional cohesion policy programmes. At the same time, about a third of the EU 2014-2020 and EU 2021-2027 MFF is allocated to cohesion policy.

These increased amounts of funding over the coming years will place unprecedented pressure on the programme authorities implementing the funds. They will have to assess a greater volume of project applications and tender documents, information and declarations from applicants, contractors etc., which again increases the risk of fraud occurring undetected. The increased workload may lead to a reduction in the quantity or quality of controls overall. Not to mention the possible travel restrictions that might still become necessary, preventing on-the-spot project monitoring and examination.

In addition, there are new forms of funding. With the increasing use of simplified cost options and performance-based financing models, the risk of fraud and corruption now affects the actual implementation phase of actions. This must be considered in future audit approaches.

In conclusion: more funds available, through new instruments, to be spent (at least partially) within a shorter timeframe, with similar or only slightly more extensive administrative capacities. As the fraud risk increases, we will need to adapt our risk awareness and professionalism swiftly and continuously when dealing with suspected cases of fraud, in order to protect the EU's financial interests to the best of our abilities.

An auditor's perspective on rule of law conditionality

Max Gösswein, and Dieter Böckem, both from the investment for cohesion, growth and inclusion Directorate, and Marton Baranyi, Directorate of the Presidency.

Source: Garagestock/Depositphotos and European Court of Auditors.

Visible cohesion spending: from impressive road connections to underused ports.

A new Rule of Law Conditionality Regulation came into force in January 2021, and is applicable whenever breaches of the principles of the rule of law pose a potential risk to EU financial interests. The introduction of this new instrument to enforce the application of the rule of law means that the EU has created a new, legally binding link between the application of the principles of the rule of law, and the effective management of EU funds. The European Court of Auditors will ultimately need to reflect upon this for their audit work. Below, Dieter Böckem, Senior Administrator, Marton Baranyi, Institutional Relations Officer, and Max Gösswein, ECA trainee, analyse the conditionalities connected with the rule of law principle from an auditor's perspective, highlighting the relevant dimensions and various challenges related to the auditing thereof.

Conditionality in EU finances, the emergence of the rule of law conditionality

Conditionality is a long-standing governance tool, used in regulation as well as public revenue collection and spending. Its aim is to shape and influence various policy decisions and the behaviour of public and private stakeholders. Various types of conditionality already exist in EU policies, and they can be linked to different areas. In addition, EU finances are 'conditional' in the sense that all financial flows are subject to eligibility conditions. As the rule of law is one of the fundamental rights of the EU[1], its principles apply to all EU actions and finances. In addition, specific reference is made to the principle of the rule of law as a horizontal conditionality for the spending of the European Structural and Investment Funds (ESIF)[2] and the Resilience and Recovery Funds[3].

1 See Article 2 of the Treaty on European Union (TEU).
2 See Article 15.1 of Regulation (EU) 2021/1060 (Common Provision Regulation).
3 See Article 8 of Regulation (EU) 2021/241 (Recovery and Resilience Facility).

The conditionality introduced by the 'Rule of Law Conditionality Regulation'[4] applies whenever breaches of the principles of the rule of law pose a potential risk to EU financial interests. The novelty with this regulation is due to its applicability in the EU Member States themselves, thus complementing the existing mechanisms that are already in place to protect the rule of law in the EU. Examples include: temporary cooperation and verification mechanisms, preventive mechanism of the breach of values procedure – also known as Article 7 TEU, and infringement proceedings. Related to the existing procedures, the main feature is that based on this legal act, the Commission can act not only in response to specific irregularities, but also in the case of systemic rule of law deficiencies detected in the Member States. It therefore complements rather than replaces other existing instruments and processes that promote the rule of law.

As for the application of the new regulation, the Commission has been provided with a legal basis to carry out a thorough qualitative assessment of potential deficiencies as regards the rule of law in Member States, which must be objective, impartial and fair. In terms of auditing the rule of law conditionality, an important element is that EU action would only be applicable when there is a causal link between a breach of the rule of law and the sound financial management of the EU. The Commission published its guidelines on the application of the regulation at the beginning of March 2022[5], which provide more details about how it will assess possible breaches.

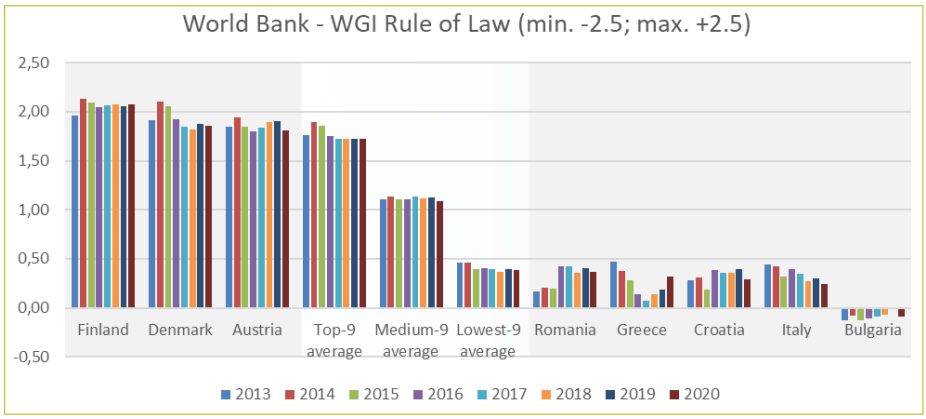
Existing international indicators for rule of law and corruption

One approach for an objective rule of law assessment may include considering existing international indicators, which are published by various organisations. Each of these indicators has a different methodology and may cover sources that other indices do not cover. Therefore, assessing a country's ranking within such an indicator may provide hints about the state of the rule of law or levels of corruption.

To assess the respect and application of the rule of law in a country, commonly used indicators include 'World Governance Indicators – Rule of Law' (published by the World Bank), the 'Rule of Law Index' (published by the World Justice Project), and the 'Freedom in the World Index – Rule of Law Sub-Index' (published by Freedom House). The 'Corruption Perception Index' (published by Transparency International) and the 'Control of Corruption Index' (published by the World Bank) could serve as independent measures to determine specific levels of corruption. For all of these indicators for 2013-2020, see below the highest, medium, and lowest country averages for the EU, as well as the three highest and the five lowest-ranking countries individually.

The World Bank's Rule of Law index (see **Figure 1)** assesses trust in societal rules, and the extent to which they are obeyed. Areas included are contractual enforcement, property rights, executive and legislative authorities, and overall criminal risks.

Figure 1 – EU extract of the World Bank Rule of Law index



Source: Data from Kaufmann et al. (2010)[6], own calculations and presentation.

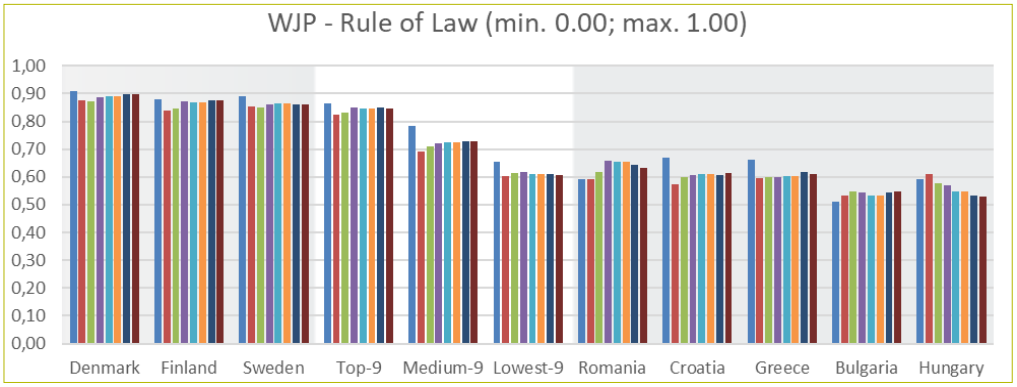
4 Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

5 Guidelines on the application of the Regulation (EU, EURATOM) 2020/2092 on a general regime of conditionality for the protection of the Union budget; C (2022) 1382 final.

6 Kaufmann D., Kraay A., & Mastruzzi M., *The worldwide governance indicators: Methodology and analytical issues*, (World Bank Working Paper 5430), 2010.

With the aim of providing an index based on its own first-hand data and surveys, the World Justice Project developed the 'Rule of Law Index' (see **Figure 2)**. A country's performance is measured by 44 indicators, covering a broad range of areas such as civil and criminal justice, fundamental rights, governmental power constraints, regulatory enforcement, or the absence of corruption. For the 2013-2020 period, the indicator did not assess Cyprus, Ireland, Latvia, Lithuania, Luxembourg, Malta, or Slovakia.

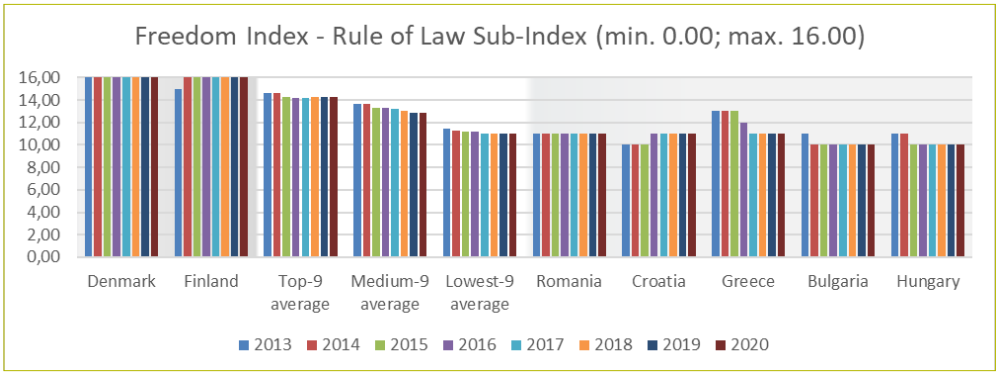
Figure 2 – EU extracts of the World Justice Project Rule of Law Index



Source: Data from World Justice Project (2021)[7], own calculations and presentation.

Produced as part of the 'Freedom in the World Index', the 'Rule of Law Sub-Index' (see **Figure 3**) assesses freedom in a country. The aspects considered in this sub-index are wide-ranging, from the independence of the judiciary, to due process in civil and criminal matters, protection from illegitimate use of force and war, and assessing whether the fair and just application of law is ensured for different population groups.

Figure 3 – EU extracts of the Freedom House Rule of Law Sub-Index



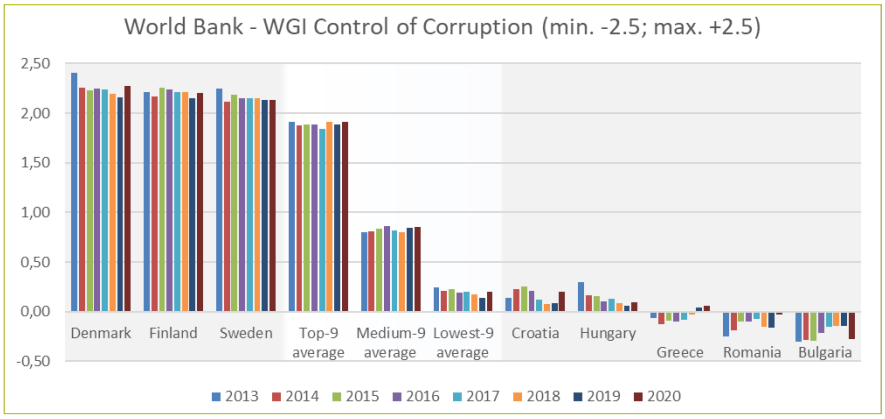
Source: data from Freedom House (2022)[8], own calculations and presentation.

In terms of corruption measures, the World Bank's 'Control of Corruption Index' (see **Figure 4**) aims to represent the extent to which public power is misused for any form of private gain, through combining several corruption indicators in a coherent way. These sources can be grouped into four types. To calculate the score, data from commercial business providers, non-governmental organisation data, and public organisation data, household and corporate surveys are taken into account.

7 World Justice Project (2021). *Rule of Law Index*. Retrieved from https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2021/current-historical-data.

8 Freedom House (2022). *Freedom in the World. All Data, FIW 2013-2022*. Retrieved from https://freedomhouse.org/report/freedom-world.

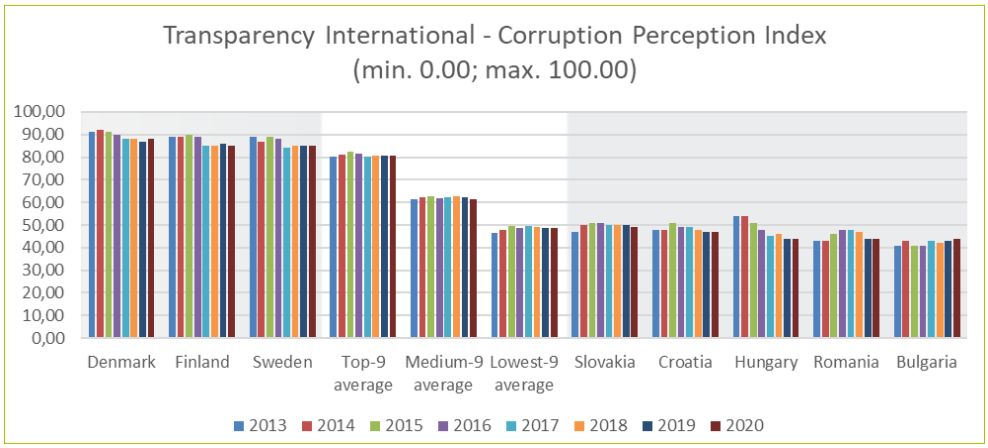
Figure 4 – EU extracts World Bank Control of Corruption Index



Source: Data from Kaufmann et al. (2010), own calculations and presentation.

The 'Corruption Perception Index' by Transparency International (see **Figure 5**) ranks countries based on how corrupt they are perceived to be. It is composed of various data from surveys and assessments from other institutions and experts.

Figure 5 – EU extracts of the Transparency International Corruption Perception Index



Source: Data from Transparency International (2021)[9], own calculations and presentation.

Data analysis shows that a certain number of similarities recur across the various indicators:

- The Member States ranked highest in one index tend to perform well in the others. Likewise, the lowest-ranked Member States' data display the same pattern.
- No single country is perfect. Even the leading Member States (e.g. Finland, Sweden, Denmark and Austria) seldom reach the highest possible score. This indicates that these Member States also face some (minor) deficiencies.
- The gap between the best and lowest performing Member States is very significant. For several indicators, the lowest performing countries sometimes only attain half of the EU-best scores.
- Rankings tend to be stable over time, usually with only minor fluctuations compared with previous years.

9 Transparency International, *Corruption Perception Index. Full Data Set*, 2021. Retrieved from https://www.transparency.org/en/cpi/2020.

Since the indicators described above are based on different methodologies and coverage, they can have certain drawbacks. For example, the Corruption Perception Index often faces criticism for not relating to the true, current level of corruption, since the index[10] only shows the perceived levels of corruption. Others argue that the state of rule of law assessments performed by experts outweigh the importance of the legal perspective and draw too little attention to the citizens[11] perspective. Essentially though, the rule of law discussion is a legal one.

A general disadvantage with the indicators is the time lag between the assessment phase and the date of publication; for some indices, this can take one to two years. Therefore, evaluating recent changes in an institutional setting can only be carried out ex post, and it is impossible to forecast.

Despite the disadvantages, one strong advantage of such indicators can be their political independence. The risk of creating a manipulated index is mitigated by consulting many different experts and sources. Furthermore, assigning values to qualitative aspects allows them to be analysed quantitatively.

The Commission has tackled the issue of providing country-specific analyses with the *Rule of Law Report*, which has been published annually since 2020. The input for these reports is provided by various stakeholders (national authorities, independent bodies, etc.), the reports are compiled, and then discussed with the Council, the European Parliament and the respective national parliament. Monitoring covers the following areas: legal system, anti-corruption framework, media pluralism, and other institutional affairs connected to checks and balances. The Commission can comment on reforms and structural institutional deficits by expressing 'concerns' or 'serious concerns', but of course also by highlighting positive aspects. In the Annual Rule of Law Report methodology, the Commission does not explicitly use quantitative, but rather qualitative assessment approaches[12].

Existing ECA audit experience in the field of conditionality and the rule of law

Given that conditionality has been an integral part of EU finances as an important governance tool, the ECA has substantial audit experience in terms of auditing conditionality in general, but also in auditing rule of law aspects, in particular in EU external policies. As previously highlighted, rule of law conditionality first appeared in EU external policies. In 2012, the ECA issued special report 18/12 on EU assistance on the rule of law related to Kosovo, assessing overall progress in different areas of the rule of law. The ECA's audit in 2015/16 on the Western Balkans (special report 21/2016) assessed several dimensions related to the rule of law (for example, effectiveness of pre-accession assistance in the fields of public administration and the rule of law). In the recent special report 23/2021 on Ukraine, the ECA assessed whether EU support in Ukraine was effective at fighting grand corruption. Furthermore, the second report on the Western Balkans (special report 01/2022) assessed whether EU support for the rule of law in the six Western Balkan countries who hope to join the EU has been effective.

Challenges for the ECA in auditing the rule of law conditionality

Auditing conditionality with regard to the rule of law will include several challenges. As illustrated by the indicators, while differences between Member States with regard to the principles of the rule of law are clearly visible and significant, all countries have some deficiencies. In addition to these general deficiencies for applying the principles of the rule of law, there is a direct and serious risk regarding the financial interests of the EU. Although some examples of breaches are mentioned in the Conditionality Regulation, specific conditions where one of these deficiencies is so serious that the financial interests of the EU are directly and seriously affected, are not expressly defined by the EU's legislative authorities. While the guidelines do provide further information,

10 Cieślik, A., & Goczek, Ł, Control of Corruption, International Investment, and Economic Growth – Evidence from Panel Data. *World Development, 103*, 323-335, 2018, doi: 10.1016/j.worlddev.2017.10.028.

11 Hertogh, Marc, Your rule of law is not mine: rethinking empirical approaches to EU rule of law promotion. *Asia Europe Journal, 14(1)*, 43-59, 2016, doi: 10.1007/s10308-015-0434-x.

12 European Commission: *European Rule of Law mechanism: Methodology for the preparation of the Annual Rule of Law Report.*

the ECA may need to determine whether the Commission has assessed the situation in an objective, impartial and fair manner, as required by the guidelines themselves.

Following an evaluation as to whether a breach of the rule of law does seriously affect the EU's financial interests, the Commission's countermeasures should be proportionate. Aspects to consider might be whether the measures do indeed reduce the risks related to the financial interests of the EU, and whether they are able to help to remedy the breach of the rule of law as such. Other EU objectives and basic principles (e.g. human dignity, freedom and democracy) might also need to be taken into account when assessing the appropriateness of measures taken by the EU. The ECA has to ensure, as in the previous reports mentioned above, that for such highly sensitive topics, its assessment is based on clear and objective criteria. Therefore, any specific audit on the respect of the rule of law principle and its relation to the financial interests of the EU has to clearly define the audit criteria and ideally agree on them with the potential stakeholders. This will be a challenging task at the beginning of any audit in this area.

The ECA must check the legality of payments in view of the annual Statement of Assurance. In this respect, the impact of conditionalities related to rule of law principles in different areas still has to be assessed by the ECA.

Another challenge might be connected to implementing an ECA audit. The assessment and evaluation of rule of law deficiencies in any Member State might involve, for example, checking possible deficiencies in the legal systems of that Member State. It is not yet clear whether the ECA's mandate is sufficiently broad to carry out its own audits in areas where no EU funds are currently spent, but where the financial interests of the EU may potentially be affected.

The way forward - overview of planned ECA audit work on the rule of law

Since the rule of law is one of the EU's founding values, and the EU has given clear signals that its implementation is important for securing its financial interests, the ECA will have to deal with this issue of conditionality in the future. Indeed, it is already present in the ECA strategy (2021-2025), which explicitly refers to the rule of law as one of the areas on which to focus audit work. This is also due to the fact that the rule of law is an area of significant interest to the ECA's key stakeholders.

So far, the ECA's adopted work programme includes one rule of law-related task on the implementation of the rule of law conditionality in the area of cohesion, which is due to start in 2022. Nevertheless, taking into account both the importance of the rule of law principle and stakeholder expectations, it is possible that the ECA will assess various facets of the rule of law conditionality in the near future. Such audit tasks could take various forms for example, performance audits or reviews. They could also possibly cover the assessment of the coordination and division of responsibilities between the wide range of institutional stakeholders involved with the rule of law, or assess the effectiveness of EU funds for strengthening the rule of law. We anticipate decisions from the ECA in the future, in terms of the what, when, and how with regard to its audit activities addressing the rule of law conditionality.

Cohesion policy reflects what the EU is all about – and will remain for the ECA one of the most important areas to audit

Interview with Martin Weber, ECA Director

By Gaston Moonen

From right to left, Martin Weber interviewed by Gaston Moonen

The ECA's 'Investment for cohesion, growth and inclusion' audit directorate is the largest one in terms of staff. But why? Only because of the size of the cohesion policy budget, or does it also reflect the fact that auditing cohesion is particularly complex? For Martin Weber, who has already worked twice as an audit director in this area, what makes this field so interesting is not just the extent to which cohesion policy has evolved over time, but also the significant socio-economic impact of the various policies and measures that are financed with cohesion policy funds. At the same time, while cohesion policy has clearly helped convergence between Member States and regions since its inception in the 1980s, assessing its precise socio-economic impact remains a major methodological challenge. Meanwhile, Martin is as enthusiastic today as he was ten years ago about being responsible for auditing this ever-evolving policy area. Because, in his view, this policy is about the core purpose of the EU project: solidarity.

Cohesion: a multi-faceted concept

Martin Weber clearly knows the ins and outs of cohesion policy. He has been in charge of auditing cohesion policy twice in his career already: in 2014, Martin was appointed as a director for the first time, having previously worked as a head of unit in the same area; he then joined the field again in 2021. He believes that cohesion policy exemplifies what the EU stands for. 'Cohesion policy illustrates what the EU is all about: as it is stated at the very beginning of the Treaty, in Article 3, the Union is there to promote economic, social and territorial cohesion and solidarity among Member States'.

> *Cohesion policy illustrates what the EU is all about...*

In his view, the concept of cohesion can be looked at from different angles. 'One approach involves equality, i.e. striving for equal opportunities and equal treatment for all. Another way to understand cohesion is in terms of convergence and compensation. Rather than focusing on equal treatment, the focus is on equity, or a policy intervention which aims to achieve the same outcome. This may then require varying levels of support, based on differing needs, to achieve greater fairness in economic and social outcomes. A third way to see cohesion focuses on the need to go beyond compensation by reducing or eliminating structural barriers that are responsible for inequities'. Another idea that stands out for Martin is the need to make productive use of interdependencies between regions, places and social groups, by creating stronger and more resilient links and networks. But most importantly, he thinks the essential aspect is solidarity. 'This idea that we are all in this together: a union of Member States and regions is inscribed in the very DNA of cohesion policy'.

Another aspect of cohesion policy that Martin finds fascinating is that it never ends. 'Cohesion policy is here to stay, because we will never reach a perfect state of equality, equity and justice. To put more positively, we will forever remain united in diversity... '

> *Cohesion policy is here to stay, because we will never reach a perfect state of equality, equity and justice.*

Knowledge is the key to doing a proper job in auditing cohesion policy

According to Martin, auditors in his directorate need to be well equipped to do a proper job. 'First, they need to be familiar not only with the rather detailed EU legal framework and sectoral regulations, but also state aid and public procurement rules. They also need to know the legal and administrative characteristics of each of our Member States, and how those rules are applied by them'.

Even more important, however, is their interest and willingness to learn all the time. 'Our auditors often need to develop specialist knowledge in a very short time, because the range of topics we audit is so broad'. In this connection, he mentions his directorate's recent efforts to invest more in knowledge management. 'One of the initiatives we have recently started in our area is to set up a new knowledge-management system, which focuses on four main nodes, broadly corresponding to the policy objectives specified in the 2021-2027 Common Provision Regulations: *Competitiveness and innovation*, *Networks*, *People and living conditions*, and the transversal node of *Governance and audit*'.

A third challenge is the need for more data-driven audits and analysis of much larger data sets, comprising public and non-public data, such as traffic-flow data to assess the cost-effectiveness of a rail or road project. As an example, he cites the Bertelsmann study (see page 146) which attempted to combine different data sets. 'Currently, we do not have enough staff who are well trained in such audits'.

Lastly, as independent external auditors, Martin believes that his staff also need to think about the future of the policy, and not just look at how things were done in the past. He says: 'Not only think-tanks but also people in other institutions are thinking about how to improve policies further. We need to interact: to learn from them, and to share our findings more actively'. Last year, with this in mind, his directorate launched the 'Cohesion talk' series. 'Once a month, we invite external experts to exchange views with us on cohesion policy issues. This has proved to be a very stimulating forum for debate. Usually, around 60-80 auditors participate, and we have very active and thought-provoking exchanges'.

> *Not only think-tanks but also people in other institutions are thinking about how to improve policies further. We need to interact: to learn from them, and to share our findings more actively.*

Cohesion: more than a system of financial redistribution in a single market?

When asked about the need for cohesion policy, i.e. the European Regional and Development Fund (ERDF), the Cohesion Fund (CF) and the European Social Fund (ESF), Martin makes the link with the EU's single market. In part, he sees cohesion policy as a vehicle for financing investments and policies that support the effective functioning of the single market. However, he also agrees that there is a redistribution element. 'Cohesion policy also compensates for some of the negative economic effects that

the single market might have on certain regions. Clearly, this is one of the traditional justifications for the policy'.

This leads to one long-standing criticism: that cohesion policy is a rather complicated and costly system for re-distributing taxpayers' money from the economically strong to the economically weak. Martin is not convinced. First, he points out that cohesion policy has evolved from a purely regional policy to a much broader investment policy. 'Beyond this idea of redistribution and compensation, there are also – and increasingly so – other policy objectives that cohesion policy is supposed to finance. Just think of the competitiveness of our economies and industries. Or the Green Deal, and investments in climate-neutral technologies. Think of the support we want to provide to certain socially disadvantaged groups. Or the idea that the EU should play a role in supporting reforms in Member States, rather than just financing public investments'.

Another aspect is the rise of 'conditionalities' in cohesion policy. Nowadays, Member States have to fulfil an increasing number of conditions to receive cohesion policy money. 'These EU requirements are meant to support and help Member States in making sure that the money actually gets to where it is politically intended to go'. He believes that this creates positive spill-over effects in the management of national public finances, because EU requirements are often more demanding than those of Member States. He explains: 'With a simple budget support mechanism, you would not see such effects'. Lastly, Martin believes that a budget transfer system between regions – as it exists in most nation states – is simply not a politically viable option in the EU. 'We do not yet have the necessary level of trust between Member States; the so-called 'net payers' therefore have a tendency to request additional safeguards to ensure that their taxpayers' money is properly invested'. In Martin's view, this also explains some of the complexities and red tape in cohesion policy.

> *These EU requirements are meant to support and help Member States in making sure that the money actually gets to where it is politically intended to go. (…) With a simple budget support mechanism, you would not see such effects.*

Martin clearly has doubts that the cohesion policy we have nowadays would exist if EU policies were designed from scratch. 'This is a policy that has evolved over many cycles, and so changes were built in gradually, and were often added on rather than replacing something else'.

Critical yet constructive audit reports aiming for further improvements

The ECA is known for issuing critical audit reports on different aspects of cohesion policy. For Martin, this comes with the job. 'Our role as the EU's independent external auditor is to assess EU policies and spending with a critical eye. Our audit reports are not meant to be flattering'. He goes on to explain that with a focus on risks, there is an almost natural tendency to identify weaknesses and shortcomings. 'But we want to do this in a constructive manner, and we want to help the system to improve and to operate better. This is not criticising a policy as such'.

Martin identifies three key factors that may hamper the successful implementation of cohesion projects. 'Many of these investments work best when they are embedded in a meaningful territorial strategy and linked to others. Often, these strategies are not sufficiently robust. Moreover, planning connected projects is a particular challenge, in particular across borders'. As examples, he cites EU-funded seaports and their missing connections with hinterlands, and the building of regional airports with excess capacity that compete with other EU-funded airports in relatively close proximity.

Another factor he mentions is size. 'In Europe, we are not very good at deriving maximum benefit from economies of scale. If you think of distance-learning equipment and applications, everybody develops their own distance learning, and this is very often EU-funded. Meanwhile, such tools already exist on the market'. The same is true of procurement, where he believes that the joint procurement of COVID-19 vaccines was a highly successful EU initiative. 'But this is not sufficiently acknowledged'.

A third challenge is the tendency to spend large amounts of money on 'lighthouse' projects, i.e. spending too much money on a particularly visible project, rather than looking at how you could reach the outcome in the most economical way. He gives

an example 'We have already audited the Brenner base tunnel linking Austria and Italy, but more broadly northern and southern Europe, several times. Without any doubt, this cross-border megaproject is an essential link on one of the most congested routes of the trans-European rail network. However, without the feeding lines in Germany and Italy that still need to be built, we will not see a significant increase in traffic on this line'.

And of course, he mentions the issue of cost overruns that bedevil almost all public investment projects, whether EU-funded or not. 'Interestingly, we have recently carried out a benchmarking study which showed that EU projects are not necessarily more exposed to running over budget than similar projects in the USA, Canada or Australia'.

> *... we have recently carried out a benchmarking study which showed that EU projects are not necessarily more exposed to running over budget than similar projects in the USA, Canada or Australia.*

Ineligible projects or costs, and non-compliance with public procurement or state aid rules, are the main types of irregularities in cohesion policy

Cohesion policy has traditionally been one area of the EU budget where the ECA finds the most irregularities. Ineligible projects or costs, and non-compliance with public procurement or state aid rules, are the main types of irregularities in cohesion policy. 'However, this does not necessarily mean that the money has been wasted, nor does it mean that it has been embezzled. What our audits show is that there is an issue where compliance with rules is concerned. And there are different factors contributing to that'. Meanwhile, he emphasises the need to differentiate, as not all programmes are affected by irregularities to the same extent. 'In fact, when you look at the 2014-2020 period as a whole, our audits have shown that more than 40% of all the programmes we have audited were not affected by a material level of error'.

Moreover, since 2007, the level of irregularities has fallen substantially. Martin believes that this is at least partly due to the work of audit authorities in the Member States. 'In each Member State and for each programme, these audit authorities carry out sample-based checks of the expenditure declarations submitted by managing authorities. Obviously, this comes at an additional cost. But from an audit point of view, it gives the Commission additional assurance about the regularity of the spending'.

The RRF – a new instrument in parallel with cohesion

Martin and his colleagues in the directorate also observe very closely how the Recovery and Resilience Facility (RRF) works in practice. There may be differences between the RRF and cohesion policy, but there are also many similarities. 'Interestingly, in the budget system it goes together with cohesion. If you look at the investment areas where financing takes place, they largely overlap. The main difference is that the RRF can also finance reforms in the Member States'.

> *Interestingly, in the budget system it [RRF] goes together with cohesion. If you look at the investment areas where financing takes place, they largely overlap.*

He continues: 'We are at a very interesting moment in time, because with the RRF there is a new investment initiative with an equally large amount of money, maybe even a little bit bigger, which will be distributed according to different rules and with slightly different objectives, but for very similar areas of investment. In the coming years, the Commission and the Member States will operate the RRF and cohesion policy largely in parallel. This will be a fascinating opportunity to learn whether a different model for spending money can be more effective and more efficient'.

When it comes to the cost of operating the RRF, Martin is convinced that this will be significantly lower than for cohesion policy programmes. 'There are fewer controls built in. It is also true that everything is programmed in considerable detail, so there may be a higher ex-ante effort'. However, he thinks that once everything is set out in the national recovery and resilience plans, the execution itself will be rather straightforward. 'This means that both the Commission and the Member States are likely to need fewer resources per euro spent to run this initiative'.

Martin's audit directorate is currently carrying out a comparative analysis of cohesion policy and the RRF. 'Right now, we are actually carry out a review to analyse the risks and opportunities of coordinating the European Structural and Investment Funds and the

RRF in relation to the funding of public investments. We hope to publish our review in the second half of this year'.

For Martin, the RRF offers a sort of a real-life counterfactual that will help to identify the advantages and shortcomings of the different deployment mechanisms more clearly. 'As far as I am aware, this is – at least in Europe – the first time that we have had a situation where two competing models for spending public money are being run in parallel'.

> *… the first time that we have had a situation where two competing models for spending public money are being run in parallel.*

The RRF is the EU's first performance-based budget

Martin particularly emphasises the performance orientation of the RRF, which is really built into the programme's design from the beginning. 'The objectives of the national plans are specified in terms of milestones and targets, and these are followed up and reported on, so you can easily monitor the performance aspects of the initiative'. However, Martin believes that this will not necessarily make it easier to assess the overall impact of the RRF, also because of the very significant (and cross-national) multiplier effects of such programmes.

At the same time, Martin also observes that the ratio between the results achieved and the financial input made by the EU will be difficult to establish, even for auditors. 'When you talk about the RRF, there is no clear or direct link between performance aspects and the costs of the actual reforms or investments implemented on the ground. In other words, you simply cannot know – even ex-post – how much this or that element has cost. You only know whether the milestones and targets that were agreed have actually been achieved or not. You can then discuss to what extent they were fully met, fully achieved or only partially achieved. But there is, I think, a built-in *impossibility* of linking it to any costs'. In cohesion policy, by comparison, the situation is different. 'For most forms of cohesion policy financing, the link between the costs and the outputs of investments is clear. What is more difficult to monitor is whether the financed measures have actually achieved the impacts that were intended. Combining the two – I must admit – is not often that simple'.

> *[on the RRF] … there is, I think, a built-in impossibility of linking it to any costs.*

Martin believes that the European Commission must be particularly vigilant in the early phases of RRF implementation. 'The difficulty with the RRF is that you must be extremely diligent and careful when you are negotiating and agreeing on the programme. You must make a sort of ex-ante assessment of whether these milestones and targets are worth the money that you are contributing. It really matters how well you negotiate the programme to get the best value for your money'. But the Commission has only very limited time and resources to devote to this negotiation.

He also thinks that the RRF requires a change of mind-set for all parties involved in EU budgetary management, whether at the Commission, the European Parliament, the Council or the European Court of Auditors. 'We need to realise that this RRF design is revolutionary. It is a completely different way of spending public money. It is really a performance-based budget. It ticks all the boxes of the OECD classification'.

> *We need to realise that this RRF design is revolutionary. It is a completely different way of spending public money. It is really a performance-based budget.*

When it comes to parliamentary scrutiny, Martin can see real benefits in this new way of spending public money. 'If you are an MEP, this approach allows you to see immediately which outputs and results you are getting for the money that has been spent. You can negotiate specific milestones and targets, and monitor whether Member States have achieved them. For many politicians, but also for the Commission, this may look like a very attractive situation because you can be much more specific about what you are requesting, and what you might or might not get'.

This new budgetary system also has implications about how to deal with fraud and corruption. 'The issue of misuse of public money, and what Member States do to prevent,

detect and mitigate the risks of fraud and corruption, is not off the table. The difference between the RRF and cohesion is the extent to which the Commission has an insight into how the money has been spent on the ground. There is obviously a big difference'. As regards cohesion policy, Martin concludes that the Commission has full supervision powers and responsibility, together with the Member States. For RRF expenditure, however, the Commission mainly intervenes in cases of suspicion, because Member States are in charge of implementing the national recovery and resilience programmes.

Absorbing funds may not have necessarily become more difficult, despite a significant increase in EU spending

One of the issues the ECA has reported on for several years now is absorption problems and delays in policy implementation. In several causes, according to Martin. 'This might indicate administrative difficulties, or problems in planning or implementing investment projects. But absorption can also be looked at as an indicator for high-quality spending. This is an issue we sometimes highlight, because when there is still a lot of money around, the temptation might be to use it for any reason, rather than lose it'.

At the same time, he does not believe that absorption will necessarily become a bigger problem now that we have the RRF. 'You may think so from an arithmetical point of view, because there is nearly twice as much money around. As Member States have not really increased their administrative capacity to implement this additional funding, this could mean that absorption will become more difficult'.

> *As Member States have not really increased their administrative capacity to implement this additional funding, this could mean that absorption will become more difficult.*

However, Martin puts this into perspective. 'First of all, a number of simplifications have recently been introduced, in response to the COVID-19 pandemic and Russia's invasion of Ukraine. In particular, the Commission has relaxed EU state-aid rules, so it has become much easier to spend the money. Second, the rate of inflation has increased considerably, which will reduce the risk of money not being absorbed, because you will simply spend more money on the same thing. Third, only a few Member States have made use of the RFF's loan components. This may change in the coming weeks, but a large part of the RRF budget has not yet been activated. Plus, we have some Member States that have not even submitted their plan (e.g. the Netherlands), or where the Commission is still assessing it (e.g. Hungary). This means that they may forgo some of the money from the start'. He also notes that for some Member States, the additional money will just be used to replace national recovery spending, e.g. in Germany and France, and so aggregate demand will not significantly increase.

He also points to the delays in launching the 2021-2027 cohesion policy programmes, and what this implies for absorption. 'So far, only a few partnership agreements have been adopted and hardly any programmes, and spending has not yet started even though we are already in 2022, meaning that there have been two years without spending'. Martin explains that the eligibility period for cohesion policy is much longer than for the RRF. For the RRF, it will end in 2026. Cohesion policy will run until 2029, i.e. 2027 plus two. 'What we might see is that, in view of the staggered programme periods, the Commission and Member States will look at how far they have come with the RRF and then continue with the cohesion policy programmes'. He adds, 'Of course, we have the n+3/n+2 rule in place, which imposes budgetary discipline on Member States. Nevertheless, in two or three years, we may see additional flexibility in budgetary plans, and a postponement of 2021-2027 cohesion spending towards the later years of the period. This may be a further way to deal with potential absorption problems'.

Overall, Martin does not believe that absorption might become a bigger problem than in previous periods. Nevertheless, he agrees that certain Member States – in particular those where the bulk of public investment is already EU-financed – may face problems. 'You have some Member States where EU funds before the COVID-19 pandemic already accounted for 80 %-90 % of public investment. For those Member States, you could indeed anticipate certain difficulties in absorbing all this additional money'.

RRF governance differs from that of cohesion policy

As for governance of the RRF, Martin points out that there is quite a difference with cohesion policy. 'The RRF is direct management, so Member States are fully in charge of managing RRF expenditure. Meanwhile, the Council – in other words, the Member States collectively – also plays a different role. The Commission assesses and negotiates the national recovery and resilience programmes, but, in order to be approved, they also need to obtain a positive opinion from the Council. This is also the case for disbursements'. Martin thinks that the Council's involvement in approving programmes is the counterweight to this 'extraordinary budgetary solidarity – 'which was put in place to mitigate the economic and social consequences of the COVID-19 pandemic'.

However, this new arrangement will bring new challenges further down the road. 'The Council may find itself in a rather sensitive position, because it will create a situation where disbursements to Member States – or rather the Commission's assessment of whether milestones and targets have been achieved fully, partially or not at all – are subject to the scrutiny of the others'. He does not expect that the Council would reject the Commission assessments, as this would require a two-thirds majority in the Council. However, the additional Council scrutiny may embolden the Commission to propose withholding parts of the payments if weaknesses are identified. 'It might actually strengthen the Commission's position, but it is too early to say yet'.

> *The Council may find itself in a rather sensitive position…*

Martin agrees that the creation of EU debt financing is another game changer. 'But the key question has been kicked down the road, i.e. how it will be paid back. But it will clearly increase the pressure for a more fundamental reform of the EU and its financing'.

> *… the key question has been kicked down the road, i.e. how it [EU loans] will be paid back.*

The new 'rule of law' conditionality matters, both for cohesion policy and for the RRF

In January 2021, the new 'rule of law' conditionality came into force, and this is already showing its effects on the EU's financial management. 'The Commission has now initiated this procedure for the first time, against Hungary'. By doing so, the Commission publicly states that it believes it can no longer assume that the Hungarian authorities can ensure that all EU spending is legal and regular. 'Which is clearly a worrying signal for EU finances'.

Martin believes that only time will tell how this new conditionality will be implemented in practice. 'It is a process that will take several years, and, in all likelihood, will end up at the European Court of Justice'. In the meantime, the ECA will need to take account of the fact that the Commission has triggered this conditionality. 'Because if the Commission, as the manager of EU funds, already states that there are concerns about the regularity of spending in a specific Member State, then we clearly cannot ignore that in our audits'.

> *[regarding the rule of law] … if the Commission, as the manager of EU funds, already states that there are concerns about the regularity of spending in a specific Member State, then we clearly cannot ignore that in our audits.*

At the same time, he believes there is only so much the ECA can do. 'There are certain things that go beyond our remit, and where we do not necessarily have the requisite technical expertise. But what we can do is consider how the Commission has assessed the situation in the different Member States, and whether that assessment was fair and based on robust criteria'. He sees an analogy here with the ECA's work on the Stability and Growth Pact, or the European Semester.

For Martin, this additional condition to protect the EU's financial interests may inadvertently matter even more for the RRF than for the traditional spending programmes. 'Concerns about the rule of law have certainly meant that the national recovery and resilience programme for Hungary has not yet been approved. In any case, one would expect that the Commission could only assess them positively if they were to include appropriate milestones and targets that would ensure that the EU's financial interests are well protected'.

More socio-economic convergence in the EU because of cohesion policy?

One of the big questions, also from an auditor's perspective, is whether cohesion policy is successful as an engine for convergence. 'I would say that up to the 2008 financial crisis, there clearly was convergence. Since then, we may have witnessed a levelling-off and even a partial reversal of the trend, in the form of increasing divergence between urban and rural areas. At least this is what the data recently published by the Commission in its 8th Cohesion Report show. In the coming years, we will also have to see what effects the last two crises – the COVID-19 pandemic and Russia's invasion of Ukraine – will have had on the socio-economic development of the various regions of the EU and its Member States'.

Overall, however, Martin thinks that cohesion policy has made a very positive contribution. 'It is difficult to imagine where the EU would be without cohesion policy. And whether it could have withstood all these crises without it. In the end, the financial support provided through cohesion policy is the most concrete expression of solidarity between Member States. Quite simply, we are better off together'.

> *It is difficult to imagine where the EU would be without cohesion policy.*

Auditing COVID-19 recovery and resilience plans: some initial experiences and findings relating to Flanders

By Bart Andriessens and Vital Put, Belgian Court of Audit

Source: Belgian Court of Audit.

Auditing the Flemish Resilience Plan: the first experiences of an ongoing journey.

Member States' National Recovery and Resilience Plans (NRRPs) have now been designed, submitted and approved, and the first steps have been taken to implement them. This has extended the domain public auditors have to cover, not only in terms of size but also in terms of the new disbursement criteria for EU funds, under which achieving milestones and targets is fundamental. This has not been left solely to their own initiative: striving for maximum transparency under such a new instrument, the Flemish parliament has requested the Belgian Court of Audit to regularly assess the quality of reporting on the implementation of the Flemish Resilience Plan. The Plan includes some projects that also form part of the Belgian NRRP. Vital Put is a councillor and a member of the Dutch-speaking chamber of the Belgian Court of Audit, while Bart Andriessens is a senior auditor supervisor in the same institution. Below, they explain the first auditing initiatives taken by their Court of Audit in terms to help maximise accountability under the Flemish Resilience Plan, describing both the audit approach used and initial discussions following public scrutiny of the audit results.

Flemish Resilience Plan – more than just part of the National Plan

The COVID-19 pandemic has had a very profound impact on the economy and society in general. The Flemish government rapidly decided to launch a major plan for recovery and resilience. Two advisory committees were created, both including experts and government officials: one for economic, and one for societal recovery and resilience. In addition, different stakeholders were consulted. Based on this input and on the Flemish coalition agreement, the *Flemish Resilience Plan* ('*Vlaamse Veerkracht*'), comprising 180 projects, was drawn up. Of those 180 projects, 158 will be financed through an extra budget of €4.3 billion euros. These 158 projects include 55 that will receive grants from the European Recovery and Resilience Facility (RRF); the other 22 projects will be financed through the standard annual budget.

Apart from this Flemish initiative, the Belgian government has submitted a National Recovery and Resilience Plan including 140 federal and regional projects to the European Commission. Belgium has a federal state structure, Flanders being one of the regional entities[1]. As Belgium has been promised €5.9 billion in grants from the EU, negotiations have been held between the federal and regional entities to divide the total grant. Flanders has been allocated €2.255 billion.

It is therefore important to emphasise that, as shown in **Figure 1** below, the Flemish Plan goes well beyond the projects included in the National Plan (only 55 of its 180 projects are RRF projects), but that those projects in turn only form part of the Belgian Recovery and Resilience Plan, which has a total of 140 projects.

Figure 1 – Two recovery plans with overlapping projects

Source: Belgian Court of Audit.

The Flemish government decided to aim for maximum transparency in the Resilience Plan and its execution, committing itself to three progress reports per year, made available on the government's website. These reports provide an insight into the Plan's overall implementation as well as a more detailed[2] overview of each project.

Two audits on recovery and resilience, but with a different scope

The Flemish parliament asked the Court of Audit[3] to evaluate the quality of the performance and financial information in these progress reports annually, thus resulting in a recurrent, annual audit. This audit examines overall progress in implementing the Flemish Resilience Plan and the specific progress made in the 74 projects with a budget of €20 million or more.

In order to adequately audit these progress reports, we needed to gain better insight into the Plan's governance, and monitoring systems and the project management for individual projects. Indeed, without good overall goals, project goals, and project milestones as well as good insight into all these elements, it is difficult to evaluate the quality of the reporting. To this end, we also performed a one-off audit. Whereas the recurrent annual audit concerns the quality of project progress reporting (indicators relating to project performance and financial progress), the one-off audit dealt with the quality of the Flemish Resilience Plan, the monitoring system, and project management. Both audits fall within the scope of our audit work on COVID-19[4].

1 The Belgian Court of Audit is competent for both federal and regional levels.
2 The last progress report (December 2021) was 703 pages long.
3 Parliaments can ask the Belgian Court of Audit to do an audit, but most audits are performed on our own initiative and are selected on the basis of a number of criteria such as risks, importance for society, and added value.
4 Other audits on COVID-19: *Support Measures for Businesses and Individuals during Coronavirus* (October 2021) - this was a 'transversal' or whole-government audit, examining federal and regional levels of government and paying attention to coordination between these levels of government; and *COVID-19 and continuity of the federal public service – Implementation of staff measures* (January 2022).

When planning both audits, we frequently consulted other European Supreme Audit Institutions (SAIs), including the ECA, about the audit approach. Such consultation took place in the context of RRF-related SAI cooperation at auditor/working-group level. This is an informal and light form of cooperation that offers the added value of international cooperation (such as peer learning) without the cost and administrative burden of more formal types of cooperation. These exchanges were particularly helpful in planning the audit work.

Main audit findings relate to framework, monitoring and project management

Our main findings from both audits are:

Policy framework and governance

The Flemish Resilience Plan sets out seven objectives, but we found them to be vaguely worded, while the underlying analysis of the economic and societal challenges was not explicit. The overarching vision can only be derived from reading the Plan and the Flemish Coalition Agreement, including the advice on which the plan is based, together. The choice to include many projects, rather than taking a more focused approach, was not substantiated. The government only stated that this approach allowed it to cover all aspects of the economy and society.

It is unclear how the budget was distributed among the seven objectives and their projects. While a task force supervises the Plan's implementation, we observed little steering of the Plan as a whole, as steering is mainly done at project level. We found that the diversity and the high number of projects complicate overall steering. Management of risks to the Plan's implementation (e.g. developments in society, financial risks) is also generally lacking.

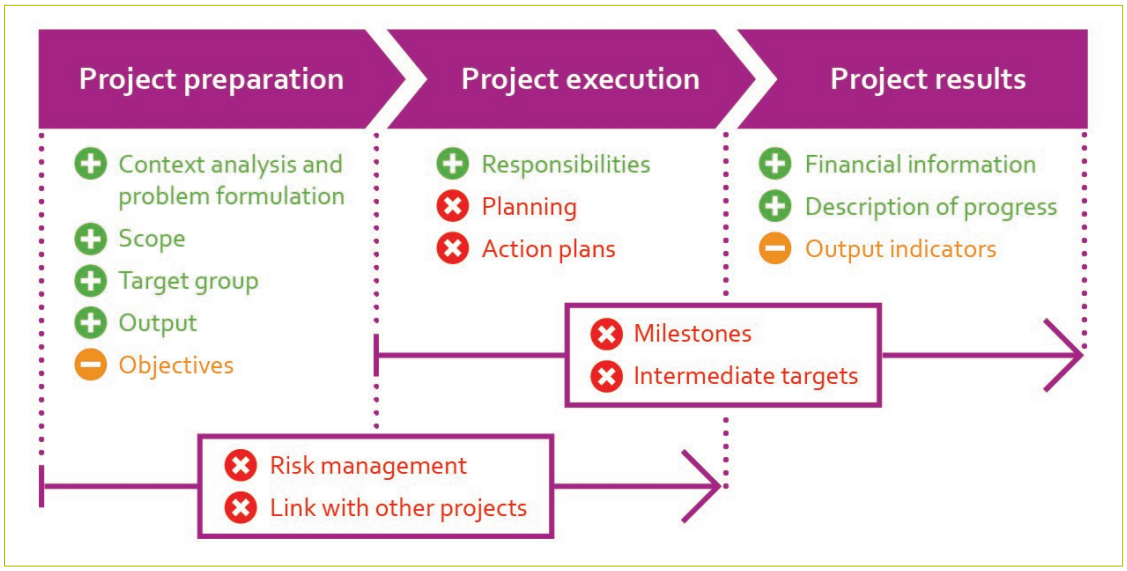
Monitoring system

The numerous administrations involved are responsible for monitoring and reporting on their projects. To this end, the Chancellery has developed a high-performance online reporting tool, which functions as a source database for all project information. The Chancellery also monitors the quality of the data entered. Quarterly progress reports are produced in several stages and provide an overview of the Plan's overall implementation and the progress of each project.

Project management and progress information

We assessed the selected 74 projects on a number of key elements for good project management and high-quality reporting to Parliament. **Figure 2** below shows the conclusion for each of the key elements for project management. Elements shown in green are clearly defined, while elements in orange and red could be improved.

Figure 2 – Main findings by project stage



Source: Belgian Court of Audit.

For most projects, the scope, target group, responsibilities and desired output were clearly defined. In terms of objectives, output indicators, milestones, intermediate targets, project risks, planning, action plans, and making explicit links with other projects, there was still room for improvement. The Court of Audit established, however, that the Flemish government is gradually trying to remedy these shortcomings and has already taken steps in the right direction. We concluded that the facts and (financial) figures were rather qualitative in nature, but that the reported status of projects was more difficult to evaluate due to persistent shortcomings in project management.

Reports were well discussed, before and after publication

Having completed the audit work, we sent our two draft reports to the government and all audited entities for their comments. For each of the reports, we had a video meeting with representatives of the audited entities to facilitate the adversarial procedure. We asked for a coordinated reply from the auditees on the facts and figures, and an overall high-level government reply in writing. Despite the numerous entities involved in the audit, the Flemish government managed to provide a coordinated reply to both audit reports within a short time. The replies were quite positive, although the government also made some critical comments, e.g. that we did not sufficiently take into account the extraordinary circumstances in which the Plan had been drawn up and implemented, such as the need for quick action, uncertainty about the pandemic's evolution, and the high workload in the various administrations. The replies and comments received led to some changes in the final reports.

The reports were published on our website on 17 March 2022. Media coverage on 17-18 March was rather limited and mostly based on a press release issued by the Belgian News Agency *Belga*. It focused on the budgetary aspects, namely that the Plan could cost more than originally estimated.

On 22 March, the Flemish Prime Minister and the Minister of Finances presented their latest progress report to the Flemish Parliament. They also announced some new aspects, namely:

- all reporting data will be made available as open data on the government's website;
- further investments will be made to improve the quality of the indicators;
- a clearer narrative will make the connection between the projects more explicit.

We then presented the results of both audits and answered some technical questions from Members of Parliament, who addressed most of their more general questions to the government. It was an interesting and stimulating parliamentary debate, during which the added value of the audit work for better governance and monitoring of the Plan was recognised (see below). The day following the debate in Parliament, there was another newspaper article that also focused on the progress of the projects and mainly expressed the position of the Green party.

Audit criteria and audit methods are most relevant

Scoring the 74 projects based on the various criteria proved to be a methodological challenge. Firstly, it required a substantive knowledge of the policy domain in which the projects are carried out. Moreover, assessing the quality of objectives, milestones, indicators etc. is subjective to a certain extent. We asked our auditors who monitor each specific policy area to provide a score for the projects in their policy domain. In order to ensure uniformity, we produced guidelines including all questions to be answered. Based on these guidelines, the audit team then reviewed the scores and assessed the answers again, adjusting them where appropriate.

At this early stage in the Plan's implementation, our audits have not yet focused on the *raison d'être* of the Recovery and Resilience Plan – the achievement of its goals. They have largely been systemic audits, in which we paid attention to conditions that are important for achieving these goals, such as clear objectives, evidence-based policy, and

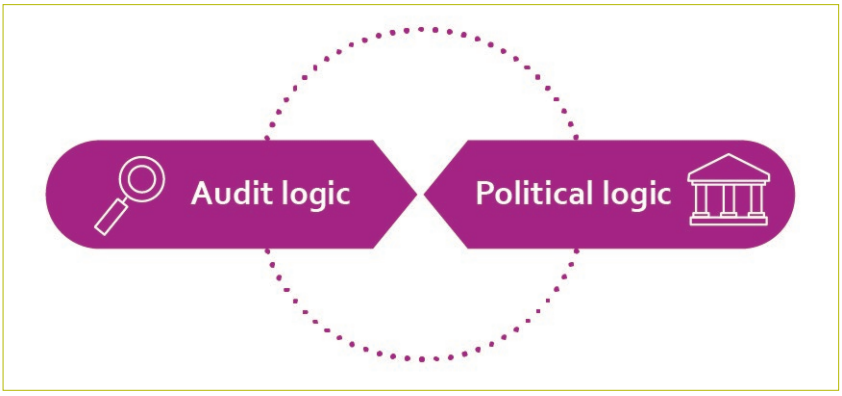
good project management. The assumption behind this is that a rational, result-oriented approach to policymaking and management contributes to the effectiveness of the policy, as well as providing better accountability to Parliament.

One might even wonder whether a SAI can assess the effectiveness of a recovery and resilience plan as a whole at all. It is of course feasible to assess the effectiveness of certain projects or clusters of projects. However, in view of their desired global impact on the economy and society, these plans should also be assessed at macro level. This seems better suited to the expertise of institutions such as central banks, planning offices or statistical institutes, which have macro-level data and models at their disposal. As SAIs, we focus more on the micro and meso level (organisations, programmes, etc.).

Political uptake of audit findings

Although it is too early to comment on the impact of the audit reports, can we already draw some conclusions on the way they were received, and on how our audit findings were taken up at political level (see **Figure 3**)?

Figure 3 – Audit logic and political logic



Source: Belgian Court of Audit.

During the parliamentary debate following the audit presentation, the members of parliament expressed their appreciation for the government's comprehensive and transparent reporting and for our thorough audit reports. They used the audit reports to ask the government a number of questions, such as:

- Have there been any delays?
- What would happen if the financing were insufficient?
- Will the crisis in Ukraine have an impact on the recovery and resilience policy?
- Can the indicators be better defined?
- Does the Flemish government have sufficient capacity to carry out all projects on time?

The Flemish government gave a clear answer to a number of concerns raised: even if European financing were to decrease, the plan would still be fully implemented and debt financing would be used if necessary. Extra resources required for the crisis in Ukraine will not be deducted from the resources for the Plan. MPs also delved deeper into the political choices behind the Plan, with questions such as:

- Why did the plan not focus more on climate policy?
- Which political considerations played a role in the choice of projects?
- Were the projects selected the ones with the most impact?

The audits were also partly used to reinforce political positions: one of the opposition parties that had previously criticised the recovery and resilience policy had its position confirmed by the Court of Audit's findings. The technical language of the audit reports was reframed into more colourful wording, e.g. 'the choice to include many projects'

became 'political and financial confetti' or 'the choice to strengthen existing policy with additional resources' was reformulated as 'to compensate for the inadequate financing of the coalition agreement'. On the other hand, the tone of the coalition parties was much softer. The government emphasised several times that it is a learning organisation and that our audits provide an incentive to do even better. At the end of the debate, the Flemish government once again committed itself to thoroughly studying our recommendations and to implementing them or to justifying why it would not do so, in line with the 'comply or explain' principle.

As described above, our performance audits often start from a result-oriented framework on how government should work:

- a policy should be based on clear policy objectives;
- it should be substantiated by a thorough ex ante analysis of the problem;
- it should be evaluated ex post and adjusted if necessary;
- there should be transparent accountability for the implementation, costs and results of the policy pursued;
- projects must be managed in accordance with best practice.

This audit logic is often at odds with political logic:

- During the adversarial meeting, the Flemish government pointed out that the Plan had been created and was being implemented under extraordinary circumstances. This concern was reiterated in the parliamentary debate. Indeed, politicians often have to work with incomplete and uncertain information (bounded rationality)[5] and it is often not completely clear what works best in dealing with 'wicked problems'[6].
- The dilemma of transparency was also discussed during the parliamentary debate: on the one hand, transparent reporting by the government is very important for parliamentary scrutiny, but on the other, it also makes the government more vulnerable. Indeed, clear objectives can be a threat to politicians because the opposition and the media will judge them on these objectives.
- Policymakers not only want to be effective, but also expressive (i.e. they want to be able to show visible results in the short term), hence the inclusion of smaller, 'quick win' projects.

This report is the start of a journey for the Belgian Court of Audit, as the Flemish parliament has asked us to report annually on the progress of the Plan's implementation. This also implies that we will have a long-term relationship with both the government and administrations on this subject, which will also allow us to increase the impact of our work. We are confident that our reports will not end up being a message in a bottle.

5 The fact that rationality is limited when making decisions, due to e.g. the limited time available to make a decision or a lack of information.

6 'Wicked problems' are inherently resistant to a clear and agreed solution: difficult to clearly define; no clear and correct solution; many interdependencies and multi-causal aspects; problems are socially complex with many stakeholders; proposed measures may have unforeseen effects. See Australian Public Service Commission, *Tackling Wicked Problems: A Public Policy Perspective*, Canberra, 2007.

Realigning from auditing cohesion funds to auditing NextGenerationEu – From expenditures towards milestones

By Răzvan Chirițescu, Romanian Court of Accounts

Source: Panther Media Seller/ Depositphotos

The COVID-19 pandemic triggered many reactions, including the new Recovery and Resilience Facility (RRF) instrument, considered innovative in many respects, relating to its set-up, speed and accountability requirements. The latter poses several challenges from an audit perspective, with an important line of defence in Member States' audit authorities. Răzvan Chirițescu is the Head of Audit Unit 1 in the Audit Directorate for the National Recovery and Resilience Plan and the 2021-2027 Operational Programme for Health, at the Romanian Audit Authority within the Romanian Court of Accounts. In this article, Răzvan Chirițescu provides insights into the challenges auditors face when auditing both existing and new EU instruments, in terms of protecting EU financial interests, and their work on the accounts, as well as into how the new audit task will raise new standards for cooperation between auditors to ensure an efficient audit chain.

New instruments to ease new realities

In a similar way to the 2014-2020 multiannual programming period, the 2021-2027 EU cohesion policy aims to contribute to strengthening economic, social and territorial cohesion in the European Union, in order to correct imbalances between countries and regions. It is a smooth continuation in terms of policy objectives, financial management and shared responsibilities between EU institutions and Member States.

In addition, a new challenge has been present since 2020, based on the urgent need to boost recovery from the COVID-19 pandemic, and to help repair the immediate economic and social damage. Cue the NextGenerationEu, with the Recovery and Resilience Facility (RRF) as its main pillar. This is a more flexible policy, with mechanisms to guarantee that it has the capacity to address unforeseen needs, with a budget and an implementing system that is not only tailored to today's realities, but is also adaptable to tomorrow's uncertainties. This can be achieved, if the European Commission and all other relevant EU institutions act in close cooperation with the Member State concerned.

Consequently, for the current multiannual programming period (2021-2027), the EU has two mainstream financing instruments, which in theory rely on two distinct management systems – shared management for cohesion funds, and direct management by the

Commission[1] for the newly-created RRF, implemented through the National Recovery and Resilience Plans (NRRPs). **Box 1** shows what this entails for Romania. However, it may be appropriate to consider shared responsibility for both systems as the key to successful implementation.

Box 1 – National Recovery and Resilience Plan: Romania

In May 2021, Romania submitted its National Recovery and Resilience Plan (NRRP) to request €29.2 billion of EU funds, €14.2 billion (49 %) in the form of grants and €14.9 billion (51 %) in loans. The plan comprises 6 pillars and 15 components, consisting of 109 investments and 64 reforms. Romania has calculated that 41 % of the investments will contribute to the green transition and 20.5 % to the digital transition. The Council implementing decision on the approval of the assessment of the recovery and resilience plan for Romania was adopted in October 2021. The Financing Agreement between the Commission and Romania for the grant component was signed in November 2021 and the Loan Agreement was signed in December 2021.

When delving deeper into what this shared responsibility might mean in practice, we quickly reach the notion of a common approach and cooperation. Consequently, the EU institutions and Member States have had to, and may still have to, expand the institutional set-up, operational agreements and legal and procedural provisions to enable such cooperation. All these aspects are also necessary to ensure sound financial management and protect the financial interests of the EU. Otherwise, applying a single set of financial rules under the Financial Regulation becomes a real challenge.

This challenge is compounded because the key element and indeed the downlevel core of the entire financial management system for the cohesion funds is expenditure, on the basis of which the European Commission payments compensate for the actual costs incurred by Member States. In contrast, however, for the RRF disbursements the key criterion relates to the achievement of indicators. Hence, disbursement of EU funds is no longer linked to the reimbursement of costs, but to the fulfilment of milestones and targets and, in this case, the actual incurred costs are the risk and responsibility of the Member States alone.

Significant consequences for auditors

Applying this new axiom to audit, the disparities between the two financing instruments take on new, and perhaps unforeseen, dimensions from an audit perspective. For cohesion funds, the Member States had to set up separate internal, institutional, legal and procedural systems to manage the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund (CF), and the Just Transition fund (JTF). Audit authorities, in cooperation with the Commission as part of a shared management implementation system, perform system audits and assess the effective functioning of these national management and control systems, based on a specific system of key requirements.

These national management and control systems perform specific management verifications to ensure the legality and regularity of expenditure included in the accounts submitted to the European Commission. Consequently, the audit authority is responsible for carrying out audits on operations, performing substantive tests on all expenditure within the audit sample. The same type of sample-based audit can be applied by the Commission and the ECA, carrying out financial verifications right down to expenditure to obtain sufficient assurance that the costs were actually incurred. Similarly, the Member State also follows suit as far as the accounting function is concerned, and therefore at the end of each accounting year the audit authority performs an audit of the funds' accounts.

Contrary to the above, the regularity and legality of the Commission's payments to Member States under the RRF is based solely on the achievement of milestones and targets. Once the Council adopts the implementing decision, approving the Commission's positive assessment of the National Recovery and Resilience Plan (NRRP) for the Member State, and the Financial and Loan Agreements are signed by the Commission and the respective Member State, then all the payments are pre-defined (in instalments,

1 According to Article 8 of RRF Regulation 2021/241, 'The Facility shall be implemented by the Commission in direct management'. Based on this, the RRF is directly managed by the Commission, but at the same time the Member States are the beneficiaries, and the Commission is directly responsible for making payments to them.

up to two per year). The Commission's decision to authorise the disbursement of the instalment will be based exclusively on whether the milestones and targets specifically defined in the NRRPs have been met.

After disbursement, the Commission's attention regarding the RRF will be focused on its own audits, which will mainly address the achievement of milestones and targets. This will take place through two types of audit:

- system audits, on the systems in place to store, collect, aggregate and report milestones and targets;
- substantive audits, on the reliability of the reported data related to the achieved milestones and targets declared by Member States in their requests for payment.

Even though there is a specific core scheme of key requirements that the management and control system of the Member State needs to fulfil under the RRF (presented in the Annex to the Financing and Loan Agreements), the assessment thereof is solely the responsibility of the Member State's audit authorities. The Commission will be primarily interested in monitoring and reporting systems for milestones and targets, since for the remaining management functions, it relies on the assurance provided by national audit authorities and national control systems.

The expenditure incurred and the real costs of achieving milestones and targets do not constitute core audit criteria. Member States are not required to set up specific management and control systems for this new instrument, and may rely on their standard national budget management systems. As specified in Article 22(1) of the RRF Regulation: 'The Member States, as beneficiaries or borrowers of funds under the RRF, 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'.

If national control systems perform effectively to ensure regularity and legality of costs, there are no requirements to perform substantive tests on expenditure under the RRF from the audit authority's side, thus differing from cohesion fund rules. In principle, for the national audit body, the assessment of the national control system should be sufficient to form the basis for its audit conclusion. Of course, if it deems necessary, it has the option of performing further substantive tests on expenditure.

Since one of the primary responsibilities of the Member States is protecting the EU's financial interests, audit authorities are expected to test internal controls in the framework of the system audits. In this respect, they should maintain a special focus on the key national controls set up for the prevention, detection and correction of fraud, corruption, conflicts of interests, and double funding.

Audit authorities are no longer required to perform audits of operations and audits of accounts in respect of RRF management. Within the framework of RRF disbursements, Member States do not submit annual accounts, since all instalments are pre-defined. Consequently, expenditures and costs are not the focus of audit procedures to be performed by audit authorities. The only type of specific substantive testing by audit authorities that is deemed necessary is related to the reliability and accuracy of the data on the achievement of milestones and targets.

System review instead of materiality information

What is becoming more and more apparent in terms of the audit work in relation to RRF disbursements is that, at Member State level, control testing will be the core element of the audit conclusion. Regarding RRF disbursements, the premise is that a Member State possesses and makes use of a solid national control system that complies with the applicable EU and national law, in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interest. To assess this, the audit authorities may rely solely on system audits. Then, according to the level of assurance, it will apply sample-based substantive testing to check the reliability and accuracy of the achievement of milestones and targets, with no verifications on expenditure levels.

Even if expenditure verification is carried out by the audit authority, where they consider it necessary, the outcome is only relevant at national level in terms of financial impact, as the Commission only expects to be informed of the nature of any irregularities and whether corrective measures have been applied. Therefore, the materiality itself is no longer relevant. The latter only applies to RRF disbursements and is obviously not a factor for cohesion funds, where materiality does remain relevant. Therefore, in short, the Commission's payment of the instalment is not conditional on the presence or absence of any material mistakes at the level at which expenditure is incurred.

Assessing old and new recovery instruments requires updated audit chains

In Member States where the same audit authorities perform audits for cohesion funds and the RRF instrument, and issue audit opinions and conclusions having assessed the same national management and control systems (or similar) for the ERDF, ESF+, CF and RRF, the specificities and audit consequences described above might be rather challenging and difficult to tackle. They most often will require a culture shift from auditors because experience in auditing expenditure, verifying costs and calculating error rates and materiality thresholds may give rise to mental barriers, which could prevent a quick and easy switch to auditing the achievement of milestones and targets.

In this regard, and as a way of forecasting future programming periods, the enforcement of a new financing method under the cohesion funds, already regulated by the Common Provision Regulation for 2021-2027, may be of particular interest as it gets closer to the nature and scope of the RRF instrument. As specified in Article 95 of CPR Regulation 2021/1060: 'The Commission may reimburse the Union contribution to all or parts of a priority of programmes based on financing not linked to costs. […] Commission and Member State audits and management verifications carried out by Member States shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled or the results have been achieved'. If RRF implementation turns into a success story in the run-up to 2026, we may see a reshaping in terms of the design of 2027+ cohesion funds, bearing in mind the RRF specificities.

Source: 1 StunningArt/Depositphotos

An RRF road ahead for cohesion architecture?

Regardless of the EU Funds for which they have to provide assurance, Member States' audit authorities are keen on the principle of sound financial management, with the protection of EU financial interests as the main goal. This sound financial management principle is also most relevant when assessing their own work and efficiency. Switching from an expenditure-based approach to a milestone-based approach does require solid and professional shared management, in all its different facets, in order to properly address this principle. Specifically, this means between the audit authorities, the Commission, the ECA and other EU audit bodies involved. Otherwise, auditing EU expenditure and disbursements may become a costly administrative burden for managing cohesion funds or RRF financial assistance and whatever future successors to these EU policy instruments may exist beyond 2026.

Auditing the RRF –a strategic task and challenge for EU supreme audit institutions

By Claudia Malvesi Saguer & Daniel Tibor, Directorate of the Presidency

On 3 and 4 May 2022, the 2022 Contact Committee meeting took place at the ECA's premises in Luxembourg, following on from last November's high-level online event. This was the first in-person meeting of the heads of the supreme audit institutions of EU Member States (EU SAIs) and the ECA since 2019. The seminar was dedicated to discussing the implementation of the Recovery and Resilience Facility (RRF) at EU and national level, and the audit challenges it creates. In this article, institutional relations officers Claudia Malvesi Saguer and Daniel Tibor, who were closely involved in organising the meeting, offer an overview of the main issues discussed.

Challenges of the pandemic and the invasion of Ukraine for the EU and its Member States

he meeting began with a short welcome speech by ECA President Klaus-Heiner Lehne. This was followed by a session for the heads of SAIs, involving discussions on emerging issues, (audit) priorities and strategic directions for future cooperation, and corresponding actions. The focus this year was on ways to further develop Contact Committee cooperation and increase its value for the heads of SAIs and the institutions themselves (see **Box 1**).

The evening session on the first day was dedicated to the paradigm shift implied by the COVID-19 crisis and the invasion of Ukraine, which affects many policy areas at national and EU level and has pushed EU autonomy and security back to the top of EU leaders' agendas.

Box 1 – The Contact Committee of the EU

Box 1 – The Contact Committee of the EU

Cooperation between the SAIs of the EU Member States and the European Court of Auditors principally takes place within the framework of the Contact Committee. This may involve the heads of the SAIs themselves or the liaison officers, who provide an active network of professional contacts within the EU SAIs. Dedicated working groups, networks and task forces provide a platform for auditors and policy experts to address EU-related issues and matters of common interest.

Heads of SAIs and delegation at the 2022 Contact Committee meeting in Luxembourg, 3 May 2022.

The session started with a video address from Valeriy Patskan, Chairman of the Accounting Chamber of Ukraine. Valeriy Patskan described the situation in his country and the atrocities the Ukrainians have had to endure since the beginning of the Russian invasion. At the same time, he expressed his wishes and hopes for after the war, when cooperation with the Western partners of Ukraine will be needed to rebuild and reform the state and its institutions. He also thanked the Contact Committee for its quick reaction in support of the Ukrainian cause (see **Box 2**). His words and personal testimony made quite an impression on the participants.

Box 2 - Contact Committee response to the invasion in Ukraine

On 11 March 2022, the Contact Committee circulated a letter to all the members of the International Organisation of Supreme Audit Institutions (INTOSAI). The letter expressed solidarity with and support for the people, state and institutions of Ukraine, in line with the values promoted by the EU and its Member States. It condemned the illegal invasion perpetrated by the Russian Federation and supported by the Republic of Belarus against the sovereign state of Ukraine, which constitutes a breach of international law and a violation of human rights.

In the spirit of, and in support of, the statement issued by the Governing Board of EUROSAI (the European branch of INTOSAI), the SAIs of the Contact Committee called on all INTOSAI members to reaffirm the joint commitment for peace, justice and strong institutions, and to condemn the invasion of Ukraine by all appropriate means.

The members of the EU Contact Committee themselves decided to refrain from any cooperation with or participation in events or activities organised by the Accounts Chamber of the Russian Federation or the State Control Committee of the Republic of Belarus, or any other government institution of the Russian Federation or the Republic of Belarus.

The second part of the evening session was introduced by Nathalie Tocci, Director of *the Istituto Affari Internazionali*. Nathalie Tocci is a renowned strategy and policy expert, who was previously special advisor to EU High Representative and Vice-President of the Commission Josep Borrell. As special advisor to Federica Mogherini, she wrote the European Global Strategy and worked on its implementation.

Nathalie Tocci pragmatically examined the various starting points and perspectives to demonstrate the need for a new approach in addressing policy areas such as trade, defence, health, migration, technology and the economy as a whole. In the past, these have often been tackled more or less independently, but a more holistic and comprehensive approach is now required. After a thought-provoking exchange, there was no doubt that the issues related to the autonomy and security of the EU are closely intertwined. Furthermore, in challenging times, whether due to a global pandemic, the invasion of a country like Ukraine or the climate crisis, it is imperative to understand this.

Implementing the RRF and its audit and control framework: state of play

On the second day of the event, Iliana Ivanova, ECA Member and Dean of the ECA's audit chamber *Investment for cohesion, growth and inclusion*, introduced the session on 'Assessing the (added) value of the RRF at national and EU level – a strategic task and challenge for EU SAIs'. She welcomed the keynote speaker Céline Gauer, Director-General of the European Commission and Head of the Recovery and Resilience Task Force (RECOVER), aa well as the facilitators Helena Lindberg, Auditor General of Sweden, Arno Visser, President of the SAI of the Netherlands, and Ivana Maletić, ECA Member.

In response to the COVID-19 crisis, the EU launched the NextGenerationEu initiative and established its main instrument, the RRF, which is designed to provide €723.8 billion[1] (at current prices) to mitigate the socio-economic impact of the crisis and stimulate fast, sustainable recovery of European economies.

1 In loans (€385.8 billion) and grants (€338 billion).

SAI delegates at the session on the RRF, 4 May 2022.

In her keynote speech, Céline Gauer presented the ongoing rollout of the RRF and the progress made in its implementation. The Member States have drawn up national recovery and resilience plans (NRRPs), which have been approved by the European Commission and the Council. It is now up to the Member States to make the best possible use of these additional funds in accordance with the relevant rules and regulations. For example, the funds could facilitate the green transition or digital transformation, or enhance the EU's economic cohesion, productivity and competitiveness across all Member States. Céline Gauer highlighted general and future challenges and underlined the potential opportunities and benefits of the RRF, indicating that 'Within a few weeks, we will have already disbursed hundreds of billions of euros, which after a bit more than a year of implementation is quite remarkable'.

In terms of opportunities, she also commented positively on the long-awaited reforms that this new instrument will help to implement. These include the justice reform in Italy, the labour market reform in Spain and the reform of the educational system in Slovakia. Céline Gauer pinpointed the possible synergies between reforms and investments, the faster and leaner delivery method offered by the instrument, and its flexibility.

The main challenges, according to the Head of RECOVER, consist of the tight rollout schedule (e.g. for drawing up, assessing and approving the NRRPs, and subsequently assessing the payment requests), administrative capacity and the need to create ownership for these plans. As she specified, 'these are not the plans of a government, these are plans of a country'. While the opportunities thus seem to outweigh the challenges, Céline Gauer also made it clear that the key to success would be a common effort with clearly defined roles and responsibilities at EU and national level. However, she sees that the Member States are in the driving seat when it comes to implementing their plans.

Following this presentation, the heads of the SAIs engaged in a lively discussion, facilitated by Helena Lindberg and Arno Visser. The discussion touched upon complementarity and the added value of the RRF, the delicate question of accountability and allocation of responsibilities at the different levels, potential issues in relation to the monitoring, control and audit frameworks, and the special role of SAIs as independent institutions.

Auditing the RRF and NRRPS

The second part of the seminar, facilitated by Ivana Maletić, reporting Member for the ECA's audit of the Commission's assessment of NRRPs, featured several presentations from the SAIs of Greece, Italy, Belgium, Germany, Lithuania, Latvia and Finland. The presentations dealt with their finalised, ongoing and planned audit work in relation to the RRF and their respective NRRPS. **Box 3** shows the ECA's ongoing and planned audit activities for 2022.

Box 3 - ECA audit work on the NGEU and RRF (ongoing and planned)

2022

- European Structural Investment Funds and Recovery and Resilience Facility *(Review)*
- Recovery and Resilience Facility – design of the Commission's control system
- National recovery and resilience plans (NRRPs)
- Debt management at the Commission

The broad range of aspects addressed ranged from the audit of procurement procedures, to different types of audits and methodological approaches, to more thematic issues such as risk or green tagging. During the lively discussions more technical questions and challenges also came to the fore, such as the lack of well-defined milestones and targets and the need for adequate monitoring and control systems. The debate showed that SAIs will have to further deepen and intensify their cooperation to make sure that proper audit coverage contributes to ensuring accountability, sound financial management and transparency. At Contact Committee level, this is already taking place in the form of a common activity on NGEU-related issues and audits, launched by the ECA and the SAIs of Belgium and Germany in September 2021. Auditors and experts regularly meet to exchange on relevant topics and experiences, and to discuss themes and issues related to auditing the RRF and NRRPs.

'No long-term future without relative equality across all Member States'

Interview with Younous Omarjee, Chair of the European Parliament Committee on Regional Development

By Gaston Moonen

Source: European Parliament

Younous Omarjee

With 42 members and 38 substitute members, the European Parliament's Committee on Regional Development (REGI) is among the institution's largest, and is responsible for preparing legislation and scrutinising the European Commission's work on cohesion policy. Given the variety of topics addressed by cohesion policy, the complexity of the co-decision procedure and the EU funds involved, this is quite a task, the more so in view of the additional parliamentary work that lies ahead in connection with NextGenerationEU (NGEU). Younous Omarjee, an MEP since 2012, has chaired REGI since 2019. What does he identify as the main cohesion policy issues that will impact the work of his committee, especially in relation to the NGEU, and how does cohesion tie in with the major challenges currently facing the EU? He provides his views and concerns in the following interview.

Addressing development gaps in EU regions, including on greening

Since July 2019, you have been chairing the REGI Committee, which means dealing with various topics relating to cohesion policy. What does cohesion mean for you? What is the key cohesion topic your committee is currently working on?

Younous Omarjee: Cohesion is Europe's great convergence and solidarity policy. There are still pronounced development gaps in the EU between more and less wealthy regions. There are still significant differences in GDP and pay. The aim of cohesion policy is to make every possible effort to reduce these disparities in wealth and development. The Treaty on the Functioning of the European Union describes this very well in the section entitled 'Economic, social and territorial cohesion', as do the objectives and principles set out in Articles 174-178.

> *The aim of cohesion policy is to make every possible effort to reduce these disparities in wealth and development.*

Our REGI committee is currently working on the response to the Eighth Cohesion Report published recently by the European Commission on the launch of a European island

agenda, the defence of the cross border dispute resolution mechanism, and the Fit for 55 package. We are also monitoring the implementation of the 2014-2020 programme and the start of the new 2021-2027 programme.

Europe often boasts about its diversity and that differences between Member States and regions are actually part of the fabric that constitutes the EU. At the same time, as you have said, cohesion is aimed at convergence, at enhancing certain regions to bring them to the same level as other regions. How does this relate to this idea of differences and why, in your view, is convergence so important for the EU and its future prospects?

Younous Omarjee: The EU has no long-term future without relative equality across all Member States and regions in terms of development. That is the goal of cohesion, which promotes balanced development throughout the EU in order to lessen discrepancies in development across regions and reduce lagging in the least privileged regions.

The diversity of the EU lies in its cultural and geographical diversity and its diverse habitats. Unequal development and wealth cannot be considered components of diversity, but merely inequality, which we must fight. Equal pay, workers' rights, equal rights to healthcare and pensions, the reduction of all types of inequality – these are the great battles we will face for decades to come. In the near future, we need to build a Europe where every worker earns a minimum net monthly salary of 1000 euros for a 35-hour week, with the same healthcare and pension rights for everyone.

> *… the reduction of all types of inequality – these are the great battles we will face for decades to come.*

You are also a Member of the Budgetary Control Committee (CONT). What would you identify as the main difference in the discussions held in the CONT compared with REGI and do you think the two committees can cooperate more, and how?

Younous Omarjee: They do two very different jobs, including with regard to monitoring the implementation of the funds. The CONT committee takes an accounting viewpoint, for all the funds, while the REGI committee focuses more on results and the achievement of objectives, while looking ahead to the new policies to be implemented.

It is always possible to increase cooperation, but the CONT and REGI committees already have very close links. Whenever necessary, Monika Hohlmeier and I hold discussions. We have worked together successfully on the negotiations for the new generation of funds to ensure the effectiveness of a whole series of fund control measures.

Last year you were rapporteur for a report on a new approach to the Atlantic maritime strategy. In this report there are many references to sustainable actions, the blue economy, etc. Do you think the cohesion policies do enough to support the transition foreseen in the Green Deal? Where do you see opportunities to do more?

Younous Omarjee: The new generation of funds needs to achieve more. What we negotiated for 2021-2027 has totally greened cohesion policy, with a mandatory minimum of 30 % of funds going to the green transition, and we introduced the principle of not harming the environment. These are sound principles. Cohesion policy has become the first European pillar of the Green New Deal.

> *Cohesion policy has become the first European pillar of the Green New Deal.*

Where we could go further in terms of cohesion is adaptation to climate change. While we have adapted our funds to generate the green investments needed under new cohesion, and are stepping up legislative reform to reduce greenhouse gases, with the Fit for 55 package, there is one substantial component missing – adaptation to climate change. The climate change generated since the first industrial revolution is irreversible. And even if we manage to drastically reduce our emissions in future, we need to adapt to the consequences of climate change yet to come. The EU policies do not make sufficient provision for that, and we are seeing increasingly extreme natural disasters occurring every year. That is why the REGI committee is calling for the creation of a regional climate change adaptation fund that would operate along the same lines as the transition fund or the Youth Investment Fund.

> *...the REGI committee is calling for the creation of a regional climate change adaptation fund...*

Finding the best possible balance in cohesion policies

Coming back to cohesion policy as such: within your committee there is a lot of attention for policy congruence and policy proposals to improve the effects of cohesion policy. At the same time, it is also an area identified by the ECA as prone to errors, irregularities and even fraud, compared with some other major expenditure areas, and for some years now. What is your major concern on this aspect and what needs to be done, in your view, to really make a change for the better? What role do you foresee for the ECA and auditors generally in such a change?

Younous Omarjee: Errors, irregularities and even fraud do not necessarily mean that a policy is bad. A policy can have all these flaws yet still be excellent, with excellent results. Sound management is a separate requirement. We need to work to reduce these problems and make it possible to achieve our sound management objectives, but this must not hamper the coherence of the policies with cohesion or be detrimental to the objectives of cohesion policy itself.

The European Court of Auditors must also work, through its recommendations, towards simplifying fund management for beneficiaries . A good policy is a policy that succeeds in being balanced across the board. We at the European Parliament consider all aspects and try to find the best possible balance. Your analyses are therefore essential for us.

> *A good policy is a policy that succeeds in being balanced across the board.*

Cohesion is a shared management policy where there is a lot at stake for Member States, as we can often see also in the multiannual financial framework discussions. And the Council sometimes seems to have different interests from those of the European Parliament. Where do you see those different stakeholders' interests diverge and align and what is your major concern now from the EP perspective?

Younous Omarjee: Those negotiations are behind us now. They took more than two years' work, and believe me it was not easy, but we got there in the end. Our positions were initially far apart on numerous issues, but we finally managed to find common ground with compromises all round.

Our current concern is the slow start to this new programme period. Many Member States have not yet concluded their partnership agreements, and seem to be prioritising the recovery plan. We are also very surprised by the Commission's proposed transfers from cohesion to RepowerEU, which we find inappropriate.

> *We are also very surprised by the Commission's proposed transfers from cohesion to RepowerEU, which we find inappropriate.*

Recovery should not hinder cohesion objectives

What do you see as the main opportunities and challenges for cohesion policy in view of the NGEU initiative and the Recovery and Resilience Facility, whereby an impressive amount of resources, outside the EU budget, are spent on issues which have similar aims to, and sometimes overlapping objectives with, cohesion policy. And from a public scrutiny point of view, what will be the key activities of your committee regarding the RRF? What do you see as the main challenge from an accountability standpoint, in view of the different responsibilities of the Commission, Member States and Council regarding the final allocation of RRF money?

Younous Omarjee: That really is the cardinal question. The NGEU was created on the basis of Article 175 TFEU, so the recovery plan must target the cohesion objectives set in Article 174. That is our expectation, as the Treaties require it of both the Commission and the Member States. What is more, I would call on the European Court of Auditors to assess this. As the recovery plan must not hinder cohesion objectives, the less developed regions must remain the priority, as they will not otherwise close the development gap.

> *… the recovery plan must not hinder cohesion objectives, the less developed regions must remain the priority, as they will not otherwise close the development gap.*

I find it strange that the European Commission is planning to transfer such substantial amounts from the European budget and the multiannual financial framework to the recovery plan (RepowerEU), which as you have emphasised, is outside the EU budget. It is highly problematic. We do not want all that to mark the beginning of the renationalisation of EU policies.

What role would you like the ECA to have in this accountability chain regarding NGEU/RRF expenditure, what do you expect from the ECA in this respect? Do you foresee a spillover effect of the RRF performance criteria into cohesion policies and would your committee welcome a more performance oriented accountability process with less focus on compliance issues?

Younous Omarjee: What we expect from the European Court of Auditors is its valuable expertise. All your assessments are important and offer added value. You are best placed to know what you should do. Where your advice would be important for us is on how to simplify cohesion policy management for small project owners, particularly SMEs and local authorities .

With regard to your second question, I believe this is not necessarily a matter of performance, but the evaluation of cohesion policy in terms of the objectives it must achieve is extremely important, just as important as compliance. These are two different evaluations.

With the war going on in Ukraine, European unity and the values and interests the EU stands for have taken on a new dimension and new impulses. And we often see that a major crisis in Europe (financial crisis, the pandemic) can have a shock effect on EU actions and policy initiatives. How do you expect this war in the east of Europe to affect the work of your committee, the kind of proposals to be launched by your committee members, or from the Commission, tying into these developments?

Younous Omarjee: The consequences for the citizens, Member States, regions and cities will be huge. The inflation and insecurity created do not bode well. Our committee has already played its part and, together with Commissioner Elisa Ferreira, we have pushed through CARE and CARE+ urgently. We cannot take more from cohesion, as otherwise the long-term cohesion objectives will be impacted in the long run, which would also be problematic. We hope there will be a new fund for the purpose, an NGEU+; we are ready to take that step, but it is up to the Council to decide on it through new joint financing.

> *We cannot take more [money] from cohesion, as otherwise the long-term cohesion objectives will be impacted in the long run…*

This war will affect everything, everyone and all our policies. Russia and its leader Vladimir Putin must stop this unjustifiable and unjustified war. The Russians themselves are paying the price, Europeans are paying the price, the whole world is paying the price. Humanity is duty-bound to raise itself above that level. These wars only foster under-development; they are wars in which everyone loses. Russia must retreat, and its withdrawal from Ukraine will be its salvation.

> *These wars only foster under-development…*

Cohesion & NextGenerationEU: Europe's double-act for recovery?

By Andrey Novakov, Member of the European Parliament

When the pandemic hit the European Union in early 2020, it also affected and endangered the economic and social convergence process supported by the various EU funds in the cohesion area. The NextGenerationEu initiative (NGEU) is intended to address the pandemic's economic consequences and restore convergence. But how best to do this in harmony with the cohesion instruments that already exist? Andrey Novakov has been a Member of the European Parliament since 2014. As a member of the Parliament's Committee on Regional Development (REGI), he was rapporteur for the Common Provisions Regulation, which sets out the common rules for EU shared management funds. Below he makes the case for several practical measures that could be taken to avoid competition between cohesion and the NGEU, instead ensuring, through complementarity and synergies, that optimal use is made of the sizeable volume of EU funds available.

Source: Xavier Lejeune/ Depositphotos

Cohesion & NextGenerationEu in the context of COVID-19 and the Russian war on Ukraine

The COVID-19 pandemic was an unprecedented and unexpected event that caused a major shock to society, affecting people, businesses and national, regional and local public authorities[1]. The EU needed to act fast, and it needed to act effectively. Cohesion policy played a major role during the pandemic, allowing Member States great flexibility in their use of billions in EU funding for recovery. So cohesion funding was the first EU response, but it was not the only one. NextGenerationEu entered the mix with a package of over €800 billion for recovery and repairs to the socioeconomic fallout from the pandemic. Then a new crisis in the history of the EU emerged with the Russian war on Ukraine. The flood of Ukrainian refugees and the economic impact of the war led to the Cohesion's Action for Refugees in Europe (CARE) and CARE+ proposals. However, implementing all that funding has turned out to be a headache.

The paradox: delays in the flow of EU money just when it is most needed

There has been unprecedented delay in deploying cohesion policy programmes. So far the Commission has received for approval only 13 cohesion partnership agreements and not many more than 100 draft cohesion programmes[2]. Technically speaking, the programmes should have been in operation as of 1 January 2021. Fifteen months later, none of the 2021-2027 cohesion policy budget has yet been implemented. In essence, the Member States missed the opportunity to invest €49 billion from the EU budget under the Common Provisions Regulation (CPR) – the EU's entire cohesion policy allocation for 2021. The Commission was therefore obliged to propose a correction to the multiannual financial framework (MFF) allocations to cohesion policy, aiming to redistribute the unused amount in four equal parts over the next four years[3]. This internal reshuffling is not a serious issue for the moment, but it might be in the context of the €392 billion in CPR funding which has to be absorbed by Member States and regions before the end

1 See also: https://www.europarl.europa.eu/RegData/etudes/STUD/2022/699617/IPOL_STU(2022)699617_EN.pdf.
2 https://www.europarl.europa.eu/doceo/document/CRE-9-2022-03-07-ITM-012_EN.html.
3 https://ec.europa.eu/info/publications/draft-amending-budget-no-1-2022_en.

of 2027. All these carryovers do is postpone the solution to the problem. Adding one quarter of the €49 billion to the 2022 allocation will only make matters worse. Moreover, if the Member States ended up not using their 2022 cohesion allocations, that money would be gone for good.

Source: European Parliament

Andrey Novakov (seated centre) discussing with colleagues during the CPR negotiations.

The bottom line is that delays are affecting the ability of national governments, regions, cities and villages to implement cohesion projects of great significance for local people, the economy and the environment. The worst is yet to come, as potential losses in cohesion funding due to an inability to make financial commitments mean that projects will not happen at all or, if they do, will have to be charged to central, regional and municipal budgets. Doing that would further exacerbate existing budget deficits.

The unprecedented delay was the reason why, through the Committee on Regional Development (REGI), I initiated a request for a debate during the European Parliament plenary in March 2022. During that debate[4], for the first time in the 2021-2027 programming period, we voiced our concerns about the slow pace of implementation. It is significant that the debate took place as war was raging in Ukraine and millions of refugees were fleeing to the EU. Refugee support is one possibility covered by the CPR; it cannot be overlooked that, if cohesion programmes had been in place, we could have invested billions of euros in integration measures. Instead, the lack of the necessary funding forced the Commission to come up with extra flexibility under the CARE[5] and CARE+ proposals[6] , which loosen the previous cohesion rules and mobilise the Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU) resource that was originally promised to Member States for tackling the impacts of COVID-19.

Cohesion and NextGenerationEu: frenemies and coopetition

To put the situation in context, it is important to understand that, at this very moment, the Member States are closing the 2014-2020 programming period, trying to launch their 2021-2027 programmes, investing their REACT-EU allocations and doing their best to make sure they absorb all the funding available from the Recovery and Resilience Facility (RRF) through their national recovery and resilience plans. The truth is that there is simply too much funding to deal with simultaneously, and the Member States do not

4 https://www.europarl.europa.eu/doceo/document/CRE-9-2022-03-07-ITM-012_EN.html.
5 https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_1608.
6 https://www.europarl.europa.eu/sedcms/documents/PRIORITY_INFO/586/50/COM_COM(2022)0145_EN.pdf.

have the administrative capacity to handle the challenge. Attempting to carry out all of the above tasks in parallel could lead to under-implementation, because Member States have to prioritise funding instruments by their eligibility deadline. The choice is obvious: start with REACT-EU, go on to the RRF, and focus only then on the 2021-2027 cohesion programmes.

It appears, therefore, that NextGenerationEu is competing directly with the 2021-2027 cohesion policy. Things were never intended to be like this, and there is a real problem. Not only as regards the use of budgets, but also as regards outcomes. Cohesion policy and the RRF were supposed to be the new budgetary tandem, two sides of the same coin, complementing one another and working in synergy. The rules of the RRF and cohesion policy explicitly tackle concerns about demarcation, complementarity and synergies. However, it seems the solutions only exist on paper.

The consequence of delayed implementation will be to slow down achievement of the EU's climate targets. Decarbonisation, energy transition, climate resilience and sustainability will all suffer.

Apart from the issues of budgets and outcomes, there are the problems of quality, transparency and accountability. The race to absorb funding fully may increase the risk of irregularities, including fraud. Statistically speaking, the more is spent, the higher the risk of irregularities. Pressure to absorb will only amplify the risk to the EU budget and compel greater efforts to protect the EU's financial interests.

According to the Commission, the delays were caused by the need to react to the COVID-19 pandemic through the Coronavirus Response Investment Initiative (CRII), REACT-EU and the RRF[7], with the late adoption of the 2021-2027 MFF as another factor not to be disregarded[8]. However, one could question this conclusion. Looking at the implementation deadlines, it is objectively difficult to believe that such an enormous amount of financing could be effectively implemented by 2026 as required by the RRF Regulation.

The Member States face an extremely heavy workload, but if we stop urging them on we risk losing momentum. Unless there are synergies between cohesion funding and the RRF (the largest instrument in the NGEU package), with coherence, convergence and coordination between the two, neither one will be successfully implemented.

Finding solutions in the context of the current crisis

The March 2022 plenary debate on the delayed implementation of cohesion policy was followed by a European Parliament resolution that was adopted during the April session in Strasbourg. Again, my team and I were behind the idea of a debate because we needed to publicise concrete ideas. I am glad that the REGI Committee backed this initiative. The adopted document underlines the issue of the late start but also proposes solutions.

For example, it calls on the Member States, instead of prioritising the implementation of national recovery and resilience plans over that of cohesion programmes, to regard the RRF and cohesion policy as a budgetary and operational tandem. Another solution provided for in the resolution would be for the Commission to take full advantage of the possibilities offered by the new CPR for the faster approval of partnership agreements and programmes. The resolution also calls on the Commission to put forward a contingency plan to mitigate the risk of under-implementation and decommitments due to the late start of cohesion programmes; this would be done by means of a legislative proposal at the mid-term review and, if necessary, a corresponding revision of the MFF.

We welcome the CARE and CARE+ proposals, which Parliament adopted through the emergency procedure. However, as noted in the resolution, Parliament does not think that these proposals would be enough to tackle the fallout of Russia's aggression on Ukraine, which includes serious implications for the EU. Therefore, we called for the mobilisation of 2022 cohesion policy allocations (these are currently at risk of decommitment) for use as an urgent reaction to the energy and supply crisis and the flood of Ukrainian refugees entering the EU.

7 https://ec.europa.eu/regional_policy/sources/informing/dialog/2021/state_of_play_07122021.pdf.
8 https://multimedia.europarl.europa.eu/webstreaming/committee-on-regional-development_20211115-1345-COMMITTEE-REGI.

Only recently, my team and I developed an additional proposal for addressing the stall in EU-funded infrastructure projects because of the hike in the price of building and raw materials. Inflation [may be] the single biggest risk to current and future infrastructure projects, whose budgets use pre-inflation prices that are now outdated. Many projects may not be finished owing to the highly inflated cost of materials. We are calling for the establishment of a compensation mechanism, to be known as 'Construct-EU' (EPP Group economic relief package, Group of the European People's Party, April 2022), that would mobilise €11.6 billion to cover inflation in the cost of infrastructure projects (transport, energy, social and digital). This measure would be voluntary, and it would cover costs retroactively (back to 1 January 2021). By supporting projects through to completion, it would promote employment and consumption, save contractors from bankruptcy and dampen the effects of any recession. The money would come from the €46.4 billion of cohesion appropriations that the Member States did not use in 2021 due to the huge delay in the deployment of cohesion programmes.

The future of cohesion policy will be tackled by the EPP Cohesion Monitoring Group

Last year my team and I came up with the idea of establishing a forum in which Members of the European Parliament would be able to discuss and resolve cohesion policy issues. The idea was triggered by the obvious delays in the implementation of cohesion policy and the competition between cohesion and the RRF. On 8 March 2022, our idea became reality. We launched the Cohesion Monitoring Group (CMG), an official structure of the Group of the European People's Party in the European Parliament. This is a cross-committee forum open to all EPP MEPs who are interested in how approximately one third of the EU budget is channelled towards investments that deliver the EU's political priorities and strengthen economic, social and territorial cohesion.

Source: European Parliament.

Participants of the Cohesion Monitoring Group meeting in March 2022.

Our focus areas are the visibility of cohesion policy results and their impact on EU citizens, businesses and regions, tracking the closure of the 2014-2020 cohesion policy and the implementation of its successor for 2021-2027, and shaping the future of cohesion beyond 2027. The CMG will operate in various formats to accommodate invited Commission representatives, representatives of regional and national authorities, mayors, managing authorities, beneficiaries and other stakeholders. It will be a platform for presenting cohesion policy success stories and organising study visits to Member States, regions, cities and specific projects.

As early as 2024, we will take the first steps towards defining the future of cohesion. Our goal is to be the first to propose a fully-fledged concept for the future of this traditional but still vital policy!

NextGenerationEU – a game changer for audit authorities?

By Nata Lasmane, Audit Authority, Latvian Ministry of Finance

Source: Dmitiy Demodovich/ Depositphotos

The launch of the NextGenerationEu initiative has added an extra dimension to the audit of EU expenditure. Not least for the national audit authorities, who not only have to cover significantly more money in their audit activities, but must also tailor their assessment procedure to the different payment conditions created. Nata Lasmane is Director of the Audit Department for EU funds at the Ministry of Finance of the Republic of Latvia. She has been involved in auditing EU funds since 2003 and has consequently had a front-row view of evolving EU payment modalities, first for cohesion expenditure and now for the NextGenerationEu initiative, including the Resilience and Recovery Facility. Here, Nata Lasmane explains that the new instrument will involve numerous challenges and opportunities at both Member State and EU level, including for auditors.

Results as primary criterion

Since 2003, I have been involved in auditing EU funds. Initially I led the internal audit unit in the paying agency for agriculture, moving on to my current role with responsibility for auditing Structural Fund and Cohesion expenditure, the Fund for European Aid to the Most Deprived (FEAD), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF), and other funds. Since 2021, we have faced a new challenge – auditing the Recovery and Resilience Fund (RRF) in line with NextGenerationEu (NGEU) principles. According to these principles, eligibility is entirely connected to outcome, not actual expenditure, so we must learn how to audit outcomes instead of invoices and contracts.

In my early days in this area, the accreditation criteria for the paying agency were described in one and a half pages! To be honest, I very much liked the regulations of that time. Of course, as more players come into the game and larger amounts are allocated for different types of support, the rules of the game also become more complicated. Consequently, the game becomes more regulated.

Now it is time to look back and make an assessment in order to avoid unnecessary formal controls or inefficient controls. All the more so as the final beneficiaries have indicated that the administrative burden is too high. It is clear that we must take radical steps to prevent frustration among beneficiaries and recipients who have made clerical or formal errors. Ultimately, the focus should be on the results of the investments. In this respect, we can follow the example of private sector investments, where the investors' primary focus is on the results rather than the process.

How can we best achieve this? How can we ensure control over EU funds and at the same time achieve the necessary results? It was decided that in the case of the RRF – see Figure 1 for the areas and amounts in Latvia - no specific new management and control system would need to be established. Instead, the idea is to use the management and control systems that already exist in the Member States. That works for Member States where such a system already exists and functions well. But what if this is not the case? Then the winners will be the Member States that did their homework in advance and established reliable management control systems in the public sector. Other Member States will probably have to speed up this aspect to bring their systems into alignment for the implementation of the RRF.

Figure 1 – Structure of RRF allocation in Latvia

Source: Ministry of Finance, Latvia, 2021.

Latvia's recovery and resilience plan consists of 60 investments and 25 reforms. These will be supported by €1.8 billion in grants.

The Audit Authority's role

The profession of certified financial auditor is often considered to be a rather conservative profession since we normally do our job a year or more after the event has taken place. When auditing, we are expected to comply very strictly with the rules and we may seem to lack flexibility. In my opinion, this is a myth. It very much depends on the strategy of each individual audit body, which may aim to safeguard historical values or drive various innovations. My department – Latvia's Audit Authority – aims to drive innovation. We support new ideas presented by the EU through the NGEU initiative and we also understand that it is not an easy process.

The global market and our related economies require the efficient use of resources through straightforward administration and the use of IT and even artificial intelligence (AI) tools. All to focus more on the achievement of objectives rather than mere compliance with the process. For example, by using e-Cohesion[1] we have already facilitated multiple processes by means of information technologies. Using IT controls, which are mostly automated, should ensure compliance with the process and enable auditors to focus on the results achieved.

The use of IT controls also requires different skills and knowledge from auditors. Analytical and IT skills are now seen as a top priority for both auditors and administrative staff. If all invoices, contracts, construction and procurement documentation were in digital form, various savings could be made in handling all the procurement documentation, etc. My dream is that in the near future we will have AI team members who will fill in our checklists. And this is not in the distant future. For example, our paying agency in agriculture already uses AI for area controls. The 'AI controller' has learned a lot and is

1 An electronic data exchange system which allows the secure exchange of natively digital documents or scanned documents from system to system via standardised interfaces between the Managing, Certifying and Audit Authorities as well as Intermediate Bodies, on the one hand, and the beneficiaries, on the other hand.

now more precise in identifying different types of crops. During my secondment to the ECA some years ago, I picked up the idea of establishing a task force to address and develop issues related to digital audit.

Differences between RRF and traditional cohesion funding

While there are complementarities between the more traditional cohesion funds and the new RRF, there are also substantial changes that are highly relevant for audit authorities in the Member States. They not only relate to the management control systems (MCS) used, but also for example to the disbursement conditions set for the RRF. For the new instrument, these conditions are very much performance-based, with payment conditions relating to the achievement of milestones and targets. Table 1 reflects a number of key differences between the RRF and our traditional (mainstream) approach to EU funding.

Table 1 – Key differences relating to cohesion and RRF funding

Process	***Traditional approach***	***RRF approach***	***Risk for RRF***
Management and control systems	Predefined	National	If national system is weak
Management	Shared	Direct	
Reporting Authority	Managing Authority	Coordinating body	Decentralized monitoring
Decision on payment	Single: Managing Authority/ Intermediate Body	Decentralised: Responsible ministry/ Intermediate Body	Might be different approach, may be complicated for beneficiaries
Audit report	Annual Control Report + opinion (ISA 800)	Audit Summary + conclusion (ISAE 3000)	Reliance on work of other auditors
Detailed tests by Audit Authority	Audits of Operations	Audits of cases	
Calculation of materiality level	Statistical sampling, Monetary Unit Sampling	Combination of professional judgement and random. Conclusion only on audited cases.	Lower level of assurance, since no audit opinion will be available on non-audited cases. Higher reliance on primary and secondary defence levels.
Use of other auditors' work	Supervision of delegated tasks	Just summarize	Lower reliability of opinion; high-level cooperation between bodies is required.
Irregularity applies if:	Illegal or irregular expenditure is identified	Milestones & targets are not achieved (or material fraud)	Difficult to assess financial consequences

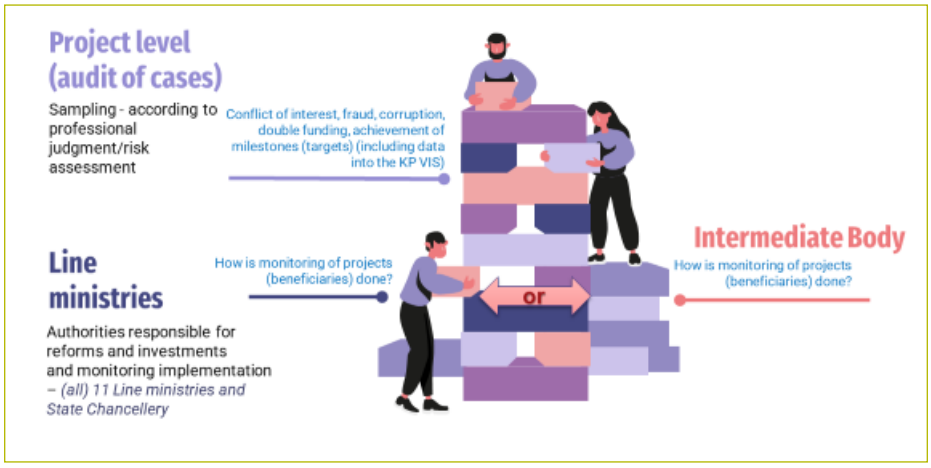
Level of controls	Invoices, contracts, participant lists, etc.	Targets and milestones	For identifying illegal transactions, invoices, contracts, procurement documents needed (so back to traditional approach).
Procurement documentation; state aid rules	The main focus area of the Managing Authority/ intermediate body and Audit Authority	Must rely on ationally-established controls	If national controls are not strong enough; might be inconsistency in treatment between Member States
Technical assistance	Yes	No	Lack of human resources/ capacity issues
National co-financing	Yes	No	Motivation to select the best projects may be hampered

Most Member States have indicated that they will use the same management control systems as for cohesion expenditure. The question that arises is whether this will work out well in practice, considering the multiple differences and the impact it will have on the approaches to be employed.

Basic principles to consider for these 'new' audits

In my opinion, the biggest challenge we face relates to auditing the Member State systems involved in properly implementing RRF projects. Several elements come into play: we must provide assurance to the European Commission that management control systems at Member State level are free of material irregularities, double funding risks and corruption/fraud, and that any conflict of interests is detected and managed at the proper level (see Figure 2).

Figure 2 - Topics to be audited



Source: Audit Authority, Latvia, 2021.

As the plan is to use the Member States' existing control systems, there is no provision for recruiting additional staff to control expenditure. Consequently, we at the audit authorities must be inventive in finding resources for the RRF and using them economically. Fortunately, we are allowed to use work by other bodies and make that part of the assurance model.

Building blocks for our summary report

First of all, we must have a clear picture of the sources of information we can use to arrive at our conclusions in our Summary Audit Report (see also Table 1). At the moment, we have identified a number of possible sources for assurance and possible partners for cooperation, which are reflected in Table 2.

Table 2 – Potential sources for assurance

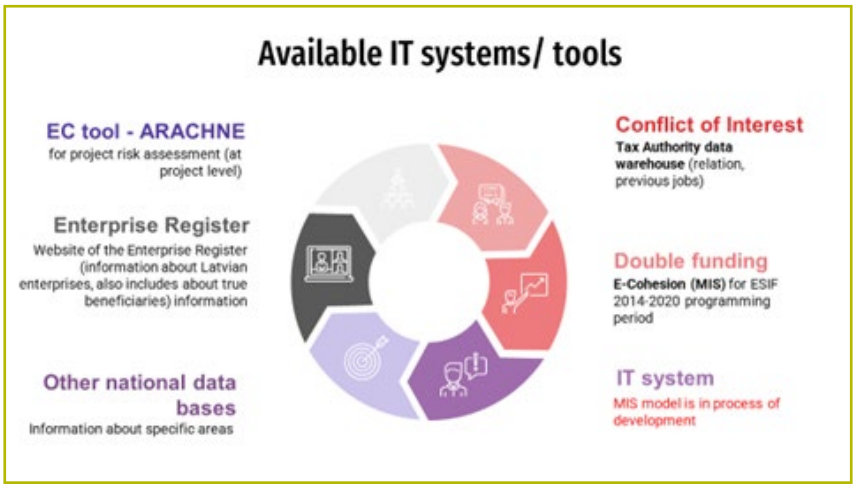
Control or audit body	Assurance	Scope limitation
National audit office	Sound financial management; legality	Just public sector
Internal audit	Management control systems in ministries and subordinate agencies	State-owned corporations and local municipalities are not within the scope of internal audit units
Sworn auditors	Assurance about sound financial management of commercial companies and local municipalities	Sworn auditors focus on financial statements instead of performance, data quality, internal control and legality issues
Ministries	Supervision of subordinate agencies and state-owned companies	Limited impact on decisions of boards of state-owned companies
CFCA (Intermediate Body)	Additional controls on investments – (conflict of interest, corruption, fraud, results)	Controls over milestones are sample and risk based. What if the risk assessment is wrong?

The above organisations are independent institutions with or without (private companies') periodic supervision by ministries and outside the scope of the work by the ministries' internal audit units. Some of these institutions have their own internal audit unit. As an audit department for EU funding, we are going to establish a cooperation and information exchange channel with each one.

Databases – access is key

When it comes to identifying conflict of interest and double funding cases, we believe the presence of appropriate databases, and good access to them, will play a critical role. Figure 3 reflects the key IT systems we have identified for our work.

Figure 3 – Key IT systems and tools



Source: Audit Authority, Latvia, 2021.

At the moment, only our intermediate body – the Central Finance and Contracting Agency – and the Audit Authority have access to relevant databases. The challenge for the future will be to give access to all pertinent databases to all bodies with a relevant role, while observing data protection principles.

Future challenges of RRF implementation

Beyond the above issues that we need to tackle as an audit authority, I can see various other challenges for the implementation of the RRF:

- how to stimulate strong coordination, not only between national authorities but also with European Commission services;
- if results are not achieved: how to apply financial corrections if the money is not linked with a particular supporting measure;
- how to obtain proper assurance about efficient nationally-established MCS, including for complicated areas such as state aid and public procurement;
- how to accelerate digitalisation and automatisation of routine controls.

In relation to the last point, I would like to highlight an indirect challenge. One of the typical support measures in all Member States is digitalisation, with an agreed target of 20 % for digital spending in each Member State plan, and more than 26 % on the digital transition across the 22 National Recovery and Resilience Plans (NRRPs) approved so far[2]. For instance, in Latvia's RRF plan, more than 20 % is allocated to digital objectives.

Latvia's recovery and resilience plan supports the digital transition through investment in the digitalisation of public administration and public services (€129 million), by supporting the digital transformation of businesses, and by creating a better environment for research and innovation with measures to improve the digitalisation of small and medium-sized enterprises (€125 million). Other measures in the plan relate to deploying high-speed broadband, which should help further improve digital infrastructure (€12.5 million), and reforms to improve the basic and advanced digital skills of citizens, enterprises and public administration (€95 million). Our ministries are concerned over whether the EU and the Member States will be able to find the necessary number (and quality) of information system programmers to satisfy the needs of all the Member States at the same time.

2 https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en#the-recovery-and-resilience-facility.

Specific challenges for the ECA

Another challenge that might specifically arise for the ECA could be the sampling of units for its Statement of Assurance audits. Although RRF measures are not directly linked to finances, the EU financial statements will comprise lines of expenditure.

For instance, Latvia plans to request €500 million in 2023. This request is linked with 45 milestones and four targets. There are cases where we can identify the project amount for each milestone and target, but what if the milestones are related to soft objectives and money is an additional contribution in the national budget (approval of laws, implementation of reforms, etc.)?

While clearly the ECA could pinpoint payments to Member States and select a sample, its methodology for assurance would most likely be totally different. This leads onto the next challenge for the ECA: how to build a single audit model, and how to rely on work by national audit authorities – those who prepare audit summaries. It is a very different system from the traditional situation where you can trace all the expenditure.

For auditors: same role, but different rules

With the unfolding of the NGEU, and with it the RRF and the NRRPs, it is clear that existing management and verification structures will need to adapt. The current system for spending EU funds with eligible costs as the main criterion acquires a sine qua non dimension: the contribution to the efficiency of EU funds, with the achievement of objectives as a key criterion. Member States receive funding based on the achievement of milestones and targets in implementing reforms and investments, rather than to reimburse costs.

In principle, this should change the rules of the game substantially. Not only for implementing authorities when selecting projects, but also for auditors when assessing them. The new criteria open up opportunities, not least for us as auditors, to look for new, viable and innovative audit approaches. This is all the more necessary given the role envisaged for auditors in the final allocation of EU funds, in view of the achievement of the objectives initially projected. The auditor's role of maintaining trust in the system has not changed, but the rules for achieving this assurance are very different.

Regional cohesion - survey evidence on the ability of local governments and firms to tackle post-pandemic challenges

By Debora Revoltella, Emily Sinnott and Patricia Wruuck, European Investment Bank

Source: Ricochet69 and ibreakstock/ Depositphotos

A key condition for designing an appropriate policy response is to know what the core needs and problems to be addressed actually are. This also goes for cohesion support, requiring a proper identification of private and public investment gaps, needs and local abilities to realise convergence. Debora Revoltella is Director of the Economics Department of the European Investment Bank (EIB). Emily Sinnott works as Head of the Policy & Strategy Division in the same department and Patricia Wruuck works there as Economist. With the EIB's financing of economic and social cohesion, also in the years to come (see page 32), the three EIB experts provides insights on the surveys – and some of their results - the EIB uses as instrument to identify the local needs and abilities with a view to convergence so that the EU's bank can offer the best possible financing support on the ground.

Addressing transition challenges through cohesion policy

EU integration has been an engine for economic convergence, creating opportunities for people across its regions. Cohesion in the European Union has improved, with central and eastern European economies especially catching up over the last two decades. However, gaps remain and new challenges have emerged. Globalisation and digitalisation fuelled prosperity in some regions, but less in others, and in the aftermath of the global financial crisis, regional convergence had slowed[1]. The COVID 19 crisis has exacerbated existing inequalities as its impact was felt unevenly across Europe, for example, with some regions particularly hard hit by job losses in sectors such as tourism[2]. Currently, regions are rebounding at different speeds and the risks for a strong recovery have increased. At the same time, regions face the need for a transformation in the way their economies work to flourish in the post-pandemic environment.

Cohesion policy funds, together with the *NextGenerationEu* (NGEU), aim to support the recovery and boost the ability of regions to deal with current challenges and longer-term shifts. The green and digital transition underway in the EU economy will bring profound changes locally. These shifts now need to be managed in the context of major uncertainties linked to the global and EU security outlook. Cohesion policy plays a pivotal role here to enable structural transformation, while mitigating risks of widening disparities. Supports for investment can bring strengthened social and

1 European Investment Bank, *Regional and Social Cohesion: Widening Gaps and how to close them*. In: *EIB Investment Report 2021/2022*, EIB Luxembourg.

2 European Commission, *Eight Report on Economic, Social and territorial Cohesion: Cohesion in Europe towards 2050*, Publications Office of the European Union, Luxembourg 2022.

economic resilience at a local level and for the EU as a whole. Success in supporting deeper economic convergence will depend on whether funds can be channelled to investments that effectively address the existing gaps.

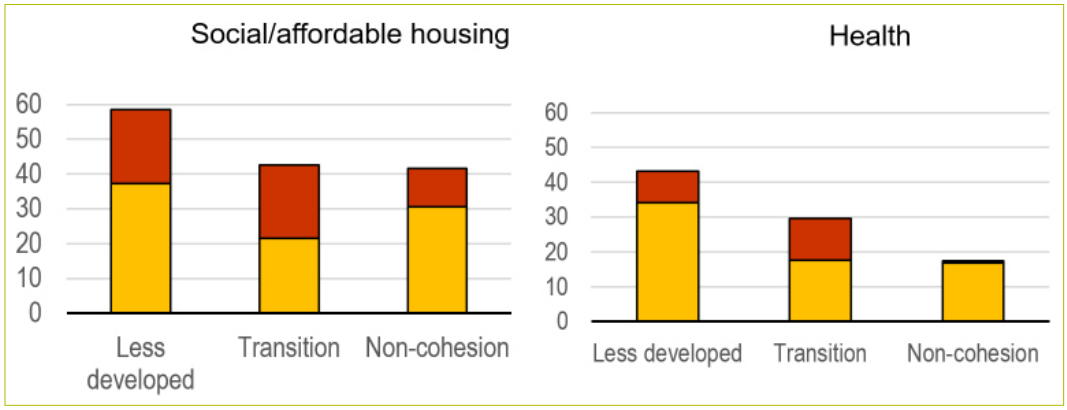
Effective cohesion support requires an understanding of the investment gaps

We analysed evidence from two surveys – the European Investment Bank's Municipalities survey and the annual EIB investment survey (EIBIS) - to identify private and public investment gaps, needs and local abilities to advance on the transformation towards a smart and green economy[3]. Our analysis classified EU regions at NUTS2 level based on the categories guiding current EU cohesion policy. We distinguished between regions with GDP per capita below 75 % the EU average (less developed), between 75 to 100 % (transition) and those with income levels above average (more developed or non-cohesion)[4].

Preparedness of cohesion regions for digital and climate transitions

Cohesion regions report more often that they have infrastructure gaps. Non-cohesion regions are one third less likely to state they have gaps compared to less developed regions. For the latter group, basic infrastructure gaps are most pronounced. These gaps are in urban transport, water and waste utilities and social infrastructure, i.e. including needs in health and housing (see **Figure 1**). Despite some convergence in incomes, this data shows that differences still exist in living conditions. Similarly, digital infrastructure tends to be more advanced in non-cohesion regions, facilitating digitalization by firms and strengthening resilience in many regions when the pandemic shock hit (EIB 2022). In reaction to the pandemic, municipalities across the EU have put a stronger focus on investment in digital infrastructure. However, fewer cohesion regions include aspects like the introduction of digital payments, wireless internet or digital public administration in their infrastructure investment planning indicating more limited preparedness and digital capacities.

Figure 1 - Municipal Investment gaps in social infrastructure (% of municipalities reporting gaps)



Source: EIB Municipalities survey 2020.

Relating to the question: *For each of the following would you say that the quality of infrastructure is satisfactory, slightly lacking or substantially lacking?*

On the climate challenge, about 75 % of municipalities in less developed regions reported investment gaps for climate adaptation and mitigation, including for energy efficiency. Municipalities in cohesion regions show an interest in stepping up investment, but more green projects will require assessment and planning, navigating

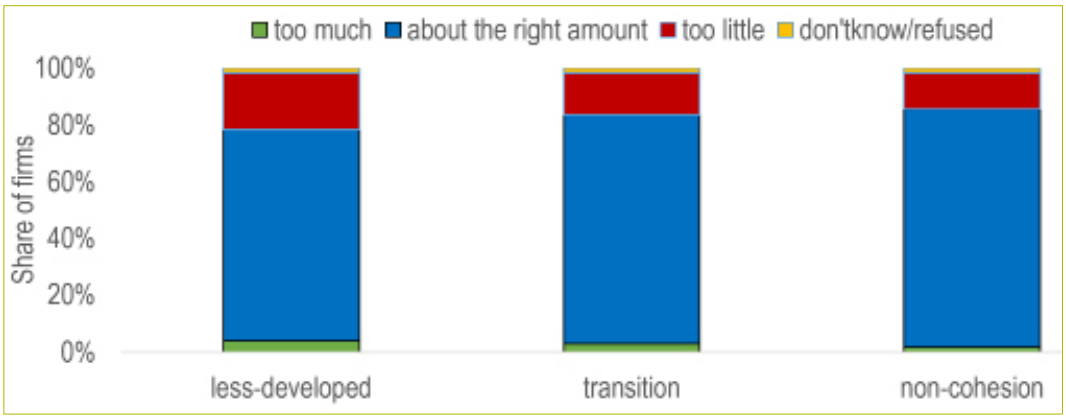
3 The EIB Municipalities Survey is a survey of 685 municipalities across the EU conducted in the summer of 2020. It collects information about local infrastructure investment, municipalities' needs and gaps, their ability to secure funding and the effect of the pandemic on investment priorities. For further information, see EIB (2021). The EIBIS is an annual survey of some 13 500 firms, including all EU Member States and the UK as well as a sample of US firms that serve as a benchmark. It collects data on firms' characteristics and performance, past investment activity and future investment plans, financing and other issues firms are facing. To analyse results with a view to regional cohesion, firms are classified depending on their location across cohesion region categories. Data are weighted by value added. For further information on the weighting, see (EIB 2021a).

4 In this text, we refer to transition and less-developed regions together as 'cohesion regions'.

regulatory requirements, and innovation. A lack of funding is a key barrier for many municipalities to realize green investments and municipalities in cohesion regions lag on green capacities[5].

Firms' responses show a similar picture. Corporates in cohesion regions reported higher investment gaps. Almost one in five firms in less developed regions stated that their investment over the last three years was below needs (see **Figure 2**). This coincides with lower investment rates, with 75 % of firms investing in less developed regions and 77 % in transition regions compared to 79 % in non-cohesion regions[6]. Regarding these figures, it is important to keep in mind that these are structural measures and the gaps tend to compound over the years. We have observed the larger gaps repeatedly in cohesion, so differences of a few percentage points matter. While the pandemic has taken its toll on investment across all regions, cohesion regions face the challenge of continuing convergence in a changing environment against the background of structurally lower investment rates.

Figure 2 - Share of firms reporting investment gaps



Source: EIBIS 2021.

Basis: All firms (excluding 'don't know'/'refused' responses) relating to the question: *Looking back at your investment over the last three years, was it too much, too little, or about the right amount?*

Slower adaptation adds to challenges to position successfully in the emerging new normal

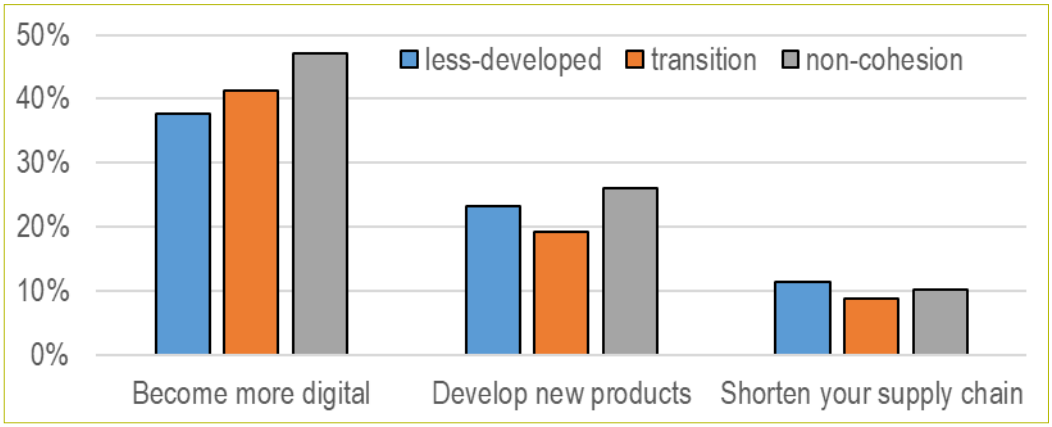
Firms clearly see that the pandemic worked to accelerate digitalisation. However, fewer corporates in cohesion regions have taken action to become more digital over as a reaction to the pandemic[7]. Similarly, fewer have reacted to the changed circumstances through innovation, such as developing new products (see **Figure 3**). Firms in cohesion regions dedicate less of their investment to innovation-related activities.

5 A municipality's green capacity is approximated through having key instruments underpinning climate planning in place. These include green budgeting, land use planning and assessment of the municipal carbon footprint. See EIB 2021.

6 Based on EIBIS 2021 results. EIB, *Regional Cohesion in Europe 2021-2022* (forthcoming).

7 EIB, The State of local infrastructure in Europe. EIB Municipalities Survey 2020, Luxembourg 2020.

Figure 3 - Firms' reactions to COVID-19



Source: EIBIS 2021.

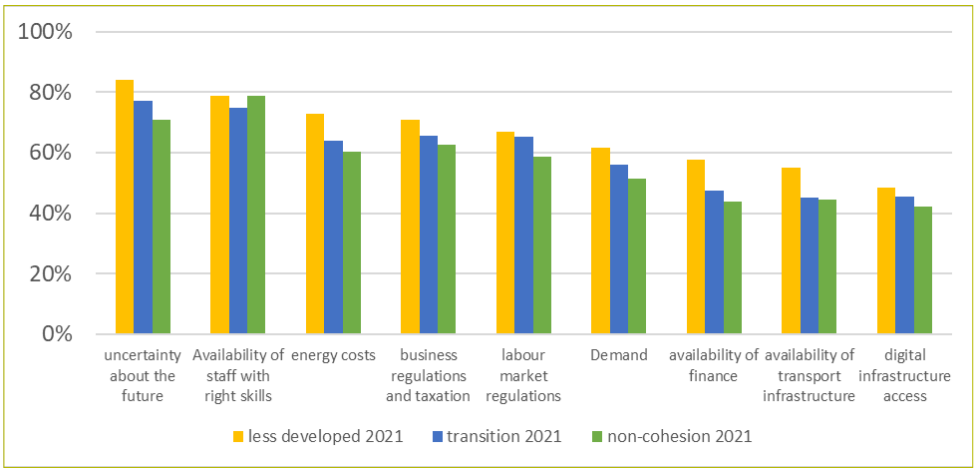
Basis: All firms (excluding 'don't know'/'refused' responses), relating to the question: *And as a response to the COVID-19 pandemic, have you taken any actions or made investments to…?*

Focusing on the green transition, EIBIS results show that many firms in cohesion regions already are experiencing the impact of climate change and extreme weather. At the same time, fewer have invested for climate action (32 % in less developed and 40 % in transition compared to 44 % in more developed regions) and in measures to increase energy efficiency. The lower share of firms undertaking climate-related investment coincides with more corporates being sceptical about the impact of the climate transition on their company and seeing the transition more as a risk (34 % for less developed and 32 % for transition compared to 28 % in non-cohesion).

Unlocking opportunities requires investment

Greater difficulties in accessing finance is one of the reasons behind lower investment. More firms in cohesion regions are finance constrained[8]. A higher share report access to finance as an investment obstacle. However, access to finance is not the only barrier firms in cohesion regions are facing. On average, more firms report obstacles, indicating a more difficult investment environment marked by higher levels of uncertainty (see **Figure 4**). Also, energy costs are a problem for many firms in cohesion regions indicating greater difficulties in dealing with the climate transition. For cohesion policy, this suggests that financing is needed to reduce investment gaps and realise opportunities from structural change, but it will not be enough alone.

Figure 4 - Share of firms reporting obstacles by region



Basis: All firms (excluding 'don't know'/'refused' responses), relating to the question: *Thinking about your investment activities, to what extent is each of the following an obstacle? Is it a major obstacle, a minor obstacle or not an obstacle at all?*

8 Finance constrained firms include corporates dissatisfied with the amount of finance received, firms that sought finance but did not receive it and those who did not seek external finance because they thought they would be turned down or costs would be too high.

Cohesion policy as key instrument to support regions' resilience

Cohesion policy has contributed to reduce disparities and maintain investment following the global financial crisis (European Commission 2022)[9]. In addition, it has supported regions to address the EU-wide crisis linked to the COVID-19 pandemic, through reorientation of public spending programs and new funding measures.

Cohesion policy *together* with *NextGenerationEu* now is a key policy instrument to help regions navigate in an environment of high uncertainty marked by geopolitical tensions. A flexible deployment of tools can help local authorities to react to the immediate challenges. At the same time, it can provide the necessary capacity to undertake transformative investments, supporting longer-term resilience, despite higher uncertainty.

To make the most of support, funds need to be well spent. This requires tackling finance and capacity gaps jointly to support sound planning and implementation of projects thereby maximising the impact of resources. Policy support should focus on maintaining public investment that leverages private investment, such as key network infrastructure. Gaps in basic infrastructure need to be tackled in a climate friendly way and the tackling of those in social infrastructure remains key to address vulnerabilities. Support for investment that helps firms in cohesion regions to move up the value chain are needed for sustainable economic catch-up; the opportunity to maintain the lower production cost advantages that have been driving convergence may shrink. Less developed regions will need investment in education and training, research and innovation to propel future convergence. This needs to be complemented with improvements in the business environment, helping firms to grow and adapt to changes.

9 European Commission, *Eight Report on Economic, Social and territorial Cohesion: Cohesion in Europe towards 2050*, Publications Office of the European Union, Luxembourg 2022.

Cohesion policy and the European Green Deal

By Agnieszka Widuto, European Parliamentary Research Service, European Parliament

Source: Elnur_/Depositphotos

The European Green Deal is the EU's strategy for achieving climate neutrality by 2050. Cohesion policy supports its implementation by channelling funds into climate action and 'climate proofing' investments, and taking concrete action in EU regions. In October 2021, the European Parliamentary Research Service (EPRS) published a briefing on 'The European Green Deal and cohesion policy', authored by Agnieszka Widuto. Agnieszka works as a policy analyst in the Structural Policies Unit of EPRS and has researched the economic, social and environmental aspects of EU regional policy for several years. Here, she highlights the links between the 2021-2027 cohesion policy framework and the European Green Deal.

European Green Deal - setting the tone for EU climate investments

In the context of worsening climate change, the EU has committed to achieving climate neutrality by 2050 and reducing greenhouse gas emissions (GHG) by 55 % by 2030. The European Green Deal encompasses a number of policy initiatives and legislative proposals aimed at reaching this goal. These include for instance the *European Climate Law*, setting concrete targets, the *Renovation Wave*, improving energy efficiency in buildings, and other initiatives aimed at establishing the circular economy, protecting biodiversity and making the transport and energy sectors more sustainable. These efforts require significant socio-economic changes, while ensuring a socially fair transition across EU regions. The European Green Deal acknowledges the contribution of regional and local communities to achieving climate neutrality, while the *European Green Deal Investment Plan*[1] identifies cohesion policy as one of the EU funding sources that can support investments in climate - and environment-related projects.

Cohesion policy funding for 2021-2027

EU cohesion policy accounts for about one third of the EU budget. In the 2021-2027 period, its funding allocation amounts to €392 billion[2] and covers four funds: the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European

1 COM(2020) 21 final, Sustainable Europe Investment Plan/European Green Deal Investment Plan.
2 European Commission, *Available budget of Cohesion Policy 2021-2027* (in current prices).

Social Fund Plus (ESF+) and the Just Transition Fund (JTF). The first three funds are traditional cohesion policy funds with some funding lines for climate and environment, while the Just Transition Fund is a new fund that supports the regions that are most affected by the transition towards climate neutrality due to their dependence on fossil fuels and high-emissions industries.

The EU cohesion policy cycle is aligned with the Multiannual Financial Framework (MFF) and in the 2021-2027 period, for the first time, it will be topped up from the *NextGenerationEu* (NGEU) initiative. The traditional cohesion policy funds – the ERDF, ESF and CF – will continue to be financed from the core EU budget (MFF), while the Just Transition Fund has a €7.5 billion component from the MFF and a €10 billion component from the NGEU[3]. In addition, the REACT-EU programme (Recovery Assistance for Cohesion and the Territories of Europe), with a budget of €47.5 billion supporting recovery following the pandemic (and the digital and green transition), is financed exclusively from the NGEU.

Climate-related spending

In the 2021-2027 budgetary period, the EU aims to dedicate at least 30 % of the EU budget and the NGEU instrument to climate-related action. As a contribution to this overall target, 30 % of the European Regional Development Fund and 37 % of the Cohesion Fund are earmarked for the attainment of EU climate objectives. A study on '*Cohesion Policy and Climate Change*,' prepared for the European Parliament in 2021, estimates that the total resources for climate change under cohesion policy (the ERDF, CF and ESF+) amount to €77.2 billion (or €83.7 billion if REACT-EU is counted, as 25 % of the programme envelope has to be dedicated to climate action)[4]. This is significantly higher than the €56.5 billion dedicated to climate action under the 2014-2020 cohesion policy (about 15.9 % of total cohesion policy funds). The additional Just Transition Fund, with a budget of €17.5 billion, is entirely dedicated to the regions most affected by the transition to climate neutrality. See **Table 1** for a comparison of mandatory climate spending between the last and current MFFs.

Table 1 – Comparison of mandatory climate spending between 2014-2020 and 2021-2027

	2014-2020 MFF	2021-2027 MFF
Cohesion policy budget	Approximately €355 billion (33 % of MFF)	Approximately €330 billion (31 % of MFF)
Climate action share	20 % of the EU budget	30 % of the EU budget
Minimum spending by region type	• Less developed: > 12 % • Transition: > 15 % • More developed: > 20 %	• Less developed: > 30 % • Transition: > 30 % • More developed: > 85 %

Source: EP study, 2021.

A special EU climate marker system[5] tracks the contribution of cohesion policy to the achievement of the overall EU budget target of 30 % climate-related spending. Every intervention is assigned a weighting depending on its contribution to climate objectives: significant (100 %), moderate (40 %) or insignificant (0 %). A list of cohesion policy interventions and their coefficients for the calculation of support for climate change objectives is outlined in Annex I to the Common Provisions Regulation (CPR) of 2021.

The earmarking of funds and tracking of climate spending are important instruments for ensuring the environmental performance of cohesion policy.

3 This paragraph uses 2018 prices, which appear in the text of adopted Regulations on JTF and REACT-UE.
4 Regulation (EU) 2020/2221 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU), OJ L 437, 28.12.2020, p. 30–42.
5 Supporting climate action through the EU budget.

Greener policy objectives and climate action

The text of the CPR, which sets out the cohesion policy rules for 2021-2027, does not mention the European Green Deal explicitly. However, it underlines the *'importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals'*[6]. It also highlights the contribution made by cohesion policy to mainstreaming climate action and achieving the 30 % budget target of climate spending.

The Regulation mentions that the funds should support interventions respecting the EU climate and environmental standards and priorities, while providing synergies with environmental projects under the Programme for the Environment and Climate Action (LIFE), Horizon Europe and other EU programmes. The partnership agreements and programmes, which outline the implementation of cohesion policy, must also take into account the National Energy and Climate Plans specifying how issues such as energy efficiency, renewables, GHG emission reduction, electricity interconnections and R&D will be addressed.

Box 1 – Examples of cohesion policy projects addressing climate objectives

- The 'Sustainable and affordable urban mobility' project in Funchal (Madeira) included the acquisition of electric buses to decrease pollution, reduce consumption of fossil fuels and promote the use of public transport.
- The 'Energy School' project sought to improve the energy efficiency of schools and to teach students and teachers about ways to reduce energy consumption. It was a collaborative project between Austria, Croatia, Germany, Hungary, Italy, Poland and Slovenia.
- The 'Building with Nature' interregional project tested nature-based solutions to preventing flooding and coastal erosion in Belgium, Germany, the Netherlands, Norway, Sweden and Scotland.

Source: European Commission, 2021.

For 2021-2027, cohesion policy has five policy objectives (POs) outlining the broad funding priorities, several of which are linked to the European Green Deal. One of the objectives is entirely dedicated to the green transition (PO2) as it aims to support *'a greener, low-carbon transitioning towards a net-zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility'* (Article 5 of the CPR). Other cohesion policy objectives support sustainability in enterprises (PO1), sustainable transport (PO3), and reskilling and social inclusion of affected workers (PO4). These objectives apply to the ERDF, CF and ESF+, while the JTF has one specific objective of *'enabling regions and people to address the social, economic and environmental impacts of the transition towards the Union's 2030 targets for energy and climate and a climate-neutral economy of the Union by 2050'* (Article 2 of the JTF Regulation)[7].

Regulations on each of the cohesion policy funds set the specific objectives and scope of support under these broad priority areas[8]. For example, the European Regional Development Fund provides support for promoting energy efficiency, renewable energy and the reduction of GHG emissions, climate change adaptation, sustainable water management, the circular economy, the protection of nature and biodiversity, green infrastructure, reducing pollution and promoting sustainable urban mobility. The Cohesion Fund focuses on developing climate-resilient transport networks and sustainable mobility. It is also important to note that both funds (ERDF and CF) are subject to '*thematic concentration*', which means that a percentage of funding is reserved for policy objectives 1 and 2, i.e. smart Europe and green Europe. This provides

6 Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

7 Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund.

8 Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund, Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 and Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund.

an additional way to ensure that funds are channelled towards EU green objectives.

The European Social Fund Plus also helps to mainstream climate action through its contribution to PO2, as it supports *'the improvement of education and training systems necessary for the adaptation of skills and qualifications, the upskilling of all, including the labour force, the creation of new jobs in sectors related to the environment, climate, energy, the circular economy and the bio-economy*' (Article 4 of the ESF+ Regulation). The Just Transition Fund supports a wide range of investments, such as deployment of clean technologies, GHG emission reduction, renewable energy, cleaner local transport, improving the energy efficiency of district heating networks, regeneration of brownfield sites, the circular economy, and the upskilling of workers. Lastly, the REACT-EU programme complements cohesion policy funding to enable the most affected sectors to recover from the consequences of the coronavirus pandemic. Its objectives also include supporting a green recovery of the economy, with 25 % of its overall budget dedicated to EU climate objectives. See **Box 1** for specific examples of cohesion policy projects addressing climate objectives.

In addition, a new concept of '*climate-proofing*' has been introduced in the current cohesion policy period. This means ensuring that infrastructure is resilient to long-term climate impact, the *'energy efficiency first*' principle is respected and the level of greenhouse gas emissions resulting from cohesion policy projects is consistent with the climate neutrality objective in 2050 (Article 2 of the CPR). This climate-proofing requirement must be observed during the programming and implementation of funds.

The way forward

As climate change progresses, EU regions are struggling with floods, forest fires, heatwaves and other extreme weather events. The impact differs depending on regional geography and socio-economic structure. The European Green Deal aims to counteract climate change by reducing GHG emissions. Cohesion policy helps to both mitigate the effects of climate change and support the green transition. It does so through funding allocated for climate action, climate-proofing investments, tracking the contribution to the EU's overall climate-spending target, and supporting concrete investments on the ground.

There are some challenges ahead, however. While climate objectives are front and centre in the 2021-2027 cohesion policy programming period, the implementation of the policy and adoption of partnership agreements and programmes (including Just Transition plans) are being delayed by the prolonged recovery from the coronavirus pandemic. Priority has been given to the adoption of the national Recovery and Resilience Plans under the NGEU, which also offer some synergy and complementarity in supporting green investments[9]. Increased EU climate ambitions expressed in the *Fit for 55* package (published after the CPR was adopted) and the forthcoming update of the National Energy and Climate Plans will also require possible adaptations of cohesion policy programmes. The currently ongoing war by Russia on Ukraine will also impact cohesion funding priorities, for instance due to the need to redirect funds to accommodate refugees and new priorities relating to energy security aimed at diversifying energy supplies and reducing energy dependence on Russia.

Given that only part of cohesion policy funding is dedicated to climate objectives, and green transition funding needs are far greater than cohesion policy resources, the impact of cohesion policy on the achievement of the goals of the European Green Deal remains to be seen. However, the policy can certainly help attract additional public and private funding, raise awareness of climate issues, stimulate innovation and technology diffusion in lagging regions and foster cooperation between regional authorities. By focusing funding on the most vulnerable social groups and regions it can also help ensure that no country or region is left behind in the course of the green transition.

9 EIPA, *Recovery plans and structural funds: how to strengthen the link?*

Patterns of fraud in EU funds under shared management - similarities and differences between Member States

By Jack Malan, Centre for Strategy & Evaluation Services (CSES)

Source: Depositphotos

In 2021, the European Parliament's Budgetary Control Committee (CONT) commissioned a study to examine the extent and nature of fraud in EU funds under shared management. Cohesion fund is known to fall into that category. The aim was also to identify good practices in tackling fraud and to suggest additional measures to combat the problem. The study was carried out by the Centre for Strategy & Evaluation Services (CSES) in the second half of 2021. Jack Malan, a CSES partner, led the study team. Contributions to the study were made, amongst others, by the European Court of Auditors, the European Commission, and national authorities from a number of EU Member States. Below he provides insights to the key findings and recommendations made in the CSES study.

Problem of fraud in EU funds under shared management

The ability of EU Member States, supported by the European Commission, to combat irregularities and fraud affecting EU-supported programmes is self-evidently important to help protect the EU finances. This is especially so for the EU-funded programmes under shared management because it is primarily national authorities that control expenditure. The EU funds under shared management largely fall under the European Structural and Investment Funds (ESIF) which were allocated a total of €367 billion for the 2014-2020 programming period. In total, there are some 180 managing authorities at Member State level, and many more at sub-national level, that are responsible for implementing ESIF programmes. Shared management funds account for some 70 % of all EU expenditure programmes.

In assessing the main patterns of fraud in EU funds under shared management, an important distinction needs to be made between irregularities and fraudulent irregularities. Because fraud is in many respects a hidden phenomenon, such irregularities are generally very difficult to detected. As such, the estimates that exist of the scale of the problem are almost certainly underestimates.

The Commission's 2020 annual report on the protection of the EU's financial interests (PIF) report estimated that in 2019 (the latest year for which data existed when we produced the study), EU expenditure under shared management was affected by an estimated 538 fraudulent irregularities amounting to some €253 million for the EU's 27 Member States. On this basis, fraud cases in EU spending under shared management were estimated to have accounted for 0.27 % of total payments. The PIF report statistics indicated that the fraud levels reported were higher in some Member States than others

but the study argued that this does not necessarily point to clear patterns of fraud. Rather, it could be that some Member States simply have more robust systems in place than others to detect and investigate irregularities, as well as a more proactive approach to tackling the problem.

The study on *Patterns of Fraud in EU Funds under Shared Management - Similarities and Differences between Member States* was carried out in the second half of 2021 by a team from the Centre for Strategy & Evaluation Services (CSES) and presented to the European Parliament's Budgetary Control Committee on 6 December 2021. Our study involved desk research to examine existing material, an interview programme with the European Commission, the European Court of Auditors, and other EU-level contacts, as well as with national authorities. We also undertook a survey of managing authorities. Our study includes an annex with country factsheets for ten Member States.

Patterns of fraud and current approaches to tackling the problem

In our study, we identified the most common forms of fraud in the 2014-2020 programming period as involving the falsification of documentation, followed by infringement of contract provisions, fraud to meet eligibility criteria, and infringement of public procurement rules. The Commission reported that the type of fraud most commonly encountered by its auditors was overcharging with around half of services having been the subject of this type of fraud. We found that Cohesion Policy is where the most fraud cases occur, in part due to the large infrastructure projects that are supported. Projects supported through the European Social Fund (ESF) tend to be of lower financial value and are therefore less vulnerable to fraud. Agricultural policy expenditure is also vulnerable to fraud.

While various EU and national measures have been implemented in recent years to combat fraud involving EU funded projects under shared management, the study argued that there are still many shortcomings in the Member States' practices. Moreover, as fraudsters are consistently developing their methods to evade detection, risks of fraud remain high, highlighting the need for greater levels of collaboration and harmonised approaches across EU Member States. The Commission has provided support to national authorities in the form of capacity building, IT tools, risk assessment analysis and guidance on good practices. Cooperation also occurs with the audit authorities to develop and share good practices in auditing and to ensure that good practices are applied across the Member States.

Many examples of good practices exist and we examined them when it comes to Member States' approaches to tackling fraud. These include IT systems and databases, 'red flags' identification tools, risk assessments, and capacity building. Key features of these good practices include combining data and tools into a single platform and making sure that information registries and risk analysis tools are available to all national authorities involved in the fight against fraud affecting the EU funds.

Nonetheless, there remain significant shortcomings in Member States' practices. Not all Member States have implemented national anti-fraud strategies as required by the Commission. Furthermore, data tools such as ARACHNE and EDES that have been developed by the Commission are not being used by all Member States and where they are used, this is often to only a limited extent. Efforts have been made by the EU and some Member States to increase the use of these tools as their effectiveness depends on the national authorities making their own national data available. This is also needed

in cross-border cases of fraud as national criminal registries are often not accessible on a cross-border basis. Another important issue we highlighted in our study is the fact that coordination is often lacking between the anti-fraud coordination service (AFCOS)[1] and investigative bodies in Member States. This leads to inaccurate reporting and a situation where irregularities are not updated once established as being fraudulent and investigative bodies are often not notified of suspected fraud cases.

Possible measures to combat fraud in EU funds under shared management

Looking ahead, in our study we made a number of recommendations to strengthen efforts to tackle fraud in the EU funds under shared management.

Firstly, we suggested that EU Member States need to increase efforts to ensure the reliability and accuracy of data reported to the Commission via the Irregularity Management System (IMS) system. There is widespread agreement that the data provided by national authorities on fraud in the EU funds under shared management are a significant underestimation of the extent of the problem. This is partly because of deficiencies with regard to Member States' capacity to detect fraud and to report up-to-date information. Related to this, we argued that the Financial Regulation, as well as national regulations, should require reporting authorities to regularly validate data reported through IMS. At the moment, this is not a widespread requirement. Our research suggested that there are few Member States that have laws that require the reporting authorities to validate information before it is reported to the EU level to ensure its accuracy.

Secondly, in our study we argued that Member States should be encouraged to make greater use of EU tools to help detect fraud. The use of data mining tools by Managing Authorities is essential to being able to effectively combat fraud in the EU funds under shared management. Such tools can process large amounts of information about (potential) beneficiaries and other aspects of the tendering process, thereby raising 'red flags' pointing to the risk of fraud. Greater use of the Commission's tool ARACHNE, and in particular the input of a larger volume of data from across the Member States, would make it easier for national authorities to tackle cross-border cases of fraud.

One of the impediments to universal adoption of ARACHNE highlighted in our study is national authorities' lack of familiarity with the system and its advantages. This leads to many authorities preferring to use their own national systems which have data sets restricted to information collected within their country and prevents the use of data mining in cross-border fraud cases. To promote ARACHNE's use, some Member States have issued guidelines on how to use these tools and others have been piloting the use of ARACHNE in specific fields (e.g. focusing first on identifying conflicts of interest and corruption) to help promote an understanding of the system. The support of the EU is needed to accelerate the process of uptake. We also argue in our study report that access to ARACHNE and EDES should be extended to all EU funds under shared management. Currently, ARACHNE is, for example, only available to Managing Authorities involved in implementing European Regional Development Fund (ERDF) and the ESF programmes.

A further suggestion we made was that steps should be taken to improve joint working between national authorities involved in monitoring fraud of EU funds. The AFCOS play an important role when it comes to ensuring a well-integrated system as they are tasked with coordinating their activities not only with the European Anti-Fraud Office (OLAF), but with the other national legislative, administrative, and investigative authorities in their respective countries to help ensure the protection of the EU's budget from fraud. Nevertheless, in our study we suggested that coordination and communication between different national authorities in the same country involved in the fight against fraud is lacking in some cases. The lack of coordination between the different national authorities involved also leads to a situation in which cases of suspected fraud reported to IMS as irregularities are not updated following prosecutions determining fraudulent intent.

1 EU Member States are required to designate an anti-fraud-coordination service to facilitate effective cooperation and exchange of information, including information of an operational nature, with OLAF, the European Anti-Fraud Office.

We also argued that consideration should be given to requiring the AFCOS to house the authorities in their countries that have investigative powers in relation to fraud. In our study we found that the most accurate reporting often comes from Member States where institutions with investigative authority perform the role of AFCOS. This is because the authorities involved in reporting cases through IMS are involved in the investigations themselves and therefore have a better understanding of the situation with regard to fraud cases and are better able to provide updates. Member States also need to ensure that the Managing Authorities and AFCOSs have sufficient resources with the right skills and competences to develop anti-fraud strategies, and to implement effective anti-fraud measures and practices.

In this study we made a number of other suggestions to improve the effectiveness of measures to combat fraud in the EU funds under shared management. These included: intensifying efforts to develop and share good practices; capacity building and ensuring that AFCOS and other national agencies have sufficient resources to tackle fraud affecting EU funds; and putting more emphasis on 'systems audits' in which national authorities regularly evaluate their audit practices and internal control systems for EU funds under shared management to ensure that they are effective and reliable.

Slipping through the prosecution cracks

A more general suggestion was that EU Member States that have not joined the European Public Prosecutor's Office (EPPO) should be encouraged to do so to help ensure that more cases of fraud are investigated and prosecuted. OLAF can investigate cases of fraud but it cannot launch prosecutions and can only recommend national authorities to do so. For most Member States, if there is a failure on the part of national authorities to investigate and prosecute such cases, the EPPO can perform these tasks instead. But in the Member States that are not participating in the EPPO, if OLAF identifies cases that need to be prosecuted and the national authorities fail to do so, these cases can remain without prosecution.

We presented our study *Patterns of Fraud in EU Funds under Shared Management – Similarities and Differences between Member States* to the European Parliament's Budgetary Control Committee on 6 December 2021. There was a positive reaction to the study with the rapporteur suggesting the need for a follow-up to help raise awareness of the problem and possible solutions across Member States. We hope that our study will close some of the prosecution cracks we identified and stimulate better cooperation, not the least at the Member State level.

No More Excuses - the European Court of Justice greenlights the rule of law conditionality mechanism

By Professor Laurent Pech, Middlesex University London

Source: grand-warszawski/ Depositphotos

Protest in Support of judicial independence in Poland.

On 16 February 2022, sitting as a full court, the European Court of Justice (ECJ) dismissed the annulment actions brought by the Hungarian and Polish governments against EU Regulation 2020/2092 which established a general regime of conditionality for the protection of the Union budget. Through this new regime, the rule of law got a new impulse as a crucial, permanent and transversal element of financial conditionality in relation to practices, omissions or general measures adopted by Member States. But it is yet to be used by the European Commission following the European Council's conclusions of December 2020, a key element of which was to de facto suspend the application of Regulation 2020/2092 until after the Court of Justice had issued its judgments and the Commission finalised guidelines in light of these judgements[1]. Professor Laurent Pech is Jean Monnet Professor of EU Public Law and Head of the Law & Politics Department at Middlesex University London. He is currently a member of the Horizon 2020 funded research project on 'Reconciling Europe with its Citizens through Democracy and the Rule of Law' (RECONNECT). Below he gives his analysis of the landmark rulings the ECJ gave last February and of its potential consequences, concluding that it is time to act to bolster the rule of law using the financial sanctioning tool, as is now confirmed by the ECJ's twin rulings in Case C-156/21 and Case C-157/21[2].

De facto suspension since 2020 adoption

Informally known as the *Rule of Law Conditionality Regulation*, this Regulation specifically empowers the European Commission to propose to the Council to adopt measures such as a suspension of EU payments in a situation where national breaches of the rule of law (i) affect or (ii) seriously risk affecting the sound financial management of the EU budget or the protection of EU financial interests in a sufficiently direct way. To simplify, Regulation 2020/2092 has made the rule of law a horizontal and permanent condition for EU Member States to respect whenever they implement the EU budget. This is not to say that it was not previously possible to suspend EU

1 The Commission finalised its guidelines on the application of Regulation 2020/2092 on 2 March 2022 (see Commission Communication C(2022) 1382 final).

2 This article is based on the author's previous blog post 'No More Excuses: The Court of Justice greenlights the rule of law conditionality mechanism', VerfBlog, 16 February 20202.

funding on rule of law grounds but 'earlier financial provisions did not specifically lay down response mechanisms with a similar force to those under Regulation 2020/2092'[3].

The February 2022 judicial denouement will not surprise anyone familiar with this file due to the mostly hopeless nature of the multiple pleas in law raised by the Hungarian and Polish governments – total of nine and eleven respectively – in support of their annulment applications. However, the key objective pursued by the two governments has been achieved: Regulation 2020/2092 is yet to be formally activated although it officially came into force on 1 January 2021.

This de facto unlawful suspension of the application of the Regulation is connected to the infamous 'compromise' adopted by the European Council on 10-11 December 2020[4]. In short, in order to avoid Hungary and Poland vetoing the 2021-27 EU budget and Next Generation EU recovery fund, the European Council instructed the Commission – sorry, strongly advised – to not apply the new rule of law conditionality mechanism until after the European Court of Justice (ECJ) ruled on its legality and the subsequent finalisation of (superfluous) implementing guidelines by the Commission. In light of the continuing non-application of Regulation 2020/2092, the European Parliament took the extremely rare step of suing the Commission for failure to act last October[5]. This means that the ECJ is far from done with Regulation 2020/2092.

To keep this article reasonably short, a non-exhaustive account of the main substantive issues addressed by the Court in its two judgments of 16 February 2022 will be provided. Before doing so, I will briefly outline the Court's noteworthy response to a procedural issue relating to the transparency of the legislative process.

The February twin judgments in Case C-156/21 and C-157/21 are not the first EU rulings relating to Regulation 2020/2092. Indeed, following an annulment application lodged by the present author in 2019, the General Court annulled in April 2021 the Council's refusal to disclose the confidential opinion of its legal service (CLS) regarding the Commission's initial draft of what became Regulation 2020/2092[6]. Subsequently, Hungary and Poland extensively relied on passages from this confidential opinion before the Court of Justice. For the Court, and in line with the position previously adopted by Advocate General (AG) Campos Sánchez-Bordona, the Council's interlocutory application must be dismissed on account of the overriding public interest in the transparency of the legislative procedure. I for one am personally grateful to the Hungarian and Polish governments for providing the Court with an opportunity to strengthen the right of EU citizens to access information relating to a legislative procedure.

On which legal basis?

Is Hungary and Poland's claim that Regulation 2020/2092 should be annulled in its entirety supported by a wrong choice of its legal basis? The Court – unsurprisingly – thinks not. Article 322(1)(a) TFEU is the appropriate legal basis for the new mechanism, and indeed the EU has the power to adopt the Regulation to make sure that breaches of the principles of the rule of law won't seriously compromise the sound financial management of the EU budget and/or the financial interests of the EU.

Remarkable is the Court's renewed emphasis – to put it informally – that the EU is not a cash machine and EU law not an à-la-carte menu. The Court however went beyond these two points to emphasise as strongly as never before that the EU must also be able to defend the EU's shared values which define the very identity of the EU within, of course, the limits of its powers.

3 Opinion of Advocate General Campos Sánchez-Bordona delivered on 2 December 2021 in Case C-157/21, *Poland v European Parliament and Council*, EU:C:2021:978, para. 112.

4 For further analysis, see K.L. Scheppele, L. Pech and S. Platon, '*Compromising the Rule of Law while Compromising on the Rule of Law*', *VerfBlog*, 12 December 2020.

5 See pending Case C-657/21, *European Parliament v European Commission*.

6 Case T-252/19, *Pech v Council*, EU:T:2021:203.

In this context, the ECJ interestingly links rule of law and solidarity, the former being described as a value common to the EU and the Member States 'which forms part of the very foundations'[7] of the EU and its legal order, and the latter being described as a fundamental principle of EU law which is implemented i.a. through the EU budget. In another remarkable and welcome development, the Court reminded the current Hungarian and Polish authorities that compliance with Article 2 TEU values 'cannot be reduced to an obligation which a candidate State must meet in order to access to the [EU] and which it may disregard after its accession'[8].

Article 7 TEU

Hungary and Poland had argued that Article 7 TEU would be the only means available under EU law to protect the rule of law and that the EU legislature has organised a parallel 'easier, quicker and more effective'[9] Article 7 procedure via secondary legislation. In response to this, the Court held that the procedure under Article 7 and the one established by Regulation 2020/2092 pursue different aims and have a distinct subject matter.

This is again in line with the position of the AG: 'There is nothing to prevent the use of instruments other than that in Article 7 TEU'[10] to protect the rule of law. In this context, the ECJ helpfully explains that the EU legislator is entitled to establish additional procedures regarding Article 2 TEU values as long as these procedures complement and not seek to recreate or supersede primary law procedures.

One may note in particular the Court's response to the (unpersuasive) *lex specialis* type argument whereby the EU could allegedly only review and eventually sanction violations of Article 2 values via the sole Article 7. For the Court, this view ignores that multiple provisions of the EU Treaties, which have furthermore been given effect by multiple EU secondary law acts, confer on the EU the power to review and sanction national violations not only of the rule of law but of every Article 2 TEU value. The Court's interpretation also confirms that the European Council was plainly mistaken – as some experts, including the present author, made clear at the time – to endorse the *lex specialis* view in December 2020. The two judgments instead could not make clearer that the Commission must wake up and use all instruments available to it to address threats and/or violations of Article 2 values from different angles.

Another point in relation to the European Council is the following. Regarding the 'emergency brake' the Council gave itself so as to give a last chance for a Member State to delay the decision-making process - which one may note Hungary demanded before using it in support of its annulment application - the Court rapidly tackled it by recalling a basic point of EU law: a mere non-binding recital cannot confer any formal role on the European Council. Another instance confirming the validity of the criticism previously levelled at the EU 'compromise' of December 2020.

Rule of Law is EU Law

For the very first time (to the best of my knowledge), two national governments have formally claimed that the EU would not be legally empowered to act in the face of breaches of the rule of law as the rule of law would allegedly be a political ideal which cannot be the subject of a definition in EU law (Hungarian government), with the EU legislature also denied the power i.a. to legally define the rule of law (Polish government).

7 Case C-156/21, *Hungary v Parliament and Council*, EU:C:2022:97, para. 128 and Case C-157/21, *Poland v Parliament and Council*, EU:C:2022:98, para. 146.

8 Case C-156/21, ibid., para. 126 and C-157/21, ibid., para. 142.

9 Opinion of Advocate General Campos Sánchez-Bordona delivered on 2 December 2021 in Case C-156/21, *Hungary v European Parliament and Council*, EU:C:2021:974, para. 239

10 Ibid., para. 209.

The Hungarian government deliberately misrepresented the definitional work undertaken by the 'Venice Commission'[11] to argue that the core components of the rule of law cannot amount to legal principles and that the European Commission would have adopted a different understanding of the rule of law. Both propositions are just plainly false.

In reply to these claims, the AG conceded that the rule of law may be viewed as a broad concept before, however, rightly emphasising that the EU law meaning of the rule of law has been extensively developed in the Court's case law. This includes each of the legal principles listed in Article 2 of the Regulation defining the rule of law, and 'there is nothing to prevent the EU legislature from defining it more precisely in a specific area of application, such as implementation of the budget, for the purposes of establishing a financial conditionality mechanism'[12].

Building on the AG's sound approach, the ECJ held that no Member State can seriously claim not to be in a position to determine the core content and the legal requirements flowing from each of rule of law principles listed in the Regulation as each of them has been 'the subject of extensive case-law of the Court'[13]. It follows that the Hungarian and Polish governments' argument alleging a breach of the principle of legal certainty must also be dismissed.

In this context, the Court emphasised that the EU legislator is entitled to adopt a specific definition of the rule of law on account of the specific aims and subject matter of the relevant piece of legislation. In what is my personal favourite paragraph, the Court has powerfully reiterated that Article 2 TEU is 'not merely a statement of policy guidelines or intentions, but contains values' which 'are an integral part of the very identity of the European Union as a common legal order' and 'are given concrete expression in principles containing legally binding obligations for the Member States'[14]. The (desperate) claim that the EU rule of law principles are of a purely political nature which cannot be the subject of a legal analysis must therefore be rejected.

The Court similarly rejected another hopeless claim, yet regularly used by current Hungarian and Polish authorities, based on national identity: while national authorities have 'a certain degree of discretion'[15] when it comes to implementing rule of law principles in light of the specific features of each national legal system, this cannot obviously be construed as carte blanche to apply EU rule of law principles differently, let alone disregard them post accession, or prevent the adoption by the EU of uniform assessment criteria as it did under Regulation 2020/2092.

Lastly, and an aspect which will no doubt be amply discussed, the Court found the Regulation to fully satisfy legal certainty as it subjects the Commission to strict procedural requirements and circumscribes the adoption of relevant measures to several substantive conditions. This includes: (i) a 'sufficiently direct link' also known as 'genuine link' between a rule of law breach and an effect or serious risk of effect on sound financial management or financial interest of the EU; and (ii) a situation or conduct attributable to a national authority which is relevant to the proper implementation of the EU budget.

11 The *Venice Commission* is the Council of Europe's independent advisory body on constitutional matters. In support of the argument that the rule of law would allegedly inter alia be 'an ideal or, at most, a guiding standard, which is never fully achieved' and suffers from 'conceptual uncertainties' (C-156/21, para. 200 and para. 203), the Hungarian government referred to two studies produced by the Venice Commission: Study No 512/2009 of 28 March 2011 entitled '*Report on the Rule of Law*' and Study No 711/2013 of 18 March 2016 adopting a '*Rule of law checklist*'.

12 Opinion of Advocate General Campos Sánchez-Bordona delivered on 2 December 2021 in Case C-156/21, para. 272.

13 Court's judgment in C-156/21, para. 236 and Court's judgment in C-157/21, para. 290.

14 Court's judgment in C-156/21, para. 232 and Court's judgment in C-157/21, para. 264.

15 Court's judgment in C-156/21, para. 233 and Court's judgment in C-157/21, para. 265.

One may note that the adjective *genuine* is not mentioned explicitly in the Regulation. One may understand the use of *genuine* as a mere clarification that the Commission must of course prove, in each case, the existence of a non-hypothetical effect or serious risk of effect and establish how the relevant breaches of the rule of law it has identified produce or risk producing such an effect or serious risk of an effect.

Future litigation will likely centre on the Commission's determination of this *genuine* link in each case. So think again if you thought this would be the end of the rule of law conditionality story.

No more excuses

The EU is facing an autocracy crisis. This crisis has been 'eating away at the rule of law and at democracy itself in affected EU Member States'[16]. Rather than promptly and forcefully addressing what the President of the ECJ has publicly presented as a threat to 'the very survival of the European project,'[17] key EU actors have mostly engaged in a façade of action prioritising the creation of new tools over the forceful and coordinated use of the tools they have.

One may only hope that the Commission will stop looking for new excuses not to make a prompt and forceful use of Regulation 2020/2092. The situation in Hungary is for instance ripe for immediate application[18]. The same can be said of the situation in Poland where, one must recall, national authorities have 'constitutionalised' the systemic violation of EU legal requirements relating to the principle of effective judicial protection[19].

16 R.D. Kelemen, 'European's authoritarian cancer: diagnosis, prognosis, and treatment' in FEPS, 'Progressive Yearbook 2022', p. 73.

17 CJEU President Koen Lenaerts, 'Constitutional relationships between legal orders and courts within the European Union,' FIDE 2021, XXIX FIDE Congress, 4 November 2021

18 See K.L. Scheppele, R.D. Kelemen, J. Morijn, '*The EU Commission has to cut funding to Hungary: The Legal Case*', 2021.

19 According to the European Commission itself, the rulings of Poland's Constitutional Tribunal are in breach of Article 19(1) TEU, which guarantees the right to effective judicial protection, by giving it an unduly restrictive interpretation and deprinving all individuals before Polish courts from the full guarantees set out in that provision. In addition, the Commission also correctly stated that due to its irregular composition, Poland's Constitutional Tribunal no longer ensure effective judicial protection by an independent and impartial tribunal previously established by law, as required by Article 19(1) TEU, in the fields covered by EU law. See European Commission, *Rule of Law: Commission launches infringement procedure against Poland for violations of EU law by its Constitutional Tribunal*, Press release IP/21/7070, 22 December 2021.

Europe seen from the stars: evaluating EU cohesion funding using satellite data

By Katharina Gnath, Bertelsmann Stiftung, and Hannes Taubenböck, German Remote Sensing Data Center (DFD)

Source: Rakchai/Depositphotos

A detailed view of Europe from space with night lights.

For public auditors, auditing policy performance relates by and large to the effectiveness of any given policy. It involves identifying and measuring the impact of policy implementation, which most often takes place through specific programmes and projects. In cohesion policy and other policy areas, many factors come into play, which makes it challenging to attribute effects to a certain policy action. Availability of data and new research techniques are crucial for performance auditing, and new venues – where they can be used – are particularly relevant. Satellite data are becoming increasingly available, and new insights on how to use remote sensing information are evolving quickly. Hannes Taubenböck is leading the 'City & Society' team at the German Remote Sensing Data Center (DFD) of the German Aerospace Center (DLR), and is also a lecturer at the University of Würzburg. Katharina Gnath is Senior Project Manager at the Bertelsmann Stiftung, and an expert on European and international economic governance. They explain below how geospatial data can be used as a proxy for economic and social changes not only at country level but also at local level to capture the local impact of place-based policies.

Substantial resources allocated to reducing disparities

In December 2020, the Council of the European Union adopted the EU's long-term budget for the years 2021 to 2027. With a share of 31% of the total EU budget (around €330 billion over a period of seven years), cohesion policy remains one of the EU's most significant spending areas. In 2020, another €47 billion (via REACT-EU) was made available specifically for cohesion policy through the *NextGenerationEu* instrument to promote recovery from the pandemic and economic resilience.

The funding is intended to give the EU's structurally weaker regions the opportunity to develop, for example through better infrastructure networks, and to catch up with economically stronger regions. Given the amount of resources dedicated to reducing economic and social disparities between European regions and countries, it is essential to learn more about the local impact of the EU's funding instruments.

EU cohesion funding on the ground: easy to see with the naked eye, but hard to measure

Most Europeans have seen a building, road or bridge being built as part of EU-funded projects, and festooned with banners or plaques bearing the European flag. One such project is the 8-kilometre bypass in Myszków, a municipality in the Polish region of Silesia, that was built between March 2016 and September 2018. About 83% (or €17.4 million) of the construction costs came from the EU through the European Regional Development Fund (ERDF).

Prior to construction, it took a disproportionate amount of time to reach the nearest large city, Katowice, because there were no trunk roads. The new bypass improved the municipality's links to the country's long-distance transport network. The road also opened up a new industrial and commercial area, where regional and supra-regional companies with about 200 employees had already settled. Satellite images of the road under construction, as shown in **Figure 1**, highlight how the regional infrastructure has expanded over time.

Figure 1 – Aerial view of bypass and industrial area in Myszków, Poland

Source: upper image: Google Earth, Image Landsat/Copernicus. Bottom image: Google Earth, image c 2021 CNES/Airbus.

Ideally, EU funding of such infrastructure should lead to more economic activity in the respective city, municipality, or even the entire region. However, effects that are partially visible with the naked eye and known to local residents are difficult to measure and evaluate economically within a larger context. Previous literature has largely studied the growth effects of EU funding at the level of NUTS-2 or NUTS-3[1] regions, where it is hard to disentangle the impact of EU funds from other regional trends. There has been no consistent, EU-wide monitoring of regional funding at municipal level to date.

In a recent project, the *Bertelsmann Stiftung*, together with the German Aerospace Center (DLR), the ifo Institute in Munich, and the Austrian Institute for Economic Research (WIFO), developed a novel approach to evaluate the local economic effects of spending from two of the most important EU funds – the European Regional Development Fund and the Cohesion Fund – using satellite data as a proxy (see **Box 1**). The dataset for the two most recent EU funding periods (2007-2013 and 2014-2020) includes information on 119,116 EU-funded projects in 6,571 municipalities (so-called local administrative

1 The nomenclature of territorial units for statistics (*Nomenclature des Unités Territoriales Statistiques* – NUTS) is a geographical system used by Eurostat, according to which EU territory is divided into three hierarchical levels, known as NUTS-1 (major social-economic regions), NUTS-2 (basic regions for the application of regional policies) and NUTS-3 (small regions for specific diagnoses).

units, or LAUs). The process of geo-locating EU-funded projects allows a significantly more precise localisation and subsequent impact assessment of EU funding.

Box 1 – The *Europe seen from the stars* project

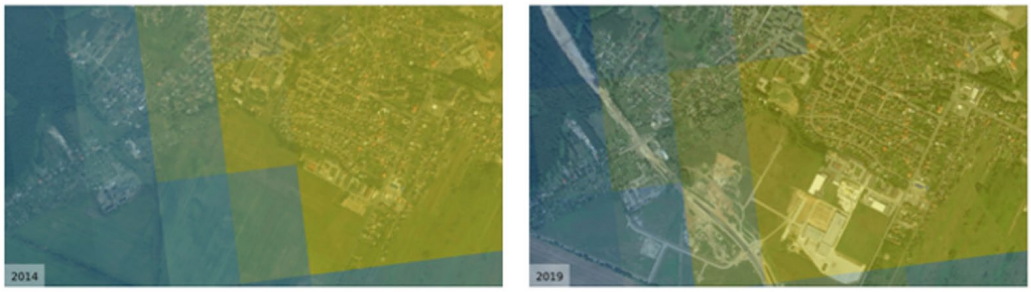
The interdisciplinary project *Europe seen from the stars* of the *Bertelsmann Stiftung*, the German Aerospace Center (DLR), the ifo Institute in Munich and the Austrian Institute for Economic Research (WIFO) used multi-temporal satellite data of night light emissions to evaluate how EU funding (structural and cohesion funds) in the 2007-2013 and 2014-2020 periods has affected infrastructure changes and economic growth in a pilot region that contains municipalities in Germany, Poland and the Czech Republic. Click here to download the study by Julia Bachtrögler-Unger, Mathias Dolls, Paul Schüle, Hannes Taubenböck and Matthias Weigand with a full set of references and further images.

Satellite imagery as a basis for assessing EU funding

After local EU funding data were collected, they were subsequently supplemented with data on economic activity in the observed municipalities. To assess the impact of funding at such a granular level, the study leverages the potential of remote sensing data. The research is guided by the hypothesis that increased economic growth is accompanied by observable changes in spatial-structural parameters that satellite images can pick up on (as shown in **Figure 1** above).

Satellite data record not only the nature of the Earth's surface and changes over time, but also night-time light emissions. It is common in economic research to use nocturnal light emissions as a proxy for economic growth. Especially in less developed countries, this method is often used due to a lack of consistent economic data. Recognised studies have shown that night light development and (economic) growth are positively related. The purpose of this study was to determine the extent to which night-time light changes are related to EU investment at the spatial level of communities (see **Figure 2** for Myszków, Poland).

Figure 2 – Increase in night-time light emissions over Myszków, Poland



(a) 2014 (b) 2019

Source: Basemap Map data 2021 CNES/Airbus, Google.

Notes: The images show night light emissions before and after the construction of the bypass road in the town of Myszków, Poland. The images were taken in 2014 and 2019, respectively. Low emissions are indicated by blue coloured overlay, yellow colours indicate high night light emissions. In the area of the newly developed commercial area, an increase in night light emissions can be seen, while the emissions in the rest of the town remain relatively stable.

Economic analysis shows a positive link between EU funding and local growth

The analysis revealed that EU funding amounts are positively related to the change in nocturnal light emissions in the municipalities under investigation. This effect takes on a value of up to 0.0116, depending on the period considered and the model specification.

This means that a 1% increase in EU funding, all other factors being equal, was associated on average with increased growth in night-time light emissions of up to 0.0116% in the municipalities considered. If one assumes the same correlation between night light growth and GDP growth at the municipal level as at the NUTS-3 level, this corresponds to higher growth of around 0.001%. EU funding policy thus shows a measurable, positive – albeit very low – correlation with economic growth at the municipal level in our pilot region.

The study also finds that there is a positive relationship between economic development in a municipality and EU funding in neighbouring municipalities. This means that EU funding not only benefits the directly-funded commune, but also those in the immediate surrounding area, and can thus trigger spillover effects.

Outlook: Earth observation and remote sensing data for policy evaluation

Satellite imagery is famous for providing a bird's-eye view of processes on the Earth's surface. A rapidly growing body of literature draws on satellite imagery to analyse economic questions. However, most of these studies tend to focus on comparisons of larger administrative units like countries or, in Europe, large NUTS-1 regions.

The study shows that remote sensing data can also be used to capture the local impact of place-based policies on economic development, even in a pan-European context. The *Europe seen from the stars* project provides an analysis of the relationship between EU project funding and local economic development, and is thus an example of how novel data at high spatial granularity can help in targeting important questions of regional policy. Covering a wider geographical area would make it possible to pinpoint the causal effect of EU cohesion policy on economic activity, for example by combining municipal data with eligibility thresholds in funding activity, or enabling a matching analysis that compares small-scale policy effects in similar regions.

Beyond this approach based on economic activities, remote sensing data and techniques can document and analyse land cover, land use, and atmospheric components and their changes over time with a consistent data base of high spatial granularity. Recent studies using remote sensing data, for example, have mapped and spatially analysed contiguous settlement areas and corridors of development in both national and transnational European settings. In another study, the driving emitters of air pollutants such as NO_2 have been mapped, enabling the documentation of areas exposed to air pollution. Other studies combining remote sensing and other geospatial data reveal opportunities to bring heterogeneous data together in order better to understand the interdependencies of socio-economic or demographic indicators, and the shaping of space. An example of this is the interdependent analysis of the built and natural environment with quality of life. A multi-dimensional and systematic combination of these and other geo data for the documentation and assessment of EU cohesion policy, however, is still pending.

Data-driven analysis is a useful tool for underpinning debates on EU spending policies with greater empirical evidence, and can help the EU to develop a more tailored cohesion and structural policy. The work with different forms of data – specifically the innovative satellite-imaging technique – is a good starting point for further research into the granular effects of EU public spending.

Public auditors can use such data to corroborate other findings, or to highlight outliers in relation to other available data. The ever-increasing volume of new data available in a digital format may allow auditors to cover a larger population, or to zoom in on specific local situations. This is particularly helpful with regard to the effects of locally oriented programmes and projects that are financed through cohesion funding. The use of satellite data can be one of the tools when auditing cohesion policies and their impact, making "the view from the stars" more relevant for both local and EU policymakers.

The Paris Declaration: supreme audit institutions condemn Russian aggression and commit to cooperating more closely

By Denis Gettliffe and Sébastien Lepers, France's Cour des comptes

Source: France's Cour des comptes.

Participants at the conference of supreme audit institutions on the future of Europe.

On 14 and 15 March 2022, France's Cour des comptes hosted a conference in Paris of the heads of supreme audit institutions (SAIs) about the future of Europe after the pandemic. This also happened to be the first conference of SAIs at this level since Russia invaded Ukraine on 24 February 2022, which those SAI heads who were present clearly condemned in their Paris Declaration. Sébastien Lepers, Acting Director of International Relations, External Audit and the Francophonie (DRIAEF), and Denis Gettliffe, Editorial Director, provide a short account of this conference and of the further cooperation envisaged, which includes a bilateral cooperation agreement.

Condemning Russian aggression

At the international conference of supreme audit institutions (SAIs) on the future of Europe after the pandemic, the 29 European SAIs that were represented signed the *Paris Declaration* 'condemning the unjustified military aggression against Ukraine by Russia's armed forces'. This committed them to 'enhancing cooperation between their institutions following the COVID-19 pandemic, with the aim of protecting the common values and principles on which the rule of law is based'. The Declaration, which was prepared and discussed with the SAIs by Sébastien Lepers), Nicolas Thervet, an auditor in the first chamber of France's *Cour des comptes*, and Benoît Denise, DRIAEF project officer, was signed by the 24 SAI representatives present in Paris on 14 March.

The *Paris Declaration* condemns 'in the strongest terms Russia's military aggression' against Ukraine. The Declaration describes the invasion as 'a brutal act of aggression that is contrary to the fundamental principles of inter-State relations as enshrined in the United Nations Charter' which could lead to 'a humanitarian catastrophe in Europe on a massive scale'.

The Declaration followed intense diplomatic activity and several initiatives taken by the various SAI cooperation bodies since Russia launched its offensive in Ukraine. The Governing Board of the European Organisation of Supreme Audit Institutions (EUROSAI) thus adopted a declaration on 3 March 2022 about the situation in Ukraine, condemning 'all acts of violence committed by Russian troops against the Ukrainian population,' committing itself to fully supporting the Ukrainian Chamber of Accounts, and suspending 'all cooperation with the Accounts Chamber of the Russian Federation and the State Audit Committee of the Republic of Belarus'. EUROSAI also addressed the International Organisation of Supreme Audit Institutions (INTOSAI), inviting 'INTOSAI to consider suspending the Accounts Chamber of the Russian Federation's presidency of INTOSAI'. On behalf of the Contact Committee of the EU Member States' SAIs, Klaus-Heiner Lehne, President of the European Court of Auditors, had written to INTOSAI's members to relay this strong stance.

In turn, Aleksei Kudrin, Chairman of the Accounts Chamber of the Russian Federation, had sent a letter to the members of INTOSAI's Governing Board informing them that he could no longer perform his duties properly. The Organisation's General Secretariat will therefore handle all administrative matters and contacts between its member SAIs, and will act as *de facto* leader of INTOSAI's operations until the Presidency is transferred to Brazil's SAI in November 2022.

Addressing the pandemic and its consequences

Another important subject addressed by the Paris Declaration is the COVID-19 pandemic. The Declaration avers that the SAIs 'responded swiftly to the exceptional circumstances of the COVID-19 crisis' and that their work 'contributed to a better understanding of and greater transparency in the arrangements made to tackle the pandemic's health-related and socio-economic consequences'.

The Declaration affirms that in order to rise to the new challenges, 'exchanging relevant information, evaluation methods and good auditing practices is vitally important' for SAIs, and goes so far as to envisage 'exchanges of staff and joint training on topics of mutual interest,' as well as 'carrying out joint audits to improve the way international programmes work'. With the goal of 'stepping up efforts to share and disseminate information about their work in several languages and over a wide range of platforms,' the signatory SAIs state that they wish to 'deepen and intensify their cooperation in the years to come'.

Bilateral contacts

In parallel to the conference, Pierre Moscovici, First President of France's *Cour des comptes*, also held several bilateral meetings with his counterparts (e.g. from the Netherlands and Romania). He also met with Michel Huissoud, the Director of the Swiss Federal Audit Office, which resulted in an agreement being signed whereby Pierre Moscovici entrusted the chairmanship of the INTOSAI Working Group on Evaluation of Public Policy and Programmes (WGEPPP) to the Swiss SAI.

Pierre Moscovici and Michel Huissoud signing the transfer agreement.

Source: France's *Cour des comptes*.

Reaching out

Pierre Moscovici reflects on the future of the European Union during a Bridge Forum meeting

By Gaston Moonen

Source: Bridge Forum Dialogue

On 22 March 2022, the Bridge Forum Dialogue organised, in cooperation with the ECA, a conference on the future of the European Union, a much-debated topic in general and even more so with the Russian invasion of Ukraine. With the French EU Presidency in mind, the organisers invited Pierre Moscovici, First President of France's Cour des comptes, to give his perspectives on this topic, building on his wide experience as an EU Commissioner, an MEP, a minister in France and an academic. Below is an overview of the main issues he raised during a hybrid meeting held in Luxembourg, which concluded with a lively discussion.

War in Ukraine – a paradigm shift for the world and the EU

As co-host of the event Klaus-Heiner Lehne, ECA President and Vice-President of the Bridge Forum Dialogue, introduced Pierre Moscovici, underlining that the issue of the future of the European Union had unfortunately become more relevant than ever in view of the war in Ukraine, which had caused a shock on the European continent. This Russian action has affected many people, first of all creating a humanitarian tragedy in Ukraine, but also having consequences for many EU citizens. The ECA President also explained the reaction of heads of European supreme audit institutions, condemning the war and Russia's aggression.

Pierre Moscovici applauded the attention that the topic of the future of Europe had received during the last few years. He explained that the EU's relevance had tragically increased since the developments in eastern Europe since the end of February 2022, putting the EU's role as a beacon of freedom and democracy at centre stage. He labelled Russia's aggression as a clear violation of international law and of Ukraine's sovereignty, and applauded the EU and many other countries for their willingness to show unity in support to Ukraine and to condemn Russia's invasion. Europe, he continued, was not something to be taken for granted: it must protect its values, which are not shared everywhere around the world. The EU's origins, he explained, lay in the steadfast approach taken by European countries, after the Second World War, in uniting in rejection of war. He underlined that for many years, generations of Europeans had grown up in an environment of peace.

The First President applauded the strong reaction by the EU in the form of sanctions, also to ensure a future of Europe, a future for democracies, conveying a strong message of determination to stay united. He pointed out that the EU has faced various crises – a financial crisis, a migration crisis and most recently a health crisis. But war, he said, was a crisis in which many of these come together, with the additional challenge to security it entailed. He argued that this war, which started on 24 February 2022, meant a paradigm shift for the world, posing a historic challenge to the EU, comparable at least to the fall of the Berlin Wall in November 1989. That fall symbolised the end of the Cold War and a victory of democracy, and was the starting point for the deepening and the widening of the EU project. And even if the EU's enlargement had sometimes been complicated, Pierre Moscovici said, the EU has shown that it was the right step to take. But heralding a century of peace in Europe had proven to be an illusion. He reminded the public how different the situation would be facing Russian aggression if an organisation like the EU did not exist. Russia's expansion aims will perhaps turn out to be a permanent threat to the EU and other European countries.

Pierre Moscovici pointed out that part of Putin's strategy was to put pressure on the EU in various ways. As a result of this strategy, many Ukrainians – already estimated at 30% of the Ukrainian population – had fled to the EU, with tremendous social consequences (migration crisis), commodity prices had risen (economic crisis) and concerns had arisen over energy (energy crisis), with consequences for inflation. He highlighted how, reacting to this crisis, the EU had opened up to offer a safe haven to refugees, imposed constraints on trade and cooperated also within the framework of NATO. At the same time, he indicated that the EU had proven to be rather dependent on Russian energy and raw materials. He also identified the risk that the EU moving away from Russia in these areas may push Russia even closer to China. In other words, there were several challenges that the EU had to face.

Transforming to a geopolitical Union requires leaps in governance and capacities

Taking a wider historical view, Pierre Moscovici recalled the expression that "history teaches but has no pupils". He wondered whether this was actually true, pointing to several crises on the European continent which had been addressed, some rapidly, others with some delay. The pandemic and the Ukraine crisis had led to quick reactions, with the NextGenerationEu initiative, including an EU loan programme. He looked back almost 30 years to when Jacques Delors, as President of the European Commission, spoke about European Community bonds in 1992. In relation to the EU sanctions in reaction to the Russian aggression, he highlighted that the EU – for the first time in its history – had decided to acquire military equipment for the Ukrainian army through the European Peace Facility. He predicted that the various EU sanctions might trigger reactions from Russia that would cause divergence on the EU front. But he stressed that unity within the EU and the ties between the NATO countries had been strengthened by the crisis in a remarkable and (for some) unexpected way. This would be tested, he said, by energy prices possibly rising to unprecedented levels.

Jean-Claude Juncker said that a good crisis should never be wasted. Pierre Moscovici referenced this, saying that at the forefront of an ecological crisis as well, the EU might become a more political Union. Jean-Claude Juncker spoke of a political Commission, and Ursula von der Leyen has recently identified the EU as a geopolitical Union. Against the backdrop of global events, he reflected that the EU was condemned to ask itself how it could be a power, facing a global power like China or a military power like Russia. Pierre Moscovici reiterated that unity was the EU's strength, and that building an economic power would be impossible without being a political power based on democracy, human rights and the rule of law, enabled by a proper political and economic governance framework. In his view, the EU must be able to defend itself, a goal which would most readily be achieved in cooperation with NATO, but also by seeking to form coalitions with several other countries individually. These countries included the USA, an aim which was fortunately now possible in view of its current government.

Another issue he touched upon concerned what the borders of the EU may be, also in view of several candidate countries knocking on the EU's doors. He argued that the

EU must be open to this in a constructive way, in the spirit of solidarity in Europe. In his view, a European Union of around 35 Member States would have to ask itself what kind of Union it wanted to be, and whether a multispeed Europe should seriously be considered. He raised the question of what the EU would be centred upon in such a scenario, and pointed out that with the Eurozone, the EU has in fact created such a multispeed Europe. In his view, voting procedures would also need to be addressed, with a possible move from unanimous to qualified voting in the Council in relation to all matters, including social issues, foreign-affairs issues and tax avoidance. Furthermore, he argued that the EU should remain a global leader on energy and ecological issues, and that the trend of energy dependence – the EU had imported 60% of its energy in 2019, compared with only 40% 30 years previously – should be reversed.

From an economic perspective, the First President found that the larger the EU was, the stronger its position would be, with rules for controls to prevent it from becoming a victim of the markets. This should be supported by tailor-made rules stimulating, for example, green investments, as well as the creation of a real permanent EU budget, fed by truly EU-based resources raised by means of a corporate tax, a digital tax, an energy tax, or a combination of these. He underlined that such changes would not transform the EU budget into a federal budget; later on, in reply to questions, he specified that his proposal should not lead to additional taxes being levied, but rather existing taxes being substituted. In his view, the EU's taxation system should be set up in accordance with the level of political ability to implement it, but also to address fairness, for example with a digital tax creating a level playing field for all businesses active in the EU, whether they came from EU countries or elsewhere.

Standing strong as a Union of democracy

In his concluding words, Pierre Moscovici stressed the moral duty of the EU, as a union of democracy, to stay engaged with the rule of law, defending the idea that led to the creation of the EU aimed towards cooperation in the interest of all its people, making it even more sustainable with each crisis it faces. Stating that he was a convinced and dedicated European, he encouraged everybody, also in his current capacity in audit, to take part in the challenge to further develop the EU and its capacity to act in response to whatever challenges might arise in the future.

After his presentation, Pierre Moscovici replied to various questions, ranging from strategic autonomy to the challenges of Treaty change to further strengthen the EU. Regarding the latter issue, in view of the difficult path of Treaty change, he highlighted the need to be rather practical and adopt workable practices. Concerning the tasks of supreme audit institutions in sudden crises like the one in eastern Europe, he underlined three aspects: to continue to hold the executive accountable, to exercise its independent function to enable the democratic process to take place, and to address citizens' concerns sufficiently.

As for the role of the EU institutions, he replied that some of them did not yet have a strong enough basis and practice to fulfil their leadership potential. In this respect, he suggested that the European Parliament, the European Commission and the EIB should play larger roles. He also argued in favour of rule changes, as he had proposed earlier, for the Council. Recognising the difficulties, he pointed out that in the end Member States could not stick too much to national interests, and that instead they should be realistic about the role the EU can and must play globally, also for the sake of democratic values.

A new training paradigm: ECA and OLAF at the forefront of synergetic training

By Tom Willems, EU Anti-Fraud Office (OLAF)

Sharing knowledge entails enhancing knowledge that can then be applied. With this in mind, the European Court of Auditors (ECA) and the European anti-fraud office (OLAF) have organised joint training sessions, particularly since January 2021, to improve the anti-fraud landscape. Tom Willems, who served for many years as an OLAF investigator and is currently OLAF's liaison officer, focusing on matters relating to the European Public Prosecutor's Office (EPPO) and the ECA, provides insights on how the ECA and OLAF work together in training matters and lend substance to the cooperation agreement between the two organisations. In so doing, he touches on the actual content of the training provided.

A new anti-fraud landscape

The new anti-fraud landscape following the creation of the European Public Prosecutor's Office (EPPO) calls for cooperation between all involved stakeholders[1]. In its 2019 edition, focusing on fraud and corruption, the ECA Journal already included several calls from institutional partners and academia to set up cooperation schemes to cover the entire anti-fraud cycle[2]. The ECA and OLAF have together taken up this challenge in the field of training. Having received unprecedented acclaim[3], the approach to preparing and delivering these training events may merit further attention and possibly copying. I have summarised some recent training events below, outlining the guiding principles, and have made suggestions for potential follow-up.

Various training events

Training on interviewing

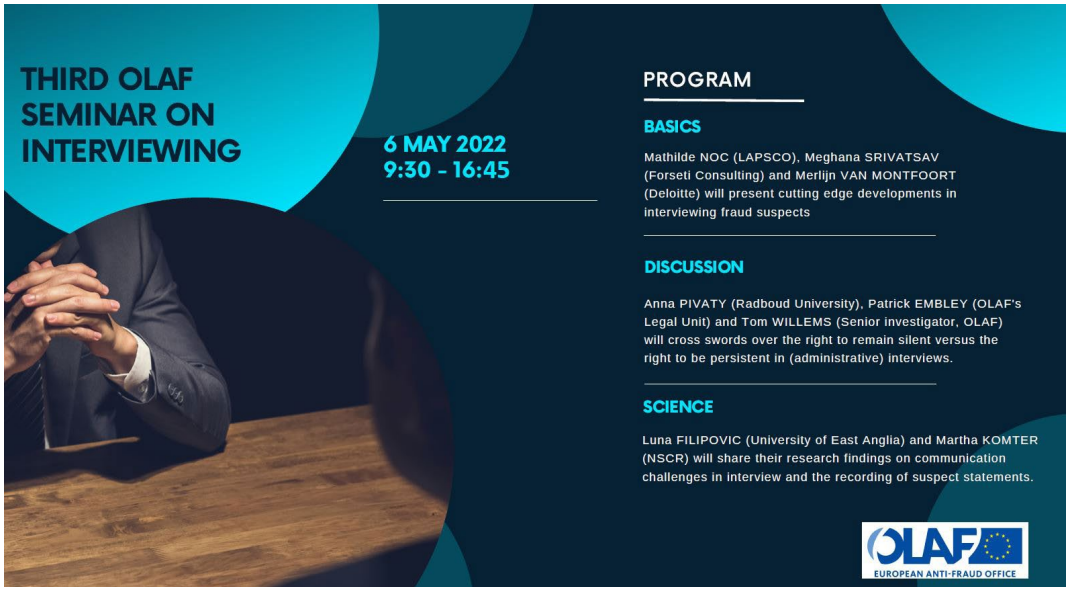
In January 2021, OLAF provided four sessions of interview training for auditors. In tandem with the ECA's training unit and benefiting from direct input from ECA auditors, the training sessions were successful in transposing science-based interview principles and approaches to the world of audit. This required a serious investment in terms of time and effort to listen to each other and appreciate the differences between audit and investigation objectives, but it paid off in excellent ratings. Initial doubts relating to the long duration of the training courses were assuaged.

On 6 May 2022, OLAF provided another seminar on interviewing, bringing together experts to discuss three separate, but inter-connected clusters of interest. The focus was on strategic interviewing, including discussing the boundaries of the right to remain silent versus the right to be persistent when asking questions. In addition, two scientists contributed the latest insights on how the mechanics of spoken language can affect the outcome of an interview.

1 See Articles 325 TFEU, 4 and 13 TEU and 99 of the EPPO Regulation.

2 ECA Journal 2/2019, *Fraud and Corruption. Ethics and Integrity*. See, for example the contributions by Professor Levy (p. 8-12) and CJEU director Jan Inghelram (p. 70-72) and the interview with OLAF Director-General Ville Itälä (p. 64) on training.

3 For interview training in January and February 2021, the overall rating was 9.13. For the red flags training on 25 and 26 October 2021, the overall rating was 8.6 (average score) and 9 (median score). For the NGEU/RRF training on 16 February 2022, the overall rating was 8.7 (average score) and 9 (median score).



Source: OLAF

Training on reporting and red flags

In October 2021, the ECA and OLAF again joined forces to prepare and deliver a training session on judgement- and decision-making in reporting and selection. Such training gathered interest with the arrival of the EPPO, as the intricate framework of mutual reporting duties between all stakeholders involved in protecting the EU's financial interests (PIF) poses major challenges on the ground. An abundance of reporting rules with different wording can often lead to diverging interpretations and therefore to rather arbitrary judgements.

In an attempt to close gaps in interpretation and reduce what Kahneman calls 'noise'[4], ECA and OLAF experts sat together to identify and share our understanding of the different rules (e.g. the legal provisions defining irregularity or fraud), standards (e.g. guilty intent) and scales (e.g. 'serious suspicion' or 'sufficient grounds') used across the statutory texts. This allowed us to consider questions like:

- What is the difference between information, facts and evidence?
- why is it important not to confuse values with facts?
- What is the difference between an irregularity and fraud?
- How serious should suspicions be in order to report or open an investigation?
- How can we prove guilty intent?

Specific attention was given to the latter. Assessing '*mens rea*' (a guilty mind) is indeed both decisive in distinguishing irregularity from fraud, and requires a difficult retrospective evaluation of a person's mental state at the time of the alleged offence. In an attempt to objectivise such judgement, trainers reflected on translating 'red flags' identified in fraud prevention literature into inference schemes categorising the audit/investigation findings. Rather than relying on intuitive and sometimes biased reasoning, reporting and evaluation decisions would benefit from a more structured and hence better-supported decision-making process[5].

4 Kahneman et al. define noise as 'unwanted variability in judgments, violating expectations of fairness and consistency,' see: Kahneman, D., Sibony, O. & Sunstein, C., *Noise. A flaw in human judgment*, 2021, Willima Collins.

5 See for example Zarefsky, D., *The practice of argumentation. Effective reasoning in communication*, 2019, Cambridge University Press.

Training on the RFF/NGEU

In February 2022, the ECA contributed to a training event set up for the EPPO by OLAF on the Recovery and Resilience Facility (RRF). The RRF being a centrepiece of the NextGenerationEu (NGEU) programme, this training was much anticipated and timely, coming one year after the Facility had been set in motion. Experts across the board explained the set-up and controls put in place, and a diverse audience of equally high standing had the opportunity to raise many questions ahead of the programme's first full year of implementation.

The ECA speaker contributed significantly to the success of the event. He convincingly demonstrated the value of the ECA's perspective as an independent outsider. This enabled the audience to appreciate the important role the ECA plays in advising governance structures on how to improve their organisations and work to ensure this massive amount of money is well spent.

Success factors

It is fair to say that these training sessions were particularly successful, which might be explained by a number of common features:

- *The search for synergy*

  More than a slogan, trainers prepared the training sessions in close and intensive cooperation, aiming to produce a combined effect greater than the sum of their separate effects. In practice, this means that via coordination meetings between all trainers, the exchange of draft presentations and the efforts of a steering team, speakers were willing to depart from their own individual perspectives and focus on a shared understanding of concepts and objectives.

- *Holistic thinking*

  Closely related to the quest for synergies, training content eschewed compartmentalised thinking about the detection/prevention/enforcement of fraud and corruption in favour of a holistic view of audit, investigation and criminal and administrative mechanisms as complementary tactical tools of control.

- *Science-based*

  As acknowledged previously by the ECA[6], anti-fraud training should reach out to and build on scientific research. All three training sessions presented here relied largely on scholarly input[7], debunking anecdotal narratives and upgrading discussions to academic standards.

- *Pragmatic*

  Discussions should not, however, be restricted to theoretical dissertations, but have practical use and impact. Again, the role of the training team here is crucial, not only in being receptive to training content delivered by experts, but also engaging in ongoing discussion and analysis of participant feedback to strike the right balance.

6 See the need to attend to behavioural aspects of fraud raised in ECA special report 01/2019, *Chemical hazards in our food: EU food safety policy protects us but faces challenges*, p. 24 and the interview with Professor Wagner in the aforementioned ECA Journal 2/2019, p. 113.

7 To mention only the main sources: Kahneman's work on dual processing for the interview training, Zarefsky's argumentation schemes and the presentation by Professor Rubio at the RRF training.

What's next?

Working arrangements between most stakeholders in the fight against EU fraud include the possibility of cooperating on training and exploring the most efficient formats for delivery and impact[8]. The success of the training events organised by the ECA and OLAF invites follow-up and expansion.

One possible topic for a further training session could be rules, standards and scales of reporting. The EPPO's input, one year after starting operations and with the expertise it has gained so far, could significantly increase the relevance of this training. Feedback from the ground indicates that such a session would be much welcomed by all bodies striving to protect the EU's financial interests.

Another possible topic for training on RRF funding could be 'performance-oriented' oversight in its first year of implementation, comparing and contrasting 'milestones' and 'targets' with audit and investigation standards as ways of determining substandard performance.

The recruitment of extra auditors by the European Commission and the ECA to audit RRF expenditure might support the development of a specific training course on interviewing for auditors. In the long run, such a module could form part of a common training curriculum for PIF investigators.

Lending substance to the fight against fraud

Building on their excellent cooperation in the past, the ECA and OLAF have joined forces to set up or contribute to three very well-received training events. All were prepared in close collaboration between the two institutions and reflect a mind-set that resonates with the core principles of the new anti-fraud landscape. The ECA and OLAF's pilot work in training could now be extended also to other players, to achieve the multi-pronged and integrated approach needed in the perpetual struggle to make EU funds cleaner and enhance their legitimacy.

Further initiatives should transcend institutional battles over legal competency, resources and symbolism to focus on best practice and efficiency on the ground. The latter encompasses the concept of 'learning transfer,' i.e. the real and lasting improvement of performance after training input. A media outlet like the ECA Journal could play a major role in inspiring and reinforcing learning transfer.

8 See, e.g. Article 11 of the Working Arrangements between the EPPO and the ECA dated 03.09.21; Article 8 of the Working Arrangements between the EPPO and OLAF dated 05.07.21 and Article 21 of the Administrative Arrangement between the ECA and OLAF dated 22.05.19.

ECA trainees visit other EU institutions to exchange experiences with peers

By Carlota Salobreña Luna and Stelina Lima de Oliveira, Directorate of the Presidency, and Marin Pažanin, Language and Editorial Directorate

The 16 ECA trainees in front of the Commission's Berlaymont building, Brussels.

Every year on 9 May, many people go to Brussels to experience Europe Day – a celebration of democracy and unity. This year, they were joined by 16 trainees from the ECA, who were granted a day of special leave. The aim was to gain insights into the European institutions and bodies, connect with other trainees from Brussels and Luxembourg, and experience the city. Carlota Salobreña Luna, Stelina Lima de Oliveira and Marin Pažanin share trip highlights and explain how this new generation within the EU institutions reached out to help build the future of the Union.

Working on the Union's progress: different roles

On Friday 6 May, the 16 of us boarded the train to Brussels at 6 o'clock in the morning, alighting at the Schuman station for our first destination: the European Commission. There, the helpful staff treated us to two presentations. First, Marc Taquet-Graziani from the Secretariat-General shared unique insights into working at the Commission, including differences between the previous and current administrations. The presentations took place in the same office where weekly College meetings are held, giving us a chance to feel the dynamics of the proposal processes. Marc Taquet-Graziani sees the Commission's chief role in the interinstitutional framework as promoting the general interests of the EU. The ECA shares this objective, which is even more important in times of crisis such as the one we are experiencing due to the war in Ukraine. He highlighted collegiality as the main idea that EU staff should always foster.

From Salvatore Del Prete, representing the European Social Fund, and Jean Subtil, from DG Budget, we learned more about the relationship between the Commission and the ECA. At its core, this is a cooperative and constructive relationship based on mutual respect for each other's roles – the findings and recommendations in ECA reports are

primarily used to improve the Commission's work on the compliance and performance of the EU budget. Even though better coordination between the two institutions may sometimes be desirable, many exchanges take place regarding the 79 audits and reviews featuring in the ECA's 2022+ work programme. The ECA's reports also help the European Parliament and the Council take a decision on granting discharge to the Commission and to other bodies. This procedure, for the financial year 2020, finished only two days before our visit. Discharge is an important element in the EU's accountability process, and discharge closure highlights the continued collaboration between the ECA and the Commission to improve the EU's performance.

Our already packed day concluded with two more visits. At the Committee of the Regions, Klaus Hullmann gave an entertaining talk on the importance of giving a voice to regional and city authorities in the EU landscape. From firefighting goats in Portugal to mushroom pickers in Latvia, it is here that the EU laws and directives need to be put into practice and here that they are tested the most. Our last visit that day was to Berenschot, a consultancy firm that helps to navigate the smooth adoption of these EU regulations and directives. Berenschot staff provided us with a unique perspective of working on EU projects.

At the heart of the EU's democratic forum

The next day, Saturday, started with a visit to the European Parliament complex, including the Hemicycle and the Parlamentarium. In preparation for Europe Day, we participated in enjoyable activities including winning a European flag during a quiz and getting in contact with European political parties. We then visited the European Council, whose colourful patchwork reminded us of the diversity in the EU. We had already learnt the previous day that the Council's building, with its famous lantern, is protected by a façade made of oak window frames salvaged from demolition sites all around the EU, the oak being the tree that unites all of Europe. Even though the interpreting booths were being prepared for upcoming activities, our voices contributed to a buzz of languages from many different regions.

This was also an ideal chance to meet trainees from other EU institutions who are sharing the trainee experience with us. We had the opportunity to meet and interview trainees based in Brussels. One Greek trainee from the European Commission, Anna-Maria Pekridou, started her traineeship at the Taxation unit in March 2022. With a legal background and expertise in financial matters, her academic and professional interests led her to apply. Her main motivation for embarking on the traineeship journey was to get to know what it means to work in an EU institution and how to actually contribute to a better future for its citizens. She stressed that, so far, it had been the experience of a lifetime. 'You cannot get the chances and the exposure you receive while working for the EU in any other place', she told us.

However, there were also some difficulties. It is never easy to go through your first experience abroad and it takes some time to adapt to a city such as Brussels. Nonetheless, the chance to meet different young professionals from all around Europe has made her feel welcome in the city. As regards networking, she believes it is quite organised in Brussels, given that the Official Traineeship Office holds multiple events and activities every week: 'It is very difficult to keep up with all the activities, but it's definitely great for us'. She concluded that she is very lucky to be an EU trainee as you can get very useful advice and diverse perspectives from different countries and cultures.

Cornelia German is a new trainee from the European Parliament's DG for Infrastructure and Logistics, with a background in politics and environmental action. Originally from Romania, she learned about this position through one of her political science classes. Starting without any specific expectations for the next few months, she hoped for a true learning experience. However, one of the most surprising facets of her work as a trainee became the opportunity to experience real-life networking with people from around Europe. It allowed her not only to build connections, but also to experience a very different lifestyle from the one back home. She is very satisfied with the range of networking possibilities, from social outings scheduled on Thursdays to spontaneous gatherings, quipping: 'That is an important reason why I am here!'.

Optimising a true learning experience

What surprised us was the number of trainees working at the European Parliament in Luxembourg who had decided to spend the weekend in Brussels to experience the *capital of Europe*. Paula Herrero, Sara Valdifiori, Filipa Fontoura and Stella Lomeri were just some of the trainees we encountered during our trip to Brussels. Even though they had different reasons for applying for the traineeship, there was a clear consensus that it far surpassed their expectations. They cited the fantastic work of their supervisors as a fundamental element of their success. Their comprehensive guidance in the past two months, including facilitating the use of tools and learning mechanisms, had allowed them to grow and prosper in a new environment.

This positive relationship and feedback should not be disregarded when considering the factors contributing to a successful experience as an EU trainee. The trainees all agreed that a crucial feature of their overall experience was their social environment. They explained that the networking between people in similar positions had helped them to connect and share positive and negative aspects of their traineeships, create meaningful experiences and build friendships. According to Filipa Fontoura, this is 'an essential part of maintaining good mental health and enjoying the traineeship to the fullest'.

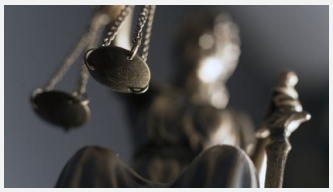
Our trip to Brussels not only provided us, as ECA trainees, with an insight into the EU's working bodies and their roles in an interinstitutional society, but also allowed us to meet like-minded professionals from diverse cultural backgrounds and hear their experiences. We thank all the ECA staff for providing us with the opportunity to enjoy this meaningful experience. We especially thank our trainee representatives, Elena Graziuso and Henrik Thomas, for organising this most rewarding trip to learn from EU experts and peers alike.

ECA publications in January 2022

Special report 01/2022

Published on 10/01/2022

EU support for the rule of law in Western Balkans has had little impact on fundamental reforms



EU action has had little impact in advancing fundamental rule of law reforms in the Western Balkans, according to a special report published by the European Court of Auditors (ECA). Some technical and operational reforms have taken place in the region. But in a context of insufficient political will and a lack of engagement, EU support has been largely insufficient to tackle persistent problems in areas such as the independence of the judiciary, the concentration of power, political interference, and corruption, the auditors say.

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Special report 02/2022

Published on 17/01/2022

EU's contribution to energy efficiency in businesses is unclear

In a special report published today, the European Court of Auditors (ECA) calls for clarification of the contributions made by EU funds to energy efficiency in businesses. The auditors conclude that EU funding remains insufficiently linked to business needs. And its expected results, though they are impossible to capture under the existing monitoring framework, are likely to deliver only a modest input to the EU's energy-efficiency objectives. Among other things, the auditors found evidence to suggest that a number of projects may have succeeded without public support.

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Special report 03/2022

Published on 24/01/2022

5G in the EU needs a booster

In a special report published today, the European Court of Auditors (ECA) calls for new impetus to boost the roll-out of 5G, the new global wireless standard for mobile networks, in the EU. Member States have experienced considerable delays in implementing their 5G networks, which is jeopardising the achievement of the EU's objectives in terms of access and coverage. In parallel, further efforts are needed to address security issues in 5G deployment in a consistent and concerted manner, the auditors say.

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ECA publications in January /February /March 2022

Review 01/2022

Published on 31/01/2022

EU´s energy taxation policies don´t square with its climate goals

Energy taxation can support efforts to combat climate change, but current tax levels do not reflect the extent to which different energy sources pollute. A review published today by the European Court of Auditors outlines how energy taxes, carbon pricing and energy subsidies contribute to achieving the EU's climate objectives. Even though renewable-energy subsidies almost quadrupled over the 2008-2019 period, fossil-fuel subsidies have remained relatively constant over the last decade despite commitments from the European Commission and some Member States to phase them out. The auditors point to challenges faced by policymakers: ensuring consistent energy taxation across sectors and energy carriers, reducing fossil-fuel subsidies, and reconciling climate objectives with social needs.

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Special Report 4/2022

Published on 21/02 /2022

Benefits of EU single market for investment funds still largely unrealised

The EU has a framework in place to establish a single market for investment funds across EU borders, and to ensure that EU citizens' investments are protected. But not all of its ambitious goals have been achieved, says the European Court of Auditors in a special report published today, and many potential benefits for investors remain untapped. The objective of a true single market for investment funds has not been met, and cross-border activities remain rare. Funds are still not supervised consistently across all Member States, investor protection remains weak, and systemic risks are not adequately monitored.

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Audit preview 01/2022

Published on 14/03 /2022

EU auditors to check the EU's support for workers during the pandemic

When the COVID-19 pandemic struck in 2020, Member States introduced schemes to support workers whose livelihoods had been destabilised by the large-scale closure of various sectors of the EU economy. The EU provided its own support to these measures in the form of the SURE instrument – temporary Support to mitigate Unemployment Risks in an Emergency. The scheme has allowed the EU to provide loans up to the value of €100 billion to support Member States' own schemes aimed at supporting workers whose income was at risk as a result of the pandemic. The European Court of Auditors is preparing an audit to determine whether the European Commission responded effectively to the risk of pandemic-related unemployment in the EU through the SURE instrument.

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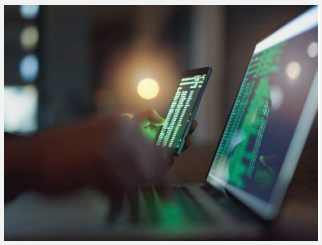
ECA publications in March/April 2022

Special Report 05/2022

Published on 29/03/2022

EU bodies must step up their cybersecurity preparedness



The number of cyberattacks on EU bodies is increasing sharply. The level of cybersecurity preparedness within EU bodies varies and is overall not commensurate with the growing threats. Since EU bodies are strongly interconnected, a weakness in one can expose others to security threats. This is the conclusion of a special report by the European Court of Auditors which examines how prepared the EU's governing entities are against cyber threats. The auditors recommend that binding cybersecurity rules should be introduced, and the amount of resources available to the Computer Emergency Response Team (CERT-EU) should be increased. The European Commission should also promote further cooperation among EU bodies, the auditors say, while CERT-EU and the European Union Agency for Cybersecurity should increase their focus on those EU bodies that have less experience in managing cybersecurity.

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Opinion 01/2022

Published on 13/04/2022

Auditors issue Opinion on proposed new funding rules for European political parties

In its proposal for a recast regulation on the statute and funding of the European political parties and foundations, the European Commission has broadly managed to address its main objectives such as making the parties and foundations financially more viable and cutting red tape, according to a new Opinion by the European Court of Auditors. The auditors welcome the provisions aimed at bolstering the transparency of funding, such as provisions on due diligence for donations. Nevertheless, they point out shortcomings on issues including EU co-financing, funding national referendum campaigns, contributions and the risk of foreign interference. The auditors make a number of suggestions for the European Parliament and the Council of the EU to consider when developing the new rules.

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Special Report 6/2022

Published on 26/04/2022

Intellectual property not fully protected in the EU

Intellectual property rights play a big role in a knowledge-based economy: they ensure that businesses and designers are able to profit from their creations. They also provide assurances to consumers in terms of quality and safety. But in a special report published today, the European Court of Auditors warns that the EU's legal framework for protecting intellectual property is not as effective as it could be. Although the framework in place gives some guarantees, a number of shortcomings remain, in particular in the EU Designs Directive and the EU fees mechanism. The auditors also highlight that EU and national systems would benefit from being better aligned.

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ECA publications in May 2022

2021 Annual activity report

Published on 05/05/2022

EU auditors' activity in 2021: checking Europe's performance is more crucial than ever

Today, the European Court of Auditors (ECA) published its annual activity report for 2021. The report gives an overview of the ECA's work in 2021, and provides information about the institution's management, its staff and its finances, describing how the ECA's 900 employees continued to provide independent, objective reports on key issues for the future of the EU. With Member States currently facing many unexpected challenges, the ECA plays a crucial role by highlighting what aspects of EU actions work well, drawing attention to aspects that could be improved, and recommending substantive changes to allow the EU to reach its full potential. This work allows the EU to build on its previous efforts to improve its financial management, and to ensure that EU spending delivers results.

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Audit preview 02/2022

Published on 10/05/2022

Charging ahead: Europe´s quest to become a top global battery producer probed by EU auditors

The European Court of Auditors is launching an audit to find out whether the European Commission has been effective in developing a globally competitive and sustainable value chain for batteries in the EU and whether the projects supported in the Member States maximised the impact of EU funding. The audit comes against the backdrop of a rapid increase in European battery production expected by 2025 and the EU becoming the world's second largest battery producer after China. Increasing sustainable battery production in the EU will not only facilitate the EU's clean energy transition, but will also be key to the competitiveness of its car industry and reducing its dependence on foreign battery suppliers, the auditors note in today's preview. The EU will also face a crucially important task in securing raw materials.

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Special Report 7/2022

Published on 17/05/2022

EU support to help small businesses go international needs better management and visibility

The European Commission has identified the main barriers to the internationalisation of the EU's small and medium-sized enterprises (SMEs) and put in place many measures to help them expand their business to international markets both within and beyond the EU, according to a new report by the European Court of Auditors. However, these measures sometimes lack coherence and visibility, and the Commission does not always coordinate them well enough with Member States' own programmes. The Commission's flagship Enterprise Europe Network (EEN) initiative, which provides a support network for SMEs with international ambitions, needs better coverage in non-EU countries, while another smaller initiative specifically focusing on high-tech start-ups – StartUp Europe – needs more long-term continuity in its activities.

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ECA publications in May 2022

Annual report 11/22

Published on 23/05/2021

Blacklisting underused in protecting EU funds against fraud

Blacklisting is not used effectively to prevent EU funds from being paid out to of individuals, businesses or public organisations involved in illegal acts such as fraud and corruption, according to a new report by the European Court of Auditors. The European Commission has blacklisted very few names because of weaknesses in arrangements for identifying those who should be excluded from applying for EU funds. In addition, Member States – despite implementing most EU spending – are not required to set up blacklisting systems per se and have different approaches to protecting the EU's financial interests. This patchwork of exclusion arrangements undermines the overall effectiveness of blacklisting and results in uneven protection of the EU budget across Europe.

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Special Report 9/2022

Published on 30/05/2022

EU budget's contribution to climate action overstated

The EU has missed its self-imposed target of spending at least 20% of its 2014-2020 budget on climate action, according to a special report published today by the European Court of Auditors (ECA). The European Commission had announced that the EU had met the 20% target, reporting that it had spent €216 billion on climate action. However, the auditors found that the reported spending was not always relevant to climate action, and that the amount reported as having been spent for that purpose had been overstated by at least €72 billion. The auditors also fear that reliability issues could remain in the Commission's reporting for the 2021-2027 period, when the EU's new climate spending target will rise to 30%.

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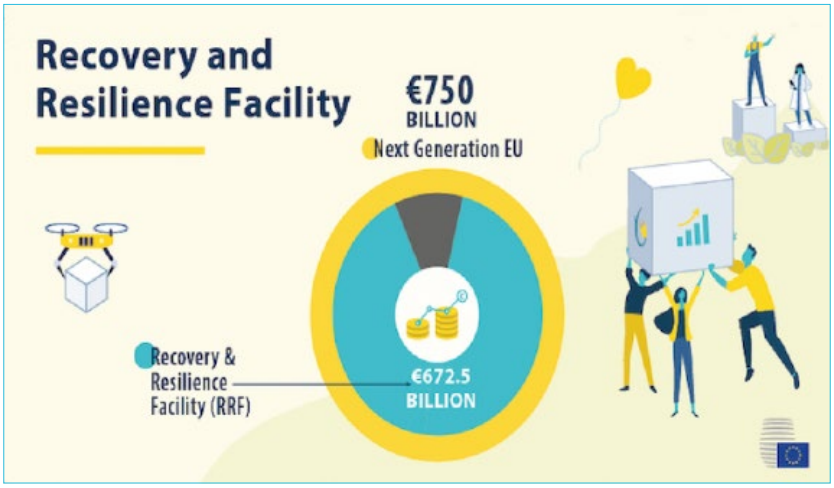
NEXT EDITION

The Recovery and Resilience Facility: a revolutionary step in making EU funds perform better?

At the end of 2020, to aid recovery from the COVID-19 crisis, the EU adopted the NextGenerationEu package, a key new initiative addressing a range of policy goals from economic convergence to climate, and from post-COVID recovery to institutional reforms. The centrepiece, and by far the largest part, of NextGenerationEu is the Recovery and Resilience Facility (RRF). In March 2022, the European Commission published a first report with general data on the implementation of the RRF. Various aspects of this new instrument make it different to anything we have seen before: its sheer volume in terms of scope and budget, its temporary nature, the lines of responsibility and approval structure on which it relies, its orientation towards performance, and specific conditionality arrangements, to mention just a few. So is it a revolution compared with other EU instruments, or just more of the same but dressed in new clothes?



Source: European Commission

Following up on this Journal, which has focused on cohesion policy, the theme of the next edition will be all these aspects that make the RRF unique and pose challenges for the many actors involved, including public auditors. We will look at how the Commission, but also the Council, European Parliament and individual Member States, intend to monitor the implementation of national recovery and resilience plans, which form the backbone of the Facility. We will zoom in on how the RRF actually works, including a status update, the ways it can be, and is being, used to finance reforms in Member States, how it ties into aspects of transition or relates to unforeseen events, and what it requires from national implementing authorities. What audit challenges are posed by the new instrument, both nationally and at EU level: how 'auditable' is the RRF? What sources are available to provide more information on RRF developments – such as networks of monitoring data and country dashboards – and what are the views of external experts about the RRF? Finally, what can be expected from the ECA in this regard, and what kind of work does the ECA envisage to assess the performance of the RRF?

In short, the next Journal will cover multiple dimensions and perspectives of the RRF, an instrument whose policy impact may go well beyond its lifetime, which is set to end in 2027, with lessons for the next multiannual financial framework.

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EDITION HIGHLIGHTS

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