



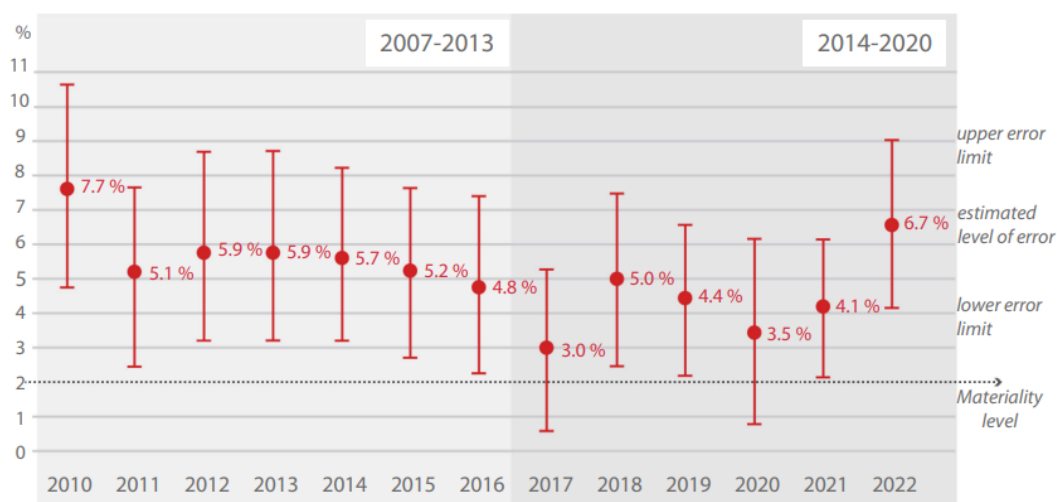
EUROPEAN
COURT
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Overview

Cohesion policy aims to reduce economic and social disparities between EU countries and regions. For the 2014-2020 period cohesion policy accounted for more than one third of the EU budget. The amount of more than €400 billion cohesion policy funds in the 2014-2020 period is managed in a multi-layered control system jointly by the Commission – which bears ultimate responsibility for the EU budget, and the member state authorities to whom the day-to-day operation is delegated meaning that each layer of scrutiny is based on work done at the previous level. Under the assurance framework of cohesion policy, the Commission derives assurance from audit work done by member state authorities.

The multiannual overview of our audit results shows that the 2014-2020 cohesion policy assurance framework has helped reduce the overall error level since 2007, but it has not been effective in bringing it below the required 2 % materiality threshold. The audit results for this period consistently show annual and multiannual error levels above this threshold:

Figure 3 – ECA error estimates for cohesion spending, 2010-2022



Source: ECA.

Overall, one in four transactions in our samples between 2017 and 2022 were affected by some breach of legal requirements, even though almost all these transactions had already been examined by audit authorities.

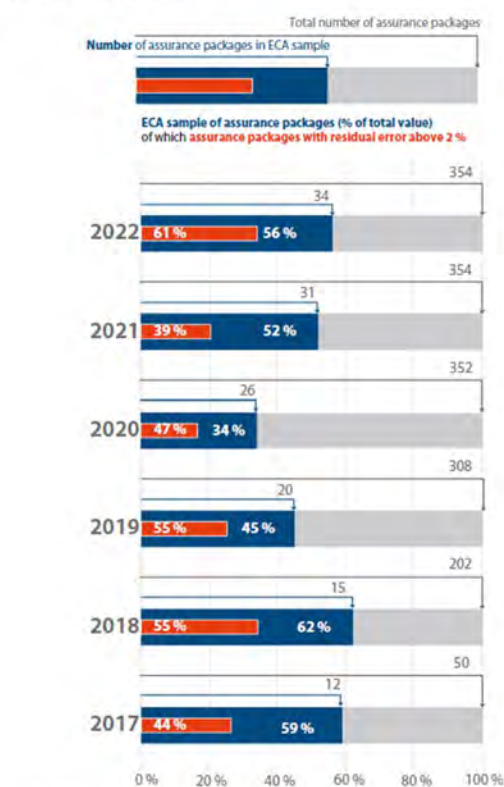
Reliability of the work of the key actors in the control system for cohesion policy

Not all national or regional management and control systems are sufficiently effective in preventing or detecting irregularities in expenditure declared by beneficiaries.

The managing authorities, as the first line of defence in the assurance model, do not yet sufficiently mitigate the high inherent risk of error in cohesion spending. Around half of the additional errors we reported for the 2014-2020 period can be attributed to acts or omissions by managing authorities.

Audit authorities are an essential “second line of defence”. Nevertheless, and although they detect many irregularities in the expenditure declarations prepared by managing authorities, we found weaknesses in the work of a significant number of audit authorities. Errors remain undetected because of shortcomings in the planning and preparation of their audit work, and in the quality of the work itself and its documentation. These errors have limited the extent to which the Commission can rely on national controls. Between 2017 and 2022, we identified additional errors in 51 of the 87 assurance packages we audited at least once. In 43 of these cases, which represent a significant share of expenditure certified to the Commission, these additional errors resulted in increasing the residual error rates exceeding the 2% threshold.

Figure 5 – Assurance packages with a residual error rate above materiality (2017-2022)



Note: Our analysis also takes account of the Commission's assessment of the assurance packages in our sample.

Source: ECA.

Also, there are weaknesses in the Commission's checks which prevent them from identifying errors not previously detected by member states authorities. The Commission's own checks through desk reviews to confirm the reliability of the residual error rates face limitations as they are not designed to detect additional errors. A greater impact could be achieved by increasing the number of compliance audits it carries out, as these have a clear added value and are more effective than desk reviews in detecting irregularities but currently limited in number. Their results are similar to ours, for 73% of these audits, the Commission found that AA underestimated the level of error, for 41% the Commission recalculated the level of error above 2%.

Some types of error are more frequent

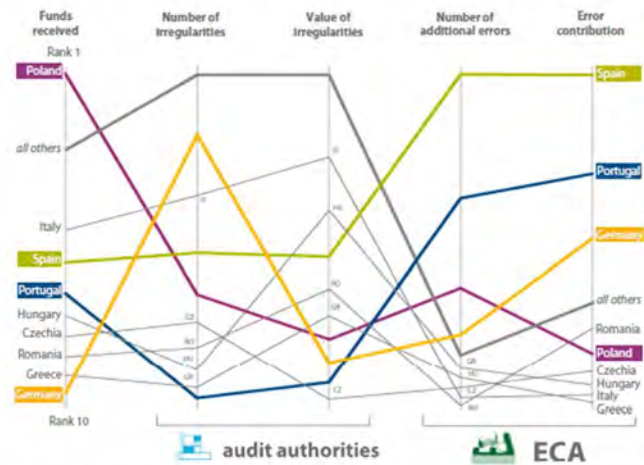
Ineligible expenditure and ineligible projects were the most prevalent type of error, both numerically and by financial impact. Such errors also contributed most to our estimated level of error between 2017 and 2022, followed by non-compliance with EU and national public procurement rules. Audit authorities have improved their capacity to detect public procurement errors since the 2007-2013 period, but cohesion policy is still too significantly affected by this kind of errors. Ineligible projects and state aid errors are lower in number but have significant impact.

Nine member states¹ responsible for 76 % of cohesion spending accounted for 91 % of the estimated level of error. Our audit results indicate an error level above materiality for all these member states receiving the most cohesion funds except for Poland, where one large programme accounted for more than one third of the country's entire cohesion spending. Member states vary in how effectively they detect irregular expenditure and certain error types have been more common in some member states.

Our findings for specific member states differ from those of their AAs: German AA reported a high number of irregularities, with a low value. We detected a low number of additional errors, but with a high average error rate, making Germany the third biggest contributor to our error rate. Also, Spain and Portugal represent an unproportionate high share of the errors relative to the funds they received.

¹ Czechia, Germany, Greece, Spain, Italy, Hungary, Poland, Portugal, Romania.

Figure 7 – Overview of member states in terms of irregularities found and reported by audit authorities and additional errors detected by us (2017-2022)



Note: (1) The overview covers irregularities and errors analysed in paragraphs 71-82. (2) Member states are listed according to their ranking for the different aspects examined (i.e. the highest ranking member state is positioned on the top). Member states' rankings under each heading are based on the share for which they account in each case. (3) Member states that are specifically mentioned in the related paragraphs are highlighted in the figure.

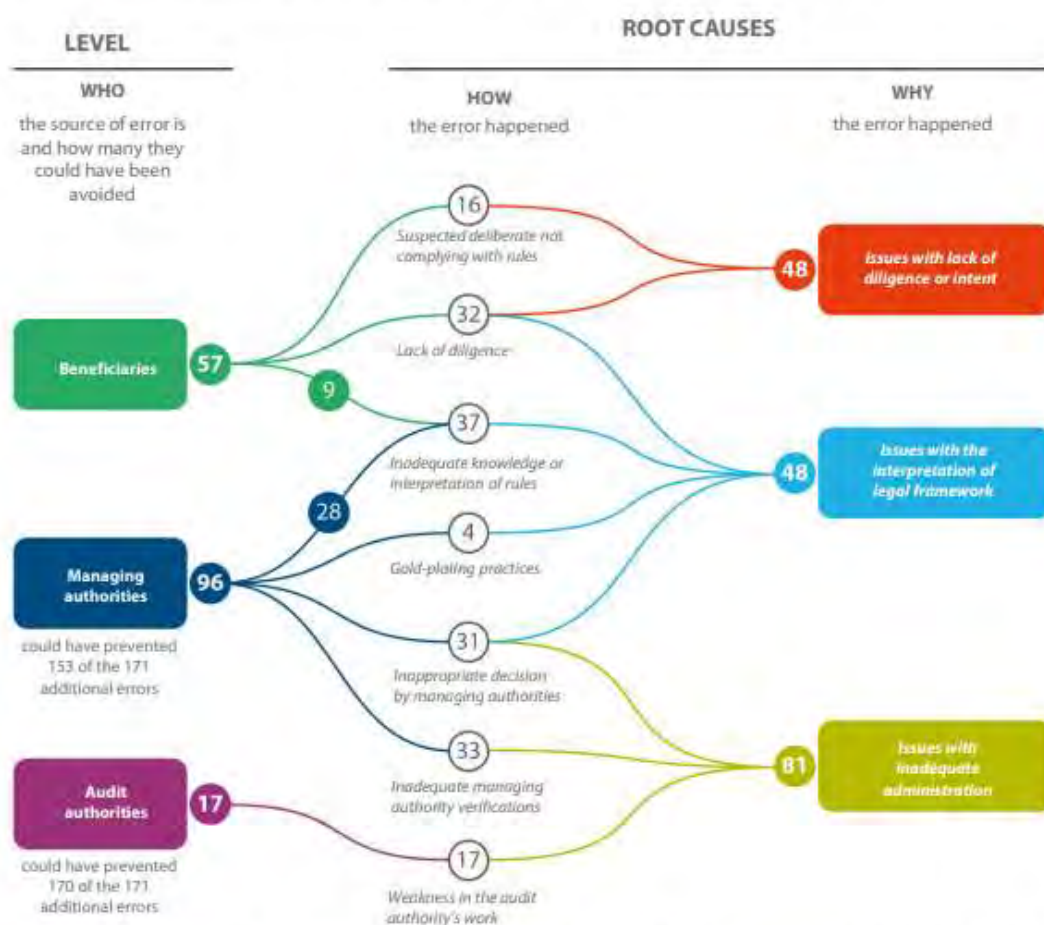
Source: ECA, based on our own data and audit authorities' reporting to the Commission.

Also, the Commission recalculates a residual error rate above the materiality threshold for some member states more often than others, indicating that member states differ in how effectively they apply the assurance framework. This underscores the role of the Commission in continuing to actively address country-specific issues.

Different root causes for errors at national level

A clear novelty of this report is the categorisation of the root causes. We have for the first time analysed the root causes at national level and we assigned them to three groups. Inadequate administration, lack of diligence or suspected intentional violation, and the differences in the interpretation of the regulatory framework are the three main root causes of these errors. Errors occurring at each stage could have been detected and corrected by the subsequent control level in the member states:

Figure 9 – Overview of root causes of the additional errors detected by us and the level at which these errors occurred (2017-2022)



Note: Classification based on main error characteristic. For one of the 171 additional errors we detected we consider that responsibility lay mainly with the Commission.

Source: ECA.

1. More than a third of the additional errors could have been prevented by better decision making or more efficient verifications by managing authorities.

These errors happened as a result of inadequate (or even non-existent) first-level checks during project implementation (*approval of expenditure despite project objectives not having been met*) or Lack of appropriate checks by managing authorities during their verification of eligible expenditure (*the provision of financial support that is not in line with conditions set out in project approval documents, lack of eligibility checks on participants or reimbursement of expenditure not incurred by beneficiaries*).

But we identified as well inappropriate assessments by audit authorities: Shortcomings in audit planning and preparation, in the quality of audit work or in the documentation of audit work. These cases mainly concerned non-reporting of errors and/or inadequate quantification.

2. Over a quarter of the additional errors can be attributed to a lack of diligence or suspected intentional non-compliance with rules by beneficiaries. In these cases, the rules were rather clear, but the beneficiary took insufficient care to follow them. But this category also includes cases of errors which resulted from intentional acts by beneficiaries - cases, where we suspected fraud. However, around 35 % of audit authorities' checklists still did not explicitly address the risk of fraud or document how they addressed this risk during their audits.

3. Another quarter are linked with the interpretation of the regulatory framework. The majority of these cases occurred because managing authorities themselves interpreted the rules incorrectly. The main challenge for the Commission is how to provide more explicit guidance to clarify aspects for which the legal basis is not sufficiently clear, but also to avoid "gold-plating". Member states with decentralised administrations and regionalised programme implementation may face greater challenges in implementing cohesion policy programmes effectively.

Use of available tools by the Commission

Despite various simplification initiatives, the simplification of the regulatory framework has not achieved all the intended results. During the 2014-2020 period, simplified cost options were the most frequently used simplification measure. Transactions using simplified cost options are less prone to errors but are not being used across the board.

The 2014-2020 assurance framework provides various ways for the Commission to safeguard the EU budget. The retention of 10 % from each interim payment until the acceptance of the annual accounts could be an effective safeguard. The Commission, however, analyses legality and regularity issues only after it has released the amount retained. The Commission also uses financial corrections in cases where it considers that there are serious deficiencies in programmes' management and control systems. However, it has not yet applied net financial corrections, the only type that results in a direct and immediate loss of funding for member states concerned. These instruments, therefore, have weaknesses in design and implementation.

Upcoming challenges

Despite the system of annual acceptance of accounts, the implementation of the 2014-2020 cohesion policy funds still comprises several elements of a multiannual nature that will need to be taken into account during closure procedures and following the payment of the final balance, in view of legality and regularity

considerations. The rules on the examination and acceptance of the accounts for the final accounting year are the same as for any other accounting year and the rules give no final deadline for definitive closure.

Pressure to absorb available EU funding poses an additional risk to sound and regular spending. The flexibility provided to address the COVID-19 pandemic, including in particular the temporary possibility of 100 % EU funding, helped to make up for slow absorption in the preceding years. However, the removal of the requirement for national, regional or private co-financing of programmes goes against the long-standing principle of EU finances: that national or regional public (as well as private) co-financing has been seen as an essential safeguard to ensure the economical, efficient and effective use of EU funding and ownership of public investments as a factor in reducing risks to sound and regular spending.

Closing remarks

These findings indicate the need for further improvements in the way the framework is implemented by both member state authorities and the Commission. Against this backdrop, we consider that more action is necessary to strengthen the way the assurance framework for the outgoing period, but as well for 2021-2027 cohesion spending is implemented and, in particular, steered by Commission, given that it is ultimately responsible for implementing the EU budget. Commission and MS should work hand in hand in delivering benefits to citizens, more needs to be done that spending follows the rules.