



Audit Report

17/23

Energy efficiency improvement measures implemented under Priority Axis 3 of the Operational Programme *Enterprise and Innovation for Competitiveness* 2014-2020

The audit was included in the audit plan of the Supreme Audit Office (the “SAO”) for 2017 under number 17/23. The audit was headed and the Audit Report drawn up by SAO member Mr. Petr Neuvirt.

The aim of the audit was to verify whether the audited entities provided and drew funds for the implementation of selected measures in accordance with legislation, efficiently and economically, whether the objectives of selected Axis 3 projects were achieved, and whether those projects contributed to achieving the *Europe 2020* energy efficiency improvement targets.

The period under review was 2014-2017; both the previous and subsequent periods were also considered for contextual reasons.

The audit was conducted at the audited entities between September 2017 and February 2018.

Audited entities:

Ministry of Industry and Trade (the “MoIT”);

Business and Innovation Agency, Prague (the “API”);

ČEZ Energetické služby, s.r.o., Ostrava; ELMER, spol. s r.o., Velké Poříčí; Mr. Josef Durák, Veselá 150/15, Znojmo; Kaiser servis, spol. s r.o., Blansko; KARBOX s.r.o., Hořice; KAVIS Reality s.r.o., Ostrava; KRÁLOVOPOLSKÁ KOVÁRNA, s.r.o., Brno; MANAG správní, a.s., Brno; Oční studio Fovea s.r.o., Havířov; OPATISK s.r.o., Prague; OSTROJ a.s., Opava; Saint-Gobain Construction Products CZ a.s., Prague; STAVOS Chlumec n. Cidl. s.r.o., Nový Bydžov; ŠUMAVSKÁ tower s.r.o., Brno; ZETINA, spol. s r.o., Brno.

The heads of the audit groups issued their decisions on objections filed against the audit protocols by the MoIT, the API and Mr. Josef Durák. The appeals filed by the MoIT and Mr. Josef Durák against the decisions on objections were settled by resolutions of the Board of the SAO.

At its VIII meeting held on 25 June 2018, the Board of the SAO adopted Resolution no 10/VIII/2018 whereby it approved the following wording of the audit report:

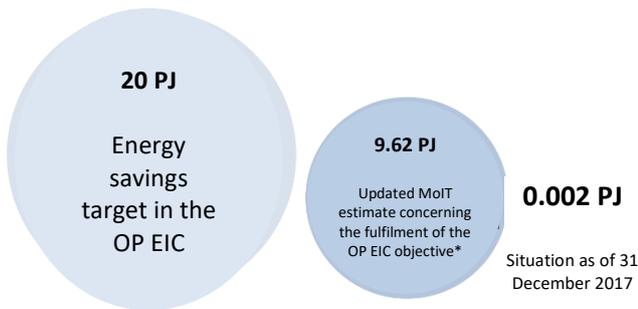
Key facts

CZK 22 billion	CZK 2.86 billion	CZK 0.59 billion
Allocation under the OP EIC Priority Axis 3 for energy savings	Financial volume in previously approved energy savings projects	Financial volume of the drawn funds

Situation as at 20 April 2018 according to statistics published by the Business and Innovation Agency.

404 days

Average duration of the approval process with respect to aid applications (situation at the end of April 2018).



The energy savings of the OP EIC achieved as at 31 December 2017 are minimal.

The OP EIC should contribute to the goal of new energy savings by 2020 with a commitment of 20 petajoules (PJ).

* The update made in 2016 relates to the estimate of the fulfilment of the OP EIC objective by 2020.

CZK 1,000 / 1 GJ of savings

Expected cost effectiveness – the average amount of specific subsidy per 1 gigajoule (GJ) predicted for the OP EIC projects according to the national energy efficiency plan was determined based on an analysis in 2014.

CZK 2,181 / 1 GJ of savings

Actual cost effectiveness – the average amount of specific subsidy for 15 projects under the OP EIC ENERGY SAVINGS I Call examined by the SAO audit. Compared to the 2014 estimate, it is more than double.

I. Summary and Evaluation

The SAO audited the provision and drawing of funds of the European Union (the “EU”) intended for energy efficiency improvement measures in the industrial sector. The audit focused on projects aided under Priority Axis 3 of the Operational Programme *Enterprise and Innovation for Competitiveness 2014-2020*¹ (“PA 3” or “OP EIC PA 3”).

The aim of the audit was to verify whether the audited entities provided and drew funds under Priority Axis 3 of the Operational Programme *Enterprise and Innovation for Competitiveness 2014-2020* (the “OP EIC”) in order to achieve, inter alia, the energy efficiency targets stated in the National Energy Efficiency Action Plans. To this end, the SAO audited the Ministry of Industry and Trade and the Business and Innovation Agency, and also examined, on the part of the beneficiaries, 15 projects implemented under Priority Axis 3 of the OP EIC that were, through the achieved energy savings, to contribute to the fulfilment of specific objective 3.2 “*Improving the energy efficiency of the business sector*” (“SO 3.2”).

On the basis of the audit carried out at the aforesaid entities and on the basis of a subsequent evaluation of the findings, the SAO notes:

1. The audited entities, the MoIT and the API, provided funds for the implementation of specific energy savings projects:
 - In accordance with the legislation for aid granted in the form of a subsidy; for repayable aid provided through a financial instrument, compliance with European Union regulations was not ensured when setting the conditions²;
 - For the stated purpose, supported by an expert Energy Review of projects aided by subsidies as well as soft loans under the financial instrument;
 - For the ENERGY SAVINGS I Call, even for projects where the specific subsidy is well above the threshold set in 2014 in the National Energy Efficiency Action Plan (the “NAPEE”); most of the projects audited were found to have significantly exceeded that threshold, which does not lead to cost-effective funding.

2. The audited entities in the role of subsidy beneficiaries did not always draw the funds in accordance with legal regulations and economically; almost one-third of the audited

¹ Priority Axis 3 *Efficient energy management, development of energy infrastructure and renewable energy sources, support for the introduction of new technologies in the management of energy and secondary raw materials.*

² A) Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) no 1083/2006;

B) Regulation (EU, EURATOM) no 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) no 1605/2002;

C) Commission Implementing Regulation (EU) no 964/2014 of 11 September 2014 laying down rules for the application of Regulation (EU) no 1303/2013 of the European Parliament and of the Council as regards standard terms and conditions for financial instruments.

beneficiaries acted in violation of the OP EIC rules and one-fifth of the audited beneficiaries claimed ineligible expenditure in their applications for payment.

The SAO further states that:

- However, effectiveness in terms of actually achieving the planned savings is not guaranteed – mainly due to the low absorption capacity³ of the energy savings calls;
- The achievement of the objectives of the audited projects under the OP EIC Priority Axis 3 could not be assessed, mainly due to the low material progress of the aided projects during the audit period, i.e. the projects had not yet achieved the expected results;
- The degree of contribution of the projects to the achievement of the *Europe 2020*⁴ energy efficiency improvement targets cannot be evaluated because the results of the ENERGY SAVINGS aid programme⁵ for specific objective 3.2 are monitored by the statistical indicator “*net final energy consumption in industry*”⁶. This indicator is not directly linked to the energy savings indicators that beneficiaries monitor and report for projects.

The overall evaluation results from the findings, which can be summarised as follows:

- **The national energy efficiency target of the Czech Republic to achieve new energy savings of 51.1 petajoules (PJ)⁷ by 2020 will not be met.** The risk of non-fulfilment of the planned savings was identified especially in the OP EIC, the contribution of which to the fulfilment of this objective is crucial.
- **The current state of fulfilment of energy savings at the level of specific objective 3.2 of the OP EIC is low; it does not reach even one percent of the predicted savings.** There is a significant risk that the planned 20 PJ of energy savings at the level of specific objective 3.2 of Priority Axis 3 will not be achieved.
- **The fulfilment of the energy efficiency improvement target is particularly threatened by the slow drawing of funds under Priority Axis 3 of the OP EIC.** Out of the allocation of CZK 22 billion of EU funds earmarked so far by the MoIT for subsidy calls of the ENERGY SAVINGS I, II and III aid programme, only 13 % have been approved in legal acts and not even 3 % of the funds have been drawn⁸.

³ Absorption capacity is a measure of the state’s ability to use the EU funds provided.

⁴ The *Strategy for Smart, Sustainable and Inclusive Growth* (Europe 2020) is the European Union’s main economic reform agenda with a view to 2020. It replaces the so-called *Lisbon Strategy*, whose time horizon ended in 2010.

⁵ For the purposes of the OP EIC implementation itself, a breakdown of the operational programme into the so-called partial “aid programmes” is used. Priority Axis 3 has six aid programmes related to the respective specific objectives.

⁶ This indicator, which has a target value set for 2023, reflects the prediction of economic growth and the related increase in energy consumption.

⁷ The contribution of the Czech Republic of 51.1 petajoules (PJ) to the EU energy efficiency target under Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

⁸ Contract and drawing status as at 20 April 2018 according to published statistics of the Business and Innovation Agency.

- **The state of implementation of the OP EIC is also negatively affected by the long process of approving project applications.** The project evaluation and selection phase takes 404 days on average, i.e. more than one year from submitting the application. The average duration of the process of evaluation and approval of OP EIC PA 3 projects was shortened in 2017 compared to the previous year.
- **The average amount of the specific subsidy for projects under the ENERGY SAVINGS I Call for SO 3.2 under the OP EIC selected for the SAO audit (Annex 1) exceeds the predicted amount of the specific subsidy according to NAPEE 3 more than doubly.** The average specific subsidy for these 15 selected projects amounts to CZK 2,181 per 1 GJ of savings and covers a wide range from CZK 855.20/GJ to CZK 8,045/GJ. Most projects in the audited sample are well above the predicted value of CZK 1,000 per 1 GJ of savings. Exceptions are projects implemented by the so-called large enterprises.
- **The factual milestone of the performance framework⁹ set at the level of Priority Axis 3 of the OP EIC for 2018 does not provide information on actual performance.** The mere inclusion of an aided enterprise in the indicator “*number of enterprises receiving aid*” does not ensure a specific contribution of the project to energy savings.
- **The real contribution of the aided projects to the fulfilment of specific objective 3.2 “Improving the energy efficiency of the business sector” at the level of Priority Axis 3 cannot be evaluated,** as the statistical indicator of “*net final energy consumption in industry*”, whose target value for 2023 predicts energy consumption growth associated with overall economic growth, was determined for this objective. The resulting values are also largely influenced by external factors outside the scope of the OP EIC, i.e. without a specific link to the individual projects under Priority Axis 3 of the OP EIC.
- **It will be possible to assess the achievement of binding energy savings for most projects fulfilling specific objective 3.2 of the OP EIC only in 2023.** The specific contribution of the OP EIC projects to the fulfilment of the *Europe 2020* energy efficiency target will thus not be possible to evaluate at all in the relevant period due to time disharmony.
- **The introduction of a financial instrument for the ENERGY SAVINGS aid programme to accelerate the drawing at PA 3 level has not had the expected effect yet.** The call of this financial instrument is marked by low interest of applicants, as is the case for the three previously announced ENERGY SAVINGS I, II and III subsidy calls.
- **The MoIT did not proceed according to the requirements of EU regulations in setting the conditions and implementing the financial instrument for the ENERGY SAVINGS**

⁹ Regulation (EU) no 1303/2013 of the European Parliament and of the Council defines the so-called performance reserve in Article 20 and the method of establishing the so-called performance framework in Annex II. The performance framework consists of milestones set for each priority axis (excluding the technical assistance priority axis) for 2018 and the objectives set for 2023. Milestones are intermediate objectives linked to the achievement of a specific objective of the priority axis, which express the intended progress towards the objectives set for the end of the programming period.

aid programme; the agreement to finance that instrument does not stipulate the expected results to be achieved.

- **The contribution of this instrument to the fulfilment of specific objective 3.2 “Improving the energy efficiency of the business sector” cannot be evaluated for the ENERGY SAVINGS aid programme financial instrument at the level of the beneficiary, which is Českomoravská záruční a rozvojová banka, a.s.** The MoIT did not agree with the bank on what the expected result of energy savings would be, and will thus not be able to control the achievement of the target at the level of the financial instrument.
- **In the area of project evaluation and selection for calls for specific objective 3.2 of Priority Axis 3, an insufficient process of uncovering the ownership structure of applicants** in assessing the status of small and medium-sized enterprises was used until the end of 2017 although that status is decisive for determining the amount of aid. When evaluating projects, the subsidy provider did not have information confirming the applicant’s ownership structure up to the level of the so-called beneficial final owner.
- **The SAO assesses the OP EIC management and control system in relation to PA 3 as partially effective.** The outcome of the evaluation is based on the identified shortcomings, especially in the area of inspection activities carried out at the MoIT and API levels:
 - The set-up of verification of de facto performance of public contracts and tenders and eligible expenditure does not allow verification according to the requirements of Regulation No 1303/2013¹⁰;
 - The set-up and actual implementation of tender inspections are insufficient.
- **Some of the corrective measures for the findings from previous SAO audits have not been fully implemented by the MoIT.** In particular, the shortcomings in the set-up and actual implementation of inspection activities of the MoIT and the API, which were identified in audits 13/17 and 16/01 and which related to the programming period 2007-2013, have remained unresolved. These shortcomings still persist and were again identified in the subsequent programming period of 2014-2020 for the OP EIC.

Note: The legal regulations referred to in this Audit Report are applied as effective in the period under review.

II. Information on the Audited Area

A common framework for EU energy efficiency measures to ensure that the energy and climate protection targets, i.e. reducing greenhouse gas emissions by 20 %, achieving a 20%

¹⁰ Article 125 of Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) no 1083/2006.

share of renewable energy sources and reducing final energy consumption by 20 % compared to 1990, are met by 2020 has been introduced by Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency¹¹ (the “EE Directive”). The energy efficiency improvement strategy of the Czech Republic is described in the National Energy Efficiency Action Plans. So far, five versions of the NAPEE¹² have been developed or updated in the Czech Republic since 2007.

Based on analyses, the binding target of total new savings in final energy consumption for the Czech Republic (national target) by 2020 was set in NAPEE 3 in 2014 at 47.78 PJ, and 50.67 PJ based on an updated target published in NAPEE 4 of 2016. The NAPEE update reflects the increase in the commitment of the Czech Republic by 2020 by modifying an alternative scheme¹³ to meet the mandatory increase in energy savings for the final customer. The latest update (NAPEE 5) in 2017 set the target for **new energy savings of 51.10 PJ for the Czech Republic in 2020. Operational programmes financed from EU funds should contribute significantly to the fulfilment of the target. The OP EIC should contribute to the target with the predicted 20 PJ of energy savings.**

A total of EUR 4.33 billion, i.e. approximately CZK 117 billion, has been earmarked from the *European Regional Development Fund* (the “ERDF”) for the OP EIC. The OP EIC thus represents the third largest thematic operational programme in terms of financial volume as part of the Partnership Agreement. The major part of the OP EIC financial allocation (almost 60 %) falls on Priority Axes 1 and 3, which **are directly linked to the fulfilment of selected primary objectives of the *Europe 2020* strategy.**

The OP EIC provides aid to regions with the exception of the City of Prague. It consists of 5 priority axes covering a total of 12 investment priorities¹⁴. The first four priority axes are further divided into 23 specific objectives (“SO”), within which 23 corresponding aid programmes are defined¹⁵. The logical breakdown of the operational programme is shown in Figure 1.

¹¹ Article 7 of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, sets a binding target for achieving savings in final energy consumption by 2020, corresponding to the new annual savings achieved of 1.5 % of the volume of annual energy sales to final customers.

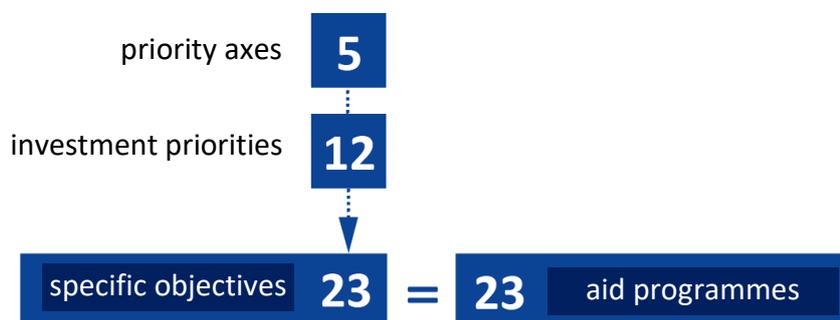
¹² NAPEE 1 was drafted in 2007, NAPEE 2 was drafted in 2011, NAPEE 3 was drafted in 2014, NAPEE 4 was updated in 2016 and NAPEE 5 was updated in 2017.

¹³ An alternative scheme for a mandatory energy efficiency improvement system is an obligation for the state that assumes the commitment; the commitment is fulfilled on the basis of political measures and supplemented by mandatory measures in the case of insufficient funds for the implementation of Article 7 of the EE Directive.

¹⁴ Investment priorities are priorities specified in the relevant EU regulations for each European Structural and Investment Fund. These priorities fulfil the individual thematic objectives defined in Regulation (EU) no 1303/2013 of the European Parliament and of the Council, which may be aided by the relevant Fund. Each investment priority supports activities that meet specific objectives.

¹⁵ Aid programmes represent a breakdown of the operational programme. In accordance with Act No. 47/2002 Coll., on support for small and medium-sized enterprises, programmes aimed at supporting entrepreneurs were approved by the Government of the Czech Republic. All OP EIC aid programmes are co-financed by ERDF resources. In addition to the basic characteristics and objectives, each aid programme includes a more detailed definition of possible beneficiaries, information on aided and non-aided activities, requirements for submitting project plans and other details.

Figure 1: Breakdown of the Operational Programme *Enterprise and Innovation for Competitiveness 2014-2020*



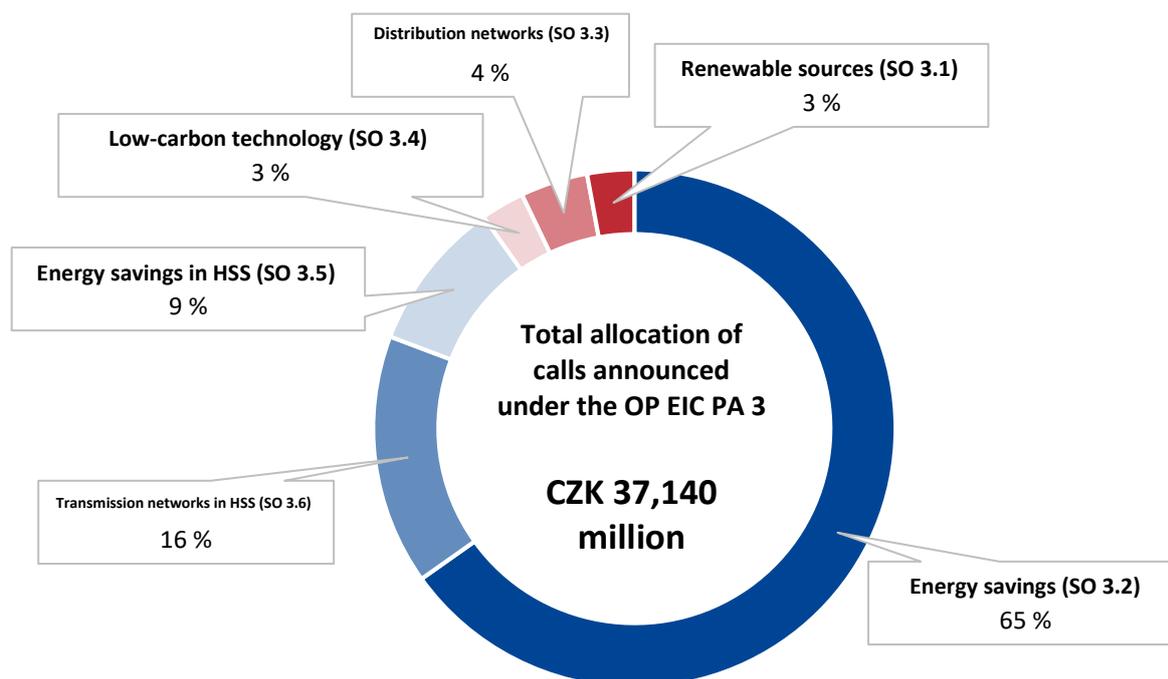
The OP EIC financial resources are used, among other things, as the so-called **economic instruments to improve energy efficiency**. In particular, this concerns the allocation of **Priority Axis 3 *Efficient energy management, development of energy infrastructure and renewable energy sources, support for the introduction of new technologies in the management of energy and secondary raw materials***, which is linked to thematic objective¹⁶ 4 – “*Supporting the shift towards a low-carbon economy in all sectors*” and directly contributes to the fulfilment of the primary objective of the *Europe 2020* strategy focused on energy efficiency improvement. According to NAPEE 3, CZK 20 billion was allocated to support the achievement of energy savings at the level of SO 3.2 in the OP EIC; the OP EIC is thus a pivotal programme for achieving savings in final energy consumption.

At the level of the OP EIC PA 3, a total of 6 specific objectives are defined, which coincide with 6 announced aid programmes¹⁷. **In terms of the total allocation of PA 3, the largest financial volume was allocated to the calls of the ENERGY SAVINGS aid programme linked to specific objective 3.2.** At the end of 2017, this share was 65 %. The distribution of the total allocation in the previously announced subsidy calls for PA 3 is shown in Chart 1.

¹⁶ Thematic objectives are defined in Article 9 of Regulation (EU) no 1303/2013 of the European Parliament and of the Council.

¹⁷ These are the aid programmes RENEWABLE ENERGY SOURCES for SO 3.1, ENERGY SAVINGS for SO 3.2, SMART GRIDS I (DISTRIBUTION NETWORKS) for SO 3.3, LOW-CARBON TECHNOLOGIES for SO 3.4, ENERGY SAVINGS IN HEAT SUPPLY SYSTEMS (HSS) for SO 3.5 and SMART GRIDS II (TRANSMISSION NETWORKS) for SO 3.6.

Chart 1: Distribution of the total allocation of subsidy calls announced under the OP EIC PA 3 in relation to specific objectives and relevant aid programmes



Source: MS2014+ data as at 31 December 2017.

Specific objective 3.2 with the ENERGY SAVINGS aid programme is achieved through projects that are aided primarily through subsidies. In 2017, the MoIT also introduced a repayable form of aid for this objective using the financial instrument entitled *EX 2017 Credit Fund* (the Credit Fund Financial Instrument or “CFFI”), under which soft loans are to be provided to final beneficiaries, i.e. small, medium-sized and large enterprises. The MoIT selected Českomoravská záruční a rozvojová banka, a.s.¹⁸ (“ČMZRB”) as the manager of the CFFI. In addition to the ENERGY SAVINGS aid programme for SO 3.2, the CFFI has also been established for the ENERGY SAVINGS IN HEAT SUPPLY SYSTEMS (“HSS”) aid programme for SO 3.5.

The total allocation for the OP EIC PA 3 financial instrument is CZK 1.91 billion¹⁹. The financial instrument of the ENERGY SAVINGS aid programme introduced for SO 3.2 represents 70 % of this allocation, which amounts to CZK 1.34 billion.

¹⁸ ČMZRB is a joint-stock company and it is a development bank of the Czech Republic. In line with the objectives of the economic policy of the Government of the Czech Republic and regions, it assists in the development of small and medium business, infrastructure and other economic sectors requiring state aid. ČMZRB plays the role of the beneficiary of funds under the *EX 2017 Credit Fund* financial instrument.

¹⁹ This amount was set aside from the total allocation for Priority Axis 3, which amounts to EUR 1.22 billion, i.e. approximately CZK 30.83 billion.

III. Scope of Audit

Audit No. 17/23 examined the management of EU funds intended to aid energy efficiency improvement measures implemented under Priority Axis 3 of the Operational Programme *Enterprise and Innovation for Competitiveness 2014-2020*. The audit focused mainly on the ENERGY SAVINGS aid programme linked to SO 3.2.

In particular, the SAO examined:

1. Whether the audited entities provided and drew funds for the implementation of selected measures in accordance with legal regulations, efficiently and economically;
2. Whether the objectives of selected Axis 3 projects were being achieved;
3. Whether those projects contributed to achieving the *Europe 2020* energy efficiency improvement targets.

The audited entities were the Ministry of Industry and Trade, the Business and Innovation Agency²⁰ and selected beneficiaries of subsidies, which are small and medium-sized enterprises (“SMEs”) as well as large enterprises. The object of the audit were activities with which the MoIT is entrusted in performing the role of the OP EIC Managing Authority²¹ (the “MA” or “OP EIC MA”), as well as activities delegated by the MoIT to the Business and Innovation Agency, which performs these activities as an intermediate body under the OP EIC²² (the “IB” or “OP EIC IB”).

²⁰ The API was established on 1 June 2016 by Act No. 149/2016 Coll., amending Act no 47/2002 Coll., on support for small and medium-sized enterprises and amending Act No. 2/1969 Coll., on establishing ministries and other central bodies of state administration of the Czech Republic, as amended. The API is a state contributory organisation with nationwide competence and is subordinated to the MoIT.

²¹ The MoIT was entrusted with the performance of the role of the OP EIC Managing Authority on the basis of Government Resolution no 867 of 28 November 2012 *on the preparation of programmes co-financed from the Common Strategic Framework funds for the programming period of 2014-2020 in the Czech Republic*.

²² Under Measure no 18/2016 of the Minister of Industry and Trade on the implementation of the Operational Programme Enterprise and Innovation for Competitiveness at the Ministry of Industry and Trade of 28 July 2016, the division of delegated activities of the OP EIC Managing Authority within the organisational structure of the Ministry of Industry and Trade between the MoIT and the intermediate body formed by the Business and Innovation Agency was defined.

The SAO audited the following activities:

- Managing calls;
- The evaluation, selection and approval of aid applications;
- Administrative verification of applications for payment submitted, in particular assessing the eligibility of expenditure claimed by beneficiaries;
- Verification of compliance with the conditions laid down for the selection of suppliers;
- Material and financial management of the operational programme, including the recording of irregularities;
- Inspection and supervisory activities of the MoIT in the role of the Managing Authority and inspection activities of the API in the role of an intermediate body;
- Activities towards the fulfilment of the *Europe 2020* national target;
- Monitoring activities at the level of projects and at the level of the operational programme;
- Risk management in relation to the operational programme;
- Provision of information to applicants/beneficiaries and communication with beneficiaries.

In connection with the above-mentioned activities, the SAO also examined, at the MoIT, the adoption and implementation of corrective measures for shortcomings identified by previous SAO audits No. 13/17, 14/06, 15/02 and 16/01.

Under Audit No. 17/23, the SAO examined a sample of 15 projects (see Annex 1) aided by subsidies under Priority Axis 3 of the OP EIC, in particular in terms of legality, effectiveness and economy of the funds spent and the achievement of the set project objectives. The selection of the sample of audited beneficiaries of aid under the OP EIC PA 3, i.e. specific objective 3.2, was based on the degree of progress of physical implementation of the projects and the amount of funds paid to the beneficiaries based on applications for payment as of the relevant date of commencement of the audit, i.e. 31 August 2017. **The audited volume of these 15 projects was CZK 69.9 million.**

In total, funds in the amount of CZK 4,673.9 million were audited at the system level at the MoIT, of which CZK 606.9 million had been transferred to beneficiaries' accounts. Details on the audited volume are given in Table 1.

Table 1: Overview of audited PA 3 funds from EU sources (in CZK)

Form of aid	Funds audited at the level of the entire system	- of which audited funds transferred to beneficiaries' accounts
Subsidy	2,765,857,123	129,900,464
Financial instrument	1,908,000,000	477,000,000
Total	4,673,857,123	606,900,464

Note: The subsidy beneficiaries are small, medium-sized and large enterprises; the beneficiary of the financial instrument is ČMZRB. Aid from state funds is provided only from EU sources; the national share of co-financing is provided from the beneficiary's own resources.

The SAO also used data from the MS2014+ monitoring system in the audit.

IV. Details of the Findings

IV.1 Material aspects of the OP EIC implementation

IV.1.1 Setting project goals under specific objective 3.2 and their link to energy efficiency targets

Aided projects linked to SO 3.2 should ensure the fulfilment of the energy savings target. The result indicators monitored at the project level are achieved energy savings. All PA 3 projects aided under the ENERGY SAVINGS aid programme have an indicator “*reduction of final energy consumption of aided entities*” and **the values are monitored at the level of beneficiaries of the aided projects.**

For the whole specific objective 3.2, i.e. for its measurement, the MoIT set the result indicator 32210 “*net final energy consumption in industry*”, which indicates the **final energy consumption. This information is provided by the Czech Statistical Office.**

There is no apparent link between meeting energy savings targets at project level and meeting specific objective 3.2. The contribution of the projects to the achievement of the target thus cannot be measured because, at the level of specific objective 3.2, a statistical indicator is used into which other influences outside the OP EIC PA 3 projects enter.

At the level of SO 3.2, the indicator “*reduction of final energy consumption of aided entities*” reached 1,514.4 GJ at the end of 2017; according to the information from the MS2014+ monitoring system, at the end of April 2018 the current achieved value was 3,822 GJ. The target value is 20,000,000 GJ, i.e. 20 PJ. It is clear that **not even 1 % of the planned values was achieved.**

The current situation confirms the justification of doubts about the fulfilment of the planned values of the OP EIC, which were already mentioned in NAPEE 5, updated in April 2017²³. The updated assumption of achieving energy savings within the OP EIC was adjusted from 20 PJ to 9.62 PJ, i.e. less than 50 %. Actual developments by 2023 cannot be estimated.

Project objectives

The SAO audit verified whether the objectives of the SO 3.2 projects complied with the SMART²⁴ principles and whether they contributed to meeting the planned values at the level of specific objective 3.2 “*Improving the energy efficiency of the business sector*”. At the project

²³ Chapter 3.4.1 of the updated NAPEE 5 states: “According to the original estimates, the OP EIC was expected to induce 20 PJ of new energy savings in the period of 2014-2020. A total of CZK 20 billion will be allocated to achieve these savings. However, this forecast will most likely not be met. Based on the evaluation of the drawing of funds and assuming a constant level of the cost ratio of energy efficiency improvement measures, the OP EIC is expected to achieve energy savings of 9.62 PJ.”

²⁴ SMART – principles used in the area of project management, e.g. to evaluate the quality of the set goals; these principles correspond to the requirement laid down in Article 30(3) of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union: “*Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. The achievement of those objectives shall be monitored by performance indicators for each activity, and the relevant information shall be provided by the spending authorities to the budgetary authority.*”

level, annual savings in final energy consumption are monitored (GJ/year – target value with a deadline of 5 years from the end of the project, but no later than 2023). The basic goal of the projects is to **achieve lasting energy savings**. The value of energy savings is measured by indicator 32300 “*reduction of final energy consumption of aided entities*”. It can be stated that the **project objectives, i.e. the annual savings targets in final energy consumption pursued at the level of individual projects, comply with the SMART principles**, which means that they are:

- Specific (values set by the applicant),
- Measurable and achievable (documented by the Energy Review),
- Timed (given by the project implementation time, the date for meeting the target value).

For the ENERGY SAVINGS aid programme, in the conditions of the ENERGY SAVINGS I, II and III calls for aid applicants and beneficiaries, the MoIT identified three project indicators in two types:

1. Indicator obligatory for fulfilment:
 - 32300 “*reduction of final energy consumption of aided entities*”,
2. Indicators obligatory for selection (compulsory to monitor):
 - 36111 “*amount of primary particulate emissions and secondary particulate precursors*”,
 - 36113 “*CO₂ emission reduction*”.

The subsidy decision specifies a single binding indicator for the beneficiaries; for SO 3.2, this is an indicator obligatory for fulfilment 32300 “*reduction of final energy consumption of aided entities*” (target value in GJ/year with a deadline of fulfilment). The subsidy decision does not set to the beneficiaries any minimum binding values to be fulfilled concerning the mandatorily monitored indicators although these are environmental benefits that had a significant influence on the subsidy granting in the evaluation process.

Time disharmony of meeting the objectives of OP EIC PA 3 projects

The achievement of the target values of indicators monitored at the level of PA 3 projects is, in relation to the implementation period and the sustainability period of these projects, set for most projects by 2023. The actual savings achieved, confirmed ex post by the Energy Review, will not be made available by the Ministry of Industry and Trade until the actual closure of the operational programme. In contrast, the national energy savings target for the Czech Republic under the EE Directive is set for 2020, when the evaluated data will be provided to the European Commission.

It is not yet clear from the aforementioned time disharmony how the MoIT will evaluate the contribution of energy savings from projects aided under specific objective 3.2, i.e. as part of the related ENERGY SAVINGS aid programme, to meet the *Europe 2020* target.

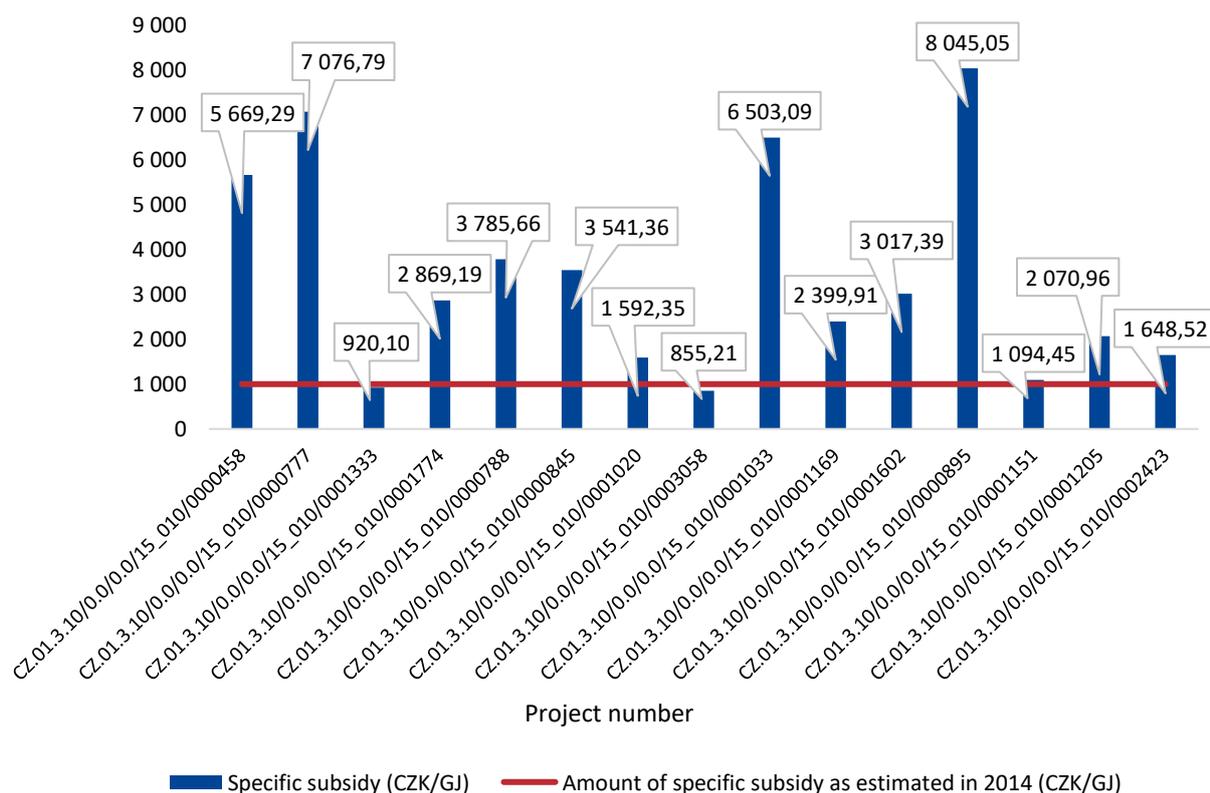
Cost effectiveness of projects

An important factor in the evaluation of achieved energy savings is, among other things, the cost effectiveness monitored using data on the amount of specific subsidy per 1 GJ of savings.

The document submitted in August 2017 for information purposes to the members of the Government²⁵ provides the following data for the OP EIC: **CZK 1,724/GJ of specific subsidy (according to approved applications for the period from 01/2014 to 05/2017), while the presumed specific subsidy according to NAPEE 3 was CZK 1,000/GJ.**

The average specific subsidy for the 15 subsidy projects in the audit sample reached CZK 2,181/GJ, while most projects in the sample are well above the predicted value of CZK 1,000/GJ. The extreme value is more than CZK 8,000 per 1 GJ of energy savings.

Chart 2: Amount of specific subsidy for projects selected for audit



Source: relevant subsidy decisions.

Note: The estimated specific subsidy of CZK 1,000/GJ is taken from the *National Energy Efficiency Action Plan 2014 (NAPEE 3)*, approved by Government Resolution No. 1085 of 22 December 2014.

The MoIT expects a decrease in the average level of specific subsidy in the OP EIC for SO 3.2 due to the approval of an increase in the allocation limit for large enterprises under SO 3.2 from 20 % to 60 %.²⁶ The increase in the limit was taken into account by the MoIT in the ENERGY SAVINGS III Call with an allocation of CZK 6 billion.

²⁵ A tabular overview of the report entitled “Information on developments in the area of energy savings, their support and effectiveness of implemented measures” submitted by the MoIT on the basis of clause II.2 of Government Resolution no 161 of 24 February 2016 for the SAO Audit Report of Audit No. 15/02 “State budget funds provided for support of energy savings”.

²⁶ An ex post cost effectiveness analysis of OPEI-aided projects showed that there were significant differences in the cost effectiveness with which SMEs and large enterprises achieved the desired results. All projects aided in the previous programming period, which could also be aided under the OP EIC, were analysed. The analysis

However, the statistics compiled as of 20 April 2018 and published on the API website²⁷ show that the expected effect of greater involvement of large enterprises in the ENERGY SAVINGS III Call has not yet occurred; in April 2018, the volume of registered aid applications amounted to CZK 910,470,785, i.e. 15.2 % of the earmarked allocation. Of that volume, large enterprises account for CZK 257,330,119, which is only 28 % of the total volume of funds indicated in the applications. So far, no subsidy decision has been issued under this call.

IV.1.2 Evaluation of projects under calls of the ENERGY SAVINGS aid programme

Duration of the evaluation process

In 2017, the time from the submission of the aid application until its approval was reduced in the process of project evaluation and selection. The use of only one-round evaluation model for newly announced calls is a major influencing factor. In the two-round evaluation model, which was mainly used for calls announced in 2015, the average duration of this phase of the process is around 545 days. For the one-round model, the worst situation is for calls announced in 2016.

According to data in the MS2014+ monitoring system as at 30 April 2018, the average duration of the process of evaluation and selection of project applications from the beginning of implementation was 404 days.

Determination and use of evaluation criteria

The MoIT established objective and relevant criteria for the evaluation and selection of SO 3.2 projects ensuring compliance of the projects with the objectives of the call and programme; **an exception was the adequacy of the criterion of “specific eligible expenditure to reduce emissions of CZK/kg of CO₂ per year” set for the evaluation of project applications in the area of environmental benefits.**

The environmental benefits assessed by the MoIT for the ENERGY SAVINGS I Call using the criterion of “specific eligible expenditure to reduce emissions of CZK/kg of CO₂ per year” are measured by global parameters and often cannot be verified directly at the applicant.²⁸ **The MoIT rated this criterion with a higher number of points than the criterion for evaluating planned energy savings according to the Energy Review.** Therefore, the amount of point gain of up to 35 points in the environmental benefit indicators was not adequate for this call²⁹ and had a significant impact on obtaining the subsidy even though the achievement of

of projects corresponding to specific objective 3.2 of PA 3 aimed at energy efficiency improvement in the business sector showed a higher effectiveness of large enterprises compared to SMEs in all monitored parameters. For energy savings, the effectiveness (measured by subsidy funds, not investment funds) of large enterprises was 3.9 times higher compared to SMEs (source: *Report on the state of achieving national energy efficiency targets of 2017*).

²⁷ <https://www.agentura-api.org/op-pik-obecne/statistiky/>. The statistics on drawing are regularly updated but previous data are not archived.

²⁸ The amount of primary particulate emissions and secondary particulate precursors and CO₂ emission reduction are listed as mandatory selection indicators, the value of which depends on meeting the mandatory annual energy savings value. These global parameters are dependent on emission factors of partial energy carriers.

²⁹ In particular, taking into account the minimum threshold of 60 points, which was set as a total for the approval of the aid application.

environmental benefits depends on the fulfilment of various indicators³⁰. Indicators relating to environmental benefits affect the subsidy granting but are not binding on the beneficiaries despite the fact that they were given more weight in the evaluation process than the energy savings indicators.

For other subsidy calls for ENERGY SAVINGS II and III, the MoIT changed the bonus in favour of energy savings, i.e. the point gains for proven lasting savings as well as for the environmental benefits were equally determined on a point scale with an upper threshold of 32 points.

Assessment of the status of small and medium-sized enterprises

In the ENERGY SAVINGS I Call, aid applicants were not obliged to submit³¹ information confirming their ownership structure up to the level of the so-called ultimate beneficial owner³² for the assessment of the status of a small or medium-sized enterprise even though this status was decisive for the amount of the subsidy. The MoIT stipulated that aid applicants had to **fill in the declaration on the status of a small or medium-sized enterprise and indicate, inter alia, the owners**. However, in the case of owners in the form of legal entities, their mere indication did not necessarily mean that the applicant's real ownership structure would be revealed.

The MoIT did not have a specific methodological procedure in place for revealing the ownership structures of aid applicants.³³

The status of a small or medium-sized enterprise was checked by the API only with the help of available registers³⁴ and using the declaration attached to the aid application. The applicant was to provide further information only if the subsidy provider asked for it.

For the sample of the projects audited, the API did not make use of the possibility of having relevant documents³⁵ submitted to verify the real ownership structure, did not request additional information, and relied solely on the declarations of the beneficiaries themselves in the formal evaluation and eligibility evaluation process. Therefore, in the evaluation process, there was a risk of insufficient disclosure of the ownership structure when assessing the size of the enterprise.

³⁰ Emission factors (kg/MWh) according to the type of pollutant shall be used to determine the amount of pollutants per unit of generated or saved electricity.

³¹ The definition of a small or medium-sized enterprise is based on the European Commission Recommendation 2003/361/EC of 6 May 2003.

³² This can be, for example, a natural person, a state or a municipality, i.e. a person not controlled by another person.

³³ The *OP EIC Internal Procedure Methodology*, which, also with the use of the *Arachne* system for the verification of ownership links, reduces the risk of insufficient verification of the information provided in aid applications is effective only from 1 January 2018.

³⁴ Commercial Register and Trade Licensing Register.

³⁵ Documents indicating the number of employees, accounting and financial reports of the applicant and partner and associated enterprises etc.

IV.1.3 Milestone of Priority Axis 3

The OP EIC programming document sets out the performance framework³⁶. The performance framework consists of the so-called milestones set for each priority axis for 2018 and the objectives set for 2023. Milestones are intermediate objectives usually linked to the achievement of a specific objective of the priority axis, which express the intended progress towards the objectives set for the end of the programming period. The SAO audit examined whether there were obstacles to the allocation of the performance reserve³⁶ in the area of fulfilment of the material objectives of the OP EIC PA 3.

For PA 3, the output indicator³⁷ of “*number of enterprises receiving aid*” was set. The final target for 2023 is 3,240 enterprises or 3,772³⁸ enterprises aided by subsidies or a financial instrument (monitored at the level of SO 3.1-3.5). **The milestone for 2018 is the number of 270 enterprises receiving aid.** The source of data provided on the fulfilment of the milestone is the MS2014+ system, which **in February 2018 reported a total of 98 enterprises receiving aid at the level of PA 3.**

The number of enterprises aided so far does not guarantee that the set milestone will be reached by the end of 2018.

The indicator of “*number of enterprises receiving aid*” for the evaluation of achievement of the milestone of PA 3 is an output indicator jointly monitored at the Commission level. In addition to this indicator, no other indicator, such as a result indicator with a telling value of performance, is set at the level of the OP EIC PA 3.

IV.2 Financial management of the OP EIC

In 2017, the MoIT initiated, i.e. implemented, measures³⁹ aimed at accelerating the drawing of the OP EIC PA 3 funds and thus reducing the risk of not achieving the additional reserve of PA 3 allocation (performance reserve) or the risk of reducing the unspent allocation at the level of the entire OP EIC.

³⁶ The performance framework is an element in setting the interventions of the ESI Fund programmes, focused on enhancing programme performance and aimed at a better alignment of the ESI Fund interventions with the achievement of *Europe 2020* objectives and at orienting programmes towards results. The Czech Republic set a uniform level of the performance reserve for the Structural Funds and the *Cohesion Fund* at 6 % across operational programmes and priority axes.

³⁷ This is the so-called core indicator (CO 01), which is monitored at the level of the European Commission.

³⁸ The target for 2023 according to the updated OP EIC programming document from November 2017.

³⁹ These measures consisted in adjusting the evaluation criteria for project applications in the sense of their softening, presenting the Government with a document with the approval of which the Government committed a number of state administration entities to implement measures in the field of energy performance of buildings, increasing the possible share of large enterprises in drawing allocation under PA 3, execution of information and educational activities for potential applicants, coordination of the focus and conditions of announced calls with selected programmes co-financed from the EU budget or only from the state budget, and opening of a programme for drawing soft loans in the area of energy savings in cooperation with ČMZRB.

IV.2.1 Instruments used for providing aid within Priority Axis 3 of the OP EIC

One of the aforesaid measures is the introduction of a financial instrument. The OP EIC PA 3 projects are aided mainly in the form of a subsidy. The MoIT considered the use of a repayable form of aid in the form of financial instruments already during the preparation of the OP EIC and stated this intention in the programming document.

EX 2017 Credit Fund financial instrument

Based on the preliminary assessment carried out in 2015, the MoIT decided to create a credit fund for the ENERGY SAVINGS and ENERGY SAVINGS in HSS aid programmes. The selection of the intermediary, which is ČMZRB⁴⁰, was made in 2016. In 2017, the MoIT concluded an agreement with ČMZRB on the establishment and administration of the EX 2017 Credit Fund (the “Financing Agreement”). Based on the Financing Agreement, the **EX 2017 Credit Fund was created with an allocation of CZK 1,908 million, of which CZK 1,336 million was allocated to the ENERGY SAVINGS aid programme.**⁴¹ The MoIT transferred a deposit to the ČMZRB credit fund in the amount of CZK 477 million in June 2017. ČMZRB announced a call for submitting “ENERGY SAVINGS – credits” projects on its website in September 2017.

As part of its audit of the *EX 2017 Credit Fund* financial instrument, the SAO audited, inter alia:

- Elaboration of a preliminary assessment for the CFFI;
- The subsequent conclusion of the Financing Agreement;
- Setting a target for the CFFI and its measurability in relation to specific objective 3.2 of the OP EIC “*Improving the energy efficiency of the business sector*”;
- Whether the same shortcomings identified by the European Commission’s audit⁴² relating to the programming period of 2007-2013 were repeated in the CFFI.

Given that specific objective 3.2 of the OP EIC is to be achieved not only through the financial instrument but also through subsidy measures, the preliminary assessment should also take into account their relationship in the area of performance indicators. **The preliminary assessment does not contain a precise definition of the results by which the financial instrument will contribute to the specific objective, which is contrary to Regulation No 1303/2013⁴³.**

⁴⁰ The MoIT selected ČMZRB as the manager of the *EX 2017 Credit Fund* financial instrument using Section 11(1)-(3) of Act no 134/2016 Coll., on Public Procurement, Article 12(3) of Directive 2014/24/EU (on public procurement) and the text of Commission Notice 2016/C 276/01 (*Guidance for Member States on the selection of bodies implementing financial instruments*).

⁴¹ The ENERGY SAVINGS aid programme can provide repayable financial aid for the project implementation in the form of an interest-free loan. In addition to the loan, the beneficiary may also receive financial contributions for the Energy Review expenditure and interest payments on commercial loans, which constitute another source of project financing.

⁴² Audit no 2013/CZ/REGIO/C4/1226/1 (audit of the OP *Enterprise and Innovation – “Financial Engineering Instruments”*, performed on 8-12 July 2013).

⁴³ Article 37(2)f) of Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

The aim of the financial instrument, as with subsidies in the case of the ENERGY SAVINGS programme, is to support the reduction of the energy intensity of the business sector in the form of a soft loan. **The achievement of this objective is measured only by the output indicator, which monitors the number of aided enterprises.** However, this indicator does not measure the contribution to the fulfilment of specific objective 3.2 of the OP EIC.

The MoIT did not set any binding performance indicator or its target values in relation to energy savings for ČMZRB, which is the aid beneficiary. Such an indicator exists, has a target value set at the level of specific objective 3.2 of the OP EIC and is used at the project level for both beneficiaries of subsidies and final beneficiaries of funds from the financial instrument. By the end of 2017, however, the MoIT had not asked ČMZRB for data on commitments of final beneficiaries or data on the fulfilment of those commitments in the area of energy savings.⁴⁴

The absence of an assessment of the benefit in the preliminary assessment and failure to identify the relevant performance indicator at the outset of the CFFI formulation and negotiation of conditions with ČMZRB were also negatively reflected in the Financing Agreement. The only binding indicator to be achieved by ČMZRB in managing the CFFI by 2023 is the provision of loans to 204 enterprises; **the performance remuneration for ČMZRB does not depend on maximising energy savings but only on the volume of provided loans.**

The Financing Agreement does not fulfil all the elements required by the EU regulation, as it does not contain the final results to be achieved through the financial instrument in order to contribute to energy efficiency improvement. The consequence is that the MoIT does not motivate ČMZRB to provide aid to enterprises for measures with the highest possible energy savings.

In addition to the performance remuneration, the MoIT provides ČMZRB with a base remuneration, which amounted to CZK 578 thousand at the end of 2017. This is the only expenditure made so far in 2017 under this instrument.

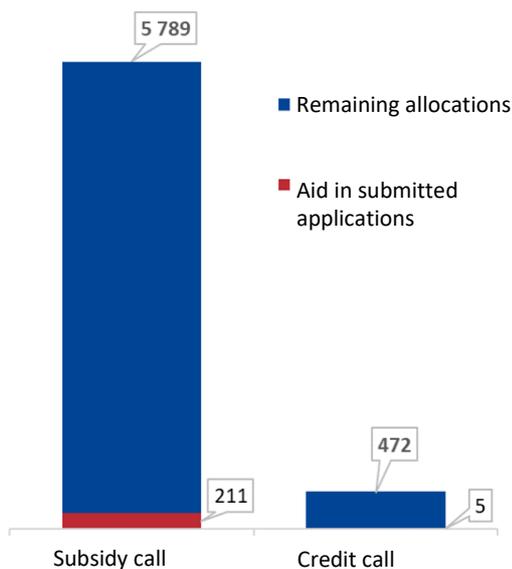
The shortcomings⁴⁵ identified by the audit of the European Commission (the “Commission”) focused on the previous period of 2007-2013 are not repeated for the *EX 2017 Credit Fund* financial instrument.

⁴⁴ As a contribution to the fulfilment of the energy savings target with the use of financial instruments (i.e. benefit), the MoIT considers, for the financial instrument, simple support for enterprises by providing a soft loan, which does not represent any change. Enterprise support is therefore a mere tool, not an objective.

⁴⁵ The following shortcomings were examined: non-compliance with the rules for the selection of financial intermediaries; the investment strategy is not in line with the programme objectives; missing audit trail (failure to use appropriate accounting codes for all transactions under the given financial engineering instrument as separate financial unit); the risk that management costs will exceed the maximum limits under EC legislation; mediation fees and management costs and fees overlap; unlawful preferential treatment of financial intermediaries; improper use of revenues and resources recovered from provided loans attributable to the OPEI contribution.

The interest in loans provided in the first call of the CFFI is even lower than in the subsidy calls; in mid-December 2017, it was approximately 1.13 %. Over nearly four months after the announcement of the call, only one soft loan application was submitted. From the date of announcement of the subsidy call for ENERGY SAVINGS III, interest in the subsidy was, at the beginning of February 2018, expressed as a percentage of approximately 3.5 % of the total allocation of this call, which is CZK 6 billion. The amount of free allocation is around CZK 5.79 billion. Chart 3 provides an overview of the state of open calls for the ENERGY SAVINGS aid programme.

Chart 3: Status of both types of aid announced simultaneously – data for the part financed by the European Union (in millions of CZK)



Source: MS2014+ as of 2 February 2018; MoIT Communication of 12 December 2017.

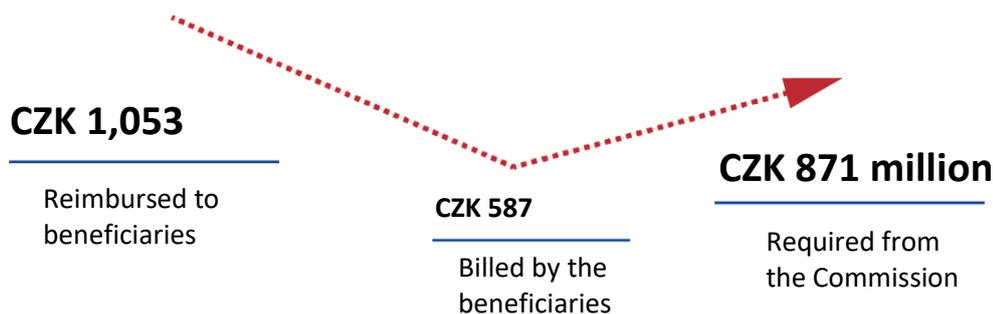
The free allocation of the CFFI call is around CZK 0.47 billion, with no loan provided as of 23 February 2018. According to information⁴⁶ from the media dated 17 April 2018, this situation continued in April 2018.

The MoIT transferred the tranche for the ENERGY SAVINGS aid programme financial instrument to the account of the intermediary bank, i.e. ČMZRB, in the amount of CZK 477 million. These funds were included in the reported volume of certified expenditure, i.e. in the volume of funds in “applications for interim payments” sent to the European Commission. However, these funds were not effectively provided to the final beneficiaries⁴⁷. This procedure is not contrary to law.

⁴⁶ <https://zpravy.e15.cz/byznys/prumysl-a-energetika/z-vyhodnych-uveru-na-uspory-neziskaly-firmy-ani-korunu-1345741>.

⁴⁷ Funds in the “applications for interim payments” sent to the Commission also include contributions from the OP EIC to the CFFI. Applications may include the entire contribution to the CFFI, irrespective of whether the funds have already been made available to the final beneficiaries. However, in the case of the CFFI, this deposit is not included in the billed funds, as they only include the funds made available to the final beneficiaries.

The amount of certified expenditure, which was included in the “applications for interim payments” sent to the Commission together with the amounts of the contributions to the CFFI, exceeds the amount of the billed expenditure and has a positive impact on the perception of the drawing under the OP EIC. For example, for Priority Axis 3, the MoIT transferred CZK 1,053 million to beneficiaries at the end of the first quarter of 2018 (including the tranche for the CFFI in the ENERGY SAVINGS aid programme). Indeed, the beneficiaries billed CZK 587 million in applications for payment, which is CZK 284 million⁴⁸ less than the MoIT requested in the “applications for interim payments” submitted to the European Commission.



IV.2.2 Drawing of PA 3 allocation in relation to drawing forecasts prepared by the MoIT in the role of the OP EIC MA

The so-called drawing forecasts are used for effective financial management and fulfilment of the financial objectives of the operational programme, which are the depletion of the allocation while respecting the n+3 rule and achieving milestones in the form of financial indicators of the performance framework. In December 2017, the SAO examined the risk of non-compliance with the following OP EIC drawing thresholds set by 31 December 2018 by modelling the time development of the OP EIC drawing forecasts:⁴⁹

1. The **n+3 limit**⁵⁰, the non-compliance of which represents a risk of loss of entitlement to a part of the unspent allocation of ERDF resources under the OP EIC.

⁴⁸ The source of data on billed expenditure in applications for payment is the *Quarterly Report on the Implementation of ESI Funds in the Czech Republic in Q1 2018*. MS2014+ (report M042 as at 24 May 2018, which includes interim applications sent to the Commission by the end of 2017) is the source of the data on funds in the “applications for interim payments” sent to the Commission.

⁴⁹ As a starting point for modelling, the key drawing situation at the level of funds in the aggregate applications authorised by the MoIT as the OP EIC MA was chosen, as this situation approximates the drawing situations decisive for meeting the above thresholds. The source of data for this key situation was the *Strategic Implementation Plan for 2018* (year “n”), which was acknowledged by the OP EIC Monitoring Committee at the 9th meeting on 21 November 2017.

⁵⁰ The n+3 rule means that each commitment of a Member State to the European Commission must be fulfilled within three years of its assumption (by the end of the third year after the year of the commitment assumption). Compliance with the n+3 limit is derived from the moment of sending an interim application for payment of ERDF resources by the Paying and Certifying Authority to the European Commission, which will cumulatively meet the n+3 limit in conjunction with previous applications.

2. A **financial milestone of the performance framework**³⁶, which represents the risk of losing the entitlement to the so-called performance reserve, i.e. the additional allocation of ERDF resources under PA 3.

Ad 1: The sending of applications for payment to the Commission, which will meet the n+3 limit cumulatively with previous applications, must be completed by the Member State by mid-December of the given year. If the drawing forecast presented by the OP EIC MA in the *Strategic Implementation Plan for 2018* ("SIP 2018") for 2018 is fulfilled and the same project co-financing rate as at the end of September 2017 is maintained, approximately three months (the so-called time reserve) will remain to send the interim application for payment to the Commission. **The risk associated with the failure to meet the deadline for processing and submitting the application for payment, which will meet the n+3 limit, corresponds to the normal level of risk in the normal course of certification of operational programme expenditure**⁵¹. The assessment of this risk may deteriorate if an extraordinary event occurs in the process of expenditure certification before the deadline for meeting the n+3 limit, e.g. the certification is suspended by the Paying and Certifying Authority.

Ad 2: One of the prerequisites for obtaining the entitlement to the performance reserve is the achievement of the financial milestone of the performance framework for the OP EIC PA 3, i.e. meeting the financial conditions. If the MoIT fulfils the drawing forecasts presented in SIP 2018 and maintains the same co-financing ratio of projects in 2018 as reported at the end of September 2017, it will have a time reserve of approximately one month to meet the financial conditions. **At the end of 2017, the risk of failing to meet the financial milestone for obtaining the performance reserve was higher than the risk associated with meeting the n+3 limit.**

IV.2.3 Setting up the system of processing allocation drawing forecasts and its functionality and reliability

Given the malfunction of the automated process of creating allocation drawing forecasts in MS2014+, the MoIT creates forecasts based on its own models in a spreadsheet. Source data for compiling drawing forecasts in the SIP include financial plans for reimbursement of applications for payment for approved projects or registered aid applications. Summaries of these financial plans form only a part of the predicted drawing amounts; they are just one of the forecast factors. Other factors from the breakdown of forecasts or their justification are not kept by the MoIT. **The MoIT did not incorporate into the OP EIC management documentation a description of the method of obtaining source data for the compilation of drawing forecasts published in the SIP, which it uses as a substitute for the malfunctioning automated process in MS2014+.** By not maintaining the full audit trail of the source data, on the basis of which the MoIT created the drawing forecast for the OP EIC funds published in SIP 2018, **the MoIT breached the obligation to maintain the audit trail for all activities for which it is responsible**⁵².

⁵¹ The process of certification of expenditure of operational programmes is set out in the methodological guidelines of the uniform methodological environment.

⁵² The provisions of methodological guidelines of the uniform methodological environment, which form a uniform framework of rules and procedures for providers of aid from EU funds, guaranteed by the National Coordination Authority of the Ministry of Regional Development.

IV.3 Audit findings at beneficiaries of aid under the OP EIC Priority Axis 3

Fifteen projects under the ENERGY SAVINGS I Call announced under Priority Axis 3 of the OP EIC were audited by the SAO. These projects were aided by subsidies to achieve energy savings. The projects under the ENERGY SAVINGS I Call for specific objective 3.2, with a total amount of approved aid of CZK 140.5 million, were audited for 15 subsidy beneficiaries (Annex 1), which were small, medium-sized and large enterprises. The audited volume of actually paid subsidies (financed from EU sources) amounted to CZK 69.9 million for these projects.

The project audits of beneficiaries under the OP EIC PA 3 identified shortcomings especially in the area of execution of tenders. Examples include the following errors:

- The beneficiary⁵³, in the amendment to the contract concluded with the supplier, accepted changes in the delivery parameters which the beneficiary had explicitly rejected in the role of the contracting authority (in response to the tenderer's question) already during the tender procedure;
- In the tender procedure, the beneficiary⁵⁴ tolerated an error of the evaluation committee which had an impact on the outcome of the tender procedure; the subsidy beneficiary did not proceed transparently in the selection of the supplier and did not observe equal approach to the tenderers when assessing the bids.

In addition to the shortcomings in the tender procedures, the SAO identified ineligible expenditure declared by the beneficiaries in applications for payment. These included, among other things, the following cases:

- The beneficiary⁵³ claimed ineligible expenditure for additional work performed (extra work) in the application for payment without justifying its necessity and without providing documentation of the actual execution of the work;
- The beneficiary⁵⁵ included mandatory publicity expenditure (a plaque and a temporary billboard) in the application for payment that did not meet the requirements for the eligibility of expenditure; the reimbursement of the expenditure thus resulted in an unauthorised use of state funds;
- The beneficiary⁵⁴ reported ineligible expenditure for 40 thermostatic valves in the application for payment in contradiction with the terms of the legal act on the provision of a subsidy and the rules of the OP EIC.

In on-site audit at the beneficiaries, the SAO also identified inconsistency with the concluded contract for work:

- The beneficiary⁵³ reimbursed the contractor for two touch panels on the basis of invoicing without the contractor having delivered the panels.

Financial shortcomings classified as a breach of budgetary discipline⁵⁶ during the audit were reported to the tax authority in relevant cases.

⁵³ Project no CZ.01.3.10/0.0/0.0/15_010/0001151 – *Decentralisation of heating in KARBOX s.r.o.*

⁵⁴ Project no CZ.01.3.10/0.0/0.0/15_010/0001169 – *Thermal insulation of production building.*

⁵⁵ Project no CZ.01.3.10/0.0/0.0/15_010/0003058 – *Energy savings in KRÁLOVOPOLSKÁ KOVÁRNA, s.r.o.*

⁵⁶ Breach of budgetary discipline according to Act no 218/2000 Coll. for three beneficiaries in the amount of up to CZK 231,078.50.

Most of the beneficiaries are not yet monitoring the interim values of the mandatory indicator of achieving savings predicted in Energy Reviews⁵⁷; this monitoring has been initiated by less than a half of the audited beneficiaries. Ongoing monitoring is not mandatory for beneficiaries but its implementation could contribute to a better evaluation of the results achieved in savings in 2020.

IV.4 Management and control system of the OP EIC and its efficiency

The audit examined the existence of key requirements for the OP EIC management and control system, the setup of this system and, in particular, its reliability and efficiency. The individual selected elements were assessed especially in relation to the OP EIC Priority Axis 3 and verification was carried out on activities performed by the MoIT in the role of the MA and by the API as the IB in connection with the OP EIC administration:

- (1) Providing adequate⁵⁸ information to the beneficiaries;
- (2) Adequate separation of functions and adequate reporting and monitoring systems in a situation where the MoIT as the responsible Managing Authority of the OP EIC has delegated some of the tasks to the OP EIC intermediate body, i.e. the API;
- (3) An appropriate selection of operations/projects;
- (4) The reliability of the system for collecting, recording and storing data for monitoring, financial management and for inspections and audits, including the links of that system to electronic systems of data exchange with beneficiaries;
- (5) Risk management, including the effective implementation of adequate anti-fraud measures;
- (6) The adequacy of management controls;
- (7) Setting up an effective system to ensure that all documents relating to expenditure and audits are maintained (keeping an audit trail).

⁵⁷ Ex ante Energy Reviews submitted by the beneficiaries as an obligatory annex to the aid application.

⁵⁸ Adequate information provided to the beneficiaries is defined in Article 125(3)c) of Regulation No 1303/2013.

The audit revealed the following:

1	The audit sample did not show any shortcomings in providing adequate information to the beneficiaries.	
2	As part of the reorganisation of the Ministry in January 2018, the MoIT incorporated the departments responsible for implementation into the department that functionally ensures the evaluation of the OP EIC. Thus, the MoIT did not ensure the full independence of the evaluation unit from the implementation departments, and therefore did not act in accordance with the EU regulation ⁵⁹ .	
3	In the process of project evaluation and selection, there is a risk of insufficient disclosure of the ownership structure of applicants for aid when assessing the status of small, medium-sized and large enterprises even though that status determines the amount of the aid.	
4	The MoIT failed to ensure an audit trail when performing preliminary public administration inspections prior to the establishment of the commitment, i.e. before the subsidy decision was issued (see paragraph a) of Chapter IV.4.1 of the Audit Report), and when preparing drawing forecasts (see Chapter IV.2.3 of the Audit Report). The area of irregularities was also examined, and no errors were found.	
5	Due to the uncoordinated and strictly separate processing of risk analyses at the level of the MA and the IB, it is not fully guaranteed that the internal control system is able to evaluate and minimise operational, financial, legal and other risks related to all the OP EIC administration processes in time.	
6	There are shortcomings both in the area of set-up and in the actual performance of inspections at the MoIT and API levels, in particular when assessing the eligibility of expenditure. For details see paragraphs b), d), e), f), g), h) of Chapter IV.4.1 and Chapter IV.4.2 of the Audit Report.	
7	Shortcomings in the set-up of systems for storing all documents relating to expenditure and audits were identified in the area of assessment of the eligibility of expenditure (see paragraph c) of Chapter IV.4.1 of the Audit Report) and in the area of preparing the drawing forecasts (see Chapter IV.2.3 of the Audit Report). In addition, by November 2017, the MoIT had not set up an effective system to ensure an audit trail of the preliminary public administration inspections performed prior to the establishment of the commitment, i.e. before the subsidy decision was issued.	

Key:  The system is effective.  The system is effective; some improvements are needed.  The system is partially effective.  The system is ineffective.

Based on the facts identified at the level of the MoIT, the API and beneficiaries, which are listed in Chapters IV.4.1, IV.4.2 and IV.4.3, the SAO assesses the OP EIC management and control system in relation to Priority Axis 3 as “partially effective”.

⁵⁹ Article 54(3) of Regulation (EU) no 1303/2013 of the European Parliament and of the Council.

- A. The SAO found shortcomings in five⁶⁰ out of the 15 projects aided by subsidies which had been selected for the audit sample. This means that about 30 % of the projects in the audit sample were found deficient; however, these are not financially significant amounts⁶¹.
- B. The setting of conditions for the use of the financial instrument is also affected by an error. For the financial instrument, there is a high financial significance for the single beneficiary, i.e. ČMZRB⁶².

IV.4.1 Shortcomings in the MoIT inspection activities

- a) In 13 projects from the SAO audited sample, the MoIT did not ensure the keeping of records of inspections⁶³ before the issue of the subsidy decision and, **in eight cases, it did not carry out a preliminary inspection by the budget administrator.**
- b) **The MoIT did not have any process of carrying out checks prior to the issue of subsidy decisions set up in the OP EIC;** the obligation was taken into account in the system of public administration (management) inspections for the OP EIC only by an adjustment of the procedures in version 5 of the OP EIC operating manual (with effect as of 22 November 2017).
- c) **The MoIT set the list of annexes required for the application for payment for the beneficiaries of the ENERGY SAVINGS I Call ambiguously and to an insufficient extent; the requirement does not include the obligation to submit inventories of work performed and supplies of services,** i.e. it is not clear whether these inventories should be included in the submitted documents. Thus, the MoIT did not create the prerequisites for maintaining a complete audit trail of the activities of entities of the OP EIC implementation structure, and therefore acted in violation of the EU regulation⁶⁴.
- d) **At the same time, the MoIT established ambiguous conditions for verifying expenditure in the applications for payment in terms of eligibility;** on the basis of such insufficiently defined scope of documents for inspection, **it is not possible to verify the actual performance of work and the delivery of services/goods⁶⁵,** which creates the risk of reimbursement of ineligible expenditure and the occurrence of irregularities.
- e) In the checklist for on-site public administration inspection, the MoIT did not take into account all the aspects set out in the methodology of the uniform methodological environment because it **did not sufficiently include criteria to verify that “co-financed**

⁶⁰ Projects CZ.01.3.10/0.0/0.0/15_010/0003058, CZ.01.3.10/0.0/0.0/15_010/0001169, CZ.01.3.10/0.0/0.0/15_010/0001151, CZ.01.3.10/0.0/0.0/15_010/0001205, CZ.01.3.10/0.0/0.0/15_010/0002423.

⁶¹ The total amount of financial shortcomings is CZK 238,933.66.

⁶² Shortcomings in the setting of conditions for the introduction of the CFFI relate to the amount of CZK 0.477 billion (deposit made in the credit fund) but may affect funds of up to CZK 1.91 billion, i.e. the total amount allocated in the Financing Agreement for the OP EIC PA 3 financial instrument.

⁶³ Execution of a preliminary inspection before the establishment of a commitment pursuant to Section 13(3) and (7) of Decree no 416/2004 Coll., implementing Act no 320/2001 Coll., on Financial Control in Public Administration and on Amendments to Certain Acts (the Act on Financial Control), as amended by Act no 309/2002 Coll., Act no 320/2002 Coll. and Act no 123/2003 Coll.

⁶⁴ Article 25(1)b) of Commission Delegated Regulation (EU) no 480/2014.

⁶⁵ Within the meaning of Article 125(4)a) of Regulation (EU) no 1303/2013 of the European Parliament and of the Council.

products and services had been delivered and that the expenditure declared by the beneficiaries had actually been paid”.

- f) As part of the performance of on-site inspections, the MoIT set insufficient checks of tender procedures, as it **did not clearly stipulate the obligation to use the existing checklists** for the inspection of tendering and selection procedures under the Act and the *OP EIC Rules for the Selection of Suppliers*.
- g) **It is not apparent from the protocols or from the checklists whether the MoIT checked all the bids submitted by the beneficiaries** in terms of verifying their correctness.
- h) In its management documentation, the MoIT set up a procedure for carrying out on-site inspections beyond the scope stipulated by law⁶⁶, as it denied the inspected entity the right to file objections as guaranteed by law.

IV.4.2 Shortcomings in the API inspection activities

Internal rules for reviewing implementation reports, applications for payment and tender procedure control are set within the API. However, in some cases, **the relevant criteria in the checklist for checking applications for payment were assessed positively although the documents submitted by the beneficiary did not confirm the positive result of the verification.**

- a) **The API did not sufficiently scrutinise the selection procedures** as the beneficiaries did not submit complete documentation for review.
- b) Due to the limited scope of tender documentation, **the API failed to identify shortcomings in several projects.**
- c) **When checking the eligibility of expenditure, the API did not have inventories of the work performed** for construction works according to which it could assess the compliance of the work actually performed with the relevant contract for work.
- d) **For some of the audited projects⁶⁷, the API did not identify ineligible expenditure** declared by the beneficiaries in their applications for payment.

The administrative verification of applications for payment at the API level does not provide assurance that ineligible expenditure will be identified because the API staff do not have sufficient documents to verify the eligibility of expenditure in performing inspections.

IV.4.3 Other findings

- The communication between the MoIT in the role of the MA and the API in the role of the OP EIC IB is not effective, especially in the field of setting up and updating the methodology of the OP EIC.
- The MoIT did not sufficiently define the activities of the working groups in the OP EIC management documentation, in particular as regards the membership and participation of invited persons, the manner of recording the issues being addressed and related tasks or the mutual provision of information among the participants; this identified shortcoming does not contribute to effective coordination and effective management of the OP EIC.

⁶⁶ Section 10(1d) of Act no 255/2012 Coll., on Inspection (the Inspection Code).

⁶⁷ For example, for projects CZ.01.3.10/0.0/0.0/15_010/0003058, CZ.01.3.10/0.0/0.0/15_010/0001169 and CZ.01.3.10/0.0/0.0/15_010/0001151.

- The communication between the beneficiaries and the subsidy provider took place in some cases outside the MS2014+ application; information channels from which there is no record of the communications made were also used.

IV.4.4 Restrictions for implementation entities in terms of using the MS2014+ application

The audit found that a persistent obstacle to the administration of the OP EIC was an insufficient use of the MS2014+ system capacity. For the period of 2017 and for January and February of 2018, the MoIT entered in the service portal of MS2014+ a total of 231 requests, which took the form of reports on application errors, queries or requests for data modification. Some shortcomings persisted as of the date of the SAO audit completion. With the current setting of MS2014+, **it is not fully guaranteed that comparable, factually correct, up-to-date and reliable data are provided in the monitoring system**, for instance for the following reasons:

- The MoIT reported application errors related to data generation/extraction for the OP EIC annual report, errors in storing financial data, problems in generating the SIP, errors in loading commitments for indicators at the level of specific objectives etc.;
- The MoIT is obliged to process the monitoring indicators monitored by the Commission in a separate database in a spreadsheet to ensure the elimination of duplicate identification numbers;
- By testing the tool in MS2014+, the SAO verified that it was not possible to use the function for creating drawing forecasts; instead of this malfunctioning tool in MS2014+, the MoIT uses its own models in a spreadsheet.

Many of these shortcomings confirm the SAO's findings formulated in Audit Report No. 16/12.

IV.5 Verification of the implementation of corrective measures taken on the basis of the results of previous SAO audits

The MoIT has not implemented all corrective measures to the shortcomings identified by previous SAO audits in full; some of the shortcomings have not been remedied yet. The SAO audit focused on those measures for which remedy could be assessed and evaluated in light of the level of progress of the OP EIC, which was achieved, in particular, for Priority Axis 3 by the end of 2017, i.e. approximately by the middle of the programming period of 2014-2020.

The MoIT took appropriate corrective measures to the shortcomings identified by Audits No. 15/02 and No. 14/06. However, the following measures (to findings from Audits No. 16/01 and No. 13/17), whose adoption was declared by the MoIT in the respective opinions on the SAO Audit Reports considered by the Government, have not been fully implemented.

Audit No. 16/01:

- **The fulfilment of the corrective measure concerning the measurability of the objectives of the Operational Programme *Enterprise and Innovation* cannot be unambiguously stated**, as the results of the ex post evaluation of this Operational Programme are not yet available; moreover, they are no longer relevant to the follow-up OP EIC. The measurability of the OP EIC objectives, specifically for PA 3, in the period of 2014-2020 encounters a time disharmony of the milestones set for meeting the energy efficiency targets under the *Europe 2020* strategy.

- **By the end of 2017, the MoIT had not established a detailed procedure for full disclosure of the ownership structures of applicants for aid in assessing the size of enterprises.**

Audit No. 13/17:

- **The declared corrective measures were not fully taken into account, especially when setting up administrative controls of tender procedures.** The OP EIC methodologies did not incorporate random verification of complete documentation for a sample of tender procedures, and an adequate number of such focused controls has not yet been implemented.

List of terms and abbreviations used

API	Business and Innovation Agency
CFFI	The <i>EX 2017 Credit Fund</i> financial instrument; this instrument was created for the ENERGY SAVINGS aid programme and for the ENERGY SAVINGS IN HEAT SUPPLY SYSTEMS aid programme
ČMZRB	Českomoravská záruční a rozvojová banka, a.s.
Commission	European Commission
EC	European Communities
EE Directive	Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC
ERDF	European Regional Development Fund
ESI Funds	European Structural and Investment Funds
EU	European Union
Financing Agreement	Agreement on the establishment and administration of the EX 2017 Credit Fund
Financial instrument	<i>EX 2017 Credit Fund</i> ; this instrument was created for the ENERGY SAVINGS aid programme and for the ENERGY SAVINGS IN HEAT SUPPLY SYSTEMS aid programme
GJ	Gigajoule
IB or OP EIC IB	Intermediate body of the OP EIC
MA or OP EIC MA	Managing Authority of the OP EIC
MoIT	Ministry of Industry and Trade
NAPEE	National Energy Efficiency Action Plan
OP	Operational programme
OPEI	Operational Programme <i>Enterprise and Innovation 2007-2013</i>
OP EIC	Operational Programme <i>Enterprise and Innovation for Competitiveness 2014-2020</i>
PA 3 or OP EIC PA 3	Priority Axis 3 of the Operational Programme <i>Enterprise and Innovation for Competitiveness 2014-2020</i>
PJ	Petajoule
SAO	Supreme Audit Office
SIP	Strategic Implementation Plan
SIP 2018	<i>Strategic Implementation Plan for 2018</i>
SMEs	Small and medium-sized enterprises
SO	Specific objective
SO 3.2	Specific objective 3.2 <i>“Improving the energy efficiency of the business sector”</i>
HSS	Heat supply system

Annex 1: Overview of audited projects under Priority Axis 3 of the Operational Programme *Enterprise and Innovation for Competitiveness* 2014-2020 (in CZK)

No	Registration number of the project under the subsidy call no 01_15_010 ENERGY SAVINGS I	Project name	Beneficiary name	Subsidy amount – EU part	Audited volume of beneficiaries – EU part
1.	CZ.01.3.10/0.0/0.0/15_010/0001333	Utilisation of waste heat and implementation of saving measures in heated buildings in order to reduce their energy performance, location Vítkovice	ČEZ Energetické služby, s.r.o.	6,585,292.67	1,101,235.80
2.	CZ.01.3.10/0.0/0.0/15_010/0002423	Investment in energy savings	ELMER, spol. s r.o.	1,638,564.00	289,324.00
3.	CZ.01.3.10/0.0/0.0/15_010/0001169	Thermal insulation of production building	Josef Durák	1,037,529.00	867,074.00
4.	CZ.01.3.10/0.0/0.0/15_010/0001033	Energy savings in buildings in waste management	Kaiser servis, spol. s r.o.	6,405,547.00	3,270,994.98
5.	CZ.01.3.10/0.0/0.0/15_010/0001151	Decentralisation of heating in KARBOX s.r.o.	KARBOX s.r.o.	4,276,005.00	4,276,005.00
6.	CZ.01.3.10/0.0/0.0/15_010/0001774	Energy savings Ostrava Poruba	KAVIS Reality s.r.o.	3,968,092.50	3,489,826.34
7.	CZ.01.3.10/0.0/0.0/15_010/0003058	Energy savings in KRÁLOVOPOLSKÁ KOVÁRNA, s.r.o.	KRÁLOVOPOLSKÁ KOVÁRNA, s.r.o.	11,206,500.00	11,206,500.00
8.	CZ.01.3.10/0.0/0.0/15_010/0001020	MANAG správní Brno – thermal insulation of a part of buildings at the company premises	MANAG správní, a.s.	7,624,496.80	6,471,154.00
9.	CZ.01.3.10/0.0/0.0/15_010/0000788	Implementation of energy savings of an eye studio	Oční studio Fovea s.r.o.	1,615,642.50	1,615,642.50
10.	CZ.01.3.10/0.0/0.0/15_010/0000777	Energy savings OPATISK	OPATISK s.r.o.	3,550,000.00	3,487,500.00
11.	CZ.01.3.10/0.0/0.0/15_010/0000458	Reducing the energy intensity of the production process in the Forge and Hardening Division	OSTROJ a.s.	7,920,000.00	7,919,751.42
12.	CZ.01.3.10/0.0/0.0/15_010/0001205	Energy savings at the Častolovice Plant	Saint-Gobain Construction Products CZ a.s.	10,097,165.73	6,281,985.00
13.	CZ.01.3.10/0.0/0.0/15_010/0000895	Comprehensive energy saving solution in the plastic mill	STAVOS Chlumec n. Cidl. s.r.o.	5,000,000.00	1,375,000.00
14.	CZ.01.3.10/0.0/0.0/15_010/0000845	Reduction of energy losses of the Šumavská building	ŠUMAVSKÁ tower s.r.o.	43,146,268.40	14,819,858.40
15.	CZ.01.3.10/0.0/0.0/15_010/0001602	Implementation of comprehensive measures leading to the reduction of energy consumption in the building of ZETINA, spol. s r.o.	ZETINA, spol. s r.o.	3,508,623.00	3,508,623.00

Source: Subsidy decisions issued.