

MANAGEMENT AND USE OF FINANCIAL INSTRUMENTS FROM THE EU BUDGET THROUGH STATE FUNDS – CZECH CASE STUDY

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Abstract

Based on the multiannual framework the annual EU budget is set, which is designed to support EU policies represented by national, regional, multinational and multiregional programmes. EU expenditures belong to six categories and are channeled via e.g. European structural and investment funds. The resulting financial instruments are managed and used by national managing authorities. In the Czech Republic, these are ministries which can use for this purpose state funds. The main goal of this contribution is to individually assess the activity of six Czech state funds with respect to the management and use of the EU financial instruments. This assessment is done based on the case study using expert analysis and exploring primary data yielded by a questionnaire survey, while employing a comparative perspective projected via Meta-analysis. This pioneering study leads to conclusions and propositions for a better understanding of state funds and for increasing their effectiveness and efficiency.

Keywords

EU Budget, Financial Instrument, Managing Authority, Czech State Fund

I. Introduction

Our current post-modern global society addresses a myriad of issues from market and competition matters over sustainability challenges (MacGregor Pelikánová, 2019a) to social and political demands. Modern European integration attempts to resolve them, or at least address them, and overcome crises (Lajtkepová, 2016) by coordinating measures on the EU level and EU member state's levels (Piekarczyk, 2016, Polcyn, 2018, Świadek et al, 2019). The EU as a *sui generis* entity employing both the supranational and intergovernmental approaches is challenged for its underlying concepts and its alleged lack of legitimacy (Burley & Mattli, 1993), wasted spending and hypocritical bureaucracy which is paralyzing the good and healthy functioning of member states and the professional, as well as private, life of Europeans (Landmesser, 2019, MacGregor Pelikánová & Cvik, 2015). At the same time, the EU belongs to one of the wealthiest parts of the world (Poledníková, 2014) and is known for its agricultural (Pechrová, 2014), rural (Peter & Gregory, 2014), sustainability (Sroka, & Szanto, 2018), and regional and cohesion policies (Balcerzak, 2015 et 2016, Copus et al, 2008; Poledníková, 2013; Rogalska, 2018). Their effectiveness and efficiency might be not perfect (Viturka et al, 2009), but still could bring important benefits to EU member states, such as the Czech Republic (MacGregor Pelikánová, 2017 et 2019b).

The multiannual financial framework represents the long-term budget of the EU and sets in advance the key parameters for each annual EU budget. The EU budget is primarily an investment budget designed to finance EU policies focusing on agriculture, regional

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development, R&D, culture, border protection, etc. (MacGregor Pelikánová, 2019c, Pohulak-Žoledowska, 2016). The EU budget represents approximately 1% of the gross national income of EU member states and 2% of all EU public spending. The EU budget for 2017 reached EUR 158 000 million and the expenditures belonged to six categories: 1a Competitiveness for growth and jobs (14%) and 1b Economic, social and territorial cohesion (34%), 2. Sustainable growth: natural resources (37%), 3. Security and citizenship (3%), 4. Global Europe (6%), 5. Administration (6%), 6. Other special instruments (less than 1%) (EC, 2019a).

The biggest bulk of financial instruments is spent on the 1st category with 48% supporting competitiveness, jobs and reduction of economic gaps and the 2nd category with 37% supporting agricultural production via the European Agricultural Guarantee Fund (“EAGF”), rural development by the European Agricultural Fund for Rural Development (“EAFRD” and by other funds addressing maritime and other issues. The 5th category includes the costs of EU institutions and the management of the EU budget and takes approximately 6% of the EU budget. As a matter of fact, the biggest bulk of financial instruments jointly managed by the EU and EU member states is channeled through the 5 European structural and investment funds (“ESIF”), i.e. through the European regional development fund (“ERDF”), European social fund (“ESF”), Cohesion fund (“CF”), the EAFRD and European maritime and fisheries fund (“EMFF”) and consumes over 50% of the EU budget on expenditures. The legal basis of each EU fund is typically a Regulation, such as Regulation (EU) No 1300/2013 on the CF. However, the operation of these EU fund is procedurally regulated in a unified manner by the EU regulation 1303/2013 laying down common provisions on the 5 ESIFs, i.e. ERDF, ESF, CF, and EAFRD.

The EU sends financial instruments for EU programmes while using its own EU funds and these “EU financial instruments” from the EU budget should be complemented by “national financial instruments” provided by state or other public budgets of the particular EU member state. The responsibility for the expenditures, i.e. for the spending from the EU budget belongs to the European Commission and EU member states. As a matter of fact, 80% of EU funds are managed by national governments (EC, 2019a), i.e. national managing authorities. In the case of a breach or violation, the European Commission works with the concerned EU member state to correct the issue and to recover the funds. To ensure transparency, EU funding appears on public records through a system freely available online with the names of the beneficiaries who have received the funding from the EU budget (EC, 2019b).

The Czech Republic has always been a net beneficiary, typically receiving from the EU budget twice as much as what it pays into it, e.g. in 2017, the Czech Republic obtained from the EU budget almost EUR 3 897 million, i.e. CZK 98 000 million, while it paid in only CZK 42 400 million (EC, 2019c). The 1st category entailing the support for the smart and inclusive growth took EUR 2 735 million, i.e. 1a took EUR 152 million and 1b took EUR 2 583 million. The 2nd category, entailing agricultural support and rural development took EUR 1 128 million, i.e. direct payments and other payments from the EAGF took EUR 865 million and rural development support from EAFRD took EUR 259 million (EC, 2019c). Therefore, the most funding via EU financial instruments in the Czech Republic is from the 1st category, i.e. 1b economic, social and territorial cohesion with EUR 2 583 million of which EUR 2 535 million represents the investments for growth and development payable through Structural funds and the Cohesion fund, which is designed to help EU member states with a Gross Domestic Product which is less than 90% of the EU average. In the case of the Czech Republic, the national managing authorities are ministries and these EU financial instruments, with possibly as well national financial instruments, are managed and redistributed to ultimate

recipients by Czech state funds governed by Czech managing authorities (EC, 2019d). Thus, to a certain extent, ministries as managing authorities “delegate” or at least exercise their functions by state funds. Although these state funds are important budgetary units which manage public financial instruments, little attention is paid to them. These state funds should be closely examined, including their annual reports (MacGregor Pelikánová & MacGregor, 2017, 2018a et 2018b). and analyzed with the goal to assess their usefulness and benefits for the budgetary management of the public sector. Consequently, the main objective, resp. the main goal, of this contribution is to individually assess the activity of these state funds with respect to the management and use of the financial instruments from the EU, including the system of drawing and redistributing these financial instruments to the end recipients and its control.

II. Sources and Methods

The main goal of this contribution is to individually assess the activity of these state funds with respect to the management and use of the financial instruments from the EU, including the system of drawing and redistributing these financial instruments to the end recipients and its control. In order to meet the set goal, there was used the method of expert analysis while using data generated by the answers of research questions in combination with a contextual and comparative method. Namely, based on the identified background the Czech case study using research questions was performed and its findings were projected and confronted to findings from other jurisdictions. These research questions for the Czech case study were phrased in a manner to collect answers allowing reaching relevant conclusions. The yielded data is further contextually appreciated and compared on national as well as EU levels. The following nine research questions were used to get answers from state funds in order to assess their activities, see Table 1.

Table 1 Research questions

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|----|---|
| a) | What amount was provided to this state fund from the EU budget or from financial mechanisms in 2017 and 2018 (directly or through other budgets), possibly in what amount were provided financial instruments by any governing authority within the framework of operation programmes in 2017 and 2018, and which were consequently paid to the end recipients aka beneficiaries? |
| b) | To what type of subjects (natural person, business corporations or other subjects) and in what amount were paid financial instruments, indicated ad a), in 2017 and 2018? |
| c) | For what purpose were paid financial instruments for, indicated ad a), in 2017 and 2018? |
| d) | How are set and operated the control mechanisms vis-à-vis subjects to which financial instruments were paid pursuant to ad a)?. |
| e) | How many controls regarding the financial instruments, indicated ad a), were performed in 2017 and 2018? |
| f) | How many employees have in their job description, as well the competence to perform, control and operate control mechanisms vis-à-vis subjects to which were paid financial instruments pursuant to ad a)? |
| g) | Which improvement measures are applied by your state fund in the case of the discovery of noncompliance with respect to the purpose designation of the paid financial instruments, indicated ad a), and possibly what sanctions are applied in the case of the discovery of any noncompliance? |
| h) | With what departments, or units, of which EU institutions do you communicate with regarding the use, providing and control of the paid financial instruments, and possibly with what control institutions do you communicate? |
| i) | Do you receive any methodic or other instructions or recommendation regarding the use, providing and control of the paid financial instruments, and, if yes, from which subject? |
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Source: Own processing by authors

Answers from relevant subjects were obtained by using the official method to collect primary data in the Czech jurisdiction from public law subjects, i.e. a request based

on the Act No.106/1999 Coll., on free access to information which creates a legal duty to public law subjects to provide the information.

The first part of the contribution covers in general Czech state funds, describes them and their operation and puts this in the context of the budgetary management. Therefore, the descriptive method of access is employed while exploring the Czech law, academic sources and case law. The second part covers the case study and focusses individually on state funds in the Czech Republic, their budgets and information covering the flow of the financial instruments from the EU budget in 2017 and 2018 while including answers to the mentioned nine research questions. The third part of the contribution offers the comparison, namely brings information about the setting and operation in the EU and other EU member states and jurisdictions. The fourth part of the contribution is the crux of the matter representing the outcome of the discussion and conclusions based on the Meta-analysis of information and arguments generated by the performed research, especially answers to the nine research questions, in the EU context.

III. Czech state funds – general framework, setting and operation

The existence of state funds in the Czech Republic is related to the so-called fund management manner. For this type of budgetary management, it is typical to create funds outside the public budget and in this fund concentrate income and expenditures for a special purpose (Boháč, 2017). State funds are a typical example of such a type of management. In academic legal publications, budgets of state funds are classified as public budgets (Boháč, 2017), while academic economic publications label them as so-called out-of-budget funds (Peková, 2018). Regardless of the classification differences, state funds are clearly a typical, and the most significant, representation of the fund management in the Czech Republic, and this especially while considering the volume of financial instruments which are collected and redistributed through funds.

The legal foundation for the existence of state funds is provided by Art.28 of the Act No. 218/2000 Coll., on budgetary rules (“Act on Budgetary Rules”). Pursuant to Art.28(1), state funds are created for the financial security of specially set tasks and management of instruments assigned to it. In total, six requirements must be met in order to satisfy the definition of the state fund: (i) it must be established by the law, (ii) be a legal entity, (iii) have an assigned institution in whose competence such a state fund belongs, (iv) have assigned financial instruments, manners of their use and of financing administration, (v) the balance to be transferred in the next budgetary year and (vi) title must include “state fund”. Only a budgetary unit satisfying all mentioned six requirements can become a state fund.

Currently, there are the following six state funds in the Czech Republic: (1) the State Environmental Fund of the Czech Republic (www.sfzp.cz), (2) State Cultural Fund of the Czech Republic (www.mkcr.cz), (3) Czech Film Fund (fondkinematografie.cz), State Fund for Transport Infrastructure (www.sfdi.cz), (5) State fund for habitation development (ww.sfrb.cz), and (6) State Agricultural Intervention Fund (www.szif.cz). Since 1989, there have been two periods when state funds were created. The 1st period was from 1991 to 1992 when was established the State Environmental Fund of the Czech Republic, State Cultural Fund of the Czech Republic and the State Fund of the Czech Republic for the support and development of Czech cinematography, which was replaced in 2012 by the Czech Film Fund. The 2nd period occurred in 2000 when the remaining three funds were established, i.e. the State Fund for Transport Infrastructure, State fund for habitation development and State Agricultural Intervention Fund. Occasionally, there is a proposition to establish new state funds, but so far none of them have succeeded.

Each of the six mentioned state funds was established and is regulated by a special Act, i.e. *lex specialis*. Each of these special Acts regulates the income and expenditures of the

concerned state fund. By this is satisfied the requirement set by the Art.28 of Act on Budgetary Rules.

Table 2 Czech state funds, their special Acts and domains

State fund	Act	Domain
State Environmental Fund of the Czech Republic	Act No. 388/1991 Coll.	www.sfzp.cz
State Cultural Fund of the Czech Republic	Act No. 239/1992 Coll.	www.mkcr.cz
Czech Film Fund	Act No. 496/2012 Coll.	fondkinematografie.cz
State Fund for Transport Infrastructure	Act No. 104/2000 Coll.	www.sfdi.cz
State Fund for Habitation Development	Act No. 211/2000 Coll.	ww.sfrb.cz
State Agricultural Intervention Fund	Act No.256/2000 Coll.	www.szif.cz

Source: Own processing by authors

Regarding the income, only three of these six state funds have their own tax incomes in the large sense: State Environmental Fund of the Czech Republic, Czech Film Fund and State Fund for Transport Infrastructure. Hence, Czech state funds are predominantly dependent upon the subsidies from other public budgets, including the state budget. For expenditures, it is typical that each state fund provides subsidies and possible returnable financial aid (loans) within the sphere for which the state fund exercises its competence. It is critical to underline that, pursuant to the Art.28(5) of Act on Budgetary Rules, the providing of subsidies and returnable financial helps, including the manner of payment, is not in the scope of Budgetary rules, i.e. it is to be regulated by a different Act. This different Act is the special Act establishing the particular state fund.

As indicated above, state funds are established as a legal entity with the main aim to collect assets for the fulfillment of a special purpose. They have a direct link to the state budget and, based on budgetary rules, are established as legal entities designated for the financial security of set goals and management of financial instruments which are provided to the state funds. Due to this link to the state budget and use EU financial instruments through governing authorities, state funds are in reach of duties regarding the management of entrusted financial means, including the observance of the budgetary discipline.

IV. Management and use of financial instruments from the EU by Czech state funds

All six state funds were approached with the questionnaire, i.e. they were asked to provide answers to the mentioned nine questions. It is highly illustrative to examine the feedback for each state fund.

The State Environmental Fund of the Czech Republic was established as a state organization, is designated for the environmental protection and currently has 490 employees. Its governing authority is the Ministry of Environment of the Czech Republic which issues annual reports (SEF, 2018). The most typical forms for proving financial instruments are loans and subsidies. The approved budget of the State Environmental Fund of the Czech Republic for the year 2019 consists of the total income in the amount of CZK 1 524 million and of the total expenditures in the amount of CZK 1 918 million (SEF, 2019). Answers provided by the State Environmental Fund of the Czech Republic to the nine research questions included in questionnaires are summarized in Table 3.

Table 3 State Environmental Fund of the Czech Republic – answers to nine research questions

Questions	Answers
a) Amounts provided	2017 – no answer provided. 2018 – CZK 120 million.
b) To whom how much	By the Decision of the Minister, six subjects (five municipalities, one business company) were approved to obtain instruments. However, so far, none of them entered into the Agreement about providing instruments with the State Environmental Fund of the Czech Republic. Consequently, no fund could be paid to end recipients.
c) Purpose	The support is provided within the framework of innovation financial instruments by the combination of loans and subsidies from the Operational programme Environment 2014-2020. Instruments are provided for the priority ax 3 – Waste and material flows, ecological burdens and risks – specific goal 3.5: The decrease of environmental risk and development of management systems.
d) Control mechanisms	Multiple layers of controls are performed – on the level of project manager, financial manager and lawyer. Each of them controls the satisfactions of conditions indicated in the Decision of the Minister issued pursuant to the Act No. 388/1991 Coll. Based on such a Decision, an Agreement about providing instruments is entered into with the recipient and is the foundation for controls in place. In addition, all paid instruments can be controlled by the audit mission of the audit organ of the Ministry of finance of the Czech Republic and other audit organs from European Commission and European Court of Auditors.
e) How many controls	Controls are performed on an ongoing basis. No answers about their number or about other details were provided.
f) Number of employees	Multiple layers of controls are performed – on the level of project manager, financial manager and lawyer. Each of them has its control role and function and this is reflected by the job description of each of them. Hence their job description includes both the administration and control of projects.
g) Improvements	In the case of any violation of conditions for providing instruments, the Act on Budgetary Rules is followed, i.e. the case is sent for further proceedings to the financial administration authority.
h) EU institutions	The State Environment Fund of the Czech Republic is just an intermediary and the governing authority is the Ministry of Environment which is responsible for the communication with the European Commission and its departments.
i) Obtained instructions	Methodic instructions from the governing body with rules for all operational programs co-financed from the EU budget and which have to be followed by all subjects.

Source: Own processing by authors

The State Cultural Fund of the Czech Republic was established in 1992 and its governing authority is the Ministry for Culture of the Czech Republic. The responsibility for the management of financial instruments by the State Cultural Fund of the Czech Republic is borne by the Minister for Culture. Its main goal is to support arts by financial resources and by providing financial instruments for projects in the field of culture. The State Cultural Fund of the Czech Republic does not have any of its own employees or any organizational branches except the seat of the administrator of the fund (SCF, 2019). The most typical forms for providing financial instruments are loans and subsidies for a special purpose. This fund does not consider using EU resources and does not have any spending on Research & Development or any bank loans. Further, it does not handle any fund from abroad (SCF, 2019). The approved budget of the State Cultural Fund of the Czech Republic for the year 2019 consists of total income in the amount of CZK 67.3 million and of total expenditures in the amount of CZK 57.45 million (SCF, 2019). Answers provided by the State Cultural Fund of the Czech Republic to the nine research questions included in questionnaires are summarized in Table 4.

Table 4 State Cultural Fund of the Czech Republic – answers to nine research questions

Questions	Answers
Results	The State Cultural Fund of the Czech Republic has never obtained financing from a EU fund or from any operational programmes and does not plan to do so.
Income sources	Sources of income are real estate rent, fees collected based on copyright, advertisements based on the Act No. 483/1991 Coll., on Czech TV.

Source: Own processing by authors

The Czech Film Fund is a Czech fund to support Czech movies and film making, including technical development and modernization of movie theaters, as well as various festivals and presentations. Its governing authority is the Ministry of Culture, which has in its competence artistic and cultural activities, along with management and administration of funds to support art works and cultural activities. Originally, it was established by the Act No. 241/1992 Coll., and newly by the Act No. 496/2012 Coll. Within the budgetary structure, the Czech Film Fund is classified as an out of budget fund, namely as a state purpose fund. Currently, it has 50-99 employees. The approved budget of the Czech Film Fund the year 2019 consists of total income in the amount of CZK 1 235 million and of total expenditures in the amount of CZK 1 253 million. Therefore, the budget is balanced. Answers provided by the Czech Film Fund to the nine research questions included in questionnaires are summarized in Table 5.

Table 5 Czech Film Fund – answers to nine research questions

Questions	Answers
a) Amounts provided	The Czech Film Fund has not managed any financing from the EU and has not obtained any financing from EU mechanisms and operational funds which would be payable to end recipients.
b) To whom how much	No such instruments have been provided to end recipients.
c) Purpose	NA
d) Control mechanisms	Due to the lack of management and distribution, the Czech Film Fund does not perform any control in this respect....
e) How many controls	0
f) Number of employees	0
g) Improvements	None.
h) EU institutions	None.
i) Obtained instructions	None.

Source: Own processing by authors

The State Fund for Transport Infrastructure has for its purpose the financing of the building, modernization, repair and maintenance of streets and highways, state and regional railways, for transport via important water streams as stated by the law. In compliance with its purpose, the State Fund for Transport Infrastructure is an intermediary subject in the operational programme. The State Fund for Transport Infrastructure is a legal entity and its governing authority is the Ministry of Transport (SFTI, 2018). Currently, it has 100-199 employees. The most typical form for providing financial instruments are subsidies. The approved budget of the State Fund for Transport Infrastructure for the year 2019 consists of total income in the amount of CZK 65 496 million and of total expenditures in the amount of CZK 65 496 million (SFTI, 2019). Therefore, the budget is balanced. The answers provided by the State Fund for Transport Infrastructure to the nine research questions included in questionnaires are summarized in Table 6.

Table 6 State Fund for Transport Infrastructure – answers to nine research questions

Questions	Answers
a) Amounts provided	<p>2017 – CZK 15 763 million from the Operational Programme Transport.</p> <p>2017 – CZK 1 086 million from Community Plan</p> <p>2018 – CZK 11 494 million from the Operational Programme Transport</p> <p>2018 – CZK 2 599 million from the Community Plan</p>
b) To whom how much	Instruments paid to state organizations, state support organizations, branches of state, legal entities, natural persons.
c) Purpose	<p>To build, modernize, repair, maintain and administer streets and highways.</p> <p>To build or modernize railways.</p> <p>To provide transport services, build or modernize service establishments.</p> <p>To operate state or regional railways or service establishments.</p> <p>To build, modernize, repair, maintain and administer inland water ways.</p> <p>To introduce or operate an electronic system of toll fees.</p> <p>To build, modernize or repair docks and trans-shipment stations.</p>
d) Control mechanisms	Due to the providing of finances from the Operational Program Transport and its intermediary role, the State Fund for Transport Infrastructure has the duty to perform controls by the recipients of these finances. The controls are done in the form of administrative controls (controls of the applications asking for payments) and for selected recipients are done as well directly in the place of the materialization of the transport infrastructure work (public control, supervision of building work). Further, the State Fund for Transport Infrastructure supervises project documentation.
e) How many controls	Controls are done on an ongoing basis- Regarding a project paid by EU finances, in 2017 in total 8 controls were performed, in 2018 in total 9 controls were performed.
f) Number of employees	The department of control of the State Fund for Transport Infrastructure has 16 controllers performing public administrative controls and 14 supervisors of building work. The administrative control of the applications for payments regarding projects paid by EU finances is performed by 14 financial managers. The supervision of project documentation is performed by 4 employees of the State Fund for Transport Infrastructure. The State Fund for Transport Infrastructure performs these controls either as regularly scheduled controls or as exceptional controls. Pursuant to Act No. 104/2000 Coll. and based on control findings, the State Fund for Transport Infrastructure requires the recipients to return the provided finances or their part or passes the case on to the specialized financial authority in order to check the budgetary discipline. Regarding the Operational Programme Transport, discrepancies are reported to the governing authority, especially in the case of the violation of public procurement rules and proceedings.
g) Improvements	In the case of lack of compliance regarding finances provided within the Operational Program Transport, discrepancies are reported, sanctions are enforced (i.e. payments are asked to be returned) and possibly reports to financial authorities are given to check the budgetary discipline. In the case of a breach, the return of all unjustly paid finances is enforced.
h) EU institutions	The State Fund for Transport Infrastructure is an intermediary and consequently does not cooperate directly with EU institutions. The governing authority for the Operational Programme Transport is the Ministry of Transport and this function is predominantly performed by one department at the Ministry of Transport, i.e. the Department of EU funds.
i) Obtained instructions	Methodic or other instructions and recommendations regarding use, providing and control of paid financial instruments are binding for all recipients of finances from EU operational programmes. Methodic or other instructions or recommendations regarding the Operational Programme Transport are issued and published in the method guide book of the governing authority for the Operational Program Transport.

Source: Own processing by authors

The State Fund for Habitation Development is an independent legal entity in the competence of the Ministry of Regional Development acting as a governing authority based on the Act No. 211/2000 Coll., which changed the Act No. 171/1991 Coll., about competence changes of Czech state organs competence regarding property transfers and the Fund of national assets of the Czech Republic. The purpose of the State Fund for Habitation Development is to support the development of habitation in the Czech Republic in compliance with the Concept of apartment policy until 2020 as approved by the Czech government, and to support the sustainable development of municipalities, towns and regions according to the public interest. The Concept of apartment policy is founded upon the premise that living is a shared responsibility of both the individual and state (SFHD, 2018). Currently, the State Fund for Habitation Development has 57 employees. The most typical form for providing financial instruments are loans. The approved budget of the State Fund for Habitation Development for the year 2019 consists of total income in the amount of CZK 779 million and of total expenditures in the amount of CZK 2 732 million (SFHD, 2019). The answers provided by the State Fund for Habitation Development to the nine research questions included in questionnaires are summarized in Table 7.

Table 7 State Fund for Habitation Development – answers to nine research questions

Questions	Answers
a) Amounts provided	No financial instruments from operational programs or other financial mechanisms were paid, and this even not via the governing authority.
b) To whom how much	No financial instruments were paid to the end recipient. No control mechanisms are preset. Neither controls nor communications take place.

Source: Own processing by authors

The State Agricultural Intervention Fund is an intermediary with respect to financial support from both the EU and national sources. Subsidies from the EU are provided within the European Fisheries Policy (“EFP”) through the European Maritime and Fisheries Fund (“ENRF”) and with the Common Agricultural Policy (“CAP”) through EAGF and EAFRD. The Rural Development Programme (“RDP”), which uses the finances from EAFRD, replaced the Horizontal Plan for Rural Development and Operational Programme Rural Development and Multifunctional Agriculture. The State Agricultural Intervention Fund consists of one central office and seven regional offices - Praha, České Budějovice, Ústí nad Labem, Hradec Králové, Brno, Olomouc and Opava. In 2004, the State Agricultural Fund obtained the accreditation to be a payment agency for the materialization of CAP measures financed by the European Agricultural Orientation and Guarantee Fund. In 2015, the State Agricultural Fund obtained a temporary accreditation to be a payment agency for the materialization of CAP measures financed by the EAGF and EAFRD. The State Agricultural Intervention Fund administrates European subsidies in the agricultural sector and, at the same time, is the control authority monitoring the correctness of the use of these instruments. The governing authority for the State Agricultural Intervention Fund is the Ministry of Agriculture. Currently, the State Agricultural Intervention Fund has 1 300 employees and provides financing through special purpose subsidies and loans (SAIF, 2018). The approved budget of the State Agricultural Intervention Fund for the year 2019 consists of a total amount of CZK 39 500 million. Regarding the income, CAP subsidies represent CZK 37 200 million of which CZK 31 500 million is provided from the EU, and CZK 5 700 million from the Czech state budget. Regarding the expenditures, the biggest share goes for direct payments and thus for the year 2019 almost CZK 22 200 million is allocated for such applications. For RDP measures is assigned CZK 14 000 million, of which 40% will be for project measures and 60% for non-project measures. The remaining CZK 1 000 million is prepared for the Common organization of markets, of which the biggest bulk goes for the support of school projects (SAIF, 2019). The answers provided by the State Agricultural Intervention Fund to the nine research questions are summarized in Table 8.

Table 8 State Agricultural Intervention Fund – answers to nine research questions

Questions	Answers
a) Amounts provided	In 2017, CZK 31 634 million consisting of CZK 31 624 for CAP and CZK 11 for management. In 2018, CZK 30 716 million, consisting of CZK 30 708 for CAP and CZK 7 for management.
b) To whom how much	Paid to legal entities and natural persons.
c) Purpose	Rural development, Common organization of markets, quality foodstuff, fisheries development.
d) Control mechanisms	Control mechanisms are applied through administrative controls and onsite controls.
e) How many controls	In 2017 – 4 622 controls of which 2 988 ended with finding problems or objections. In 2018 – 4 242 controls (no information provided about how many of these controls ended with finding problems or objections).
f) Number of employees	All employees from regional sections and the direct payment department, inspection services department, payment authorization department, all methodic specialists, all employees from the organization market section and control department. Number of terrain inspectors: 193.
g) Improvements	In the case of a mistake found, regardless whether by the administrative control or by the onsite control, the State Agricultural Intervention Fund rejects the application for payment and does not pay any subsidy. If a payment has already been provided, then the State Agricultural Intervention Fund starts proceedings to get it back.
h) EU institutions	Any communications with the General directorate for agriculture and rural development, Committee of agricultural funds and European Court of Auditors are done through the Ministry of Agriculture.
i) Obtained instructions	Providing of support is governed by the EU and Czech laws and relevant documents pursuant to which support is granted, such as Rules for applicant issued by the Ministry of Agriculture. Regarding special fields of activities of the State Agricultural Intervention Fund, Methodic instructions are issued by the Ministry of Regional Development.

Source: Own processing by authors

V. Management and use of financial instruments from the EU in Slovakia, Austria and Germany

EU funding can be managed jointly by the European Commission and national authorities, directly by the European Commission or indirectly by other authorities inside or outside the EU. About 80% of EU funding is managed under programmes jointly administered by the European Commission and national authorities in the EU countries. As stated above, the biggest bulk of financial instruments jointly managed by the EU and EU member states is channeled through the 5 ESIFs which support national, regional, multiregional or multinational programmes. Financial instruments flowing through these 5 ESIF are ultimately managed by the EU member states themselves, by means of **Partnership Agreements, i.e. via their national managing authorities. Consequently**, approximately 20% of expenditures are processed by the European Commission while the remaining 80% expenditures are processed by national managing authorities. The selection of these national managing authorities is done on the national level and typically includes ministries as well as other legal entities. Sometimes these managing authorities complete this task, sometimes they delegate certain tasks to other bodies, such as payment agencies.

The Czech Republic, through 11 national and regional programmes, benefits from ESIF funding of EUR 23.9 billion. This represents an average of 2 270 euro per person from the EU budget

over the period 2014-2020 (EC, 2019e). Regarding regional policy, namely programmes supported by the cohesion, in the Czech Republic, there are six managing authorities – five ministries and one municipal authority, i.e. the Ministry for Regional Development, Ministry for Education, Ministry of Environment, Ministry of Transport, Ministry of Industry and Trade, and Municipal Authority Prague (EC, 2019d). Ministries partially use for this agenda funds, namely the six above mentioned state funds. It is illustrative to compare how this mechanism is set and operated in EU member states close to the Czech Republic and which share legal roots and historical traditions, such as Slovakia, Austria and Germany.

In Slovakia, there are the following seven managing authorities with respect to regional/cohesion policy – 5 ministries, 1 government office and 1 regional office: Ministry of education, science, research and sport, Ministry of Environment, Ministry of Transport, Construction and Regional Development, Ministry of Labor, Social Affairs and Family, Government Office of the Slovak Republic, Ministry of Agriculture and Rural Development, and Bratislava self-governing Region - INTERACT Department. For example, the Ministry of Environment is a managing authority which uses the Slovak Agency for Environment as an intermediary institution for which the Ministry of Environment is the governing authority (SAE, 2019). Hence this agency is to a certain extent similar to Czech funds, especially the State Environmental Fund of the Czech Republic.

In Austria, there is the same number of managing authorities with respect to regional/cohesion policy as in the Czech Republic. i.e. six managing authorities. They are the Geschäftsstelle der Österreichischen Raumordnungskonferenz in Vienna, Amt der Niederösterreichischen Landesregierung in St. Pölten, City of Vienna, Municipal Department for European Affairs in Vienna, Regionalmanagement Burgenland GmbH - Verwaltungsbehörde Interreg V-A Österreich-Ungarn in Eisenstad, Amt der Oberösterreichischen Landesregierung - Direktion für Landesplanung, wirtschaftliche und ländliche Entwicklung - Managing Authority for Interreg V-A Austria-Bavaria in Linz and Government Office of the Land Salzburg in Salzburg. Perhaps due to the fact that Austria is a federal republic divided into nine states, *Bundesländer*, the managing authorities are not the centralized institutions such as federal ministries, but instead state institutions. As expected, the Rural development in Austria is managed by the RDP funded by the EAFRD, i.e. one of ESIFs, and national contributions, and legally covered by Partnership Agreement. Interestingly, the managing authority, Austrian Federal Ministry of Agricultural, Forestry, Environment and Water Management, has changed its title as of 8th January 2018 and became Austrian Federal Ministry for Sustainability (!!!) and Tourism. For RDP purposes, this Ministry uses Agrarmarkt Austria (“AMA”) as a paying agency. AMA is a legal entity established by a special AMA Act in 1992. Annually, AMA processes over 340 thousand applications targeting EU financial instruments and leading to the payment of EUR 1 600 million. Already since 1999, AMA has the certification ISO Norm 9001 and since 2007 as well ISO Norm 27001 (AMA, 2019).

In Germany, there are over twenty managing authorities with respect to regional/cohesion policy and the majority of them state, i.e. *Bundesland*, institutions, and not central federal institutions. This is perhaps due to the similar *Bundesländer* administrative system as in Austria. These German managing authorities include e.g. the Schleswig-Holstein Ministry of Industry, Labor, Transport and Technology or Saxon Ministry of Industry, Labor and Transport or Brandenburg Ministry of Justice. Interestingly, one of the programme supports the German and Czech cooperation – Free state Saxon – Czech Republic 2014-2020 (SNCZ, 2019).

VI. Assessment of the Czech case study in the comparative perspective

The largest bulk of EU expenditures are ultimately managed, used and distributed by national managing authorities operating based on EU law, EU member state law and Partnership

agreements. Basically, the EU provides just a general framework and leaves a rather large space for arrangement to EU member states. Therefore, the selection of managing authorities and proceedings applied by them are predominantly done by EU member states and not by the EU and the EU should not be blamed for wrong choices. In Central Europe, the choice typically includes ministries and other public law institutions on the top (federal) or regional (state) level. Naturally, there are as well the national audit authority and possibly other institutions, such as agencies, performing certain tasks delegated by managing authorities.

In the Czech Republic, the Ministry of Finance performs the function of the audit authority regarding instruments from the EU which were provided for the Czech Republic within the framework of structural funds. During the prior programme period, 2007-2013, main activities of this audit authority included controls of operations related to the providing of financial instruments from the EU to the Czech Republic. For a longer period of time, the Czech Republic has been facing demands to return a large part of provided instruments to the EU due to the violation of conditions. According to the annual report of European Court of Auditor and its audit control of the use of euro subsidies in the Czech Republic in the year 2011 (ECA, 2011), the EU has objections against the use of subsidies in nine fields – from general aspects over bad methods to wrong assessments of control subjects. The EU rules and Czech national laws do not appear to be in compliance. Brussell's auditors object to the unclear wording of the Act No. 320/2001 Coll., on financial control, postponement of taking effect of the Public Servant Act and suspension of the Act on governing and controlling systems of public administration. Further, objections target the insufficient knowledge and qualification of Czech officers performing the audit and their lacking independency. A prima facia comparison with other EU member states, such as Austria, reveals that the Czech system is rather fragmented and misses the opportunity to follow the recognized standards and certification, such as AMA with ISO.

Considering these facts, the performed Meta-analysis and case study, and the set goal of this contribution, i.e. to assess the activity of state funds with respect to the management and use of financial instruments from the EU, including the performance of the controls of management of provided financial funds and the systems for the use and redistribution to end recipients, the following findings along with new questions are to be proposed. Pursuant to our opinion, founded on the above data, arguments and case study, although all six state funds were established for the same purpose, i.e. to support the given field, there are significant differences in their effectiveness and efficiency. This is obvious especially when examining the use and redistribution of financial instruments to end recipients, see our case study above. Three of the six Czech state funds neither use nor process nor redistribute financial instruments from the EU to end recipients. In contrast, two of these six Czech state funds do it in a very large volume. These differences are probably caused by the field and scope of activities of each state fund, i.e. by what each of these funds supports. Nevertheless, it can be argued that these funds have the same legal foundation and so their activities and their performance, including funding, should be at least partially similar. Basically, each state fund has to collect income and pay expenditures in a certain area. However, some of them have only income from the Czech state budget while others use as well EU financial instruments and/or their own resources. Some deal barely with CZK millions while others with amounts way above a billion CZK. This leads to the questions why do we have exactly these six Czech state funds and whether it would not be more effective and efficient to change the Czech state funds landscape. Naturally, we do not deny that state funds can be good administrators and managers of financial instruments provided from the EU budget, the Czech state budget and other resources and designated to be ultimately paid to end recipients. However, it needs to be underscored that state funds do not follow classic budgetary management because unused financial instruments are transferred to the next budgetary year. Exactly this feature is in contradiction to budgetary principles, namely the principle of the lack of purpose and assignment in public budgets and the principle of the

annual setting and approving of public budgets (Karfíková, 2017). Therefore, financial instruments can get accumulated and concentrated in Czech state funds by successive annual transfers of the excesses, instead of using them during the same budgetary year for another purpose, e.g. using the excess and/or unused finances originally assigned to cinematography for another priority such as social services. Consequently, the Czech government does not have the capacity to make such changes during the budgetary year.

The control of budgetary management is a part of financial control and a breach of budgetary discipline can lead to a sanction such as a financial fine. Subjects of budgetary law include state funds and even applicants asking for public financial support and end recipients of such a support. Legal entities and natural persons linked to the use of instruments from public budgets, and even EU budgets, are subjects of budgetary law in a direct correlation to the performed control of budgetary management. Subjects of budgetary law are both, controlling persons performing the control of management with financial instruments, as well controlled person which have to endure such a control. In this respect, it is highly surprising that even two Czech state funds dealing with and redistributing large financial instruments from the EU budget, and generally dealing with the biggest volume of money in total, differ dramatically in the number, extent and depth of performed controls. The State Agricultural Intervention Fund performs annually over 4 000 controls with respect to the CZK 30 000 million provided through the fund, while the State Fund for Transport Infrastructure performed only 7 controls in 2017 and 9 controls in 2018 regarding approximately CZK 13 000 million provided through the fund. The State Environmental Fund of the Czech Republic declined to provide information about the number of controls, even if, by the operation of the Czech law, i.e. based on a request under Act No.106/1999 Coll., on free access to information, it has the duty to provide such an information. This raises serious concerns and might be considered as self-explanatory. This lack of answers and the data about the number of controls should be further appreciated in the context of the question about their performance. Boldly, was the quantity and quality of performed controls sufficient, i.e. do Czech state funds perform effectively and efficiently their task to control the use and management of finances? The Czech Supreme Audit Office has repeatedly stated that controls performed by several state funds “do not meet its mission” and even moved to the proposition that these funds should be combined or abolished, see e.g. 11/16 leading both to criminal charges and to information to the tax authority (CSAO, 2019). According to our opinion, for the continued existence of state funds the laws, especially their foundation and establishment Acts, should be reassessed and readjusted and the control systems and control activities should be modified. A robust methodology should be developed and strictly enforced and sufficient controls should be done by state organs with an appropriate periodicity. Even more importantly, the law should explicitly address the process of providing financial instruments by each of these state funds. According to the Act on Budgetary Rules, providing of subsidies and loans is regulated by a special Act. However, neither the Acts dealing individually and specifically with each state fund (see Table 1) nor other statutes do so at all, or just in a fragmented manner. Extending the Act on Budgetary Rules to providing subsidies and loans by state funds could be a solution of this problem, providing that individual Acts for each state fund would just provide well-established deviations from such a universal system. Finally, the performed case study revealed a total lack of communication between Czech state funds and EU institutions and organs with respect to performed controls. i.e. state funds directly communicate in this respect only with their governing authorities, i.e. ministries. This raises questions about the effectiveness and efficiency and perhaps even transparency.

VI. Conclusion

The main goal of this contribution was to individually assess the activity of Czech state funds with respect to the management and use of the financial instruments from the EU, including the performance of the control of management with the provided financial instruments and of the system of drawing and redistributing these financial instruments to the end recipients. This goal was met while using the Czech case study in combination with contextual and comparative findings. Naturally, there are limits to this contribution, underlying case study and comparison, and obviously the below presented conclusions could be made more robust and deeper, and perhaps even readjusted, if further deeper studies of managing authorities are performed.

Nevertheless, already at this point, it can be stated that, regarding the Czech state fund, the method of expert analysis revealed six critical conclusions. Firstly, Czech state funds differ dramatically in their activities, and this especially considering the use and redistribution of financial instruments to end recipients. Secondly, their role as an administrator of financial instruments from other public budgets (especially EU budget) can be a good alternative to the traditional role of the state fund. Thirdly, between state funds there are dramatic differences in the number of controls, for which purpose, and how the provided financial instruments were used. This should be definitely united. Fourthly, there is a clear legislative need to regulate the process for providing financial funds by each state fund and perhaps the use of the Act on Budgetary Rules as *lex specialis* and special Acts establishing each state fund as *leges speciale* would be a solution. Fifthly, there is lack of communication between state funds and EU institutions and organs about performed controls, and this is a drawback worthy of correction. Sixthly, since the system of managing authorities is predominantly national and rather fragmented, it would be highly desirable to engage in deeper comparative studies in order to determine the most effective and efficient manners of operation with the potential to transposition into the Czech setting.

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