Recovery and Resilience Facility two years after – quo vadis EU money?

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Last week, the Commission issued its second report on the implementation of the Recovery and Resilience Facility (RRF). During the same week the European Parliament's Committee on Budgetary Control organised a hearing where key Commission officials were invited to respond to questions concerning the implementation of the facility. Overall, the discussion continued the tone of the 2021 budget discharge procedure, highly critical of both the content of the plans and the monitoring of the use of funds.

After two years of implementation, it is now possible to make some preliminary conclusions about how the RRF money is being spent. This would also seem like a useful and necessary exercise, given that to benefit from the support of the facility, the reforms and investments should be implemented by August 2026. If any adjustments need to be made to the way the RRF is executed, now is the time.

Reading the reports and listening to the hearings in the European Parliament, it becomes abundantly clear that the RRF has very little to do with European policies. It is a vehicle for financing very mundane national budgetary expenditures that may be useful as such but have little genuine European value and little transformational potential. In a time with pressing common European needs, this is not how it should be.

Governance through planning

As is well known, in the absence of a more specific legal basis for a broad EU level transfer policy, the RRF was set up as a cohesion instrument. Its scope is formally limited to six "areas of European relevance", including green transition; digital transformation; smart, sustainable and inclusive growth; social and territorial cohesion; health, and economic, social and institutional resilience, and policies for the next generation. In reality, these areas are so wide as to encompass almost any public policy field.

The RRF establishes a system of national governance through EU level planning. The general obligations of the RRF are tailored individually for each Member State in their individual recovery and resilience plans that include the milestones and targets of reforms and investments, set by capitals in confidential negotiations with the Commission. Money can be allocated to measures ranging from health, education, social and employment services to transportation, energy, environment, justice, administration, and cybersecurity, to name a few. Some of these policy areas fall under EU competence while others belong to the national competence.

In addition to the Covid-19 crisis, the RRF was justified with broad policy objectives such as the 'green transition' and 'digital transformation' – the key political priorities of the von der Leyen Commission. However, the national plans are primarily about coming up with a sufficient number of projects to allow releasing a pre-determined share of funds to each Member State. Despite the proclaimed focus on green and digital, there is no process of directing funding to projects that would be most useful from the perspective of the EU's energy, environmental or climate aims. The RRF does not seek to identify European public goods, but is content to fund national policy measures that primarily benefit the individual countries themselves. Also, gone is the traditional focus of cohesion policies on disadvantaged regions; the RRF focuses on Member States in their entirety.

Reading national recovery plans is an exhausting exercise: thousands of pages in national languages. A cursory look confirms their wide reach. They cover traditional investments, in infrastructure and energy; IT projects in a variety of different fields; reforms of budgetary planning, judicial systems, insolvency systems, taxation, pension systems, labour markets; measures in the field of education, social policies and housing, to name a few. The plans do not cover projects in the field of security and defence, nor financial market policies, but almost everything else seems to be fair game. The cohesion policy objectives (Article 174 TFEU) seem entirely absent.

Green and digital transformation

Green and digital transformation are the two particular policy areas of emphasis of the RRF. Both in the RRF legislation and in implementation, the two areas are handled quite symmetrically. Both are assigned a minimum share of total spending, 37 % for green measures and 20% for digital measures.

Yet, in terms of EU competence, the two objectives are quite different. Environmental and climate objectives enjoy a strong anchoring in the EU Treaties in general, and benefit from a broad and explicit legal competence both under environment policy, the Union's horizontal objectives and under the Cohesion Fund. The environmental effects of measures can be more local, national, or transnational, but the EU does have competence to regulate and finance them. Against this background, it is notable how few dedicated funding programmes the EU has traditionally had in this area. Instead, environmental aims have been broadly pursued through other instruments primarily under agriculture and cohesion policy, where environmental aims are married with other policy aims.

Overall, as far as the environmental or climate aims of the RRF are concerned, the EU has the competence, and the question is merely about what kind of projects the EU should fund to pursue the EU (or global) goals, and whether the RRF is a good model for identifying the right projects to pursue them efficiently. Here, the RRF seems to fall short. As projects are assessed individually for each Member State and on the basis of the plan proposed by the national government, there is no competition between different projects that would aim at guaranteeing that the projects that e.g. promote global climate goals most efficiently get selected. Contrast this to how, for example, European research funding works: researchers and research projects compete against each other, with the objective that the best projects win.

Digitalization is different, both in terms of substance and in terms of competence: it is a broad and cross-cutting phenomenon which affects Member State administration and practices – traditionally considered to fall largely outside EU competence. Although there are aspects of digitalization that have a cross-border implications, in the form it shows up in the actual RRPs, it is virtually void of any cross-border or broader European dimension. A recent Commission Communication explains how funding has been spent on reforms to digitalize public administrations, reforms of civil and criminal justice systems to make them more efficient by reducing the length of proceedings and by improving the organisation of courts, and reforms improving the quality of the legislative process. Portugal received EUR 600 million to finance the purchase of 600 000 new laptops to lend to teachers and pupils and the selection of Digital Innovation Hubs to support companies in their digitalization efforts. In Austria, the RRF provides EUR 171.7 million to provide laptops and tablets to pupils at lower secondary level and improve the infrastructure in school buildings. In the Netherlands, the EU pays for a 'Groundbreaking IT' investment measure, which refers to an 'overhaul of the Ministry of Defence's internal computer systems'. The German plan includes 'various measures to modernise the public administration and to support disadvantaged groups'. The Commission further explains how Slovakia has approved the 'National Concept for Informatisation of Public Administration'; Slovenia has established the Informatics Development Council; Denmark has developed new digital solutions to make the healthcare system more connected while Spain has digitalised major cultural establishments and library assets.

These are all no doubt useful public expenditure. Whether they are the best use for EU money is, in the absence of competing projects, difficult to say. What is clear though is that they are all normal costs of operating a public sector in a Member State, and there is no obvious EU-level interest in any of them. As pointed out by Viola von Cramon-Taubadel, MEP, in the hearing of the EP Committee of Budgetary Control, there seems to be 'no strategy of digital transformation' behind the purchases of laptops.

In theory, there could be an element of EU public good if the Union, in the process of vetting all the various digitalization projects, cumulated useful experience on their design and implementation, which it could then pass on to Member States to improve their project designs and help them make the most effective use of the money. Alas, there is no evidence that, under this priority area, the EU is attempting to provide any contribution beyond money. Rather, it seems that the Union has simply chosen to make use of the general excitement around digitalization and the perceived need for strong public investment in the area to extend its reach beyond the Treaty boundaries. In doing so, it has created a strong EU presence in national matters where it can provide little value added.

European value added?

For anyone trying to reduce flying and cross Europe on train, the idea of investing in European networks would seem appealing. The electrification of the European energy systems, combined with the shift to less predictable renewable sources of electricity, creates a pressing need to upgrade the trans-European electricity infrastructure. Same would apply to car stickers on European motorways and many other areas of European networks. The EU would have a lot to do in those areas that would benefit the EU citizenry at large. In these areas, the Treaties grant the EU specific competence (Article 170 TFEU), and networks are also mentioned in the Cohesion policy title. The RRF could have provided an opportunity for a vigorous step forward on trans-European networks. These are at the heart of what the EU is about and, in an obvious way, could not be achieved by the States acting individually.

However, the RRF has little to contribute in this area. It entails no obligation to pursue cross-border projects. The only recognition of the existence of a cross-border dimension is in Article 15(3)(cc) of the RRF regulation which requires the national plan to include an 'indication of whether the measures included in the plan comprise cross-border, or multi-country projects'.

It is hardly surprising then that it is very difficult to find even a trace of trans-European networks in the RRPs. This is a result of the procedural aspects of how the RRF has been constructed. For reasons of simplicity and narrow national interest, the plans, being prepared and owned nationally, are overwhelmingly about national projects. Transnational considerations do not really come into play when the projects are selected for financing, except arguably in the part of green investments that contribute to decarbonization, where the common European interest seems rather clear. Beyond that, it is difficult to find elements in the RRPs that would have true European value added.

Money for reforms

Apart from its large size, nearly unlimited scope, and deep tailoring for each Member State, the main innovations of the RRF are the absence of co-financing requirement and, notably, its 'performance-based' disbursement policy. This makes use of the possibilities provided by a little-noticed but fundamental change that took place in the EU Financial Regulation in 2018. A new sub-item was added to article 125, first paragraph, on 'Forms of Union contribution', under which

> Union contributions under direct, shared and indirect management shall help achieve a Union policy objective and the results specified and may take any of the following forms:
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> (a) financing not linked to the costs of the relevant operations based on:
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> (i) the fulfilment of conditions set out in sector-specific rules or Commission decisions; or

> (ii) **the achievement of results measured by reference to previously set milestones or through performance indicators;**
>
> (b) reimbursement of eligible costs actually incurred; […]

The Commission proposal for the 2018 reform explains this as follows:

> More emphasis should be put on performance and results. It is thus appropriate to define an additional form of financing not linked to costs of the relevant operations in addition to the forms of Union contribution already well established (reimbursement of the eligible costs actually incurred, unit cost, lump sums and flat-rate financing). This form of financing should be either based on the fulfilment of certain conditions ex ante or the achievement of results measured by reference to the previously set milestones or through performance indicators.

This provision made it possible to provide financing as a pure incentive, irrespective of the actual cost of the underlying measures. This change attracted little attention beyond hard-core EU budget wonks and no doubt appeared technical and inconsequential to those few policy makers that paid attention. Yet it created a whole new way for the EU to project its power irrespective of competence limitations. It laid the foundation for a revolution in the use EU funds, which the Commission developed in a series of legislative proposals preceding the RRF and is now making full use of in the context of the RRF.

While in the preparation phase there needs to be a reasonable link between the financial envelope available to a Member State and the total cost of its National Resilience and Recovery Plan, once the plan has been approved, this link disappears and European money is disbursed solely on the basis of the significance, as assessed by the Commission, of the targets and milestones achieved, with no reference to the actual cost and no requirement to demonstrate that any costs have actually been incurred. In the words of the Commission,

> The Facility is an innovative, performance-based instrument, where payments are made to Member States, as beneficiaries, upon delivering reforms and investments pre-agreed in national recovery and resilience plans. The funds are therefore disbursed solely on the basis of the progress in the achievement of the reforms and investments that Member States committed to. Focused on the timely and efficient implementation of Member States' plans, the performance logic of the RRF makes payments conditional on concrete outcomes. Disbursements thus depend on the delivery of the pre-agreed investments and reforms rather than the final costs incurred.

In other words, EU money is paid not to *fund* measures taken by Member States, but rather to *reward them* for taking those measures.

A look at the Commission's implementing decision on the second disbursement under the Italian recovery and resilience plan (RRP) illustrates this as well. It authorizes the payment of ten billion Euro to Italy by means of payment to the bank account indicated in the Financing Agreement as a reward for various legislative reforms including the entry into force of the enabling legislation for the reform of public employment; the new Public Procurement Code; primary and secondary legislation and regulatory provisions for encouraging tax compliance and improving tax audits and controls; a new national framework for yearly spending reviews; a Ministerial Decree adopting the National Strategy for Circular Economy; the reform on teaching profession and new secondary legislative establishing a new organisational model for the territorial healthcare assistance network and a system of new Institutional Development Contract for each Region and Autonomous Province defining the obligations of regional administrations. Legislative work is not free – there is an administrative cost involved – but the preparation of these laws could not have cost more than a small fraction of the money received from the EU as reward.

Outside Italy, the RRF has been used to reward Slovakia for approving legislation to improve waste management in the construction and demolition sector; Greece for streamlining and digitizing the licensing framework for renewables and Denmark for introducing a reform which entails higher taxation on greenhouse gas emission incentivizing lower emissions from Danish businesses as well as tax deductions fostering green investments. While the Commission has less to do with the substance of the reform (which often is purely national competence), the Member State is then expected to refrain from changing the legislation until all RRF money has been paid out. Under Article 24(3) of Regulation (EU) 2021/241 ('the RRF Regulation'), "[t]he satisfactory fulfilment of milestones and targets shall presuppose that measures related to previously satisfactorily fulfilled milestones and targets have not been reversed by the Member State concerned."

Many milestones and targets involve targets of a much fluffier kind, such as a National Strategy (for mental health, as in the case of Bulgaria); a National Programme (for oncology, as in the case of Czechia), a report (of the assessment of stocks of critical drugs by the Danish Medicines Agency) or funding guidelines (for establishing new primary health care units in Austria). In those cases, EU funding does not seem to require concrete legislative measures but merely a certain degree of political commitment.

Many Member States seem to like the model that provides them direct budgetary support. Once the milestone or target is considered by the Commission to be completed, the money that is disbursed can be freely allocated to anything at national level. In terms of bureaucracy, although administering the plan is a heavy effort particularly for those Member States that benefit the most, at least they save the effort of providing the proofs of payment that has traditionally been part of all EU funding. With this, the Union has done away with one of the key safeguards (alongside with national co-financing, which also has disappeared in the RRF), that once ensured prudent spending of EU money.

How about accountability?

In its first audit of the RRF, the European Court of Auditors (ECA) examined how the Commission had assessed the plans of six member states. It identified a number of weaknesses and risks. It pointed out that the Commission's assessment was based on comprehensive internal guidelines and checklists that were not systematically used and were often difficult to trace. While the Commission assessment had improved the quality of member states' milestones and targets, some of them lacked clarity or did not cover all key stages of implementation of a measure.

As the Commission explained in response to criticism voiced by the European Court of Auditors,

> The Commission's monitoring and control systems for the RRF reflect the nature of the RRF as a new kind of instrument: the RRF is fully performance based and, in accordance with the RRF Regulation, the only beneficiaries of the RRF are the Member States. The Member States commit to implement a set of measures, with specific milestones and targets which they must achieve to unlock a disbursement from the Commission. Disbursements by the Commission enter the national budgets and accounts. While the cost to implement a measure was estimated and assessed at the beginning of the process, unlike for other programmes, the actual costs incurred by a Member State do not influence the disbursement received by the Member State from the Commission.

However, those tasked to ensure that EU funds are spent well are not convinced. 'Money for reforms' has made it more difficult for the Parliament to hold the Commission accountable on implementing the EU budget. The RRF section in the final discharge resolution for 2021 raises a number of concerns relating to the absence of methodology in assessing milestones, their lack of clarity, as ”compliance with the milestones can only be established on the basis of a detailed assessment and clear and fixed criteria, and not on the basis of political negotiations”. It required that the Commission should "explain to the discharge authority the reasoning and logic behind the framework for assessing milestones and targets under the RRF Regulation and the Commission methodology for the determination of payment suspension under the RRF Regulation and consider providing additional definitions to reduce the impact of the subjective elements contained in them".

The Commission provided some guidance to this effect in early 2023, but most of it is not particularly helpful. The EP Committee on Budgetary Control has continued to raise questions about the choice and changed of projects to be funded, methodology for milestones and targets. However, there is no sign that these complaints have caused a rethink in the Commission: the Social Climate Fund (Article 7(2)) follows a similar model and the proposed Ukraine Facility will also apply a similar model to Ukraine's reconstruction plan.

EU money is nobody's money

When reading the Commission Reports it is difficult to avoid the impression that the Member States are clutching to money from the RRF to projects that have little relevance from a common European perspective. As explained above, no requirement of European added value exists in the regulation. But even if it did, given the extremely wide scope of the RRF, the Commission, as the main architect and operator of the model, would hardly have the practical capacity to impose it into Member States' plans. This is a result of the procedural choices in the RRF Regulation that aim to ensure that the ownership of the plans is with the Member States.

For Member States, the priority seems to be to create a satisfactory number of projects that bring home the maximum available amount of EU funding. While the projects as such can be important, that importance is overwhelmingly national and local, and there simply is no reason to finance them from the EU budget instead of the national one. Compared with the typically scarce discretionary allocations available in the national budget, EU money appears abundant and free, and there seems to be less of a pressure to spend it well.

Crucially, it would be a mistake to see the RRF as an example of 'integration through funding'. Member States are *not* integrating, beyond participating in governance through planning at EU level. Each member state pursues in parallel its own national projects. These national projects are then paid for by the EU. How successful they will be is too soon to say.

When large amounts of public funds are used, as is the case with the RRF, their control is important both for democracy and public perception and trust. Accountability matters. The Commission insists that

> the RRF control system does not leave an accountability and assurance gap at EU level. The RRF control framework is tailored to the legal design of the RRF, which attributes a clear responsibility for the assessment of milestones and targets to the Commission and a clear responsibility to Member States – as beneficiaries – 'to take all the appropriate measures to protect the financial interest of the Union and to ensure that the use of funds in relation to measures supported by the facility complies with the applicable Union and national law' (Article 22, RRF Regulation).

Here, the role of the European Parliament will be key. In allocating RRF funding there is virtually no role for the European Parliament, beyond a rather mysterious "recovery and resilience dialogue." However, Article 319 TFEU obliges the Commission to provide the European Parliament with all necessary information – a procedure that has highlighted that the Commission will need to explain and justify its choices afterwards to a highly critical audience.

Now would be a good time to discuss which objectives the EU should be actively financing. In the ongoing mid-term review of the MFF the Commission draws attention to numerous pressing funding needs of a European dimension. At the same time, the largest EU funding vehicle to a large extent ignores these broader European priorities. As the implementation of the RRF advances and negotiations on the next MFF come closer, the RRF would seem to provide a number of elements to be reconsidered in order to ensure that EU financing is actually directed to issues that provide European added value.
