



# REPLIES OF THE EUROPEAN COMMISSION

## TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

**The Commission's systems for recovering  
irregular EU expenditure**

Potential to recover more and faster

# Contents

I. THE COMMISSION REPLIES IN BRIEF.....	2
II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA.....	2
1. Recording and recovery of irregular expenditure under direct and indirect management....	2
2. Recording and recovery of irregular expenditure under shared management.....	3
3. Reporting on irregular expenditure and recoveries.....	4
III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA.....	6
Recommendation 1 – Examine the financial impact of systemic irregular expenditure in the area of external actions.....	6
Recommendation 2 – Improve the planning of audit work in the area of external actions to reduce the time taken to establish irregular expenditure.....	6
Recommendation 3 – Assess the need for additional incentives for member states to improve the rates of recovery of irregular expenditure in agriculture.....	6
Recommendation 4 – Provide complete information on established irregular expenditure and corrective measures taken.....	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

Between 2017 and 2022, corrective measures (i.e., financial recoveries from the beneficiaries or corrections to the Member States) across the EU budget amounted to EUR 11.9 billion<sup>1</sup>. The Commission constantly aims to recover irregular expenditure more diligently, and hence more effectively. To that end, on 6 February 2024, the Commission adopted an enhanced corporate strategy for the management of the Commission's debtors. This audit from the European Court of Auditors (ECA) will help to improve the systems to recover irregular expenditures.

For [expenditure under direct and indirect management](#), the Commission welcomes the ECA observation that it records irregular expenditure accurately and promptly, while acknowledging several limitations – including the fact that there is room to better address the risk of systemic irregular expenditure in the field of external action.

For [expenditure under shared management](#), the Commission relies on the Member States, as they are responsible to record and recover irregular expenditure to protect the EU budget. The Commission concurs with the ECA's assessment that under cohesion policy the EU's financial interests are protected from irregular expenditure thanks to the recovery system currently in place. As regards agricultural spending, the Commission believes that the progress made by Member States since 2005 in improving the effectiveness of their debt management control systems under the continuous guidance from the Commission makes the overall debt management system fit for purpose.

The Commission takes note of the ECA's observations on the [reporting of irregular expenditures and their recovery](#). In that context, it recalls the improvements made over the recent years following the issues noted by the ECA in its 2020 annual report, where the reporting of financial corrections and recoveries was considered too complex and not always clear<sup>2</sup>. The Commission will continue improving its reporting when necessary.

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

### 1. Recording and recovery of irregular expenditure under direct and indirect management

The Commission welcomes the ECA observation that it records irregular expenditure accurately and promptly<sup>3</sup>.

For both direct and indirect management, the Commission agrees with the ECA that rapid detection and correction increase the likelihood of recovery<sup>4</sup>. This is why it constantly strives for reducing the delays in the recovery process. To that end, it has just adopted an [enhanced corporate strategy for the management of the Commission's debtors](#). The strategy includes four measures to better manage the Commission's claims against debtors as soon as their debts become due:

---

<sup>1</sup> See Annual Management and Performance Report on financial year 2022, Volume III, Annex V, p35

<sup>2</sup> ECA's annual report 2020, paragraphs 1.40 to 1.43.

<sup>3</sup> See ECA observation 25 to 28.

<sup>4</sup> See ECA observation 32.

- To focus management attention on recoveries as well (next to the payments), the strategy defines recovery performance standards.
- To improve management monitoring, the strategy puts in place regular and transparent compliance and effectiveness reporting.
- To create synergies and efficiencies, the strategy centralises processes for the preparation of combined waiver decisions.
- To reinforce accountability, corporate escalation mechanisms may be used.

As regards [direct management](#) specifically, the Commission welcomes the ECA's assessment. The mechanisms and procedures in place, such as the AUDEX IT system for the recording of irregular expenditures or the contradictory procedure with the beneficiaries performed by the Common Audit Service within the audit process, are functioning well. These mechanisms allow a fast establishment of the claim and overall an efficient recovery.

As regards the [expenditure for external actions](#), the Commission acknowledges that there is room to better address the risk of systemic irregular expenditure<sup>5</sup> (see reply to recommendation 1). In particular, the Commission acknowledges difficulties in cooperation with agencies from the United Nations (UN) in terms of audits/verifications and a high number of errors detected that stem from limitations embedded in the financial and administrative framework agreement between the Commission and the UN<sup>6</sup>. The Commission is taking these weaknesses very seriously. As mitigating measures, the Commission will a) continue efforts and dialogue with the UN in facilitating audits and verifications and increasing transparency, b) review the control strategy to identify options allowing the Commission to better address the issue of systemic irregular expenditure.

The Commission also acknowledges the need for improving and speeding up the audit process in the area of external action. This is among the objectives of the review of the control strategy. The creation of audit hubs where audits tasks will be regionalised in certain EU delegations is expected to contribute to improving the process.

## 2. Recording and recovery of irregular expenditure under shared management

The Commission recalls that the systems for recording and recovering irregular expenditure under cohesion policy and the common agricultural policy (CAP) are different, as they do not have the same legal basis.

As explained in the ECA report, under [cohesion policy](#), according to the assurance model for the 2014-2020 programming period, the vast majority of financial corrections are implemented at Member State level, which reduces the risk of material level of error appearing in the accounts submitted on a yearly basis by the Member States. Since the EU budget is protected by the withdrawals of irregular expenditure made by the Member States, the Commission does not obtain information on whether Member States have recovered the irregular expenditure withdrawn from the beneficiaries.

For the [common agricultural policy](#), the debt management system works as follows:

- all undue amounts, interest and penalties are timely identified and reported to the Commission,
- the state of play of the recovery procedures is reported to the Commission, which allows monitoring the evolution of the debt amount (increasing and decreasing), and

---

<sup>5</sup> See ECA observation 30.

<sup>6</sup> See ECA observation 31.

- the files are closed through recovery, cancellation, or write off decision of the debt amount.

These elements provide to the Commission the **full picture** of the progress of the recovery procedures and consequently of the debt amount annually. This system is supported by a thorough annual review of the national debt management control systems by the certification bodies. Control deficiencies posing a risk to the funds are followed up by the Commission and, when specific risks related to irregularities and debt management are identified, on the spot audits to the Member States can be carried out. In addition, the continuous monitoring and guidance provided to the Member States by the Commission contributes significantly to the improvement of the debt management control systems of the paying agencies.

Since 2010, EUR 512.5 million financial corrections were imposed on Member States due to deficiencies in the debt management system and further EUR 100-120 million in corrections for the same period are under conformity enquiries.

As regards the ECA's observations on the **recovery rates**<sup>7</sup>, the Commission considers that recovery rates of different types of measures, schemes implemented under different management modes are not fully comparable. The Commission recalls that the likelihood to recover irregular expenditures from the individual beneficiaries depends on the types of measures and schemes to implement the funds. For example, when the beneficiary receives regular payments from the EU budget (such as direct payments), undue payments are easier to recover as there would normally be a possibility to offset the amounts to recover with future payments. On the contrary, payments related to one-off grants under the European agricultural fund for rural development (EAFRD) may be more difficult to recover. The recovery rates also depend on the age of the debts as older debts are more difficult to recover. Currently DG AGRI's annual activity report (table 5.4.2. of Annex 7) reports all debts in the form of aggregated data. Therefore, it is challenging to identify the causes behind the evolution of the recovery rate over time – while it can be related to an evolution in the performance of the debt management system, it can also be linked to changes to the way agricultural funds are implemented.

The so-called “**50/50 rule**”<sup>8</sup>, introduced in 2005, implements a system of shared financial responsibility between the Member States and the Commission. The mechanism was conceived as an incentive to get the outstanding debt amount back faster to the EU. With the 2023-2027 CAP, the “50/50” rule was not maintained as such, because under the new CAP delivery model, the Commission cut the direct link with the beneficiaries and significantly reduced the detailed reporting by the Member States to focus more on Member States' performance. Nevertheless, the Commission continues to follow up any delays or other weaknesses identified in the paying agencies' debt management control systems. If serious deficiencies are identified, financial corrections will be proposed. This approach better respects the principle of proportionality and builds on the progress made by Member States since 2005 in improving the effectiveness of their debt management control systems under the continuous guidance provided by the Commission.

### 3. Reporting on irregular expenditure and recoveries

As part of its annual financial and accountability reporting, the annual activity reports (AARs) at the level of each Commission service, and the Annual Management and Performance Report (AMPR) at Commission level, present the **preventive and corrective measures implemented by the Commission and the Member States** during the year. This is in line with the Commission's

---

<sup>7</sup> See ECA observations 53 and 54.

<sup>8</sup> Article 54(2) of Regulation (EU) No 1306/2013

obligations under articles 74 and 247 of the Financial Regulation and this illustrates in real terms how the EU budget is protected from irregular expenditure.

The Commission is of the opinion that its **current reporting on the control results is sufficiently robust** to provide assurance on the protection of the EU's financial interests.

Nevertheless, the Commission has been – and is still – striving to improve the **quality and clarity** of the reporting on the protection of the EU budget.

With the AMPR on financial year 2021, taking into account ECA observations<sup>9</sup>, the Commission streamlined the presentation of the preventive and corrective measures and only reported the 'implemented' amounts. This simplification allowed to provide a complete picture of the measures applied by both the Commission and the Member States and thus capture the major shift in the implementation of the financial corrections under cohesion policy. The Commission notes that the ECA acknowledged these improvements in its 2021 annual report<sup>10</sup>.

In addition, the Commission aligned the amounts reported in the AARs and in the AMPR on financial year 2022<sup>11</sup>. The limitations pointed out by the ECA<sup>12</sup> will not exist in the **new corporate information system SUMMA**<sup>13</sup>.

Currently, the Commission is also working to ensure a harmonized presentation of the figures related to the direct management in the annual reports on the protection of the EU's financial interests (PIF report) and the AMPR. The Commission recalls however that the PIF report and the reporting of irregularities in the irregularity management system mainly aim at assessing which areas are most at risk of fraud, thereby to better target action at both EU and national level. The PIF report does not relate to the monitoring of recoveries. For this reason, the PIF Report is not comparable with the other documents focused on recoveries and corrective measures.

---

<sup>9</sup> ECA's annual report for 2020, paragraphs 1.40 to 1.43.

<sup>10</sup> ECA's annual report for 2021, paragraph 1.43.

<sup>11</sup> For the CAP however, the irregular expenditure recovered reported in the DG AGRI's AAR on financial year 2022 comes from the Member States' assurance packages, whereas the irregular expenditure recovered reported in the AMPR comes from the Commission's accounting system. As from 2023, DG AGRI's AAR will also present the irregular expenditure recovered as registered in the Commission's accounting system.

<sup>12</sup> See ECA observation 70.

<sup>13</sup> The new corporate information system SUMMA is expected to go live on 1 January 2025.

### III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

#### **Recommendation 1 – Examine the financial impact of systemic irregular expenditure in the area of external actions**

(Target implementation date: June 2026)

**The Commission should ensure that the full financial impact of irregular expenditure that may be systemic in nature is determined, recorded and corrected, if necessary, by carrying out additional checks of the EU funded operations concerned.**

The Commission **accepts** this recommendation. A review of the existing control strategy will be carried out, to identify the options allowing the Commission to address better the issue of systemic irregular expenditure.

#### **Recommendation 2 – Improve the planning of audit work in the area of external actions to reduce the time taken to establish irregular expenditure**

(Target implementation date: end of 2025)

**The Commission should reduce the time taken in the area of external actions between the completion of the activities funded by the EU and the establishment of irregular expenditure to be corrected by:**

- a. reviewing its audit planning methodology so that *ex post* checks are carried out as soon as it receives compliant financial reports; and**

The Commission **accepts** this sub-recommendation and will review the process.

- b. using monitoring procedures and tools that will allow for closer follow-up of the audit process so as to reduce the length of adversarial procedures.**

The Commission **accepts** this sub-recommendation and will review the process.

#### **Recommendation 3 – Assess the need for additional incentives for member states to improve the rates of recovery of irregular expenditure in agriculture**

(Target implementation date: end of 2025)

**(a) In order to ensure that member states recover irregular expenditure under the CAP in a more timely manner, and improve the recovery rates, the Commission should assess the need to include additional incentives in the next programming period.**

The Commission **accepts** this recommendation.

If it is observed that the recovery pace has slowed down compared to the previous period, the Commission will carry out an assessment of recovery rates from beneficiaries, considering the measures and schemes under which the funds are implemented, and see what incentives can be used to further prevent undue payments and achieve faster recovery.

## **Recommendation 4 – Provide complete information on established irregular expenditure and corrective measures taken**

**(Target implementation date: June 2026)**

**The Commission should provide data in its annual activity reports on:**

- a. irregular expenditure that has been established during the year and the corrective measures that have been taken; and**

The Commission **partially accepts** this sub-recommendation.

- b. irregular expenditure that was established during the previous year(s) but for which corrective measures were not finalised at the end of the previous year, and the corrective measures that have been taken the current reporting year.**

The Commission **partially accepts** this sub-recommendation.

Both recommendations 4a and 4b are accepted for funds **directly and indirectly managed by the Commission and for cohesion policy funds, for irregular expenditure established from 2025 onwards.**

Under **cohesion policy**, the Commission recalls that Member States immediately withdraw irregular amounts, on the basis of all controls carried out including national and EU audits, from the next payment claims or accounts. The legal framework envisages audited annual accounts which include specific annexes on amounts corrected (effectively withdrawn) during the accounting year. Thus, the irregular expenditure established during the year will correspond to the amounts effectively withdrawn as reported by the Member States in their annual accounts.

Under the **2023-2027 CAP**, the Commission services will be able to report the total amounts aggregated for all financial years, duly certified by the certification bodies. The Commission, based on the legal framework, will however not receive detailed data on irregularities per financial year, thus the Commission will not be in a position to report on the number of irregularities established and the correctives measures per financial year.