BRIEFING

Next Generation EU (NGEU) delivery

Payment suspension methodology for the Recovery and Resilience Facility

SUMMARY

The implementation of the Recovery and Resilience Facility (RRF) is well underway, with all EU Member States' national recovery and resilience plans in place and disbursements having reached over €150 billion so far. Except for pre-financing, the condition for disbursing RRF funds to Member States is the successful achievement of pre-defined milestones and targets, laid out in the annexes to the Council implementing decisions and linked to each payment request. The RRF Regulation envisages the possibility of suspending all or part of the financial contribution available to Member States if milestones and targets have not been satisfactorily achieved. Both the European Court of Auditors and the European Parliament have urged the Commission to develop a methodology that allows for estimating the impact of not meeting a milestone or target.

To cater for eventual non-fulfilment of milestones and targets, which will interrupt the agreed schedule of payments and might in turn affect RRF implementation, in February 2023, the European Commission published a methodology for partial suspension of payments. The methodology aims to facilitate the continued implementation of investments and reforms, by taking into account the work that has already been done and disbursing the funds corresponding to it, while withholding part of the resources. It allows for an additional six-month period for Member States to deliver on the milestones and/or targets not yet achieved. Following the publication of the methodology, Lithuania became the first country subject to a possible partial suspension, owing to the fact that the Commission deemed two of the milestones from Lithuania's first payment request not to be satisfactorily achieved.

The methodology described in this briefing is based on the Commission's communication. However, it may be reviewed and amended, as noted in the communication's final remarks. Moreover, in its discharge report for the implementation of the EU budget for the financial year 2021, expected to be voted in the May I plenary session, Parliament's Committee on Budgets and Budgetary Control has asked for further clarifications, as it finds that the methodology is not sufficiently well explained and contains some subjective elements.

This briefing will be updated to follow up on future developments.

IN THIS BRIEFING

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Background

The RRF, the main element of Next Generation EU, is an innovative instrument, with Member States as beneficiaries of the funds. Unlike traditional funding programmes, where financing is conditional on the costs incurred, Member States can receive RRF funds if they prove having achieved pre-agreed milestones and targets linked to investments and reforms to which they have committed in their national recovery and resilience plans (NRRPs). The milestones and targets linked to each measure and instalment are laid out in the annexes to the Council implementing decisions (CIDs) approving the NRRPs, based on which the Commission evaluates their satisfactory fulfilment. As implementation carries on, earlier achievement of targets or milestones must not be reversed.

Two years since the RRF Regulation entered into force, all the NRRPs are now adopted (and several have been revised); Member States have received over €150 billion in grants and loans, including pre-financing. The year 2023 is expected to see further progress, although delays with the fulfilment of some milestones and targets (M&Ts) are likely. To address this, the regulation provides for partial or full suspension of payments if a milestone or target has not been (fully) achieved. This procedure, laid down in Article 24, favours the NRRPs' continued implementation, and allows for up to 6 months for Member States to deliver on outstanding work. However, the regulation does not define the methodology; it provides the method to determine the overall RRF allocation per Member State but not the specific disbursement profile, i.e. how a specific disbursement amount is linked to a specific set of milestones and targets. This profile reflects factors such as national funding needs and budgetary planning, and the number of M&Ts in each instalment and their relative importance.

The European Court of Auditors (ECA) observed in its Special report 21/2022 that this link between each payment and the associated milestones and targets was missing. This prevented the Court from determining the financial impact of the error in the first performance-based payment to Spain in 2021 (see ECA's annual report). The European Parliament and the ECA urged the Commission to develop a methodology for quantifying the impact of not meeting a milestone or target on individual payment requests, and guidance on cases of reversal of previously fulfilled M&Ts.

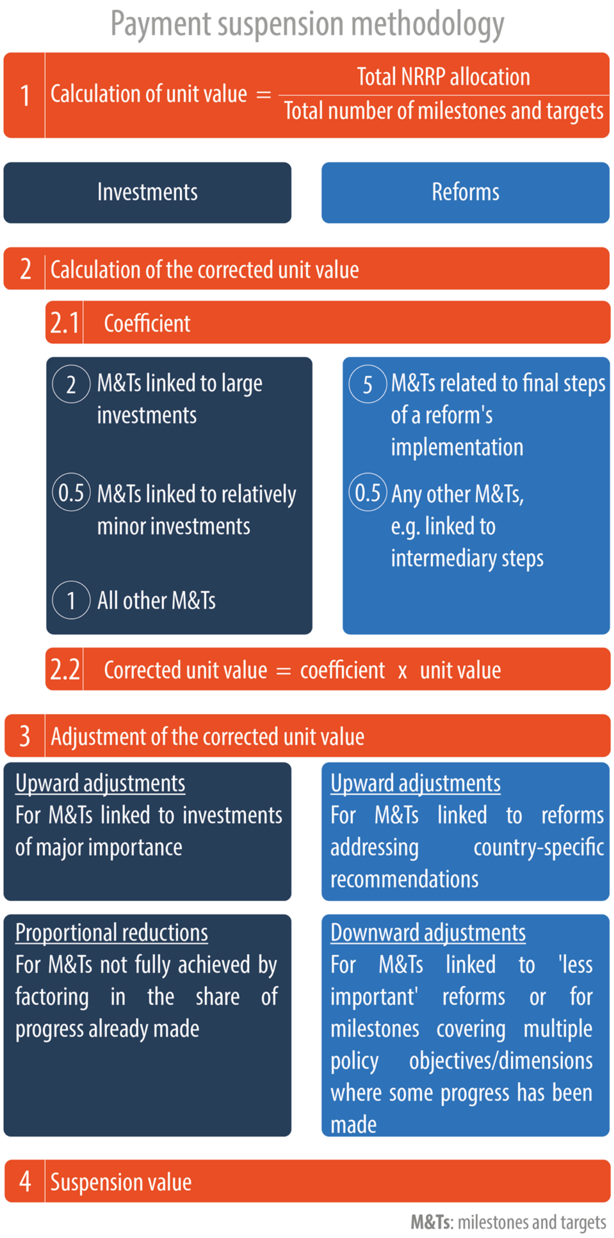
Payment suspension methodology

According to Article 2 of the RRF Regulation, 'milestones and targets' (M&Ts) means measures of progress towards the achievement of a reform or an investment, with milestones being qualitative and targets being quantitative achievements.

No guidance has been published yet on the reversal of M&Ts, but in a February 2023 communication, the Commission presented the long-awaited payment suspension methodology, needed to underpin and justify its decisions regarding partial payments and increased transparency. The communication's Annex II describes the approach to estimating the relevant amounts. It reflects the RRF's specificities, such as it being a mix of reforms and investments, and the fact that payments are not linked to the measures' estimated or actual costs. According to the methodology, milestones and targets differ in size (i.e. associated resources) and level of completion, hence the introduction of weights (for instance, a final milestone or target counts more than an intermediary one for the same investment). Cases of non-fulfilment of M&Ts relating to a Member State's RRF control systems are one exception where the methodology will not be applied. In these cases, the full instalment and all future instalments are suspended until the situation is remedied. The achievement of those milestones is crucial for protecting EU financial interests, and the adequacy of the control and audit systems is a precondition for the payment of any RRF funds other than pre-financing. The Commission may still update the methodology based on lessons learnt from its implementation.

The methodology's main elements (see Figure 1) are **unit value**, **corrected unit value** (resulting from coefficients applied to it), and **upward or downward adjustments** to the corrected unit value. The **suspension value** is the final amount. Except for the unit value – the same for all milestones and targets – distinction is made between investments and reforms when applying coefficients and adjustments.

Figure 1 – Payment suspension methodology

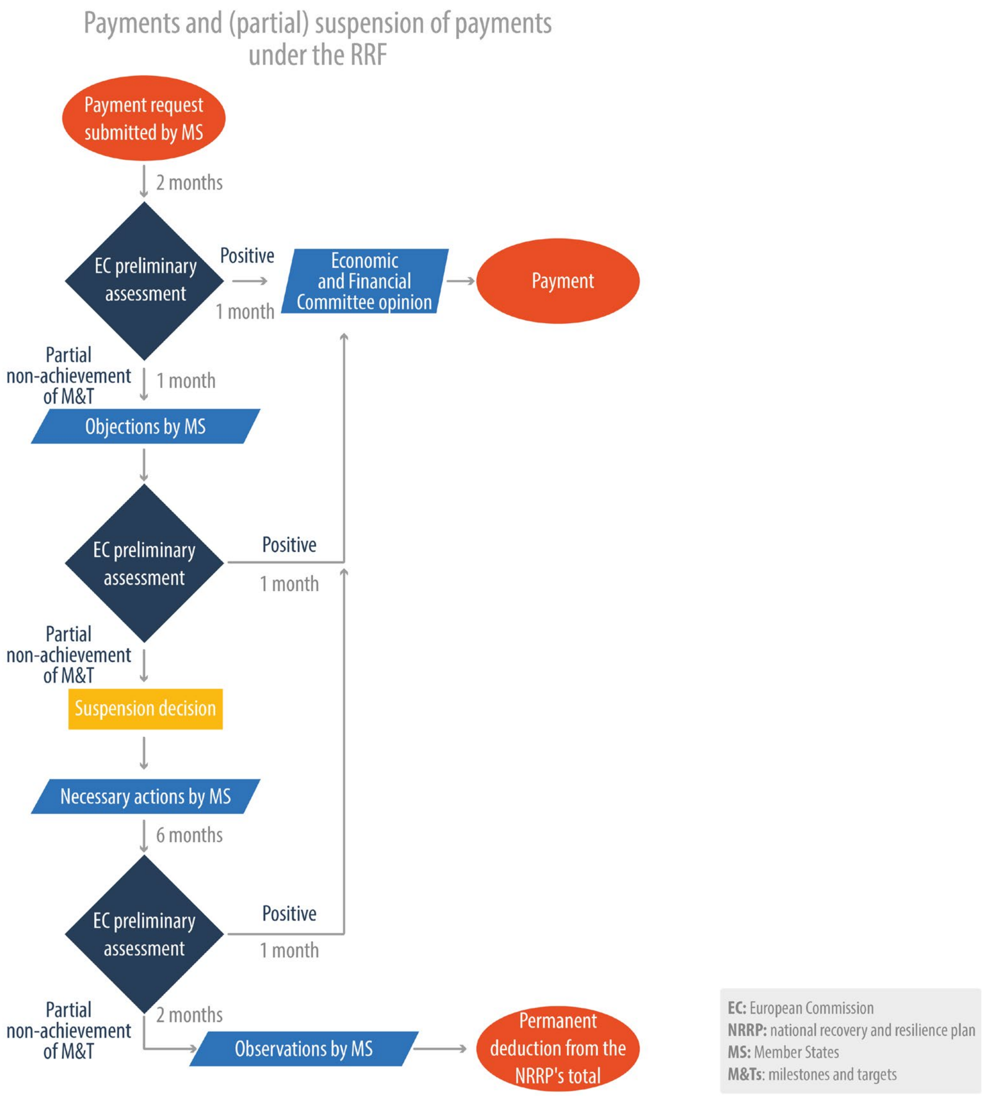


Source: EPRS, based on the RRF Regulation and COM(2023) 99

The unit value is the NRRP's total value divided by the sum of milestones and targets (if a Member State also requested a loan, two unit values are defined, one for grants and one for loans). A corrected unit value results from applying coefficients to reflect a measure's relative importance. For investments, a coefficient of 2, 0.5 or 1 can be applied, depending on an investment's size or how 'important' the related milestones or targets are. For large investments (over 10 % of the NRRP's total) with a limited number of milestones and targets, the coefficient is 2; for the smallest ones (less than 0.1 % of the total), and for intermediary milestones, it is 0.5; for the rest, it is 1. For reforms, a coefficient of 5 is used for milestones and targets linked to their entry into force or final steps for their implementation, while 0.5 is used for any other milestones and targets, including those relating to intermediary or ex-post steps.

Upward and downward adjustments are made in specific cases, outlined in the communication. For example, the corrected value for an investment target that has not been fully met but where work is ongoing is reduced proportionately depending on how much progress remains towards its achievement (if it can be assessed quantitatively). The same applies for milestones, insofar as the share of what has been achieved can be evaluated. The corrected unit value is adjusted upwards if the investment is key to justifying any of the ratings that underpin the NRRP's positive assessment. For reforms, upward adjustments apply when their implementation is deemed key to positively assessing the NRRP on the criteria for addressing the country-specific recommendations. Downward adjustment is applied for 'less important' reforms (not directly affecting the plans' assessment), and for reform milestones covering one or more policy objective/dimension. A proportional reduction is to be applied if the policy objective is partly met, taking into account progress made towards the overall objective. Parliament's Committee on Budgets and Budgetary Control (CONT) has noted a level of discretion in the application of elements such as coefficients and adjustments.

Figure 2 – Payments and partial suspension of payments



Source: EPRS, based on the RRF Regulation and COM(2023) 99.

Lithuania's is the first case where the Commission endorsed a positive preliminary assessment of 31 of the 33 milestones linked to its payment request; the other two not having been satisfactorily met. As described in Figure 2 above, Lithuania can present objections within one month. If the Commission does not find them convincing, it will estimate the amount to be suspended and apply this to the amount to be disbursed following the payment request. After that, Lithuania has six months to do the remaining work, allowing the Commission to lift the suspension by means of a positive assessment, followed by a positive opinion of the Council's Economic and Financial Committee, or else permanently deduct the respective amount from the plan's total. In general, if within 18 months of the CID's adoption, no tangible progress has been made in respect of any relevant milestones and targets, the Commission can terminate the financing (and loan) agreement(s) and decommit the RRF allocation. Pre-financing is to be recovered in full.

European Parliament

Parliament has a key role in scrutinising RRF implementation and ensuring transparency and accountability. It seeks additional information from the Commission through recovery and resilience dialogues, working group meetings and plenary debates. Its power to grant discharge to the Commission applies to the RRF grant component through the regular discharge procedure as of the 2021 EU budget. In its discharge report for the financial year 2021, the CONT committee commends the Commission's work in putting in place the methodology, but finds that improvements are needed, in particular regarding the Commission's discretion in applying the correction coefficients and adjustments. The report notes specifically that the methodology does not provide an explanation for the values chosen as coefficients, and that it contains subjective elements (such as upward and downward adjustments) and terms lacking clear definitions (e.g. investments of 'major importance' or reforms of 'particular importance'), which could prevent the Commission from treating equal situations equally. The CONT committee therefore seeks further clarifications.

MAIN REFERENCES

Communication on the Recovery and Resilience Facility: Two years on. A unique instrument at the heart of the EU's green and digital transformation, COM(2023) 99 final, European Commission.

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