

GUIDANCE FICHE

PERFORMANCE FRAMEWORK REVIEW AND RESERVE IN 2014-2020

FINAL VERSION – 14 MAY 2014

RELEVANT PROVISIONS IN THE LEGISLATION

Regulation	Articles
Common Provisions Regulation Regulation (EU) No 1303/2013	Article 20 – Performance reserve Article 21 – Performance review Article 22 – Application of the performance framework Annex II – Method for establishing the performance framework
Commission Implementing Regulation (EU) No 215/2014 laying down rules for implementing certain provisions of Common Provisions Regulation	Article 4 – Information to be recorded by the bodies preparing the programmes Article 5 – Establishment of milestones and targets Article 6 – Achievement of milestones and targets Article 7 – Performance framework for priority axes referred to in Article 96(1)(a) and (b) of Regulation (EU) No 1303/2013 and priority axes integrating the YEI
Commission Delegated Regulation (EU) No 480/2014 laying down rules for implementing certain provisions of Common Provisions Regulation	Article 2 – Determination of the level of financial corrections Article 3 – Level of financial correction

Quotation is authorised as long as the source is acknowledged.

INTRODUCTION

The result orientation of the future European Structural and Investment Funds¹ (ESI Funds) is based on three pillars: a clear articulation of the specific objectives of programmes² with a strong intervention logic (the result orientation of programmes) and result indicators with definitions and measurable targets; the introduction of ex ante conditionalities to ensure that the necessary prerequisites are in place for the effective and efficient use of Union support; and the establishment of clear and measurable milestones and targets to ensure progress is made as planned (performance framework).

The achievement of the objectives of the ESI Funds requires that strategies are well designed and based on sound evidence and that the financial allocations and planned actions and associated outputs are clearly aligned with the strategies. The result orientation sets the broad framework of what is intended to be achieved, recognising that there can be other contributing factors which can affect the result.

On the other hand, the performance framework, which consists of selected financial, output and result indicators as well as key implementation steps for each priority,³ is intended to ensure the programmes deliver what is under the control of the managing authorities. This means that the priorities are implemented as planned and the programme is kept on course to achieve its objectives. In particular, problems should be anticipated and tackled as soon as they arise.

This guidance concerns the performance framework and the associated performance reserve, which represents 6% of the resources allocated to the ESI Funds, except for the European Territorial Cooperation goal and other resources listed in Article 20 of the Common Provisions Regulation (the CPR),⁴ and which will be allocated to the successful programme priorities. It discusses as well the suspension of interim payments and application of financial corrections in relation to priorities with serious failure.

¹ These include the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF).

² In line with Article 2(6) of the CPR, 'programme' means 'operational programme' referred to in Part Three or Part Four of this Regulation and in the EMFF Regulation, and 'rural development programme' referred to in the EAFRD Regulation.

³ In line with Article 2(8) of the CPR, 'priority' means the 'priority axis' referred to in Part Three of this Regulation (General Provisions applicable to the ERDF, the ESF and the CF) and the 'Union priority' referred to in the EMFF Regulation and in the EAFRD Regulation.

⁴ E.g. the financial resources allocated to the Youth Employment Initiative.

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1. PERFORMANCE FRAMEWORK

The performance framework is one of the tools to achieve the result-orientation of the ESI Funds. A set of milestones and targets is defined for each priority in a programme, except for priorities concerning technical assistance or programmes dedicated to financial instruments in favour of SMEs as set out in Article 39 of the CPR (paragraph 1 of Annex II of the CPR).

The achievement of milestones will be assessed in 2019. This assessment will form the basis for the allocation of the performance reserve and may possibly lead to the suspension of interim payments. The achievements of targets will be assessed in 2024 (EAFRD and EMFF) or 2025 (remaining ESI Funds)⁵ and may give rise to financial corrections.

1.1. Building blocks

The performance framework is established at the level of priority, with the exception of complex priorities: priorities including the Youth Employment Initiative (the YEI); priorities covering more than one Fund providing support under cohesion policy⁶ or more than one category of region (the Structural Funds only)⁷ – for more information see: Complex priorities.

It consists of up to four different types of indicator whose progress is formally reviewed twice during the programming period against the milestones and targets set in the programme.

The performance reserve is a percentage of the allocation to a programme priority to be allocated definitively to the relevant priorities⁸ which achieved their milestones by the end of 2018.

Milestones and targets

The milestones are intermediate targets set for indicators to be achieved by 31 December 2018 and to be assessed in 2019. The targets themselves are set to be achieved by 31 December 2023 and their accomplishment will be assessed at the closure of the programme period in 2024 or 2025.

While setting the milestones, the bodies preparing the programmes do not take into account the amount of the performance reserve allocated to the priority, as it will not have any influence on performance up until the performance review in 2019. On the

⁵ The difference in timing is due to the deadline for submission of the last annual report for the EMFF (by 31 May 2024 – Article 115 of the EMFF Regulation) and the EAFRD (by 30 June 2024 – Article 75(1) of the EAFRD Regulation) and the final implementation report for the ESF, the ERDF and the CF (by 15 February or 1 March 2025 – Article 59(5) of the Financial Regulation).

⁶ These are the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund – Recital 2 of the CPR.

⁷ These are the European Regional Development Fund (ERDF) and the European Social Fund (ESF) – paragraph 2 of Article 1 of the CPR.

⁸ Not all categories of ESI Funds' resources will have the performance reserve – for more information see: Performance reserve.

other hand, it will be available for the priorities which have achieved their milestones. Therefore, already at the stage of programme design, the calculation of targets must take into account the amount of the performance reserve.

Both milestone and target values for output indicators refer to fully implemented operations,⁹ with the following exceptions:

- For the ESF (Articles 5(3) and 19(3) of the ESF Regulation) and for the EAFRD (only measures according to Articles 16, 19(1)(c), 21(1)(a) and (b), 27, 28, 29, 30, 31, 33, 34 of EAFRD Regulation), they may also relate to partially implemented operations;¹⁰
- For all other measures under the EAFRD the milestone and target values have to refer to completed operations, as defined in Article 2(14) of the CPR.¹¹

Requirements for milestones and targets

According to paragraph 3 of Annex II of the CPR, both milestones and targets have to be:

- realistic and achievable (i.e. they are neither too low, nor too high, based on the evidence of past or similar experience);
- relevant and capturing essential information on the progress of a priority (i.e. they reflect the objectives and operations of the priority);
- consistent with the nature and character of the specific objectives of the priority (i.e. the indicators foreseen in the performance framework as well as their milestones and targets are in line with the intervention logic of the priority and it is clear how spending the amount of resources allocated to the planned outputs will contribute to the expected results);
- transparent, with objectively verifiable values and the source data identified and, where possible, publicly available;
- verifiable, without imposing a disproportionate administrative burden;
- consistent across programmes, where appropriate (i.e. there is no significant and unjustified difference in the methods applied to select indicators and fix targets and milestones for the performance frameworks of comparable priorities in the same Member State).

The assessment if a performance framework has met all these requirements will rely on

⁹ A fully implemented operation is an operation, in which actions leading to outputs and results have been implemented in full, but for which not necessarily all the related payments have been made.

¹⁰ A partially implemented operation is an operation, for which the implementation has started, but which has not yet been fully implemented. For the EAFRD, as described in the Guidelines of the Common Monitoring and Evaluation System (CMES) for rural development policy, it corresponds to operations for which annual payments have been made.

¹¹ A completed operation is an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries.

information recorded by the bodies preparing the programmes (for more information see: *Information to be recorded about the frameworks*).

Types of indicators

Progress towards achieving milestones and targets is to be monitored by reference to four categories of indicators: financial, output and result indicators and key implementation steps. The performance framework must include milestones and targets for the first two categories of indicators, while result indicators are to be used only where appropriate. Key implementation steps may be used when necessary. They are the only type of indicator which is created solely for the purposes of the performance framework. The other indicators are a subset of already selected programme indicators.

Financial indicators

There is one financial indicator per priority, unless it is a complex priority (for more information see: *Complex priorities*).

For all ESI Funds except the EAFRD, the financial indicator relates to the total amount of eligible expenditure entered into the accounting system of the certifying authority and certified by the authority in line with Article 126 of the CPR.

For the EAFRD, the financial indicator relates to the realized expenditure entered into the monitoring system and corresponds to either the completed operations for which the final payment to the beneficiary has been made or the annual payments made to the beneficiary (for measures according to Articles 16, 19(1)(c), 21(1)(a) and (b), 27, 28, 29, 30, 31, 33, 34 of the EAFRD Regulation). A detailed definition of what constitutes realized expenditure is included in the guidance on rural development policy's Common Monitoring and Evaluation System (CMES).

Output indicators

The performance framework includes only output indicators which have already been selected for the programme. They must have a quantified target value.

For the ERDF, ESF and CF, any output indicator of a priority – common or programme specific – can be used as an output indicator for the performance framework.

For the EMFF, the common output indicators are linked to the measures. Therefore, only those related to the measures included in the programme may be used for a performance framework under a given priority.

For the EAFRD, the bodies preparing the programmes must either use the pre-defined CMES output indicators mentioned in Annex IV (part 5) of the draft Commission Implementing Regulation on Rural Development or replace or complete these output indicators by other relevant output indicators to be defined in the programme.

In order to capture the essential information on the progress of a priority, the selected output indicators have to relate to operations representing the majority of resources allocated to a priority. For information on how this requirement applies to the complex priorities, see: *Complex priorities*.

However, the number of indicators selected for a priority should be as few as possible, reflecting the concentration of resources, which is instrumental in contributing to the

results. Moreover, the risk of failing to achieve the milestone set increases with the number of indicators (for more information see: *Performance review*).

Result indicators

All indicators relate to priorities which are aligned with thematic objectives. These are, in turn, aligned with the Europe 2020 objectives. However, result indicators may not be appropriate for the performance framework because of the timing of when results can be achieved and – depending on the nature of the indicator – the need for evaluation to disentangle the effects of the policy from those of factors external to the programme.

For the ESF and the YEI, immediate result indicators may be used as they are very closely linked to the supported person or entity and the data are thus available in time.

Result indicators are not recommended for performance frameworks under all other ESI Funds.

Key implementation steps

A key implementation step is an important stage in the implementation of operations under a priority, which is necessary to achieve targets set for 2023. Its completion is verifiable and may be expressed by a number or percentage.

Depending on the nature of the intervention, it may refer to different stages of implementation, for example: the approval of major projects ("X number of major projects for waste-water treatment submitted to the Commission"), the selection of projects ("X number of R&D projects selected"), the selection of strategies ("X number of CLLD strategies selected"), the provision of financing from financial instruments ("X % of the financial contribution of managing authority to the financial instrument has been provided to final recipients), the beginning of implementation process ("Works have started on X % of selected locations to eliminate level crossings") or the progress in the implementation process ("X number of kilometres of new roads built, not yet open for traffic").

A key implementation step is to complement the information already provided by the output indicators, not to replace them. If it is included in the performance framework, the body preparing the programme has to be able to provide, at the Commission's request, an explanation of its selection (for more information see: *Information to be recorded about the frameworks*).

A key implementation step may be used – for example – where no outputs related to fully implemented operations are expected by the end of 2018. In such a situation, a milestone may be set for a key implementation step, referring to the number of projects selected to deliver the outputs or to the outputs generated by operations which have not yet been fully implemented. This additional information would offer assurance as to the existence of a project pipeline to deliver targets set for outputs by the end of the programming period.

Performance reserve

The performance reserve is a portion of the ESI Funds resources, which will not be available for use by the managing authorities before the performance review in 2019 and

even then only to the priorities, which have achieved their milestones set in the performance framework (for more information see: *Performance review*).

In line with Article 20 of the CPR the performance reserve represents 6% of the resources allocated to the ERDF, ESF and the Cohesion Fund under the Investment for Growth and Jobs goal, as well as to the EAFRD and to measures financed under shared management in accordance with the EMFF Regulation. This means that there is no performance reserve for the programmes under the European Territorial Cooperation goal. They are, however, still required to have a performance framework for each priority and are subject to the performance review.

There are several other categories of resources that are excluded for the purposes of calculating the performance reserve. One is the resources allocated to the YEI, both the specific allocation to the YEI and the matching ESF support (Article 20(a) of the CPR). The YEI may be programmed as a dedicated operational programme, a dedicated priority axis within an operational programme or a part of one or more priority axes. They will have a performance framework and will be subject to the performance review, but there is no performance reserve for these priority axes (see also the Commission implementing regulation on the model for operational programmes under the IGJ goal and on the model for cooperation programmes under the ETC goal – in particular Table 18a).

Another excluded category of resources are the transfers to the EAFRD from the 1st pillar of the Common Agricultural Policy (Article 20(c) and (d) of the CPR). While they are not taken into account for the calculation of the reserve, once transferred they become a part of EAFRD priorities which will have the performance reserve allocated provided that these priorities reach their milestones by the end of 2018. The resources transferred from the 1st pillar are therefore not excluded from the performance framework or review.

On the other hand, the priorities dedicated to technical assistance and the programmes dedicated to financial instruments in accordance with Article 39 of the CPR ('SME initiative'), will not have a performance framework, even though their resources are included for the purposes of calculating the total amount of the performance reserve.

The performance reserve is established in the Partnership Agreement (for more information see: *Partnership Agreement*) and programmes (for more information see: *Programmes*).

It will constitute between 5 and 7% of the allocation to each priority within a programme.¹² The total amount of the performance reserve allocated by ESI Fund and category of region – at the Union and Member State level – will be 6%. The amounts corresponding to the performance reserve have to be set out in the programmes broken down by priority and, where appropriate, by ESI Fund and by category of region.¹³

Complex priorities

The performance framework is set at the level of the priority. However, in the case of priorities that cover more than one Fund providing support under cohesion policy or

¹² With the exception of priorities dedicated to technical assistance, programmes dedicated to SMEs initiative in accordance with Article 39 of the CPR and priorities or parts of priorities dedicated to the YEI.

¹³ The breakdown by category of region is appropriate only for the ESF and ERDF.

more than one category of region (the Structural Funds only), all the indicators, their milestones and targets, as well as their achieved values, have to be broken down by Fund and category of region.

If the YEI is implemented as part of a priority, the YEI specific allocation together with the matching ESF support for the YEI has to be treated separately.

As a consequence, for such complex priorities, the verification of whether the selected output indicators relate to operations representing the majority of resources is to be carried out at the level of each fund or category of region within the priority.

The same principle will apply to the assessment whether the priority has achieved its milestones (for more information see: *Performance review* and *Allocation of the performance reserve*) or its targets (for more information see: *Financial corrections*), as well as to the potential suspension of interim payments (for more information see: *Suspension of interim payments*) or financial correction (for more information see: *Financial corrections*).

1.2. Agreeing the framework

Each Member State outlines in the Partnership Agreement the methodology and mechanisms to ensure consistency in the functioning of the performance framework across programmes and ESI Funds, while the actual performance frameworks (indicators for each priority and their respective milestones and targets) are included in the programme for each priority.

The Commission examines the performance frameworks presented by the Member States (or the authority designated by them) in the programmes drawing on material included in the Partnership Agreement (Section 2.4), as well as evidence from the ex-ante evaluation of the programme and the information provided by the bodies preparing the programmes in line with Article 4 of the Commission Implementing Regulation.

Partnership Agreement

The Partnership Agreement has to contain an overview of how consistency in the functioning of the performance frameworks is ensured across programmes and ESI Funds (Article 15(1)(b)(iv) of the CPR). This may include guidance provided at national level to ensure a consistent approach for the preparation of the performance framework or an existing framework establishing rules and principles on setting of milestones and targets which meets the requirements for the ESI Funds.

As a minimum, the Partnership Agreement should indicate:

- the bodies responsible for assessing consistency,
- when and how the information has been or will be assessed, and
- the relevant results of the ex-ante evaluations.

The aim is to ensure consistency and coherence in particular across similar priorities in different programmes, as well as across similar interventions financed by different funds, taking account of Fund specific rules.

Any monitoring mechanisms designed to ensure early detection of potential performance issues and the system for the follow-up of detected issues may also be included.

The Partnership Agreement includes a table with information on the allocation related to the performance reserve, broken down by ESI Fund and, where appropriate, by category of region, and on the amounts excluded for the purpose of calculating the performance reserve based on Article 20 of the CPR (Article 15(1)(a)(vii) of the CPR).

Programmes

The performance frameworks are to be presented in the programmes in accordance with the standard format set out in Annex II of the CPR:

Priority	Indicator and measurement unit, where appropriate	Milestone for 2018	Target for 2023

In the case of the ERDF, the ESF and the CF, the model for the programme adds two more columns to indicate the source of data and an explanation of the relevance of the indicator, where appropriate, as well as the ESI Fund and the category of region for complex priorities.

For the EAFRD, the requirements for the description of the performance framework foreseen in Article 8(1)(e) of the EAFRD Regulation will be defined in Annex I (part 7) of the draft Commission Implementing Regulation on Rural Development. In addition, if a MS decides not to use pre-defined output indicators, an explanation of the relevance of the proposed rural development policy indicators and where applicable the source of the data will be provided.

The financial tables included in the programme model provide information on the amount of the total support from each of the Funds by year, including a separate financial appropriation envisaged for the performance reserve. The reserve amount should be included in the table from the beginning of the programme, even though it may not be definitively allocated before the performance review in 2019.

The performance reserve will not be subject to the N+3 rule for decommitment in the way that other resources are. The performance reserve appropriations will be decommitted only either after the performance review in order to re-allocate appropriations from priorities which did not achieve their milestones to the priorities which did, in line with Article 76 of the CPR (for more information see: Allocation of the performance reserve) or in the framework of the closure of the programmes as set out in Article 86 of the CPR.

Information to be recorded about the frameworks

In line with Article 4 of the Commission Implementing Regulation, the bodies preparing programmes have to record information about the methodologies and criteria applied to select indicators for the performance framework¹⁴ in order to ensure that corresponding

¹⁴ The EAFRD performance frameworks will be based on standardized common indicators taken from the EAFRD's Common Monitoring and Evaluation System (CMES).

milestones and targets comply with the requirements set out in paragraph 3 of Annex II of the CPR.

This obligation concerns all programmes and priorities which have performance frameworks and are supported by the ESI Funds.

Information to be recorded must include:	Cohesion policy	EMFF	EAFRD
data or evidence (e.g. unit costs, benchmarks, standard or past rate of implementation, expert advice, conclusions of ex-ante evaluation) used to estimate the value of milestones and targets and the calculation method	YES	YES	YES
rationale for the selection of output indicators, including an explanation of the share of financial allocation represented by operations, which will produce the outputs, as well the method applied to calculate the share, which must exceed 50% of the financial allocation to the priority	YES	YES Output indicators are defined by the choice of measures, but the subset of output indicators used in the PF will have to be justified	YES Except if MS decide to use the pre-defined output indicators (Annex IV, part 5 of the draft Commission Implementing Regulation on Rural Development)
information on how the methodology and mechanisms to ensure consistency in the functioning of the performance framework have been applied in line with the provisions of the Partnership Agreement	YES	YES	YES

Where a performance framework includes result indicators and key implementation steps, the information must also include an explanation for the selection of result indicators (e.g. assessment of their close link with the supported policy interventions) and key implementation steps (e.g. assessment demonstrating that no or only few outputs can be expected before end of 2018).

The summary of information recorded may be provided within the programmes co-funded under the ERDF, ESF (and the YEI), EMFF and CF, where specific section has been foreseen under the table containing the performance framework. For all ESI Funds the bodies preparing the programmes have to provide the full information recorded on request.

The information recorded should be clear and sufficient to understand why – according to the body preparing the programme – the milestones and targets set for the performance framework meet the requirements set out in paragraph 3 of Annex II of the CPR.

For example, to demonstrate that milestones and targets are realistic and achievable, the recorded information could be as follows. *The target value for indicator X was calculated by dividing the total amount of allocation (both EU and national contribution) for operations which will contribute to this indicator by the unit cost established on the basis of similar interventions in 2007-13 period. The unit cost has been adjusted for estimated inflation (... %) and to take into account that projects foreseen for 2014-20 will involve more participants than in 2007-13 allowing for a measure of economy of scale. This estimate may be invalidated if the following assumptions:..., ..., ... turn out to be false.*

There is no need to record separately information which is the same for more than one indicator. For example, if the same data (unit costs) is used in the same manner under the same assumptions for several indicators, it is sufficient to have one record for all those indicators.

Ex-ante evaluation

The ex-ante evaluation can play an important role in the preparation of the performance frameworks, although this varies depending on the Fund in question.

For all ESI Funds the ex-ante evaluators have to appraise whether the quantified target values for indicators are realistic and they have as well to review the suitability of milestones selected for the performance frameworks.

They have first to analyse if milestones and targets are relevant and capture essential information on the progress of a priority, in line with the recommendation above that the output indicators for which they are set represent the majority of the allocation to a priority.

The evaluators have also to analyse whether the milestones can realistically be achieved at the review point in 2018, as well as the cumulative targets established for 2023. For this analysis, they may consider the rhythm of implementation of the programme in the current period and the available resources.¹⁵

The ex-ante evaluators may as well advise on the selection of appropriate milestones and targets and in doing so they could record information about the methodologies and criteria applied to select the indicators for the performance framework and set the milestones and targets.

In the case of the EAFRD, the output indicators are in principle part of the EAFRD's CMES set out in the Fund-specific rules. Therefore, the ex-ante evaluations will focus on appraising the proposed milestone and target values.

Examination by the European Commission

The Commission will verify if appropriate indicators have been selected and check if both the milestones and targets are: realistic and achievable (based on data or evidence used to estimate the value of milestones and targets and the calculation method), relevant and capturing essential information on the progress of the priority (based on information about the representativeness of output indicators), consistent with the nature and character of the specific objectives (based on the intervention logic outlined in the programme), transparent (objectively verifiable targets and data sources identified and publicly available), verifiable without disproportionate administrative burden and consistent across programmes where appropriate.

The analysis of performance frameworks will be the responsibility of the desk officers and units negotiating the programmes, who will familiarise themselves with the relevant sections of the Partnership Agreement, the programme and their ex-ante evaluations and

¹⁵ It should be noted that the setting of milestones does not take into account the amount of the performance reserve, while the setting of targets has to take this amount into account.

any other information on the setting of milestones and targets provided by the Member State.

When assessing the performance frameworks the desk officers may take into account the evidence from past programmes and completed projects and perform a plausibility check on the milestones or targets against other data (for example, size of financial allocation, size of population targeted by the intervention, etc.).

They may also reflect on the timing of delivery in relation to different types of indicators and types of intervention. In this context, a key question would be therefore: What could and should be achieved by the end of 2018?

For the financial indicator, it would imply that the absolute minimum for a milestone value would be the amount that avoids decommitment due to the N+3 principle at programme level.¹⁶ However, the Commission expects the bodies preparing programmes which in 2007-13 had no problems in meeting the N+2 requirement to set higher milestones than the bare minimum.

For output indicators, the timing of delivery can be different depending on the type of intervention (e.g., number of participants, enterprises supported or kilometres of railway built). The same issue arises for key implementation steps.

If there is insufficient evidence to indicate that the milestones and targets meet the criteria set in the CPR, the Commission will ask the bodies preparing the programmes for additional explanations and may ask for more indicators to be selected and milestones and targets to be adjusted.

For all ESI Funds, coordination units responsible for evaluation or monitoring in the respective DG will act as help desk, providing training and guidance and a consistency check.

2. MONITORING PERFORMANCE

Other than the formal performance review, scheduled for 2019, and the examination of the final implementation report of the programme with regard to the performance framework at closure of the programming period, performance will also be monitored regularly by the Commission and the monitoring committee for each programme.

2.1. European Commission

The managing authority includes information on progress in achieving the milestones and targets in the Annual Implementation Reports (AIR),¹⁷ beginning with the reports submitted in 2017 (Article 50(2) of the CPR). The data transmitted relate to values for indicators for fully implemented operations, except for the ESF and for the EAFRD where it may also relate to partially implemented operations (only in the case of

¹⁶ The N+3 principle applies at the level of the programme, while the performance frameworks are set at the level of priorities. Therefore, it is not the particular milestone value, but the aggregate of milestone values set for financial indicators in the programme which is concerned. This aggregate may not be lower than the amounts linked to a commitment which have to be covered by pre-financing or a request for payment within a defined period in order to avoid decommitment.

¹⁷ For the EAFRD, the required data is part of the standard monitoring tables in the AIR.

measures according to Articles 16, 19(1)(c), 21(1)(a) and (b), 27, 28, 29, 30, 31, 33, 34 of the EAFRD Regulation), or, in the case of other EAFRD measures to completed operations, as defined in Article 2(14) of the CPR.

The Commission examines the annual implementation report and informs the Member State of its observations within two months of the receipt of the annual implementation report. It may also make observations to the managing authority at any time concerning issues which significantly affect the implementation of the programme (Article 50(8) of the CPR). In such a case, the managing authority has to provide all necessary information with regard to those observations and, where appropriate, inform the Commission within three months of the measures taken.

The performance of each programme is also the subject of the annual review meeting for all programmes, convened every year (unless decided otherwise) from 2016 until 2023 and attended by the representatives of the Commission and the Member State (Article 51(1) of the CPR).

2.2. Monitoring committee

The monitoring committee reviews implementation of the programme and progress towards achieving its objectives, taking into account – *inter alia* – the milestones defined in the performance framework. The monitoring committee may also make observations to the managing authority regarding implementation of the programme and its evaluation, and has then to monitor actions taken as a result of its observations.

2.3. Revision of milestones and targets

The Member State may propose the revision of milestones and targets in duly justified cases and in addition to amendments resulting from changes in allocations to a given priority.

Annex II of the CPR indicates what may constitute a "duly justified case", i.e. a significant change in the economic, environmental and labour market conditions in a Member State or region. It means that if the significant change made it impossible to achieve a milestone or a target, the Member State may propose the revision of milestones and targets.

In addition, Article 5(6) of the Commission Implementing Regulation provides another example of what may constitute such a "duly justified case": the information recorded by the body preparing programme (for more information see: *Information to be recorded about the frameworks*) has been found to be based on incorrect assumptions leading to under- or over-estimation of targets or milestones.

On the other hand, if the revision aims only to align the milestones and targets with actual performance, this would not be regarded as a due justification.

The procedure foreseen in Article 30(1) and (2) of the CPR for amending programmes applies to the revision. A similar procedure, but with shorter deadlines and a more limited scope for the Commission's observation, will apply if there is a need to revise targets following the performance review in 2019 (for more information see: *Modification of targets as a result of allocation of the performance reserve*).

3. PERFORMANCE REVIEW AND ITS CONSEQUENCES

3.1. Performance review

In line with Article 21 of the CPR, the formal performance review will be carried out in 2019 on the basis of the information and the assessments presented in the annual implementation reports (AIR) submitted by the Member States by the end of May (EMFF) or June 2019 (all other ESI Funds).

The Commission has two months from the date of receipt of the AIR for the preceding year to examine the achievement of the milestones at the level of priorities and to adopt a decision, by means of implementing act, to determine for each Member State and ESI Fund, the programmes and priorities which have achieved their milestones.

A priority will be deemed to have achieved its milestone in the following cases (Article 6(2) of the Commission Implementing Regulation):

- if there are no more than two indicators in the performance framework related to a priority, all indicators have achieved at least 85% of their milestone value by the end of 2018

or

- if there are three or more indicators in the performance framework related to a priority, all indicators except for one have achieved at least 85% of their milestone value by the end of 2018 and the one indicator which has not achieved 85% of its milestone value has achieved at least 75% of its milestone value.

In the case of priorities which concern more than one Fund providing support under cohesion policy or category of region (the Structural Funds only), the achievement of milestones will be assessed separately for each of the Funds and each category of region within the priority, taking into account the indicators, their milestones and their achievement values broken down by Fund and category of region. If the YEI is implemented as part of a priority, the YEI specific allocation along with the matching ESF support for the YEI is to be treated separately.

The level of achievement for the key implementation steps will be quantified (for example: number of contracts for laying rail tracks awarded as percentage of all such contracts to be signed), then, their level of achievement may be represented by any value from within the range 0-100% and the 85% achievement threshold applies.

The performance review will be carried out on the basis of the data which the managing authorities have put into the SFC2014 system.

3.2. Allocation of the performance reserve

In the case of priorities which have achieved their milestones, the performance reserve will be allocated definitively on the basis of the Commission decision which has determined such priorities (Article 22(3) of the CPR).

In a situation where one or more priorities of a programme fail to meet their milestones, the performance reserve related to those priorities may be still reallocated among the

priorities which have achieved their milestones¹⁸ The Member States will have 3 months after the Commission adopts the decision on priorities and programmes that have achieved their milestones to submit a request for amendment of the programme reallocating the performance reserve in line with the procedure foreseen in Article 30(3) of the CPR (Article 22(4) of the CPR). Any other amendment to the programme which results from the reallocation of the performance reserve has to be put forward at the same time.

The proposed reallocation of the performance reserve must be consistent with the thematic concentration requirements and minimum allocations. However, where one or more of the priorities linked to thematic concentration requirements or minimum allocations have not achieved their milestones, the Member State may propose a reallocation of the reserve which does not comply with these requirements and minimum allocations (Article 22(5) of the CPR).

The allocation of the reserve does not concern priorities dedicated to technical assistance, because they are not covered by the performance framework, and programmes under the European Territorial Cooperation goal, as no reserve is set for them. Neither does it concern the ESF allocation to the YEI and the specific allocation to the YEI, as both are excluded from the performance reserve.

The reserve will not be allocated for the priorities or programmes for which a Member State fails to submit information in line with Article 50(5) and (6) of the CPR (Article 22(4) of the CPR).

3.3. Modification of targets after allocation of the performance reserve

In principle, the definitive allocation of the reserve to a priority should not entail the need to amend the targets fixed for indicators in this priority, because the amount of the reserve should have been taken into account at the time when the targets were set.

However, if more resources than only the performance reserve originally foreseen were to be allocated to a priority as a result of reallocation of the reserve from priorities which did not achieve their milestones, then the targets for that priority have to be reviewed and amended as necessary to take account of the additional resources.

The targets will have to be reviewed and amended as necessary for all priorities which did not receive the reserve.

According to Article 30(3) of the CPR, the procedure for programme amendment in order to reallocate the performance reserve following the performance review allows the Commission to make observations only where it considers that the allocation proposed is not in compliance with applicable rules, is not consistent with the development needs of the Member State or the region or entails a significant risk that the objectives and targets included in the proposal cannot be achieved. Moreover, the deadline for the Commission to approve the request is two months compared to three months for all other requests for programme modification.

¹⁸ It may mean the priorities of the same programme as well as the priorities of other programmes, as long as they concern the same Fund and the same category of region.

If the milestones have been significantly overachieved in 2018, the Commission will insist – where appropriate – on more ambitious target setting for the end of the programme.

3.4. Suspension of interim payments

Following the formal performance review in 2019, the Commission may suspend, in accordance with the procedure laid down in fund-specific rules, all or part of an interim payment of a priority of a programme if the following cumulative conditions set out in Article 22(6) of the CPR are met:

- A priority has seriously failed to achieve the milestones relating only to financial indicators, output indicators and key implementation steps set out in the performance framework.

A priority will be deemed to have seriously failed to achieve the milestone in the following cases (Article 6(3) and (4) of the Commission Implementing Regulation):

- if there are no more than two indicators in the performance framework related to a priority and any of these two indicators has failed to achieve at least 65% of the milestone value by the end of 2018

or

- if there are more than two indicators in the performance framework related to a priority and at least two of these indicators have failed to achieve at least 65% of the milestone value by the end of 2018.

If a priority concerns more than one Fund providing support under cohesion policy or more than one category of region (the Structural Funds only), the achievement of milestones has to be assessed separately for each Fund or each category of region within that priority, taking into account the indicators, their milestones, and their achievement values broken down by Fund and category of region.

If a priority includes resources allocated to the YEI, i.e. the specific allocation for the YEI and the matching ESF support for the YEI, the assessment of serious failure to achieve milestones has to be undertaken separately.

Result indicators will not be taken into account for this assessment.

- The serious failure is due to clearly identified implementation weaknesses.
- The Commission has communicated previously to the managing authority the clearly identified implementation weaknesses (pursuant to Article 50(8) of the CPR) following close consultations with the Member State concerned. The Commission can for instance do this following the receipt of the Annual Implementation Report, during the annual review meeting or at any time during programme implementation (for more information see: *European Commission*).
- The Member State has failed to take the necessary corrective action to address such weaknesses.

A decision to suspend interim payments may be adopted not earlier than five months after the clearly identified weaknesses have been communicated. The suspension will be lifted without delay when the Member State has taken the necessary corrective actions.

The scope of suspension (all or part of interim payments), as well as whether the actions taken by the Member State meet the requirements (necessary and corrective) to withhold the suspension or lift it once it has been applied, will be decided on case-by-case basis.

4. FINANCIAL CORRECTIONS

At the end of the programming period, the Commission may apply financial corrections in accordance with the fund-specific rules, where applicable (i.e. Article 144(4) of the CPR for the Cohesion policy and the EMFF) if the following cumulative conditions are met:

- The examination of the final implementation report of the programme established a serious failure to achieve the targets relating only to financial indicators, output indicators and key implementation steps set out in the performance framework.

A priority will be deemed to have seriously failed to achieve the targets set out in the performance framework in the following cases (Article 6(3) and (4) of the Commission Implementing Regulation):

- if there are no more than two indicators in the performance framework related to a priority and any of these two indicators has failed to achieve at least 65% of the target value by the end of 2023

or

- if there are more than two indicators in the performance framework related to a priority and at least two of these indicators have failed to achieve at least 65% of the target value by the end of 2023.

If a priority concerns more than one Fund providing support under cohesion policy or more than one category of region (the Structural Funds only), the achievement of targets has to be assessed separately for each Fund or each category of region within that priority, taking into account the indicators, their milestones, and their achievement values broken down by Fund and category of region.

If a priority includes resources allocated to the YEI, i.e. the specific allocation for the YEI and the matching ESF support for the YEI, the assessment of serious failure to achieve targets has to be undertaken separately.

- The serious failure is due to clearly identified implementation weaknesses.
- The Commission has communicated previously to the managing authority the clearly identified implementation weaknesses (pursuant to Article 50(8) of the CPR) following close consultations with the Member State concerned. The Commission can for instance do this following the receipt of the Annual Implementation Report, during the annual review meeting or at any time during programme implementation (for more information see: *European Commission*).

- The Member State has failed to take the necessary corrective action to address such weaknesses.
- There are no socio-economic or environmental factors, no significant changes in the economic or environmental conditions in a Member State or no force majeure seriously affecting implementation of the priorities concerned that prevented the achievement of targets (Article 22(7) of the CPR).

The level of financial correction will take into account – with due respect for the principle of proportionality – the absorption level and external factors contributing to the failure (Article 22(7) of the CPR). In accordance with Article 2 of the draft Commission Delegated Regulation, it will be determined on a flat rate basis in relation to the achievement/absorption coefficient (the average of final achievement rates for all output indicators and key implementation steps selected for the performance framework under a given priority divided by the final achievement rate for the financial indicator selected for the performance framework under a given priority). For the purpose of the calculation, the final achievement rate of any indicator in excess of 100% shall be counted as 100%.

The flat rate is to be applied to the contribution from the ESI Fund based on the expenditure declared by the Member State under the priority concerned after the application of any other financial corrections (Article 3(2) of the draft Commission Delegated Regulation). It will be a net financial correction, meaning that there is a definitive reduction of funds to the Member State concerned.

For priorities concerning more than one Fund (the ERDF, the ESF and the CF only) or category of region (the ERDF and the ESF only), the achievement/absorption coefficient will be calculated separately for each Fund or category of region and the flat rate will be applied to each Fund or category of region that meets the conditions for financial corrections (Article 7 of the Commission Implementing Act).

achievement/absorption coefficient	Rate of financial correction
Not less than 65%	0
Below 65% but no less than 60%	5%
Below 60% but no less than 50%	10%
Below 50%	25%

The external factors contributing to the failure to achieve the targets, other than the impact of socio-economic or environmental factors, significant changes in the economic or environmental conditions in a Member State or force majeure seriously affecting implementation of the priorities concerned, will be considered on case by case basis, and may be a justification for a lower rate of correction than set out above. In such case the rate of correction may be reduced by up to 50%, depending on the assessment of the importance of contribution of these factors to the failure (Article 3(3) of the draft Commission Delegated Regulation). Moreover, where the use of flat rates would be disproportionate, the rate of correction has to be reduced (Article 3(4) of the draft Commission Delegated Regulation).