



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

The EU's financial landscape

A patchwork construction requiring further simplification and
accountability

Contents

I.	THE COMMISSION REPLIES IN BRIEF	2
II.	COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA	3
1.	The EU's financial landscape and its potential for simplification	3
2.	Evaluation prior to the creation of new instruments	4
3.	Public accountability of EU's financial landscape	5
III.	COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA.....	6
1.	Ensure adequate prior assessment of the design and options for all new instruments	6
2.	Compile and publish information on the EU's overall financial landscape.....	6
3.	Propose to integrate the Modernisation Fund into the EU budget	7
4.	Propose the integration and consolidation of existing financial assistance instruments	7

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 259 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The current EU financial landscape has developed over decades, with the EU budget at its heart. It has gone hand in hand with the European integration process. The separate budgets created with the European communities in the 1950s were merged in different steps and finally became a single budget in the 2000s. The landscape has also developed in response to different crises, in particular the financial and economic crisis, as well as specific policy needs, such as financial assistance or external action-related needs. Such evolution is not specific to the EU financial landscape, but it can also be compared to the one of Member States and international organisations.

The evolution and current overview of the EU financial landscape reflects and respects a clear set of rules, laid down in the EU Treaties (or separate ones as for the European Stability Mechanism) as well as in secondary legislation, such as the Multiannual Financial Framework Regulation, the European Union Recovery Instrument Regulation and the Financial Regulation, among others. In this regard, the precise delineation of the instruments considered by the ECA in this report is essential to understand the ECA's findings.

The Commission acknowledges the diversity of components of the EU financial landscape. However, it does not concur with the ECA's qualification that such landscape results in a patchwork, as all instruments were fully adopted in respect of the relevant legal bases, specific policy objectives, as well as relevant interinstitutional procedures and political decision-making. The diversity of components of the financial landscape does not per se equate to a lack of efficiencies or adequacy. It has in fact allowed for the delivery on numerous and increasingly complex Union's policy priorities and objectives. The increased magnitude and complexity of economic, societal and global challenges has required the development of common responses and the mobilisation of significant resources. This has led to a diversification of financial interventions and instruments, including by leveraging public and private investment, at the level of the EU and euro area, but also through specific cooperation with Member States and international organisations and institutions.

Where specific scope for simplification has been identified in the past, such streamlining has been pursued. This has notably been the case for the budgetisation of the European Development Fund within the EU budget. Whenever possible, new instruments that have been introduced also follow such a streamlined approach. This is the case for several financial assistance instruments, such as the balance of payments or the European Financial Stabilisation Mechanism, as well as for budget guarantees and financial instruments, in both internal and external policies, that are covered by the own resources ceiling. This approach applies also to recent emergency temporary instruments such as NextGenerationEU and SURE, placed within the own resources' relevant ceilings. The fact that such liabilities would be covered within such ceilings in case of default of the beneficiaries is per se a positive development of the streamlined financial landscape.

The Commission accepts one sub-recommendation of the ECA report, does not accept one recommendation and partially accepts all others, with the limitations that it cannot prejudge its right of legislative initiative and future proposal for the post-2027 MFF. Any possible initiative will be subject to the relevant legislative procedures under the Treaties and framework in place, not prejudging the decision of the co-legislators or other relevant institutions. The Commission will continue monitoring the evolution of the financial landscape, for the components under its remit and will strive for further simplification, as necessary and appropriate.

Finally, the ECA report refers to elements which have a wider institutional scope stemming from the Treaties, for example when it comes to the ECA's audit rights or the role of the European Parliament in relation to the financial landscape, which are outside the remit of the Commission.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. The EU's financial landscape and its potential for simplification

The Commission welcomes the ECA's acknowledgement that there are different reasons and grounds to justify the current EU financial landscape¹.

The EU financial landscape was created over time, based on evolving legal requirements and it is addressing several diverse crisis and urgencies. The applicable Treaty provisions changed significantly over time, for example with the entry into force of the Lisbon Treaty in 2009, and the Financial Regulation was amended very substantially in 2012 and 2018. Further on, the different instruments audited by the ECA fall under different legal bases, some such as the ESM Treaty, falling outside the Commission's remit.

The Commission's attempt to streamline the EU financial landscape, where possible and justified, is made evident by the European Development Fund budgetisation within the MFF 2021-2027, which puts an end to a lengthy political debate on its integration within the EU budget. This change matters quantitatively (estimated at around EUR 30 billion over 7 years) and qualitatively. In fact, it helps in simplifying the EU financial landscape and aligning decision-making with the extended co-decision process and the European Parliament's related increased scrutiny over EU legislation and spending instruments. Moreover, it makes it easier to monitor progress on the EU commitment to devote 0.7% of gross national income to official development assistance.

Such interinstitutional efforts of streamlining the financial landscape, where possible, are also visible in relation to the instruments which fall outside the EU budget as per the Treaties, e.g. the European Peace Facility (EPF), operational since July 2021. This off-EU budget instrument finances support to the EU partner countries' armies with infrastructure, training and equipment. These activities are streamlined under the single EPF umbrella, while before they were financed under two different instruments: the Athena mechanism and the African Peace Facility, the latter having been funded by the European Development Fund.

Moreover, the Commission also highlights that placing emergency instruments such as NextGenerationEU, the macro-financial assistance plus support to Ukraine² and (partially) the SURE liabilities within the scope of the own resources' ceilings represent per se a further effort in streamlining the landscape despite the emergency and urgent set up which characterised these two instruments. This complies with the consolidated approach of ensuring coverage under the own resources ceilings of contingent liabilities arising from financial assistance to Member States (e.g. balance of payments, European Financial Stabilisation Mechanism) as well as budget guarantees and financial instruments (both for internal and external policies instruments, e.g. InvestEU, External Action Guarantee, etc.).

Finally, the fundamentally different characteristics of the Modernisation Fund justify the decision for its creation with the governance arrangements in place. While the Commission does not prejudice any possible action in the future, which should be based on a careful assessment of the possible benefits that budgetising the Modernisation Fund would bring in terms of governance. In the case of the

¹ ECA report, Executive Summary, paragraph IV.

² Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +), OJ L 322, 16.12.2022, p. 1-14.

Innovation Fund and Modernisation Fund, although both support schemes aim at decarbonizing Europe, they have differences which justify their creation with differing governance arrangements. On the one hand, the Innovation Fund supports projects through EU-level calls for proposals with the objective to fund the best projects within the Union in terms of innovation, greenhouse gas emission avoidance, maturity, scalability and cost efficiency, therefore the main decisions are taken by the Commission. On the other hand, in the case of the Modernisation Fund, which supports modernisation of energy systems in the 10 beneficiary EU Member States, financing is done on the basis of their pre-determined national envelopes, decisions are taken by an Investment Committee administrated by the EIB and mostly composed of Member States' representatives, and the beneficiary Member States are responsible for its operation.

2. Evaluation prior to the creation of new instruments

The creation of new instruments is guided by a comprehensive framework, including guiding principles and standard processes. It includes:

- the **interinstitutional agreement on better law-making of 2016**³;
- the **Financial Regulation**;
- as regards basic acts for multiannual programmes, the **interinstitutional agreement of 16 December 2020**⁴ on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources;
- the **joint declaration of the European Parliament, the Council and the Commission of 16 December 2020 on budgetary scrutiny of new proposals** based on Article 122 TFEU with potential appreciable implications for the Union budget⁵
- the **Better Regulation Guidelines and toolbox**, under which impact assessments or ex-ante evaluations are carried out, in accordance with the better regulation principles, including for programmes and funding instruments.

An ex-ante evaluation should be prepared, in line with the Financial Regulation, for major programmes of the multiannual financial framework⁶. Ex-ante evaluations (and impact assessments) inform the decision making on the design of instruments when analyzing policy options, notably by checking intervention strategies, instruments, channels or levels of interventions. When an impact assessment should be carried out, but cannot, for example for reasons of urgency, since November 2021, the Better Regulation Guidelines and toolbox provide for a Staff Working Document (SWD) to be published within 3 months after the proposal is published. This would include a justification for the design, assessment of coherence with other instruments and a cost-benefit analysis. In case of urgency, the Vice-President for Interinstitutional Relations and Foresight can decide whether to grant a derogation from the requirement of carrying out an impact assessment. Furthermore, the

³ Interinstitutional Agreement of 13 April 2016 between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making; OJ L 123, 12.5.2016.

⁴ Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources; OJ L 433, 22.12.2020, cf. paragraphs 18, 19, 26. Cf. also Annex I footnote 4.

⁵ OJ C 444I, 22.12.2020;

⁶ (Financial Regulation, Article 34)

preparation of a new multiannual financial framework is a unique process requiring a specific approach as regards scope and depth of analysis. For this process, practical guidance for the preparatory work is issued internally within the Commission.

3. Public accountability of EU's financial landscape

Public scrutiny arrangements and the scope of the European Parliament's powers in the context of different instruments⁷ are fully based on the relevant Treaties' provisions and result from the applicable inter-institutional legislative process. In this regard, the Commission emphasizes that it has limited responsibilities in establishment and/ or implementation of certain instruments, in particular considering that some of them are outside the scope of the EU Treaties (e.g. ESM).

The Commission in general supports that managers of public funds, at EU level and at national level, are held accountable on the basis of transparent reporting and audits carried out by independent auditors. For the instruments not covered by the ECA audit rights, independent external audit arrangements are in place. The Commission considers that it is for the institutions and bodies concerned and the ECA to discuss these matters⁸.

As regards the European Parliament oversight rights in relation to the Modernisation fund, the Commission considers that there is a sufficient degree of public scrutiny⁹. The Implementing Regulation 2020/1001¹⁰ outlines in detail the monitoring, reporting and evaluation and the auditing rules in place, as well as the responsibilities of the EIB and the Commission in relation to publication of the respective reports on the Modernisation Fund website and 'europa'¹¹. The Commission therefore considers that these provide full transparency and sufficient assurance of budgetary oversight.

The Commission reports, in accordance with the Financial Regulation (FR), on the implementation of the EU budget in a number of financial reports, such as the EU consolidated Annual Accounts, the Annual Management and Performance Report (AMPR), working documents attached to the draft budget in accordance with article 41 of the Financial Regulation (FR) and the report prepared based on FR article 250 on financial instruments, budgetary guarantees, financial assistance and contingent liabilities..

In addition, Commission produces, in line with article 16 and 17 of the Interinstitutional Agreement of 16 December 2020 and based on publicly available information, the Budgetary Transparency Report, covering some instruments which are outside the Commission's remit of reporting.

Hence, the Commission does provide the required reports and information to enable the European Parliament to exercise its democratic scrutiny for all instruments and funds under its remit, in line with the requirements of the Treaties and relevant regulations. The Commission cannot be held accountable for funds that were placed outside of its prerogatives.

⁷ See ECA observations 62 to 66.

⁸ See ECA conclusion 96

⁹ See ECA observation 63.

¹⁰ Commission Implementing Regulation (EU) 2020/1001 of July 2020 laying down detailed rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the operation of the Modernisation Fund supporting investments to modernise the energy systems and to improve energy efficiency of certain Member States; OJ L 221/107, 10.7.2020.

¹¹ Modernisation Fund website (i) <https://modernisationfund.eu/investments/>, and Modernisation Fund on europa (ii) https://climate.ec.europa.eu/eu-action/funding-climate-action/modernisation-fund_en

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

1. Ensure adequate prior assessment of the design and options for all new instruments

The Commission should:

(a) within the existing framework, ensure that any new instrument it proposes contains an assessment of the design chosen and the need to create that instrument inside or outside of the EU budget, and

(b) share this good practice with the Council with a view to applying it to new instruments not proposed by the Commission.

Target implementation date: 2024

The Commission **partially accepts** point a) of this recommendation as a prior assessment cannot be ensured for every proposal, such as in case of urgency, or for actions that would fall outside its responsibilities under the Treaties.

The Commission **partially accepts** point b).

Moreover, in relation to point b), the Commission cannot accept going beyond the existing framework. Furthermore, the Commission insists that the assessment of the options for the design should follow Treaties requirements, and/or policy frameworks under legislative procedures and cannot be guaranteed for every proposal especially those outside this framework (ESM type or urgent procedures).

In this regard, the creation of new instruments is guided by a comprehensive framework, including guiding principles and standard processes, as presented in section II.2.

2. Compile and publish information on the EU's overall financial landscape

The Commission should compile and publish information on all instruments of the EU's overall financial landscape.

Target implementation date: 2024

The Commission **partially accepts** this recommendation.

As presented in Section II.3, the Commission already reports, in accordance with the Financial Regulation (FR) on the implementation of the EU budget and instruments for which the Commission is accountable for in a number of reports. Moreover, the Commission provides information on other instruments as laid down in points 16 of the Interinstitutional Agreement¹². The Commission does

¹² Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of

not have the legal power to report on instruments which are outside the scope of the EU budget or even outside the Treaties or which do not enter in the accounts of the EU (European Investment Bank own operations, Greek Loan Facility, Modernisation Fund etc) or for which there is no publicly available documents. Such “reporting on the EU’s overall financial landscape” cannot be provided under the Financial Regulation as it would go beyond its scope and would partly be based on information to be provided from other bodies (e.g. the EIB on their own operations).

3. Propose to integrate the Modernisation Fund into the EU budget.

The Commission should propose the integration of the Modernisation Fund into the EU Budget for the next Multiannual Financial Framework, taking into account the specificities of the Fund.

Target implementation date: 2025

The Commission **does not accept** this recommendation.

Taking into account the specificities of the Fund and reserving its right of legislative initiative as established in the Treaties, the Commission cannot prejudge in content and scope its proposal for the post-2027 MFF.

4. Propose the integration and consolidation of existing financial assistance instruments

Target implementation date: 2025

- (a) **engage with the European Parliament, the Council and the European Stability Mechanism with a view to reaching a common position on the integration of the European Stability Mechanism into the ‘EU legal framework’;**

The Commission **accepts** this recommendation.

- (b) **present new legislative proposals with a view to consolidating existing financial assistance instruments.**

The Commission **partially accepts** this recommendation.

The Commission reserves its right of legislative initiative as established in the Treaties. Should the European Stability Mechanism be integrated into the ‘EU legal framework’, the Commission will examine the scope for consolidating existing financial assistance instruments, taking into account the financial assistance instruments that are operational at that time and whether there are benefits to additionally integrate instruments that are no longer operational.

new own resources Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ L 4331 , 22.12.2020, p. 28–46).