



# REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF  
AUDITORS' SPECIAL REPORT

on **Tackling fraud in the RRF**

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 265 of the [Financial Regulation](#). These replies are to be published by the European Court of Auditors together with the Special Report.

## I. THE COMMISSION REPLIES IN BRIEF

**The Commission acknowledges the European Court of Auditors' (ECA's) report on 'Tackling fraud in the RRF'.** The Commission notes the report's findings, which highlight the importance of robust anti-fraud systems and the continuous efforts at both Commission and Member State level to further strengthen the protection of the financial interests of the Union against fraud. The report acknowledges that the Commission's audits contributed to improvements in national anti-fraud systems<sup>1</sup>. The Commission welcomes the report's numerous examples of Member State efforts not only to comply with legal requirements but also to follow anti-fraud guidelines and recommendations. In the view of the Commission, this demonstrates that the Recovery and Resilience Facility (RRF) incorporates rigorous controls to prevent serious irregularities, including fraud.

**The Commission reaffirms its full commitment to the fight against fraud and underlines its close cooperation with Member States, the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO).** In accordance with Article 22(1) of the RRF Regulation, the Commission points out that the primary responsibility of protecting the financial interests of the Union and for ensuring an effective and efficient internal control system, as well as for recovering amounts that have been wrongly paid or incorrectly used, lies with the Member States. In addition, Article 22(1) explicitly allows Member States to rely on their regular national budget management systems, which implies that Member States may use existing institutions, procedures, standards, and correction rules, provided that their control system overall complies with the requirements and expectations of the RRF legal framework. The Commission, for its part, verifies that these systems function effectively and comply with the key requirements of the legal framework, monitors implementation, and takes corrective or recovery measures where necessary to safeguard the Union's budget.

**The Commission welcomes the ECA's acknowledgement of the contributions of the Commission's audits.** The ECA and the Commission agree that the condition for payment under the RRF is the Member State's satisfactory fulfilment of the milestones and targets set by the Council. The ECA moreover previously has made it clear that '*compliance of expenditure with EU and national rules is not a condition for member states to receive RRF payments*' and that this mechanism implies a significant difference for audit work compared to other funds<sup>2</sup>. While the Special Report states that payments were made '*without sufficient evidence about the effectiveness of the member state anti-fraud control systems*'<sup>3</sup> this concerned only a few Member States, as the Commission audits covering the anti-fraud systems could only take place after the first payment had been made. The Commission notes that the legality and regularity of RRF payments to the Member States is solely based on satisfactory fulfilment of milestones and targets. The Commission emphasises that its audits are intended to provide system-level assurance that Member States comply with their obligations. Thus, shortfalls may lead to audit and control milestones blocking all future payments, or flat-rate corrections which can go up to 100% of funds, irrespective of any amounts previously disbursed to the Member State, i.e. also the recovery of any amounts disbursed. This is in line with RRF Regulation Article 22(5), the

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<sup>1</sup> See paragraphs 8 and 34 of the ECA report.

<sup>2</sup> ECA Annual Reports 2024, paragraph 11.4.

<sup>3</sup> See paragraphs 8 and 33 of the ECA report.

financing agreement signed by each Member State, and the Commission's Framework for reduction and recoveries<sup>4</sup>.

**Contrary to ECA's views, the Commission's assessment is that the national systems of the four audited Member States are generally adequately designed to detect fraudulent cases<sup>5</sup>.** All eight implementing bodies selected by the ECA have anti-fraud policies, and RRF bodies under ECA scrutiny had whistleblowing channels in place for anonymous reporting. While the coordinating bodies' involvement varies between Member States, taking into account the diverse national setups, the ECA concludes that the coordinating bodies in Italy and Romania played an active role in the design of anti-fraud frameworks<sup>6</sup>. The ECA acknowledged that audit bodies, notably in Italy, Romania and Spain appropriately cover the main elements of the anti-fraud systems, contributing to a reduced level of fraud risk<sup>7</sup>. These actions enhance fraud detection, fostering a deterrent environment.

**Regarding the use of the term 'fraud' to refer to both suspected cases of fraud and confirmed cases of fraud<sup>8</sup>,** the Commission recalls that many suspected cases of fraud are ultimately not confirmed. While suspected cases may lead to preventative measures and reporting, such as notifications to EPPO, OLAF and the Commission, in principle only confirmed cases can lead to the recovery of funds.

**Regarding data on suspected fraud cases, the Commission highlights that it maintains systematic tracking of notifications exchanged among DG ECFIN, OLAF and the EPPO via dedicated monitoring tables, but does not differentiate between suspected fraud cases and other potential irregularities.** These tables serve as a centralised tool to ensure accountability and to enable timely action in safeguarding EU funds. Due to the confidentiality requirements of active cases, it is not possible to share this information in full with the ECA. The number of cases notified is reported in DG ECFIN's Annual Activity Report (AAR), demonstrating that the Commission maintains a consolidated record of suspected fraud cases and other potential irregularities<sup>9</sup>.

The Commission underlines that, while no more management declarations will be submitted after the payment request deadline of 30 September 2026, **Member States remain under the obligation to report suspected fraud cases to the competent authorities, such as OLAF<sup>10</sup> and EPPO<sup>11</sup>,** and to keep records for five years, as per Article 11(1)(d) of the RRF Financing Agreement. Where Member States fail to correct cases of fraud, corruption or conflict of interest,

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<sup>4</sup> C/2024/4990 Commission Notice - Guidance on recovery and resilience plans, Annex IV.

<sup>5</sup> See ECA's title before paragraph 36 of the ECA report.

<sup>6</sup> See paragraph 10 of the ECA report.

<sup>7</sup> See paragraph 13 of the ECA report.

<sup>8</sup> See paragraph 2 of the ECA report.

<sup>9</sup> See page 38 of Annual Activity Report 2024 of the Directorate-General for Economic and Financial Affairs.

<sup>10</sup> Reporting obligations of irregularities, fraud, corruption or any illegal activities affecting the financial interests of the Union are laid down in Article 8 of the OLAF Regulation 883/2013 and in the relevant sectoral legislation for the disbursement of funds. Article 325 TFEU, which provides for the common obligation of the Union and the Member States to counter fraud and any other illegal activities affecting the financial interests of the Union through deterrent and effective measures, has also to be taken into account in this respect.

<sup>11</sup> in line with Article 24(1) of Council Regulation (EU)2017/1939.

the Commission takes the appropriate corrective actions. The Commission therefore does not agree when the ECA questions its ability to recover fraudulent funds now or in the future<sup>12</sup>.

The ECA further observes that funds recovered under the national control systems need not be returned to the EU budget<sup>13</sup>. **The Commission points out that this reflects different levels of implementation: Union payments to the Member States are performance-based**; if a serious irregularity at the implementation level is corrected by the Member State, and the paid milestone or target is still satisfactorily fulfilled, no harm has been done to the Union budget and the Commission has no basis to recover funds.

With respect to the recommendations on the RRF and for future instruments with similar funding models, the Commission has closely assessed them and **partially or fully accepts all recommendations**. The Commission maintains that the co-legislators explicitly prescribed a primary responsibility for the Member States to ensure compliance with EU and national law under the RRF Regulation. As a result, Member States can use their national budget management systems. Therefore, the Commission considers that it cannot impose additional requirements beyond those set out in the current legal framework. However, until the end of the RRF, the Commission will continue strengthening its control framework benefiting from the ECA's recommendations and will also update its existing guidance documents where appropriate.

## II. REPLIES TO THE RECOMMENDATIONS

### **Recommendation 1 - Define and verify minimum anti-fraud requirements at member state level in future RRF-type programmes**

**When designing instruments based on financing not linked to costs, the Commission should define in the legislative proposal consistent minimum requirements for member states in terms of preventing, detecting, reporting and correcting fraud, and verify that they are in place before making any payments.**

**This should include:**

- (a) The minimum level of administrative and on-the-spot checks, and the elements to be integrated in the fraud risk assessments;**
- (b) A proposal to include specific prevention and detection measures to fulfil these minimum requirements;**
- (c) A requirement to return EU funds relating to activities/projects affected by fraud to the EU budget.**

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

The Commission **partially accepts** the recommendation.

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<sup>12</sup> See paragraphs 82 to 88 of the ECA report.

<sup>13</sup> See paragraphs 15 and 84 of the ECA report.

As for **point 1(a)**, the Commission agrees with the principle that a minimum level of checks should be observed in fraud risk assessments. However, it considers that it can better reach this objective through guidance rather than through a legislative act.

The Commission highlights that its proposal for a European Fund regulation<sup>14</sup> for economic, social and territorial cohesion, agriculture and rural, fisheries and maritime, prosperity and security for the period 2028-2034 - notably in Article 22(2)(k) and in Annex IV - include key requirements for Member States to meet through the plan, and to verify whether they provide the necessary safeguards to ensure compliance with the obligations on the prevention, detection, reporting and correction of fraud. Having a comprehensive national anti-fraud strategy (NAFS) based on a fraud risk assessment is one of those key requirements. As such, in line with the spirit of shared management, it is for Member States to assess the specific elements integrated in the fraud risk assessments and the level of checks needed, taking into account the specificities of their respective management, control and audit systems set-up and legal framework. The Commission will continue to provide guidance on national anti-fraud strategies and the underlying fraud-risk assessment.

Concerning **point 1(b)**, while the Commission agrees with the importance of fulfilling minimum anti-fraud requirements as identified in a) above, it does not consider that provisions on how this should be done should be part of the legislative proposal. Accordingly, the Commission will continue to provide guidance to the Member States on specific prevention and detection measures as and when necessary.

As regards **point 1(c)**, the Commission agrees with the principle behind the recommendation. It considers accordingly that in its legislative package on the next MFF it has proposed a suitable framework which ensures that activities/projects affected by fraud will not be financed from the EU budget. Legal provisions set out in Article 51(1)(c), Article 58(2)(c) and Annex IV, point 2 of the Commission's proposal for a European Fund regulation submitted to the legislative authorities stipulate that appropriate arrangements be put in place by the national authorities to ensure the prevention, detection and correction of irregularities, including fraud, corruption, and conflicts of interest. Furthermore, Article 68 of the proposal, once adopted, will enable the Commission to apply financial corrections to proportionately reduce the Union financial contribution and, where applicable, recover from the Member States any amount due to the Union budget, or, in respect of loan support, take any measure available under the loan agreement, in cases where, inter alia, there is fraud, corruption or conflicts of interest affecting the financial interests of the Union, which was not detected and reported and corrected by the Member State.

The Commission also stresses that it cannot prejudge at this stage the outcome of the legislative process.

## **Recommendation 2 - For the RRF, further strengthen Commission audits of member state anti-fraud systems**

**The Commission should:**

**(a) Further strengthen its audits for the protection of the EU's financial interests by:**

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<sup>14</sup> COM(2025) 565 final, Proposal for a REGULATION establishing the European Fund for economic, social and territorial cohesion, agriculture and rural, fisheries and maritime, prosperity and security for the period 2028-2034 and amending Regulation (EU) 2023/955 and Regulation (EU, Euratom) 2024/2509.

- **assessing, based on common criteria, whether coordinating bodies are fulfilling their core responsibilities for coordination and monitoring;**
- **assessing how audit bodies cover the coordinating bodies' role and implementing bodies' use of fraud risk assessments and fraud risk indicators.**

**(b) Ensure that any control milestones introduced as a result of such audits are designed to lead to member state control systems complying with the requirements to protect EU financial interests laid down in the RRF Regulation.**

**Target implementation date: When planning the next audits for the protection of the EU's financial interests**

The Commission **partially accepts** sub-recommendation 2(a).

The Commission agrees to continue assessing the role of the coordinating bodies in relation to coordination and monitoring tasks concerning the protection of the EU's financial interests, in case of future *protection of the financial interests of the Union (PFIU) system* audits on anti-fraud systems. The RRF legal base explicitly allows Member States to rely on their regular budget management systems, resulting in varying allocation of responsibilities - including the role of the coordinating body - for protecting the financial interests of the Union among Member States. Therefore, the Commission disagrees that such checks should be performed using common criteria for evaluating the coordinating bodies' PFIU responsibilities. However, as part of a continuous improvement process, the Commission will consider fine-tuning its audit checklist to evidence clearly the consistent criteria applied to the coordinator's role during PFIU audits.

In case of future compliance audits, the Commission agrees, as part of its continuous improvement process, to consider reviewing its audit checklist to encompass how audit bodies cover the coordinating bodies' role in relation to PFIU as well as implementing bodies' use of fraud risk assessments and fraud risk indicators.

The Commission **accepts** sub-recommendation 2(b).

When conducting Recovery and Resilience Plan (RRP) revisions, the Commission assesses the adequacy of the Member States' control arrangements in accordance with criterion 2.10 of Annex V of the RRF Regulation. In doing so, it takes into account all relevant information, including the findings of its own audit work. Audit and control milestones, which block any further RRF disbursement, are introduced if a critical or very important finding is relevant for the overall control system of the Member State and the Member State has either not accepted the finding or has failed to address it within the agreed timeline. The Commission accepts to continue ensuring that audit and control milestones introduced are designed to lead to Member State control systems complying with the PFIU requirements laid down in the RRF Regulation.

### **Recommendation 3 - Improve member state reporting of suspected fraud in the RRF**

**(1) The Commission should issue guidance for member states on the reporting of fraud cases in the management declarations and summary of audits to be submitted by end 2026, promoting:**

- a. **that member states report all suspected fraud cases in relation to RRF which might affect the EU financial interests, including those linked to planned or implemented measures under RRF funds but not included in the payment request to the Commission;**
- b. **the earliest stage in the fraud detection cycle when member states should report suspected fraud cases and the type of information that should be included.**

**(2) The Commission should establish how member states should report to it suspected fraud cases after the end of the RRF implementation period in December 2026.**

**Target implementation date: (1) 31 March 2026, (2) 31 August 2026**

The Commission **accepts** sub-recommendation 3(1).

The Commission acknowledges the importance of issuing guidance to Member States to promote best practices that are beyond the minimum legal requirements. In this regard, the Commission will further develop its existing guidance<sup>15</sup> to promote the issues covered by recommendation 3(1).

The Commission **accepts** sub-recommendation 3(2).

Member States are still obliged to maintain appropriate procedures to ensure that instances of (suspected) cases of fraud, irregularities or any other illegal activity affecting the financial interests of the Union are reported to respectively, OLAF, and where relevant the EPPO, even after the submission of the management declaration along with the last payment request. Additionally, the Commission will provide the Member States with the practical details on reporting of (suspected) fraud cases after the end of the implementation period of the RRF to the Commission in the Commission Notice on the end of the RRF.

## **Recommendation 4 - Increase the impact of corrective measures for the RRF**

**The Commission should issue guidance on member state recoveries. This guidance should promote:**

- (a) Recovery by member states of the amounts affected by fraud not only from RRF final recipients but also from contractors/subcontractors involved in fraudulent acts;**
- (b) A harmonised approach by member states in terms of when in the fraud detection cycle they should initiate recovery process;**
- (c) The use of alternative corrective measures such as the suspension of payments to final recipients.**

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<sup>15</sup> Guidance to Member States for the preparation of the summary of audits under the Recovery and Resilience Facility (Version 2), 30/09/2025, Ref. Ares(2025)82511049 and Guidance on the assessment of the internal control systems set in place by the Member States under the RRF (Version 2), 30/09/2025, ref. Ares(2025)8251088.

**Target implementation date: 31 March 2026**

The Commission **accepts** recommendation 4.

The Commission emphasises that according to Article 22(1) of the RRF Regulation, the responsibility for ensuring an effective and efficient internal control system, as well as for recovering amounts that have been wrongly paid or incorrectly used, lies with the Member States. In this regard, Member States may rely on their regular national budget management systems.

The Commission acknowledges the importance of issuing guidance to Member States to promote best practices that are beyond the minimum legal requirements. In this regard, the Commission will further develop its existing guidance<sup>16</sup> to promote the issues covered by this recommendation.

## III. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

### 1. The Commission's actions to improve the RRF anti-fraud framework

#### *The Commission's initial assessment of Member State control systems*

As regards the ECA's observation that the RRF anti-fraud framework sets high level requirements defined by the RRF Regulation without sufficiently detailing them<sup>17</sup>, the Commission emphasises that in accordance with Article 22 of the RRF Regulation, it is the primary responsibility of the Member State, as beneficiaries or borrowers of funds, to take all the appropriate measures to protect the financial interests of the Union, particularly regarding the prevention, detection and correction of fraud, corruption and conflicts of interest.

When Member States submitted their initial RRFs, the Commission assessed the adequacy of the proposed control arrangements against criterion 2.10 of Annex V of the RRF Regulation, on the basis of the information provided by the Member States. The Commission underlines that the criterion for the initial assessment of the design of the control arrangements stems directly from the RRF Regulation. The Commission takes note of the criteria defined by ECA, for the purpose of this audit, to assess the design of the systems: scope, coverage and timing of anti-fraud preventive and detective controls / checks<sup>18</sup>. The Commission has carried out its assessment on the basis of the criteria derived from the RRF Regulation.

In addition, Criterion 2.10 of Annex V of the RRF Regulation, for assessing the Member States' control arrangements, encompasses various elements related to the design of the Member States' internal control systems, beyond anti-fraud measures, to ensure a comprehensive assessment. When the ECA

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<sup>16</sup> Guidance on the assessment of the internal control systems set in place by Member States under the Recovery and Resilience Facility (Version 2), 30/09/2025, Ref. Ares(2025)8251088.

<sup>17</sup> See paragraph 19 of the ECA report.

<sup>18</sup> See paragraphs 7, 19, 20 of the ECA report.

refers to ‘incomplete information to draw conclusions’<sup>19</sup> in the Commission’s initial assessment of the design of Member States’ systems, it in fact refers to one very specific element of the control arrangements, related to the type of anti-fraud checks to be carried out by the implementing bodies. The Commission points out that the type of anti-fraud checks to be carried out by the implementing body represents one limited aspect within a broad and comprehensive initial assessment.

The Commission only positively assessed those RRP that included adequate control arrangements, in line with the RRF assessment criteria. If the Commission detected weaknesses in a Member State’s control arrangements, it proposed specific audit and control milestones, which had to be fulfilled before the next payment could be made. In several Member States, such milestones were introduced to ensure that Member States specify measures to combat fraud. The Commission continues to reassess Member States’ control systems at each RRP revision, drawing on the insights gained from its own audit work, and thoroughly scrutinises very important or critical findings relevant for the overall control system of the Member State. As a result, it introduced several audit and control milestones related to the anti-fraud framework when RRP were revised in 2023.

Furthermore, as acknowledged by the ECA in prior reports<sup>20</sup>, the Commission issued general guidance on the RRP, including the control systems to protect the financial interests of the Union, in September 2020, January 2021, March 2023 and July 2024. The Commission draws particular attention to the Recovery and Resilience Plans guidance issued in January 2021.

### *The roles and responsibilities of Member State bodies*

In relation to the ECA’s observation that the roles and responsibilities of each actor were not fully defined in the Financing Agreement<sup>21</sup>, the Commission points out that the Financing and Loan Agreements are signed between the Commission and the Member State, thus imposing obligations to the Member State and not to particular bodies, including as regards anti-fraud measures. Annex I to the Financing and Loan Agreements signed with each Member State includes key requirements related to Member States’ internal control systems referred to in Article 22(1) of the RRF Regulation. Notably, Key Requirement 1 pertains to procedures ensuring compliance with all applicable Union and national rules, which includes in particular rules on the avoidance of conflicts of interest, fraud prevention, corruption and double funding. Furthermore, this key requirement must be read in conjunction with Key Requirement 2 on effective implementation of proportionate anti-fraud and anti-corruption measures, and measures to avoid conflict of interest and double funding as well as with Key Requirement 4, which concerns the appropriate measures for checking the absence of serious irregularities and Key Requirement 5 which relates to adequate and independent audits on systems and substantive testing.

While the key requirements in the financing agreements are already more specific and go beyond those set in the RRF Regulation<sup>22</sup>, the Commission notes that in line with the RRF legal framework Member States are explicitly allowed to use their regular budget management systems. Accordingly, the Financing Agreement does not assign the anti-fraud responsibilities to any particular body, but rather requires Member States to put effective systems in place under Key Requirements 2 and 3. In line with Article 22(1) of the RRF Regulation, the exact bodies responsible are left to the discretion of the Member State, on the basis of their national institutional set-up and the structure of their internal control system. Although the ECA finds that the financing agreements defined the types of bodies

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<sup>19</sup> See paragraph 7 of the ECA report.

<sup>20</sup> See paragraphs 108 and 114 of ECA SR 21/2022, paragraphs 28 and 29 of ECA SR 09/2025.

<sup>21</sup> See paragraph 21 of the ECA report.

<sup>22</sup> See paragraphs 7, 20 and 21 of the ECA report.

responsible for implementing the RRF, the ECA notes that *'it did not describe in detail their roles and responsibilities in relation to anti-fraud measures'*<sup>23</sup>. The Commission regards this as the logical consequence of the legal framework established by the co-legislators, requiring the Member States to put in place an effective and efficient internal control system, and enabling Member States to *'rely on their regular national budget management systems'*. The Commission considers that defining specific roles and responsibilities for each type of body in each key requirement would therefore have been contrary to the RRF legal framework.

Finally, the Commission takes note of the criteria defined by the ECA<sup>24</sup> for the purpose of this audit to assess the roles and responsibilities of national bodies in the four Member States: type, coverage and timing of anti-fraud controls to be carried out. The Commission has carried out its assessment using the criteria derived from the RRF Regulation.

### *The contributions of Commission audits to the prevention and detection of fraud*

Since the early stages of RRP implementation, the Commission has conducted system audits to ensure Member States put in place adequate systems to protect the financial interests of the Union. The Commission's auditors have covered all Member States at least once through a PFIU audit, and some Member States even twice. As acknowledged by the ECA, the Commission's audits are effective tools, leading to improvements in the anti-fraud systems of all four Member States visited<sup>25</sup>. The Commission highlights that PFIU audits played a crucial role in identifying weaknesses in the Member States' internal control systems, which led to the introduction of audit and control milestones when relevant. These milestones have been instrumental in accelerating improvements in the Member States' internal control systems.

In response to the ECA's observation of insufficient coverage of some bodies<sup>26</sup>, the Commission notes that while the ECA acknowledges that *'the audits performed on the implementing bodies were comprehensive'*<sup>27</sup> and supported by an *'extensive'*<sup>28</sup> audit checklist, in the ECA's view, the anti-fraud responsibilities of the coordinating body were still *'insufficiently covered'*<sup>29</sup>. In line with its Enquiry Planning Memorandum, the Commission emphasises that its system audit focuses *'in particular on the coordinating bodies'*, as well the implementing bodies and final recipients. The Commission's auditors systematically began those audits by examining the coordinating body, evaluating their manuals and guidelines, assessing consistently their roles and responsibilities and their overall coordination and support to the implementing bodies. It provided a top-down and broad understanding of the entire national anti-fraud process and set-up applicable to the RRF. This also resulted in audit findings and recommendations addressing the broader anti-fraud framework at the Member State level. Such controls were complemented by the control testing of milestones and targets done at the level of the implementing bodies to verify, bottom-up, the effectiveness and efficiency of the national internal control system.

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<sup>23</sup> See paragraph 21 of the ECA report.

<sup>24</sup> See paragraphs 7, 19 and 20 of the ECA report.

<sup>25</sup> See paragraphs 8 and 34 of the ECA report.

<sup>26</sup> See paragraph 26 of the ECA report.

<sup>27</sup> See paragraph 8 of the ECA report.

<sup>28</sup> See paragraph 29 of the ECA report.

<sup>29</sup> See paragraph 8 of the ECA report.

Moreover, in relation to the ECA observation that there is no specific audit checklist for the coordinating body with common criteria<sup>30</sup>, the Commission recalls that in line with Article 22 of the RRF Regulation, Member States may rely on their regular budget management systems, which implies that the allocation of responsibilities for protecting the financial interests of the Union – including the role of the coordinating body – may, and in fact does, vary among Member States. This legal framework does not allow for the application of common criteria about the coordinating body's PFIU responsibilities during system audits. A single general checklist is used for all auditees within the framework of PFIU system audits, with findings and recommendations issued to the coordinating body as relevant, also considering the national institutional set-up.

On the timing of checks, the ECA asserts that in 10 Member States (out of the 27 audited) *'the initial payments were made without the benefit of sufficient evidence about the effectiveness of the member states' anti-fraud control system'*<sup>31</sup>. The Commission notes that the legality and regularity of RRF payments from the Commission to the Member States is solely based on the satisfactory fulfilment of milestones and targets, as also recognised by the ECA in prior reports<sup>32</sup>. The timing of checks of the systems Member States have put in place to implement reforms and investments thus does not in any way affect the assurance the Commission has on its RRF payments to the Member State itself. When issues related to the protection of the financial interests of the Union are detected, the RRF Regulation establishes systems of corrections for the protection of the financial interests of the Union under Article 22(5) – covered by the Commission's Framework for reduction and recoveries<sup>33</sup> – which allows a reduction or recovery of up to 100% of the support independently of any specific payment request.

The ECA reports<sup>34</sup> that the Commission's risk assessment underestimates the risks related to the Member States in the areas of public procurement and State aid. The Commission points out that it has established a comprehensive risk assessment methodology as part of its 2024 AAR, which underpins the declaration of assurance. This methodology categorises Member States by risk level (low, medium, or high) based on three key criteria: legality and regularity of transactions, compliance with Article 22(2)(a), and compliance with Article 22(5) of the RRF Regulation. In response to the ECA's Special Report 09/2025, the Commission revised its risk assessment method: when Member States commit to corrective actions on critical and very important findings related to the protection of the financial interests of the Union but have not yet confirmed implementation, they are classified as medium risk. As indicated in its reply to the said report, the Commission did not agree to categorise such situations as high-risk cases. A high risk is established for situations where a Member State refused, failed and/or is unable to act on such findings and the Commission has not yet launched corrective actions. This approach was applied in DG ECFIN's 2024 AAR<sup>35</sup>. The Commission asserts that its methodology is robust, provides reasonable assurance and does not underestimate risk levels<sup>36</sup>. The Commission takes a conservative approach to implementing recommendations, closing them only when full evidence of implementation is provided by the Member State. The Commission closely monitors all audit recommendations and scrutinises open very important/critical findings relevant for the overall control system during plan revisions, which can lead to additional audit and control milestones. The current methodology accurately reflects the level of risk related to Member

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<sup>30</sup> See paragraph 27 of the ECA report.

<sup>31</sup> See paragraph 33 of the ECA report.

<sup>32</sup> ECA Annual Report 2024, paragraph 11.4.

<sup>33</sup> C/2024/4990 Commission Notice – Guidance on recovery and resilience plans, Annex IV.

<sup>34</sup> See paragraph 31 of the ECA report.

<sup>35</sup> Annual Activity Report 2024 of the Directorate-General for Economic and Financial affairs, esp. Annex V.

<sup>36</sup> See paragraph 31 of the ECA report.

States' compliance with Article 22(5) and provides the Commission with reasonable assurance in this area.

## **2. RRF fraud data and corrective measures towards the end of the Facility**

### *The reporting of suspected fraud cases*

In relation to the ECA's observation that reporting on fraud within the RRF framework lacks a standardised and centralised approach<sup>37</sup>, the Commission points out that the RRF Regulation allows Member States to use their regular national budget management systems to ensure the protection of the financial interest of the Union, particularly regarding the prevention, detection and correction of fraud<sup>38</sup>. Therefore, the diversity of approaches in fraud reporting is a logical consequence of the RRF legal framework. The measures to be taken are intentionally left to the discretion of Member States, as they are best placed to determine the most effective and appropriate actions to prevent and detect fraud within their specific contexts and in line with the applicable national legal framework.

However, to provide a minimum standard in the reporting procedure, the Commission has included a provision in Key Requirement 3 of the Financing Agreement that Member States shall maintain appropriate procedures for drawing up the management declaration and summary of audits, including implementing effective procedures to ensure that all instances of fraud, corruption, and conflicts of interest are properly reported. The Commission's guidance to Member States on the summary of audits also provides details about fraud reporting.

If a Member State detects any specific irregularities, it must take action to correct them and inform the Commission accordingly, notably in the management declaration. Although reporting via the Irregularity Management System (IMS) is not mandatory for Member States under the RRF Regulation, the Commission has encouraged Member States to use it. Moreover, it should also be specified that Member States can report suspected cases of fraud through various channels, not just in the management declarations. In any case, Member States are under the obligation to report suspected fraud cases to competent authorities, such as OLAF and EPPO. As per Article 11(1)(d) of the Financing Agreement, Member States are required to keep records for five years.

In response to the ECA's observation that it is not clear when a fraud case should be reported<sup>39</sup>, the Commission notes that Member States are expected to report on fraud cases when they have gathered enough information to confirm suspicion of fraud, when they have confirmed cases of fraud, when cases are detected by their audit work, or when corroborated information matches their existing data. While Member States are under the obligation to report fraud cases, there is no explicit definition of 'suspected fraud' under the RRF Regulation. However, in their legislative frameworks, Member States may have their own definition of 'suspected fraud' for the purpose of reporting potential fraud cases. The Commission recalls that the definition of 'fraud' within the RRF legal

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<sup>37</sup> See paragraph 70 of the ECA report.

<sup>38</sup> Article 22(1) of the RRF Regulation.

<sup>39</sup> See paragraphs 77 to 79 of the ECA report.

framework refers to the definition of fraud established under the EU legal framework<sup>40</sup>. For a case to be considered 'fraud', the deliberate intention to commit an irregularity affecting the Union's financial interests is the main element of this offence. Furthermore, OLAF and EPPO have established requirements and guidelines for reporting suspected fraud affecting the financial interests.

In connection with the ECA's opinion that Member States should report all fraud cases affecting projects planned to be funded by the RRF<sup>41</sup>, the Commission emphasises that projects affected by fraud that are not put forward by the authorities to count towards the satisfactory fulfilment of the respective milestone or target, cannot affect the financial interests of the Union<sup>42</sup>. The Commission disagrees with ECA's interpretation and reiterates the performance-based nature of the RRF, which pays for a result and not a specific underlying item. In line with the RRF Regulation, the Member States' obligation to take appropriate measures related to fraud is limited to cases '*affecting the financial interests of the Union*', specifically in line with Article 22(2)(b) of the RRF Regulation, "*The agreements [...] shall provide for the obligations of the Member States [...] b) to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests [...] affecting the financial interests of the Union [...].*" Additionally, the Commission notes that, based on the RRF legal framework, it carries out its assessment on the basis of the information provided in the request for payment. This is specifically stated in Articles 6(2) and 6(4) of the Financing Agreement: "*When submitting the requests for payment pursuant to Article 24 of the RRF Regulation, the Member State shall: a) Provide due justification of the satisfactory fulfilment of the relevant milestones and targets as set out in the Council Implementing Decision' and 'The preliminary assessment under Article 24(3) of the RRF Regulation shall be carried out by the Commission on the basis of the information provided by the Member State in accordance with paragraph 2*". Therefore, the Commission cannot require Member States to report, in the context of a payment request, all suspected fraud cases relating to the RRF that might affect the financial interests of the Union, if such cases do not relate to the payment request. Nonetheless, a Member State can decide whether to inform the Commission, in its management declaration, of the replacement of a (potentially) fraudulent project with a non-fraudulent one in connection to the satisfactory fulfilment of a milestone or target. However, this would not prejudice the application of Article 6(4) of the Financing Agreement.

Concerning the ECA's observation on the reporting obligation of Member States after 2026<sup>43</sup>, the Commission underlines that the RRF legal framework does not set out a specific cut-off date for required reporting of fraud cases. While there will indeed be no more management declarations, Member States are obliged, under Article 22(1) of the RRF Regulation, to ensure that the use of funds for measures supported by the Facility complies with applicable Union and national law. The obligation to report to competent authorities, such as OLAF, also remains in place.

Furthermore, in response to the ECA's observation on the Commission's monitoring system<sup>44</sup>, the Commission reiterates that it monitors suspicions of fraud and serious irregularities under the RRF through systematically compiled monitoring tables without differentiating between suspected fraud cases and other potential irregularities. These tables track suspected or detected fraud cases reported in management declarations, identified during its own audit work, and received through

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<sup>40</sup> Article 3, point 10 of the Financing Agreement states that 'fraud' means fraud within the meaning of Article 138(1)(d)(i) of the Financial Regulation. The 'fraud' definition in the Financial Regulation refers to Article 3 of the Directive (EU) 2017/1371 of the European Parliament and of the Council and to the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995.

<sup>41</sup> See paragraph 76 of the ECA report.

<sup>42</sup> See paragraph 74 of the ECA report.

<sup>43</sup> See paragraph 80 of the ECA report.

<sup>44</sup> See paragraph 71 of the ECA report.

notifications from external sources, whistleblower channels, OLAF, and the EPPO. They serve as a centralised tool to ensure accountability and swift action in safeguarding EU funds. The ECA has not been provided full access to these monitoring tables, as the information contained therein is subject to confidentiality requirements protecting the integrity of active investigations. However, the number of suspected fraud cases and other potential irregularities is reported in DG ECFIN's AAR, demonstrating that the Commission maintains a consolidated record<sup>45</sup>.

### *Corrective measures of the RRF and the end of the Facility*

In relation to the ECA's observation that Member States are not required to return recovered funds to the EU budget unless these recoveries are considered insufficient by the Commission<sup>46</sup>, the Commission notes that this reflects different levels of implementation: Union payments to the Member States are performance-based; if a serious irregularity at the implementation level is corrected by the Member State, and the paid milestone or target is still satisfactorily fulfilled, no harm has been done to the Union budget and the Commission has no basis to recover funds. This is also in line with the RRF Reductions and Recoveries framework and Article 19 of the Financing Agreement where the first measure that the Commission will apply, if it is confirmed that the Member State has not recovered the amounts or has insufficiently recovered, is the reduction of the financial support, followed by, only when necessary, a recovery of funds.

Furthermore, in response to the ECA's observation<sup>47</sup> that the RRF Regulation does not define specific corrective actions to be taken by the Member States for cases of detected fraud, the Commission notes that the RRF legal framework mandates Member States to take legal actions to recover misappropriated funds under Article 22 of the RRF Regulation and Article 11(1)(b) of the Financing Agreement. The RRF is a performance-based instrument, where the Member States have the responsibility of protecting the financial interests of the Union. The RRF legal framework requires the Member States to comply with their national legal systems for correction procedures and only when the measures taken by the Member States are not sufficient, the Commission may launch a reduction of the financial support and, where necessary, a recovery procedure.

In response to the ECA's observation that Member States have to recover amounts only from final recipients<sup>48</sup>, the Commission would like to reiterate that, in line with the RRF legal framework, final recipients are the last entities to receive funds under the RRF that are not contractors or subcontractors<sup>49</sup>. Final recipients may further subcontract for the implementation of RRF reforms and investments. However, the RRF Regulation distinguishes between cases where the final recipient is a contracting authority in line with Union or national law on public procurement (in which case the Member State is required to collect the data on contractors and subcontractors) and cases where the final recipient is private (in which case this data is not collected). In line with this, whilst the Commission considers whether in procurements undertaken by public authorities there is fraud in relation to contractors or subcontractors – which, if identified, should be corrected by the Member State or else the Commission will recover – for contracts signed by private final recipients, who are not obliged to follow public procurement law and can contract freely, the Regulation does not require that such data is retained and the Commission has no basis to require the recovery of funds. Article 11(1)(b) of the Financing Agreement provides for a Member State obligation “to take legal actions to

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<sup>45</sup> See page 38 of Annual Activity Report 2024 of the Directorate-General for Economic and Financial affairs.

<sup>46</sup> See paragraph 84 of the ECA report.

<sup>47</sup> See paragraphs 15 and 83 of the ECA report.

<sup>48</sup> See paragraphs 15 and 84 of the ECA report.

<sup>49</sup> COM(2024) 474 final, Commission's report on the implementation of the RRF, Annex V: Final recipients under the Recovery and Resilience Facility.

*recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the RRF*". This clause is broad and covers also the legal actions, in line with the national law, to recover funds from final recipients or from contractors and sub-contractors, for instance in case a public body's contractor commits fraud. While the template of the management declaration annexed to the Financing and Loan Agreements includes a provision asking the Member State to confirm that irregularities identified during final audit or control reports in relation to the implementation of the RRF have been appropriately corrected and recovered from final recipients or are in the course of being corrected and recovered, this does not preclude the Member State from reporting also those cases where funds have been recovered from contractors or sub-contractors of public bodies. The Commission thus does not share ECA's conclusion that this might 'undermine the deterrent effect of imposing recoveries.

The Commission clarifies that it will continue to monitor fraud cases reported before and after 31 December 2026 and will continue to exert its right to engage in the recovery of funds in the cases set out in the framework for the 'Reductions and Recoveries of funds under the RRF'.<sup>50</sup>

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<sup>50</sup> C/2024/4990 Commission Notice - Guidance on recovery and resilience plans, Annex IV.