Cohesion policy

A management audit

Clingendael Report

Adriaan Schout

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Cover photo: Businessmen gather One hundred Euros as a set of puzzles on the wooden desk
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"The definition of insanity is doing the same thing over and over again andexpecting different results."
(Einstein)

"The risk that no change will take place is also very high"
(Barca Report 2009, p. VI)

Executive summary

This Policy Paper addresses a paradox in cohesion policy. Despite being one of the most evaluated EU policies, a culture of transparent, independent, and effective auditing has not emerged. The question needs to be asked why evaluations do not lead to change in outputs and the required improvements. Evidently there are (national) interests that block reforms. Yet, this does not provide a sufficient explanation as in other EU policy areas comparable difficulties existed before new structures were implemented and the issues were solved.

Competition for EU funds is increasing as new strategic priorities have emerged with enlargement on our doorstep, the war in Ukraine, and the needs to move towards sustainable growth and new energy infrastructures. To remain viable and credible, effectiveness, and legality of EU spending must be properly accounted for. Despite the many adaptations in governance, the EU added value (effectiveness) of cohesion funds (35% of the EU budget) is still hard to establish. These developments trigger further scrutiny of the effectiveness and legality of EU spending.

The argument developed in the Policy Paper starts from the difference between single-loop learning and second-loop learning. Single-loop learning concerns limited changes aimed at improving the system as it is. Double-loop learning starts when the realisation sinks in that the underlying values of the system need to be changed such as transparency, subsidiarity/decentralisation, independent monitoring, redesign of functions.

The first conclusion from this analysis concerns these good governance values. They offer a different reform agenda for cohesion funds than starting from the extensive list of issues identified in the many existing evaluations. It are first of all the member states that need to be able to audit their expenditures in terms of effectiveness and legality. The member states have so far lacked interest and capacities, and mutual trust in the member states is low. One way to build capacities is through the involvement of national bodies in a network of independent auditors and through transparent mutual inspections at arms-lengths of governments and Commission.

The second conclusion concerns the question: How to break away from the status quo? The current governance of cohesion is not future proof. The centralised ways of working of the EU Commission and European Court of Auditors (ECA) conflict with the reasons why subsidiarity is important: building a professional auditing community, capacity building in member states, creating ownership, ensuring first-line control. Other EU policy areas succeeded in creating decentralised network structures when confronted with serious crises. Without a serious (political or financial) crisis in cohesion funds, serious reforms will demand change-leadership. In an environment characterised by vested interests and a focus on just retour rather than on effectiveness, it is hard to see who has the incentives to initiate real reforms.

Thirdly, the question needs to be addressed: where to start structural reforms? The position of the Joint Audit Directorate from DG EMPL and DG Region inside the Commission is hard to reconcile with independent and depoliticised auditing. The first step to take could be to put the Joint Audit Directorate (DAC) at arms lengths, reduce it in size, and turn it into a European agency working with and through independent national Audit Authorities and reporting to the Commission. The Commission's primary tasks are policy making and acting on the basis of the transparent independent auditing reports (comparable to the practice in other EU agency networks).

The fourth conclusion is that ECA could be transformed into a subsidiarity-based network working closely with national auditors and possibly the national Supreme Auditing Institutions (SAIs). Mirroring other tried and tested European network-based monitoring agencies, ECA could be changed in a European authority (called for example the European Budget Assurance and Performance Authority). While DAC seems to be well placed as independent network ‘agency’ under the Commission, ECA as ‘authority’ reports to EP and Council. Yet, to strengthen national audit institutions, ECA could be turned into a networked (subsidiarity-based) authority working the SAIs. A subsidiarity-based network would reinforce the independence from national governments and would support the development of a professional auditing culture throughout the EU. Whether the national Supreme Auditing Institutions are willing to take a role in such an integrated auditing network remains to be seen. SAIs operate on the assumption that they are independent and stand-alone auditors of the national public sector. The realities of shared management and of co-financing however raise questions about how to deal with independent auditing of EU funds at the national level and whether SAIs could have a role to play.

Each level has its responsibilities for auditing. Member states need to deliver reliable assurances. Independent national authorities can audit each other in teams comparable to practice in other EU policy areas. The EU Commission can use these transparent assurance reports for its annual statements. Finally, ECA produces the Annual Report on the EU's finances to the Council and EP, and ECA writes Special Reports. In its activities it can involve national auditors to strengthen a European culture of independent auditing. For inspiration, attention should be paid to subsidiarity-based governance of monitoring and enforcement in other EU policy areas.

Finally, for the time being there seems to be little sense of urgency nor an appetite for structural reforms of cohesion funds. Few have an incentive to reform nor an appetite for strengthening independent auditing. Yet, when it comes to the assessment of national and EU added value, it is doubtful whether the current system of input and output indicators, and reports from the national authorities and from the EU Commission, offer sufficient and reliable insights.

1 Introduction: The state of learning in cohesion policy

Cohesion policy has been a major component of the EU budget.[1] With the addition of the more recent EU objectives including transitions towards sustainable development, EU enlargement, and preparing the EU for new geopolitical conditions, profound discussions on changing the EU budget will be high on the agenda. Insights into the added value and functioning of cohesion funds is one of the requirements of an informed discussion on the future of the EU budget.

Yet, what can be added to the long-standing debates on, and many evaluations of, cohesion policy? Relatedly, how come so many initiatives have been taken to improve the accountability of cohesion policy without achieving a culture of reliant, transparent and independent accountability? Cohesion policy is most likely one of the most evaluated European policies. Discussions about reforms have been many. Cohesion has seen many changes in terms of strategic foci, flexibilisation of governance, performance-based payment incentives, and decentralisation of program responsibilities (Levy 2002, Petzold 2022, EP 2023). The input and output indicators that the EU Commission presents in the 8th Cohesion Report[2] show progress on many fronts but also indicate that some EU regions have remained stuck in a "development trap" (European Commission 2022) and experts have concluded that cohesion funds are effective where they are least needed. Hence, its performance has remained unconvincing for a variety of reasons.

A discussion about cohesion funds is currently unavoidable. New developments in the EU demand a reconsideration of the EU's financial priorities and therefore also of cohesion policy. Despite previous stalemates in the EU's budget, changes in the EU's priorities can be expected to have far-reaching consequences. The Commission demanded close to €100bn additional funds in its latest mid-term

1 'Cohesion funds' refers to funds under cohesion policy. Article 174 TFEU defines cohesion policy: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12008E174

2 The Commission also has a website on which progress and achievements of cohesion policy is presented: Regional Policy - Performance (europa.eu).

review for among others industrial policy (STEP), managing migration flows, enlargement, and increased interest rates (European Commission 2023). Of special importance are the financial commitments towards Ukraine for defence spending, economic support, its accession process, and reconstruction costs. Moreover, accession of Ukraine will have serious implications for the future of the EU's finances (Schout at el. 2023). Despite these pressures, a discussion on changing the EU's finances has not yet reached the level of political priority (see the scant attention for the EU's finances in the State of the Union 2023).

This Policy Paper does not question the political importance of cohesion funds nor their share in the EU budget. Given the (increasing) differences between regions, cohesion funds are likely to continue one way or the other. Part of the political debate will be about whether and how to reform its governance. This Policy Paper is restricted to the quality of the monitoring and auditing as part of the wider debate on the (governance) reforms of the EU's finances.

In essence, cohesion suffers from two types of interconnected accountability problems: persistent doubts about its effectiveness (results) and enduring problems with auditing (legality). As regards effectiveness, discussions have been going on for many years about its mixed contribution to convergence.[3] The second problem, legality, refers to anything from unintended mistakes in following the procedures to actual fraud. Given the complexity and evident risks involved in investing in backward regions, doubts about the feasibility and strictness of supervision have existed from the beginning (Bekker 2021). Originally, auditing was mostly related to the legality of spending. In recent years attention has increased for impact assessments, data-gathering, implementation of projects, learning from previous programs, governance instruments and, more recently, for counterfactual assessments of what a situation might have been without cohesion policy (Barca Report 2009, Crescenzia and Giua 2020). Yet, accountability and learning from assessment have remained points of concern (EP 2022) and, despite a general basis in OECD principles of financial management, member states continue to differ in terms of ability to comply with audit standards and lack of a common auditing culture (e.g. ECA 2021 + 2022).

3 For a overview of evaluations of the effectiveness of cohesion policy see for example the Barca Report (2009), Bachtler et al. (2017) and Darvas Wolff (2018). For a review of convergence in the EU, see Schout and Van Riel (2022).

In response to the deficiencies, we see a tradition for calling for 'more': more rules, more hierarchical steering and control, more training, and more resources (e.g. Barca 2009, EP 2023). This reflex of 'more of the same' needs to be questioned.

Although the focus here is on cohesion, its functioning has to be seen in relation to the wider development of the EU budget. Fragmentation of the budget has created overlap with other funds inside and outside the MFF (see the Recovery and Resilience Facility (RRF)). The European Court of Auditors (ECA) notes improvements in the overall EU budget including the increasing use of flexibility. Yet, in its meta-evaluation of EU funding, it concludes that the EU budget risks duplication of funds, lack of synergies and fragility in the governance mechanisms (ECA 05/2023, p.22). Difficulties to reform the budget and the individual funds is a feature that runs through the EU's financial programs more generally (ECA 2014), has created a "galaxy of funds" (Begg et al. 2022) and a patch work of governance arrangements (Barca 2009, ECA 2019 and 2023, Bachtler and Mendez 2023). Cohesion policy is therefore also a case study for how to diagnose the weaknesses in the EU budget more generally.

Outline[4]

The repetition of assessments of weaknesses in cohesion suggests that something is amiss in the process of policy learning (diagnosing and implementing reforms). Section 2 briefly discusses the difference between single- and double-loop learning (incremental versus structural change). Section 3 reviews the state of play of cohesion funds. Subsequently, Section 4 analyses the frictions in the multilevel distribution of tasks between EU and

4 A full understanding of the dilemmas with cohesion policy demands an interdisciplinary approach. Political scientists will look at political frictions, regional interests, strategic priorities, and hard-fought compromises. Economists discuss among others the public goods nature of cohesion policy and examine the quality of public institutions as one of the main drivers for growth and convergence (Fuest et al. 2019, Barbero et al. 2022). Experts in auditing and financing look at financial management and methodologies for performance assessments, while lawyers focus on rules of procedures and point to institutional dilemmas for example related to the Commission's dilemma to try to run a decentralised management system while having the overall responsibility for spending as defined in the Treaties (e.g. ECA 21/2022, ECA 07/2023). Acknowledging the relevance of other disciplines, this Policy Paper starts the debate on how to diagnose the organisational design of auditing of cohesion policy.

national institutions. These difficulties are classified in Section 5 in terms of the good governance principles of transparency, independence and subsidiarity. This section also briefly points to the experience in other EU policy areas that managed to overcome comparable difficulties. The Conclusions complete the Policy Paper.[5]

5 The analysis is based on available literature, and on reports from the European Court of Auditors and other EU institutions. In addition, interviews were conducted with officials in the Member States and EU institutions. These interviews took place under the Chatham House rule.

2 Single and double-loop learning in cohesion policy

The reform processes of cohesion policy are well documented (e.g. Petzhold 2022). The meta-evaluation from ECA assesses in more detail the reforms during the program periods 2007-2013 and 2014-2020 on the basis of 14 guiding principles, 69 ECA reports and other available reviews (ECA 2019). Similarly, the EU commission has frequently explained in its responses to ECA reports that it recognises the weaknesses, learned from its own evaluations and adapted the governance system accordingly. Yet, deficiencies in ensuring effectiveness and legality of spending have remained.[6] Something is wrong with the learning capacity in the multilevel system of cohesion policy (Barca 2009).

Starting point for this organisational audit is the difference in single-loop and double-loop learning as developed in strategic management literature (e.g. Morgan 1986). Strategic management theory distinguishes between incremental changes and structural or transformative changes (Weick and Quinn 1999). Single-loop learning concerns the feedback loop between objectives, implementation, and monitoring within the existing organisational systems (Figure 1). Incremental changes (single-loop learning) will often suffice provided environments are stable and predictable.

When iterations of reforms do not lead to solutions, more profound – and more difficult – feedback loops may have to be considered. Double-loop learning includes an extra – more profound – loop. It concerns adapting objectives, and roles and power divisions in the organisation or network. Double-loop learning is about challenging the objectives and values of the organisation, and the ways in which it works within its networks.[7]

6 See for example 'Reply of the Commission' in ECA (2013).

7 The distinction between single- and double-loop learning is not always clear. A succession of single-loop learning processes can result in major structural changes. Similarly, double-loop learning aimed at structural reforms can easily run into profound implementation problems if essential incremental steps required are not identified.

Comitology and double-loop learning

It is doubtful whether comitology – involving mostly national officials – will result in double-loop learning. One important point of double-loop changes is that it involves a collective exercise between the hands-on (independent) experts. It relies on iterative networked (multilevel) processes through which frictions are identified, new rules are agreed on, and ownership for new values is established across all levels. Participative – diffused – leadership is required in initiating and engaging the network in elaborating visions, values, rule books, and in pooling knowledge. The process of "integrative bargaining"[8] between the experts who do the actual work and who represent the professional values, is distinct from political rule setting such as takes place via comitology.

Resistance to change

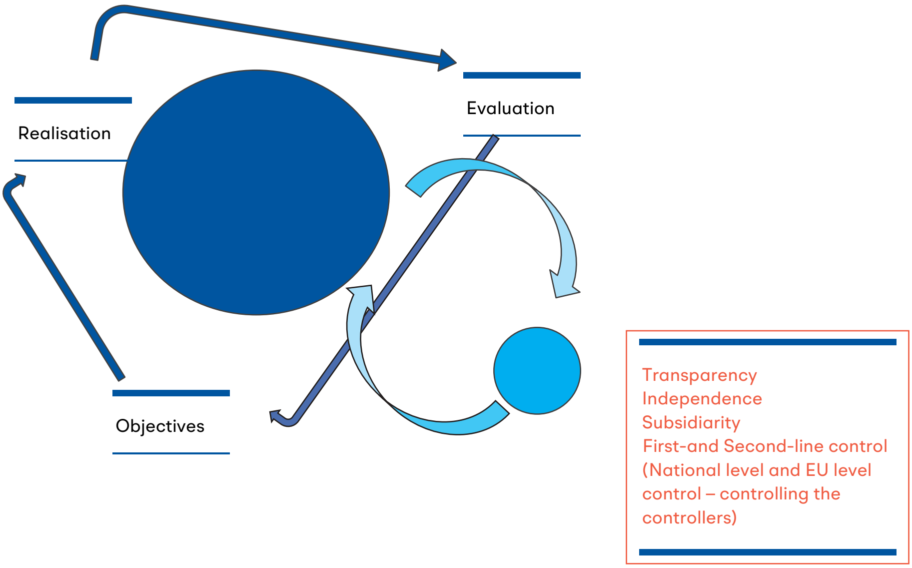
Leadership will be required to turn the usual resistances, and lack of interest, into ownership for reform and for professional values. Existing routines have their own defensive mechanisms such attempting to adapt through 'more of the same' tinkering in the hope that more fundamental reforms can be avoided. Moreover, existing structures and norm-expectations contribute to groupthink about where the organisation is and how it should function.

Resistance to change combined with a –mistaken– preference for centralisation in the EU also stems from a profound distrust in national capacities (Schout 2021a, 2022). This distrust creates a tendency towards strengthening the Commission even when decentralisation is required. Misgivings about other member states are well founded but it should also be acknowledged that there are also policy areas where complex European tasks are executed and monitored effectively by member states. The tendency to prefer centralisation also results from the realisation that the Commission is open to political compromises and lenience whereas decentralised, independent and transparent supervision offers less wiggle room. Moreover, debating policies and politics is the life blood of policy makers (and media) but examining the design of European organisations and networks is not high on the agenda. EU politics is primarily about hard-fought political compromises and seldom about rational design. These fears,

8 Metcalfe 1981.

administrative ideologies, vested interests and preferences for opaque wiggle room reinforce resistance to double-loop learning. This stands in sharp contrast to private sector management where markets and stakeholders press, from time-to-time, for profound changes and where the need for decentralisation in large and dynamic organisations is well understood.

Figure 1 Double-loop learning in the EU



3 Cohesion policy: State of Play

In essence, cohesion policy is an investment program with the longer-term objective of stimulating upwards convergence. It is also political sign of solidarity between regions and member states (Andor 2020). Successive enlargements have boosted the size and importance of cohesion policy. Cohesion policy is approximately 35% of the EU's current Multiannual Financial Framework and, combined with the overlapping NGEU, these investment programs amount to 70% of the EU's budget. Cohesion has also been used recently as short-term crisis instrument threatening its long-term aim of boosting European resilience.

Emphasising the need for profound reforms of cohesion policy, Hunter (2023) called for a "reinvention, not just an upgrade". Underlining that the time is ripe for more profound thinking on cohesion, the Commission created a high-level group to advise on the future of cohesion policy and on how it could evolve into an effective European growth model (European Commission 2023). Important as this step may be, it is one in a long history of reviews. The earlier Barca Report (2009) already concluded an "urgency for change" and offered an eclectic stocktaking of options. But, inevitably, it also noted that: "[t]he risk that no change will take place is also very high".

Looking at recent ECA reports, the evaluations of cohesion policy, and the debates about the auditing of the RRF, the Barca Report is still relevant.
It identified 10 Pillars for reforming cohesion policy. Important to note for our purposes, these pillars mainly reflect incremental changes: trying to do better what is being done in terms of contract relations, financial management and linking priorities to performance systems (Box 1).

Box 1 Ten pillars for reforming cohesion policy in the Barca Report

- Pillars 1 and 2 concern strategic priorities including performance indicators.
- Pillars 3 and 4 suggest better contractual relations between Commission and member states and stress the relevance of ex ante conditionality.
- Pillars 5 and 9 deal with better financial management including performance payment linked to the European Semester.
- Pillar 6 suggests ways to prevent capture by local interest groups.
- Pillar 7 stresses the need to experiment with counterfactual evaluations.
- Pillars 8 and 10 underline the need to improve existing administrative systems through investment in human resources and better information systems.

Source: Barca Report (2009).

Box 2 Selection of persistent problems with cohesion funds

- The most vulnerable regions particularly in the South of the EU have not converged.[9] Cohesion policy is least effective where it is most needed.
- Some countries rely for their public investments for 50-85% on cohesion funds. This indicates that national public investments are crowded out and it also suggests that these member states are less forced to prioritise investments in their national budgets, and that dependence on cohesion funds has been created.
- Much effort is put in ensuring better data to improve accountability. Yet monitoring performance remains highly complicated due to goal congestion.
- Timing complicates policy learning. The midterm review is too early to assess outputs and outcomes. The previous MFF is still in full swing while the next MFF is already being formulated.
- Emphasis in evaluations is on inputs and outputs while impact remains elusive.
- Politicisation of performance data. Member states (national authorities) and the Commission have an interest in reporting that funds are responsibly spent and well executed.
- A select group of national experts is used for national evaluations and are therefore not without interests either. The inward-looking auditing system partly results from the absence of an internal market for evaluation experts.
- Reporting remains problematic given the variety of interests and reliability of the data. The search for better data to support policies has not solved the problem of politicised data.
- ECA has consistently concluded that cohesion policy spending is affected by a material level of error. In recent years, the irregular spending in cohesion has been a significant factor in the "adverse opinion" on EU budget spending as a whole.[10]

Source: Expert panel 'Evaluating EU Cohesion Policy – Challenges and opportunities'. ECA, 23 October 2023. Cohesion Conference 2023 | European Court of Auditors (europa.eu)

9 See also Schout, A., A. van Riel (2022).

10 See the concluding section of 2022 AR, p. 251, paragraph VIII p. 15, and paragraph 1.22 p. 35.

In line with the predictions in the Barca Report almost 15 years ago, the European Court of Auditors concluded in recent reports that many reforms have been discussed, implemented, and evaluated but these have not been able to solve the shortcomings and difficulties. Better monitoring of performance and performance-based financing had made little noticeable difference to the way EU funding was allocated and disbursed (ECA 24/2021). Similarly, in a recent expert-meeting at ECA, several recurring friction areas were discussed that fit the long-term pattern of tinkering with governance structures (see Box 2).

If anything, the accountability of performance is likely to become even more of a risk (ECA 6/2020, 2/2022, 21/2022, 26/2023). The complications of the overlap with the RRF are many and creates difficulties in spending the almost doubling of investment funds, as well as in monitoring outputs and outcomes when targets from projects are combined with milestones for reforms. This also creates the risk of funding inferior projects because the Commission can balance lacking outputs by approving intended reforms even though their implementation or sustained impacts are unclear. Moreover, the level of ambitions of the member states vary substantially. Some set high targets whereas others present objects that involve little risk. Furthermore, goal congestion creates complexities in assessing performance due to incompatible objectives (compare also Bachtler et al. 2013). Finally, the ECA reports note that the Commission has major interests in ensuring that, on paper, funds have performed well.

As regards objectives, it is often difficult to specify how to assess achievements. For example, in parallel to cohesion, ECA notes that the reporting of the RRF "fails to provide a full picture of how the funded projects contribute to the RRF's objectives, such as making the European economy greener and more resilient" (ECA 26/2023). Trying to repair systemic deficits in auditing, there is tendency towards excessive data gathering and evaluating combined with repetitive attempts at streamlining the administrative burdens (fighting gold plating, strengthening the Single Audit principle, simplification of procedures, see e.g. ECA 2018, EP 2023).

In addition, the legality of spending has remained problematic for many years.[11] The acceptable error level for EU spending is 2%. However, the error

11 For a discussion on the use of 'European Added Value' as an innovation in the prioritisation within the EU budget, see European Commission (2011), Rubio (2011) and Tibor (2017).

level of 2022 was 6.6% (this means that 6.6% was not spent according to the rules – irrespective of doubts about the effectiveness). Given its size, cohesion is one of the reasons why the error margin for the EU budget as a whole was 6,4%.

For our purposes, it is important to examine how these legality figures emerged from the system based on national and EU audits. The ECA reports reveal a system in which member states have an interest in, and are in the position to, present financial corrections with a view to lowering the error rate to close to 2% (ECA 24/2021, ECA, ECA AR2022 p. 229). Subsequently the Commission's own auditing of the national assurances detects additional risks in the national accounts. In 2022 the controls from DG EMPL and DG REGIO resulted in an error margin of 1.9%-2.7% (in essence: above the 2% mark that is allowed and reported by the member states).[12] Subsequently, ECA's audit raised the error margin from the Commission upward to 4.1%-8.7%.

Commission supervision and its transparency is complicated by its wide range of tasks, incentives to show that funds are well spent, and – facilitated by a lack of transparency – by a considerable leeway in taking decisions on the legality and effectiveness of national spending and outputs.[13] This helps to explain the difference between the consecutive levels of control (national, Commission and ECA).

Hence, the important question now is: how to devise an audit system in which the national audits are reliable in the first place? In terms of implementation of any EU policy, also of cohesion, member states are the first in line to ensure the effectiveness and legality of spending ('loyal cooperation' as defined in the

12 As DG REGIO explains in its Annual Activity Report (2023, p.42): "Regarding the residual total error rates reported in the latest assurance packages received by 1 March 2023 (either as reported by the audit authority or adjusted by the DAC auditors and therefore considered as 'reportable' for this AAR), REGIO notes that for 101 programs the audit authorities reported a total error rate (a measurement of the effectiveness of management and control systems) above 2%, however the concerned program authorities applied sufficient financial corrections in the reported accounts in 70 cases to bring the residual risk below or equal to 2%. For the remaining 31 programs, the accounts submitted by 1 March 2023 are still affected by material residual total error rates and REGIO will apply additional financial corrections, as necessary, upon finalisation of the assessment and resulting contradictory procedure. These programs are put under reservation as the relevant expenditure in the reporting year is materially affected (see Annex 9), in line with the materiality criteria foreseen in Annex 5."

13 For a more general discussion on the Commission as supervisor, see Mérand (2021).

Treaties; Schout 2021a, 2022) while EU-level control should in principle be limited to 'second-line control' (supervising the national supervisors, preferably in the form of subsidiarity-based mutual inspection teams). As a corollary, in addition to the question of how to ensure reliable national auditing (first-line auditing), we also need to raise the question of how to design second-line auditing at the EU level?

It is particularly worrying that after all these years, the error in spending remains above target[14], that critique on the auditing is persistent, and that the related national auditing mechanisms as well as those of the European Commission, do not deliver the independent assessments according to international standards of sound financial management. The reports and evaluations show the widely shared concerns about transparency and about the weak culture of independent monitoring, enforcement, and follow-up from evaluations (see also the remarks from the ECA expert panel in Box 2). Some difficulties are unavoidable, given that the quality of institutions is below average in the less developed regions that are targeted by cohesion policy. Other dilemmas are however related to the governance system such as goal congestion and the leeway of the EU Commission in accepting data of insufficient quality. Actors at all levels have their financial interests as well as their relative autonomy in the use of funds to defend.

Evidently, the literature also acknowledges the many positive developments and successful outputs that have resulted from cohesion policy. There are many successful projects to report, data has been much improved and the related RRF program has underscored that there is solidarity within the EU if needed. There is also a wide recognition that regional differences are worrying and regional problems – including safeguarding employment for young talents – are aggravated by the four freedoms that define the internal market.

14 Figure 1.5 in ECA's Annual Reports (2022, p. 32) shows the following figures 2018: 5%, 2019: 4.4%, 2020: 3.5%, 2021: 3.6%. The consequences of Covid-19 and the need to spend the funds at the end of the previous MFF (involving higher risks) contributed to the elevated level of 6.6% error margin for cohesion funds (Heading 2a). The error margin cannot be equated with malicious behaviour. The problems range from simply missing documents of hic-ups in the procedures to more serious issues of non-eligible projects, mistakes in public procurement or state aid, or declaring costs that cannot be declared. One of the problems is the facility with which Audit Authorities in member states accept the self-declarations of beneficiaries (e.g. declaring absence of double funding or absence of conflict of interests).

Despite a great deal of analysis, experimentation and evaluation, debates are repeating themselves over lack of a common monitoring culture, risk reduction, transparency, capture, etc. (EP 2023). What is meant by 'a lack of a common auditing culture' becomes clear from the many reports that have been produced. Despite a general basis in OECD principles of financial management, member states continue to differ in terms of ability to comply with international audit standards, struggle with complexity of rules, differ in the scope and provision of adequate audit tracing in documents, suffer from insufficient financing of the national authorities, lack of objective sampling, misinterpret EU rules, and suffer from problematic independence and insufficiently transparency (e.g. ECA 2021 + 2022, EP 2023).

4 Governance of cohesion funds

A review of cohesion's basic governance structure is necessary to identify the structure problems. Cohesion is in essence governed on the basis of a vast number of bilateral relations between the member states and the Commission. The general idea is that the Commission is responsible for the EU budget and ECA reports on the quality of the auditing of the EU Commission to the Council and EP. The ruling belief system is that this requires centralised auditing systems.[15]

The Commission

Cohesion funds are based on 'shared management' which implies that the EU Commission and national institutions (ministries and other public institutions) are both responsible for the running of the programs (Article 4 TFEU). As a corollary, the Commission has a vast range of developments to monitor together with the 27 member states and to cover a wide variety of regions each with specific situations and idiosyncratic institutions. Moreover, the funds involve a large number of (interconnected) indicators. In monitoring and assessing the development of indicators, the Commission has to allow for adjustments in objectives and indicators due to all kinds of developments during the implementation of the programs and projects. Although management is shared, the Treaties define that the Commission remains responsible for the success and legality of the EU budget (Article 317 TFEU).

The central role of the Commission is clear from the 548 page "Common Provisions Regulation"[16] that defines in detail the distribution of responsibilities between the levels of governance and the bilateral arrangements between Commission and member states. The Common Provisions are the basis for the

15 This belief system stands in sharp contrast to how other EU areas are governed. Apparently, there is little learning between policy areas. In the EU's multilevel system, responsibility for learning equally lies with the Commission, EP and the individual member states.

16 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1060

'partnership arrangements' between the Commission and the individual member states.[17]

The Commission's roles include offering guidance and support to the managing authorities in the member states during the writing of the approximately 400[18] Operation Programs (OPs) in the member states for the funds as well as for large projects financed by the funds. Moreover, it approves these OPs and the large projects, and it is co-responsible for the implementation. Finally, based on a sample[19] of projects it monitors the reporting on the legality and the results of the programs, and it presents the findings to EP and Council. These responsibilities imply a hands-on involvement, for example if member states need to retarget projects or objectives, if national institutions need to be modified or strengthened along the way, or if governance procedures need to be refocused.

DGs EMPL and REGIO are responsible for ensuring that the funds are spent. They monitor the progress of programs and gather the payment requests from the National Authorities. At the end of the year, EMP and Region present the progress in their Annual Activity Reports. These Reports tend to offer rosy pictures on the developments of the outcomes (as discussed above) so that it is important to also take the overall evaluation of the performance of the cohesion funds from the Commission as well as of the ECA into account.

Cohesion policy is not designed as a subsidiarity-based network as it concerns in essence a vast number of bilateral relations between the member states and the Commission during the execution of the cohesion funds.[20] This offers the Commission considerable room for maneuver and hampers transparency on what is discussed with the member states, reported, changed in terms of objectives during the implementation, and accepted as satisfactory results. As discussed below, here lies a key difference with other EU policy areas centered around a European network of national authorities operating at arms lengths of governments under the guidance of an independent European agency.

17 https://commission.europa.eu/publications/partnership-agreements-eu-funds-2021-2027_en

18 ECA 24/2021

19 Auditing has been streamlined so that the member states take care of the auditing and reporting (Single Audit approach, see EP 2022). The Commission only checks the legality by means of samples (see below).

20 ECA (2014) discussed a more decentralised way of working by relying on national auditors but underlined the prerequisite that these national bodies would have to be reliable.

In the Commission, DG EMPL and DG REGIO have a shared Joint Auditing Directorate for Cohesion (with the French acronym 'DAC'). DAC audits the quality of the national auditors, performs the risks assessments and, if necessary, signals to the DGs to suspend payments until a member state has made the necessary corrections in its auditing system. DAC finally produces the assurance package of cohesion for the annual report of the EU Commission. ECA ultimately audits the report of the Commission (i.e. DAC) and reports to EP and Council (and which, as discussed, ECA corrected upward in 2022 to the 6.6% error margin).

At face value, the system is logical: member states audit themselves, the Commission in its role as shared manager and responsible for the EU budget audits the member states, and ECA offers its findings on the reliability of the Commission's reporting to EP and Council.

In our audit of the governance system, some points deserve to be highlighted (see also EP 2022):

- The quality of the national audit authorities is below par (ECA 2022 AR, paragraph 6.42-6.53 and figures 6.10 and 6.11).
- The national assurance packages from the member states forwarded to the Commission are not transparent.
- DAC is part of, and located in, the Commission. As it falls under the hierarchy in the Commission it is difficult to assume that DAC is independent (we also see the monitoring of the RRF and of the EU Semester located in the Commission and partly even under the President of the Commission; Schout 2021b). The tasks of DAC are comparable to tasks executed in EU agencies.
- The communication between DAC and the national authorities is not transparent. ECA reports highlight that the Commission is too lenient in approving payments (e.g. ECA 2021a).
- In fact, DAC should perform sound financial audits and check whether member states meet the requirements but so far, such an assessment of cohesion policy has not been done (see also ECA 2021a). DAC does not have the authority to impose changes on national audit authorities (ECA 2018b p. 25).

European Court of Auditors (ECA)

Similar to the Commission, also ECA has a centralised role in auditing cohesion in the sense that does not work in a network of national auditing bodies. ECA is the EU's independent external auditor providing its annual assurance to the European Parliament, Council and the public. ECA controls the Commission by checking the quality of the ways in which the Commission monitors national reporting. The annual report of ECA indicates whether the EU's budget – for which the Commission is responsible – is spent according to the rules. ECA's annual reports are the end of the stream of national and EU audits. The Managing Authorities are the first in line to ensure that payments are correct, and the national Audit Authorities provide assurance that payments have been made correctly. Using ECA's Annual Report, the EP questions the Commissioners and grants or postpones discharge in their discharge reports.[21]

Like the Commission, it audits the national authorities for cohesion spending based on a sample of projects (using a wider sample than the Commission uses), analyses annual activity reports of the DGs (in the case of cohesion policy: DG REGIO and DG EMPL) and produces its Annual Report on the EU budget as a whole. In addition, ECA produces Special Reports in which it studies the effectiveness of programs and program management. Having increased its attention for Special Reports, they now amount to about 50% of the work of ECA.

Important to note for our purposes is that ECA functions as a stand-alone organisation. It does the auditing of the work of the national institutions, as well as the production of the Special Reports, on its own as an independent supreme audit institution.

National level; MAs, AAs, and SAIs

Moving to member states, the key national actors are the Managing Authorities (MAs) designation for each fund (ERDF, ESF and CF[22]). The MAs can be a ministry or a dedicated agency. A Managing Authority is responsible for the

21 For details on the discharge procedure, its political role and the impact of the procedure on the governance of the EU budget see EP (2020b).

22 CF is reserved for countries with a GNI below 90% of the EU's average.

implementation of a fund, ensures that principles of sound financial management are respected, checks whether projects match the criteria, and writes the national evaluation of the program. The MAs are the 'first line of defense' in ensuring that EU funds are spent effectively, efficiently, and according to the rules. They support the identification, formulation, and management of the projects so that the allocated resources are absorbed and that the error rate in spending remains below 2%. The MAs report five times per year to the EU Commission on progress and outputs. This auditing of the results is mostly presented in the form of input and output indicators (outputs instead of outcomes).

As regards the network of Mas, there are different forms of (bilateral) contacts between the MAs and exchanges on bests practices. It is important to note that the network of MAs is in light network for information exchange (there are no organised network tasks for MAs).

Each MA has a supervisory Monitoring Committee in which a variety of stake-holders is represented (Com 2023/1060). They help to identify the projects and tailor them to regional or local needs, and they play a role in supervision of progress. Their diverse composition is also intended to prevent programs from being captured by a limited number of stake holders.

The second line of defense are the 116 national Audit Authorities (AAs) in the 27 member states. They audit the actual expenditures on cohesion projects. Roughly, MAs ensure a useful selection and the profession management of projects, while the AAs write the assurances packages (approving the legality of spending). The Commission (DAC) assesses the quality of the national audit offices and monitors their work based on samples.

As regards their quality, ECA has repeatedly warned that national audits do not meet the required standards (e.g. ECA 2014, 2021a, p. 55). As the primary sources of information on program management and on the legality of spending, it is essential that AAs are independent. One of several EP reports on cohesion states that "*independent* audit bodies and other bodies managing funds in the Member States are a key requirement for the reliability and quality of the audit results" and makes numerous suggestions for improvements in the ways of working (e.g. EP 2023, emphasis added; see also EP 2022). Similarly, transparency is an issue. Each member state has to submit an 'annual summary' of the audit findings for each fund to the European Commission. These summaries are not made public and do not qualify as formal documents produced on behalf of a minister or government.

Although Supreme Auditing Institutions are not officially linked to the management of the EU budget, in democratic countries courts of auditors scrutinise the national governments, their policies and the budget. SAIs vary in terms of size, auditing traditions (legality versus effectiveness, established reputations, or relatively recently created and hence still fighting for recognition), ways of working, and position in the national administration (OECD 2016, Pierre and De Fine Licht 2019). The position of SAIs in auditing EU activities is limited. SAIs audit national governments while EU programs have their own audit and assessment structures. Moreover, SAIs are independent also when it comes to the definition of their work programs and they do not take instructions on what to examine lightly.

The OECD already stressed the importance of SAIs in examining effectiveness and efficiency of programs, and in making strategic trade-offs. It concluded that the SAIs have “untapped potential” to help governments in offering value for money (OECD 2016). Given that it is the tasks of SAIs to assess budgetary planning, execution, and internal control systems, it is remarkable that they have no role in assessing the impact of EU funds in their own member states even more so since most of the EU funds such as cohesion funds are based on co-financing. If SAIs have untapped potential national, it might be equally relevant to raise the question whether they also have untapped potential when it comes to the effectiveness and legality of EU funds and co-financing in the national administrations.

There are annual meetings between SAIs (the Contact Committee). Yet, these meetings are mainly an occasion for information exchange, for example on the functioning of the RRF (it depends on a SAI itself whether it wants to examine the RRF in their country).[23] The Contact Committee is a light network, hosted by ECA, and it presents itself as a “platform” of auditors and experts.[24] Some national courts of auditors studied the EU budget or programs under the MFF on their

23 ‘Auditing the RRF –a strategic task and challenge for EU supreme audit institutions’, *ECA Journal*, 1/2022.

24 Home | Contact Committee (europa.eu)

own initiative, but such studies have remained limited in number.[25] The Supreme Auditors from Finland, France, Italy, the Netherlands, Portugal, Slovakia and Sweden initiated a discussion on common national budget rules.[26] The need for such informal initiatives point to a possible untapped potential of SAIs as a formal network.

With a view to strengthening national ownership for the legitimacy of EU funds, the Dutch government pushed for a permanent role of SAIs in the accountability of the EU budget. It aimed at a National Declaration as part of shared management responsibility for the spending of EU funds and the Declaration would be presented to the national parliaments underlining the importance of ownership for the quality of the use of EU funds. However, this initiative was not followed by the other member states and the annual Declarations were discontinued. On the role of other SAIs, the Netherlands Court of Audit remarked regrettably in 2023 that it is “far less”[27] transparent whether EU funds are spent legitimately in other member states.[28] Yet, there is little appetite throughout the multilevel system – including in the SAIs and in the EU institutions – to involve them in the monitoring of effectiveness and correctness of EU funds. Moreover, redefining the roles of SAIs and incorporating them in the work of ECA or DAC would probably require (depending on their involvement) Treaty change as well as changes in national (constitutional) law.

25 The Dutch SAI (*Algemene Rekenkamer*) produced a list of relevant reports by national SAIs and some projects carried out by a number of like-minded SAIs. See the link to the dedicated website: Onderzoeken andere rekenkamers Europese Unie | Europese Unie | Algemene Rekenkamer. See also Who are our European partners, and how do we work together? | Netherlands Court of Audit (rekenkamer.nl).

26 ‘Joint report on the parallel audit of Medium-Term Budgetary Frameworks’, *Contact Committee Fiscal Policy Audit Network*, 2022. https://www.eca.europa.eu/sites/cc/Lists/CCDocuments/MBTF-Joint-report/MTBF_Joint_report_final_October-2022.pdf

27 Does the Netherlands spend EU grants in accordance with the rules? | Netherlands Court of Audit (rekenkamer.nl).

28 It would advisable if national Audit Authorities would present their audit reports to their national parliaments with a view to national ownership. However, given that AAs are not properly audited (e.g. not through independent and transparent team-based audits), the reliability of their reports are in the current set-up is insufficient for presentation to parliaments.

5 Cohesion funds: A diagnosis

A range of issues and deficiencies have been reviewed above. Rather than responding to specific problems (single-loop learning) there is a need to diagnose deficiencies in the organisation at a higher level of generalisation: what core values should be aimed at in any EU reform process (double-loop learning)? A basic framework is required defining the quality requirements. The EU's good governance agenda[29] stresses quality standards in relation to evidence-based policy making and to ownership for objectives and reforms: Transparency, independence of monitoring and reporting, and subsidiarity. An organisational audit is necessary to assess the extent to which these good governance values are met.

There are many ways to diagnose the functioning of an organisation. Here we briefly introduce two approaches. Firstly, in the context of the EU, the assessment of the reporting on cohesion spending will be linked to the three core-values of good governance. Secondly, a comparative assessment monitoring and auditing in other EU policies. Officials and experts often think their policy area is unique in terms of ingrained interests, technical complexity, and political salience. In reality, these characteristics more or less typify any policy that has become stuck.

Independence

As discussed, the Commission combines many roles in managing and controlling programs. As responsible for executing cohesion funds, it also has to see to it that the funds are absorbed. Given the fact that the Commission has to find a balance between different roles and to assess overlapping and competing output indicators, the Commission is inherently political. Its decisions are hard to make transparent as it is involved in all interlinked stages of spending and auditing – some level of discretion is required.

29 The good governance agenda was first specified in the White Paper European Governance (Com 2001 418) and was later modified and elaborated in among other policy papers on 'better regulation'.

Combined with the intransparencies in national auditing and in the communication between Commission and member states, the necessary checks and balances are less than perfect in the current ways of working. The Commission approves the national programs and has an interest in seeing that they are successfully completed. This includes defining management objectives and assessment of achievements even though it is often hard to set the management objectives sufficiently precise (ECA 2023c). This offers the Commission leeway to more or less always grant the subsidies also because it tends to avoid painful political discussions in which member states and regions end up with unpaid bills and disappointments in the EU more generally (see also Mérand 2021). The discussions between Italian Prime Minister Meroni and the Commission over the RRF are an example of the sometimes tens political relations concerning suspensions of payment (Hungary is another obvious example).[30]

Given its variety of roles, the Commission is less vigilant than ECA in assessing outputs and the legality of national spending. For example, ECA has criticised the way in which the suspending of payments has been diluted in cohesion policy also because the reasons behind Commission decisions to approve national reports and to avoid suspending payments are only partly transparent. These reasons may include the importance of cohesion for vulnerable regions and the political need to absorb the funds. However, the Commission is also under pressure from the member states to find compromises and give the member states what they think belongs to them (i.e. the financial envelopes).

When it comes to the assessment of national and EU added value, it is doubtful whether the current system of input and output indicators, and reports from the Managing Authorities and from the EU Commission, offer sufficient and reliable insights. To enhance the effectiveness and the transparency of cohesion funding in the member states with widely varying regions and idiosyncratic welfare functions, cohesion funds cannot do without independent assessments from fully equipped bodies such as the national Supreme Audit Institutions.

30 See for example: “European Commission President Ursula von der Leyen is pushing to rubber stamp the deadlocked third tranche of the post-COVID recovery fund to Italy, whose leadership will be pivotal to her re-election” (*Euractiv*, 10 Juli 2023).

One of the problems with transparency is that the system as it currently operates, key actors each have an interest in showing that the funds are well spent. These actors are the DGs in the EU Commission (DG REGIO, DG BUDG, DG EMPL, but also DG ECFIN and the Secretariat General when the related RRF is included), the National Authorities and Audit Authorities linked to the national governments, and the national ministries. These interests may concern maximising financial '*juste retour*', defending leeway, resistance to change current procedures, sometimes even fraud[31]. This implies that actors have reasons to show that the available resources and the national envelopes are well spent. Moreover, not all national institutions are sufficiently equipped to consider them to be fit for purpose. The term 'independent' can be frequently found in the documents but in this set-up the actors have interests in presenting outcomes in a good light, or as in the case of SAIs, have little interest in becoming involved.

Independence also relates to the actual assessment process through which national authorities themselves are scrutinised. Quality control is, again, in the hands of the multi-hatted EU Commission.

Subsidiarity

The term subsidiarity, in the European legal sense, refers to moving tasks upwards that can better be done at the European level. Legally, subsidiarity is about separating tasks in the EU's multilevel system. In organisational theory, subsidiarity is akin to decentralisation: keeping tasks as much as possible at lower levels. Subsidiarity in organisational theory is about coordinating tasks instead of centralising tasks (Schout 2021a, 2022). The theory of decentralisation reminds us that subsidiarity is vital for strengthening national institutions and creating ownership for European objectives and values. It demands a shift in roles of the EU institutions. Working through national networks demands first of all coordinating and facilitating roles from the EU institutions to involve national actors, to ensure that network procedures are formulated by the network itself and that the procedures are followed and monitored through team-based inspections. In a subsidiarity-based system, the EU Commission remains responsible for the functioning of the system as a whole, for initiating new legislation, for reporting to Council and EP, for taking corrective actions in

31 EU Commission, Press release 24-11-2022. EU budget (europa.eu).

case member states to not meet the requirements or disregard the rules, and for taking (legal) actions.

Cohesion is not designed as a subsidiarity-based network organisation. Subsidiarity-based cooperation offers a profoundly different perspective on how cohesion policy could be organised. As discussed above, cohesion tasks are currently designed in centralised bilateral relations between national authorities and the EU commission. Moreover, the ECA's tasks are carried out essentially by ECA itself (auditing national auditors, writing Special Reports).

As presented in more detail in Annex 1, drawing on the experience in other EU policy areas, control on national authorities in cohesion currently carried out by the Commission could be organised through mutual inspections carried out by the national MAs, AAs and/or SAIs. Moreover, in other EU policy areas, mutual inspection reports areas are made publicly available. These reports are usually published, for legal reasons, with some delays and to give member states time to adapt so that existing weaknesses cannot be exploited by outsiders in the meantime (see e.g. the management of border control, Schout and Blankesteijn 2020). Subsidiarity-based cooperation has contributed in other EU policy areas to creating a culture of independent monitoring and enforcement, capacity building at the national level, ownership, and transparency (also due to the separation of tasks and the related separation of responsibilities for reporting and decision-taking).

6 Conclusions and policy advice

Cohesion policy will be one of the areas in the EU budget where discussions for major reforms can be expected due to profound changes in the EU's strategic agenda. Some form of support for economic convergence is needed, yet two major issues have surrounded cohesion funds for a long time: whether it is able to deliver in terms of European added value, and – relatedly – whether its system for monitoring spending is reliable. This affects the legitimacy of cohesion funds. Deficiencies include the difficulties in establishing results (effectiveness) of projects and programs beyond input and output indicators, sometimes problematic error margins, a transparency deficit due to complexities in objectives as well as due to the multitude of tasks of the Commission, and persistent weaknesses in national institutions. In brief: a professional, depoliticised and transparent auditing culture has not emerged.

Cohesion is also typified by considerable resistance to change. A wide literature is available on the difficulties in managing and auditing the funds. Many reforms have been tried but the deficiencies have remained. These issues, and defence of the status quo, are not restricted to cohesion policy but are inherent to EU's multilevel governance system. However, forced by crises, other policy areas have been successfully reformed. As one interviewee remarked about cohesion funds: "Actually, a crisis would be useful".

The first conclusion is that many changes have been tried within the current distribution of competencies but, despite positive results in terms of single-loop learning, effective solutions to the auditing problems have not been found. Years of evaluations and implementation of reforms indicate that considerable efforts have been put in improving the current system. Such learning activities within the system as it is, have reached their limits. Solutions may have to be found by addressing the fundamental values of cohesion and by reconsidering the current organisation of its multilevel governance (double-loop learning).

The second conclusions is that cohesion policy does not live up to the good governance values of transparency, independence and subsidiarity. Other policy areas where comparable shortcomings existed were able to switch to subsidiarity-based networks of national and EU agencies. Cohesion policy is not in a recognised crisis (yet) so that it is likely that its deficiencies will remain.

The third conclusion is that, in the absence of a veritable crisis in the EU's finances, change leadership is required to break the status quo.[32]

Fourthly, the institutions that can be targeted for pragmatic steps towards new ways of working (subsidiarity-based, transparent, and independent) are the Joint Auditing Directorate in the EU Commission, ECA and the SAIs. Points for considerations are:

- Auditing bodies are supposed to be independent so that the location of the Joint Auditing Directorate (DAC) within the Commission is remarkable. Expecting national auditors to be at arms lengths, one would think the EU Commission would set an example with DAC. Moreover, if the principles of first- and second-line of control are adhered to, the question emerges what the added value is of the Joint Auditing Directorate if national auditing bodies function properly and if team-based auditing exists at the national level. Hence, a discussion on the position of the Joint Auditing Directorate is in order. DAC could be re-defined as network-based EU agency independent from the Commission.
- The functioning of ECA could be redefined from the current stand-alone position in doing checks and writing reports, into an Authority[33] that works closely within a network of national audit bodies agency. Mirroring other tried and tested European monitoring networks, ECA could be transformed into a 'European Budget Assurance and Performance Authority' operating as hub of a European network of independent national budget authorities. This would imply creating a European auditing culture by involving staff from national agencies in producing ECA reports and by initiating mutual quality inspections. ECA will remain responsible for the auditing of the financial statements from the Commission and for writing Special Reports but that does not mean that ECA should operate without using the network of national auditors. It would imply more attestation type audit work and

32 Evidently, the Commission is responsible for, if needed, proposals for more structural reforms. However, given its interests at stake, the Commission may not be the most likely candidate to expect to assume the role of change-leaders.

33 'Authority' is used to distinguish ECA from an agency as it does not fall under the Commission as executive. Compare: EUR-Lex - eu_agencies - EN - EUR-Lex (europa.eu).

it would demand a serious upgrade of the quality of national audit bodies. This is precisely why incorporating national audit bodies in the work of ECA is advisable.
- Moreover, it could be explored how national Supreme Auditing Institutions (SAIs) could be used in auditing and evaluating cohesion programs.

Finally, little use has been made of comparing the EU's auditing systems to the governance of enforcement in other EU policy areas. Little effort is put in learning from other areas.

The problem with any of the recommended changes is that resistance can be expected to becoming part of a tightly organised European network. There is little interest in creating or even contemplating a truly independent and transparent auditing system in cohesion.

It is hard to see how cohesion can cope with the pressures from a new strategic European agenda and from the need to ensure durable public support for cohesion funds without structural reform of its governance. Moreover, if EU added value and good governance are the objectives, the current systems need to be scrutinised at a more fundamental level. Yet, any reform attempt without a veritable crisis in EU funding will face an uphill battle given the strength of the status quo. Unless somebody will assume change leadership, we should expect the continuation of single-loop learning even though double-loop learning is in order.

Annex 1 Comparison to other EU policy

Comparable shortcomings and lack of progress in finding workable governance structures also typified other EU policies. Some areas – such as the management of EMU – have continued to suffer from politicised reporting, lack of transparency regarding the decisions taken within the Commission, and continued complaints about lack of ownership for reforms on the part of the member states (Gros and Schout 2023).

In other policy areas deep-seated problems were addressed and profound changes were implemented. Successful areas include the creation of a market for medicines, the opening-up of national aviation markets, European competition policy, monitoring the state of the environment in member states, and food safety. Compared to cohesion policy, these areas were no less technically complex, nor of less economic or political importance. The field of air safety was dominated by national carriers (economic giants and, like KLM, Lufthansa and AirFrance: protected national flagships). Food safety was especially sensitive given the many health and economic consequences, and frictions related to national traditions (from the use of fertilisers to quality standards of sausages and cheese). Food safety in the EU even resulted in major crises such as the BSE crisis. After profound reforms of food safety standards and network-based inspections, the high quality of EU food standards is now the basis of a successful European food industry with competitive advantages in global trade.[34]

What these areas have in common is that they are governed on the basis of subsidiarity-based networks with independent EU agencies at their core. The EU agencies have been kept relatively small and work on the basis of permanent structured cooperation within the networks of independent national agencies. Whereas networks in cohesion are informal and rely on soft coordination, these networks are well organised and share in rule-making, inspections and reporting. Supervision is governed through team-based auditing of each other's qualities and work, reports are written using capacities from within the network so that

34 For literature references on the development of these areas, see Schout (2021).

knowledge is accumulated collectively, and reports are generally publicly available. Follow-up from evaluations is facilitated by a common professional culture and the clarity for member states that inspection reports will be public. As a result, member states have incentives to take actions before reports are made public. The experts in the networks collectively formulate their operating rules ('integrative bargaining') instead of rules being hierarchically formulated in political negotiations in comitology committees. The rules concern for example methodologies for data gathering and processing, procedures for doing on-site visits, transparency of information, and follow-up procedures.

These networks also affect the ways in which the Commission works. Data gathering and analysis of trends are put at arms-length. Reports from the agencies are generally publicly available putting the Commission in the position of 'comply-or-explain'. Evidently, the Commission is responsible for taking actions when member states fail to deliver. If the reports from the network signal sustained problems in a member state, the Commission will have to explain why not more pressure is exerted. The Commission still has room for maneuver, but it will be more transparent on what basis the Commission takes its decisions.

An explanation for why EU governance was redirected towards subsidiarity-based multilevel governance is that these policy areas had run into crisis situations. Liberalisation of air traffic implied that the traditional state-dominated national carriers had to be replaced by independent aviation authorities certifying and controlling planes, airports, and maintenance systems. The European food safety agency was created after several food crises (BSE, chicken dioxin). The European environment agency was needed because national environmental monitoring systems differed in major ways, and there was no basis with the system that existed to pursue a viable European environment policy. Enlargement forced a drastic reform including the creation and involvement of national environmental agencies.

The question now is to what extent further Eastward enlargement, the incorporation of the financial needs of Ukraine, and the new demands on EU finances due to changes in the EU's strategic priorities, will act as a crisis to reform cohesion policy and its governance.

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