III

(Preparatory acts)

COURT OF AUDITORS

OPINION No 4/2020

(pursuant to Articles 287(4) and 322(1)(a), TFEU)

concerning the proposal 2020/0101 (COD) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards exceptional additional resources and implementing arrangements under the Investment for growth and jobs goal to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy (REACT-EU); and on the amended proposal 2018/0196 (COD) for a Regulation of the European Parliament and of the Council 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 and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument

(2020/C 272/01)

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Introduction

1. The COVID-19 pandemic continues to have a profound effect on lives of citizens. The EU has already taken a number of steps to tackle the crisis, including:

— limiting the spread of the virus;

— ensuring the provision of medical equipment;

— boosting research for treatments and vaccines;

— supporting jobs, businesses and the economy.

In terms of the last of these points, the EU has put forward a EUR 750 billion package, 'Next Generation EU', to support Member States in their efforts to minimise the socio-economic impact of the pandemic and get back on a path of sustainable growth ([1]).

2. The subject of this ECA opinion is two recent proposals in the area of Cohesion policy, both of which relate to legislation governing European Structural Investment (ESI) funding – the Common Provisions Regulation (CPR):

— As part of the Next Generation EU package, an amendment to the CPR for the 2014-2020 programme period, under which an additional EUR 58 billion would be made available in the years 2020 to 2022 ([2]). This proposal is known as REACT-EU: Recovery Assistance for Cohesion and the Territories of Europe; and

— An amendment to the Commission's proposal for the CPR for 2021-2027 – still under discussion by the legislative authorities – providing mechanisms that can be quickly invoked should further shocks strike the EU in the coming years ([3]).

3. The legal basis of the Commission's proposals means that consultation with the ECA is mandatory. We received formal requests from the Council (8 June 2020 and 10 June 2020 respectively) and from the Parliament (9 June 2020 for both proposals). The two Commission proposals are linked, as the explanatory memorandum for each proposal makes explicit. Against this background, and the need to respond very rapidly, we have chosen to provide our opinion on both proposals in a single document. This document therefore fulfils the consultation requirements for each proposal. Paragraphs 5 to 21 relate to the REACT-EU proposal and paragraphs 22 to 29 relate to the amended proposal for the 2021-2027 CPR. For reference, at Annex I is a list of all our opinions relating to the 2021-2027 programme period published by 13 July 2020.

4. We have been asked to provide a number of opinions on proposed legislation relating to COVID-19 (see Annex II). We published the first of these on 15 April 2020 ([4]); this current opinion is the second. Our aim is to facilitate consideration of the Commission's proposals by the legislators. Based on our experience of examining legislative proposals and assessing compliance and sound financial management, we have established some general principles for the use of EU funds that legislators may find useful to consider, in particular when developing COVID-19 related/emergency measures – see Box 1. We have used these principles as a general framework to assess the proposals.

([1]) Communication from the Commission 'The EU budget powering the recovery plan for Europe' 27.5.2020 (COM(2020) 442 final).

([2]) European Commission proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards exceptional additional resources and implementing arrangements under the Investment for growth and jobs goal to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy (REACT-EU) (COM(2020) 451 final).

([3]) European Commission amended proposal for a Regulation of the European Parliament and of the Council 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 and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument (COM(2020) 450 final).

([4]) Opinion No 3/20 on the proposal 2020/0054 (COD) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 and Regulation (EU) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak.

Box 1

Principles governing the use of EU funds in emergency situations

(1) *Relevance:* A clear intervention logic should demonstrate how the funding addresses needs and justifies the added value of EU support.

(2) *Targeting:* Funding should be targeted at those areas and recipients where the needs are greatest, to have maximum impact.

(3) *Simplicity:* Support should be simple to administer, while achieving its objectives, with minimal burden on beneficiaries.

(4) *Coordination:* EU support should be well coordinated with other different EU schemes and between EU and national support measures.

(5) *Timing:* EU support should be available to Member States, and hence to beneficiaries, in a timely manner. Measures should only be in place as long as they are needed.

(6) *Transparency and accountability:* The Commission and Member States should be accountable for their use of EU funds. Tracking emergency measures, and so maintaining transparency, can be challenging, but is essential to ensure accountability.

(7) *Sound financial management (value for money):* Within the limited time available for Member States to spend the new money, absorption should not be prioritised over value for money considerations.

(8) *Monitoring and reporting:* Monitoring arrangements should be in place to facilitate accountability, and provide accurate and reliable information for managers with a view to making improvements based on practical experience.

(9) *Evaluation:* Evaluations at programme and policy level should be used for decision-making. If there is insufficient time for ex ante evaluation, provision should be made for ex post evaluation at Member State level for use by the Commission.

(10) *Fraud/abuse awareness:* Significant EU support under emergency measures, together with a relaxation of some procedural requirements, entail an increased risk of irregularities and fraud. All the organisations involved in managing public money should be particularly attentive to these risks.

Source: ECA.

Our assessment of COM(2020) 451 – REACT-EU

5. With this proposal, the Commission aims to harness the full power of the EU budget to mobilise investment and frontload financial support in the crucial first years of recovery. Our opinion addresses the following aspects of this proposal:

— use of additional funds to tackle the crisis;

— allocating funds to Member States;

— programming funds;

— monitoring and evaluation;

— risk of fraud.

Use of additional funds to tackle the crisis

Key points:

— Making additional funding available to Member States quickly requires the swift adoption of all relevant legislation.

— Due to the lower absorption rates of some Member States there is a risk that they may not be able to spend the additional money effectively.

6. The EUR 58 billion that the Commission proposes to mobilise through REACT-EU complements earlier measures that constituted an immediate crisis response to the impact of the pandemic ([5]). REACT-EU is designed to serve as a short and medium term response and to lay the groundwork for the EU's recovery. Under the proposal, REACT-EU will provide EUR 5 billion for 2020, with the bulk of the new resources, EUR 42 billion, to be committed in 2021 and a final tranche of EUR 11 billion for 2022.

7. The rapid deployment of additional funds to support the EU economy will require not only the swift adoption of the REACT-EU proposal itself, but also of the amended Multiannual Financial Framework (MFF) for 2014-2020 and of the own resources decision that will provide the new funding. Delays in the adoption of any of these proposals risk delaying the entry into force of REACT-EU.

8. Our previous experience shows that providing funding to Member States is not enough by itself: they must also have the necessary time and administrative capacity to make good use of it. We have previously seen that the period at the end of a programme period presents particular risks '*since the rush to absorb funds [i.e. to spend the money available] may lead to insufficient consideration to value for money*' ([6]). We note in particular that some of the Member States likely to be hit hardest by the COVID-19 pandemic are also among those with the lowest absorption rates for the current programming period ([7]). In its proposals, the Commission has taken steps to ease the burden on Member States, such as making 50 % of the additional funding for 2020 available immediately, as pre-financing ([8]). However, there remains a risk that some Member States may not be able to spend the funding available to them and deliver value for money ([9]).

9. The Commission is proposing to raise the bulk of the additional funding through borrowing on the financial markets ([10]). Unlike traditional ways of financing EU expenditure, based on contributions from Member States, this method involves additional costs in the form of the interest incurred. However, this issue is not directly addressed in, or limited to, the REACT-EU proposal. For these reasons, we are not addressing it in this opinion. We may return to this issue at a later date, in a separate document.

Allocating funds to Member States

Key point:

The proposal includes a new method for allocating the additional funds to Member States which may be distorted by the use of unrepresentative figures for unemployment in the calculations.

10. As we have previously observed ([11]), the allocation of cohesion funds is governed by a series of relatively complicated processes that take into consideration various economic, social and political elements. This allocation exercise is even more challenging in times of crisis when funds have to be made available under tight deadlines and in rapidly changing circumstances. In this respect, we note the proposal to introduce an ad hoc allocation method for the exceptional additional resources and, in particular, the inclusion – alongside traditional cohesion criteria – of specific indicators and review mechanisms designed to capture the relative impact of the crisis on national economies (as measured by GDP) and employment ([12]).

([5]) The Coronavirus Response Investment Initiative (CRII) and the Coronavirus Response Investment Initiative Plus (CRII+).
([6]) Paragraph 82 of special report No 17/2018 'Commission's and Member States' actions in the last years of the 2007-2013 programmes tackled low absorption but had insufficient focus on results'.
([7]) EU overview of implementation by country - total cost of selection and spending as % of planned (bullet chart), available at https://cohesiondata.ec.europa.eu/overview.
([8]) Proposed new Article 92b, paragraph 7 of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([9]) Recommendation 4 of special report No 17/2018.
([10]) New Article 3b(1)(a) of the European Commission's amended proposal for a Council decision on the system of Own Resources of the European Union, 28.5.2020 COM(2020) 445 final.
([11]) Rapid Case Review No 03/2019 'Allocation of Cohesion policy funding to Member States for 2021-2027'.
([12]) Annex VIIa, points 1.a)(i), 1.b)(ii), 1.c)(ii) of the amended Regulation (EU) No 1303/2013 (COM(2020) 451 final).

11. These new provisions are consistent with the Commission's aim to support those Member States '*whose economy has been hardest hit […] and have least capacity to bounce back*'. Achieving this objective depends on the use of sufficiently up-to-date statistics in the calculations. The reference period proposed for the calculation of unemployment levels for the allocations for 2020 and 2021 (accounting for 82 % of the total additional funding) is June-August 2020. In those Member States where temporary job retention schemes are still in place in that period, this may lead to an under-estimation of the true, underlying level of unemployment, as unemployment rates are likely to rise once these schemes end.

Programming funds

Key points:

— Extending the period for making commitments will place extra pressure on Member States' ability to spend the additional funding in compliance with the rules and the principle of sound financial management.

— The proposal sensibly envisages the use of the existing ESI fund management structures in Member States to administer the new funding.

— Member States would not be required to set out how they intended to coordinate the additional funds, with the risk that EU support may be fragmented or duplicated.

12. The Commission is proposing to extend the deadline for commitments by two years, to 2022. Member States which choose to benefit from additional REACT-EU support will need to amend their existing Operational Programmes or propose new ones. Subject to the timely adoption of the revised MFF for 2014-2020 and the own revenue decision, such amendments would need to be prepared and negotiated in 2020 for the 2020 and 2021 tranches, and again in 2021/2022 for the 2022 tranche. These negotiations are likely to take place at the same time as the preparation and negotiation of the programmes for the 2021-2027 period, and the implementation of Operational Programmes relating to both programme periods. This would be a considerable challenge for all parties involved.

13. Not only is there a risk that the start of the 2021-2027 period gets further delayed, but the allocation of the 2022 tranche will leave relatively little time for Member States to spend the new funding, with the concomitant risk that they prioritise absorption over value for money considerations - '*use it or lose it*'.

14. The proposal envisages that the additional funds under REACT-EU would only be made available to authorities already designated for this purpose under existing programmes; funds would be programmed through the existing 2014-2020 Operational Programmes, under separate priority axes and/or through new, dedicated Operational Programmes; and they would be flagged under a new cross-cutting Thematic Objective ([13]). Subject to the negotiations between the Commission and the Member States, these are positive elements - they should make programming simpler, facilitate a more robust rationale for the local spending, and help the Commission to track the expenditure. We reported previously that the 2014-2020 Operational Programmes were generally based on a robust intervention logic ([14]) and found that earmarking of investments was helpful in ensuring accountability to EU citizens for the use of funds ([15]).

15. We note, however, that the proposal does not require authorities to report spending under dedicated intervention codes, even for new forms of support allowed in the proposal such as financing SMEs' working capital. We note that, in contrast, the Commission's amended CPR proposal for 2021-2027 introduced a dedicated intervention code (see paragraph 28 below). It is not clear why such an intervention code has not been proposed for the REACT-EU amendment.

([13]) Proposed new Article 92b, paragraphs 8 and 10 of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([14]) Paragraphs 81 to 83 of special report No 2/2017 'The Commission's negotiation of 2014-2020 Partnership Agreements and programmes in Cohesion'.
([15]) Paragraph 11 of opinion No 3/2020 on the proposal 2020/0054(COD) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 and Regulation (EU) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak.

16. The proposal sets out the broad areas in which the new financing should be applied, but Member States would have discretion about the types of projects that they finance ([16]). The proposal also offers authorities considerable freedom to transfer allocations between funds and types of investments ([17]). This increased flexibility is appropriate in the circumstances of the COVID-19 crisis. We note, however, that the proposal does not require Member States to disclose how they intend to coordinate interventions across different Operational Programmes and periods so that the financial support goes to where it is most needed. Without coordination, there is a risk that EU support will be fragmented or duplicated, particularly in Member States with more Operational Programmes.

Monitoring and Evaluation

Key points:

— The absence of mandatory common indicators will make it difficult to assess effectiveness at the EU level.

— There is no requirement for an ex post evaluation specifically on the additional REACT-EU funding, limiting the Commission's ability to learn lessons for future crises.

17. We have stated previously that the Commission can measure and assess the effectiveness of the EU investments, only if relevant, reliable and timely information on outputs and results is available and if this information is in a form that can be aggregated ([18]). While the amended proposal requires Member States to define output and result indicators for investments under REACT-EU, it does not establish common indicators at EU level which will capture COVID-related action ([19]).

18. The Commission told us that it intended to communicate to Member States a set of common indicators; these indicators would not be mandatory, and Member States would remain free to define their own programme-specific indicators. We found previously that the possibility for the Member States to define programme-specific indicators in the 2014-2020 period resulted in the use of around 9 000 different indicators, with a significant administrative burden for authorities and beneficiaries ([20]). The absence of common, mandatory indicators used by all Member States meant that, while it was possible to assess performance at OP level, or within regions and countries, it was not possible to aggregate performance information at EU level, limiting the scope for an overall evaluation of effectiveness and impact. We therefore suggested that the performance information should be limited to what is strictly needed ([21]). The REACT-EU proposal does not address this issue.

19. The proposal requires Member States to carry out at least one evaluation of the effectiveness, efficiency and impact of financial support under REACT-EU ([22]). Under the proposal, the Commission will not be required to carry out an ex post evaluation specifically on REACT-EU. Instead, REACT-EU funds will be evaluated along with the rest of the ESI funds under the standard CPR requirement for evaluations ([23]). In our view, the fact that REACT-EU constitutes an emergency response, the relaxation of some procedural requirements, the new form of financing and the significant sums involved would justify a specific ex post evaluation of REACT-EU for lessons to be learnt for potential future crisis responses. We note that there are elements in the proposal that would facilitate an ex post evaluation by the Commission, such as a specific thematic objective for the additional resources.

([16]) Proposed new Article 92b, paragraph 8 of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([17]) Proposed new Article 92b, paragraph 5 of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([18]) Paragraphs 40 and 48 of briefing paper 'Delivering performance in Cohesion', June 2019.
([19]) Recital (14) of the proposed amendment of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([20]) Paragraphs 107 and 110 to 113, figures 11 and 13 of special report No 2/2017.
([21]) Paragraph 49 of briefing paper 'Delivering performance in Cohesion', June 2019.
([22]) Proposed new Article 92b, paragraph 11 of Regulation (EU) No 1303/2013 (COM(2020) 451 final).
([23]) Article 57, Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (OJ L 347, 20.12.2013, p. 320).

Risk of fraud

Key point:

REACT-EU, by providing significant additional funding in a short period of time, carries a higher risk of irregularity and fraud, which needs to be addressed by all stakeholders.

20. REACT-EU represents a significant amount of additional resources to be spent in a short amount of time increasing the pressure on control systems. The EU agency for police cooperation, Europol, has warned that '*Economic stimuli such as those proposed in the wake of the COVID-19 pandemic will be targeted by criminals seeking to defraud public funding*' ([24]). In a previous report, we identified several deficiencies affecting the anti-fraud management process and called on the Commission and managing authorities to strengthen fraud detection, response and coordination among Member State bodies ([25]).

21. In light of this, we welcome the Commission's stated intent further to strengthen measures against fraud and irregularities ([26]). As guardians of the EU finances, we urge all those involved (the Commission, Member States and their authorities, the European Parliament, the European Public Prosecutor's Office, OLAF, Europol and Eurojust) to do their utmost to adopt and apply effective anti-fraud measures to counter the new risks arising from economic stimuli such as REACT-EU.

Our assessment of COM(2020) 450 – CPR amendment 2021-2027

22. On 29 May 2018, the Commission published its legislative proposal for the Common Provisions Regulation (CPR) for the next MFF 2021-2027. This initial proposal was the subject of our opinion No 6/2018 ([27]). On 14 January 2020, the European Commission published a proposed amendment to its legislative proposal of 29 May 2018. This amendment was the subject of our opinion No 2/2020 ([28]).

23. The latest proposal - the subject of this opinion - aims to strengthen the EU's capacity to respond to exceptional and unusual circumstances by temporarily enabling the Commission, following a decision of the Council ([29]), to react faster by using implementing decisions to take action. This proposal is not restricted to a potential worsening of the COVID-19 situation nor to public health emergencies in general. It would apply to any situation recognised by the Council to be a crisis. Our opinion addresses the following aspects of the proposal:

— time limiting the measures;

— flexibility in budgeting;

— programming and monitoring.

Time limiting the measures

Key point:

The proposal does not specify an end point for the additional powers that would be granted to the Commission.

([24]) Europol, 'Europol launches the European Financial and Economic Crime Centre', press release of 5.6.2020, available at https://www.europol.europa.eu/newsroom/news/europol-launches-european-financial-and-economic-crime-centre.
([25]) Paragraph 79 and recommendations of special report No 06/2019 'Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination'.
([26]) 'The EU budget powering the recovery plan for Europe' (COM(2020) 442 final) of 27.5.2020.
([27]) Opinion No 6/2018 on the Commission's proposal of 29 May 2018 on the Common Provisions Regulation (COM(2018) 375 final).
([28]) Opinion No 2/2020 (pursuant to Articles 287(4) and 322(1)(a), TFEU) on the Commission's amended proposal of 14 January 2020 on the Common Provisions Regulation (COM(2020) 23 final).
([29]) Proposed new Article 15a of COM(2020) 450 final.

24. The proposal does not make it clear when and under what circumstances the temporary empowerment of the Commission would end. As we have observed previously, such exceptional measures should be limited in time and remain in force only as long as needed ([30]).

Flexibility in budgeting

Key point:

The proposal does not justify why lowering the threshold for operations that can be phased between different programme periods from EUR 10 million to EUR 5 million is not restricted to the temporary measures.

25. The amended CPR proposal clarifies the conditions for the transfer of allocations between funds ([31]). We welcome this clarification, which is in line with our initial opinion on the CPR proposal. We reiterate that such transfers should be a response to the most pressing needs ([32]).

26. The proposal also lowers the threshold for operations that can be phased between different programme periods from EUR 10 million to EUR 5 million ([33]). This element of the proposal would give Member States more flexibility in financing projects, and would generally help with absorption ([34]). However, this measure is not restricted to the temporary measures in response to exceptional unusual circumstances, but would be available for all projects, regardless of whether there is a crisis.

Programming and monitoring

Key points:

— The proposal does not include provisions on mitigating the risk of deadweight from retrospective approval for projects.

— The proposal introduces improved provisions for tracking of the funding provided to address emergency situations.

27. The proposal provides for specific funding arrangements to help address exceptional and unusual circumstances, including the possibility to select and fund some operations retrospectively ([35]). We found previously that funding projects retrospectively entails the risk of deadweight and that such projects are more prone to compliance errors ([36]). An alternative would be to restrict the option of retrospective funding to clearly-defined types of projects which are most relevant to the exceptional circumstances.

28. The proposal introduces dedicated intervention codes to keep track of the capital grants provided to SMEs and of the critical equipment and supplies necessary to address emergency situations under these temporary measures ([37]). This constitutes a first step towards more transparency and a welcome improvement compared to the provisions of the 2014-2020 period ([38]). The proposal could usefully add that, if and when these emergency measures are activated in a future crisis, the Commission will define the operations that can be financed, to ensure that funding is properly targeted.

([30]) Paragraph 12 of opinion No 3/2020.
([31]) Proposed new Article 21 of COM(2020) 450 final.
([32]) Paragraphs 27, 28 and recommendation 2 of opinion No 6/2018.
([33]) Proposed new Article 111(1), point (b) of COM(2020) 450 final.
([34]) Paragraph 62 of special report No 17/2018.
([35]) Proposed new Article 15a of COM(2020) 450 final.
([36]) Paragraphs 63-69 of special report No 17/2018.
([37]) Proposed new amendment to Annex I, Table 1 of 'Code 023a Financing of working capital in SMEs in the form of grants to address emergency situation' and 'Code 095a Critical equipment and supplies necessary to address emergency situation' (COM(2020) 450 final).
([38]) European Commission's proposal COM(2020) 138 final (procedure 2020/0054 (COD)) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 and Regulation (EU) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak and the European Commission's amended proposal for CPR 2021-2027 (COM(2020) 450 final).

29. The proposal does not make any reference to the potential for the Commission to set common performance indicators for outputs and results. As we pointed out in the context of our opinion on the REACT EU proposal (paragraph 18 above), common indicators would enable the Commission to track the financial support it provided in response to the exceptional and unusual circumstances and facilitate subsequent evaluation.

Concluding comments

30. After the COVID-19 outbreak, the Commission took action on a number of fronts, including mobilising additional funds, allowing more flexibility for Member States in the current, 2014-2020 programme period, new initiatives and amendments to the proposed legislation and funding for the next programme period, 2021-2027. All these measures are welcome but to be effective they need to be well coordinated at EU and national levels. An overview of the different measures would be helpful for Member States, to guide them about the different forms of support to address the different effects of the crisis.

31. The REACT-EU proposal aims to provide additional support over the short and medium term to Member States by introducing a number of extraordinary measures to enable the rapid deployment of additional resources. However, there remains some inevitable tension between the aim of providing funding for use by Member States as swiftly as possible and the objectives of making the funding available where it is most needed and in a way that is likely to deliver most effect. The proposal requires funds under REACT-EU to be programmed under established structures - a sensible, pragmatic idea. However, the proposal gives discretion to the Member States on how the funds should be used and does not provide details on how REACT-EU will be coordinated with other EU instruments and national schemes.

32. The amended proposal for 2021-2027 provides for rapid action by the Commission in the case of future, undefined exceptional circumstances. The proposal does not set out a number of aspects of managing EU funds that are conducive to sound financial management. The Commission may therefore need to complement the proposal with additional legislation relating to the crisis situations as and when they arise.

33. We understand the need for a quick reaction to support Member States in their efforts to mitigate the effects of COVID-19 and the rationale of the proposed measures subject to this opinion. We note that the proposals, particularly for REACT-EU, increase the risk of fraud - a major concern of EU citizens. In this context, we reiterate the view we have previously expressed, that flexibility and reactivity should not come at the expense of public accountability and performance ([39]) as this would also potentially affect the trust that EU citizens have in the institutions of the EU.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 13 July 2020.

For the Court of Auditors
Klaus-Heiner LEHNE
President

([39]) Paragraph 14 of opinion No 3/2020; and paragraph 14 of Landscape Review 'Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements', 2014.

ANNEX I

Opinions relevant to the Cohesion Policy legislative proposal for 2021-2027 programme period issued by the ECA as of 13 July 2020

— Opinion No 1/2018 concerning the proposal of 2 May 2018 for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States.

— Opinion No 6/2018 on the Commission's proposal of 29 May 2018 on the Common Provisions Regulation (COM(2018) 375 final).

— Opinion No 8/2018 on the Commission's proposal of 23 May 2018 on amending OLAF Regulation (EU, Euratom) 883/2013 as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations.

— Opinion No 9/2018 concerning the proposal for a Regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme.

— Opinion No 2/2020 on the Commission's amended proposal of 14 January 2020 on the Common Provisions Regulation (COM(2020) 23 final).

ANNEX II

Requests for opinions related to COVID-19 received by the ECA by 13 July 2020

— Official request for an opinion received on 8 April 2020 with deadline by 15 April 2020 at the latest: COM(2020) 138 final Proposal amending Regulation (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility; *ECA opinion No 3/20 published 15 April 2020*.

— Official request for an opinion received on 8 June 2020 with deadline by 15 July 2020 at the latest: COM(2020) 451 final Proposal for (REACT-EU).

— Official request for an opinion received on 8 June 2020 with deadline as soon as possible: COM(2020) 460 final Proposal for Just Transition Fund.

— Official request for an opinion received 10 June 2020, with deadline as soon as possible: COM(2020) 450 final Common Provisions Regulation on the ERDF, the ESF+, the CF, and the EMFF and financial rules for those and for the AMF, the Internal Security Fund and the Border Management and Visa Instrument.

— Official request for opinion received on 10 June 2020 with deadline 30 September 2020: COM(2020) 453 final Proposal for Just Transition Mechanism.

— Official request for opinion received on 18 June 2020, with deadline as soon as possible: COM(2020) 220 final Proposal on a Union Civil Protection Mechanism.