

**REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF
AUDITORS SPECIAL REPORT
“PERFORMANCE-BASED FINANCING IN COHESION POLICY: WORTHY AMBITIONS,
BUT OBSTACLES REMAINED IN THE 2014-2020 PERIOD”**

EXECUTIVE SUMMARY

Common Commission reply to paragraphs I to V:

The performance orientation has increasingly been one of the distinct features of Cohesion policy throughout the different periods. The focus on performance will be fully maintained in the 2021-2027 programming period through different elements of the policy. Enabling conditions, the new performance framework with the mid-term review and performance based funding models are set to continue to contribute to retaining the Cohesion policy’s position as one of the most advanced EU policies when it comes to performance orientation. In its proposal for the new Common Provisions Regulation (CPR) 2021-2027, the Commission has built on the positive experience with the previous performance instruments accumulated in the past, while introducing the necessary adaptations.

VI. As regards in particular ex-ante conditionalities, the Commission stresses that their primary goal was to ensure that the strategic, legal and administrative environment around the planned EU-funded investments is conducive, fostering efficiency and effectiveness.

VII. Performance in the 2014-2020 period does not only depend on the actual implementation of projects but also on outputs that are conducive to concrete achievements. Results - as captured by result indicators as defined by CPR - take longer to materialise and therefore were not included in the performance framework, nor could have been part of the performance review. Moreover, outputs, as captured by output indicators and key implementation steps, provide a good indication whether an investment is on track to achieve its objectives and deliver expected results.

Based on experience, the mid-term review for the 2021-2027 programmes will indeed be radically different from the performance review in the previous period, and will entail a qualitative, multi-dimensional assessment based on a wide range of factors, which will determine programme performance at end 2024 and will aim for results. The 2021-2027 CPR provisions provide a detailed indication of all the elements, which Member States (MS) will need to take into account during the mid-term review (Article 18 CPR).

VIII. ‘Financing not linked to costs’(FNLTC) was introduced late in the 2014-2020 programming period, with a resulting limited uptake by the Member States in that period. The Commission considers that there are strong complementarities between Cohesion policy instruments and the Resilience and Recovery Facility (RRF), which is part of the NextGenerationEU financial support put in place to recover from the effects of the pandemic and to relaunch the EU economy.

IX. The Commission is of the opinion that the 2014-2020 performance framework for Cohesion policy, one of the most advanced performance-oriented EU budget spending system, has introduced a real performance culture change in Cohesion policy implementation. It also believes that including the performance review together with ex ante conditionalities and new models of financing not linked to costs, including SCOs, contributed to a new approach to implementation, even if further improvements are needed and in place for the programming period 2021-2027.

Linking allocation of resources to performance is not an easy task. This is why the Commission built on the experience gained in the previous period and has decided for the period 2021-2027 to propose moving away from the automatic, mechanic system of the 2014-2020 programming period - which has proved its limits - towards a more comprehensive system, bringing together a set of qualitative and quantitative elements. These will determine together the performance of the funds on the ground: the

mid-term review will interlink the resource allocation and the way the funds are spent in achieving the EU's objectives in line with CPR.

X. The Commission can accept the recommendations by the ECA and will implement them as further explained below in the replies to the relevant observations and recommendations.

XI. In the preparation and implementation of the recovery and resilience plans by the Member States, the Commission will pay particular attention to the lessons learned from the implementation of the cohesion funds. Under the RRF, Member States have to meet milestones and targets in order to receive the disbursements; this will be the core of the implementation of the RRF in the years to come.

OBSERVATIONS

Common Commission reply to paragraphs 21 and 22:

The Commission underlines that the EACs and their criteria were defined by the co-legislators as a result of the interinstitutional negotiations with the Council and the European Parliament.

The Commission produced in the period 2014-2020 an extensive guidance, which provided more detailed information on the criteria.

The Commission notes that it was legally obliged by Article 19 of the CPR to approach every case individually and, at the same time, ensure that similar cases are treated similarly.

The Commission assessed and justified why these situations were different and required a different approach. Treating these cases in the same manner would not have been in line with EU law, especially the general principle of proportionality.

27. Quantifying the impact of strategic policy frameworks on the effectiveness of spending is challenging. However, the introduction of ex ante conditionalities led to the development of many policy strategic frameworks, which would have otherwise not existed, and has therefore given clear direction to spending, improving its relevance and effectiveness. This development in the policy framework has been confirmed for example by the ESF thematic evaluation 2014-2018.

Box 4. The Commission stresses that the EAC on state aid was limited to the ESI Funds context.

Common Commission reply to paragraphs 29 and 30:

The Commission confirms that the sole fact of non-fulfilment of EACs did not constitute enough grounds for suspending payments. According to Article 19(5) of the CPR, the Commission could suspend payment only where necessary to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned. It should also be noted that Member States agreed to different forms of self-suspensions, e.g. in some cases they agreed not to select any operations in the affected areas.

32. While the EU provisions required MS to report on EACs only in the annual implementation report or strategic report in 2017, the Commission did not wait for submission of the AIRs in 2017 but, since approval of programmes, monitored fulfilment of action plans regularly. In practice, most MS and regions regularly informed the Commission about the progress in completing action plans via electronic exchanges, and in the context of monitoring committees and annual meetings.

Moreover, the Commission strongly encouraged MS to report earlier than in 2017 to prevent bottlenecks in the assessment of fulfilment of EAC in 2017. That is why the Commission set up a dedicated SFC module through which the Member States and regions submitted the official information related to completion of action plans. In this module, there are 1485 formal exchanges between the Commission and the MS authorities on the completion of action plans between 2014 and 2019.

37. The Commission notes that there was no general obligation introduced by the co-legislators to inform the European Parliament and the Council about Member States' compliance with enabling conditions, neither for 2014-2020 period nor for 2021-2027 period.

38. The general regime of conditionality and the enabling conditions are two distinct mechanisms, which pursue different objectives, using different tools. Regulation 2020/2092, according to its Article 1, 'establishes the rules necessary for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States'. The enabling conditions established by the 2021-2027 CPR, according to their definitions, are conditions 'for the effective and efficient implementation of the specific objectives'. The text of Regulation 2020/2092 clarifies that "Measures under this Regulation are necessary in particular in cases where other procedures set out in Union legislation would not allow the Union budget to be protected more effectively."

The Commission may propose measures under the rule of law Regulation unless other procedures under Union legislation allow it to protect the Union budget more effectively. That new general regime of conditionality complements the sectoral instruments such as the enabling conditions set out in the 2021-2027 CPR, which set the necessary prerequisites for the effective and efficient use of the CPR Funds horizontally for all programmes and thematically depending on the specific objectives selected. The conditions for the proposal, by the Commission, and the adoption, by the Council, of the measures under the general regime of conditionality are defined in its legal basis. Moreover, the Commission has prepared draft guidelines on the application of the Regulation.

41. The CPR allows for programme amendments, including of milestones, and in practice, most programmes are amended several times during the programming period. In doing so, the co-legislators recognised the complexity of the seven-year programming cycle of Cohesion policy, the difficulty of setting milestones and targets at the beginning of the cycle and the possibility that such targets and milestones could change under specific conditions.

50. The changes in the regulation gave the Member States the possibility to adjust and clarify the indicators in order to report more accurately on achieved values.

In the case of output indicators, the initial legal provision did not allow for outputs actually achieved to be reported if they were part of a larger operation.

For the financial indicator, the initial rules required the amounts to be certified to the Commission in order to be taken into account for the performance review. Since the certification process can take several months, this would have moved the actual cut-off date for reporting a few months prior to the end of 2018.

First indent: The Commission highlights that the amendment to Regulation 215/2014 was introduced to redress an inconsistency in the initial set up of the Performance Framework, which did not allow in certain cases the reporting of outputs actually delivered and fully achieved in the meaning of the performance framework from being reported until the completion of the overall operation.

The initial provision contained an inconsistency, which did not recognise the fact that certain types of operations may consist of several projects capable of delivering outputs progressively before the completion of the whole operation they were part of. For example, in the case of a business support aid scheme, several enterprises may be selected for support as part of a single operation. However, in practice the aid may not be granted at the same time for all enterprises in the same operation. Under the initial wording of Art. 5(3), the outputs already achieved by the individual completed projects could not have been reported until the entire operation had actually been completed.

While it was possible for incomplete operations, the amendment did not allow Member States to report outputs in the case of incomplete projects.

Second indent: As with the case of the reporting of incomplete operations, the modification to include expenditure incurred in 2018 but certified to the Commission by 30 June 2019 for the purposes of the performance review corrected a shortcoming of the initial text of the implementing regulation.

51. The financial indicator for the performance review refers to the expenditure incurred and paid by beneficiaries by 31/12/2018 and certified to the Commission.

The Commission took the view that the financial indicator milestones wrongly set on basis of the n+3 decommitment rule should be corrected before the performance review.

Member States which had set their financial milestones based on the n+3 decommitment rule were allowed in line with the regulation to adjust them proportionally to the initial error, to ensure the fairness of the process and equal treatment of all priority axes and across Member States.

52. The Commission draws attention to the fact that, as stated above, the changes in the regulation corrected inconsistencies in the existing legislation, which would have penalised unjustifiably certain priority axes. Such legal changes enabled Member States to report level of performances more accurately by addressing existing inconsistencies and rigidities. The Commission also recalls that the performance review was carried out in full compliance with all applicable provisions.

Even before the amendment to Implementing Regulation 215/2014, it was possible to report values achieved by operations for which not all the related payments had necessarily been made.

53. The CPR did not define the duly justified cases for revision in an exhaustive manner (annex II (5) of the CPR). Without the clarification introduced by Implementing Regulation 215/2014, the Commission would have run the risk of accepting milestones and targets wrongly calculated as basis for the release of the performance reserve. This would have flawed the exercise and deprived it of credibility.

In accordance with the CPR, the performance reserve needed to be calculated taking account of the indicators set in the programme version in force at the time of the performance review.

62. The functioning of the monitoring system for performance data and its assessment through system audits is not limited by any cut-off date but is rather based on cumulative assessment of systems over years, with control and substantive testing carried out at the level of samples of operations. Furthermore, annual control reports include all system audits carried out until the submission of the assurance package, including after the end of the accounting year.

In this way therefore, the 2017-2018 annual control reports and opinions, submitted in February/March 2019, gave assurance on the reliability of the performance data for the performance review.

65. A large majority of audit authorities already covered performance data- reliability aspects in their audits of operations before this became formally a legal obligation with the Commission Delegated Regulation (EU) 2019/886 of 12 February 2019, based on the Commission guidance. However, as the sample for audits of operations is selected randomly from the expenditure certified, it does not always allow verifying all data reliability aspects (for example, the sample might not include operations contributing to indicators from the performance framework; or operations for which achieved values have already been reported to the Commission). Therefore, in practice, the most important source of assurance on the reliability of the performance data are system audits of the monitoring system (thematic audits), not the audits of operations. The regulatory change therefore aimed at increasing the basis for assurance, but was only part of the assurance process.

Common Commission reply to paragraphs 68 to 70:

The Commission closely monitored all cases of serious weaknesses in the reliability of performance data identified through audit authorities or the Commission's own audit work. In all cases, the

programme authorities were requested to take the appropriate corrective measures. For example, the performance review could not be carried out for four programmes (one programme in Belgium, Lithuania, Romania and Slovenia respectively), because of existing Commission pre-suspension letters issued on deficiencies identified under key requirement 6 (reliability of monitoring system and data).

The performance review was carried out only when the suspension procedure was discontinued. This demonstrates the seriousness of the follow-up by the Commission, when deficiencies were identified.

74. The performance review was carried out as required by the regulatory basis, by assessing the indicators included in the performance framework. The CPR foresaw that each priority had to have one financial indicator, see the first indent of paragraph 42 of the report.

76. The legal framework explicitly provides for two conditions under which a suspension of interim payments is possible in case of a serious failure to meet a milestone.

Both conditions would need to be fulfilled in order to trigger the use of the Commission's prerogative to suspend payments. Moreover, Article 22(6) itself offers Member States the transfer of financial allocations to other programmes or priorities as an eventual corrective action.

Given the existing legal framework, there was no legal justification to suspend payments.

Common Commission reply to paragraphs 79 and 80:

The Commission notes that the normal evolution of programmes often leads to increases and decreases of funding for reasons also pointed out by the ECA.

When comparing the amount of the priorities immediately before and after the performance review, all underperforming priorities examined in the context of this audit lost their performance reserve and their amounts were reduced in the programme amendment done in the context of the performance review.

81. For the 2021-2027 programming period the performance review was replaced by the mid-term review and the performance reserve was replaced by the flexibility amounts (Art. 18 of the 2021-2027 CPR).

The flexibility amounts will be mandatory and will only be definitively allocated after the Commission decision following the mid-term review. In addition, the flexibility amount on average will cover a much bigger share of programme resources than performance reserve did.

The CPR defines all elements necessary to carry out the mid-term review in the provisions relating to the mid-term review (art. 18) and to programme amendments (art. 24) of the CPR. Currently the Commission sees no grounds to present further details on the mid-term review.

83. In addition to Cohesion policy, in order to help Member States to recover from the effects of the pandemic and to relaunch the EU economy within the green and digital transitions, the EU has put in place an unprecedented financial support via NextGenerationEU, which includes the RRF. There are strong complementarities between the RRF and Cohesion policy instruments. The Commission does not consider that there is a significant risk of competition and overlaps between the two instruments, particularly given the time frame of the two instruments and the exceptional need for support in the context of recovery.

The Commission considers that Member States will take all necessary steps to ensure the rapid take-up of both instruments and will closely monitor the situation and assist Member States as required.

Common Commission reply to paragraph 99 and box 9:

The arrangements for the audit of FNLTC model are clear in the 2014-2020 CPR. The subparagraph of Article 67(1) of the CPR states that in case of FNLTC "*For the form of financing referred to in point*

(e) of the first subparagraph, the audit shall exclusively aim at verifying that the conditions for reimbursement have been fulfilled".

However, with regard to management verifications, clarifications were introduced through recital 6 and point 4 of Annex to the delegated regulation (EU) 694/2019, which state that management verifications and audits should not happen at the level of individual investments, and that supporting documents relating to the underlying expenditure should be neither subject to audit, nor to management verifications.

For 2021-2027, FNLTCs will be part of programmes approved or amended by the Commission.

102. In order to support a quick and sustainable recovery following the COVID-19 crisis, EU legislators recently agreed to establish a new type of performance-based funding instrument to ensure that reforms and investments needed in the recovery context are effectively implemented by member states in the coming years. There are significant differences between the RRF and Cohesion policy as regards the use of the FNLTC model, which are subject to different sectoral regulatory provisions.

104. The Commission will examine with Member States in which investment areas and for which types of activities off-the-shelf models for FNLTC could most usefully be developed.

Common Commission reply to paragraphs 105 and 106:

The Commission agrees that Member States have to provide assurance that they comply with public procurement and State aid rules. However, management verifications and audits cannot go beyond the scope set out in Article 95(3) of the CPR 2021/1060, which is limited to ensuring that the conditions for the FNLTC are fulfilled. Member States are therefore provided with legal certainty in this respect.

In this context, the Commission will therefore continue to monitor that the rules for the effective functioning of the EU's internal market are complied with by Member States and to pursue alleged breaches of such rules in its role as guardian of the Treaty.

The Commission is also willing to clarify with the Member States how assurance is built when using performance-based funding schemes and that the limited scope of verifications and audits under Article 95 CPR 2021/1060 is without prejudice to the need for continuous monitoring of the relevant enabling conditions on public procurement and State aid rules.

CONCLUSIONS AND RECOMMENDATIONS

Common Commission reply to paragraphs 107 and 108:

The Commission agrees that the 2014-2020 performance framework for Cohesion policy represented an important step forward introducing a real performance culture change in the implementation of the policy. Furthermore, it was a pioneering step without precedence at global scale towards increasing the performance-orientation of EU budget funding.

The introduction of ex ante conditionalities led to the development of many policy strategic frameworks, which would have otherwise not existed, and has therefore given clear direction to spending, improving its relevance and effectiveness.

The performance-reserve allocation was a first step to reward programme priorities that were well on track to achieve the milestones of the targets set in the performance-framework to be achieved at the closure of programmes (2023). Performance-based funding models were introduced for the first time in the 2014-2020 period and will be further encouraged during the negotiations of the 2021-2027 programmes, where possible as an effective implementation model.

The Commission agrees that linking allocation of resources to performance is not an easy task. This is why the Commission built on the experience gained in the previous period and has decided for the

programming period 2021-2027 to propose moving away from the automatic, mechanic system of the 2014-2020 programming period towards a more comprehensive system, bringing together a set of qualitative and quantitative elements. These will determine together the performance of the funds on the ground: the mid-term review will interlink the resource allocation and the way the funds are spent in achieving the EU's objectives in line with the CPR.

111. The Commission also considers that the performance framework, including the performance reserve, as designed in the 2014-2020 period allowed, for the first time, to assess performance within an agreed framework comprising a set of milestones for each programme priority axis. This in itself constituted a significant progress towards a performance culture for Cohesion policy implementation, compared to previous programming periods.

The Commission notes that the size of the performance reserve set in the CPR by the co-legislator (6% of the total allocation) sought to strike a balance between incentivisation of programmes to attain their milestones, while taking into account the inherent difficulties of implementing complex instruments. It also aimed at avoiding large shifts in the allocations, which would have risked undermining both the less and more successful priorities, the former been at risk to face a large increase of funding without necessarily having the possibility to absorb it.

114. The ex-ante conditionalities (EACs) were designed to “set the right conditions for effective spending from the start of the programmes”.

The extensive guidance that the Commission produced in 2014 to the attention of the Member States and its services helped to considerably reduce the risk of diverging interpretation.

In its assessment of EACs across Member States the Commission was legally obliged by Article 19 of the CPR to approach every case individually but at the same time, to ensure that similar cases were treated similarly.

The Commission services closely monitored, together with the concerned Member States and programme authorities, these EACs for which action plans were not completed yet. As a result of this strict monitoring, as indicated by the ECA, Member States effectively completed 98% of action plans by the reporting deadline (August 2017). The Commission applied the regulatory provisions (suspension of payments to the concerned programmes) when the conditions set by the co-legislators were fulfilled.

117. The general regime of conditionality and the enabling conditions are two distinct mechanisms, which pursue different objectives, using different tools. Regulation 2020/2092, according to its Article 1, ‘establishes the rules necessary for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States’. The enabling conditions established by the 2021-2027 CPR, according to their definitions, are conditions ‘for the effective and efficient implementation of the specific objectives’. The text of Regulation 2020/2092 clarifies that “Measures under this Regulation are necessary in particular in cases where other procedures set out in Union legislation would not allow the Union budget to be protected more effectively.”

The Commission may propose measures under the rule of law Regulation unless other procedures under Union legislation allow it to protect the Union budget more effectively. That new general regime of conditionality complements the sectoral instruments such as the enabling conditions set out in the 2021-2027 CPR, which set the necessary prerequisites for the effective and efficient use of the CPR Funds horizontally for all programmes and thematically depending on the specific objectives selected. The conditions for the proposal, by the Commission, and the adoption, by the Council, of the measures under the general regime of conditionality are defined in its legal basis. Moreover, the Commission has prepared draft guidelines on the application of the Regulation.

Common Commission reply to paragraphs 119 and 120:

The amendments of implementing legislation and clarifications on criteria were triggered by the need to adapt the initial programme targets and milestones based on initial assumptions, which may have proven over time to have been wrong. Adjusting such assumptions, targets and milestones, including with the clarifications brought through Implementing Regulation 215/2014, was therefore a necessity for a fair and robust performance review (see more details in Commission replies to paragraphs 51-53).

All requests for modifications of milestones were assessed by the Commission on the basis of the applicable provisions. This led to the legitimate release of 82% of the reserve.

121. The Commission considers that the performance data used for the performance review was sufficiently robust to carry out a meaningful performance review. Based on all available audit results and additional verifications carried out by programme managers, all programmes affected by serious deficiencies in the reliability of the monitoring system which were not yet addressed at the time of the performance review were excluded from the allocation of the performance reserve until the deficiencies were remedied (see Commission replies to paragraphs 64 to 70).

The legal framework explicitly provides for two conditions under which a suspension of interim payments is possible in case of a serious failure to meet a milestone. Both conditions would need to be fulfilled in order to trigger the use of the Commission's prerogative to suspend payments.

122. The performance review was carried out as required by the regulatory basis, by assessing the indicators included in the performance framework.

The 2014-2020 CPR indeed requires carrying out the performance review by assessing the implementation steps and indicators included in the performance framework. The rationale underpinning Cohesion policy interventions ensures a sequential relationship between financial and output indicators and results over time. At the time of the performance review, it would have been too early to obtain (and assess progress against) results for multi-annual investments funded under Cohesion policy.

123. The Commission notes that the normal evolution of programmes often leads to increases and decreases of funding throughout the programming period.

When comparing the amount of the priorities before and after the performance review, all underperforming priorities examined in the context of this audit lost their performance reserve and their amounts were reduced in the programme amendment done in the context of the performance review.

124. For the 2021-2027 programming period the performance review was replaced by the mid-term review and the performance reserve was replaced by the flexibility amounts. The CPR defines all elements necessary to carry out the mid-term review in the provisions relating to the mid-term review (art. 18) and to programme amendments (art. 24 of the CPR). Currently the Commission sees no grounds to present further details on the mid-term review.

In addition to Cohesion policy, in order to help Member States to recover from the effects of the pandemic and to relaunch the EU economy within the green and digital transitions, the EU has put in place an unprecedented financial support via NextGenerationEU, which includes the RRF. There are strong complementarities between the RRF and Cohesion policy instruments. The Commission does not consider that there is a significant risk of competition and overlaps between the two instruments, particularly given the time frame of the two instruments and the exceptional need for support in the context of recovery.

The Commission considers that Member States will take all necessary steps to ensure the rapid take-up of both instruments and will closely monitor the situation and assist Member States as required.

128. Managing and audit authorities have to provide assurance pursuant to art 69(2). However, concerning Union contributions based on financing not linked to costs, management verifications and audits cannot go beyond the scope set out in Article 95(3).

For 2021-2027, FNLTCs will be part of programmes approved or amended by the Commission.

Moreover, the Commission is willing to clarify that the limited scope of verifications and audits under the applicable Article 95 CPR 2021/1060 is without prejudice to the need for continuous monitoring of the relevant enabling conditions on public procurement and State aid rules at programme level by Member State authorities and the Commission.

Finally, the Commission will also examine with Member States in which investment areas and for which types of activities off-the-shelf models for FNLTC could most usefully be developed.

Recommendation 1 – Make the best use of enabling conditions in the 2021-2027 period

The Commission accepts the recommendation.

- a) The Commission will act accordingly in the monitoring committees for CPR Funds programmes.
- b) The Commission notes that there is no such obligation introduced in the CPR 2021/1060. Nevertheless, if asked by these two institutions, the Commission will present the requested information and thereby accepts the recommendation.

Recommendation 2 – Prepare the ground early for an effective mid-term review for the 2021-2027 period

The Commission accepts the recommendation.

- a) The Commission will inform the Member States in due time before the mid-term review of the approach to be applied, taking into account the provisions of Article 18 of the new CPR. This will include, inter alia, investment guidance to the Member States in the context of the 2024 European Semester exercise.
- b) The Commission underlines that the shared management funds and the RRF are governed by distinct rules and are implemented according to different methods of budgetary implementation. The CPR provides in Article 18 the list of elements, which will be taken into account when carrying out the mid-term review and the RRF evaluation is not among them. In particular, if certain RRF evaluation findings are reflected in the country-specific recommendations to be adopted in 2024 (Art. 18(1) (a) of the CPR 2021/1060), the mid-term review will take account of them.

Recommendation 3 – Clarify the rules underlying the ‘financing not linked to costs’ funding model

The Commission accepts the recommendation.

- a) The Commission notes that under Article 95 of the new CPR 2021/1060, Member States should propose their own tailored FNLTC schemes for the types of operations they deem suitable and for which they will seek the Commission approval.
- b) The Commission notes that programme amendments must be in line and follow the procedure of Article 18 of Regulation (EU) 2021/1060. Based on this provision the Member States should submit a reasoned request for amendment and the Commission will assess the amendment and its compliance with the CPR and with the Fund-specific Regulations, including requirements at national level.

Recommendation 4 – Clarify the approach for providing assurance on EU funding through the ‘financing not linked to costs’ model

The Commission accepts the recommendation.

a) The Commission intends to define in its own audit strategy and to discuss with audit authorities that their audit strategies define how to audit systems ensuring performance data reliability for the purposes of reporting on the conditions to be fulfilled or outputs/results to be achieved.

b) Given that management verifications and audits cannot go beyond the scope set out in Article 95(3), for expenditure under FNLTC schemes, the Commission will clarify how Member States should provide assurance to the Commission, in particular by confirming that the respective horizontal enabling conditions in respect of public procurement and state aid rules are fulfilled for the programme concerned throughout the period.

Article 15(5) CPR provides that expenditure shall not be reimbursed by the Commission if enabling conditions are not fulfilled. This allows the Commission to take appropriate action for non-fulfilment of the enabling condition criteria notably for public procurement and state aid rules.