

Commission's process to approve the "programmes" for the 2021-2027 period under the Common Provisions Regulation no 2021/1060 (CPR)

According to Article 10 of the CPR, each Member State shall prepare a Partnership Agreement setting out the strategic orientation for programming and the arrangements for using the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF in an effective and efficient way for the period from 1 January 2021 to 31 December 2027. According to Article 11 (2) of the CPR, the Partnership Agreement may also contain a summary of the assessment of the fulfilment of relevant enabling conditions but this is not an obligation.

The Commission does not assess the fulfilment of the enabling conditions at the level of the Partnership Agreement. The CPR sets this obligation at the level of each of the programmes according to Article 15 (2) of the CPR. In this respect, the enabling conditions are a prerequisite for the effective and efficient implementation of Union expenditure in accordance with the specific objectives pursued¹.

According to Article 22 (3) (i) CPR, Member States present their assessment of fulfilment of both the horizontal and the thematic enabling conditions relevant to the programme. Pursuant to Article 23 (1) CPR, the assessment of fulfilment of the horizontal enabling conditions is an integral part of the Commission's assessment of the programmes and takes place within the programme assessment and approval procedure. The Commission decision on the approval of the programmes includes the Commission's position on the fulfilment of the enabling conditions.

The procedure is as follows:

1. The Member State **submits the programme**, including the assessment of the fulfilment of the HEC Charter.
2. Lead services do a **completeness check**. If incomplete, the programme is returned to the Member State. If the submission is complete, the period of 3 months for the sending of the observations and of 5 months for the approval of the programme starts.
3. If the programme is complete, lead service launches **ISC requesting input from relevant DGs for the drafting of the observations (15 working days)**.
4. For the first CPR programme submitted by a Member State and for any subsequent sensitive case² or change of assessment status³, a dedicated consultation on the HEC

¹ Article 2(2) CPR

² Sensitive cases are to be understood as cases when the Charter HEC is not fulfilled and other cases, which might raise political scrutiny, e.g. if the Commission considers that the Charter HEC is fulfilled despite some material breaches in the Member State.

³ This includes cases where the assessment of the HEC Charter would go from compliant to non-compliant, or where a new aspect of non-compliance arises.

Charter will take place in parallel to the ISC under point 3. This parallel consultation is structured as follows:

- **The draft assessment/observations on the HEC Charter** will be prepared by EMPL for the first CPR programme and by the lead CPR DG for any subsequent sensitive case or change of assessment status within 10 working days following the launch of the ISC.
- **EMPL or the lead CPR DG will consult the relevant services** (LS, BUDG, SG, JUST and the other CPR DGs) on the draft assessment/observations for a period of 10 working days. The consultation will be conducted outside Decide, via email.
- In the consultation, **EMPL or the lead CPR DG will flag those cases which it considers sensitive** and which should go to the Cab-services working group. All consulted services will be able to object/agree with the identification of sensitive cases.
- **For sensitive cases as well as for first programmes received by Member States, Cab-service working group⁴ will check** the draft assessment and observations on the HEC Charter within 3 working days (with tacit agreement, unless specified otherwise for sensitive cases). The working group may decide on the status of the Charter HEC (sensitive vs non-sensitive). The working group will also decide whether programmes, which would include sensitive cases for the Charter HEC, would be approved through written procedure.



For subsequent programmes, if the assessment remains the same, the note accompanying the ISC in point 3 will explicitly specify this. If the Member State's self-assessment differs, the lead CPR DG should highlight the differences in the ISC cover note and propose an initial assessment of the fulfilment.

5. After the end of the ISC under point 3, the lead service will consolidate the draft observations including the assessment of the HEC Charter (following the parallel consultation under point 4). **Draft observations will be uploaded in Decide for validation** by all relevant services, including the ones that contributed to the parallel consultation for 3 working days⁵.

⁴ The Cabinet-services working group will include the President's Cabinet, Cab Dombrovskis, Cab Schmit, Cab Ferreira, Cab Jourova, Cab Reynders, Cab Hahn, Cab Johansson, Cab Dalli and Cab Sinkevicius and representatives of SG, LS, EMPL, REGIO, JUST, MARE, HOME and BUDG.

⁵ In specific cases and at the request of LS, this period can be prolonged to 5 working days.

6. **Observations will be finalised and addressed by a letter of the respective Director-General to the Member State concerned**, including information on the fulfilment of the HEC Charter. The observations stop the clock for the COM to adopt a decision approving the programme until COM receives the Member State's reply.
7. Where the Member State replies to the Commission and/or **submits a revised programme addressing the observations**, the Commission services carry out a new assessment of the revised programme that can lead to **new observations (if new information is presented or has come to light, i.e. new information about potential material breaches)** or to the launch of **the approval procedure**
In case the final assessment of the programme allows its approval by the Commission, the lead DG will launch the **ISC for the approval decision** with a 5 working days deadline.
8. **The Programme is approved by the College (for sensitive cases) or by the respective Commissioner once the empowerment decision is adopted.** The decision includes information on the fulfilment of the HEC Charter (either fulfilled or not fulfilled) and is notified to the Member State by SG.

Once the Programme is adopted, **Member States can introduce payment claims for a programme irrespective of whether or not the HEC are fulfilled.** With respect to these payment requests, the following is to be noted:

- **In principle, the Commission only pays for operations for which the HEC are fulfilled.** It does not pay for claims related to unfulfilled enabling conditions, with the exception of those operations which contribute to the fulfilment (cf. art. 15 (5) CPR).
- **Three different scenarios may arise:**
 - A. **In case HEC is fulfilled**, the Commission will reimburse the expenditure (provided the other applicable enabling conditions are fulfilled).
 - B. **In case the HEC remains unfulfilled or no new assessment is provided by the Member State**, the Commission will not reimburse expenditure linked to specific objectives impacted by an unfulfilled HEC, except if it contributed to the fulfilment of the enabling condition.
 - C. **In case Member State submits new information on the fulfilment of HEC Charter during implementation in SFC**, the lead CPR DG prepares a draft assessment and consults other DGs in line with point 4 above. Depending on the result of the assessment, the procedure under A) or B) above applies. A change of status of fulfilment of an enabling condition can only be taken into account once it has been notified by the Commission (during the implementation of the programme, the Commission needs to assess the fulfilment of the enabling condition within a 3-month deadline after submission of the information by the Member State)
- **Each payment request is checked by the geographical unit in the CPR responsible DG before any payment is made.** The geographical unit determines the amount to be paid on the basis of the above information included in the payment claim.