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EUROPÄISCHER RECHNUNGSHOF

Sehr geehrte Damen und Herren!

Hiermit teilen wir Ihnen mit, dass der Europäische Rechnungshof soeben seine Stellungnahme Nr. 01/2021 ***zu dem Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Einrichtung der Reserve für die Anpassung an den Brexit*** veröffentlicht hat. Diese Stellungnahme wurde unter der Leitung von Tony Murphy, Mitglied des Hofes, erstellt.

Der Europäische Rechnungshof äußert Bedenken bezüglich des jüngst unterbreiteten Vorschlags zur Einrichtung der Reserve für die Anpassung an den Brexit (die sogenannte "Brexit-Reserve"). Bei dieser mit 5 Milliarden Euro dotierten Reserve handelt es sich um ein Solidaritätsinstrument zur Unterstützung der Mitgliedstaaten, Regionen und Sektoren, die vom Austritt des Vereinigten Königreichs aus der Union am stärksten betroffen sind. Zwar ermöglicht der Vorschlag den Mitgliedstaaten Flexibilität, doch bringt die Ausgestaltung der Reserve eine Reihe von Unsicherheiten und Risiken mit sich.

Um die Stellungnahme in englischer Sprache und die in 23 EU-Sprachen verfügbare Pressemitteilung aufzurufen, klicken Sie bitte hier; andere EU-Sprachversionen werden demnächst bereitgestellt.

Für weitere Auskünfte über die Arbeit des Hofes stehen wir Ihnen gerne zur Verfügung. Zudem finden Sie Informationen auf unserer Website eca.europa.eu. Um auf das Publikationsportal des Hofes zu gelangen, klicken Sie bitte hier.

Mit freundlichen Grüßen

Europäischer Rechnungshof
Direktion "Dienste des Präsidenten"
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ECA-InstitutionalRelations@eca.europa.eu
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Gemäß der Verordnung (EU) 2018/1725 – der neuen Verordnung zum Schutz natürlicher Personen bei der Verarbeitung personenbezogener Daten durch die EU-Organe, die am 11. Dezember 2018 in Kraft trat – setzen wir Sie davon in Kenntnis, dass Ihre Daten vom Europäischen Rechnungshof verarbeitet werden. Bitte klicken Sie hier, um zu erfahren, wie der Europäische Rechnungshof Ihre personenbezogenen Daten behandeln wird und wie er sie schützt. Falls Sie keine Nachrichten vom Europäischen Rechnungshof mehr erhalten möchten, klicken Sie bitte hier.

Pressemitteilung

Luxemburg, den 1. März 2021

Reserve für die Anpassung an den Brexit: EU-Prüfer zeigen Risiken auf

In einer heute veröffentlichten Stellungnahme äußert der Europäische Rechnungshof Bedenken bezüglich des jüngst unterbreiteten Vorschlags zur Einrichtung der Reserve für die Anpassung an den Brexit (die sogenannte "Brexit-Reserve"). Bei dieser mit 5 Milliarden Euro dotierten Reserve handelt es sich um ein Solidaritätsinstrument zur Unterstützung der Mitgliedstaaten, Regionen und Sektoren, die vom Austritt des Vereinigten Königreichs aus der Union am stärksten betroffen sind. Nach Auffassung der Prüfer ermöglicht der Vorschlag den Mitgliedstaaten zwar Flexibilität, doch bringt die Ausgestaltung der Reserve eine Reihe von Unsicherheiten und Risiken mit sich.

Wird der Legislativvorschlag der Europäischen Kommission zur Brexit-Reserve angenommen, so sollen den Mitgliedstaaten 80 % der Reserve (4 Milliarden Euro) in Form einer Vorfinanzierung gewährt werden. Die Zuweisung des Anteils eines jeden Mitgliedstaats an der Vorfinanzierung würde auf der Grundlage der geschätzten Auswirkungen auf dessen Wirtschaft erfolgen; dabei wären zwei Faktoren maßgeblich – zum einen der Handel mit dem Vereinigten Königreich und zum anderen der in den Gewässern der ausschließlichen Wirtschaftszone des Vereinigten Königreichs gefangene Fisch. Bei Anwendung dieser Methode würde Irland zum Hauptbegünstigten der Vorfinanzierung und fast ein Viertel der Mittelausstattung (991 Millionen Euro) erhalten, gefolgt von den Niederlanden (714 Millionen Euro), Deutschland (429 Millionen Euro), Frankreich (396 Millionen Euro) und Belgien (305 Millionen Euro).

"Die Brexit-Reserve stellt eine bedeutende Finanzierungsinitiative dar, mit der die negativen Auswirkungen des Brexit auf die Volkswirtschaften der EU-Mitgliedstaaten abgefedert werden sollen", **erklärte Tony Murphy, das für die Stellungnahme zuständige Mitglied des Europäischen Rechnungshofs.** *"Unserer Ansicht nach darf die durch die Brexit-Reserve eingeräumte Flexibilität keine Unsicherheit für die Mitgliedstaaten schaffen."*

Die EU-Prüfer weisen insbesondere auf den Umsetzungsmodus der Brexit-Reserve hin, wonach die Mitgliedstaaten eine ungewöhnlich hohe Vorfinanzierung erhalten würden, ohne der Europäischen Kommission im Voraus Einzelheiten zu den zu finanzierenden Maßnahmen mitteilen

Diese Pressemitteilung enthält die Hauptaussagen der Stellungnahme des Europäischen Rechnungshofs. Stellungnahme im Volltext unter eca.europa.eu.

www.parlament.gv.at

zu müssen. Dies würde zwar eine rasche Reaktion auf die Ausnahmesituation ermöglichen, doch würden Förderfähigkeit und Angemessenheit dieser Maßnahmen von der Kommission nicht vor Ende 2023 bewertet. Durch den im Vorschlag vorgesehenen Umsetzungsmodus und Zeitplan könnte ein erhöhtes Risiko bestehen, dass suboptimale und nicht förderfähige Maßnahmen zum Zuge kommen – so die Sorge der Prüfer.

Darüber hinaus soll sich laut Vorschlag der Förderzeitraum für die Durchführung von Maßnahmen von Juli 2020 bis Dezember 2022 erstrecken. Die Prüfer geben jedoch warnend zu bedenken, dass die Kommission nicht begründet, warum dieser Förderzeitraum gewählt wurde, und auch seine Zweckmäßigkeit nicht analysiert.

Hintergrundinformationen

Das Vereinigte Königreich hat die Europäische Union am 1. Februar 2020 verlassen. Mit Ablauf des Übergangszeitraums am 1. Januar 2021 bilden die EU und das Vereinigte Königreich zwei getrennte Märkte und zwei unterschiedliche Regulierungs- und Rechtsräume. Die sich daraus ergebenden Hemmnisse für den Handel mit Waren und Dienstleistungen und für die grenzüberschreitende Mobilität haben Auswirkungen auf die öffentliche Verwaltung, Unternehmen, Bürgerinnen und Bürger und Interessenträger auf beiden Seiten. In diesem Zusammenhang kündigte der Europäische Rat auf seiner außerordentlichen Tagung vom 17.-21. Juli 2020 die Einrichtung einer neuen besonderen Reserve für die Anpassung an den Brexit an, die mit insgesamt 5 Milliarden Euro zu Preisen von 2018 ausgestattet sein sollte.

Die Europäische Kommission legte ihren Vorschlag am 25. Dezember 2020 vor. Für die Inanspruchnahme der Brexit-Reserve sind im Vorschlag zwei Zahlungstranchen vorgesehen, wobei die erste im Jahr 2021 in Form einer umfangreichen Vorfinanzierung in Höhe von 4 Milliarden Euro erfolgen soll, während der verbleibende Betrag von 1 Milliarde Euro hauptsächlich 2024 zur Auszahlung kommen würde, um alle förderfähigen Ausgaben zu decken, die über den als Vorfinanzierung gezahlten Betrag hinausgehen. Gemäß der für den Kommissionsvorschlag maßgeblichen Rechtsgrundlage ist die Anhörung des Europäischen Rechnungshofs obligatorisch; daher haben sowohl das Europäische Parlament als auch der Rat den Hof um Stellungnahme ersucht.

Die Stellungnahme Nr. 1/2021 des Europäischen Rechnungshofs zu dem Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Einrichtung der Reserve für die Anpassung an den Brexit ist zurzeit in englischer Sprache auf der Website des Hofes eca.europa.eu abrufbar; weitere EU-Sprachen folgen demnächst.

Der Europäische Rechnungshof trägt mit seinen Stellungnahmen zu Vorschlägen für neue oder geänderte Rechtsakte mit finanziellen Auswirkungen zur Verbesserung des EU-Finanzmanagements bei. Mit seinen Stellungnahmen legt der externe Prüfer der EU eine unabhängige Einschätzung von Legislativvorschlägen vor.

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EUROPEAN
COURT
OF AUDITORS

Opinion No 1/2021

(pursuant to Article 322, TFEU)

concerning the proposal for a Regulation of the European Parliament and of the Council establishing the Brexit Adjustment Reserve [COM(2020) 854 FINAL.]

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Contents

THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322 thereof,

Having regard to the proposal for a Regulation of the European Parliament and of the Council establishing the Brexit Adjustment Reserve, submitted by the Commission on 25 December 2020 (“the proposal”),

Having regard to the requests made by the European Parliament and the Council, on 20 January 2021, for an opinion on the above-mentioned proposal,

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Withdrawal Agreement”),

HAS ADOPTED THE FOLLOWING OPINION:

Introduction

01 The United Kingdom of Great Britain and Northern Ireland left the European Union on 1 February 2020, when the Withdrawal Agreement entered into force. The Withdrawal Agreement included provision for a transition period, which lasted until 31 December 2020 and guaranteed "business as usual" conditions for citizens, consumers and businesses in both the EU and the UK.

02 While both sides agreed on a new EU-UK Trade and Cooperation Agreement on 24 December, this meant that, as of 1 January 2021, the EU and the UK now form two separate markets and two distinct regulatory and legal spaces. Barriers to trade in goods and services and to cross-border mobility have been created, with consequences for public administration, businesses, citizens and stakeholders on both sides.

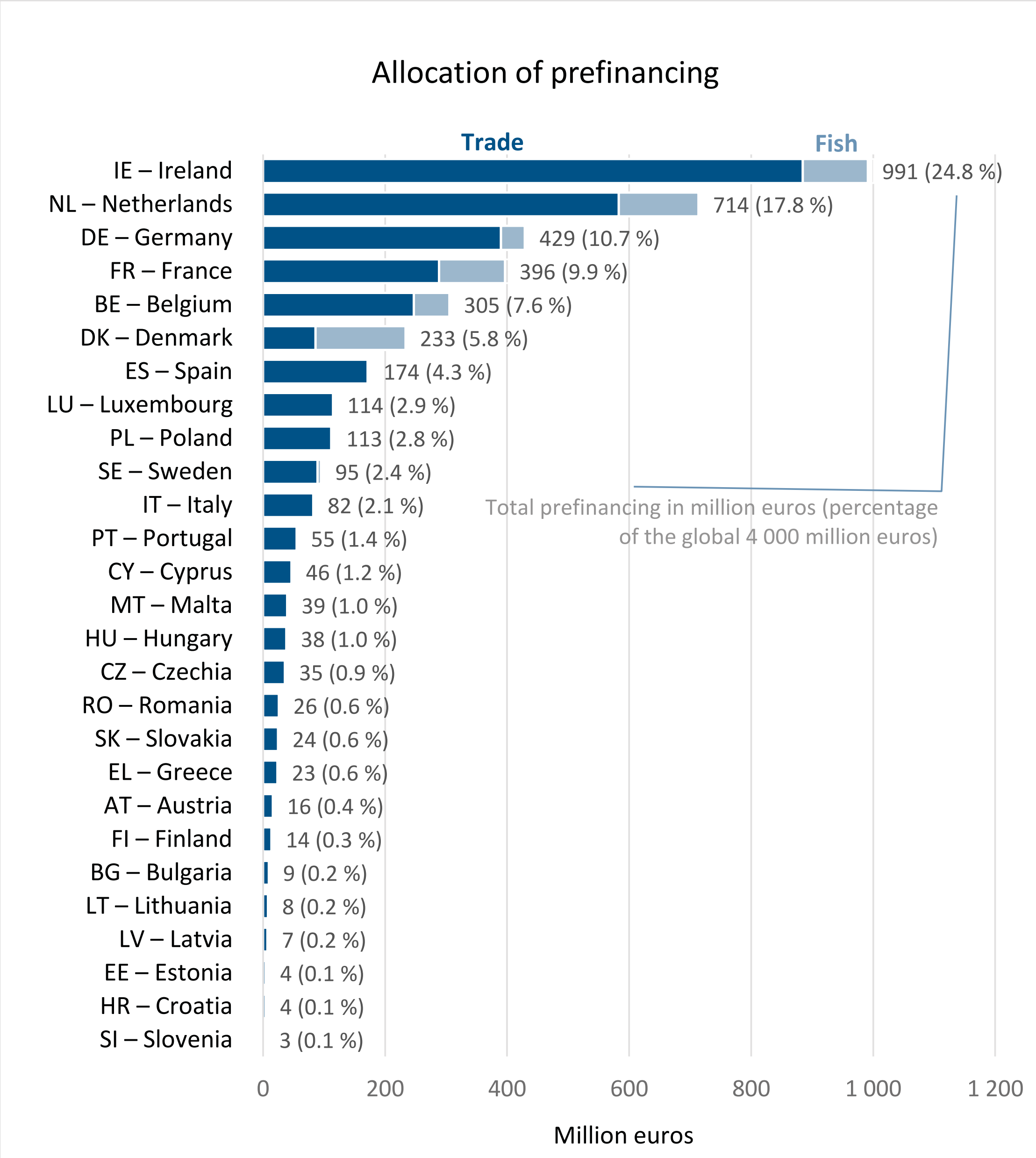
03 In the conclusions to its special meeting of 17-21 July 2020, the European Council announced the establishment of a new special instrument, the Brexit Adjustment Reserve ("the BAR"), with a total allocation of €5 billion in 2018 prices. The European Council invited the Commission to present a proposal for a regulation.

04 The Commission submitted its proposal in December 2020. The BAR aims to provide support to Member States, regions and sectors that are most severely affected by the UK's withdrawal, thus mitigating the negative impact on economic, social and territorial cohesion. All Member States will be eligible for support from the BAR.

05 It is proposed to activate the BAR in two rounds of allocations – the first in 2021 in the form of substantial pre-financing worth €4 billion. The methodology for distributing each Member State's share of pre-financing would be based on two main factors: trade with the UK and fish caught in the UK exclusive economic zone[1]. ***Figure 1*** shows how, using that method, the pre-financing would be shared among the Member States.

[1] Annex I to the proposal.

Figure 1 – Allocation of pre-financing (trade and fish criteria)



Source: European Commission.

06 Member States would have until 30 September 2023 to apply for a financial contribution from the BAR. The remaining amount of €1 billion would cover any eligible expenditure exceeding the amount paid in pre-financing, but within the limits of the total available resources. Additional contributions from the BAR would mainly be paid in 2024.

07 The legal basis[2] for the Commission's proposal requires consultation with the European Court of Auditors (ECA), and the European Parliament[3] and Council[4] have asked the ECA for its opinion. This opinion is a response to that request, it is intended to contribute to the legislators' examination of the Commission's proposal. To that end, we provide general and specific comments in which, among other things, we highlight the main issues involved and the associated risks.

[2] Treaty on the Functioning of the European Union, Article 322(1)(a).

[3] European Parliament – D300288 (20.01.2021).

[4] Council – SGS 21/000201 (20.01.2021).

Part One: General comments

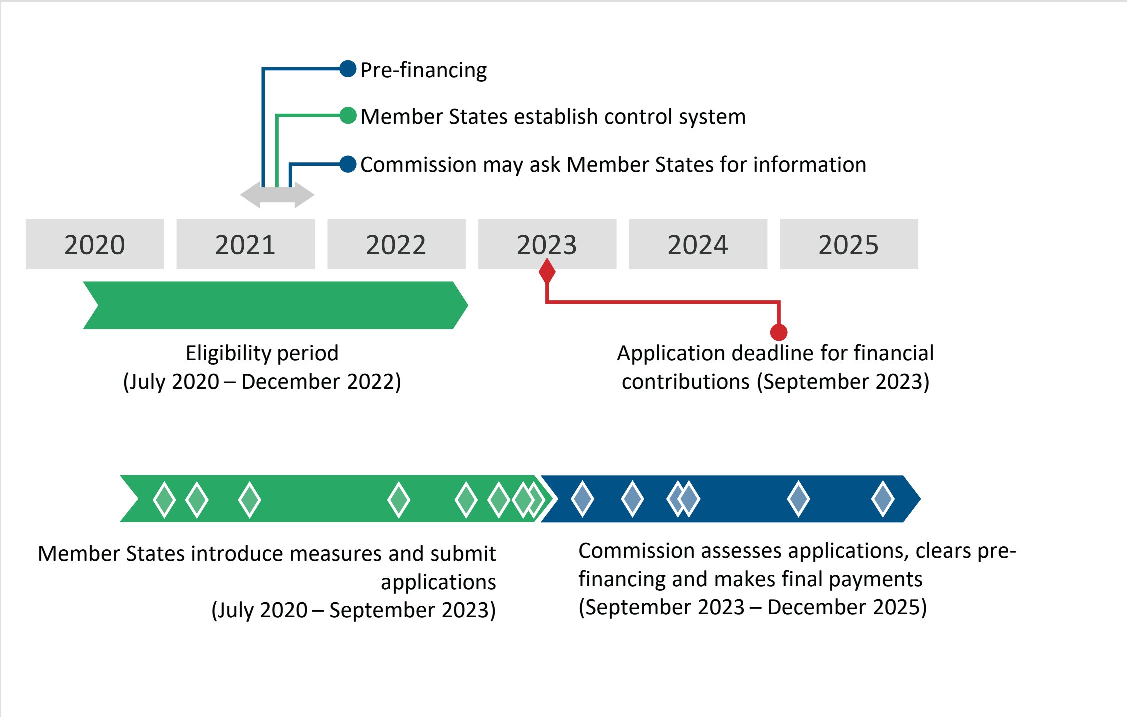
Architecture of the BAR

08 The proposal provides that the reference period (hereafter referred to as “the eligibility period”) for implementing measures to mitigate the adverse consequences of the UK’s withdrawal would run from 1 July 2020 to 31 December 2022. Member States would have until 30 September 2023 to submit applications for a financial contribution, giving details of the total public expenditure incurred during the eligibility period[5]. Applications would be accompanied by an implementation report describing what mitigating measures were taken and how they were implemented, as well as a management declaration and an independent audit opinion covering the full eligibility period. Based on this information, the Commission will only then assess the eligibility and appropriateness of the chosen measures, which is a derogation from the annual approach applied to funds under shared management[6]. ***Figure 2*** outlines this process, with key dates.

[5] Article 9 of the proposal.

[6] Article 7(4): “By derogation from paragraphs 5, 6 and 7 of Article 63 of the Financial Regulation, the documents referred to in those provisions shall be submitted once, pursuant to Article 10 of this Regulation.”

Figure 2 – Timetable for the BAR



Source: ECA.

09 Member States would receive €4 billion or 80 % of the reserve funds through pre-financing. Before receiving pre-financing Member States must notify the Commission which bodies would be responsible for management and control of the BAR, and to which body the pre-financing should be paid. Whilst the level of pre-financing is set unusually high, it enables Member States to react quickly to the exceptional situation, and takes into account the fact that the final balance payments will not be made until the end of 2023 at the earliest.

10 The proposal's architecture would meet the objective of providing flexibility to Member States. Making significant amounts of the BAR available through pre-financing would allow Member States to react quickly to changing circumstances and counter the negative effects of Brexit more effectively. The proposal sets out broad areas in which funding could be used, without further defining them, but Member States would have discretion regarding the types of projects or measures they wished to finance[7].

11 The flexibility provided by the BAR – in particular the absence of a requirement for Member States to officially inform the Commission which regions, areas and sectors may be most affected and describe which measures will be funded prior to the allocation of pre-financing – creates a number of risks associated with the lack of

[7] Article 5 of the proposal.

certainty. The BAR might be used to support measures that are not in fact eligible, so that the Commission would not subsequently reimburse costs to Member States. Furthermore, measures chosen may be sub-optimal and may not achieve their intended objective.

12 The proposal would require Member States to confirm that they have drawn up descriptions of their management and control systems[8]. Member States may make use of existing designated bodies and systems already in place for the implementation of EU funds for the purposes of managing the reserve. Where Members States decide to set up new systems there is a risk that they may be ineffective. The Commission should, in the early stages of the eligibility period, assess their adequacy in contributing to the protection of the financial interests of the EU.

Audit and accountability

13 The proposal provides for an independent audit body in each Member State to audit the management and control system and carry out audits of financed measures[9]. The audit body would therefore be a key actor in providing the Commission with assurance that Member States' management and control systems are functioning effectively and that expenditure is legal and regular. However, the proposal lacks detail and clear definitions in relation to certain important elements, such as sampling methodology and the quantification and correction of errors.

14 This lack of clarity may not ensure a consistent and comparable audit approach in all Member States, thus diminishing the assurance the Commission could obtain from their work and audit opinions.

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[8] Article 13(1) of the proposal.

[9] Article 13(4) of the proposal.

Part Two: Specific comments

Eligibility period

15 The proposal states that the eligibility period for implementing measures should run from July 2020 to December 2022[10]. The Commission took into account that the proposal is part of the preparation for the end of the transition period, building on and complementing the work done by the EU and Member States in the context of the preparedness measures taken during the Brexit negotiations[11].

16 The eligibility period should facilitate the objective of using the BAR to support the preparedness measures and help mitigate the economic impact of the UK's withdrawal. However, the proposal does not clearly identify the reasoning behind the chosen eligibility period or examine its suitability with regard to the stated objectives.

Pre-financing calculation

17 The methodology chosen and applied by the Commission for calculating the Member States' share of pre-financing for is based on two factors, trade with the UK and fish caught in UK waters. Through this methodology, the Commission aims to produce the best estimate of the impact of Brexit on the respective Member States. However, considering the many uncertainties still associated with the impact of the UK's withdrawal, including the movement of economic sectors of activity from the UK to the EU, there is a risk that the chosen allocation method may not fully reflect the specific exposure of a Member State's economy.

Eligibility of expenditure

18 The proposal sets out that expenditure shall be eligible if it is incurred and paid during the eligibility period [12]. It further provides that contributions from the reserve shall take the form of reimbursement of eligible costs incurred and paid by Member

[10] Articles 2(1) and 5(2) of the proposal.

[11] Recital 7 of the proposal.

[12] Article 5(2) of the proposal.

States in implementing measures[13]. In our view the proposal allows for varying interpretations on the eligibility of expenditure. Therefore, it should be further clarified that costs should be incurred and paid within the eligibility period, at both the levels of the designated bodies and final recipients.

Sampling methodology

19 The proposal outlines the process for the audit of financed measures and describes the corresponding sampling methodology[14]. Where it allows for a non-statistical sampling method, the proposal states that the sampling units must cover a certain proportion of the population for the accounting year. As the audit of financed measures should cover the entire eligibility period, i.e. two and half years, the reference to “the accounting year” appears inconsistent within the overall methodology.

Value added tax

20 Under the proposal, the BAR would not support value added tax[15]. We welcome the proposed approach for the BAR which is in line with the recommendation, last expressed in our 2018 rapid case review on VAT reimbursement in Cohesion. We recommended to exclude reimbursement of VAT to public bodies from EU funds as a way of reducing the risk of errors in Cohesion spending and ensuring better use of EU funds from a sound financial management perspective[16].

Management declaration

21 The proposal would require Member States to submit a management declaration, the opinion of an independent audit body and an implementation report (paragraph ***08***) as part of their applications for financial contributions from the BAR[17]. We note that the template for the management declaration, set out in Annex II to the proposal,

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[13] Article 7(2) of the proposal.

[14] Article 13(4) of the proposal.

[15] Article 6(a) of the proposal.

[16] Rapid case review: “VAT reimbursement in Cohesion – an error-prone and sub-optimal use of EU funds”, November 2018.

[17] Article 10(1)(2) of the proposal.

does not provide for a statement, from the person in charge of managing the BAR, to confirm the proper functioning of the control system. This statement is required by Article 63(6)(c) of the Financial Regulation[18]. The absence of such a statement would limit the assurance that the declaration could provide. It would also have implications for the audit opinion, which would normally assess the statement's accuracy.

Reporting and evaluation

22 Under the proposal, the Commission would carry out an evaluation of the BAR's effectiveness, efficiency, relevance, coherence and EU added value[19]. While we acknowledge that it is important to find the right balance between monitoring requirements and the administrative burden on Member States', we note that applications for financial contributions must include values on output indicators only[20]. Although these output indicators are measurable, as previously noted, they provide only limited information as to whether a measure was effective in addressing the negative consequences of the UK withdrawal[21]. Furthermore, the proposal does not require Member States to set targets for the aforementioned indicators, which will make it even more difficult to provide a meaningful assessment of the BAR's effectiveness.

23 According to the Better Regulation Guidelines, robust and reliable results can only be delivered by independent objective evaluations[22]. While the proposal provides for a full evaluation of the BAR, leading to a report to be submitted to the European Parliament and to the Council by 30 June 2027, it does not explicitly state that the evaluation would be independent.

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[18] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (OJ L 193, 30.7.2018, p. 1).

[19] Article 16 of the proposal.

[20] Annex II of the proposal.

[21] Report of the European Court of Auditors on the performance of the EU budget – Status at the end of 2019, paragraph 4.19: "Output indicators have a direct link to the activities financed by the EU budget, but provide little information about progress towards meeting policy objectives".

[22] SWD(2017) 350 final of 7 May 2017, p. 53.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 25 February 2021.

For the Court of Auditors

Klaus-Heiner LEHNE

President