



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Absorption of funds from the Recovery and Resilience Facility

Progressing with delays and risks remain regarding the completion of measures and therefore the achievement of RRF objectives

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

I. THE COMMISSION REPLIES IN BRIEF

The Recovery and Resilience Facility (RRF) is at the heart of the European Union's Recovery plan *NextGenerationEU*. The RRF was a joint and coordinated response to the Covid-19 pandemic in 2020 to mitigate its impact on citizens and businesses, support the recovery from the pandemic and enhance the resilience of our economies and society to make the European Union and its Member States better prepared for future challenges. Under the RRF, the Commission committed EUR 648 billion in grants and loans to all 27 Member States by the end of 2023¹. Payments under the RRF are conditional upon implementation of reforms and investments, as measured through the fulfilment of country-specific milestones and targets.

The Commission is working closely together with Member States to support the timely and effective absorption of RRF funds. The Commission paid particular attention already during the preparation stage of the Recovery and Resilience Plans (RRPs) to potential issues related to absorption, and insisted that only those parts of reforms and investments that are achievable within the timeline of the RRF are included in the final RRFs. The Commission monitors the Member States' progress in implementation closely. The Commission recalls that the RRF's design as a performance-based instrument also reflects recommendation 6-3 of the ECA's Annual Report 2016, recommending the Commission, *'when reconsidering the design and delivery mechanism for the ESI Funds post 2020, [to] strengthen the programme focus on performance and simplify the mechanism for payments by encouraging, as appropriate, the introduction of further measures linking the level of payments to performance, instead of simply reimbursing costs.'* The Commission notes that the RRF shows the advantages and strengths of performance-based instruments, notably to support the implementation of reforms, as illustrated by the RRF Mid-term evaluation².

The Commission welcomes that the ECA recognises the importance of the Commission's role in supporting Member States in addressing potential delays. The Commission made significant efforts to provide clear and comprehensive guidance documents to Member States in a timely manner and continues to clarify aspects of implementation whenever necessary. Given the novel design of the instrument, the Commission published general guidance documents on the preparation as well as the modification of RRFs. Furthermore, the Commission published specific technical guidance on the Do No Significant Harm (DNSH) principle to facilitate its application by Member States and mitigate risks. While it is neither feasible nor necessary to publish guidance on every aspect of implementation, the Commission stands ready to continue supporting and guiding Member States, and notably to address any remaining uncertainties, bilaterally on Member State-specific issues and multilaterally, in the context of the Expert Group on the RRF.

In order to remove bottlenecks in implementation and continue with the timely disbursement of RRF funds, the RRF Regulation allows for the possibility to modify RRFs under certain conditions. Furthermore, the Commission stands ready to continue supporting Member States in modifying their RRFs to address delays and mitigating risks of non-completion in line with the legal requirements of the RRF Regulation. The Commission is also able to address non-performance by Member States,

¹ The ECA report refers to EUR 723 billion in grants and loans, which is the amount initially made available by the Commission to all 27 Member States. After the final amount of non-repayable financial support and loans was committed by the Commission to Member States by 31 December 2023, the final amount under the RRF is EUR 648 billion in grants and loans.

² Mid-term evaluation of the Recovery and Resilience Facility, SWD(2024) 70 final: https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/economic-and-financial-affairs/evaluation-reports-economic-and-financial-affairs-policies-and-spending-activities/mid-term-evaluation-recovery-and-resilience-facility-rrf_en

notably through payment suspensions in case milestones and targets are not achieved by the time a payment request is submitted, and the ability to reduce a Member States' funding afterwards, in case it reverses a previously fulfilled milestone or target. However, the Commission can neither assume the responsibility of the Member States for implementing the relevant reforms and investments nor substitute Member States' actions to address delays.

The ECA's special report was drawn up halfway through the implementation of the RRF. The implementation will continue until 2026. The Commission is taking action to enhance a timely and effective implementation of reforms and investments by Member States and speed up the disbursement of payments.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. Disbursement of funds and RRF absorption

The Commission welcomes the ECA's finding that confirms the importance of the Commission's role to support Member States regarding the implementation of the RRF³, which enhances the timely and effective absorption of RRF funds and reduces the risks of delays.

Regarding the definition of absorption, the Commission takes note that the ECA defines absorption in the context of this audit as 'EU funding paid out by the Commission to the Member States', which well reflects the nature of the RRF as an EU-level instrument to provide support to Member States that implement national reforms and investments.

The ECA highlights that the progress in implementation varies across Member States⁴ based on the number of payment requests submitted and funds disbursed⁵. It is however important to recall that RRFs are implemented by Member States. While the Commission has repeatedly encouraged Member States to ensure timely implementation, including in the latest European Semester Spring package⁶, it is their prerogative to decide how to implement their RRF and when to submit a payment request. Member States can submit payment requests up to twice per year and merge several of them into one single submission. This leads to different implementation progress based on their different national framework and needs. The Commission highlights that a delay in submission of payment requests compared to the indicative timeline does not necessarily translate in a delay regarding the progress in implementation. The Commission also notes that the progress in implementation is multi-faceted and not only measured through the number of payment requests submitted and amounts disbursed, but also in the context of the bi-annual reporting, where Member States report on the status of completion regarding milestones and targets.

REPowerEU and the related amendment of the RRF regulation provided additional funding for critical reforms and investments needed to rapidly end the Member States' dependence on Russian fossil fuels. However, it also led to a later submission of payment requests in 2023 compared to the indicative timelines. The Commission published additional guidance in 2023 to help Member States prepare their REPowerEU chapters and organised expert group meetings to support Member States. However, the preparation of REPowerEU chapters and the revision of RRFs, together with the energy

³ See ECA observations 40-41 and 50-51.

⁴ See ECA Figure 3.

⁵ See ECA observations 23-24.

⁶ https://commission.europa.eu/publications/2024-european-semester-spring-package_en

crisis, led to a re-prioritisation of administrative capacity of Member States towards that new goal and to a backlog in the submission of payment requests. Nevertheless, the implementation of reforms and investments on the ground continued at a steady pace, leading to many payment requests taking place towards the end of 2023 and a catch-up in disbursement.

The Commission welcomes the ECA's recognition of the benefits of RRF pre-financing.⁷ The pre-financing of up to 13% paid out in 2021 provided a financial impetus to Member States to kick-start the RRF implementation, uphold public investment in a moment of crisis and support the limited fiscal space of Member States, which was hit hard by the pandemic. This allowed Member States to recover more quickly from the crisis and set the economy back on track, while reducing inequalities and divergences across the Union.

The ECA finds that the interpretation of the term 'final recipient' varies across Member States for similar measures⁸ in the context of the bi-annual reporting, where Member States are required to provide a list of the 100 final recipients receiving the highest amount of funding. The Commission recalls that the term is laid out in Article 22(2)(d) in combination with Article 25a of the RRF Regulation. Under the RRF Regulation, a final recipient is understood as the last entity receiving funds that is not a contractor or a sub-contractor. Article 22(2)(d) mentions final recipients as separate entities from contractors and sub-contractors and provides that, in the latter cases, the contracting authority is the final recipient. For instance, public authorities may be the final recipients in case they are a contracting authority for direct contracts for services or goods, such as in the case of energy renovation of public buildings.

Concerning the receipt of funds by these final recipients, the Commission notes that the data reported on the 100 largest final recipients will evolve over time with the progress of implementation of the measures in their RRP.⁹ Finally, in line with the RRF Regulation, the Commission consolidates and publishes the data on the Recovery and Resilience Scoreboard, but it cannot verify or otherwise check on substance the data provided by Member States, as Member States are not required to publish all data on final recipients nor any underlying information. As a new type of reporting under the RRF, the reporting on the 100 largest final recipients is a learning process also for Member States, including regarding the establishment of internal reporting systems and procedures.

2. Actions taken by Commission and Member States to facilitate absorption

In its observations, the ECA finds that the Commission took actions to facilitate absorption, notably by supporting Member States with guidance to facilitate the implementation of the RRF¹⁰. The Commission engaged immediately after the publication of its proposal for the RRF Regulation with the Member States, both to explain and discuss the legal provisions, and to guide them in preparing their RRP. The Commission published a first guidance for the Member States in September 2020, based on the latest draft version of the Regulation, which helped the Member States during the preparation of their plans. An updated guidance on the drafting of RRP was published in January 2021, based on the final RRF Regulation text but still even prior to the Regulation's entry into force. The Commission also provided other written guidance, including a technical guidance on the application of the DNSH principle, which the ECA acknowledged was published by the Commission in good time¹¹. The Commission also provided answers to Member States' questions posed bilaterally

⁷ See ECA observation 19.

⁸ See ECA observations 55-56.

⁹ See ECA observation 54.

¹⁰ See ECA observations 57 and 64.

¹¹ See ECA observation 67.

or in Council committees or expert group formats, and organised exchanges to encourage cooperation, joint projects and good practices among Member States in implementation.

The Commission takes note of the ECA's finding that Member States would have appreciated in some cases more detailed guidance or earlier in time.¹² It is however important to recognise that the RRF is a new type of instrument, which therefore required the establishment of new working arrangements, rules, templates, and processes. These were established in record time by the Commission to guide Member States in the preparation of their RRFs and their ensuing implementation. Given the novel implementation mode and significant time pressure, not every aspect could be fully covered with written guidance at the earliest stages. Also, several aspects of the Regulation (such as partial suspension, or reversal) were not yet immediately relevant. In any case, the Commission published the relevant guidance before a first case materialised. Furthermore, published guidance, such as the framework on satisfactory fulfilment of milestones and targets, should not be understood as the first point in time that any guidance was offered, but rather as publicly communicating the principles that were already applied by the Commission and communicated to Member States where relevant. The Commission stands ready to (i) continue addressing any remaining uncertainties in implementation and to (ii) promote the exchange of good practices among Member States to further facilitate the implementation and is providing clarifications on specific aspects of implementation, as acknowledged by the ECA. This takes place systematically in the context of the regular meetings of the expert group on the RRF.

The RRF Regulation caters for the possibility to modify the RRF during the implementation if a reform or investment is no longer achievable, as envisaged in Article 21 of the RRF Regulation. This allows Member States to accommodate changes and remove bottlenecks when necessary¹³. With this approach, the Commission facilitates implementation and timely disbursement of funds. In its findings, the ECA notes that the revision of RRFs may facilitate absorption of the RRF¹⁴.

The Commission considers that its guidance on RRFs, provided already in a first version during the RRF Regulation legislative process and updated several times since, prompted Member States to ensure sufficient administrative capacity and efficient use of resources¹⁵. Given the limited timeline of the RRF, the Commission underlined in its guidance document from 2021 that Member States should (i) ensure timely absorption and (ii) describe in their RRF if a mature project pipeline is in place¹⁶. The Commission notes that various circumstances outside the Member States' control caused delays and implementation difficulties, for example, disruptions in the supply chains and price increases in raw materials. The Commission further underlined in its guidance that Member States should ensure sufficient administrative capacity to implement the RRFs and put in place the necessary arrangements to ensure effective monitoring and implementation. The Commission paid particular attention during the negotiations of the RRFs to the sufficient administrative capacity in Member State authorities. It notably insisted that Member States address the relevant country-specific recommendations linked to the efficiency of public administration in their RRFs, which will have a positive impact beyond the RRF. As a result, and as acknowledged in the ECA's report¹⁷, several Member States put in place dedicated structures to facilitate RRF implementation. Furthermore, issues related to administrative capacity have not affected all Member States. As acknowledged by the ECA in its report, the Commission supported Member States to take up measures strengthening the administrative capacity to implement the RRF¹⁸. Some Member States also benefitted from dedicated support under the Technical Support Instrument in order to increase administrative

¹² See ECA observations 47-52, 63 - 68.

¹³ See ECA observations 59-63.

¹⁴ See ECA observation 62.

¹⁵ See ECA observations 69-70.

¹⁶ SWD(2021) 12 final, p.45-47.

¹⁷ See ECA observations 42-46.

¹⁸ See ECA observations 69-70.

capacity. At the same time, the responsibility for ensuring sufficient administrative capacity lies ultimately with each Member State.

The ECA notes in its report that the Commission established a framework for monitoring the RRF implementation¹⁹. While the ECA acknowledges that there are limits to what the Commission can do in case of incomplete and inaccurate information provided by Member States in the bi-annual reporting, the ECA criticises that the Commission's follow-up is not systematic regarding delays in implementation²⁰. The Commission recalls that there is no legal obligation in the RRF Regulation that requires Member States to systematically provide information on actions taken to address delays and reduce risks in implementation. In its bilateral exchanges, the Commission follows-up on the bi-annual reporting, inquires about reasons for delays and supports Member States in clearing bottlenecks to continue with the implementation. Therefore, the Commission considers that it does systematically follow-up on delays in implementation²¹.

3. Effect of RRF design on absorption

Under the RRF, Member States are implementing reforms and investments in the period between February 2020 and August 2026. The corresponding milestones and targets are distributed over the lifetime of the national RRFs. The ECA notes that the milestones and targets are not evenly distributed across the implementation timeframe of the RRF, with the number of milestones and targets to be achieved increasing towards the end of the RRF²². This backloading of milestones and targets is due to the design of the RRF and the specific purpose of the milestones and targets, which generally measure project outputs. Naturally, the number of milestones and targets increases as projects funded under the RRF reach maturity and their outputs materialise.

The Commission takes note of the ECA's observation regarding the importance of the final milestones and targets due in the second half of the RRF lifetime²³. The Commission would like to underline that the Commission has the possibility to suspend payments and ultimately reduce the amount of the RRF support in case of non-fulfilment of milestones or targets, including for the payment requests submitted in 2026. This takes place in the context of the Commission's assessment regarding the satisfactory fulfilment of milestones and targets²⁴. Should a Member State not submit the final payment request, it will not receive the related financing. Furthermore, Member States have the possibility to modify their RRFs according to Article 21 of the RRF Regulation in case one or more milestones and targets are no longer achievable. This allows for additional flexibility regarding implementation if milestones or targets are no longer partially or totally unachievable due to objective circumstances that lie outside of the control of Member States.

The Commission acknowledges that the complexity of the milestones and targets towards the end of the RRF increases, as projects reach the end of their implementation phase. In order to set the optimal framework conditions for the implementation of investments under the RRF, many Member States frontloaded reforms when designing their RRFs. This is also in line with ECA's findings of a shift between milestones and targets related to reforms in the beginning of the RRF implementation timeframe to more milestones and targets related to investments in the second half²⁵.

¹⁹ See ECA observation 71.

²⁰ See ECA observations 72-75.

²¹ See ECA observation 75.

²² See ECA observation 79.

²³ See ECA observations 84-85.

²⁴ COM(2023) 99 final, Annex II.

²⁵ See ECA observation 81.

The ECA notes that the number of milestones and targets fulfilled by the end of 2023 is a lower share than the associated disbursements under the RRF²⁶. The ECA previously found that the exact disbursement profile over time is established bilaterally between the Commission and the Member State and noted that *‘These negotiations take into account the proportion of milestones and targets as well as their relative importance.’*²⁷ As the Commission has clarified in its reply to that report, the payment profiles which the Commission proposes to the Council, and which the Council ultimately determines, reflect several factors, including the national financing needs, budgetary planning, the proportion of milestones and targets in each instalment as well as their relative importance²⁸. As ECA notes²⁹, not all milestones and targets have the same importance in the context of the measure they cover. The Commission takes note of ECA’s observation that the relationship between milestones and targets and associated disbursements is not uniform across countries³⁰. The Commission reiterates that this is related to the way payment profiles were agreed as explained above, the fact that not all milestones and targets are of the same importance and that the Member States’ Recovery and Resilience Plans differ in that regard.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

Recommendation 1 – Ensure a consistent application of the definition of “final recipient”

The Commission should ensure that member states have a common understanding of what constitutes a “final recipient” and apply it consistently.

Target implementation date: 2024

The Commission **accepts** this recommendation.

The Commission considers that the RRF Regulation sets out in Article 22(2)(d) what constitutes a “final recipient”. Final recipients are understood as the last entity receiving funds for a RRF measure that is not a contractor or sub-contractor. The Commission has provided guidance to the Member States, and engages regularly with the Member States to ensure a correct implementation, notably of the requirement to publish the 100 largest final recipients. The Commission notes that the final recipient depends on the type of measures that are included in the RRFs, and accepts to provide additional guidance or engage with the Member States in case of interpretational problems.

Recommendation 2 - Provide member states with additional guidance and support

The Commission should provide additional support and guidance, where necessary, to address any remaining uncertainties in the areas identified by member states.

²⁶ See ECA observation 87 and figure 10.

²⁷ Special Report 21/2022, paragraph 73

²⁸ For further reference, please see the Commission replies in the context of the ECA’s special report regarding the ‘Commission’s assessment of national recovery and resilience plans’, COM(2022) 392 final.

²⁹ See ECA observations 84-85.

³⁰ See ECA observation 89 and figure 11 and 12.

Target implementation date: 2024

The Commission **accepts** this recommendation.

The Commission has published several sets of guidance, addressing crucial elements for the Member States' design of their RRP or the Commission's approach to implement specific legal provisions. This includes three detailed sets of guidance on the drafting of RRP, technical guidance on the "Do no significant harm principle", and frameworks for the satisfactory fulfilment of milestones and targets, payment suspensions, and reversals. The Commission has also engaged with the Member States bilaterally, in Council committees and in a dedicated expert group to provide support and guidance, and has encouraged the use of the Union's Technical Support Instrument.

The Commission notes in addition, that a solution to concrete and Member State-specific issues is usually found through bilateral engagement rather than through written horizontal guidance. The Commission will thus continue its efforts to provide targeted guidance, where necessary, in bilateral exchanges and will organise expert group discussions and, where necessary, issue written guidance on issues of common interest for all Member States.

Recommendation 3 - Monitor and mitigate the risk of non-completion of measures and the financial consequences thereof

The Commission should in cooperation with member states:

- a) identify the measures most at risk of not being completed by 31 August 2026;**
- b) systematically follow up these measures and agree on actions to overcome the delays.**

The Commission **accepts** sub-recommendations (a) and (b).

The Commission recalls that the implementation of each investment and reform is ultimately undertaken by the Member States. The Commission is however, as per its mandate, monitoring the national implementation of the RRP and the contained measures and for this purpose is in continuous exchange with all Member States to discuss and follow-up on the reforms and investments. Building on its constant dialogue with the national authorities, these discussions, where feasible and relevant, will also continue to concern how to address bottlenecks of implementation and identify suitable actions to overcome delays. Where necessary, these bilateral exchanges will be intensified. However, the Commission can neither assume the responsibility of the Member States for implementing the relevant reforms and investments nor substitute Member States' actions to address delays. If a milestone or target becomes unachievable due to objective circumstances, these discussions will also include the possibility to modify the plan. More broadly, in the context of the Expert Group on the RRF, the Commission promotes good practices on implementation among all Member States and provides guidance on relevant aspects to streamline the process across all Member States in a coherent and structured manner. This helps Member States continue with their implementation and find solutions going forward in a systematic manner. Therefore, the Commission has established a framework to support Member States both bilaterally and multilaterally in overcoming delays in implementation and plans to continue to do so. The Commission will organise dedicated expert group meetings if Member States flag specific issues of common interest, and to facilitate the exchange on good practices and mutual learning between Member States, in particular in relation to topics connected to delays in implementation.

- c) mitigate the risk of funding non-completed measures.**

Target implementation date: 2024

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

The Commission considers that this sub-recommendation cannot be implemented under the RRF Regulation. The RRF Regulation defines milestones and targets as *measures of progress towards the achievement of a reform or an investment*³¹, and further provides for funds to be disbursed when the relevant set of milestones and targets are satisfactorily fulfilled. In other words, the Regulation explicitly provides that payment must be made based on the progress in implementation achieved by the Member State. The Commission is therefore required to disburse funds based on progress, rather than only on completion. The Commission does not consider that payments based on progress, as required by the Regulation, is a risk and has no legal basis to recover funds already disbursed in relation to milestones and targets already and still fulfilled. At the same time, the Commission also notes that a previous ECA report³² found that 5% of the measures in the sample were not covered with milestones or targets indicating their completion. The Commission therefore considers that completion milestones or targets are indeed in place for the vast majority of reforms and investments under the RRF. Furthermore, if a Member State fails to satisfactorily fulfil any milestone or target, that Member State will receive a lower payment with the remaining amount suspended and ultimately decommitted. Further, the Commission methodology on suspensions explicitly foresees a higher suspension for important investments and for milestones and targets related to the entry into force of a reform or the final step for the implementation of a non-legislative reform.³³ In substance, the RRF therefore already foresees a clear mechanism to incentivise full implementation of the reforms and investments, which the Member States committed to implement under the RRF.

Recommendation 4 – Strengthen the design, with regard to absorption, of future instruments based on financing not linked to costs

If the Commission designs instruments based on financing not linked to costs, it should:

- a) **ensure a close link between disbursements and progress in achieving objectives;**
- b) **address the absence of the possibility to recover funds if measures are not completed.**

Target implementation date: when designing instruments based on financing not linked to costs.

The Commission cannot prejudge the design of future legislative proposals, including those on future instruments, nor accept a recommendation whose implementation depends on the co-legislators. In addition, future legislative proposals and programme design will need to be tailored to the specific context in which they are made and as such cannot be subject to an ex-ante framing. In particular, the Commission notes that instruments based on financing not linked to costs can take different forms, which makes it also in practice impossible to define ex-ante in a general notion the key features that each such instrument should have.

The Commission **partially accepts** recommendation 4(a).

In relation to **recommendation 4(a)**, the Commission notes that under the design of the RRF there is a clear link between disbursements and progress in implementation, as represented by the fulfilment of milestones and targets, which provides a reasonable and measurable proxy for the

³¹ RRF Regulation, Article 2(4).

³² ECA Special report 26/2023, observation 31

³³ COM(2023) 99 final, Annex II.

achievement of the objectives for which the measures have been put in place. For potential future proposals of instruments based on financing not linked to cost, the Commission will ensure a close link between disbursements and progress in achieving objectives whenever feasible and appropriate, but cannot make a commitment at this stage on how best to make this link or about the outcome of legislative procedures which also depend on the positions of the co-legislators.

The Commission **does not accept** recommendation 4(b).

The Commission notes that in the case of the RRF, disbursements are linked to progress towards the completion of a measure, in the form of milestones and targets, and that the RRF framework provides for possibilities to suspend or recover payments in specific cases. Whether disbursements under future instruments based on financing not linked to costs should be made based on the *progress towards implementation of measures* – as is the case under the RRF – or the *completion of measures*, or even the *results of measures*, is a policy choice to be made at the stage of programme design and in the legislative procedure. There is no inherent reason why completion of measures should be the core focus since progress towards the implementation of a measure can also be worth of support. At this stage, the Commission cannot make a commitment on how future instruments based on financing not linked to costs would be designed, and hence it cannot commit on the recovery system of these instruments. See also the reply to recommendation 3(b).