

## 2021 Discharge to the Commission

**WRITTEN QUESTIONS TO COMMISSIONERS  
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Hearing on 25 October 2022**FIRST SET OF QUESTIONS RECEIVED ON 10  
OCTOBER 2022***Questions concerning the state of play of the RRP*s

1. The Commission reports that by the end of 2021, it had received plans from 26 Member States. In total, the Commission positively assessed 22 plans and endorsed the corresponding proposals for Council implementing decisions. For Member States whose Recovery and Resilience Plans were positively assessed by the Commission and approved by the Council in 2021, the Secretariat-General and DG ECFIN drafted analytical staff working documents which replaced the European Semester country reports in 2021. The Commission further clarifies that, given the comprehensive and forward-looking nature of the Recovery and Resilience Plans, the Commission did not propose country-specific recommendations in 2021.
  - In this context, could the Commission explain if analytical staff working documents, replacing the European Semester country reports in 2021, had been made to all 27 member states or only to 22 member states those RRP

**Commission's answer:**

The Staff Working Documents accompany the Commission proposals for Council Implementing Decisions on the specific Recovery and Resilience Plans. Such documents were provided in 2021 for the 22 Member States whose plan was adopted in 2021 and, for four other Member States, such documents were published in 2022 alongside the adoption of their plan.

Accordingly, Staff Working Documents are currently available for 26 Member States. These 26 are available on the Commission's website: [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en)

- What is the state of play of adoption of the remaining 4 RRP
- submitted in 2021?  
Has the Netherlands submitted its RRP?

**Commission's answer:**

As of October 2022, all 27 Member States, including the Netherlands, have submitted a Recovery and Resilience Plan (RRP). For 26 RRP

adopted. The assessment of the Hungarian RRP is on-going. The Commission's Recovery and Resilience Scoreboard provides a detailed overview of the timeline and each adopted RRP:

[https://ec.europa.eu/economy\\_finance/recovery-and-resilience-scoreboard/timeline.html?lang=en](https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/timeline.html?lang=en)

### ***Questions concerning payment requests***

2. The Member States shall submit to the Commission a management declaration along with the request for payment (Art 22 c) (i) of the RRF Regulation).
  - How does the Commission use these declarations?

### **Commission's answer:**

Each payment request by a Member State must be accompanied by a management declaration and a summary of audits. These documents are reviewed by the responsible audit unit during the assessment of the payment request. The objective of this review is to identify any information that puts the fulfilment of milestones and targets into doubt, for instance in case the management declaration or summary of audit note that inconsistencies or data errors were found in relation to data which is provided for one of the milestones and targets. Similarly, if the documents highlight possible or actually fraudulent procurement procedures for a measure, the Commission would closely investigate the evidence provided for related milestones and targets. The review further aims to verify the coherence between the Management Declaration and the summary of audits in respect of the protection of the financial interests of the Union. The review also informs the Commission's risk assessment and own audit work.

- In the AAR of DG ECFIN it is stated that DG ECFIN is responsible for the assessment of the management declarations.
- What does the Commission do if it assesses that the management declaration is not reliable?

### **Commission's answer:**

If the review of the management declaration concludes that there are weaknesses, which put the fulfilment of the milestones and targets into question, this will be taken into account for the assessment of the milestone and target fulfilment. For example, the Commission may make additional requests for information or evidence or undertake spot checks during its assessment to confirm that milestone and target reporting is indeed accurate. This information will also inform the Commission's own audit work, in particular the Commission's system audits on the national control systems.

3. How does the Commission ensure that all milestones and targets are 100 % achieved, before making the payment?

### **Commission's answer:**

Each Member State is obliged to provide as part of its payment request evidence and justification demonstrating the satisfactory fulfilment of the specific milestones and targets that are part of the payment request. The Commission has bilaterally agreed with each Member State a list of evidence that is expected to be provided for each milestone or target in the Operational Arrangements signed between the two parties prior to the first payment request. The Commission may ask for additional information and evidence. For instance, in the case of demand-driven schemes or other measures set up with a large number of units, the Commission may request a sample of further evidence that demonstrates the satisfactory fulfilment of the milestone or target. Where necessary the Commission may also implement on the spot-checks (such as site visits).

The standard established for payments by the RRF Regulation in Article 24(3)-(5) is “whether the relevant milestones and targets ... have been satisfactorily fulfilled”. The Commission analyses the evidence against each individual requirement contained in the respective milestone or target in the Council Implementing Decision in order to assess whether the overall milestone or target is satisfactorily fulfilled.

The Commission’s assessment and how the conclusion on the satisfactory fulfilment was reached for each milestone and target is outlined in its ‘preliminary assessment’ of the payment request. All preliminary assessments are published on the Commission’s website.

4. The Commission checks the underlying evidence of the payment requests, where relevant, on a sampling basis.
- Is our understanding correct that the Commission applies that sample to the payment requests received, with milestones and targets as the population from which the sample is taken?
  - Can we receive the sampling methodology?
  - Is this a statistical sample and can the results of the tests be extrapolated over the entire population of milestones and targets?
  - We understand that there is also a risk-based approach. Which indicators are used to assess the risk, if any? If no indicators are use, how is the risk determined?

**Commission’s answer:**

As part of the payment request assessment, the Commission receives evidence and justification for the fulfilment of each specific milestone and target that is part of the payment request. The Commission will assess each individual milestone and target to determine whether they are satisfactorily fulfilled.

Sampling is applied in the case of quantitative requirements with a high number of units (generally more than 60). In these cases, the Commission does not expect the Member States to submit all documentation (which could be thousands of documents) to demonstrate fulfilment of a single milestone or target. Rather, the Commission expects the Member State to provide a list indicating the items (e.g., contracts signed, photovoltaic capacity installed at specific sites, etc). From this list, the Commission may select a randomised sample, for which the Member States must then provide the underlying primary evidence (contracts, certificates of completion, etc).

Based on the sampled evidence, the Commission assesses whether the quantitative requirements set in the Council Implementing Decision are indeed fulfilled. The Commission may request further evidence for the sampled items if necessary and may request the underlying evidence on additional items – up to the entire population – if necessary.

When sampling, the Commission is trying to ascertain whether the statement from the Member State that it has the evidence available that demonstrates the milestone or target is satisfactorily fulfilled is correct. This sampling is therefore specific to an individual target and thus has no meaningful extrapolation to other milestones or targets.

Concerning the third question, as explained above, the process is individual for each milestone or target. Accordingly, it is not possible to extrapolate the results from one target over the entire population of milestones and targets.

The Commission will provide the current version of the sampling methodology.

5. The Commission can perform ex-ante controls at the payments stage. In the AAR for DG ECFIN and of the Secretariat-General it is indicated that Member States will need to provide information with sufficient detail to allow the assessment of the fulfilment of milestones and targets, and that the Commission will check the underlying evidence on a sampling basis.

- Has the Commission performed such a sample of underlying evidence for the 1st payment to Spain? And for the other payment requests received in 2021?
- Can the Commission share the findings with us? Were the Member States sufficiently fast in providing the information (knowing that such procedures with Member States in Shared Management always take considerable time)?

**Commission's answer:**

The first payment to Spain covered 52 milestones and no targets, therefore not containing any quantitative achievement for which any sampling was conducted.

The first payment request from France, submitted in 2021, contained 11 targets for which sampling was applied. Out of the 4 payment requests received in 2021, sampling was also applied to two targets in the first Italian payment request.

The French and Italian authorities provided the necessary evidence in an adequate timeframe to enable the Commission to conclude the preliminary assessment within the two months deadline provided for in the RRF Regulation.

The Commission's preliminary assessments for each payment request are publicly available on the Commission's website. Please find below as examples the links to the preliminary assessment for the first payment requests of Spain, France and Italy:

Spain

Preliminary assessment:

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_6597](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6597)

Further documentation:

[https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/spains-recovery-and-resilience-plan\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/spains-recovery-and-resilience-plan_en)

France:

Preliminary assessment:

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_576](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_576)

Further documentation:

[https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/frances-recovery-and-resilience-plan\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/frances-recovery-and-resilience-plan_en)

Italy:

Preliminary assessment:

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1356](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1356)

Further documentation:

[https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/italys-recovery-and-resilience-plan\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/italys-recovery-and-resilience-plan_en)

### ***Questions concerning checks and monitoring in general***

6. To face the crisis, the existing rules have been simplified in order to act quickly and help Member States to spend the EU funds in a timely manner.
- How will the ex post controls be organized, both on the legality and on the performance of the amounts spent?
  - Will a monitoring be organised for NextgenerationEU?
  - And what about the control on the performance?

### **Commission's answer:**

Rules under NGEU are not generally simplified compared to those under the MFF. The Financial Regulation continues to apply. Monitoring and control are nonetheless specific to each programme and its rules and procedures, as is also the case under existing MFF programmes.

Concerning the RRF, as the largest programme under NGEU:

The RRF is a performance-based instrument implemented through direct management and the beneficiaries of the RRF are the Member States. Each Member State puts forward a Recovery and Resilience Plan (RRP) which is assessed by the Commission and, in case of a positive Commission assessment, is presented to the Council for adoption. Pre-defined disbursement amounts are paid by the Commission when each Member State fulfils a set of milestones and targets set out in the Council Implementing Decision on the specific RRP. To determine the fulfilment, the Commission undertakes an in-depth assessment of the evidence and justification provided by the Member State.

In line with this performance-based approach, the Commission's ex-post controls under the RRF focuses on verifying that milestones and targets were indeed fulfilled, in order to obtain assurance on the legality and regularity of payments.

The payments by the Commission to the Member States are performance-based, i.e. based on milestones and targets. As per Article 22 of the RRF Regulation, and in line with the performance-based approach, the obligation to protect the financial interests of the Union lies with the Member State. Nonetheless, the Commission assures, both through an initial assessment of each RRP, as well as audits of the systems that Member States have put in place to protect the financial interests of the Union, that each Member State implements the necessary monitoring and control systems. Please see also the reply to question 10.

In case Member States fail to uphold this obligation, or fail to correct a serious irregularity, the Commission can reduce funds or recover the affected amounts.

### ***Questions concerning the checks by the Commission on the payment requests***

7. The Commission has the right to correct serious irregularities in cases of fraud, corruption, and conflicts of interests affecting the financial interests of the Union that have not been corrected by the Member State, or a serious breach of an obligation resulting from the financing and loan agreements. The AMPR only contained the information that the Commission intends to conduct at least one system audit per Member State to ensure the protection of the financial interests of the Union.

- Has the Commission already detected any evidence or indications of any such irregularities in any Member States? If so, please specify.
- Which system audits does the Commission foresee to ensure that it would detect such irregularities if they were to occur? Please provide the audit strategy and overview incl. timetable for these system audits.
- The Commission is kindly requested to share the results of its assessment of the Member States' audit and control systems.
- How would the Commission describe the cooperation with Member States with regards to the Commission's audit activities? Are there any differences among Member States?

### **Commission's answer:**

By September 2022, the Commission had finalised the field-work for 10 system audits concerning the Member States control systems that are responsible for the Protection of Financial Interests of the Union (PFIU) (Spain, Slovakia, Estonia, Denmark, Greece, Czechia, Italy, Lithuania, Malta, Slovenia). For 3 of them (Spain, Slovakia, Estonia) the draft report has been sent to the national authorities for contradictory procedure. In addition, 7 such PFIU system audits are planned for the last quarter of 2022 (Austria, Bulgaria, Cyprus, Finland, Latvia, Poland, Sweden).

During its audits, the Commission saw a number of good practices:

- Risk assessments on sensitive staff
- Procedures in place for detection of possible fraud and corruption, notably using data mining tools such as ARACHNE
- Existence of procedures for preventive detection of possible conflict of interests
- Before the grant award decision, procedures in place for verification of possible double funding.

Main issues encountered for which the Commission will issue recommendations are the following:

- Lack of sufficient coordination/supervision by the Coordinating bodies
- Incomplete anti-fraud strategies for PFIU
- Missing elements in the fraud risk assessments
- Ex-ante controls carried out to prevent conflict of interests to be improved
- Low participation in the trainings organised to raise fraud awareness
- Deficiencies in reporting of irregularities to OLAF.

In the context of the RRF, the Authorising Officer by Delegation is the Director-General of DG ECFIN. Regarding the cooperation with Member States, DG ECFIN presented, in a number of meetings of the informal expert group on the implementation of the RRF (to which Parliament participates as observer), the new RRF audit and control framework and gave the Member States' audit bodies the opportunity to ask for clarifications related to their obligations in term of audit work to be performed both on the protection of financial interests of the Union and on system audits on milestones and targets, as well as on sampling and on IT systems. DG ECFIN also provided written guidance notes on audit and control issues.

In 2022, DG ECFIN also held bilateral meetings with the audit bodies of 25 Member States with an approved RRP. The cooperation is generally positive.

The Commission is sharing its audit strategy together with this document.

8. After Member States have submitted their payment request, the Commission shall assess whether the milestones and targets have been satisfactorily achieved and conditions for disbursement met.
- Did the Commission have to request additional information or carry out additional controls to obtain assurance on the achievement of the milestones before making the first payment to Spain? If so, please specify which.
  - How does the Commission describe the cooperation with Member States on these issues? Are there any differences among Member States?

**Commission's answer:**

It is a regular part of the Commission's assessment of payment requests to request additional information and the Commission applies the same horizontal approach for all Member States. So far, the Commission has requested such information for each payment request submitted by the Member States, including in the case of the first payment made to Spain in 2021.

The cooperation with the Member States is positive. Detailed discussions on specific milestones and targets, including sometimes the early submission of available evidence, take place before the official submission of the actual payment request and a regular exchange continues through meetings and written exchanges throughout the assessment period.

As regards the first payment for Spain, in advance of the payment request submission, Spain had already shared preliminary documentation on the fulfilment of the milestone and targets

starting from September 2021. Clarification questions were sent to Spain on these early draft documents before the official submission of the payment request.

After the first payment request was officially received on 11 November 2021, a number of interactions took place with Spain. The requested information included requests for missing documents, for clarifications on specific references in laws that addressed the CID requirements, and requests to provide in writing the latest exchanges or updates. Spain provided satisfactory answers for all the concerned milestones.

### *Questions concerning corrections after disbursement of payments*

9. After the disbursement to the Member States, the Commission may perform ex post controls and audits to check the achievement of milestones and targets.
- The Commission is kindly requested to share its audit strategy and overview incl. timetable for these system audits and the results of any audit already concluded.
  - How would the Commission describe the cooperation with Member States with regards to the Commission's audit activities? Are there any differences among Member States?

### **Commission's answer:**

In line with its RRF audit strategy, the DG ECFIN audit unit carries out risk-based audits on milestones and targets to obtain assurance on the legality and regularity of payments. Based on a risk assessment of all the milestones and targets included in the payment requests of each plan, DG ECFIN selects all milestones and targets it considers as potentially high-risk and, in certain cases, also some with medium-risk.

Various criteria are used to determine the level of risk, such as the type and number of implementing bodies, the type and number of final recipients, the tagging of the measure and the complexity of the verification mechanism. For instance, measures such as the entry into force or publication of a law are considered as low risk.

DG ECFIN has already carried out such audits for most of the first Member States that received payments.

The Commission will also audit all Member States' control and monitoring systems once the Member State has received its first regular RRF payment. The first such audits have already taken place.

The Commission is sharing its audit strategy together with this document.

Regarding the cooperation with Member States, please see the reply to question 7.

10. The Commission shall proportionally reduce the amount of the financial contribution and, where applicable, of the loan, after having given the Member State concerned the possibility to present its observations.



- Does the Commission have a methodology in place for these reductions, to make sure that Member States know how this will be treated and that all Member States will be treated equally? Or will this alternatively also be part of a negotiation between the Commission and the Member States?
- May we kindly request to receive the control strategy for the RRF? Is our understanding correct that this is a strategy that DG ECFIN and SG RECOVER have drafted together?

**Commission's answer:**

The Commission is working on a methodology to determine the amount for partial payments/suspensions in case one or more milestones and targets are not fulfilled. The Commission is solely responsible for determining the suspended amount.

DG ECFIN updated at the end of 2021 its Internal Control Strategy. The RRF is a new performance-based funding instrument, implemented under direct management with Member States as beneficiaries, and which required a new control framework, tailored to its unique nature.

The control framework for the RRF is based on three pillars, (i) the controls on the regularity and legality of payments done by the Commission to the Member States and which are solely linked to the satisfactory fulfilment of the milestones and targets, (ii) the controls to ensure adequate protection of the financial interests of the Union, in the manner prescribed in the RRF Regulation meaning that the Member States are primarily responsible to put in place the adequate measures to prevent, detect and correct fraud, corruption, conflict of interest and double-funding and (iii) the Commission's internal control structure including the anti-fraud strategy, the financial circuits, the evaluation, the risk management, etc.

This RRF control framework covers the assessment of the plans, the implementation phase, including mainly the assessment of the payment requests, the audit work and the financial corrections. It has been completed by a specific audit strategy for the RRF aiming to describe in detail the audit work to be carried out by the Commission for the RRF.

The Commission is sharing its audit strategy together with this document.  
The responsibilities of SG-RECOVER and DG ECFIN are specified in the reply to question 27.

***Questions concerning additionality***

11. According to Article 5 RRF Regulation, the RRF shall not - unless duly justified - substitute recurring national budgetary expenditure and respect the principle of additionality.

- Given the retroactivity clause (measures taken since February 2020 were eligible to be included in the national recovery and resilience plans), but also in general, how does the Commission ensure that no payments made under the RRF actually substitute recurring national budgetary expenditure?
- How does the Commission ensure respect for the principle of additionality?

**Commission's answer:**

Measures were eligible for financing under the RRF as from 1 February 2020. This starting date was chosen as it marked the beginning of the COVID pandemic with its resulting social and economic impact, which prompted specific public policies and support measures. As the RRF was designed precisely to support both the recovery from the COVID pandemic and a long-term build-up of resilience the co-legislators agreed that retroactive measures fully meeting the eligibility criteria can be financed through Member States Recovery and Resiliency Plans, recognising the urgency of action. This also allowed Member States to already implement measures in light of the expected adoption of NGEU and the RRF, allowing them to respond to the urgent crisis.

However, this retroactivity does not imply that the RRFs support recurring budgetary expenditure. Recurring costs are not eligible, unless in duly justified cases, for financing under the RRF, as clearly set out in Article 5(1) of the RRF Regulation. The Commission also considered this closely during its assessment of the RRFs, specifically the costing criterion.

The principle of additionality, mentioned in Article 5(1) is further developed in Article 9 of the RRF Regulation, which provides that reforms and investments may receive support from other Union programmes and instruments provided that such support does not cover the same cost. This provision fosters synergies while avoiding double funding. Guidelines were developed to frame the interpretation of double funding and ensure once again, that clear information was shared with Member States in how best to design their RRFs. Member States in addition report on the funding received from other funds for the measures under the RRF.

***Questions concerning datamining***

12. What measures have been taken to develop the datamining for the RRF? Are all the programs controlled by datamining systems? The Commission set up an IT system, FENIX, for Member States to report the relevant information on the implementation of the plans, for the purpose of the bi-annual reporting or the submission of a payment request. Is this a mandatory system for Member States? If not, how does the Commission control the information regarding the achievement of milestones and targets?

**Commission's answer:**

The Commission has developed an IT system to facilitate Member States' reporting on common indicators, milestones and targets and monitoring steps under the RRF. The tool, FENIX, must be used by the Member States to submit evidence and justification for their payment requests in a structured manner. FENIX is strictly a reporting tool, not a financial control instrument and has no specific data mining features.

Regarding the use of a data-mining system, the RRF Regulation requires the Commission to make available a data mining and risk-scoring tool. The Commission has provided this system, ARACHNE, which is fully operational. The tool allows Member States to upload data on (possible) final recipients of RRF measures to receive flags indicating possible risks.

While the use of ARACHNE is not obligatory for the Member States, the Commission has and is continuing to encourage Member States to make use of ARACHNE or an equivalent national system. So far 19 Member States confirmed that they intend to use Arachne (Austria, Belgium, Bulgaria, Spain, Croatia, Cyprus, Czechia, Greece, Ireland, Italy, Latvia, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Netherlands, Poland). A few others have not given a clear indication.

13. Could the Commission present more information about the new dedicated IT reporting infrastructure FENIX?

**Commission's answer:**

In the context of the RRF, the Member States have to report various information. Most importantly, once the Recovery and Resilience Plan (RRP) is adopted, Member States will (1) for each payment request submit reporting information and files on the fulfilment of milestones and targets, including evidence and justification, (2) twice a year report on the progress in implementing past and upcoming milestones and targets, as well as monitoring steps agreed in the operational arrangements, and (3) twice a year report on the common indicator data. Member States are also expected to report on the cumulated expenditure on measures contributing to climate objectives and on changes in the support received from other EU programmes under any measure of their RRP.

To facilitate this reporting, the Commission has developed a dedicated IT tool for Member State reporting, named FENIX. The tool is accessed by Member State users nominated by the national authorities, which enter the necessary data and files, as well as by Commission staff, which access and extract data and files. The underlying database is also used as the basis of the Commission's Recovery and Resilience Scoreboard. FENIX is not a record-keeping tool and is only used for the RRF. Accordingly, to ensure the long-term record of the process, documents uploaded by the Member States are, following the payment request assessment, transferred to the Commission's record keeping system Ares.

14. According to Article 22 (2) (d) (iv) of the RRF Regulation, Member States are obliged to provide for the purpose of audit and control a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the RRF and other EU funds. According to Article 22 (3) of the RRF Regulation, Member States and the Commission shall process the data referred to in point (d) i.a. for the purpose of discharge.

- The Commission is kindly requested to share the list mentioned in Art. 22 (2) (d) (iv) of the RRF Regulation with the discharge authority concerning the Spanish Recovery and Resilience plan.

- The Commission is kindly requested to share all list(s) according to Art. 22 (2) (d) (iv) of the RRF Regulation with the discharge authority concerning any other Recovery and Resilience plan that was approved in 2021 (at least concerning the other four Member States with which the Commission has concluded operational agreements in 2021).

**Commission's answer:**

Article 22 of the RRF Regulation requires that Member States maintain a list of the final recipients, or where relevant of their contractors and sub-contractors, in relation to measures for the implementation of reforms and investment projects under the recovery and resilience plan. Member States also must maintain a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the RRF and other EU funds.

The RRF Regulation however does not oblige Member States to proactively provide all such data to the Commission. Rather, such data must be provided upon request, and only for control and audit purposes. The limitation for control purposes also implies that the Commission may not publish these data.

The Commission will request and analyse this data where relevant for audit and control purposes, but it cannot generally request such data nor unilaterally decide to share such often personal or commercial data.

The Commission highlights that the principal responsibility for the protection of the financial interests of the Union and the Member State under the RRF lies firmly with the national authorities. The obligation to maintain such lists will ensure that data is also available, and may be requested, by national control, investigative and audit bodies, or at EU level as per Article 22 (2) (e) by the Commission as well as OLAF, EPPO, and the European Court of Auditors.

While the Commission does not hold the requested information at the moment - as it was not yet required, it stands ready to provide in the context of the discharge the information that it will collect in the future in case required for the purpose of audits and controls.

***Questions concerning audit and control milestones***

15. According to Annex 3 of the AMPR, deficiencies in the Member States' control systems included, for example: the repository system for collecting and storing data, as required by the Recovery and Resilience Facility regulation, not being fully in place at the time of the assessment; the absence of formal legal mandates for the various bodies in charge of implementing and auditing the funds; insufficient administrative capacity on the part of the implementing and audit bodies in charge of implementing the plan; and the lack of a clear audit strategy or anti-fraud measures.
- Could the Commission please specify which Member States were concerned and provide an update on the progress towards achieving these audit and control milestones for each Member State concerned?

- How would the Commission describe the cooperation with Member States on these issues? Are there any differences among Member States?

**Commission's answer:**

The Council Implementing Decisions concerning the RRP of **19 Member States** included specific milestones on audit and control to address limited deficiencies of the control systems as designed or in place at the time of the initial RRP assessment. These 19 Member States are: Spain, Greece, France, Slovakia, Luxemburg, Italy, Belgium, Slovenia, Lithuania, Cyprus, Croatia, Ireland, Czech Republic, Romania, Finland, Estonia, Sweden, Bulgaria and Poland (16 Member States for plans approved in 2021, and 3 for plans approved in 2022).

So far, based on the assessment of these milestones in the context of the assessment of the first payment request, the Commission considered such milestones for 6 Member States and considered these milestones as satisfactorily fulfilled (Spain, Greece, France, Slovakia, Italy, Croatia). For each of these cases, the specific assessment is set out in the 'preliminary assessment' published by the Commission and available through the Commission's RRF website and the Recovery and Resilience Scoreboard.

The cooperation between the Member States and the Commission has been very efficient. As sufficient evidence and justification were provided, the assessment could be done within the required deadlines. Such evidence (outlined in the preliminary assessment in each case) included in particular audit reports of national audit bodies. As highlighted in the Commission's reporting, the Commission in addition to these assessments also undertakes system audits on the national monitoring and control systems.

16. According to information from the Commission, out of the 22 plans adopted in 2021, 16 Member States are concerned by identified deficiencies in the Member States' control systems.
- How many Member States have managed to remedy these deficiencies?
  - How many payment requests have been received until now?
  - Are there payment requests submitted by member states which have not been implemented because of insufficient removal of the identified deficiencies of the control systems?
  - How many member states have already met some of the milestones and targets set in their RRP and have received payments?

**Commission's answer:**

For the first, second and fourth bullet points, kindly refer to question 15.

Concerning the third bullet point, as of end of September 2022, overall 14 payment requests have been received. So far, 8 payments have been made (1 in 2021 and 7 in 2022) and for the remaining payment requests the assessment is ongoing. As indicated for question 15, as part of these 8 payment requests, 6 milestones on control matters have been assessed as satisfactorily fulfilled. So far none have been assessed as not fulfilled.

Accordingly, out of 19 milestones on control and audit, 6 have been fulfilled and the remaining 13 are either under assessment or the related payment request has not yet been submitted.

Current information on the payment requests received, assessed and paid is always available through the Recovery and Resilience Scoreboard. As for all other fulfilled milestones and targets, the Commission's assessment of the relevant control and audit milestones is published as part of the 'preliminary assessment' of the payment request.

17. The Commission is responsible for the assessment of the Recovery and Resilience plans. The assessment foresees a check on the robustness of the Member States' control system, with this test resulting in a 'pass-or-fail' mark. No Member State has received a fail mark, implying that detected weaknesses can be addressed with a milestone that needs to be fulfilled before the 1st request payment. However, pre-financing has already been disbursed.

- Could the Commission please explain how the EU Financial Interests are protected in Member States with weaknesses in their control system that need to be addressed before the first payment request?

**Commission's answer:**

It is important to recall that according to the RRF Regulation, Member States have the primary responsibility to ensure protection of the financial interests of the Union.

To ensure that Member States put in place the necessary control systems to adequately protect the RRF funds, there are nonetheless several instruments at hand for the Commission.

Firstly, the positive assessment of each initial recovery and resilience plan by the Commission requires an A rating for the assessment criterion 10 on the adequacy of the control system foreseen in the RRP. This means that RRPs cannot be assessed positively by the Commission (and accordingly cannot be endorsed by the Council) if the arrangements proposed by Member States to prevent, detect and correct corruption, fraud and conflicts of interests and to avoid double funding are not considered adequate by the Commission and the Council. Furthermore, where the systems were overall adequate, but small (possible) deficiencies remained, an additional milestone on audit and control matters was agreed, which must be fulfilled early during the implementation of the RRP. The Commission will not make any disbursement (excluding pre-financing) until such milestones are indeed satisfactorily fulfilled. The financing agreement signed with each Member State also requires the Member States to communicate later changes to their control systems to the Commission.

Secondly, specifically in relation to pre-financing, the Commission in its proposal for the Council Implementing Decisions approving the assessment of the RRPs has included the concept of clearing of pre-financing. This concept has also been included by the Commission in the Financing Agreement and Loan Agreement. As pre-financing is cleared, should no payments occur under the RRF, the entire amount of pre-financing will be recovered. In this respect, it is noted that for the 19 Member States where deficiencies were found in their audit and control systems, milestones on audit and control were inserted in the first payment request.

If these milestones are not considered as satisfactory fulfilled, in line with the Financing Agreement, all payments under the RRF are blocked. Should this situation continue, the entire amount of pre-financing will be recovered.

Thirdly, during implementation of the RRF, the Commission analyses the management declaration and summary of audits, which the Member States must submit alongside each payment requests. The Commission analyses these documents and requests further information. The Commission also uses this information to target its own audits.

Fourthly, the Commission will carry out system audits on Member States' control and monitoring systems.

Finally, the Commission may carry out targeted audits on suspected cases of fraud, corruption or conflict of interest. In case such checks, or any other information, were to reveal that a Member State is in serious breach of its obligations, in particular on the control systems that each Member State has to put in place, the Commission may reduce or recover the financial support for this Member State. This provision applies throughout the lifetime of the RRF.

18. In follow-up to the previous question: the ECA signalled in its special report SR 21/2022 that the inclusion of audit and control related milestones in the plans, to remedy weaknesses as regards audit and control, lead to an assessment that is, to some extent, based on the description of systems which are yet to be set up. In its reply to the ECA Special Report, the Commission states that *"The control system was in each case discussed in depth with the Member State and the Commission requested additional information and written commitments"*.

- Have these written commitments been included in the description of the milestones?
- And if not, can we receive an overview of these written commitments?

**Commission's answer:**

Regarding the ex-ante assessment of the control systems, as all other parts of the RRP assessment, the control criterion was assessed based on the systems as described in the RRP.

The Commission assured a thorough assessment of the systems as described by the Member States, parts of which were often already in place. The control system was in each case discussed in depth with the Member State and the Commission requested additional information and written commitments on specific important features of the control systems for every Member State, ensuring a thorough and well-founded assessment.

As a result of this assessment, and following the in-depth discussion with Member States authorities, the Commission decided when needed to request the inclusion of specific milestones related to elements of the control system which needed being strengthened but do not put the adequacy of the control systems as set out in the plans in doubt. The Commission notes that such type of milestones is specifically referred to in Article 20(5)(e) of the RRF Regulation.

The Commission highlights that this assessment logic is required by the RRF Regulation. It is also a common approach to assess the design of systems prior to their setup; the logical alternative would be to assess such systems at a time when they are already fully in place, which would imply a delay, a difficulty to change the systems put in place, and that implementation is necessarily already ongoing. In the case of the RRF, the assessment is ex-ante, but the Commission supplements the initial assessment through system audits which assure that the Member States comply with their obligations also during implementation of the RRP.

The Commission's assessment of the RRP is set out in a staff-working document, with a dedicated section describing and providing the Commission's assessment of the control system. Where additional requirements were agreed, these are included in the Council Implementing Decisions which are publicly available through the Commission's RRF website.

### *Questions concerning absorption and RAL*

19. The absorption capacity is one of the major problems. This low capacity also hinders the capacity for development or economic recovery.

- What new measures have been put in place to increase this rate in the RRF?

### **Commission's answer:**

As opposed to cohesion policy programmes, disbursements under the RRF are not based on the reimbursement of incurred costs but on the satisfactory fulfilment of pre-defined milestones and targets, which – coupled with a higher pre-financing rate (13%) – allows for a faster disbursement of funds. By providing liquidity to the Member States and unlocking their growth potential, the RRF funds directly contribute to supporting recovery on the ground.

The Commission has put in place several measures to identify and address, in a timely manner, the absorption difficulties some Member States may face:

- In addition to the initial RRFs' assessment conducted by the Commission, some recovery and resilience plans also include specific milestones to ensure the adequate level of staffing and financial resources of the national coordinating, monitoring and implementing authorities. For instance, in Italy, these milestones also include measures aimed at creating a centralised governance framework to steer implementation, providing appropriate staff training and developing the administrative capacity of the bodies responsible for the implementation of the plan, simplifying administrative procedures, reducing the time required for the authorisation and implementation of investments, professionalizing public buyers, and reducing fragmentation of contracting authorities and utilities.
- In addition, some Member States have put in place measures at national level to support absorption capacity. In the Italian example, a centralised platform to provide technical assistance has been set up to support administrations in need.
- The operational arrangements negotiated between the Commission and the Member States provide for the organisation of at least quarterly exchanges to take stock of the progress made in the implementation of the RRFs. Such meetings allow for the early detection and joint resolution of potential implementation challenges.
- In implementing the reforms and investments included in their RRFs, Member States may also count on support from the Commission's Technical Support Instrument (TSI). So far,



such support is provided through more than 300 TSI projects concerning measures included in the RRP. This support covers a wide range of policy areas such as the green transition, healthcare, public finances, the digitalisation of education and public services, the business environment, and the financial sector. In addition, the Commission has been supporting 19 Member States with technical support regarding the horizontal implementation of their plans such as project monitoring.

20. The RRF Regulation sets tight deadlines for the approval of RRP, commitments and achievement of the milestones and targets, while cohesion funds have a longer programming and absorption timeline.
- How do the payments, and the associated workload for implementation and reporting, from the RRF impact the absorption of cohesion funds and the resulting RAL? Please quantify the impact.

**Commission's answer:**

Absorption patterns on cohesion policy vary significantly across Member States and are influenced by many different factors such as national settings, the level of maturity of the selected projects, the types of projects, etc. Implementation is also influenced by specific measures included in or the adoption timeline and specific arrangements of the underlying regulations and programming documents. For instance, the CARE, CARE+ and FASTCARE initiatives adopted in 2022 following the Russian invasion of Ukraine are expected to speed up cohesion disbursements by introducing additional flexibilities and by providing additional liquidity in the form of increased pre-financing. It remains, in this context, technically difficult to isolate and quantify the potential impact of the RRF implementation on the cohesion RAL. The impact will in some cases also be positive, as the RRP contain important reforms and investments related to administrative capacity which would also have a positive impact on the implementation of other programmes.

The documents established on the RRP, as well as the operational arrangements and partnership agreements include specific provisions on the coordination between the RRF and cohesion funds aimed at ensuring complementarity and addressing any difficulties in that regard. See also the answer on question 19 concerning the efforts to improve absorption. Aside from the technical assistance provided under cohesion policy, several Member States have benefited or will benefit from the Technical Support Instrument (TSI) for the implementation of their RRP, which may help alleviate the associated workload for national administrations.

***Questions concerning compliance with EU Laws and the Commission's role***

21. The Member States are primarily responsible for ensuring that the funds received are implemented in compliance with relevant EU and national law.
- Please specify how the Commission ensures that the Member States have indeed fulfilled their obligations as regards compliance with EU law (such as procurement rules)?

- What activities has the Commission performed and what were the findings and results?
- How would the Commission describe the cooperation with Member States on these issues? Are there any differences among Member States?

**Commission's answer:**

As per Article 22 (1) of the RRF Regulation, Member States are required to take appropriate measures to ensure that the use of funds in relation to measures supported by the Facility complies with all applicable national and Union law. This is fully in line with the general objective to maintain coherence and unity within the European Union legal order and system. Where necessary or requested, the Commission provides guidance and support to Member States both in the preparatory phases of the national plans, as well as during their implementation, to facilitate the rapid deployment of the RRF. The Commission will, during its work on monitoring the RRFs, only examine compliance with EU law where that is required to confirm the fulfilment of a milestone or target as foreseen in a Council Implementing Decision.

As regards the use of funding at national level, OLAF, the Court of Auditors, the European Public Prosecutors Office and the Commission itself may access relevant data and investigate if necessary and within the boundaries of their competences. As regards compliance with the European rule of law principle, please refer to the reply to question 25.

22. Is the Commission aware of any investigation by OLAF, EPPO or Europol related to the RRF? If so please specify which Member State is concerned and what is the content of the investigations.

**Commission's answer:**

The Commission is aware that OLAF has entered an operational phase as regards the Recovery and Resilience Facility (RRF). Given OLAF's independent investigative mandate, the Commission cannot comment on OLAF investigations.

Concerning the protection of RRF funds, already since October 2021, OLAF, Europol, Eurojust, the EPPO and by now 22 Member States have joined forces in the EU-wide operation, codenamed Sentinel. The operation aims in particular to coordinate and provide operational support to actors conducting criminal and administrative investigations targeting criminal infiltration and fraud offenses affecting the RRF.

23. Does the Commission have a complaint mechanism in place for citizens or companies to report suspicions of fraud, misuse and mismanagement or any irregularity? If not, why not? And does the Commission intend to establish such a mechanism?

**Commission's answer:**

It is always possible to report cases of fraud, corruption or conflict of interest to the Commission. There are no unique processes in place for the RRF, but the general possibilities for reporting are available.

OLAF has a web-based tool, the Fraud Notification System (FNS), allowing citizens to pass on information that may be relevant in the fight against fraud, corruption and any other illegal activity affecting the financial and other interests of the EU. This tool has been in place since 2010.

24. The CONT committee undertook a mission to Italy in the spring of 2022, where we learned about a 110% ECObonus, where 110% of the costs for modernisations of home heating systems can be deducted from income tax, financed by the Italian national recovery and resilience plan. A similar measure apparently exists in Spain. The Italian government decided to decrease the bonus to 65% due to its high costs. Furthermore, this measure seems neither very targeted nor efficient.

- Could the Commission confirm that this measure is part of the Italian RRP? Kindly specify the amounts of national money and RRF money used for this measure?
- Could the Commission please explain the reasons, why the Commission did not have any comments about this measure? Particularly taking into account Italy's high indebtedness and the unsustainable high level of financial support?
- Are there similar measures in the RRP of other Member States?

**Commission's answer:**

A bonus scheme, which allows to deduct eligible costs (due for modernisations of home heating systems, home insulation, renewables development and associated energy storage, upon condition of improving the energy performance of at least two classes, equivalent to at least 40% of energy savings) from the income tax over five years, the so-called "Superbonus", is a measure in Italy's recovery and resilience plan. It provides support to energy and seismic renovations of residential buildings, including social housing, as well as the installation of charging points for vehicles in that context. The objective of the Superbonus is twofold: (i) to provide a counter-cyclical support to the construction sector due to the collapse of demand following the Covid-19 pandemic and (ii) provide a significant contribution to the required efforts to improve energy efficiency of the residential sector in Italy.

The total cost of the measure amounts is estimated at about EUR 18.5 bn to complete building renovation of at least 32 million square meters, of which the RRF covers EUR 13.95 bn (roughly 75%). It will result in primary energy savings of at least 40% and will also renovate at least 3.8 million square meters for anti-seismic purposes. The RRF support stays below 85% of the estimated renovation costs.

Commission services have had detailed technical exchanges with Italian authorities on this investment to ensure it is fully compliant with the RRF Regulation. The objective of the

measure was twofold: (i) setting up a strong policy instrument to provide a strong counter-cyclical effect in a context of very subdued private consumption and investment because of the effects of the Covid-19 pandemic and (ii) making this policy instrument fully consistent with the objectives of the RRF. The measure was considered particularly relevant for both purposes considering its size and its expected impact on the green transition.

The Superbonus is expected to make a significant contribution to the achievement of the energy saving and emission reduction targets set by the Integrated National Plan for Energy and Climate of Italy (PNIEC) for 2030. It also responds to the country-specific recommendations addressed to Italy in 2020, which called upon Italy to “Focus investment on the green and digital transition, in particular on clean and efficient production and use of energy, (...)”. The Superbonus significantly contributes to support Italy’s efforts to reach 2030 climate objectives. Italy needs to reduce its primary energy consumption by 11% by 2030 compared to 2020 (and 43% compared to 2007). Residential buildings represent one-third of the annual share of efforts that must come from energy efficiency. The Superbonus will alone represent one-third of this effort.

Many other national recovery and resilience plans include components related to an energy-efficiency related modernisation / renovation of buildings. For example, the German RRP contains a federal funding scheme for energy-efficient buildings. The total estimated costing the German RRP for this programme amounts to EUR 2.5 billion from 2021 to 2026, which relate to approximately 3.7 million square meters of renovated surface. The French RRP does envisage approximately EUR 5.8 billion for a scheme for the renovation of private buildings with the obligation to achieve energy savings between 30% and 60% in at least 700 000 households. The Spanish recovery and resilience plan also includes measures for the renovation of buildings (for an estimated costs of EUR 7.8 billion), the majority of which is for renovation across residential and public buildings (EUR 6.8 billion).

25. In certain Member States, such as Hungary, Malta, Slovakia and Czechia, we observe significant concentrations of funds in the hands of few recipients or beneficial owners.
- How does the Commission ensure that the measures foreseen in the RRFs do not further contribute to the creation of oligarch structures?

**Commission’s answer:**

The Recovery and Resilience Facility requires a control framework that is tailored and proportionate to its unique nature as a performance-based EU spending programme. Member States must put in place robust governance and control systems to prevent, detect, and correct corruption, fraud and conflict of interest for the implementation of the Recovery and Resilience Facility. Member States need to collect data on final recipients of funds, contractors, subcontractors, and beneficial owners and make this available upon request. For this purpose, the Commission has made available to the Member States an integrated and interoperable data mining and risk scoring tool called Arachne. While the use of ARACHNE is not obligatory for the Member States, the Commission has and is continuing to encourage Member States to make use of ARACHNE or an equivalent national system.

In any case, OLAF, the Court of Auditors, the European Public Prosecutor's Office (if applicable) and the Commission itself may access for the purpose of controls and audits relevant data, whether stored in Arachne or in the national database, and investigate the use of funds if necessary. In addition to these elements, the Commission implements its own risk-based control strategy. The Commission may decide to carry out on-the-spot checks on a horizontal or risk-based approach, covering all countries.

Even if milestones and targets have been fulfilled, where the Commission finds serious irregularities (namely fraud, conflict of interest, corruption), double funding or a serious breach of obligations resulting from the financing agreements, and the Member States do not take timely and appropriate measures to correct such irregularities and recover the related funds, the Commission may recover a proportionate amount of the disbursed amounts and/or, to the extent applicable, request an early repayment of the entire or part of the loan support.

### *Questions concerning audit*

26. The AMPR mentioned that the Commission will carry out system audits on the reliability of the systems in place to collect, aggregate and store reliable data relating to the milestones and targets.

- The Commission is kindly requested to share its audit strategy and overview incl. timetable for these system audits and the results of any audit already concluded.
- How would the Commission describe the cooperation with Member States with regards to the Commission's audit activities? Are there any differences among Member States?

### **Commission's answer:**

Please also refer to questions 7 and 9. In line with its audit strategy, the Commission carries out system audits on the reliability of the systems in place to collect, aggregate and store reliable data relating to the milestones and targets. Currently, for efficiency reasons, the Commission has combined these system audits with audits on milestones and targets and conducted such audits in France, Italy, Portugal, Spain and Croatia. As the audit work is still on-going the Commission cannot yet share any audit results at this stage. More system audits are planned for the end of 2022 and 2023 in the audit plan.

The cooperation between the Member States and the Commission has so far been very good. To prepare for its audits, the Commission has explained its audit methodology during several expert-group meetings with the Member States. The Commission has also already organised 25 bilateral meetings with national audit authorities to exchange information on the audit activities carried out at national level and by the Commission.

We consider that these exchanges are very useful in the context of these audit on a new type of instrument and will continue and enhance this cooperation in the future.

### *Questions concerning internal (policy) coordination*

27. SG RECOVER and DG ECFIN are jointly responsible for steering the RRF's implementation.
- Could the Commission explain how the coordination with the European Semester is ensured?
  - How are the other policy DGs involved in the various stages from the assessment of the RRFs until implementation?

**Commission's answer:**

According to the Commission Decision of 24 July 2020: "RECOVER works in close cooperation with DG Economic and Financial Affairs (ECFIN) in order to:

- coordinate support to the Member States in drawing up their recovery and resilience plans.
- ensure, together with the Member States, that the notified plans complied with the regulatory requirements laid down in the legislation
- and in particular that they delivered on the objectives of the twin green and digital transitions and of recovery and resilience.
- draw up the implementing acts needed for approval of the plans;
- assess the progress made by the Member States in implementing the plans and analyse the periodic reports provided for by the legislation;
- coordinate the European Semester during this period."

Therefore, both services are jointly responsible for steering the design and implementation of the Recovery and Resilience Facility (RRF) and coordinating the European Semester.

As regards the European Semester, based on horizontal RECOVER-ECFIN guidance, country teams for each Member State, consisting of both services and staff from several other DGs, discuss the European Semester cycle and plan the annual fact-finding work, including potential interactions with Member States authorities and stakeholders. These country teams regularly discuss country-specific issues, priority reforms and investments and undertake semester missions to the respective Member State, which are generally combined with discussions on the RRF. These bilateral exchanges, which build on established cooperation mechanisms from the Semester which are strengthened through the RRF work, are very useful to assess progress made by the Member States in both implementing the RRFs and identifying new challenges in the context of the Semester work.

Other policy DGs are involved throughout this process and participate as relevant to discussions and missions. The discussions within the larger country teams are the starting point for the identification of key challenges to be analysed in the narrative part of the Semester country reports. The analysis takes account of the (draft) documents submitted by the Member States under the Semester, policy knowledge and analytical input from all Commission DGs, as well as the insights gained through the regular monitoring of and exchanges on the RRF. RECOVER/ECFIN coordinate this work with central guidance provided to all country teams and within each country team. The final selection of topics as well as the draft proposals for country-specific recommendations are agreed in the 'Core Group', a meeting of the core DGs at highest level. The proposals for country-specific recommendations are adopted by oral procedure to ensure full College endorsement.

As regards the RRF, within the Commission, Country teams from all relevant services provide their expertise for the discussions with Member States. While RECOVER and ECFIN are leading the assessment of the RRFs and payment requests, experts in other Commission

services are able to provide input and specifically consulted where relevant throughout the assessment work. At political level, a Steering Board of Commissioners, chaired by the President, provides political guidance. The Commission's proposals for Council Implementing Decisions on the RRFs, as well as the preliminary assessments and final decisions on payments are adopted by the College of Commissioners.

The close cooperation of the lead RECOVER and ECFIN teams with the other Commission services continues throughout the implementation of the RRF. In particular, the contribution of other DGs contributes to the monitoring work and the preparatory and assessment work on payment requests. This allows the Commission to draw on both the file expertise on the RRF itself, which is concentrated in ECFIN and RECOVER, and the country-specific and subject-specific knowledge and engagement with national stakeholders of other DGs. Beyond thorough information and consultation of DGs in an 'informal' modality, two formal inter-service consultations, one on the preliminary assessments and one on the final Commission Implementing Decision concerning each RRF payment request, assure a collegial and consensual decision making on the payments.

Other DGs also participate in the discussions taking place in the context of the Annual Events, which are organised in each Member State together with the relevant national stakeholders involved in the implementation of the RRF. In turn, ECFIN and SG-RECOVER contribute to policy and analytical work of the other DGs with their knowledge and insights from the RRF work.

28. DG ECFIN, is a key player in developing policies to achieve climate neutrality. How will be the impact and performance of the programs calculated? How has the DG been involved in the development the concept of Industry 5.0?

**Commission's answer:**

The Commission highlights that DG ECFIN and the RECOVER task force lead the work in relation to the RRF but not the overall climate policy, which is lead in particular by DG CLIMA and Executive Vice-President Timmermans.

Concerning the first question, the impact and performance for individual programmes must be calculated and presented in line with their design, nature and objectives. As regards the RRF as the largest programme managed by DG ECFIN (jointly with SG-RECOVER), the Recovery and Resilience Scoreboard includes a set of common indicators related to the objectives of the RRF. As defined in Delegated Act 2021/2106, the common indicators help to monitor the implementation of the recovery and resilience plans towards common objectives and track the RRF's overall performance. While it would be impossible to provide a comprehensive picture of the RRF's impact on the mentioned policy fields, the common indicators provide an insight into key areas of impact. The latest common indicator data set is available on the Recovery and Resilience Scoreboard. The Scoreboard also contains thematic analysis on specific issues of common interest, which provide analysis on impact and examples of measures.

On the climate side, indicators include: energy savings in primary energy consumption per year; additional operation capacity installed for renewable energy, including hydrogen; the number of refuelling/recharging points per 100,000 passenger cars; as well as the population

benefitting from protection measures against floods, wild fires and other climate-related natural disasters. On this basis, progress towards objectives such as energy efficiency, renewable energy, sustainable transport or climate adaptation can be monitored. Member States have to report twice a year on the common indicators, by the end of February and the end of August.

In accordance with the RRF Regulation 2021/241, each Member States has to dedicate at least 37% of the total allocation of its recovery and resilience plan to climate-related objectives. At the moment, the estimated cost of the reforms and investments in the RRFs have exceeded these targets: for the RRF as a whole, the estimated climate expenditure amounts to about 40% of the total allocation (taking into account the 26 RRFs currently adopted RRFs).

As regards the second question, on Industry 5.0, as for all policies, there is cross-DG cooperation. European industry is a key driver of the economic and societal transitions that we are currently undergoing. In order to remain the engine of prosperity, industry must lead the digital and green transitions. That is why Industry 5.0 includes elements related to the future of industry, putting focus on resource-efficient and sustainable industries, as well as circular economy, which is precisely the mentality underlying the RRF as a whole.

29. The facility is supposed to support reforms. What kind of tools has the Commission developed to assess correctly the reforms and their impacts on the domestic economy?

**Commission's answer:**

There are various tools available both to the Commission and in a global context to analyse or assess reforms in light of specific criteria or for specific purposes. There is no “one size fits all” tool that would serve to provide a definitive view of the impact of a specific reform on the economy. The Commission did not develop a dedicated new theoretical approach to assess the impact of individual reforms, but made use of existing conceptual tools, for instance data from the QUEST model concerning economic impact of structural reforms.

The assessment of the RRFs was nonetheless principally qualitative. In order to be approved, each recovery and resilience plan is assessed by the Commission against 11 criteria, including criterion 3 on “Growth, Resilience & Social Impact”. The RRF Regulation tasks the Commission on this criterion to assess, among other elements, whether the recovery and resilience plans contain reforms and investments to foster economic growth and economic cohesion in an inclusive manner, in particular addressing weaknesses of the economy of the Member States, boosting the growth potential of the economy of the Member State concerned, stimulating job creation, and mitigating the adverse effects of the crisis.

To inform the work on this criterion, Member States were requested to provide information on the impact of the RRF, including economic analysis. This was used by the Commission during its assessment work

Findings on the economic impact of the RRF might also be included in the evaluation on the implementation of the Facility to be published in 2024, as envisaged by Article 32 of the RRF Regulation.



More generally, the European Semester remains the Commission's main tool to monitor economic developments, including the impact of important reforms. Monitoring and reporting follows an annual cycle to which the RRF reporting has been aligned. . Further detail is available on the Semester website:

[https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en)

The Recovery and Resilience Scoreboard also shows both per Member State the contribution of the national RRFs to the green and digital transitions and the six pillars of the RRF Regulation. Progress reporting, including the fulfilled milestones and targets and payments made are also available on the site. Notably the data on common indicators reported by all Member States is published to provide additional high-level information on important contributions made by the RRF implementation.

[https://ec.europa.eu/economy\\_finance/recovery-and-resilience-scoreboard/common\\_indicators.html](https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/common_indicators.html)

30. What were the main measures taken in 2021 for combating tax fraud and evasion? Does a specific monitoring exist for Member States at risk of fraud in the implementation of the RRF?

**Commission's answer:**

General measures on tax fraud fall under the policy area of DG TAXUD. Work in this field includes for instance the implementation of the Fiscalis programme, which reinforces tax policy and the implementation of EU law relating to taxation. The Commission website on taxation and the customs union provides current information, including a news section which highlights recent policy and implementation work in this field.

As regards the RRF, the principal responsibility to ensure protection of EU financial interests lies with the Member States. Accordingly, the obligation to correct individual irregularities, such as fraud, lies first with the Member States. Only if a Member State fails to correct a serious irregularity may the Commission launch financial corrections.

Article 22(2) of the RRF Regulation, as well as the Key Requirements of the Member State's control system contained in the RRF Financing Agreement, identify the prevention, detection and correction of fraud, corruption, and conflicts of interests as a priority.

Whilst such issues need to be addressed by measures wider than only audits, audits are a key aspect of providing assurance that the Member State systems to prevent, detect and correct fraud, corruption and conflicts of interests are functioning.

In addition to Member States' work, the Commission conducts systems audits of the Member States' control systems in order to ensure that the Member State is complying with its obligations to have processes in place to prevent and detect serious irregularities (i.e. fraud, corruption or conflicts of interest). The Commission can intervene in case the Member State

breaches its obligations under the financing and loan agreements to implement suitable control systems, which might include a systemic failure to assure fraud prevention, detect and correction.

Please also refer to questions 7 and 9 on this matter.

31. Has a specific monitoring policy been reinforced for new applicants, for example SMEs, who do not always have the time or knowledge of the existing rules for these programs? More generally, are information campaigns or training sessions implemented to remind people of the rules for eligible expenditure?

**Commission's answer:**

The RRF measures are not implemented by the Commission but by the Member States. Accordingly, the responsibility to assure the involvement of SMEs and appropriate design of the investment measures lies with the Member States.

The RRFs contain in some cases dedicated measures specifically targeted at SMEs or which require a minimum involvement of SMEs. Related milestones and targets, therefore, can include requirements on the participation of SMEs. To fulfil these milestones and targets satisfactorily, Member States will have to provide evidence on such participation, which the Commission will then assess.

Beyond the measures specifically targeted to SMEs, there are numerous measures to which SMEs can apply.

The Commission encouraged Member States to involve social partners, including SME associations, in the design of their plans. Member States also had to show evidence of their engagement with social partners as requested by the RRF Regulation (Article 18(4)(q)). Furthermore, during the implementation, the Commission, in the context of the monitoring activity, continues to encourage Member States to engage with social partners, including SME associations, to ensure an effective implementation of the plan.

The Commission has included in the RRF Financing Agreement a requirement for each Member State to prepare its own communication campaign and the Commission compiles the links to the Member States' websites, in an effort to promote transparency and accessibility of information. Some Member States provide interactive tools for EU citizens or businesses on the RRF, including information on how measures are being spent and opportunities for funding. For example, Austria has set up a dedicated website for business and funding opportunities in all Member States stemming from the national plans.

As regards the question on eligible expenditure, as the RRF Regulation is performance based, the Commission will disburse funds based on the fulfilment of milestones and targets, not against incurred costs. Accordingly, the estimated cost of the RRFs has been assessed as part of the initial RRF assessment but is not re-assessed as part of the payment requests.

### ***Questions concerning ECA SR 221/2022***

32. The ECA published in September 2022 a first report on RRF (SR 21/2022).

- What are the recommendations is the Commission going to implement and with which agenda?

In this report, ECA mentioned the importance to ensure clear verification mechanisms of milestones and targets and their adequate definition.

- How does the Commission envisage to implement this recommendation?

#### **Commission's answer:**

In the context of the Court of Auditor's Special Report on the assessment, the Commission has fully accepted 5 recommendations and partially accepted 1. This therefore means that the Commission has accepted to implement such recommendations or considers that they are already implemented. For a more detailed understanding of how the Commission understands and aims to implement the recommendations, the Commission's replies are available here: <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=61946>.

Verification mechanisms are set out in the Operational Arrangements and are discussed and agreed with each Member State after the adoption of the Council Implementing Decision. These verification mechanisms set out a common understanding between the Commission and the Member State on the type of evidence that is expected to demonstrate that the milestones and targets have been satisfactorily fulfilled. The Commission will therefore continue to discuss with Member States where Operational Arrangements should be agreed or updated, in order to ensure that the verification mechanisms are clear.

33. ECA SR 21/2022 found that some important aspects of the country specific recommendations remained unaddressed across the RRFs in their sample, in particular those of 2019, representing recurrent structural changes.

- Could the Commission explain why and in how many cases?
- Could the Commission explain why it positively assessed Spain's RRF despite the following issued pertaining to the CSR: CSR 2019.3.5 on the electricity interconnections was not addressed at all; the Spanish RRF is unclear on how policy and strategic coordination will be orchestrated between the different levels of regional governance (CSR 2019.3.6 on research and innovation policies); the Spanish RRF does not address elements related to the sustainability of pensions (CSR 2019.1.4 on the pension system)

#### **Commission's answer:**

The RRF Regulation states that the RRFs should "contribute to effectively address all or a significant subset of challenges identified in the relevant country-specific recommendations". Therefore, in accordance with the legal text, it is fully possible that some of the challenges

identified in the relevant country-specific recommendations are not directly addressed through the RRP.

Regarding Spain, as explained in the SWD accompanying the proposal for a CID on RRP of Spain, the CSR recommendation addressed to Spain in the area of electricity interconnections will be addressed outside the framework of the RRF (CSR 2019.3.5). It is also important to note that fulfilling this recommendation does not solely depend on Spain but also on the other Member States that would need to cooperate to deliver the relevant interconnections.

The CSR on the sustainability of the pension system would be addressed through reforms in Components 30, 28 and 29 of the Plan. Notably, the description of reform C30.R2 set out in the CID Annex (to be completed by December 2022) shall seek to ensure the maintenance of the purchasing power of pensions, alignment of the effective retirement age with the statutory retirement age, adaptation of the calculation period for the calculation of the retirement pension to new careers and replacement of the sustainability factor by an intergenerational equity mechanism. The objectives of the reform are to i) guarantee the purchasing power of pensioners, ii) increase labour participation at ages close to the legal retirement age, iii) postpone retirement, iv) reinforce the progressivity of the contribution system, v) adapt the current regulation to discontinuous careers and other forms of atypical work and vi) address the impact of the forthcoming demographic changes without worsening the adequacy of current and future pensions. The reform consists of four separate regulatory reforms in line with the Toledo Pact recommendations. Milestone #410 requires Spain to publish “updated projections showing how the pension reforms undertaken in 2021 and 2022 ensure long-term fiscal sustainability, also taking into account the impact of other structural reforms, such as labour market reforms” by the end of 2022.

Finally, policy and strategic coordination across different levels of government has been or will be improved through various reforms pertaining to Component 17 (C17 in the CID Annex). For instance, the description of C17.I1 in the Annex to CID: Supplementary Research and Development plans with Autonomous Communities explains that the investment has the objective to foster the coordination of the state level with regions in the area of R&D&I through the establishment of supplementary R&D&I plans to be co-financed by the RRF and the regions. This new instrument shall also further collaboration between regions, as they establish common priorities under their respective Regional Smart Specialization Strategies (RIS3).

34. All RRP that were approved to date received “A” as rating for the assessment criteria “monitoring and implementation”, except Czechia, which received a “B”.
- Why did Czechia receive a “B”?

**Commission’s answer:**

As explained in the Staff Working Document accompanying the Commission’s proposal for a Council Implementing Decision on Czechia’s RRP, a few shortcomings were detected in terms of the general implementation framework. They included deficiencies at the level of Ministry of Industry and Trade playing a role of a coordinating body.

Notably, the capacity of different bodies to follow up on measures and milestones and targets was assessed as requiring further improvements. The arrangements and mechanisms to collect, store and report data on the milestones and targets were described but they appeared minimal and could be improved further. Therefore, additional milestones were included in the CID to implement procedures for collecting and storing the data (milestone 207) and to establish and make operational a repository system for monitoring the implementation of the RRF (milestone 210).

The RRF Regulation provides for specific conditions for a positive assessment of the RRFs. Even with these shortcomings, the Czech RRF did pass the overall threshold for a positive assessment. The Commission will closely monitor the implementation and carefully assess all the required milestones at the time of the payment requests, including those on the repository system.

- In its SR 21/2022, the ECA concluded that the Commission's assessment of the monitoring and control arrangements was partly based on systems not yet in place. How did the Commission ensure sufficient assurance to rate all but one RRFs as "A"?

**Commission's answer:**

Please see the response to question 17 and to question 18 specifically on this ex-ante assessment of systems "not yet in place".

As highlighted in the answer to question 18, such an ex-ante assessment of the plans is explicitly required by the RRF Regulation.

The assessment process took place over several months, usually starting based on draft documents already prior to the official submission of the RRFs. The control system was in each case discussed in depth with the Member State and where relevant the Commission requested additional information and where relevant specific commitments on specific important features of the control systems for every Member State, ensuring a thorough and well-founded assessment. Such commitments have been encoded in dedicated control milestones.

- How will the Commission follow-up and ensure that the Member States' monitoring and control systems are working effectively and reliably?

**Commission's answer:**

Please see the responses to questions 15-18.

More generally, the Commission is in continuous exchange with the Member State on the RRFs, including on control matters. The Commission has also started to carry out systems audits to ensure that national control systems fulfil the requirements of the RRF Regulation and the key requirements set out in the financing agreement signed with each Member State.

Therefore, while the RRP assessment is necessarily ex-ante, the Commission is ensuring each Member State has appropriate control systems in place during implementation.

35. In SR 21/2022, the ECA concluded that the disbursement profiles were a result of negotiations rather than a reflection of the costs of underlying milestones and targets. ECA noted that this will be problematic during the RRF implementation given that any partial achievement of milestones and targets would need to be reflected in the payment to the Member State in question.

- Could the Commission provide an update on the state of play for defining a methodology for calculating the partial reduction or of payments?

**Commission's answer:**

As the Commission highlights in its response to Special Report 21/2022, the RRF Regulation provides a clear methodology to determine the overall allocation per Member State, which the Commission has followed closely and transparently. However, the Regulation does not provide a methodology to set the specific disbursement profile, i.e. how a specific disbursement amount is linked to a specific set of milestones and targets to be achieved. In line with the requirement in the Regulation to act 'in close cooperation with the Member State concerned', the Commission discussed the disbursement profile with each Member State based on a proposal by that Member State. The disbursement profile which the Commission proposes to the Council, and which the Council ultimately determines, reflects therefore several factors, including the national financing needs and budgetary planning, and the proportion of milestones and targets in each instalment as well as their relative importance.

As the Commission highlights in its response to Special Report 21/2022, the disbursement profile does not restrict how any potential later partial payment amounts are determined, which must be proportionate to the Member State's performance. The Commission therefore does not agree with ECA's conclusion to this effect.

As regards the partial payment methodology, while the methodology has not been necessary until this point, in line with the ECA recommendation, the Commission is close to finalising its approach.

36. In SR 21/2022 the ECA found that some milestones and targets lacked clarity or did not cover all key stages of implementation of a measure. Furthermore, the milestones and targets are generally limited to measure output rather than impact and that the approach in setting milestones and targets was not always harmonized across Member States.

- How does the lack of clarity impact the Commission's ability to assess whether a milestone or target have in fact been achieved?
- How does the Commission ensure a clear verification mechanisms of milestones and targets and their adequate definition?

**Commission's answer:**

In its report, the ECA notes that the Commission assessment led to clearer descriptions of the milestones and targets, compared to those initially proposed by the Member States, and more precise wording. The Commission does not believe that the milestones and targets are unclear. The Commission also notes that milestones and targets are not designed to be comparable but rather measure progress on implementing a specific reform or investment in a specific Member State. These may, therefore, differ across Member States.

The Commission accepts the ECA's general recommendation to '*ensure that milestones and targets are adequately defined, in particular that they are sufficiently clear, reflect key stages of implementation and are defined consistently across Member States, while respecting the specificities of each recovery and resilience plan.*', which it is already implementing through internal guidance and horizontal checks.

After the adoption of the Council Implementing Decision, operational arrangements of a technical nature are agreed between the Member State concerned and the Commission. The verification mechanisms set out in the Operational Arrangements are discussed and agreed with each Member State. These verification mechanisms set out a common understanding between the Commission and the Member State on the type of evidence that is expected to demonstrate that the milestones and targets have been satisfactorily fulfilled. However, the verification mechanisms do not as such constitute additional requirements beyond the milestones and targets contained in the respective Council Implementing Decision. The Member State can through an alternative means demonstrate to the Commission's satisfaction that the requirements set out in milestone or target contained in the Council Implementing Decision are met.

***Questions concerning InvestEU***

37. DG ECFIN reports that for the InvestEU Fund supported by the EU Guarantee, 18 potential implementing partners have been selected to negotiate a Guarantee Agreement in 2022. It also informs that the Commission opened negotiations with 5 potential Advisory Partners selected through the Call after the first submission deadline, and the evaluation of another application submitted by the second application deadline is finalised. In this context:

- How many national promotional banks and international financial institutions have been selected and what is their distribution among implementing and advisory partners? From which countries do they come?
- Which partners have really participated in the negotiations of the Guarantee Agreement 2022?

**Commission's answer:**

Following the closure of the call for expressions of interest for the InvestEU Fund, the Commission received 18 applications from International Financial Institutions (IFIs) and

National Promotional Banks and Institutions (NPBIs). The Commission started negotiations towards the signature of guarantee agreements with institutions from Germany, Poland, France, Spain, Italy, Hungary, the Netherlands, Belgium and three IFIs (Council of Europe Development Bank - CEB, European Bank for Reconstruction and Development - EBRD, and Nordic Investment Bank - NIB).

The Commission already signed the guarantee agreements with the European Investment Bank (EIB) and the European Investment Fund (EIF) in March 2022 and with Cassa Depositi e Prestiti (CDP) Equity in October 2022 and it is in advanced negotiations for the guarantee agreements with the three IFIs and some NPBIs.

In addition to the EIB, which signed an InvestEU Advisory Agreement on 4 March 2022, from the six potential Advisory Partners selected via the call for expression of interest for the InvestEU Advisory Hub, the Commission has already signed Advisory Agreements with CDP and Bpifrance in July 2022 and is about to sign one with another NPBI. Negotiations with the remaining three advisory partners, including two IFIs, are in advanced stage and their Advisory Agreements are expected to be signed by the end of 2022.

38. What is the financial envelope of the Guarantee Agreement 2022?

**Commission's answer:**

In accordance with Article 13(4) of the InvestEU Regulation, the guarantee under the EU Compartment granted to the EIB Group under the guarantee agreement signed in March 2022 amounts to EUR 19 614 232 544. Of this amount, EUR 8 558 232 554 is granted to the EIB and EUR 11 056 000 000 to the EIF. As regards CDP Equity, the guarantee agreement signed in October 2022 grants a guarantee amounting to EUR 312 000 000. Further guarantee agreements with IFIs and NPBIs are in advanced stage of negotiation and are expected to be signed before the end of 2022.

39. Is there any financial implementation of InvestEU in 2021?

**Commission's answer:**

In line with the InvestEU financial programming, the creation of the provisioning for the InvestEU Fund (i.e. 40% of the total EU guarantee) started in 2021. The InvestEU EU compartment of the Common Provisioning Fund (CPF) received the following budgetary appropriations in 2021:

- EUR 2 382 555 000,00 in commitment appropriations, of which EUR 1 745 000 000,00 from NGEU.
- EUR 251 000 000,00 in payment appropriations, of which EUR 151 000 000,00 from NGEU.

However, the first agreements signed with Implementing Partners and Advisory partners and the corresponding financial implementation took place only in 2022.



40. What agreement was reached with the EIB in 2021 and what is the state of play of its implementation?

**Commission's answer:**

Negotiated in 2021 and at the beginning of 2022, the Guarantee Agreement with the EIB Group (EIB and EIF) was signed on 7 March 2022. As of September 2022, 51 operations emanating from both EIB and EIF were approved by the InvestEU Investment Committee, providing an EU Guarantee of EUR 7.75 billion (including warehoused operations).

## SECOND SET OF QUESTIONS RECEIVED ON 13 OCTOBER 2022

1. As regards findings 10.25 and 10.25 (milestone 395 'Modifications of corporate income tax') the Commission states that 'the element of the description of the measure that ECA refers to is not directly or indirectly referred to in the milestone, nor is directly or indirectly relevant for the fulfilment of that milestone'. However, the operational arrangements with Spain state, in the verification mechanism, that the Member State shall provide a summary document presenting evidence of the fulfilment of the milestone, including "...the provisions which fulfil the relevant elements of the milestone, as listed in the description of milestone and of the corresponding measure in the CID annex".
  - Can the Commission explain what it considers to be included in the definition of a milestone and which elements listed in the Council Implementing Decision approving the plan are not included in it and why?

### **Commission's answer:**

The Council Implementing Decision (CID) Annex has distinct sections. Section 1 presents for each of the components of the Recovery and Resilience Plan first the measures, each consisting of a title and short description, and then a table which provides the milestones and targets for the measures in this component. Where relevant this is split for the grant and loan parts. The table contains each milestone and target, with columns for the name, the quantitative or qualitative indicators, and the description of the specific milestone or target. What forms part of the description of the measure vs the description of the milestone/target is therefore fully distinct in drafting and structure. This is in line with the RRF Regulation, which refers to the description of the measure and the milestones and targets as two distinct elements (Article 20(5)(c) and Article 20(5)(e) respectively).

In accordance with Article 24 of the RRF Regulation, the Commission assesses whether the relevant milestones and targets are satisfactory fulfilled. The Regulation specifically refers to the Commission assessing milestones and targets (and does not specifically require the assessment of the description of the measure). Nonetheless, the description of the measure is often relevant to understand the requirements to be fulfilled for the milestones or targets. E.g. the measure description might describe a kind of grant agreement that will be signed, which is then only cross-referenced as "the grant agreement" in the description of a related milestone. Accordingly, the Commission considers in its assessment of milestones and target any element of the description of the measure that is directly or indirectly linked to a milestone/target. However, elements that are not directly or indirectly linked to a milestone or target should not be considered as requirements. This may include elements that are linked to other milestones or targets, elements in non-obligatory language (e.g. "the Member State may...") or elements that are further steps of the reform or investment but are not linked to the milestone or target.

As highlighted for question 37, the operational arrangements do not establish additional requirements, but rather serve only to establish a common understanding of the evidence to be provided. The phrasing in the verification mechanism for milestone 395 is a standard text and not specifically designed for this milestone.

2. In addition the Commission states, that the element identified by the Court, was considered by Spain and the Commission a 'medium-term objective'. The Commission makes reference here to Milestone 388, with an implementation date of Q1 2023.
  - Given the relatively pessimistic assessment given on the state of play of the '15 % minimum tax rate', what are the Commission's expectations for the fulfilment of this milestone and the related payment request for Spain?

**Commission's answer:**

Milestone 388 forms part of the fifth instalment foreseen in the CID Annex. As for all other milestones and targets the Commission expects that the Member State will fulfil the agreed milestones and targets in line with the description in the CID. However, it should be recalled that the milestone and reform description for milestone #388 (capturing the entry into force of tax measures following the recommendations of the White Paper by a committee of tax experts) do not explicitly require Spain to implement a 15% minimum corporate income tax rate. The milestone description sets "to ensure minimum corporate income taxation" as one of the objectives for the milestone.

3. The Commission states in its reply to observation 10.28 that in accordance with the sui generis concept, it is excluded to derive the compensation for achieving an individual milestone or target. We understand that the Commission contests the finding for 2021 of the Court and therefore considers that the Commission still has time to develop a methodology to support its decision upon the amount of an instalment to suspend (should only a subset of milestones and targets for a payment request be satisfactorily fulfilled).
  - Can the Commission confirm that this methodology, rather than providing a method for calculation for an amount to be suspended, it only looks at equal treatment how the Commission will apply the flexibility the RRF Regulation grants the Commission?

**Commission's answer:**

The Commission is working on a methodology that considers the performance-based nature of the RRF and the inherent variety between the RRFs, for example in terms of number of milestones and targets, while taking into account the prime objective to ensure equal treatment among Member States.

4. In relation to the Court's findings for milestone 173, the Commission states that it had the confirmation that the Spanish control system would meet the requirements of Article 22 of the RRF Regulation and that the Commission verified that 100% of the contracts were recorded appropriately, while noting two remaining 'weaknesses'/ 'areas that could be improved'. The Court found that these weaknesses had an impact on how this information was collected and how it could be accessed for control purposes'. We commend the Commission for making these observations, as data on beneficial ownership is deemed an important issue.

- Given the action plan agreed with the Spanish authorities, has the Commission in the meantime verified that these 'areas that could be improved', have indeed improved in accordance with the action plan?
- Has it reported to the Court on this matter?

**Commission's answer:**

The design of the national control framework was assessed by the Commission as part of the assessment of the recovery and resilience plan and was considered adequate. No RRP can be positively assessed if the systems are not adequate. Milestone 173 was put in place to ensure an IT system for the data collection would be put in place.

Milestone 173 was considered as satisfactory fulfilled in the context of the first Spanish payment request. Spain clearly has put in place the necessary systems and fully complies with the minimum legal requirements of the milestone. In order to ensure continuous compliance with the milestone and its obligations under the Financing Agreement, Spain made specific commitments beyond this minimum requirement to further improve its control system related to the collection and access to data on beneficial owners for foreign companies without a registered representative in Spain. This concerns a small fraction of the data to be collected, for which the data is not already available and thus must be collected on a case-by-case basis. As such, the fulfilment can only be established once such cases actually occur and the authorities have begun collecting the data. A number of other Member States have made similar commitments.

The implementation of these commitments is monitored by the Commission, where, due to the time needed to implement the commitments, it was always expected that these would be assessed as part of the third payment request. Spain has not yet submitted this third payment request, but it is indicatively scheduled for Q4 this year.

5. In relation to the Court's findings for Milestone 215, the Commission states that its assessment was based on a 'thorough analysis of the content of the DATAESTUR website', including screenshots.
- May we kindly request to receive this analysis? Does the Commission have the technical capacity to make such verifications and were these capacities used for the verification of this milestone?

**Commission's answer:**

The analysis concerned a review of the website and its content and content sources. The Commission did not write a detailed report on this matter so has no 'analysis' that it could provide. Rather, several Commission staff reviewed the DATAESTUR site and confirmed that the required information was present.