III

(Preparatory acts)

COURT OF AUDITORS

OPINION No 6/2020

(pursuant to Article 287(4) and 322(1)(a), TFEU)

concerning the proposal for a regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility *(COM(2020) 408)*

(2020/C 350/01)

CONTENTS

Executive summary

I. In May 2020, the Commission proposed a regulation to establish a Recovery and Resilience Facility (RRF). The purpose of this Facility is to provide non-repayable financial support and loans to Member States to mitigate the impact of the COVID-19 crisis and make them more resilient for the future.

II. In line with the request of the Committee on Budgetary Control of the European Parliament, this opinion aims to provide an assessment of the overall design of the RRF, the adequacy of the instruments proposed and potential risks in relation to its implementation, compliance and sound financial management, as well as of its reporting and monitoring mechanisms. It is limited to the Commission's proposal, but takes into account the related political agreement reached at the European Council on 21 July.

III. We conclude that the RRF has the potential to support Member States in easing the economic and financial impact of the pandemic. We welcome the fact that the proposal builds upon existing mechanisms, such as the Common Provisions Regulation (CPR) and the European Semester, thereby fostering synergies and reducing the administrative burden at both EU and Member State level. In addition, the involvement of Member States as set out in the proposal is likely to increase ownership and offers the possibility to take into account country specific circumstances.

IV. We note, however, that the scope and objectives of the RRF are rather broad, partly overlap with other funding instruments and are not fully reflected in the allocation of the financial contribution. Timely implementation may be complicated by absorption problems at Member State level and the complex procedures for the assessment of the Recovery and Resilience Plans (RRPs). In this context, we would like to stress the importance of effective measures against fraud and irregularities to counter the risks arising from significant additional resources to be spent in a short time, as is the case for the RRF. Furthermore, monitoring the facility's performance may be impaired by its broad and high-level objectives, in combination with shortcomings in the reporting system. Finally, the proposal does not clearly define the role of the European Parliament in the budgetary process or the audit rights of the European Court of Auditors (ECA).

V. Based on our observations we consider that the proposal could be further improved by:

— developing suitable mechanisms to ensure coordination with other sources of EU funding and to ensure additionality,

— more closely linking the RRF's objectives of recovery and resilience with the allocation keys,

— simplifying the procedures for RRPs and payment requests to the extent possible, to reduce the administrative burden and facilitate absorption,

— reconsidering the frequency and timing of reporting and evaluation, and defining suitable indicators for the overall achievements of the RRF,

— defining the role of the Parliament in the budgetary process and explicitly setting out the audit rights of the ECA.

Introduction

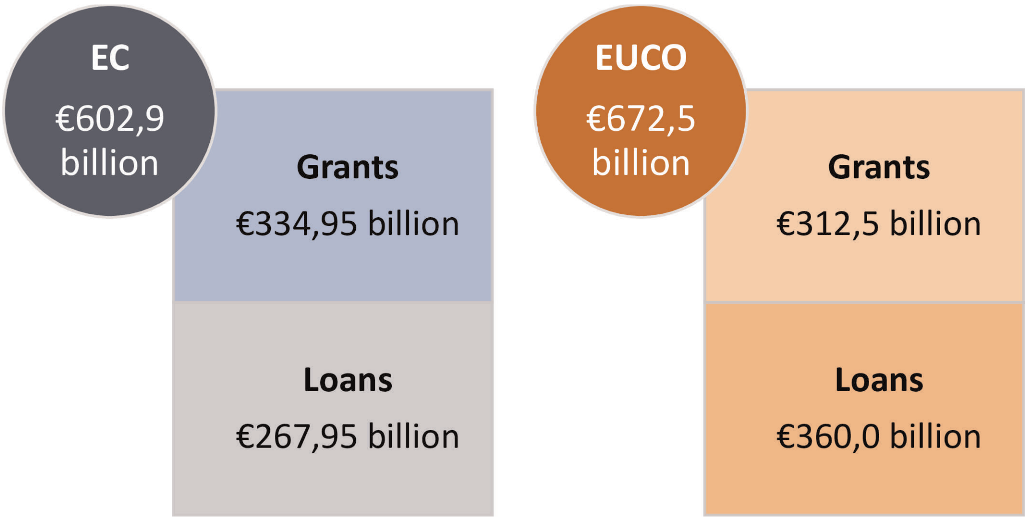
1. Confinement measures taken since the outbreak of the COVID-19 pandemic earlier this year have led to significant losses of revenue for many businesses, increases in unemployment and increases in non-performing loans, right across the EU. To address these challenges, the Member States and the European Union (EU) have taken a number of measures to support the incomes of households and health spending, maintain employment and protect businesses.

2. At the end of May, the Commission proposed a wide-ranging package ([1]) combining the new 2021–2027 Multiannual Financial Framework (MFF) of EUR 1 100 billion and the one-off emergency instrument called Next Generation EU (NGEU) worth EUR 750 billion (see Annex I). The NGEU aims to support Member States in reducing the socio-economic impact of the pandemic, recovering and getting back on track to sustainable growth.

3. The subject of this opinion is the RRF ([2]), part of the NGEU. With a total budget of more than EUR 600 billion in current prices, the RRF represents around 80 % of the NGEU budget and corresponds to more than half of the newly proposed MFF. It is meant to offer large-scale financial support for public investments and reforms that will make Member States' economies more resilient and better prepared for the future. It comprises both grants and loans to Member States (Figure 1).

Figure 1

RRF: Commission proposal and European Council conclusions



Source: ECA based on the Commission's RRF proposal (in current prices; in 2018 prices the amounts are EUR 310,0 billion for grants and EUR 250,0 billion for loans) and the European Council conclusions of 21 July 2020 on the recovery plan and MFF for 2021-2027 (in 2018 prices).

4. The RRF will be implemented alongside other programmes within the NGEU (REACT EU under the structural and cohesion funds and the amended proposals for EFSI and InvestEU) and other EU instruments related to the COVID-19 response (e.g. Support to mitigate Unemployment Risks in an Emergency (SURE), the European Investment Bank's and the European Stability Mechanism's financing for businesses and Member States, and the ECB's Pandemic Emergency Purchase Programme).

5. On 17 July 2020, the CONT Committee of the European Parliament asked the ECA to deliver an opinion on the Commission's proposal for the establishment of the RRF. The aim of this opinion is to assess the design, the adequacy of the instruments proposed, potential risks and the monitoring and reporting mechanisms of the RRF. It is limited to the Commission's proposal, but takes into account the related political agreement reached at the European Council on 21 July ([3]) (see Annex II).

([1]) European Commission, 'The EU budget powering the recovery plan for Europe', 27 May 2020 (COM(2020) 442 final).
([2]) European Commission, Proposal 2020/0104 (COD) for a Regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility, 28 May 2020 (COM(2020) 408 final).
([3]) European Council, Conclusions on the recovery plan and MFF for 2021-2027, 17-21 July 2020, EUCO 10/20.

6. This opinion complements our other opinions concerning the rule of law, the CPR, REACT-EU, the Just Transition Fund and the Neighbourhood, Development and International Cooperation Instrument (see Annex III).

General observations – design of the Facility

Objectives and coordination of different funding sources

Articles 3, 4, 6, 8 and 22 of the Commission's proposal

Key points

— Overlapping of RRF's scope and objectives with other EU programmes creates risks of double funding and competition

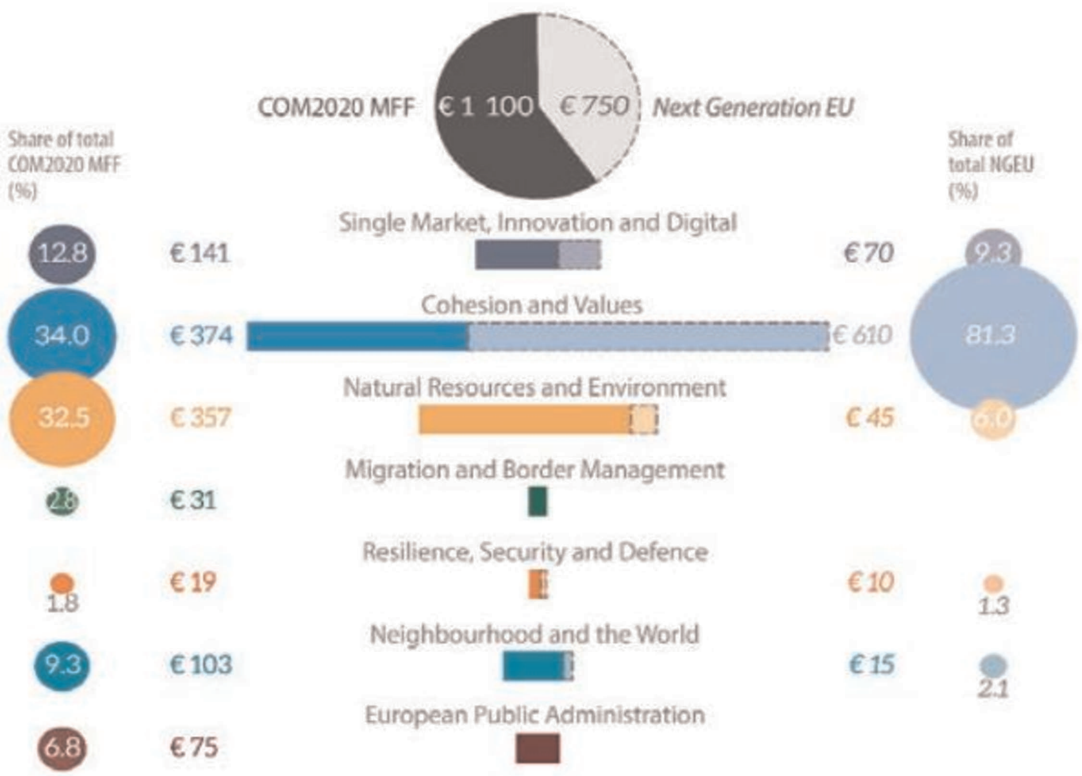
— There is a need for a stronger link to the EU's objectives and focus

— The additionality and complementarity of the Union's funding sources could be further strengthened

7. The NGEU, including the RRF, aims to contribute to EU objectives for cohesion, sustainability and digitalisation. It will support operations under the MFF heading 'Cohesion and Values', as well as the 'Single Market, Innovation and Digital' and 'Natural Resources and Environment' headings (Figure 2).

Figure 2

NGEU reinforcing 2021–2027 MFF headings (in billion euro, 2018 prices)



Source: European Parliament, EPRS.

8. The scope of the RRF [4] as well as the general and specific objectives [5] are defined in the Commission's proposal. The scope covers policy areas ranging from economic, social and territorial cohesion, green and digital transitions, health, competitiveness, resilience, productivity, education and skills, research and innovation, smart, sustainable and inclusive growth, jobs and investment, to the stability of the financial systems. The overall objective of the RRF is to 'promote economic, social and territorial cohesion, thereby contributing to the resilience and adjustment capacity of the Member States, mitigating the social and economic impact of the crisis, and supporting the green and digital transitions' [6].

9. The scope as well as the objectives are rather broad and cover a wide range of policy areas. As a result, not all of these objectives can be addressed to the same extent and achieving some objectives may come at the price of others (e.g. economic cohesion versus green transition). In addition, there is neither a quantification of the expected results at EU level nor for the allocation of funds to different objectives, which may potentially reduce the efficiency of the RRF.

10. The proposal links the RRF to high-level EU objectives such as sustainable recovery and economic and social convergence [7], as well as to the Green Deal and digital transformation [8]. However, this link could be further strengthened in practice through, for example, compulsory common indicators. This would reduce the risk of a weak connection between the milestones and targets set in individual Recovery and Resilience Plans (RRPs) and the more general objectives at RRF level or even at EU level.

11. Any support under the RRF to finance reform and investment projects should be additional to other Union funds and programmes and should not cover the same costs [9]. The objectives of the RRF are common to other EU programmes, which has advantages in terms of complementarity and synergy. However, it increases the risk of double funding and competition between different programmes, in particular as the scheme will cover projects which are potentially eligible under other policy areas, such as cohesion, transport, energy and research.

12. Effective coordination mechanisms between the various Union programmes and instruments to ensure, among other things, complementarity, consistency and close cooperation to achieve the objectives established by the proposal [10] are therefore essential. We welcome the Commission's intention to develop these mechanisms in consultation with the Member States.

13. The Commission's proposal allows transfers to the RRF of resources from shared management programmes [11], which are not conditional and limited under the proposal, but could be subject to the conditions and limitations set in their respective regulations, such as the Common Provisions Regulation (CPR) for European Structural and Investment Funds (ESIF). The possibility of transfers may result in a shifting of funds to programmes which are considered less conditional or more advantageous in terms of costs. For example, the transfer of funds could potentially undermine the safeguards inherent in operational programmes subject to shared management, or open up the possibility of avoiding the co-financing otherwise required from Member States. Introducing specific conditions in the RRF regulation for this transfer of funds, as well as a maximum amount, should therefore be considered.

14. Whilst the RRF shares some of the objectives of the MFF's structural funds, it still follows a different purpose and spending logic. The first aims to support broad reform and investment programmes based on progress milestones, the latter offers reimbursement of specific programme- or project-related costs. This may be challenging in practice, as it requires combining different objective and indicator systems and may create a disincentive for Member States to coordinate the two funding streams effectively.

(4) European Commission, RRF proposal COM(2020) 408, Article 3.
(5) European Commission, RRF proposal COM(2020) 408, Article 4.
(6) European Commission, RRF proposal COM(2020) 408, recital 14.
(7) European Commission, RRF proposal COM(2020) 408, recital 5.
(8) European Commission, RRF proposal COM(2020) 408, recital 6.
(9) European Commission, RRF proposal COM(2020) 408, Article 8.
(10) European Commission, RRF proposal COM(2020) 408, Article 22.
(11) European Commission, RRF proposal COM(2020) 408, Article 6.

Adequacy of amount of aid proposed

Article 5 of the Commission's proposal

Key points

— The RRF will considerably increase the amount of available funds, in particular in 2021-2022

— The adequacy of the amount proposed is difficult to assess, as the objectives are rather broad and the economic impact of COVID-19 is still unfolding

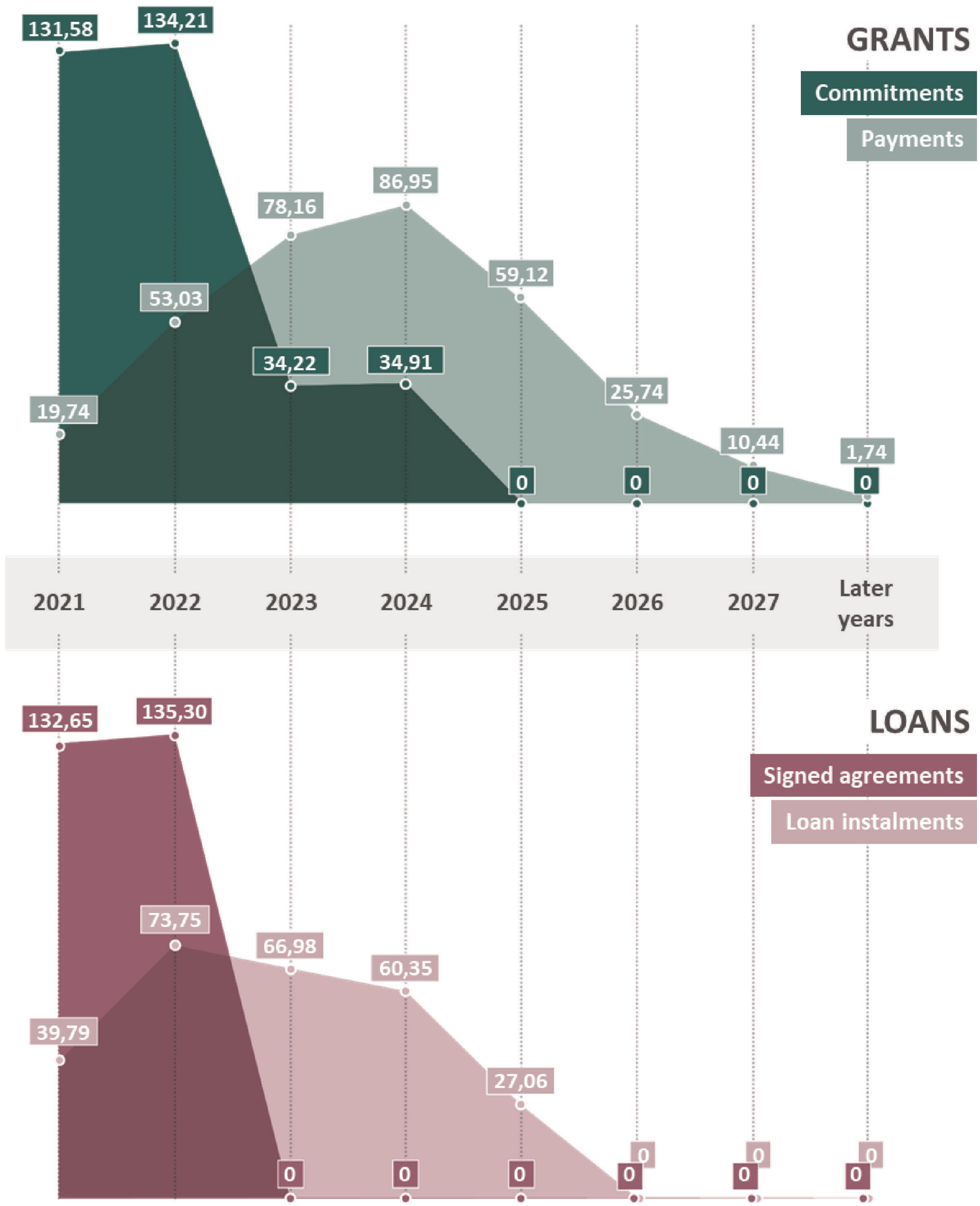
15. Based on the new Commission's MFF proposal of May 2020, the EU is making more than EUR 1 800 billion available in the 2021-2027 period (new MFF and the NGEU taken together). The NGEU is providing EUR 750 billion in additional funding whilst at the same time the total size of the MFF has been reduced by almost EUR 35 billion in comparison with the Commission's proposal of May 2018 and by almost EUR 224 billion in comparison with the proposal tabled by the European Parliament in November 2018 ([12]).

16. Given that 60 % of the RRF grants (or 70 % according to the Council conclusions) will have to be committed in 2021–2022, the funds available in that period will almost double the normal MFF funding per year of about EUR 150 billion (see Figure 3).

([12]) European Parliament, EPRS, 'Negotiations on the next MFF and the EU recovery instrument – Key issues ahead of the July European Council', p. 4, July 2020.

Figure 3

Estimated annual disbursement of RRF funds (in billion euro, 2018 prices)



Source: ECA based on Commission's RRF proposal, p. 40.

17. We note that the adequacy of the RRF to address the consequences of the COVID-19 crisis should not be examined in isolation, as it is part of a series of measures at both EU and national level, and the impact of the crisis on the economies of the Member States cannot yet be assessed. We understand that the Commission's proposal on the establishment of the RRF was not subject to a dedicated impact assessment or stakeholder consultation, due to the urgency of developing the legislative act in a very short time in response to COVID-19.

18. A Commission staff working paper ([13]) makes an effort to identify the recovery needs in the EU following the COVID-19 crisis. However, it does not include sufficient information on how the Commission determined the total amount required for the RRF or the proportion allocated to loans or grants. Furthermore, the rather wide scope of the facility and the broad general objectives make it difficult to quantify the extent of support needed to achieve these objectives. This may increase the risk of raising stakeholders' expectations beyond reasonable levels.

Governance and audit arrangements

Articles 7 and 9 of the Commission's proposal

Key points

— The RRF is subject to sound economic governance rules established under the CPR and thus builds on mechanisms which already exist

— The role of the European Parliament in the budgetary process is not clearly defined

— The ECA's right of audit is not explicitly set out in the proposed regulation

— The measures against fraud and irregularities need to be strengthened to effectively counter new risks

19. Under the Commission proposal, the RRF is subject to the economic governance rules established under the CPR of the structural and cohesion funds ([14]) and it is to be implemented by the Commission in direct management in accordance with the Financial Regulation ([15]). Consequently, the RRF integrates already existing elements and it is thus designed to make use of the mechanisms set out in the Financial Regulation.

20. However, as the RRF is financed under the EU Recovery Instrument and therefore constitutes 'other revenue' within the meaning of Article 311(2) TFEU, it does not form part of the EU budget. This marks a major shift in how EU spending will be financed during the period of the next MFF.

21. The proposal states that the RRF will be implemented by the Commission in direct management in accordance with the Financial Regulation but does not mention explicitly whether the Financial Regulation's provisions related to the establishment of the budget and the discharge procedures will be applicable to the Facility. We have consistently stated that the same principles of accountability and transparency should be applied to the different financial instruments of the EU ([16]). We are therefore of the opinion that the role of the European Parliament in the budgetary and discharge procedure should be clearly defined in the regulation.

22. We understand that the ECA is entitled to audit any revenue or expenditure of the Union under the RRF in line with Article 287(1) TFEU. As the RRF will be implemented outside the EU budget, we nevertheless recommend, for reasons of clarity, that a specific provision should be inserted in the proposed regulation which will clearly provide for the Court's right of audit for the grants as well as the loan component of the RRF.

([13]) European Commission, Staff Working document: 'Identifying Europe's recovery needs', 27 May 2020 (SWD(2020) 98 final).
([14]) European Commission, RRF proposal COM(2020) 408, Article 9.
([15]) European Commission, RRF proposal COM(2020) 408, Article 7.
([16]) Briefing ECA, briefing paper on the Commission's proposal for the 2021-2027 Multiannual Financial Framework; landscape review: 'Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements'; Opinion No 2/2018: 'The audit and accountability considerations concerning the proposal of 6 December 2017 for the establishment of a European Monetary Fund within the Union legal framework'.

23. As we have noted previously, the provision of a significant amount of additional resources to be spent in a short time increases the pressure on control systems ([17]). In a previous report, we identified several deficiencies affecting the anti-fraud management process and called on the Commission and managing authorities to strengthen fraud detection, response and coordination among Member State bodies ([18]). In light of this, we welcome the Commission's intention to further strengthen the measures against fraud and irregularities ([19]) but are not in a position to conclude at this stage whether they are likely to be adequate to address the risk of irregularity and fraud. Consequently, we must stress the importance of effective internal controls and anti-fraud measures to counter the new risks from economic stimuli such as the RRF.

Financial contribution and allocation process

Maximum financial contribution

Article 10 of the Commission's proposal

Key points

— The financial contribution (grants) only partly reflects the impact of COVID-19

— The proposed formula does not fully reflect the objectives of the RRF to improve resilience and support recovery

24. The Commission's methodology for the calculation of the maximum financial contribution for grants is based on Member States' populations, the inverse of per capita Gross Domestic Product (GDP) and the relative unemployment rate for the period 2015–2019.

25. Even though the RRF was introduced as a response to the medium- and long-term consequences of the COVID-19 crisis, this is only partly reflected in the financial contribution, given that the allocation is based on pre-crisis rather than COVID-19-related weaknesses. As a result, of the ten Member States receiving the highest RRF grant allocation, four are expected to suffer from a GDP decline in 2020 which is below the EU average of about 7 % (see Figure 4).

26. Although the European Council's conclusions include a review of the maximum financial contribution in order to take account of the impact of COVID-19, it will only apply to the 30 % of the funds to be committed in 2023.

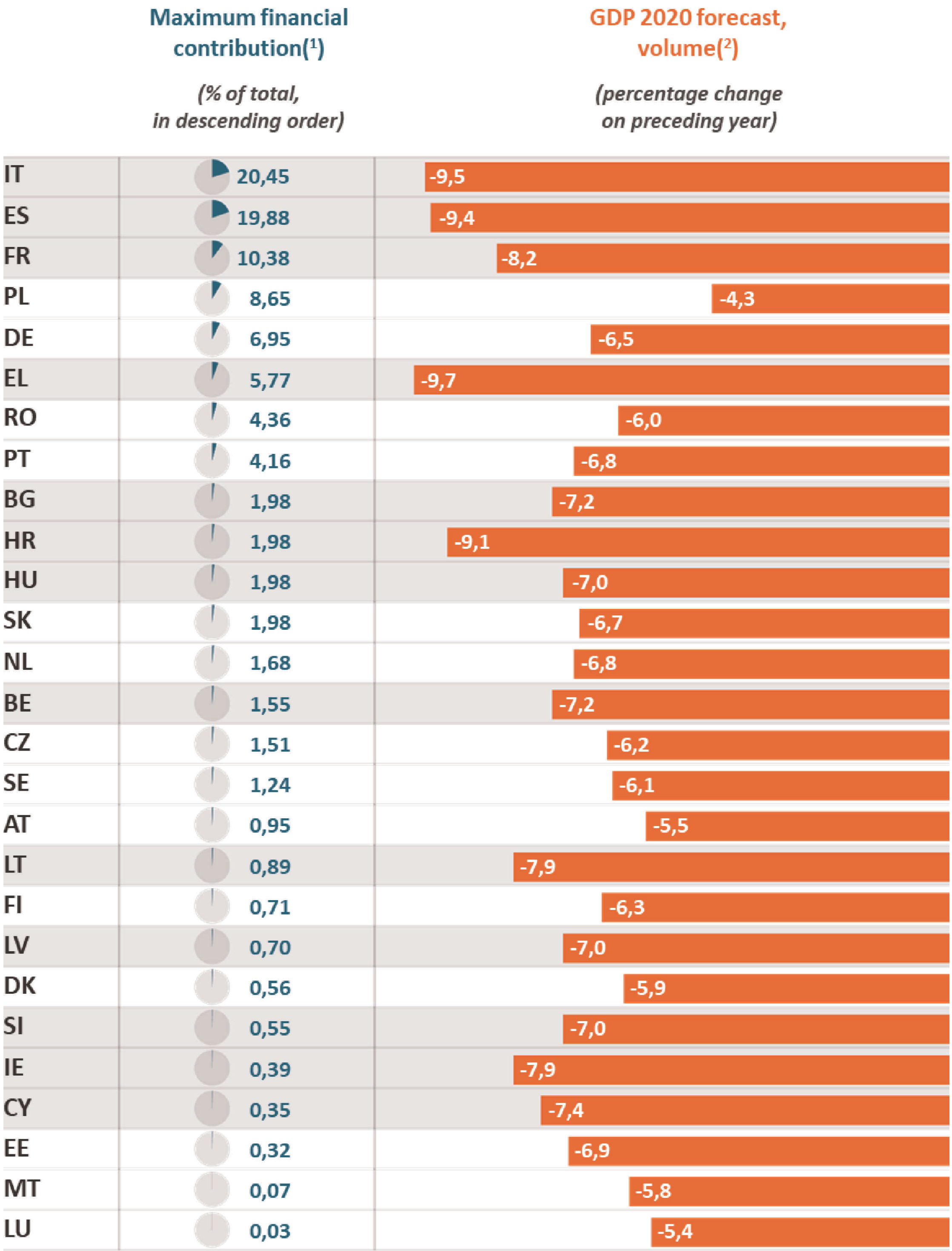
([17]) ECA, opinion No 4/2020 regarding the proposed REACT-EU regulation and Common Provisions Regulation governing the ESI funds, paragraph 20.

([18]) ECA, special report 06/2019: 'Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination', paragraph 79 and recommendations.

([19]) European Commission, 'The EU budget powering the recovery plan for Europe', 27 May 2020 (COM(2020) 442 final).

Figure 4

RRF maximum financial contribution in relation to GDP 2020 forecast, by Member State



Note: Member States in grey are projected to reach a decline in GDP of 7 % or more in 2020, according to the European Commission's Spring forecast.

Sources:

(1) Annex I of the RRF Proposal.

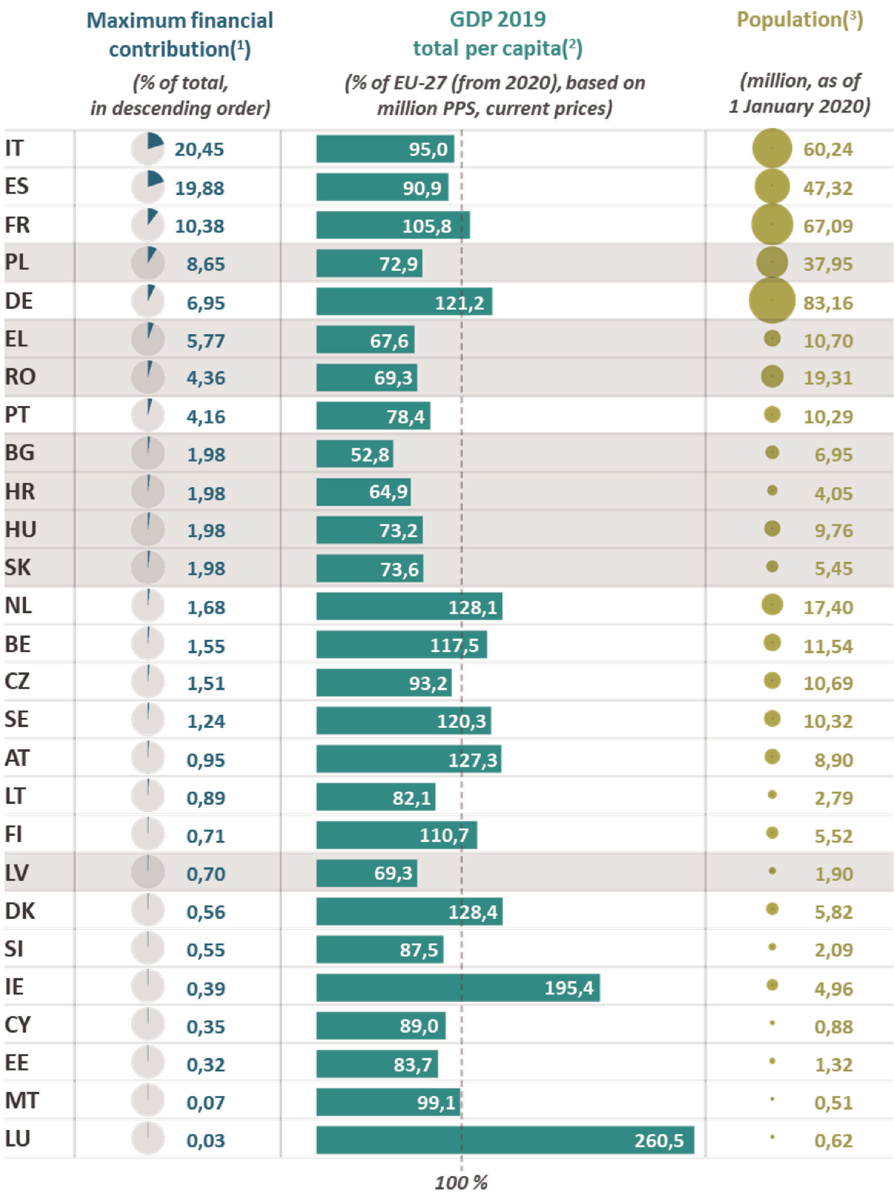
(2) Spring 2020 Forecast, European Commission.

27. Beside the RRF's objective of mitigating the impact of COVID-19, it also aims to promote the Union's economic, social and territorial cohesion by improving resilience and supporting recovery. Still, this is only partly reflected in the allocation mechanism. More than two thirds of the RRF's grants are earmarked for the 14 Member States with a 2019 GDP per capita of at least 90 % of the EU's average, and only about a quarter for the eight Member States with a 2019 GDP per capita below 75 % of the EU's average (see Figure 5).

28. This difference is largely due to the size of the population of the countries (see Figure 5), and the fact that the population has an equal weight in the calculation of the maximum financial contribution of grants as the inverse of the GDP per capita.

Figure 5

RRF maximum financial contribution in relation to GDP 2019 total per capita and population, by Member State



Note: Member States in grey have reached a 2019 GDP total per capita of 75 % of EU-27 GDP or less.

Sources:

(1) Annex I of the Commission's RRF Proposal.

(2) Eurostat, [nama_10_pc], last update: 4 August 2020.

(3) Eurostat, online data code: TPS00001.

29. In addition, the maximum amount for loans is calculated as a percentage of the GNI of the respective Member States. This allows for higher loans for more developed Member States, albeit – at a maximum of 6,8 % of GNI – at a substantial level for all Member States.

30. We also note that the revisions of GDP over time may lead to changes in the allocation key. This is particularly relevant under the current situation of economic turmoil, which increases the probability of post-2022 revisions of 2020-2021 GDP and thus adjustments in the allocation key.

Allocation of financial contribution

Article 11 of the Commission's proposal

Key points

— Tight deadlines for commitment of funds ensure a rapid response but may hinder the overall effectiveness of the RRF

— Issues with absorption capacity might prove a bottleneck for Member States

31. The Commission proposed that legal commitments for at least 60 % of non-repayable support should be entered into by 31 December 2022. For the remaining amount, legal commitments should be entered into by 31 December 2024. The European Council suggested a commitment of 70 % of grants by the end of 2022 and the remainder by the end of 2023.

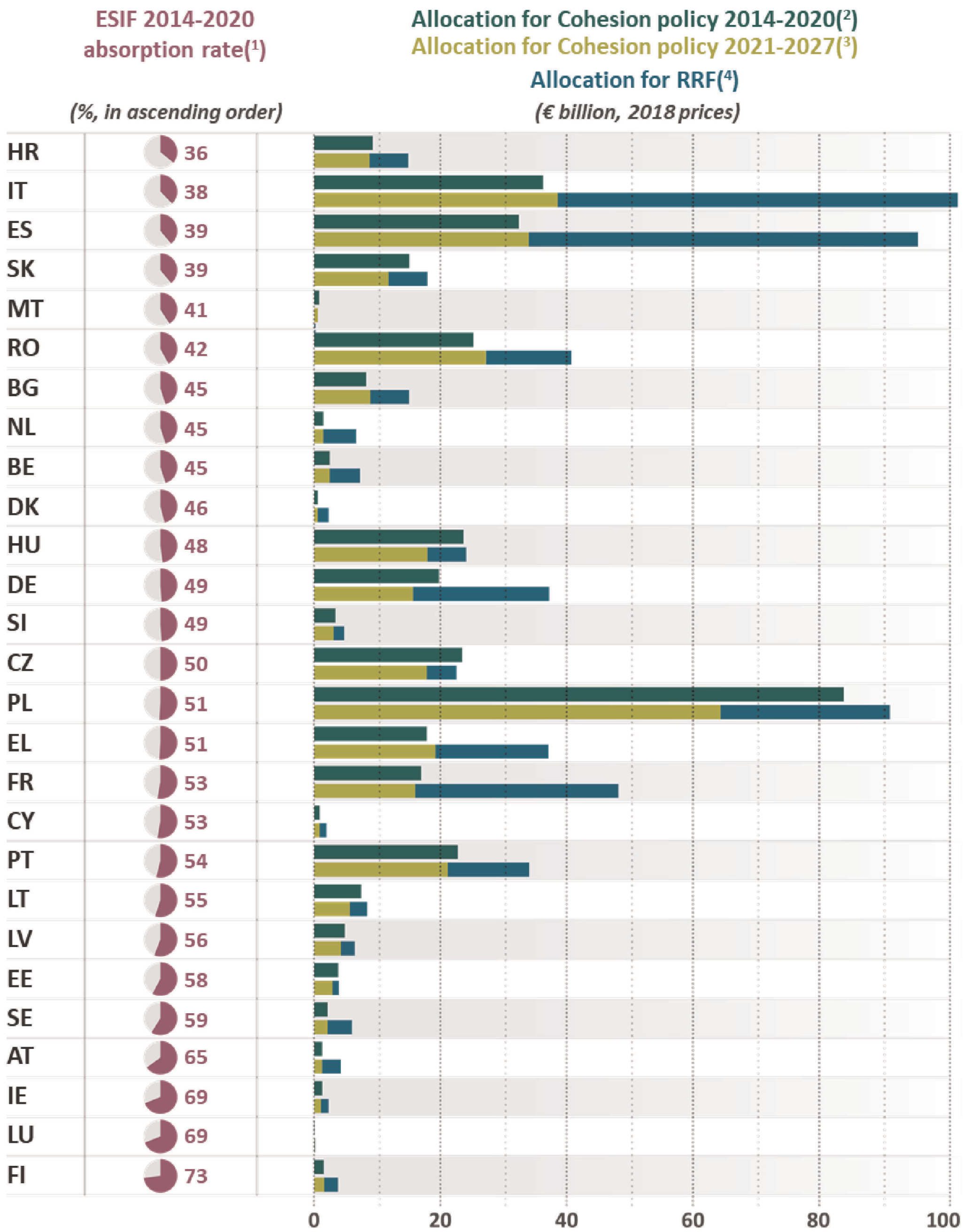
32. As we have previously observed ([20]), Member States need to have sufficient time and appropriate administrative capacity to absorb funds allocated by the Commission through different programmes. Some of the Member States with the lowest absorption in the current programming period are likely to get substantial support from the RRF (see Figure 6).

33. This may pose a severe administrative burden, and a risk for the successful implementation of the RRPs that could jeopardise, if not properly managed, the preparation and implementation of cohesion policy as well.

([20]) ECA, opinion No 4/2020 regarding the proposed REACT-EU regulation and Common Provisions Regulation governing the ESI funds, paragraph 8.

Figure 6

ESIF 2014-2020 absorption rate in relation to Cohesion allocation 2014-2020 and 2021-2027 and RRF maximum financial contribution



Sources:

(1) Cohesion data (https://cohesiondata.ec.europa.eu/overview), 11 August 2020, European Commission. *Note*: Absorption rate – percentage of the total amount allocated to a Member State that has been paid.

(2) European Court of Auditors, Rapid case review: Allocation of Cohesion policy funding to Member States for 2021-2027.

(3) European Commission, EU budget: Regional Development and Cohesion Policy beyond 2020.

(4) Annex I of the Commission's RRF Proposal.

Borrowing operations

Articles 12 and 13 of the Commission's proposal

Key points

— The Commission has experience with borrowing on financial markets but needs a rapid increase in resources to deal with the frequency and scale of the borrowing

— The fact that the interest rate risk will be borne by the beneficiary Member States is not explicitly stated in the proposal

34. The Commission has a track record of borrowing on financial markets on behalf of the Union, and the capacity to do so ([21]). However, under this proposal, the Commission will borrow at a greater scale than ever before, needing a rapid build-up of human resources to be able to deal with the frequency of the borrowing and disbursement to beneficiary Members States.

35. Furthermore, the proposal allows the Commission to derogate from the previous practice of borrowing and onward lending at the same maturity. On the one hand, this could have benefits if it allows the Commission to take advantage of market conditions and beneficiary Member States' financing schedules. On the other, this entails an interest rate risk, which arises when the cost of borrowing changes between borrowing and disbursement.

36. According to the Commission's proposal ([22]), beneficiary Member States should bear the costs related to borrowing. In addition, the proposal is silent on whether there will be any monitoring of Member States' repayment capacity for the loans part. It could be made clearer either in the final regulation or in the loan contracts with the Member States that this interest rate risk arising from maturity transformation is to be borne by the beneficiary Member States.

Recovery and Resilience Plans

Articles 14-18 of the Commission's proposal

Key points

— Preparation and adoption of the individual RRPs is likely to be time-consuming

— The assessment of RRPs is comprehensive but could be further clarified and potentially simplified

— The link to the European Semester is conducive to reducing the administrative burden but may imply challenges

— Preparing RRPs, Operational Programmes and National Reform Programmes (NRPs) at the same time may be challenging for Member States

Preparation and adoption of recovery and resilience plans

37. The RRPs will form the basis for the disbursement of the financial contribution. They should set out measures which address the country-specific challenges and priorities identified in the European Semester and contribute to the green and the digital transitions ([23]). In addition, they should include milestones, targets, an indicative timetable as well as the estimated total cost of the reforms for the subsequent four years and investments for the subsequent seven years.

([21]) ECA, special report 18/2015: 'Financial assistance provided to countries in difficulties', paragraphs 115-136.
([22]) European Commission, RRF proposal COM(2020) 408, Article 13(3).
([23]) European Commission, RRF proposal COM(2020) 408, Article 14.

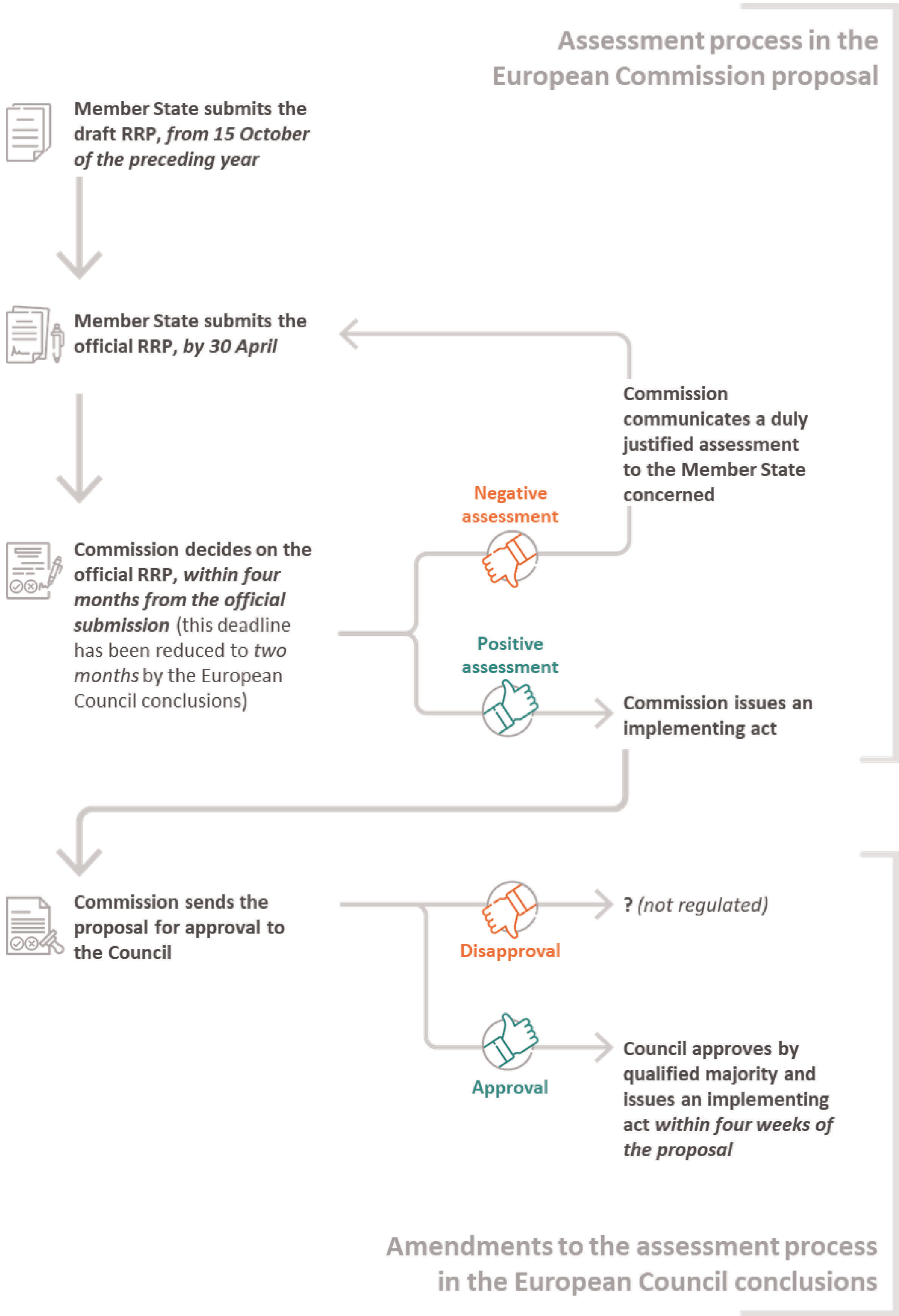
38. Given the objective of the RRF to mitigate the economic impact of the COVID-19 crisis, timely assessment and approval of the RRPs is essential. We therefore support the possibility of an exchange of good practices between the Member States, organised by the Commission ([24]).

39. The Commission's proposal states that Member States should submit their RRP to the Commission by 30 April and may submit a draft plan together with a draft budget starting from 15 October of the preceding year. The Commission will assess the plan within four months ([25]). The Council's conclusions reduce the time for the assessment to two months and specify that the Council will endeavour to adopt the Commission proposal within four weeks ([26]), but do not define the procedure in the case of Council's disapproval (see Figure 7). Taking into account the Commission proposal and the suggested changes in the Council conclusions, the RRPs will most likely only be adopted in the second half of 2021.

([24]) European Commission, RRF proposal COM(2020) 408, Article 15(4).
([25]) European Commission, RRF proposal COM(2020) 408, Article 17(1).
([26]) European Council, EUCO 10/20, point A 19.

Figure 7

Timeline of RRP assessment and adoption process: Commission proposal and European Council conclusions



Source: ECA based on Commission's RRF proposal and European Council conclusions.

40. Possible measures that could be envisaged are:

— strongly encouraging the submission of draft RRPs in 2020,

— the Commission providing guidance to Member States on the preparation of RRPs and the types of investments considered most effective in support of economic recovery,

— aiming to shorten the Commission's assessment of the final RRPs, building on the preceding analysis of draft versions of the plans,

— assessing the possibility of staggering the submission of the RRPs to avoid bottlenecks.

41. The preparation and implementation of RRPs will overlap with the preparation and implementation of the new Operational Programmes for the 2021-2027 period and will be in addition to the preparation of NRPs envisaged under the European Semester. As the measures included in all of them will have similar objectives, possible synergies and alignment should be considered by the Commission in order to reduce the administrative burden and save time. Furthermore, the Commission and Member States should use all possible means to take advantage of digitalisation and IT.

Assessment of recovery and resilience plans

42. Ensuring a harmonised assessment and high quality RRPs may be challenging. This is mainly due to the broad and rather high-level objectives of the RRF, which may result in RRPs covering a wide variety of issues but lacking focus and specificity.

43. The RRPs as well as their subsequent assessment will largely be based on a dialogue between the Commission and the Member State in question. Although we welcome this approach as it potentially increases ownership at Member State level, adequate mechanisms should be put in place to ensure a sufficient level of ambition in the RRPs regarding objectives as well as milestones and indicators.

44. The Commission's assessment of the RRPs follows the criteria defined in Annex II of the Commission's proposal. In our view these criteria and the rating could be further simplified or clarified (see Annex IV).

— Some criteria may overlap, in particular as the Country Specific Recommendations (CSRs; criterion 2.1) are likely to also touch upon the other criteria, e.g. green and digital transition (criterion 2.2), growth potential and job creation (criterion 2.4), and are likely to aim for a lasting impact (criterion 2.3).

— Some criteria ('effectively contribute' or 'lasting impact') as well as the rating (e.g. 'to a large/moderate/small extent') leave room for qualitative judgement.

— Common indicators as well as standard costs for certain measures could potentially facilitate and improve the assessment process. However, there is no provision for them in the proposal.

— Several criteria cover more than one aspect, which is likely to complicate the rating of the criterion in question (e.g. criterion 2.2 'green and digital transition').

— The alignment with the CSRs (criterion 2.1), one of the most important criteria in terms of its weight in the overall assessment, may only partly address the unfolding dimension and challenges of the crisis, given that the CSRs in question were already proposed in May 2020.

Link with the European Semester

45. We generally welcome the close link to the European Semester and the CSRs defined within that framework, because of the similarity of the objectives and the potential for reducing the administrative burden. However, linking the RRF to the European Semester considerably changes the character and the financial consequences of the latter.

46. In our audit work we noticed the following weaknesses in relation to the CSRs and the European Semester ([27]), which may also have an impact on the RRF.

— Not all Member States fully implement CSRs and the Commission has not always or not sufficiently used its powers to recommend specific measures where Member States have not addressed the CSRs.

— Country Reports (CRs) are generally the basis for selecting and formulating CSRs but the link between the use of EU funds supporting reforms and CSRs is not developed enough.

— In certain cases, the CSRs contain a mix of issues, and generally lack clear timeframes and costs.

— CSRs reflect risks identified in CRs, but prioritisation is not explained clearly enough in some cases.

— Often NRPs do not explain the precise content of measures planned by the authorities, their expected timing, milestones for implementation and estimates of their costs and impact, and are instead described only in a very general manner.

Financial provisions

Article 19 of the Commission's proposal

Key points

— Complex and lengthy decision-making for payment requests may slow the process

— The Commission's proposal does not include provisions for the recovery of funds

Decision-making procedure for payment requests

47. Member States may submit payment requests biannually upon completion of the relevant milestones and targets agreed in the RRPs. The Commission will then assess the request within two months.

48. The Council conclusions provides for a compulsory opinion by the Economic and Financial Committee (EFC) of the Council. In addition, it introduces the possibility for a Member State to refer the discussion to the European Council if it considers that there are serious deviations from the satisfactory fulfilment of the milestones and targets of the RRP of the Member State concerned. The European Council has to discuss the matter within three months of the Commission asking the EFC for its opinion. It remains to be seen to what extent this 'emergency brake' intervention will be used in practice.

49. As a result, the process – from a Member State's payment request until the Commission's payment – can be lengthy, considering the importance of a timely response to the current crisis. The possibility of simplifying the procedure and working in parallel on some of the steps should therefore be assessed when putting the regulation into practice.

50. The need for a timely availability of funds was to some extent addressed in the Council conclusions, by introducing a 10 % pre-financing option. However, including a pre-financing option in the regulation should be accompanied by more specific rules on the recovery of funds. The Commission's proposal only indicates that 'for the purpose of sound financial management, specific rules should be laid down for cancellation and recovery of funds' but does not specify them.

([27]) ECA, special report 16/20: 'The European Semester – Country Specific Recommendations address important issues but need better implementation'.

Reporting, monitoring and evaluations

Articles 20, 21, 23-25 of the Commission's proposal
Key points
— The frequency of Member States' reports to the Commission is not aligned with the biannual request for payments
— Common indicators based on RACER criteria for better monitoring and performance measurement of the RRF are not included in the proposal

Reporting by Member States to the Commission

51. The Commission's proposal suggests quarterly reporting by Member States on progress made in the achievement of the objectives defined in the RRPs. In addition, these reports are to be appropriately reflected and summarised in the NRPs, which are submitted annually and will be used as the tool for reporting on progress.

52. The proposal does not specify the purpose and content of those quarterly reports, and verification checks by the Commission are currently only planned for the biannual payment requests of the Member States. Reducing the frequency of the reporting to biannual reports accompanying the requests for payments should be considered, in order to reduce the administrative burden for Member States and the Commission. In addition, the Commission will need to provide further guidance on the content of the reports as well as the collection, analysis and verification of the information included in them.

Monitoring and measuring performance

53. A robust monitoring system is a necessary tool for assessing whether the loans and grants from the RRF are used to meet the objectives, to address any implementation problems that may occur, or to take corrective action if necessary. The monitoring system should provide a clear link between the objectives and the relevant indicators ([28]). Such indicators help with analysing and comparing performance and can be useful for determining priorities. To the extent possible, such indicators should follow the RACER (Relevant, Accepted, Credible, Easy and Robust) criteria and adhere to the characteristics defined in the Better Regulation guidelines.

54. The proposal requires ([29]) the Commission to monitor the implementation and to measure the achievement of the objectives, based on the performance indicators included in Annex III:

— the number of RRPs approved (output),

— the overall financial contribution allocated to the RRP (output),

— the number of RRPs implemented (results),

— the objectives set in the RRPs for each Member State which have been achieved due to overall financial support (impact).

55. We note that the first two indicators are output indicators not directly linked to the objectives of the RRF. The third indicator does measure the result of the RRF but is only indirectly linked to the intended objectives. The only indicator directly related to the objectives of the RRF, therefore, is the last one, but its assessment will be challenging, given that its aim is to link the achievement of objectives to the financial support and thus is based on the assumption of a simple cause/effect relationship which does not exist in reality.

([28]) European Commission, Staff Working Document: 'Better Regulation Guidelines', 7 July 2017 (SWD(2017) 350 final).

([29]) European Commission, RRF proposal COM(2020) 408, Article 23.

56. Considering the specific objective of the proposal ([30]), we agree with the Commission that indicators and targets should be set at Member State level to take into account the specificities of each country. However, keeping in mind the general objectives set in the proposal and the common assessment criteria for the approval of the RRPs for all Member States, the Commission should develop common indicators and set specific EU level targets where possible. This would facilitate better monitoring and measurement of the implementation of the RRF at EU level, and guide Member States in using their resources more effectively to achieve EU goals. Without common indicators or the use of a common methodology, it will be difficult to monitor and audit spending, for example, on the green transition. In our opinion on the Just Transition Fund ([31]). we highlighted the importance of performance indicators that clearly capture the objective of transition out of carbon-intensive sectors in the context of the green transition.

57. In our recent special report on the European Semester, we also highlighted the challenges in measuring the effectiveness of policy intervention for multiple and simultaneous objectives and the fact that the cascading of objectives (from broad Treaty-based objectives to annual CSRs) is often not traceable, either *ex ante* or *ex post*. The monitoring of progress should also be able to demonstrate relevance and progress at CSR level as well as the contribution to the achievement of broader EU level objectives.

Evaluations

58. The proposal requires an independent evaluation of the implementation of the RRF four years after the entry into force of this regulation ([32]). More specifically, the evaluation should assess the extent to which the objectives have been met, the efficiency of the use of resources and the European added value. In addition, it will suggest any necessary proposals for amending the regulation.

59. We note that spending under the RRF is front-loaded and the evaluation will be published after the bulk of spending has been carried out. Any lessons learned through the evaluation would therefore be of limited use for the remainder of the RRF. We accept the Commission's argument that a careful balance needs to be struck between evaluating a programme that has been implemented to a sufficient extent (in order to have meaningful conclusions) and the need for an evaluation to feed back into the management of the programme. We also note that the evaluation may be useful for any potential discussions on whether to use it as a model for future programmes under the MFF 2028-2034. Moreover, we must point out that unless a more robust set of indicators is developed, it will be very difficult for ex-post and mid-term evaluations to provide meaningful assessments of effectiveness.

Concluding remarks

60. The RRF as proposed by the Commission in May 2020 aims to support Member States' recovery from the impact of the COVID crisis and make them more resilient for the future. By allowing for rapid deployment of additional resources, the Facility has the potential to contribute to achieving common EU objectives in the next MFF period.

61. We welcome the basic principle of the proposal to build on existing instruments and mechanisms such as the CPR and the European Semester, thereby fostering synergies and reducing administrative burdens at both the EU and national level. In addition, the envisaged dialogue with the Member States has the potential of increasing ownership whilst at the same time leaving flexibility to cater for the specific situation in each Member State. We would like to stress the importance of effective measures against fraud and irregularities to counter the risks arising from significant additional resources to be spent in a short time and we welcome the Commission's efforts in this respect.

62. However, we believe that the proposal could be further improved by:

— introducing suitable mechanisms to ensure coordination with other sources of EU funding and additionality,

([30]) European Commission, RRF proposal COM(2020) 408, Article 4(2).

([31]) ECA, opinion No 5/2020 on the Commission's 2020/0006 (COD) proposals of 14 January 2020 and of 28 May 2020 for a Regulation of the European Parliament and of the Council establishing the Just Transition Fund.

([32]) European Commission, RRF proposal COM(2020) 408, Article 25.

— more closely linking the allocation keys to the overall objective of recovery and resilience,

— simplifying the procedures for RRPs and payment requests to the extent possible to reduce the administrative burden and facilitate absorption,

— reconsidering the frequency and timing of the reporting and evaluation and defining suitable indicators for the overall achievements of the RRF,

— defining the role of the European Parliament in the budgetary process and explicitly stating the audit rights of the ECA.

63. We also note that certain aspects are not included in the proposal, as they will be developed in cooperation with the Member States. In order for the RRF to live up to its potential of fostering recovery and resilience, particular attention should be paid to ensuring sufficient ambition and coherence in the RRPs and appropriate assessment of their implementation

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 7 September 2020.

For the Court of Auditors
Klaus-Heiner LEHNE
President

ANNEX I

Overview of budgets of NGEU programmes according to the Commission proposal and European Council conclusions

Programme (2018 prices, in billion euros)	Commission's proposal (2018 prices, in billion euros)	European Council's conclusions (2018 prices, in billion euros)	Difference (2018 prices, in billion euros)
ReactEU (MFF 2014-2020 ESIF)	50,0	47,5	-2,5
RRF – grants	310,0	312,5	2,5
RRF – loans	250,0	360,0	110,0
Health	7,7	0,0	-7,7
RescEU (Civil protection)	2,0	1,9	-0,1
Horizon Europe (Research and innovation)	13,5	5,0	-8,5
Just transition to climate neutrality	30,0	10,0	-20,0
Rural development	15,0	7,5	-7,5
Humanitarian aid	5,0	0,0	-5,0
EFSI / InvestEU (Support for investment in internal policies)	30,3	5,6	-24,7
Solvency Instrument	26,0	0,0	-26,0
EFSD (Sustainable and inclusive growth outside the EU)	10,5	0,0	-10,5
Total	**750,0**	**750,0**	**0,0**

Source: ECA based on the Commission's proposal of 27 May and the European Council conclusions of 21 July 2020.

ANNEX II

European Commission's v European Council's proposal

Article of the European Commission's proposal	Text of the Article of the European Commission's proposal	European Council's proposed change
Article 5(1) **Resources from the European Union Recovery Instrument**	1. Measures referred to in Article 2 of Regulation [EURI] shall be implemented under this Facility: (a) through amount of **EUR 334 950 000 000** referred to in point (ii) of Article 3(2)(a) of Regulation [EURI] in current prices, available for non-repayable support, subject to Article 4(4) and (8) of Regulation [EURI]. These amounts shall constitute external assigned revenues in accordance with Article 21(5) of the Financial Regulation. (b) through amount of **EUR 267 955 000 000** referred to in Article 3(2)(b) of Regulation [EURI] in current prices, available for loan support to Members States pursuant to Article 12 and 13, subject to Article 4(5) of Regulation [EURI].	Amended Article 5(1)(a) as follows: through amount of EUR 312 500 000 000 Amended Article 5(1)(b) as follows: through amount of EUR 360 000 000 000
Article 10 **Maximum financial contribution**	A maximum financial contribution shall be calculated for each Member State for the allocation of the amount referred to in Article 5(1)(a), using the methodology set out in Annex I, based on the population, the inverse of the per capita Gross Domestic Product (GDP) and the relative unemployment rate of each Member State.	Amended Article 10 as follows: The RRF commitment allocation key for the years 2021-2022 shall be established according to the Commission proposal. In the allocation key for the year 2023 the 2015-2019 unemployment criterion is replaced, in equal proportion, by the loss in real GDP observed over 2020 and by the cumulative loss in real GDP observed over the period 2020-2021 and will be calculated by 30 June 2022.
Article 11 **Allocation of financial contribution**	1. **For a period until 31 December 2022**, the Commission shall make available **for allocation EUR 334 950 000 000**, referred to in point (a) of Article 5(1). Each Member State may submit requests up to their maximum financial contribution, referred to in Article 10, to implement their recovery and resilience plans. 2. For a period starting after 31 December 2022 until 31 December 2024, where financial resources are available, the Commission may organise calls in line with the calendar of the European Semester. To that effect, it shall publish an indicative calendar of the calls to be organised in that period, and shall indicate, at each call, the amount available for allocation. Each Member State may propose to receive up to a maximum amount corresponding to its allocation share of the available amount for allocation, as referred to in Annex I, to implement the recovery and resilience plan.	Amended Article 11(1) as follows: 70 % of the grants provided by the RRF shall be committed in the years 2021 and 2022. The remaining 30 % shall be fully committed by the end of 2023. Added paragraph 3. as follows: The prefinancing for the RRF will be paid in 2021 and should be 10 %.
Article 12(4) **Loans**	4. The loan support to the recovery and resilience plan of the Member State concerned shall not be higher than the difference between the total cost of the recovery and resilience plan, as revised where relevant, and the maximum financial contribution referred to in Article 10. **The maximum volume of the loan for each Member State shall not exceed 4,7 % of its Gross National Income.**	Amended Article 12(4) as follows: As a rule, the maximum volume of the loans for each Member State will not exceed 6.8 % of its GNI.

Article 14(1) **Eligibility**	1. In pursuance of the objectives set out in Article 4, Member States shall prepare national recovery and resilience plans. These plans shall set out the reform and investment agenda of the Member State concerned **for the subsequent four years**. Recovery and resilience plans eligible for financing under this instrument shall comprise measures for the implementation of reforms and public investment projects through a coherent package.	Amended Article 14(1) as follows: Member States shall prepare national recovery and resilience plans setting out the reform and investment agenda of the Member State concerned for the years 2021-23. The plans will be reviewed and adapted as necessary in 2022 to take account of the final allocation of funds for 2023.
Article 16(1) **Commission assessment**	1. When assessing the recovery and resilience plan, the Commission shall act in close cooperation with the Member State concerned. The Commission may make observations or seek additional information. The Member State concerned shall provide the requested additional information and may revise the plan if needed, prior to its official submission.	Added paragraph as follows: The criteria of consistency with the country-specific recommendations, as well as strengthening the growth potential, job creation and economic and social resilience of the Member State shall need the highest score of the assessment. Effective contribution to the green and digital transition shall also be a prerequisite for a positive assessment.
Article 17(1) **Commission decision**	1. The Commission shall adopt a decision **within four months** of the official submission of the recovery and resilience plan by the Member State, by means of an implementing act. In the event that the Commission gives a positive assessment to a recovery and resilience plan, that decision shall set out the reforms and investment projects to be implemented by the Member State, including the milestones and targets, and the financial contribution allocated in accordance with Article 11.	Amended Article 17(1) as follows: The recovery and resilience plans shall be assessed by the Commission within two months of the submission. Added paragraph as follows: The assessment of the recovery and resilience plans shall be approved by the Council, by qualified majority on a Commission proposal, through an implementing act which the Council shall endeavour to adopt within 4 weeks of the proposal.
Article 19(3) **Rules on payments, suspension and cancellation of financial contributions**	3. Upon completion of the relevant agreed milestones and targets indicated in the recovery and resilience plan as approved in the implementing act of the Commission, the Member State concerned shall submit to the Commission a duly justified request for payment of the financial contribution and, where relevant, of the loan tranche. Such requests for payment may be submitted by the Member States to the Commission on a biannual basis. The Commission shall assess, within two months of receiving the request, whether the relevant milestones and targets set out in the decision referred to in Article 17(1) have been satisfactorily implemented. For the purpose of the assessment, the operational arrangement referred to in Article 17(6) shall also be taken into account. The Commission may be assisted by experts. Where the Commission makes a positive assessment, it shall adopt a decision authorising the disbursement of the financial contribution in accordance with the Financial Regulation.	Added paragraph as follows: The positive assessment of payment requests will be subject to the satisfactory fulfilment of the relevant milestones and targets. The Commission shall ask the opinion of the Economic and Financial Committee on the satisfactory fulfilment of the relevant milestones and targets. The Economic and Financial Committee shall strive to reach a consensus. If, exceptionally, one or more Member States consider that there are serious deviations from the satisfactory fulfilment of the relevant milestones and targets, they may request the President of the European Council to refer the matter to the next European Council. The Commission shall adopt a decision on the assessment of the satisfactory fulfilment of the relevant milestones and targets and on the approval of payments in accordance with the examination procedure. If the matter was referred to the European Council, no Commission decision concerning the satisfactory fulfilment of the milestones and targets and on the approval of payments will be taken until the next European Council has exhaustively discussed the matter. This process shall, as a rule, not take longer than three months after the

		Commission has asked the Economic and Financial Committee for its opinion. This process will be in line with Article 17 TEU and Article 317 TFEU.

Source: ECA based on the Commission's RRF proposal and the European Council conclusions of 21 July 2020 on the RRF proposal.

ANNEX III

Other relevant ECA opinions

— Opinion No 1/2018 on the Commission's proposal of 2 May 2018 for a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States;

— Opinion No 6/2018 on the Commission's proposal of 29 May 2018 on the CPR, COM(2018) 375 final;

— Opinion No 10/2018 on the proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument COM(2018) 460 final;

— Opinion No 2/2020 on the Commission's amended proposal of 14 January 2020 on the CPR, COM(2020) 23 final;

— Opinion No 4/2020 regarding the proposed REACT-EU regulation and Common Provisions Regulation governing the ESI funds;

— Opinion No 5/2020 on the Commission's 2020/0006 (COD) proposals of 14 January 2020 and of 28 May 2020 for a Regulation of the European Parliament and of the Council establishing the Just Transition Fund.

ANNEX IV

Assessment of RRPs

	Criterion	Rating	Remarks
2.1	The recovery and resilience plan is expected to contribute to effectively **addressing challenges** identified **in the relevant country-specific recommendations** (…) adopted by the Commission in the European Semester	**A:** the plan effectively addresses challenges and represents an adequate response	**Potential overlap in particular with the following criteria:** **— Green transition** **— Digital transition** **— Growth potential** **— Job creation** **— Economic and social resilience**
		B: the plan partially addresses challenges and represents a partially adequate response	
		C: the plan does not address challenges and does not represent an adequate response	
2.2	The plan contains measures that effectively **contribute to the green and the digital transitions** or to addressing the challenges resulting from them	**A:** to a large extent	**Potential overlap with criterion 2.1**
		B: to a moderate extent	
		C: to a small extent	
2.3	The recovery and resilience plan is expected to have a **lasting impact** on the Member State concerned	**A:** to a large extent	**Potential overlap with criterion 2.1 (CSRs are by their very nature rather long term)**
		B: to a moderate extent	
		C: to a small extent	
2.4	The recovery and resilience plan is expected to **effectively contribute** to strengthening the **growth potential, job creation, and economic and social resilience** of the Member State, to **mitigate** the economic and social **impact of the crisis**, and contribute to **enhancing economic, social and territorial cohesion**	**A:** high expected impact	**Potential overlap with criterion 2.1**
		B: medium expected impact	
		C: low expected impact	
2.5	The **justification** provided by the Member State **on the amount of the estimated total costs** of the recovery and resilience plan **is reasonable and plausible** and is commensurate with the expected impact on the economy and employment;	**A:** to a high extent	**This is a condition rather than an assessment criterion**
		B: to a medium extent	
		C: to a low extent	
2.6	The recovery and resilience plan contains **measures** for the implementation of reforms and public investment projects that **represent coherent actions**	**A:** to a high extent	**Potential overlap with criterion 2.1**
		B: to a medium extent	
		C: to a low extent	
2.7	The **arrangements proposed** by the Member States concerned are expected to **ensure effective implementation** of the recovery and resilience plan, **including** the proposed **milestones and targets**, and the related **indicators**	**A:** adequate arrangements	**This is a condition rather than an assessment criterion**
		B: minimum arrangements	
		C: insufficient arrangements	

Current proposal for overall assessment		Suggestion	
Recovery and resilience plan is *satisfactory*	**Recovery and resilience plan is *not satisfactory***	**Recovery and resilience plan is *satisfactory***	**Recovery and resilience plan is *not satisfactory***
— If rating for criteria 2.1 and 2.2 is A and — Rating for the other criteria is all A's or a majority of A's over B's and no C's	— If rating for criteria 2.1 and 2.2 is not A and — For the other criteria is a majority of B's over A's or at least one C's	— If rating for criteria 2.1 and 2.2 is A and — Rating for the other criteria is ~~all A's or~~ a majority of A's over B's and no C's	— If rating for criteria 2.1 ~~and~~ or 2.2 is not A ~~and~~ or — For the other criteria is a majority of B's over A's or at least one C's

Source: ECA based on the Commission's RRF proposal.