Double funding under the Recovery and Resilience Facility

This note addresses the issue of "double funding" between the Recovery and Resilience Facility (RRF) and other EU funds. It explains how this can be prevented, identified and addressed by Member States and the Commission. The aim of this document is to provide Commission services' explanations and interpretations of double funding in order to facilitate the implementation of the RRF in a consistent way.

Member States are under an obligation to avoid "double funding" when implementing the RRF. Nonetheless, measures (reforms and investments) supported by the RRF can receive additional support by other EU funds**.** Article 9 of the RRF Regulation stipulates that "*Support under the Facility shall be additional to the support provided under other Union programmes and instruments. Reforms and investment projects may receive support from other Union programmes and instruments* ***provided that such support does not cover the same cost***". This is also reflected in Article 22 on the protection of financial interests of the Union and in the provisions of other EU programmes with respect to actions (co)financed through those programmes (e.g. funds covered by the Common Provisions Regulation,[1] Digital Europe[2], Horizon[3] or CEF[4]).

(1) The approach to "double funding" under the RRF is very different from under other Union programmes.

The concept of "double funding" is not easy to reconcile with the performance-based nature of the RRF. The RRF is a performance-based instrument under which financing not linked to costs is granted to Member States and disbursed in instalments upon the satisfactory fulfilment of a set of milestones and targets. The costs of the totality of the measures under the Recovery and Resilience Plans (RRPs) are estimated *ex ante*, and payments are not subject to controls of the actual costs of the measures. As a consequence, the concept of eligible costs incurred is not applicable. There is no direct link between the payments from RRF to the Member State and the costs incurred by the Member State, and there is no assignment of costs to individual milestones and targets. In contrast, double funding under other Union programmes is generally a cost-based

[1] Article 63(9) of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

[2] Article 23(1) of Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme

[3] Article 15(4) of Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe

[4] Article 19(1) Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility

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concept that considers that the same expenditure should not be covered by reimbursement under other Union funds.

Furthermore, tracking of double funding is not easy, given the different types of beneficiaries and recipients in the RRF compared to most other Union funds. As per Article 22(1) of the RRF Regulation, the beneficiary of EU funds from the RRF perspective is the Member State, while the final recipient is the entity implementing the supported project. By contrast, under other Union programmes, the beneficiaries of EU financial support under shared, direct or indirect management can be private or public bodies, economic operators or even individuals.

The concept of "double funding" under the RRF takes into account both the performance-oriented nature of the instrument and the fact that the beneficiary can be different from other Union funds. Under the RRF, double funding can occur at two levels**:**

- <u>Double funding at Member State level:</u> Each Recovery and Resilience Plan includes an ex-ante cost estimate, which clearly identifies which measures and their associated costs are part of the Recovery and Resilience Plan. Member States are required to identify in their Recovery and Resilience Plan "*information on existing or planned Union financing*" (Article 18(4)(l) of the RRF Regulation), allowing this to be taken into account in the ex-ante estimation of costs. The allocation of funding to the Member State is justified based on this cost estimate and this allocation is approved based on information and evidence provided by the Member States showing **that these costs are covered by RRF funds**, and not other EU funds. After the approval of the RRP and adoption of the Council Implementing Decision (CID), support by other Union funds to cover costs that were part of the cost estimate carried out for the RRP would result in the Member State (either itself or entities in that Member State) receiving support from two different Union funding sources to cover the same costs.

- <u>Double funding at final recipient level:</u> At the **level of final recipients**, costs incurred to achieve the results of any measure funded by the RRF should not be covered by other Union programmes (i.e. the final recipient should not receive support to cover the same costs both from the RRF – through the Member State – and from other Union funds). The responsibility to prevent, detect and correct such "double funding" lies primarily with the Member State. If double funding is identified but not corrected by the Member State through a recovery of funds from the final recipient, the Commission can in turn **recover RRF funds** from the Member State, in accordance with the rules included in the financing and loan agreements concluded on the basis of Article 22 of the RRF Regulation, or the other Union programme's resources under the sector-specific rules.

(2) The framework to prevent, detect and correct double-funding under the RRF

In the RRP design and assessment phase

Under the RRF Regulation, Member States are under the obligation to include in their RRP information on existing or planned Union financing concerning measures covered by their RRP. The additionality of the support provided by the RRF with regard to other Union funds and programmes is part of the eligibility check in the assessment by the Commission of the RRP. For that purpose, Member States must:

- Include in their RRP sufficient information and evidence clearly demonstrating that the amount of the estimated total cost of each reform and each investment is not covered by existing or planned Union financing;

- Detail the procedures, structures and arrangements set up at national and regional levels aiming to ensure the avoidance of double funding with adequate explanations on how they will check and avoid double funding using their national control system;

- Refer in the Recovery and Resilience Plan to the arrangements for monitoring the implementation of the RRF.

As per the RRF Regulation, if funding from any other EU fund or programme is planned to be received, such support cannot cover the same cost and **the total Union contribution cannot exceed 100% of the estimated total costs of the project**. This is also in line with the Common Provision Regulation which allows for an operation to receive support from one or more Funds or from one or more programmes and from other Union, but specifies that, in such a case, for an expenditure to be eligible under the funds regulated under such provisions (such as cohesion funds), "*an expenditure declared in a payment application for one of the Funds shall not be declared for support from another Fund or Union instrument nor from the same Fund under another programme*".

In case support from other EU funds **is decided after the adoption of the CID** (for instance because the related programme is adopted after the CID), such a support is possible as long as it does not cover the measures financed by the RRF and their associated estimated costs. In such case, the Member State would need to declare such complementary support by other EU funds in FENIX (through the appropriate reporting window) as soon as the programme is adopted and explain what is being exactly covered by the other EU funds.

Examples:

For measure Y, the RRP indicates specific funding from other EU funds (50km of motorway financed by RRF; another 50km financed by ERDF). The milestones and targets are agreed with this separate financing in mind (the target refers to the building of the 50km to be funded by the RRF; not 100km). The milestones and targets are achieved. During implementation, the actual cost is declared for support from other EU funds, and is in line with the expected cost estimated ex ante. The other EU fund pays for its share of the actual cost of the remaining 50km. The RRF support is not in any way affected. No double funding has occurred.

For measure Z, the RRP does not indicate any funding from other EU funds. During implementation, other EU funds provide funding to the completion of the measure (further steps in the implementation after the final target included in CID has already been fulfilled) or to additional investments (additional solar panels) but these have no impact on the targets to be achieved under the RRP. No double funding has occurred.

During the implementation of the RRP

During the implementation of the plan, Member States are responsible for monitoring the use of funds for the intended purpose under the RRP and for avoiding double funding. It is also the responsibility of the Member State to take corrective action where double funding is discovered (i.e. recover the related amounts from the final recipient).

In the management declaration accompanying its payment request, the Member State shall confirm the absence of both types of double funding:

- "The control systems in place give the necessary assurances that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention and corruption in accordance with the principle of sound financial management;"

- "The activities implemented to achieve the milestones and targets under the RRP as declared in the request for payment are not financed by any other Union programme or instrument or, where applicable, the other Union programmes and instruments do not cover the same cost."

The Member State shall also provide a summary of the audits carried out, including weaknesses identified and any corrective actions taken.

Through its review of the management declaration and summary of audits, should the Commission have doubts about possible double funding, the Commission may request further information and/or undertake on the spot audits. Also, as required in the RRF Operational Arrangements, the Member State shall inform the Commission in the bi-annual reporting on any investment or reform supported under its RRP that has or is receiving funding from any other Union programme indicating also the related amount. In this context, Member States should indicate if there has been any change, or if any change is expected to occur, compared to the funding received from other EU sources detailed in their adopted plan, on a measure by measure basis.

The Commission can always take action based on data related to specific measures. Data collection requirements are indicated in the Council Implementing Decisions and further specified in the Operational Arrangements. A key element is the obligation of Member States under Article 22(2)(d)(iv) of the RRF Regulation to collect and make available "*a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the Facility and under other Union funds".*

The Commission and Member State bodies responsible for managing and auditing the implementation of Union funding should have access to this data, to allow for cross-checking with expenses they intend to declare as eligible for reimbursement by the Union under other funds. The Commission may request such data in the context of its audits and recover the respective amount if the irregularity has not been corrected by the Member States.

(3) How can Member States and the Commission deal with "double funding" cases?

The Commission can become aware of information indicating that certain RRF-supported measures are benefiting or have benefitted from other EU funding. This can lead to cases of double funding especially where this information was not provided by the Member State in its RRP.

Some examples are presented below, together with the expected response from the Member State and the Commission.

Double funding at final recipient level

Case 1: *One of the final recipients receiving funding under measure X of the RRP also receives support for the same costs from another EU fund (an individual receives two overlapping subsidies for his solar panel or an SME receiving twice the same subsidy for the same action).*

Response:

- <u>This is double funding</u>. As long as the Member State detects and corrects (recovers funds from the final recipient), it complies with Article 22 of the RRF Regulation**.**

- The fund that has included the measure in the programme/plan the last (see section 4) will need to recover the amount from the beneficiary/final recipient and the rules of such fund will therefore apply:

    - If recovery must occur under the rules of another Union fund, the latter programme should correct the double funding that has taken place; this means that no double funding would materialise either at Member State or at final recipient level.

    - If the recovery must occur under the RRF, the RRF recovery rules will apply. First, given that the respective milestone or target was fulfilled in violation of Article 9 of the RRF Regulation, the Commission can recover the amount linked to double funding from the Member State in accordance with Article 20 of the Financing Agreement (or Loan Agreement). Second, the Member State is under the obligation to recover from the final recipient the funds provided under the RRF-supported national measure, if such funds were provided.

Double funding at Member State level

Case 2a: *An RRP measure was **not planned** to be supported by other EU funds when the RRP was submitted. Therefore, such extra EU support **was not** considered during the assessment of the RRP and for the achievement of the relevant milestones and targets.*

*In the implementation phase, the Member State becomes aware that the beneficiary/final recipient responsible for implementing that measure has received other EU funding under a **Cohesion 2021-2027 programme** that covers the same costs in order to achieve all or part of the measure's target(s). This represents double funding.*

Example 1: The CID envisages a target of a hospital to be constructed, where the estimated cost for the hospital when the RRP was submitted by the Member State was for EUR 500m, to be fully covered by the RRF. The hospital is constructed and cost EUR 500m. While these costs are generally not verified under the monitoring of the RRP *implementation, the Member State however also obtained EU Cohesion funding 2021-2027 to cover part of the EUR 500m of incurred and declared construction costs.*

Example 2: The CID envisages a target of 500 windmills to be constructed, for an estimated cost EUR 1bn when the RRP was submitted, to be fully covered by the RRF. 500 windmills are constructed. The Member State however obtained EU Cohesion funding for EUR 100m under this investment, corresponding to the cost of 50 windmills.

There are several options to correct the double funding in this case:

- The 50 windmills and the hospital built with EU Cohesion funds support cannot count towards the RRF target. If there is sufficient time until the submission of the payment request, the Member State undertakes **additional investment** without the support from any other EU funding to ensure that the milestone/target is satisfactorily fulfilled (for instance by building 50 additional windmills, thereby achieving the 500 windmills target under the RRF. In the first example, since the target is defined as the construction of a hospital, even if the other EU fund has only covered part of the cost, the only way to meet the target would be to build another hospital, which is more difficult to envisage).

- If the measure was included in the grant agreement <u>after</u> the adoption of the CID and there is no time to undertake additional investments under the RRF, the other Union funding must be recovered in full. Therefore, in this case, the EU Cohesion funding provided for the hospital in example 1 or for the cost of 50 windmills in example 2 would have to be recovered in full by the Union.

Case 2b: *An RRP measure was* ***not planned*** *to be supported by other EU funds when the RRP was submitted. Therefore, such extra EU support* ***was not*** *considered during the assessment of the RRP and for the achievement of the relevant milestones and targets.*

In the implementation phase, the Member State becomes aware that the beneficiary/final recipient responsible for implementing that measure has received other EU funding from ***under a Cohesion 2014-2020 programme*** *that covers the same costs in order to achieve all or part of the measure's target(s). This represents double funding.*

Example: The CID envisages a target of 500 windmills to be constructed, for an estimated cost EUR 1bn when the RRP was submitted, to be fully covered by the RRF. 500 windmills are constructed. The Member State however obtained EU 2014-2020 Cohesion funding for EUR 100m under this investment, corresponding to the cost of 50 windmills.

There are several options to correct the double funding in this case:

- The 50 windmills built with EU Cohesion funds support cannot count towards the RRF target. If there is sufficient time until the submission of the payment request, the Member State undertakes **additional investment** without the support from any other EU funding to ensure that the milestone/target is satisfactorily fulfilled (for instance by building 50 additional windmills, thereby achieving the 500 windmills target under the RRF).

- If there is no time to undertake additional investments under the RRF and if the measure was included in the grant agreement under cohesion 2014-2020 *before* the adoption of the CID, it would lead to double funding and non-satisfactory fulfilment of the target and recovery of the RRF payment related to double funding – see para §4. 1st bullet.

Case 3: *Following the June 2022 update, the Member State's maximum financial contribution decreases below the initial estimated costs. To cover for the lower RRF financial contribution, the Member State wants to use cohesion policy funds to implement one investment in the RRP but does not request a change in the RRP.*

Example 1: The CID envisages a target of a hospital to be constructed, where the estimated cost for the hospital when the RRP was submitted was EUR 500m, to be fully covered by the RRF. The allocation of the Member State decreases by EUR 500m due to the updated calculation of the maximum financial contribution. As a consequence, the Member State requested and obtained EU Cohesion funding for the EUR 500m of the construction costs of the hospital but did not change the RRP.

Example 2: The CID envisages a target of 500 windmills to be constructed, for an estimated cost of EUR 1bn when the RRP was submitted, to be fully covered by the RRF. 500 windmills are constructed. In order to compensate for the reduced RRF allocation, the Member State decided to use EU Cohesion funding for EUR 500m for the financing of this same investment, corresponding to the cost of 250 windmills.

As indicated in the Commission guidance on Recovery and Resilience Plans in the context of REPowerEU[5], in case their final maximum financial contribution is reduced, Member States are encouraged to continue implementing their RRPs, relying on alternative sources of funding. There are several options in the examples mentioned above, where other EU funds are used to support RRF measures:

- <u>First option</u>: the Member States can submit an amended RRP where specific measures (and the related milestones and targets) that cannot be supported by the Member State due to the decreased amount in RRF funding are **fully removed** from the plan (here the full hospital for instance). These investments might in turn be supported by other EU funds, provided that they are eligible for support under those funds. This presupposes that no related milestone or target was assessed as satisfactorily fulfilled in a disbursed RRF instalment.

- <u>Second option</u>: to the extent that it is impossible to identify entire measures whose costs correspond exactly to the decreased funding, the Member States can submit an amended plan with a **corresponding adjustment of the related targets** under RRF (in Example 2, 250 windmills rather than 500 windmills envisaged, as the remaining 250 are financed by Cohesion funds).

Case 4: *An RRP measure was not planned to be supported by other EU funds. Therefore, such extra EU support* ***was not*** *considered during the assessment of the plan and for the ambition of the relevant milestones and targets.*

[5] Commission Notice: Guidance on Recovery and Resilience Plans in the context of REPowerEU, 18/05/2022 https://ec.europa.eu/info/files/commission-notice-guidance-recovery-and-resilience-plans-context-repowereu_en

Due to a price ***increase****, a measure's actual costs go beyond its initial estimated costs. The beneficiary/final recipient responsible for the implementation of the measure requests additional funding from EU Cohesion policy funds for part of the investment project to be able to finance the extra costs in order to achieve the measure's target(s) under RRP.*

Example: The CID envisages a target of a hospital to be constructed with RRF funding, where the estimated cost for the hospital when the RRP was submitted was EUR 500m, to be fully covered by the RRF. The hospital is constructed and cost EUR 550m. The Member State wants to use EU Cohesion funding to cover the additional EUR 50m construction cost by indicating that e.g. one wing of the hospital will be financed from this amount.

- The combination of funding must be defined **upfront** (at the time of the assessment of the plan; or clearly before the start of the implementation of the concerned measure <u>through an official communication by the Member State in Fenix specifying which additional measure is financed by other EU funds and signalled in the grant agreement signed under the other EU fund</u>) and the funding from different funding sources **must be clearly distinguished/part of distinct parts**, for example: infrastructure (RRF-funded) vs equipment (Cohesion-funded) of an hospital. In such cases, an increase of the actual cost of the part financed by the other Union funds (for instance equipment) can be covered by these other funds. Clear guidance is offered to Member States by the Commission in the preparation of the plans, ahead of their official submission.

- On the other hand, the RRF being a performance-based programme, the amount to be paid out per instalment is fixed ex-ante in function of the progress that the milestones and targets underlying the instalment represent and is independent of the actual cost of the underlying reforms and investments. Member States should not use EU Cohesion policy funds **ex-post** to cover in general the extra costs of the measures financed by the RRF as this implies "double funding" for the same results. If the Commission finds out that this has nevertheless happened, the Commission would **recover the additional amounts paid to the beneficiary under the EU Cohesion policy programme**. Alternatively, the Member State could submit a request for a revision of the RRP (based on art. 21 RRF if some measures are no longer achievable due to objective circumstances, such as major cost increases or important supply chain disruptions) and request to modify some milestones or targets accordingly, and the examples in Case 3 for co-financing of additional investments using other EU funds could then be followed.

Case 5: *Complementary funding from another EU fund for an RRP measure was planned when the RRP was submitted. Therefore, such extra EU support* ***was considered*** *during the assessment of the plan and for the ambition of the relevant milestones and targets.*

Due to a price ***decrease****, the measures' actual costs go below the initially estimated costs.*

Example: The CID envisages a measure regarding digital connectivity upgrades in schools to be supported with RRF funding (1 million computers delivered in schools). The estimated cost for the investment to be covered by the RRF when the RRP was approved was EUR 500m. Furthermore, another EU fund will cover the financing of another additional 1 million computers for an amount of EUR 500m. The actual cost of a *single computer, as declared by the Member State in order to benefit from the other EU funding, is EUR 400 rather than the estimated EUR 500.*

- The combination of funding is defined **upfront** (at the time of the assessment of the plan; or clearly before the start of the implementation through an official communication by the Member State in Fenix, specifying which additional measure is financed by other EU funds, and signalled in the grant agreement signed under the other EU fund) and the funding from different funding sources **must be clearly distinguished/part of distinct blocks** (type of networks installed in schools or territorial split for instance).

- As long as the RRF target of 1 million computers delivered in schools has been satisfactorily fulfilled (together with the other milestones and targets included in the payment request), this enables the payment of the related RRF instalment, even if the actual cost of the underlying measure is lower than initially estimated.

- On the other hand, if the other EU fund pays on the basis of actual/incurred cost (**case a**), the lower actual costs of the measure financed by the other Union funds will be reflected in the lower support by these other EU funds. In the example, the Member State can claim only EUR 400m from the other EU fund (and not EUR 500m).

- If the other EU fund reimburses based on simplified cost option or financing not linked to cost (**case b**), the Member State can declare the pre-agreed amount (EUR 500m).

- As long as the final recipients (the individual schools in the example) do not receive more EU support than what they are entitled to (i.e. 2*EUR 400* 1m=EUR 800m in total), there is no double funding even if the Member States receives more than the actual cost (EUR 900m in case a and EUR 1 million in case b).

(4) Under which Regulation the funds must be recovered

In case double funding occurs, it should be defined under which EU fund's Regulation a recovery should be undertaken.

As RRF payments are not linked to costs and the amount to be recovered from the Member State could be relatively difficult to define, it could be considered a clear cut-off point at the date of adoption of the Council Implementing Decision approving the assessment of the RRP:

(1) When a measure is included in a grant agreement signed under another Union instrument before the date of CID adoption while such measure has also been funded by RRF, the RRF funds should be recovered, as this should have been declared during the design and assessment of the RRP. The measures that have been supported by other Union funds should never have been included in the RRF.

(2) When double funding is due to funding from a grant agreements under other Union funds signed after the adoption of the CID where this measure was included for the first time, the amount disbursed by other EU fund(s) covering the same costs as the RRF should be recovered from the Member States under the

other Union fund's Regulation (if the affected expenditures have already been included by the Member State in a payment request submitted to the Commission).