NOTRE EUROPE
Jacques Delors Institute
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ECONOMY & FINANCE

POLICY PAPER No274
FEBRUARY 2022

From words to action

Analysing possible scenarios and political dynamics in the process of disbursing the European Recovery and Resilience Facility funds

#recoveryplan
#covid-19
#budget

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The author would like to thank Camille Defard, Andreas Eisl, Zita Herman and Sébastien Maillard, for their valuable comments on this text.

• Introduction

If 2021 will be remembered as the year in which the EU Recovery and Resilience Facility (RRF) was set in motion, 2022 will be the first full year of implementation of this programme, which is the centrepiece of "NextGenerationEU" (NGEU). At the moment of writing five countries have already sent their first RRF payment requests to the Commission but the volume of RRF payments will significantly increase in the coming months and the rhythm will not stop until the end of 2026. Unlike the 13% pre-financing paid in 2021, payments will now be conditioned upon fulfilment of "milestones" and "targets" reflecting intermediary and final steps towards the achievement of the objectives of the plan.

The RRF disbursements will take place whilst the idea of extending NGEU, or using it as a blueprint for future EU investment instruments, is gaining weight in the context of broader debates on the reform of the EU's fiscal framework. Against this backdrop, the question of whether or not the RRF is a "success" will become politically relevant. Yet, how to judge this success at year+1 is not evident. The first evaluation is expected for 2024. In the meantime, the degree of fulfilment of milestones and targets and the pace and rhythm of payments will constitute the most important indicators of good or bad performance.

This paper examines the procedure for the disbursement of RRF funds. Its aim is to discuss possible scenarios and political dynamics that may arise when validating the fulfilment of milestones and targets, submitting payment requests and authorising RRF disbursements. The paper starts with a general discussion on conditionality and, particularly, the main factors to take into account when designing a performance-based conditionality regime. Section two then takes a closer look at the specificities of the RRF performance regime, distinguishing between three phases: (1) the definition of performance objectives (called “milestones” and “targets” in the case of the RRF), (2) the rules and procedures to submit payment requests, and (3) the rules and procedures for the approval and suspension of payments. The description of general rules, procedures and common patterns is complemented with specific examples drawn from the four largest National Recovery and Resilience Plans (NRRPs); that is, those of France, Greece, Italy and Spain. The paper then speculates on the possible dynamics and scenarios that may arise when the machinery of RRF disbursement will work at full speed. It concludes with some general reflections on the nature of the RRF conditionality regime.

I • Main challenges for the implementation of performance-based conditionality

The term “conditionality” is generally used to refer to any type of “strings” or conditions attached to fiscal transfers between a grantor and a recipient of funds. This is a common feature in financial assistance programmes from the World Bank and the International Monetary Fund and it is also widely used by donor countries (or the EU) in the context of development aid or by central governments in their relations with sub-national authorities.

There can be different types of conditionalities.[1] They may consist into predefined qualification criteria (ex-ante conditionality) or conditions imposed to monitor that the assisted programme is working well and in line with initial expectations (ex-post conditionality). They can relate to macro-economic conditions (e.g. a certain level of debt, inflation…), the respect of some basic governance standards or principles (“political conditionality” or “rule of law conditionality”), requirements in terms of budgeting and accountability procedures to ensure the integrity in the use of funds (“fiduciary/financial accountability conditionality”), the adoption and implementation of certain structural reforms (“structural reform conditionality”) or the achievement of certain outcomes from the use of the assigned funds (“outcome- based conditionality”).

The RRF applies all these types of conditionalities in one way or another. What is distinctive about the RRF, however, is its strong focus on ex-post performance conditionality: the fact that **payments are made in different instalments and conditioned upon the achievement of results**. This is not the only EU instrument which conditions payments on results. At the EU level, you can find various instruments applying some sort of results-based conditionality (e.g., variable tranche payments in EU development aid, the performance reserve in EU cohesion policy, all the EU lending programmes providing support to Member States in difficulties). Yet, none of them applies performance-conditionality on such a massive scale nor conditions funds to both investments and reforms.

Research suggests that the relevance and influence of conditionality are related to several factors:

1 For a discussion of the different types of conditionalities see Mizel, Lee (2017) *Conditionality in practice: Emerging lessons for public investment.* Background paper for the European Commission/OECD Seminar on “conditionalities for more effective public investment”, 28 April 2017 and Shah, Anwar (2017) *Development assistance and conditionality: Challenges in design and options for more effective assistance*, EC-OECD Seminar Series on Designing better economic development policies for regions and cities.

- **Ownership**. A certain degree of “country ownership” is key for the success of conditionality regimes.[2] To this purpose, it is essential to negotiate the performance objectives with the recipient government. However, studies alert that ownership by national governments may not imply legislative buy-in or citizens’ acceptance and thus that programmes shall seek broad domestic political and social ownership.[3] Apart from negotiating the objectives, there are other ways to strengthen the ownership.[4] One is by agreeing on the achievement of broad outcomes (e.g. increase of child vaccination rates) and leave to the recipient the choice of policy measures to apply. This “outcome-based conditionality” is used in the provision of EU development aid. Another approach is to use “floating tranches”, with disbursements not made according to a fixed schedule but when certain policy actions have been undertaken. This practice has been used by the World Bank in Africa. It gives the recipient some discretion to choose the moment to adopt the reform and prevents the donor from having to confront the dilemma of either brutally interrupting the payment or waiving the conditions for releasing the money.

- **Focus on outputs and outcomes, not impacts.** The conditions to release the fund must be reasonably under the control of authorities. In this respect, there is general consensus on focusing on output and outcomes rather than on impacts. Output indicators measure the specific deliverables of the interventions (e.g., the number of km of rail built, the number of dwellings renovated, the adoption of a new labour market law, the implementation of a new IT system,…); outcome indicators measure the effects directly attributed to the intervention (e.g., the number of users of a new train line, the reduction in energy consumption of renovated houses, the number of new labour contracts signed,…); and impact indicators measure the long-term intended effects on the whole society and economy (e.g., changes in mobility patterns, the reduction of GHC emissions, the reduction of the unemployment rate,…).

- **Criticality.** Both IMF and World Bank’s evaluation stress the fact that conditions shall be limited in number and restricted to those necessary to ensure that funding is used for its stated purpose. Criticality can be also enhanced by a certain prioritisation in the conditions imposed. One of the criticism made to the Greek financial assistance programmes was precisely this lack of prioritisation, with large numbers of reforms of variable relevance required at the micro level.[5]

- **Transparency and predictability of aid assistance.** Effective conditionality frameworks are also associated with transparency and predictability of aid granted.[6] Objectives should be stated clearly and precisely, and the application rules shall be stable over the lifetime of a policy or programme. Predictability can be also enhanced by combining fixed tranches (conditioned to some general ex-ante requirements) with variable tranches linked to progress against performance indicators.[7]

2 Khan, Mohsin and Sharma, Sunil (2001) *IMF conditionality and country ownership of programmes*, IMF working paper, International Monetary Fund; World Bank (2007) *Conditionality in development policy lending*, Operations policy and country services World Bank.
3 European Stability Mechanism (2020), *Lessons from financial assistance to Greece : independent evaluation report.*
4 Khan, M. op.cit; Adam, Christopher et al (2004) “Performance-Based Conditionality: A European Perspective”, in *World Development* Vol. 32, No. 6, pp. 1059–1070, 2004.
5 ESM (2020), *op.cit.*
6 World Bank 2007, *op. cit.*
7 European Commission (2011) *The future approach to EU budget support to third countries*, COM(2011) 638 final, 13.10.2011.

- **Credibility.** Performance objectives must be realistic and attainable but there should be sanctions in the event of non-compliance. This requires, in turn, that the grantor or lender suffers low costs in case of sanctioning the recipient of funds, and that the conditions to apply sanctions are clear. In particular, a lack of clear criteria to revise performance objectives may lead to inconsistent approaches across different countries and frequent changes in objectives, gradually diluting the efforts demanded by the donor. This happened, for instance, with some of the EU financial assistance programmes to debt-ridden countries operating during the euro area crisis.[8]

- **Data collection.** An effective system of performance conditionality relies on the establishment of a robust system of performance indicators. However, collecting performance data and reporting it on time may be challenging. This is particularly the case in multi-level settings, with multiple actors involved in the planning and execution of the programme (e.g., national and sub-national administrations, public and private actors). It requires the use of digital tools and skilled human resources which may not be available in the recipient country. A classic pitfall in this respect is to develop highly sophisticated performance information systems which end up creating administrative overload and do not deliver the expected results.[9] This is in fact a common criticism on the performance framework applied in the EU cohesion policy area, which is found to bring an additional layer of administrative burden without having a major effect on the quality of interventions.[10]

II • A closer look at the RRF performance conditionality regime

As said before, the RRF is not the only EU regime of performance conditionality. Some degree of results-based conditionality is applied in EU development aid, in EU cohesion policy as well as in the various EU lending programmes providing support to Member States under difficulties.[11]

This section pays attention to the specificities of the RRF conditionality regime. To describe it, we distinguish between three phases: (1) the definition of performance objectives (called "milestones" and "targets" in the case of the RRF), (2) the procedures to submit payment requests, and (3) the procedures to approve and/or suspend payment requests. In the first sub-section on the definition of milestones and targets, we identify some common patterns based on the analysis of the four largest National Recovery and Resilience Plans (NRRPs); those of France, Greece, Italy and Spain. These common patterns are illustrated with specific examples from the four plans. In the two following sub-sections, we describe the procedures and rules set up in the RRF regulation but complement them with further details included in the bilateral Operational Arrangements (OAs) and Financing Agreements (FAs) signed between the Commission and each Member State (Box 1).

8 European Court of Auditors (2015) *Financial assistance provided to countries in difficulties.* Special report 18/2015.

9 Robinson, Marc et al (2005) *Does Performance Budgeting Work? An Analytical Review of the Empirical Literature*, IMF working paper, WP/05/210.

10 Darvas, Zsolt et al (2019) *Effectiveness of cohesion policy: Learning from the project characteristics that produce the best results*, study requested by the CONT committee of the European Parliament.

11 The Balance-of-Payments facility (BoP) for non-euro area Member States, the European Financial Stability Mechanism (EFSM) for euro area Member States and loans from the European Stability Mechanism (ESM) for euro area Member States.

BOX 1. NRRPs, Operational Arrangements and Financing Agreements

The RRF regulation stipulates that, after the adoption of an NRRP, every Member State has to sign an "Operational Arrangement" (OA) with the Commission (art 20.6 RRF regulation). The OAs provide further details on the arrangements for monitoring the fulfilment of milestones and targets, establish the indicative timetable for payments and specify the type of documents or data (i.e., the verification mechanism) required to certify the fulfilment of each milestone or target. OAs are posted on the Commission's RRF website once they have been signed. At the moment of writing this paper, there were only five OAs disclosed: those of France, Greece, Italy, Spain and Slovakia. A quick look to these OAs reveals that they follow the same template.

Signing the OA, Member States shall sign a Financing Agreement (FAs) with the Commission (art 23.1 RRF regulation) and a loan agreement (art 15.2 RRF regulation) in case the country has asked for RRF loans. These agreements detail the rights and obligations of both parties and provide further clarifications on how to submit the payment requests. They also detail the rules for the suspension of payments in case of fraud, corruption or conflict of interest not corrected by the Member State or "a serious breach of an obligation resulting from such agreements" (art 22.5 RRF regulation). FAs are not posted on the Commission's website but some countries (Greece, Portugal) have posted them on their own websites. As OAs, FAs follow the same template.

2.1. DEFINITION OF PERFORMANCE OBJECTIVES

RRF payments are conditioned on the achievement of results for both investment actions and reforms. This is quite original if we compare with the other existing EU performance conditionality regimes, with either a focus on the achievement of results from financed actions (e.g., the variable tranches in EU development aid, the performance reserve in EU cohesion policy) or on the implementation of reforms (EU lending programmes supporting countries under financial difficulties).

A first thing to note is that **the number of milestones and targets attached to each national NRRP is very large**. This is partly due to the fact that progress towards the fulfilment of an action (an investment project or a reform) is measured through various intermediate and final milestones and targets. Yet, even if one takes this into account, the number remains very high. It ranges from 70-100 for the smallest NRRPs to 300-500 for the largest ones (the Spanish, Greek and Italian NRRPs). This is comparable to the 587 conditions attached to the ESM lending programme for Greece, which was judged excessive by the ESM independent evaluation report.[12] The parallel IMF programme for Greece had "only" 44 conditions and this was already much higher than the usual number of conditions in comparable IMF programmes (IMF 2017).[13]

Most of the milestones and targets are defined in terms of policy outputs (e.g., the number of charging points deployed, the number of training courses provided, the entry into force of a legislation or the creation of a new administrative structure). They vary a lot in terms of relevance, from the publication of a strategy or action plan for a specific sector to major legislative changes to be adopted by the national parliament and affecting important parts of the economy. Neither the RRF

12 European Stability Mechanism (2020), *Lessons from Financial Assistance to Greece*, Independent Evaluation Report.

13 IMF (2017) *Greece: Ex-Post Evaluation of Exceptional Access under the 2012 Extended Arrangement prepared by a staff team of the IMF for the Executive Board's consideration*, IMF Country Report No. 17/44.

regulation nor the NRRPs include criteria to prioritise objectives. Yet, as we will see in section 3.2, the OAs envisage a closer monitoring by the Commission of the implementation of "relevant milestones and targets".

If we look at reforms, we observe that most of them are sector-specific reforms aimed to enhance the effectiveness of the intended investment in the sector (e.g., reform of the health care system complementing investments in health facilities or services, reform of the electricity sector to facilitate the integration of renewables in the grid). However, **the largest NRRPs also include major horizontal reforms in key policy areas (public administration, justice, tax policy, pension systems, labour market policies). The way in which some difficult or contentions reforms are included in the Plans indicates that the Commission has taken utmost attention to secure broad ownership.** In some cases, the Plans contain **a broad commitment to resume or launch discussions on certain reforms but the reform is not included as a measure of the plan** and therefore not associated with milestones and targets (e.g., the French pension reform or the Italian comprehensive reform of income taxes). In other cases, the reform's intended output is left open, leaving a wide margin of manoeuvre for governments to negotiate the precise content of the reform with major stakeholders (Box 2). However, it should be noted that the reforms have been agreed with the national governments and that, in the preparation of the Plans, there was no binding obligation to submit the draft RRPs to national parliaments before sending it to the Commission. Thus, **the support of the parties in opposition to the reform agenda may not be guaranteed, something that can raise difficulties in case of a change of government.**

BOX 2. Examples of reforms included in the Spanish NRRP whose output is left open to ensure broad ownership

The Spanish NRRP includes a commitment to amend the Workers' Statute to "modernise" the system of collective bargaining (Component 23, Reform 8). The reform had to be approved by December 2021 but the specific direction of the reform was left open. In particular, the milestone establishes that the reform had to be prepared "respecting social dialogue and as part of a comprehensive approach balancing the need for flexibility and security in the labour market".[14]

The Spanish Plan also includes a commitment to undertake a comprehensive reform of the tax system (Component 28, Reform 3). The aim is to bring Spain's government revenue-to-GDP ratio closer to the EU average and to make it more efficient, and modernize and adapt it to new trends such as climate change and the digitalisation of the economy. The Plan envisages the establishment of a Committee of Experts to reflect on the content of this reform and include as a milestone for 2023 "the entry into force of a reform derived from the Committee of experts' recommendations".[15]

As for investments, most of the reform engagements are in the form of outputs (e.g., the adoption of a new law, the creation of a new administrative structure, digitalising a process). An exception to that is **the Italian NRRP, which seems to stand out from the rest as it includes specific outcome targets attached to some major reforms**. This may be explained by a certain mistrust from the Commission as regards to the capacity of the Italian government to effectively implement the adopted reforms. However, we do not find the same level of stringency for other countries with a similarly poor reform record, such as Greece (Box 3).

14 Annex to the Council implementing Decision (CID) approving the Spanish NRRP, p. 216.
15 Annex to the CID approving the Spanish NRRP, p.243.

BOX 3. How to measure success in the adoption and implementation of reforms? Comparing the Italian and the Greek NRRPs

The Italian and Greek NRRPs include similar reforms in the justice sector, the public procurement system and the tax administration.

With respect to the **justice sector**, both plans include reforms aimed at accelerating the administration of justice (i.e. changes in the procedural legislation to simplify trials, investments in the digitalisation of judicial procedures, training courses for judges, the promotion of alternative dispute resolution mechanisms or the introduction of incentives to increase the courts' productivity).[16] In the Greek plan, progress towards the achievement of this objective is only measured in terms of outputs (e.g., full implementation of a new judicial plan across the country, enactment of legislation introducing a bonus system for judicial clerks). In the case of the Italian plan, output milestones and targets are complemented by specific outcome targets to be achieved by 2024 and 2026. Thus, for instance, there is an engagement to reduce the number of pending cases in civil courts by 90% and to reduce the length of civil proceedings by 80% by 2026.

Both plans also contain major reforms to enhance the **efficiency of the public procurement system**. The Italian plan aims at simplifying public procurement rules, increasing legal certainty for businesses and accelerating the award of public contracts while maintaining procedural guarantees. The Greek plan puts the emphasis on the digitalisation and professionalization of the public procurement system, the establishment of new governance arrangements and the setup of a monitoring framework.[17] In the Greek plan, the attainment of these objectives are measured in terms of outputs (e.g., the introduction of a new IT system for public procurement, the entry into force of new legislation establishing professional work streams for staff dealing with public procurement or the submission of an in-depth study to reorganize the structure and the responsibilities of relevant bodies that procure public contracts). In the Italian plan, output objectives are complemented by outcome targets for 2023, particularly by a reduction, to less than 100 days, of the average time between the publication and the contract awards for big projects and a 15% reduction by of the average time between the contract award and the realization of infrastructure projects.

Finally, both plans include measures aimed at improving the functioning of the **tax administration** and increasing tax collection through changes in tax legislation, the digitalisation of tax administration and measures to improve taxpayer e-services, among others.[18] Again, in the case of Greece, all objectives are defined in terms of outputs (e.g., the introduction of a new fully automated VAT refund system or the completion of a digital transformation of tax audits). In the Italian case, output targets and milestones are complemented with quantitative outcome objectives, such as a 15% reduction of the level of tax evasion by 2026.

16 Mission 1, component 1, reforms 1.4 and 1.5 in the Italian NRRP; component 4.3 in the Greek NRRP.
17 Mission 1, component 1, reform 1.10 in the Italian NRRP; component 2.2. (ID 16336) and 4.2 (ID 16711) in the Greek NRRP.
18 Mission 1, component 1, reform 1.12 in the Italian NRRP; component 4.1.in the Greek NRRP (ID 16611, 16643, 16610, 16291).

Finally, **milestones and targets are described in detail and the possibilities to revise them are very limited. Any modification requires a qualified majority vote by the Council** and is only accepted in case relevant milestones and targets are no longer achievable, either partially or totally, due to "objective circumstances" (art 21 RRF regulation). There is no precise definition of what "objective circumstances" are; it is up to the Commission to interpret this when receiving the proposals for amendments (which may lead to controversies, i.e. does it mean purely exogenous factors or can also include a change in government?). Besides, the limited capacity to revise objectives contrast with what seems to be common practice in other EU performance conditionality regimes.[19]

2.2. SUBMISSION OF PAYMENT REQUESTS

To receive RRF funding, Member States have to submit a payment request to the Commission. These can be submitted twice per year, either at the end of the first and third quarter or at the end of the second and fourth quarter.

Each operational arrangement details the calendar for payments for the Member State. However, **the schedule for payments is indicative. The RRF regulation only fixes a real deadline for the submission of payment requests, which is December 2026**. The Greek and Portuguese Financing Agreements confirm the indicative nature of the calendar for payments. Art 6.3. in both FAs say that "the Member State shall on a best effort basis seek to abide by the indicative payment request schedule set out in the Operational Arrangements". FAs also advance a bit the final date for payments, as they indicate that "the final request for payment shall be submitted by 30 September 2026".

It is also important to take into account that the Commission envisages to closely monitor the implementation of "relevant" milestones and targets through regular exchanges (art 1.1. in the Operational Agreements). Apart from these regular meetings, the Commission can ask for the organisation of ad hoc meetings "to discuss investments and reforms in the RRP that may raise specific implementation challenges" (Art 1.6 in the OAs) as well as technical meetings with specific government entities in charge of the implementation of specific reforms and investments (Art 1.7 in the OAs). **In practice, hence, if a Member State encounters problems to achieve some relevant milestones and targets**, these will be discussed with the Commission well in advance to the submission of the payment request. If there is no way to achieve these milestones and targets on time, **the Commission and the Member State may decide to report the date for submitting the payment request**. The system resembles to a certain extent the regime of "floating tranches" described in section 2.

Member States shall accompany the payment request will all the documents or data required by the OAs to certify the fulfilment of each milestone or target. A look at the OAs signed with the French, Italian, Greek and Spanish governments shows that the amount and type of information required can be very detailed. In

19 A recent study by the European Court of Auditors, for instance, analyses the functioning of the Cohesion policy's "performance reserve" that was operative during the period 2014-2020. This consisted of a mandatory reserve of 6 % of each Member State´s cohesion spending which had to be released for successful programmes or otherwise to be re-allocated to other programmes in the same Member State. The study shows that the Commission offered Member States ample room to revise milestones and targets after the adoption of the plans. This could be done "for duly justified cases", the latter including the possibility of milestones and targets having been based on incorrect initial assumptions. Member States made widespread use of this possibility, and more than half of the targets and milestones were modified before the release of the performance reserve (see ECA, *Performance-based financing in Cohesion policy: worthy ambitions, but obstacles remained in the 2014-2020 period, special report* 24/20212021) . An analysis of EU lending programmes to countries under difficulties during the financial crisis also shows that amendments to the conditions imposed were significant and happened continuously (see ECA 2015 *Financial assistance provided to countries in difficulties*, special report 18/2015).

addition to that, for the purposes of audit and control, Member States shall collect and store data on the final recipients of the RRF funds as well as keep a list of all the measures financed by the RRF, indicating the amount of funds paid under RRF and under other EU funds.[20] **Collecting all this data while implementing the RRF funds may be challenging.** Difficulties may be more acute at the regional and local level, where public administrations tend to be less staffed and ill-equipped. Some national plans include actions to reinforce administrative capacities but not all pay sufficient attention to the potential problems at the sub-national level (box 4).

BOX 4. Measures to reinforce the administrative capacity for the implementation and monitoring of the Plan: comparing the Spanish and the Italian NRRPs.

Whereas the preparation of the NRRPs has been mainly a top-down process, the involvement of sub-national authorities is key in the implementation phase. In the case of Italy and Spain, for instance, almost 50% of the RRF funds (in Spain) and between 35-40% (in Italy) is expected to be implemented by regional and local authorities.

Both Plans include structural, long-term measures to modernise the public administration (e.g. reform of the recruitment procedures, digitalisation of services) and more targeted, short-term measures to simplify administrative processes and reinforce the administrative capacity for the implementation and monitoring of the plan. With respect to the last point, the Spanish Plan envisages to train at least 3.150 public employees throughout its implementation. However, all of them will be staff working at the central administration. There are no specific measures to train or support regional or local level staff. The Italian Plan, in contrast, envisages the creation of a temporary "Task force" composed of 1.000 experts to provide technical assistance to mostly local administrations to implement complex RRF projects and re-engineering administrative processes. It also includes the provision of on-line training initiatives, targeting at least 350 000 employees working at the central administration and 400 000 working in other administrations. Finally, the Italian government envisages the use of national funding to temporary recruit 2.800 staff for public administrations of the South of Italy.

At the moment of submitting payment requests, Member State shall also indicate how much of the RRF funds already used have been assigned to the climate objective. Yet, Member States' information on progress towards the attainment of the **37% climate target** "shall not be taken into account by the Commission for the assessment of the milestones and targets under the request for payment" (art 7.2 FAs).[21] Thus, **delays to achieve key climate deliverables will not be particularly penalising.** In addition to that, the milestones and targets associated with climate-related measures have not always been defined in a way to ensure that the measures implemented are as climate-supportive as planned. Thus, **there may be a risk of "greenwashing" in the implementation of some NRRPs**. The case of the French "Ma Prime Renov" is an illustration of this risk (Box 5).

20 Art 22.2.d RRF regulation.

21 "*Art 7. Ex-post reporting on climate change objectives.1. The Member State, together with the submission of a request for payment, shall declare the total cumulative expenditure disbursed up to that moment by the Member State for the implementation of each reform and investment of the national recovery and resilience plan assigned a positive climate marker under the methodology in the RRF Regulation, as contributing to climate change objectives. 2. The information referred to in paragraph 1 shall not be taken into account by the Commission for the assessment of the achievement of the milestones and targets under the request for payment*".

BOX 5. The risk of "greenwashing" in the implementation of NRRPs: the case of the French "Ma Prime Renov"

The French NRRPs envisages the use of RRF funds to extend "Ma Prime Renov" (MPR), a grant scheme to support insulation, heating, ventilation or energy audit works on private dwellings (Component 1, Investment 1). The text of the NRRP explains that MPR grants financed with RRF funding will achieve, on average, at least 30% of energy savings. Given this level of climate ambition, the Commission assigns a 100% climate coefficient to this measure. However, the engagement to produce 30% of energy savings is not included in the definition of the target. Thus, in practice, it has no legal effect. The French government only commits to fulfil a target which is defined in terms of number of MPR grants provided (to provide 400.000 MPR grants by the second quarter 2021 and 700.000 MPR grants by the second quarter of 2022). In coherence with this, the Operational Arrangement (OA) does not require the French government to provide any proof of the improvement in terms of energy savings obtained with the MPR grants.

This contrast with the approach adopted in other plans. As shown in the table below, the Italian, Spanish and Greek NRPPRs include similar grant schemes to finance energy renovation of buildings. In all three cases the target includes a clear engagement to achieve 30% or more of energy savings on average.

TABLE 1. Investment in energy renovation of buildings: comparing the definition of targets in different NRRPs (italics added)

French NRRP. "Buildings renovation. Energy renovation of private buildings (C1.I1) Target: 700.000 "MaPrimeRenov" granted by Q42021 by the ANAH (National Housing Agency) to households committing to carry out energy renovation works in their home (baseline 400.000)
Greek NRRP. "Renovate. 16872_Energy renovation on residential buildings" (C2- 1.2) Target: Renovations to improve energy efficiency completed for 50.000 residences by Q42025, **equivalent to energy reduction of 30 ktoe and with primary energy savings, on average, of at least 30%.**
Italian NRRP- "Strengthening of the Ecobonus and Sismabonus for energy efficiency and building safety (M2,C3,I1.2) Target: Complete building renovation for (i) at least 32 000 000 square meters **which result in primary energy savings of at least 40% increasing at least two categories in the energy efficiency certificate,** (ii) renovate at least 3 800 000 square meters for antiseismic purposes by Q42025
Spanish NRRP- "Rehabilitation programme for economic and social recovery in residential environments" (C1.I1) Target: At least 231 000 residential dwelling renovation actions in at least 160 000 unique dwellings completed by Q42023, **achieving on average at least a 30 % primary energy demand reduction (cumulative).**

2.3. APPROVAL AND SUSPENSION OF PAYMENTS

A distinctive feature of the RRF regime is the procedure for the approval of payments. In the case of the EU cohesion policy or EU development aid, the Commission verifies the fulfilment of conditions on the basis of information provided by the Member State and approves the payments. In the case of the European Stability Mechanism, it is the Board of Directors, composed of senior representatives of the euro area finance ministers, who makes a judgement on compliance with conditionality. In the case of the RRF, there is a hybrid governance system involving the Commission, the Economic and Financial Committee (EFC) —composed of senior officials of EU finance ministers— and, in exceptional circumstances, the European Council.

More specifically, the procedure is as follows: after receiving a payment request from a country, the Commission has two months to conduct a preliminary assessment on the fulfilment of milestones and targets. To do so, it will mostly rely on the information sent by the Member State but may also carry on-the-spot controls in the country. **If, when doing this preliminary assessment, the Commission considers that there is a need for major additional information or corrections, it has the capacity to "stop the clock"** (e.g., to suspend the two months period) and ask the country to provide additional or corrected documents (art 6.4 of the FAs[22]).

Once the preliminary assessment is done, the Commission will send its findings to the EFC and ask for its opinion. The EFC opinion is not binding but shall be taken into account to make the final assessment (art 24.4 RRF regulation). As the European Parliament has the right to receive all the information transmitted to the Council or the EFC (art 25.2 RRF regulation), the findings will be also sent to the Parliament. The Commission will then conclude its assessment. **If it is positive, it will adopt a decision authorising the disbursement of the payment. This decision will be adopted *unless* there is a qualified majority of EFC members against it (art 23.5 RRF regulation)**.

In the absence of a qualified majority blocking the decision, it may also happen that one or more EFC members have serious doubts about the Commission's assessment and request the matter to be discussed in the European Council. This is **the famous "emergency brake" introduced at the request of the Dutch prime minister** during the July 2020 European Council negotiating the creation of the Recovery plan. In this case, the Commission's decision will be suspended until the European Council discusses the matter and up to a maximum of three months (art 24.10RRF regulation). Not being a legislative body, the European Council cannot decide whether or not approving the payment. However, **a discussion at the level of the Heads of State and Government may have political resonance**. It may also influence the position of EFC members and, in turn, trigger the creation of a qualified majority blocking the Commission's decision.

If the assessment is negative, the Commission has enormous discretion to act. First, it can propose to suspend the payment or a part of the payment but there is no guidance on how to choose one or the other. Shall the Commission only apply total suspension in case of non-fulfilment of relevant milestones and targets? In this case, who decides what is a "relevant" milestone and target? Second in case of partial suspension, there are no rules or criteria to calculate the amounts to be suspended. This is particularly tricky, as the amounts the Commission pay in each

22 Art 6.4.FAs "*The preliminary assessment under Article 24(3) of the RRF Regulation shall be carried out by the Commission on the basis of the information provided by the Member State in accordance with paragraph 2. For the purpose of the assessment, the Operational Arrangements shall also be taken into account. The Commission may ask supplementary information and/or carry out checks and on-the-spot controls to verify the completion of milestones and targets, including on the non-reversibility of previously satisfactorily fulfilled milestones and targets. In case the Commission notifies the Member State of the need for major additional information or corrections of its payment request, the period between the date of the Commission request until the date of the submission of additional or corrected documents shall not be considered for the purposes of calculation of the deadline referred to in Article 24(3) of the RRF Regulation.*

instalment are not the sum of the total costs of the RRF measures implemented. Thus, partial payments cannot be simply calculated by excluding the cost of the projects or actions unfulfilled.

In addition to that, **whereas a Commission's decision to approve payments is subject to comitology (that is, can be blocked by a qualified majority of EFC members), decisions on suspensions are not**. They are taken by the Commission alone, after having received the observations from the Member State concerned.[23] The decision to lift the suspension is also taken alone by the Commission without much guidance from the regulation. The RRF regulation only says that the Commission can lift it as soon as "the Member State concerned has taken the necessary measures to ensure a satisfactory fulfilment of the milestones and targets" (art 24.6). This gives room to different interpretations, as "taking the necessary measures" is not the same than fulfilling milestones and targets. This is not a minor issue, as the suspension of payments may eventually translate into a permanent reduction of the Member State's RRF allocation if, after six months, the latter has not taken the necessary measures (art 24.8).

Another question that may generate controversy is the application of the rule of "non-reversibility' (art 24.3 RRF regulation). This rule allows the Commission to suspend payments in case previously satisfactorily fulfilled milestones and targets are reversed. As shown by the media and political discussion around the recent Spanish labour market reform, determining whether a given measure reverses a previous one can be object to different interpretations. Does reversibility mean total dismantlement of a previous reform or can it also mean the introduction of important changes in a previously adopted reform ?

Finally, one should not forget that, **as with the EU cohesion policy funds, the Commission can always suspend RRF funds and even cut the RRF contribution if there is a major deficiency in the Member States' control system** (art 22.5RRF regulation).[24] In this case, like with EU cohesion funding, there are rules to calculate the amounts to be suspended, ranging from 10% to 100% depending on the magnitude of the deficiency detected.[25]

III • Some speculation: What may happen during the implementation of the RRF?

At the moment of writing this paper, all Member States apart from the Netherlands have submitted their recovery and resilience plans (26). The Council has adopted the Plans of 22 Member States and 21 of them have received the 13% of pre-financing (the exception being Ireland, which has not asked for pre-financing). Four member states (France, Greece, Italy and Spain) have submitted their first payment requests and the Commission has already approved that of Spain.

In the coming months, the number of RRF payment requests will significantly increase as many other Member States will send payment requests to the Commission, and the rhythm of quarterly RRF disbursements will not stop until end of 2026. What will happen when the machinery of RRF disbursement will work at full speed? Here some speculations, based on the findings from this paper.

23 Art 24.6 of the RRF regulation reads as follows "Where, as a result of the assessment referred to in paragraph 5, the Commission establishes that the milestones and targets set out in the Council implementing decision referred to in Article 20(1) have not been satisfactorily fulfilled, the payment of all or part of the financial contribution and, where applicable, of the loan shall be suspended. The Member State concerned may present its observations within one month of the communication of the Commission's assessment".

24 For an in-depth discussion of the various instruments to control fraud and corruption in the use of RRF funds see Rubio (2021), *Balancing urgency with control: How to prevent fraud in the use of the EU recovery funds without delaying their implementation*, Jacques Delors Institute, policy paper 262, April 2021.

25 Art 19 FAs.

First, **there may be frequent delays in the submission of payments.** As said above, the calendar of payments is indicative and the Commission will closely monitor the progress in attaining milestones and targets. If a country is off-track, the Commission will probably push the country to delay the submission of the payment request so as to increase the chances of having a positive assessment. In short, we will see a similar dynamic than the one we saw in the preparation and adoption of the Plans. At that moment, the Commission purposely pushed various Member States to improve again and again their draft plans prior to formal submission, so as to avoid any problems with the adoption in the Council. Of course, it may happen that a Member State refuses to report the submission of the payment request because it wants to receive the money as soon as possible. In this case, the Commission has always the possibility to "stop the clock" when doing the preliminary assessment and ask the country to do more efforts before sending the final assessment to the EFC and the Parliament. Either way or the other, the Commission has wide control over the time to submit and approve the payments.

Second, **suspensions of payments due to non-fulfilment of objectives will most probably be rare. If they occur, they may raise controversy**. Suspensions have a risk of reputational cost for the Commission. They may be interpreted as a sign of failure of the RRF. They may also be negatively perceived in the markets and complicate the fiscal position of the recipient country. In addition to that, given the wide discretion the Commission has to determine the amount of total or partial payments, any decision on suspension may be contested at the EFC. Even worse, it may end up at the European Council and generate a political conflict. For all these reasons, the Commission will make its most to avoid suspensions.

Third, **suspensions of payments due to deficiencies in the control systems may be more frequent**. These types of suspensions are less problematic, as the criteria to calculate the amounts to be suspended are clear. The Commission will be under growing pressure to make more effective use of this possibility if there is evidence of institutionalised fraud or corruption in some countries, all the more if the new rule of law conditionality mechanism takes time to come into force.

Fourth, **there will be demands to amend NRRPs and controversies around the meaning of "objective circumstances" justifying a request to amend the Plans**. Demands for revision may occur, for instance, if a new government is elected with a different agenda. A change of government may also raise the question of how to interpret the "non-reversibility·" clause. Will the Commission allow the new government to introduce changes in the content of previously adopted reforms or any attempt to modify an already adopted reform will be considered as against the rule of non-reversibility? Moreover, demands to revise milestones and targets may also come from incumbent governments. If a country suffers from systemic delays and major implementation failures, it may be tempted to ask for a revision of the milestones and targets on the grounds that the latter were defined under time pressure and have proven to be unrealistic.

Fifth, **there is a risk of greenwashing in some NRRPs which may not be detected through the formal RRF reporting tools.** The Commission will provide a first quantitative assessment of the contribution of the NRRPs to attain the 37% climate target in the review report to be presented in July 2022 (art 16.2 RRF regulation). This assessment, however, will be done on the basis of data reported by Member States on the fulfilment of milestones and targets. As shown with the example of the French "Ma Prime Renov", there may be cases in which the fulfilment of the milestone or target agreed with the Commission does not guarantee that the measure implemented is as climate-supportive as expected.[26]

26 For a detailed analysis of how the different NRRP fulfil the 37% climate objective and, in particular, the extent to which they support green innovation see Eisl, Andreas (2021) *The European Recovery Plan as a breakthrough for green innovation? Challenges and opportunities for an innovative green recovery*, Jacques Delors Institute, policy brief , December 2021.

Sixth, **we will see more serious problems to fulfil milestones and targets in the last years of implementation of the plans (that is, 2023-2026)**. The milestones and targets for the first years include many "low-hanging fruits", such as preparatory actions (e.g. adoption of action plans or strategies, preparation of tender specifications) or the conclusion of investment projects or reforms which were already in the pipeline at the moment of adopting the plan. The capacity to pass and implement new reforms as well as to execute new investment projects will be tested in the following years. Countries such as Italy, which have engaged to achieve specific outcomes from the implementation of certain reforms, may encounter particular difficulties to fulfil milestones and targets at the end of the period, especially given the fact it is supposed to run general elections at the latest in 2023.

• Conclusions: box ticking exercise, intergovernmental game or technocratic governance?

In July 2020, when the European Council agreed to set up an extraordinary plan to help Member States recover from the Covid crisis, there were fears that the governance of the Covid recovery plans would be strongly dominated by an intergovernmental logic. National governments would not only have to obtain the approval of their plans by the Council but the disbursement of money would be supervised by a body composed of other Member States' high-level public officials, the Economic and Financial Committee. In addition to that, there was the so-called "emergency brake" included at the request of The Netherlands, which would allow a single country to stop disbursements in case of serious concerns with the implementation of a national plan and raise the issue to the level of EU leaders.

Soon after, it became clear that the fears of seeing the RRF governance strongly influenced by intergovernmental dynamics were unfounded. Experience with the Stability and Growth Pact suggested that Member States would be very reluctant to properly scrutinise each other. Besides, the magnitude and heterogeneity of national plans would make difficult and time-consuming for national officials to follow the implementation of other countries' plans and raise justified objections. The Commission, not the Council, would be the dominant played in this game.

Yet, the perception still was that the RRF regulation included very clear and precise criteria, both for the assessment of the Plans and for the disbursement of money, and thus that the Commission's role would be strongly constrained by rules. Some observers even alerted on the risk of converting the whole process into a sort of formalistic, box ticking exercise.

This paper contends this vision. It argues that the governance of the RRF will be neither dominated by intergovernmental dynamics nor based on a purely administrative, box ticking approach. It will resemble more to what the literature describes as "technocratic governance" (Caramani and Bertsou 2020),[27] that is, a **governance dominated by a technocratic executive with powers to take decisions based on its expertise rather than on precise rules**.

Contrary to popular wisdom, technocratic governance does not mean depolitisation. Technocratic executives' survival depends on their technical prestige and are thus very sensitive to institutional risks and reputational threats. When they receive signals that their institutional position may be endangered by a particular political audience, they tend to exert their expertise in a way to satisfy this audience (Van der Weer 2020[28]).

If we apply this logic to the RRF, we can expect the Commission to exert its expertise in a way to portray an image of "success" of the RRF. It will prefer to report

27 Caramani, Daniele and Bertsou, Eri (2020) *The Technocratic challenge to democracy*, Routledge Taylor and Francis Group, London and New York.

28 Van der Weer, Reinout (2020) "Technocratic Responsiveness", in Caramani et.al (ed), *op.cit.*

payments until the country has completely fulfilled all the objectives and avoid any risk of contestation by the other Member States. If, despite these efforts, the Commission is confronted to the need to take difficult and discretionary decisions (namely partial payments), it is not clear how the Commission will apply its powers. Will it be rigorous or rather lax in the interpretation of the norms? If the Commission perceives a risk that frugal countries question its capacity to steer the RRF, it may reply with a strict application of suspension rules. If there is no such risk of contestation and frugal countries do not pay much political attention to the implementation of the plans, preferring instead to invest their political capital on other issues (eg the reform of the EU fiscal rules), the Commission may be tempted to be "generous" in its application of suspension rules and make life easy for the recipient country.

Finally, one should not forget that, at any time, the Commission can suspend payments and even cut the RRF contribution if there is evidence of a serious malfunctioning of the systems of budgetary control. How exactly the Commission will make use of this prerogative will depend on various factors, but a detailed discussion would be object of another paper. •

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