

2013 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER HOGAN

Hearing on 1 December 2014

General

1. Transparency and publication of beneficiaries – what is the latest state of play on this point following on from legal ruling(s) and how is transparency to be improved with regard to agricultural payments?

Commission's answer :

The Commission is committed to transparency and openness as regards information on beneficiaries of Common Agricultural Policy (CAP) payments. However, following the judgment of the European Court of Justice of 9 November 2010 (Cases C-92/09 and C-93/09), the publication by the Member States of information on recipients of the CAP had to be stopped as far as natural persons are concerned. Commission Regulation (EC) N° 259/2008 was amended by Commission Implementing Regulation (EU) N° 410/2011 which defines the minimum requirements as regards the publication of information on legal persons, i.e. companies, insofar as the Court did not find any objection to the publication of data relating to the latter.

However, the European Parliament, the EU Council of Ministers and the European Commission reached an agreement on 26 June 2013 on reforming the CAP after 2013 with the aim, inter alia, of making it more efficient and transparent. As a result, the details of CAP payments will be made public, with the exception of the very small amounts for reasons of protection of personal data. Regulation (EU) N° 1306/2013 of the European Parliament and of the Council of 17 December 2013 was published on 20 December 2013 with provisions (Chapter IV, Articles 111- 114) on transparency.

The new basic Regulation (EU) N° 1306/2013 addresses the reasons why the Court of Justice partially invalidated the previously applicable transparency provisions. It therefore provides for the publication of details about the measure entitling the farmer to receive aid, as well as the nature and the purpose of the aid which will inform the public on the type of subsidy and on the purpose for which the subsidy was granted. In order to observe a balance between the objectives of transparency on the use of public money and beneficiaries' right to respect of their private life and protection of their personal data, it was decided that the amount of the aid should be taken into account. A threshold was therefore set up as regards the amount of aid received below which the name of the beneficiary should not be published. This threshold is set such that it covers the beneficiaries of the Small Farmer Scheme.

Commission Implementing Regulation (EU) N° 908/2014 of 6 August 2014 published on 28 August 2014 provides for the implementing transparency rules with provisions on:

- (a) The form, including the way of presentation by measure, and the calendar of the publication foreseen in Articles 111 and 112;
- (b) the uniform application of Article 113 on information of beneficiaries;
- (c) the cooperation between the Commission and Member States.

The new provisions will be applicable from financial year 2014 onwards, with the first publication due by 31 May 2015.

For the online publication of this information a search tool should enable the users to search for beneficiaries with different entries: name, municipality, amounts received, measure for which the aid is granted. In other words, it should be possible to see that a beneficiary X from municipality Y received so many euros under measure A, B or C.

For the time being, the former provisions (i.e. publication of legal persons only) are still in force.

2. Almost a year after the adoption of the Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013, has the Commission improved its position concerning one of the core objectives of the CAP reform, namely the reduction of the administrative burden?

Commission's answer :

During the reform process, the following three main objectives have been defined for the new CAP in line with the Europe 2020 strategy and agreed with the co-legislators: 1) viable food production, 2) sustainable management of natural resources and climate action, and 3) balanced territorial development. Progress towards these objectives will form the basic criteria for assessing the performance of the CAP. However, it is far too early to assess the impact of the CAP reform, in particular for direct payments where the main changes will apply from 2015 but also for the 3 other main basic acts on horizontal rules, rural development and market measures.

Simplification and reduced administrative burden was also an explicit aim of the CAP reform legal proposals. The co-legislators have endorsed some of the simplification proposals by the Commission. For instance, the number of cross-compliance requirements has been reduced and, for rural development, lump-sum payments and standard costs are promoted. But other significant simplification proposals have not been taken up and new complex rules have been introduced. For example, there will be no reduction of the number of paying agencies at least in the next three years, the "50/50" rule in the recovery mechanism for irregularities was maintained (see answer to question 31), greening rules are more complicated than in the Commission's proposal, coupled payments and various further options have been introduced. The Commission will carefully assess these aspects during the first years of implementation. In addition, I have committed to making a simplification and subsidiarity strategy for the CAP one of my first priorities.

3. The CAP reform must be accompanied by action to make the food supply chain work better to allow farmers to be paid for their products, the market transparency should be improved so that primary producers receive a fairer share of the market place. Which are the mechanisms used by the Commission in order to investigate all potential abuses of buying power along the food supply chain?

Commission's answer :

Abuses of a dominant market position can be addressed through EU competition rules. Abuses of relative bargaining power (in the absence of a dominant market position) are defined as unfair trading practices (UTPs). There is no regulatory framework addressing UTPs at EU level but a large number of Member States have regulated the issue at national level.

Furthermore, key stakeholders (the food processing industry and food retailers) have developed an EU-wide voluntary scheme with the aim to address UTPs in the food supply chain. The scheme, called the Supply Chain Initiative, was launched in September 2013 and is based on a set of principles of good practice to which all food chain representatives, gathered under the High Level Forum for a Better Functioning Food Supply Chain, gave their agreement at the end of 2011. However, representatives of meat processors and farmers decided not to sign up to the Supply Chain Initiative as they felt that the initiative was lacking independent enforcement, i.e. the possibility to deal with complaints confidentially, conduct investigations and impose sanctions.

The Commission issued a Communication on tackling UTPs in the business-to-business food supply chain in July 2014 (COM(2014)472). The Communication supports the Supply Chain Initiative and invites all businesses in the food supply chain to join the scheme. At the same time, the Communication recognises the importance of effective enforcement and asks all Member States to assess their national frameworks accordingly, in particular regarding the possibility to accept confidential complaints and conduct independent investigations. After an assessment on the basis of the suggestions in the Communication in 2015, the Commission will report its findings to the Council and European Parliament and decide, at that stage, whether additional action at EU level is required.

4. Can the Commission comments on the relation between the money spent in the agricultural area and measurable quantitative results for the countries (in terms of additional GDP growth, employment, demographics, incomes etc.)?

Commission's answer :

The financial resources allocated to agriculture and rural development have contributed to keeping farming in place throughout the EU territory by supporting and stabilising farmers' income, thus ensuring the longer term economic viability of farms and making them less vulnerable to fluctuations in prices. This is necessary in view of the continuing difficult income situation of producers whose income remains on average significantly below the rest of the economy.

The CAP has contributed to an increase in the productivity of our agricultural sector and thus has helped to provide European citizens with safe and high quality food in a competitive market. Existing research confirms that, in a scenario of non-financial support by the CAP, the trend of reduction in agricultural employment would be accentuated (See study "*Scenar 2020-II – Update of scenario study on agriculture and the rural world*", published by the European Commission in 2009). With the new CAP a new system to measure the performance was put in place (Regulation (EU) No 1306/2013 of 17 December 2013 on the financing, management and monitoring of the common agricultural policy): each measure under the CAP will be subject to monitoring and evaluation in order to determine its achievements and to improve its quality.

Moreover, in the Commission Implementing Regulation (EU) No 834/2014 of 22 July laying down rules for the application of the common monitoring and evaluation framework of the CAP, a list of indicators has been determined that will be used to assess the performance of the CAP in relation to the policy objectives of viable food production, the sustainable management of natural resources and climate action and balanced territorial development.

5. The European Union has adopted a strategy to protect and improve the state of Europe's biodiversity over the next decade. This strategy identifies six targets which cover the main factors for biodiversity loss and which will reduce the greatest pressures on nature. The Commission may inform in detail on the results obtained up to now in protecting biodiversity?

Commission's answer :

The EU 2020 Biodiversity Strategy is built around six mutually supportive and inter-dependent targets which address the main drivers of biodiversity loss. Target 3 of the Strategy is directed towards increasing the contribution of agriculture and forestry to maintaining and enhancing biodiversity. Five specific actions are associated with Target 3 including – making better use of direct payments and Rural Development for biodiversity conservation; the preservation of agricultural genetic diversity; and the protection and sustainable use of forest biodiversity.

Sound agricultural and forestry management practices can have a substantial positive impact on the conservation of the EU's wild flora and fauna, farm-genetic resources, and a wide range of valuable habitats.

For the period 2007-2013, the CAP has contributed to support farming practices with positive impact on biodiversity including through cross compliance (Direct Payments), non-productive investments, agri-environment, Natura 2000 and organic farming measures (Rural Development). For 2007-2013, the agri-environment measures covered a total area of 43 million ha in Europe (around 25 % of the total UAA) for a total public budget of 20 b€ Most of the agri-environment measures have had a positive direct or indirect effect on biodiversity. The CAP will continue delivering on the targets of the "EU Biodiversity Strategy to 2020" by supporting sustainable agriculture and by better protecting ecosystems.

From 2015 onwards, the CAP introduces a new policy instrument in Pillar 1, the Green Direct Payments. They account for 30% of the national direct payment envelope and rewards farmers for respecting three obligatory agricultural practices, namely the maintenance of permanent grassland, ecological focus areas and crop diversification. Building on these compulsory elements, Rural Development will continue to play a pivotal role in achieving the CAPs environmental objectives and in combating climate change. At least 30% of the budget of each Rural Development Programme must be reserved for voluntary measures that are beneficial for the environment and climate change. These include agri-environment-climate measures, organic farming, Areas of Natural Constraints (ANC), Natura 2000 areas, forestry measures and investments which contribute significantly to environmental enhancement and climate change because they are adapted to local needs.

The common monitoring and evaluation framework (CMEF) indicators include agro-environment indicators (AEIs) some of which are related to biodiversity: Population trends of farmland Birds (FBI), the conservation status of species and habitats covered by EU Nature legislation, Natura 2000 areas, areas under agri-environment-climate commitments, areas under organic farming and High Nature Value. These indicators will be used in the monitoring and evaluation of the CAP.

6. In its Synthesis report (COM(2014)0342) adopted on 11.6.2014 the Commission stated that "financial reservations are made when the amount at risk exceeds the 2% materiality threshold. However, the remainder of the expenditure, which is not included in this scope, is not necessarily free from instances of non-compliance. Nevertheless, the amount at risk on this expenditure free from reservations will not be higher than 2% ... "
 - a. How could this statement be conciliated with DG AGRI practice in direct payments to systematically issue a reservation only when the error rate of the paying agencies is above 5% and whilst in 11 other cases, the residual error being between 2 and 5% in 2013, it was considered not necessary to make a reservation due to the existence of risk mitigating measures?

Commission's answer :

The reason for the deviation between the standard 2% materiality threshold mentioned in the Synthesis report and the 5% applied for DG AGRI lies in methodological differences.

The standard 2% materiality threshold, which is **typically applied at ABB level**, is compared with the error rate presumed to be affecting the non-audited part of the population **taking into account the financial corrections and recoveries**. Such corrections lead to 'cleaning' or removal of errors from the audited share of the population. The error rate to be compared is therefore considered "residual" (since the financial corrections and recoveries have been deducted from it).

For **DG AGRI, the materiality criteria are applied at paying agency** level. This allows for a more refined analysis of the control weaknesses. Yet, the information related to the financial corrections and recoveries is only available at ABB level, not

at a lower level (like paying agency level). Therefore, the error rate which is being compared to the materiality threshold is *not* a net rate as the net financial corrections and recoveries cannot be deducted from it because they will be decided at a later stage.

In Cohesion policy this is also to some extent the case since the *gross* error rate of the operational programmes (so without taking account of the financial corrections and recoveries) is also being compared to a 5% threshold. The difference is that the DGs under Cohesion policy also calculate a net error rate which takes into account the financial corrections and recoveries and therefore constitutes a real “residual” error rate (which is being compared with the standard 2% materiality).

Finally, the amounts at risk reported for agriculture in the 2013 Synthesis report of the Commission refers to the *entire* 2013 expenditure, not only the amounts at risk on expenditure under reservation (see 6.b). Regarding the mitigating measures, it should be emphasised that the error rates stated in DG AGRI’s AAR 2013 are estimates based on best available information and professional judgement.

Some of the "top-ups" to the error rates, derived from MS control statistics, resulted from ECA systems audits from 2 to 3 years ago. In determining whether circumstances existed to mitigate the risk, the auditors noted in two cases that the Court's findings had in the meantime been remedied (Austria, Denmark). In four cases (Niedersachsen, Finland, Wales, Luxembourg) DG AGRI auditors considered that their own audit evidence indicated that there was a rather limited risk from the Court's findings and that they would not therefore justify a reservation.

For Ireland, Lithuania, Netherlands and Slovakia, work on remedying the deficiencies was already well advanced and there was no added value to making a reservation with an accompanying action plan.

For Romania, the top up was made following the Certification Body’s opinion and related to an additional national administrative requirement which DG AGRI auditors did not consider would materialise as a risk.

- b. Is it not obvious that the amount at risk has been underestimated?

Commission’s answer :

The amounts at risk reported for shared management (agriculture and cohesion) in the 2013 Synthesis report of the Commission refers to the *entire* 2013 expenditure. It includes *both* amounts at risk on expenditure under reservation *and* expenditure *not under reservation*. For agriculture, it includes the paying agencies (or aid schemes) with error rates below 2% or between 2% and 5%. Therefore, the amount at risk has NOT been underestimated.

- c. Considering the fact that each time that a reservation is issued corrective measures are applied and since the Director General of DG AGRI fully trusts in its corrective capacity (which seems to be the case when the error rate in

between 2 and 5%), why did he put a reservation when the error rate is above 5 %?

Commission's answer :

The instructions from the central services of the Commission for the AAR 2013 require that a reservation is mandatory where the error rate is material (typically when the error rate after corrections is still above 2%) unless mitigating factors exist.

Yet, when assessing the significance of any weaknesses, the AOD is required to apply professional judgement and take account of all relevant factors. These include: the nature and scope of the weakness, the duration of the weakness, the existence of mitigating controls which reduce the impact of the weakness, and the existence of effective corrective actions to correct the weaknesses (action plans and financial corrections) which have had a measurable impact.

It is recalled that the concept of mitigating factors does apply not only for the past (via net financial corrections which have already been imposed to protect the EU budget) but also for the future (remedial actions to correct the deficiencies). It should also be stressed that the method for establishing the adjusted residual error rate leads to an estimate of the amounts at risk. As such there has to be room for reflection on a case by case basis whether the resulting error rate merits a reservation and remedial action plan.

Where the adjusted error is above 5%, even if conformity clearance procedures are underway to protect the budget and even if other mitigating factors exist, the situation requires the MS to take action to remedy the deficiency. The imposition of a reservation and requirement to implement an action plan ensure that the Member State does this. The new provision for suspension of payments (resulting from an EP amendment during the CAP reform negotiations) strengthens DG AGRI's position in enforcing remedial action in such cases.

7. How did the DG AGRI contribute to the main objectives of the EU 2020 Strategy? Which indicators have been defined in the 2013 DG management plan with a view to assessing this contribution? How DG AGRI generally reacts when it states that Member States do not communicate any data related to the common performance indicators it requests (see the case of Greece in Direct payment ; specific objective 4 footnote in page 45 of 179 DG AGRI AAR).

Commission's answer :

The Commission has set out its strategy – "Europe 2020" – with three priorities:

- Smart growth: an economy based on knowledge and innovation
- Sustainable growth: a resource efficient, greener and more competitive economy

- Inclusive growth: a high-employment economy delivering social and territorial cohesion

"Europe 2020" also points out the need to discuss how the CAP can best contribute to these priorities. This remained in 2013 one of the main priorities of DG AGRI, notably in respect of the "new" CAP towards 2020.

The CAP plays a key strategic role in achieving those objectives considering the importance of agriculture and rural areas in the European economy and society. Rural and intermediate areas represent around 91 % of EU territory and are inhabited by nearly 59 % of the population. More than half of total employment is located in rural areas in EU-27. The primary sector, i.e. agriculture, hunting and fishing, is naturally concentrated in rural areas and still accounts for 5.5 % of total employment or 12.4 million persons in EU-27. Its production is a key input to the food industry which accounts for an additional 4.7 million jobs.

Income per person is, on average, however significantly lower in rural areas than in urban areas and the unemployment rate is on average higher. However, income per capita and unemployment rates show strong differences in the various rural areas of the EU. The share of primary sector varies between 1.5 % and 30 % of total employment in different countries of the EU.

Agriculture and forestry sectors are of primary importance when considering environmental and climate change issues. Around 80 % of land in EU-27 is covered by either agriculture or forestry. Links between these activities and natural resources such as biodiversity, water and soil as well as climate change are well acknowledged.

Food security is increasingly a priority and the CAP should help to ensure this. Surveys also show that citizens expect the CAP to ensure safe and healthy food of high quality and at reasonable prices. Households on average spend around 13 % of their income on food and non-alcoholic beverages but once again with big variations between Member States. In Luxembourg, households spend only slightly more than 9 % of their income on food whereas households in some other countries spend up to 30 %.

The adaptation of the CAP by integrating the EU priorities is of particular importance for DG AGRI. These priorities are therefore reflected in the three general objectives for the work of the DG in 2013:

1. Promoting a viable and competitive agricultural sector which respects high environmental and quality standards of production, ensuring at the same time a fair standard of living for the agricultural community;
2. Contributing to sustainable development of rural areas, in particular through improving the capacity of the agricultural and forestry sectors to meet new challenges, contributing to preserving the environment and the countryside, improving the quality of life in rural areas, helping EU agriculture, forestry and rural areas to contribute to climate change mitigation and to adapt to its possible consequences, and contributing to the sustainable production of renewable energy;
3. Promoting the European agricultural sector in world trade.

In addition, DG AGRI commits itself to achieving high standards in implementing its objectives and policies, and will in particular:

- a. Manage the Union Budget in accordance with high standards of financial management, ensuring value for money, properly designed management and control systems as well as transparency;
- b. Implement policy in an effective manner, in line with Treaty and international obligations and the need to simplify legislation;
- c. Contribute to other Union policies, in the fields of cohesion, competitiveness, employment, research, environment including climate action, food safety and external policies (enlargement, trade and development).

Member states have been generally notifying to the Commission the data relating to performance indicators in the context of their Annual Execution Report with regards to the implementation of the POSEI and smaller Aegean islands programmes. This notification has become obligatory only in 2014, upon the adoption of Commission Implementing Regulation (EU) No 180/2014 and Commission Implementing Regulation (EU) No 181/2014, which establish the common performance indicators in their annexes. Annual Execution Reports for 2013 are currently under analysis. Failure to comply with the legislation, in particular as regards indicators under Annex II of Commission Implementing Regulation (EU) No 181/2014 and Annex VIII of Commission Implementing Regulation (EU) No 180/2014, will lead the Commission services to take contact with MS to ensure they are in conformity with the above mentioned Regulations.

8. In 2013 the reservation on deficiencies in supervision and control of organic production has been lifted by DG AGRI since progress under the corrective actions reduced the level of risk to the reputation of the Commission. One of those corrective actions was to improve the EU legislative framework. In the initial proposal for a regulation on organic production (COM(2014)0180 final) January 2017 was referred to as the date of entry into force.

- a. When will this regulation enter into force? How can assure the Commission that this new legislation has already redressed the deficiencies detected in 2013?

Commission's answer :

The reservation on deficiencies in supervision and control of organic production had been justified, in the 2012 Annual Activity Report, by the risk to the reputation of the Commission (no financial risk). It was lifted once the corrective actions already implemented and in progress were considered to have reduced the risk to the reputation of the Commission. Such actions include, but are not limited to, improvements to the legislative framework: Commission audits in Member States and recognised Third Countries and Member States have been and are being carried out to address identified weaknesses and bring areas and actions for further improvement.

The Commission took action to improve the legislative framework not only by proposing a new Regulation by the European Parliament and the Council on organic production and labelling of organic products but also by amending the current detailed implementing rules on control, set out in Regulation (EC) No 889/2008.

In that respect, Commission Implementing Regulation (EU) No 392/2013 introduced new provisions that apply as from 1 January 2014 with a view to addressing the more urgent recommendations in the European Court of Auditors' Special Report No 9/2012 and citizens and stakeholders' growing concerns for the alleged fraud cases revealed in the organic sector. In particular,

- The exchange of information between operators, control bodies and competent authorities on instances of non-compliance is enhanced;
- The risk-based approach for controls is reinforced through the introduction of a minimum percentage of operators subject to control visits in addition to the mandatory annual inspection, as well as through the requirement for a minimum percentage of unannounced control visits and for a minimum obligation for sampling;
- Supervision by the competent authorities on control bodies is enhanced, a catalogue of sanctions is required to be set up at each Member State level, and more structured and comprehensive reporting to the Commission on supervision and control activities is provided for.

- b. To which extent the EC internal procedures and instruments are contributing to reduce such a reputational risk?

Commission's answer :

The comprehensive manual of procedures for the import of organic products that has been set up, accompanied by templates and checklists as appropriate, contributes to a more effective and efficient management of applications submitted by third countries and by control bodies or authorities in third countries.

New and improved functionalities to the Organic Farming Information System (OFIS), the IT tool for the exchange of information amongst the Commission, Member States, recognised Third Countries and Control Bodies, contribute amongst other things to a timely notification of irregularities detected in organic products and of the necessary measures to address them, to a more effective and efficient submission and assessment of reports on the control activities by recognised Third Countries and Control Bodies etc.

The Commission is also actively engaged in the development of a system of electronic certification, both for import of organic products into the EU and for operators in the internal market, as set out in its Action Plan for the future of Organic Production in the European Union (COM(2014)179), for enhanced traceability and control.

9. In respect of 2013 expenditure in shared management with the Member States the following reservations - ABB02: 11 elements; ABB 03: 20 paying agencies; ABB 04: 31 paying agencies and one reservation in respect of decentralised management were entered by the DG. To which date do the problems, which caused the respective reservations, go back?

Commission's answer :

In determining the residual error rate, DG AGRI takes into account Member States' control statistics, audit findings from the Certification bodies for the year in question as well as its own and ECA audit findings for the previous three years. Therefore the problems can relate to errors detected three years previously (however, in several cases, MS actions to remedy the deficiencies were considered a mitigating factor rendering a reservation unnecessary).

For **direct payments**, the problems in relation to the reservation for one Paying Agency in France (ASP) were already reported in the AAR 2012 and stem from conformity audit findings for the financial years 2009 to 2013. The Portuguese (IFAP) reservation originated in the 2010 AAR and stemmed from previous years' conformity audit missions. The Portuguese authorities, having unsuccessfully attempted to remedy the deficiencies themselves via their own national action plan, were required to establish an action plan with clear milestones for implementation which was closely monitored by DG AGRI until its successful completion in 2013. The reservation for OPEKEPE in Greece originated in the 2013 AAR due to problems in the implementation of the action plan for permanent pasture. It should be noted, however, that Greece was previously subject to reservations in AARs from 2002 to 2008 due to failure to implement the IACS, in particular, deficiencies related to the claims procedure and the quality of the LPIS. In 2009 DG AGRI considered that the Greek authorities had met the key requirements of the action plan and had established an operational LPIS-GIS and new claim lodging procedure and therefore lifted the reservation in its 2008 AAR.

For **rural development**, all the reservations in the 2013 AAR were carried over from the previous (2012) AAR, when a general reservation was made for the ABB (Activity Based-Budgeting) as a whole. For the following Member States with Paying Agencies under reservation in AAR 2013, a general reservation was also made in the 2011 AAR, although at that time it was not developed at individual paying agency level: Bulgaria, Denmark, Spain, France, Ireland, Portugal, Romania and Sweden.

10. Given that the Court of Auditors, the Commission and Member States all operate with different error rates, would you agree that a single method of calculating such rates is desirable?

Commission's answer :

The error rates are different because they do not have the same purpose and therefore are not calculated on the same population or with the same methodology.

The Court's rate is a tool for the discharge, an estimate of errors at EU level. It is extrapolated from a random sample of transactions across all countries and all policies areas.

The Member States' "error rates" result from the errors detected by the Member States' checks and reported in the control statistics of the paying agencies.

The Commission's error rates, published in DG AGRI 2013 AAR as "the adjusted residual error rates" are based on Member States' control statistics. However, to take into account situations where deficiencies in the control systems have been identified meaning that errors may have gone undetected by MS' controls, the error rates are adjusted with top-ups. These error rates feed into DG AGRI's building of assurance and are used by the DG as a management tool, to flag the deficiencies in the Member States' control systems at Paying Agency level and trigger the necessary remedial actions.

Despite these differences, the Court's and the Commission's rates do not differ fundamentally given the precision (confidence intervals for the Court's error rates) of the methodologies used. For instance, for the 1st pillar (EAGF), once cross-compliance is removed from the ECA's error rate, the error rate of the Court would be 3,1% (3,6% minus 0,5% points for cross-compliance) whereas the rate disclosed in DG AGRI's AAR is 2,7%.

11. Instead of placing so much emphasis on the high cost of control, should the Commission not concentrate on putting pressure on Member States to provide correct information, e.g. by establishing sanctions for incorrect reporting?

Commission's answer :

There is no evidence showing that Member States provide false information to the Commission; they simply provide the actual results of their actual controls. These controls are not always as effective as they should be but the Commission is not aware of cases where Paying Agency would have falsified information.

The data Member States report is the data that comes from their control systems. The Commission adjusts the error rate not because it does not believe in the veracity of the information given by the Paying Agencies but because it knows that due to deficiencies in the control systems not all errors are detected.

The current legislative framework does not provide for sanctions for incorrect or false reporting.

Rather, when control systems prove to be partially effective or ineffective, the Commission concentrates on the two types of corrective measures available under the legal framework:

1. conformity clearance procedures to estimate the amount at risk and resulting in net financial corrections that protect the EU budget.

2. reservation in the ARR triggering remedial actions by the Member States, monitoring of their implementation and, where remedial actions are not implemented, suspension or reduction of the payments to the Member State.

12. Which certifying bodies issued a qualified opinion on their paying agencies

a. concerning EAGF expenditure?

Commission's answer :

The information on page 121 of DG AGRI AAR 2013 was collected for the purposes of the "effectiveness and efficiency of controls" exercise (2.1.2.1 of the AAR), which comes at an earlier stage than the final opinions issued by the Certification Bodies. The situation was up-dated at a later stage, when DG AGRI finalised the review on the Certification Bodies' opinions. For the financial year 2013, Certification Bodies issued a qualified opinion concerning EAGF expenditure in 3 Paying Agencies: OPEKEPE (Greece), PIAA (Romania) and AMA (Austria).

b. concerning EAFRD expenditure?

Commission's answer :

The information on page 121 of DG AGRI AAR 2013 was collected for the purposes of the "effectiveness and efficiency of controls" exercise (2.1.2.1 of the AAR), which comes at an earlier stage than the final opinions issued by the Certification Bodies. The situation was up-dated at a later stage, when DG AGRI finalised the review on the Certification Bodies' opinions. For the financial year 2013, Certification Bodies issued a qualified opinion concerning EAFRD expenditure for 9 Paying Agencies: OPEKEPE (Greece), SFA (Bulgaria), ASP (France), DAFA (Denmark), La Rioja (Spain), Andalucía (Spain), Asturias (Spain), Extremadura (Spain) and PARDF (Romania).

13. Could the Commission provide Parliament with a list indicating which error rate corrections for which Certifying Bodies were made by the Commission?

Commission's answer :

DG AGRI doesn't apply corrections to error rates reported by the Certification Bodies, but to the error rates calculated on the basis of the Paying Agencies' control statistics. In addition it should be noted that until financial year 2014 the Certification Bodies did not have to deliver an opinion on the legality and regularity of the payments by the paying agencies to the beneficiaries.

As explained in Annex 4 to the AAR 2013, DG AGRI uses, as a first source of information, the control statistics by the Paying Agencies in the Member States. Then

DG AGRI performs an assessment for each Paying Agency (or Member State at aid scheme level for market measures) by corroborating information from different sources, notably its own and certification body audit findings as well as the systems assessments of the ECA and any other sources such as OLAF. This information is used by DG AGRI auditors to assess whether the level of error derived from the Member States' control statistics is fully reliable and where this is not considered to be the case, the error rates are adjusted via top-ups.

In Annex 10 to the AAR 2013, the adjusted residual error rates are presented, for each individual paying agency, in parallel to the initial error rates derived from the control statistics.

14. How does the Commission intend to remedy the worrying situation that

a. 2/3 of the Paying Agencies were only partially effective?

Commission's answer :

The Paying Agencies' control systems have not detected some of the errors revealed by ex-post audits carried out by the certification bodies, DG AGRI or the ECA. DG AGRI has examined the root cause of error in market measures, direct payments and rural development and has discussed these with the Member States. There is now a greater awareness on the part of Member States of the need to bring error under control and of the risks associated with adding complexity at national level.

Where a Paying Agency's management and control system is found to be only partially effective, the Commission imposes net financial corrections to claw back ineligible expenditure and thus protect the EU budget from financial damage. In addition, the Member States are requested to take the necessary remedial actions. Finally, where the remedial actions are not implemented, the Commission may suspend its payments to the Member State.

b. 39 out of 71 Paying Agencies administering direct payments reported a false error rate?

Commission's answer :

It is not correct to allege that Paying Agencies reported a false error rate. First of all, the Paying Agencies do not report error rates - they simply report control statistics on the results of their checks (administrative and on-the-spot).

However, when ex-post audits (by the Commission, Certification Bodies or the ECA) have revealed management and control systems' deficiencies which indicate that the Paying Agency has not detected all the errors, DG AGRI applies top-ups which translate in adjusted error rates. (Cf. the answer to question 13).

- c. the Certifying Bodies gave an unqualified opinion for 91,8% of EAGF expenditure and for 96,3% of EAFRD expenditure?

Commission's answer :

An "unqualified opinion" means that the Certification Body had reasonable assurance that the expenditure is not materially misstated and the internal control system is functioning properly. Therefore 91.8% of EAGF and 96.3% of EAFRD expenditure was given a clean bill of health by the Certification Bodies as regards the effectiveness of the internal control systems and the completeness and accuracy of the accounts.

The Certification Bodies did not have to include a validation of the paying agencies' control statistics in their opinion, but only to report based on a few control checks on whether the control statistics are correctly compiled and reconciled to the database by the Paying Agencies, with a sufficient audit trail; and on whether the database information is accurate, based on the review of the 10 compliance tests for on-the-spot checks. It should be noted that for the period 2007-2013, the Certification Bodies had to issue an opinion on whether the accounts transmitted to the Commission were true, complete and accurate and on whether the internal control procedures operated satisfactorily. The Certification Bodies were required to examine if each Paying Agency's administrative structure (management and control systems) was capable of ensuring that compliance with EU rules was checked before payments were made. In short, therefore, the Certification Bodies were required to give an opinion on the accounts, but not on the legality and regularity of the underlying individual transactions.

15. What work is being carried out with Member States to ensure that the reliability of payment agencies and certification bodies is improved in the new funding period? What and where are the biggest challenges?

Commission's answer :

First, it is important to highlight the changes brought by Article 9 of the Horizontal Regulation No 1306/2013 insofar as the work of the Certification Bodies (CB) is concerned. From the beginning of 2016 (in respect of financial year 2015), CB will report on the legality and regularity of the transactions underlying the expenditure to a much greater extent than it has been the case under the previous and current regulatory frameworks. In practice, this means that CB will be required to verify the results of on-the-spot checks carried out by the PAs.

If the underlying work is correctly carried out, the opinion of the Certification Bodies on legality and regularity will reinforce the overall assurance that can be obtained by DG AGRI on the effectiveness and reliability of Paying Agencies' control systems, including the error rates measuring the level of undue payments in the population.

The reliability of the audit results by the Certification Bodies represents a big challenge for the future. DG AGRI is actively assisting the Certification Bodies in carrying out their new function by first of all providing detailed guidelines (following

extensive discussions with the MS and the certification bodies over the past two years, these guidelines were made available in January 2014). DG AGRI held numerous technical meetings with the MS to discuss the new procedures for the CBs. DG AGRI auditors are inviting the Certification Bodies to participate in their audit missions for training purposes so that they can witness first-hand the standards that the Commission applies during its inspection procedures. In 2015 and future years, DG AGRI will also audit the work of the Certification Bodies to ascertain the extent to which it can be relied upon.

In addition, the reinforced audit strategy in DG AGRI aims to target the weakest links in the assurance chain (deficient management and control systems which perform ineffective first level checks at the level of the paying agencies and which produce unreliable control results at the level of certifying bodies) while still ensuring a sufficient audit coverage.

Furthermore, a totally new system for the automatic transmission of the individual control data has been introduced for direct payments from claim year 2012. This automatic transmission of control data will be extended to other CAP measures and expenditure from claim year 2014 (in particular to rural development statistics), reducing the administrative burden for the Member States and the risk of incorrect reporting.

16. The ECA stated that it was able to use DG AGRI rural development audits for assessing the reliability of control systems in Member States for 2013 due to the improvement by the Commission in clearance of accounts audits (paragraph 67 “Agriculture & Cohesion overview of EU spending 2007-2013”). What further refinements are taking place in this work to ensure continuing and improving reliability and to ensure best practice is adopted across the board?

Commission's answer :

The Commission welcomes the Court's acknowledgment of improvements made in respect of audit procedures. Work is on-going to improve the system, including for EAGF: reinforcement of the supervision and quality control, systematic use of checklists, audit training and guidance to the auditors, particularly in relation to the implementation of the CAP reform.

Market measures:

17. The overall amount under reservation is 198.3 million euros. There were 11 cases where the error rate was very high (between 8-100 %).

a. What is the schedule for payment corrections in these cases?

Commission's answer :

Article 11(4) of Regulation 884/2006 defines precisely how financial corrections are reimbursed by the Member State:

The normal schedule for EAGF is that the Member State reimburses the financial correction by deducting it from the declaration of expenditure for the second month following the adoption of the Commission's Conformity Clearance Decision.

In 2013, the Commission **adopted** four ad hoc conformity clearance decisions in respect of 861.9 million EUR for the EAGF. However, 481.9 million EUR in financial corrections was **implemented**. This is because some corrections from previous budget years had been carried over into 2013 as the Member State had requested to pay in (a maximum of three) instalments while some of the 2013 corrections will be reimbursed by the Member States as instalments in 2014 and 2015. Additionally, if an ad hoc decision is adopted at the very end of the year, it would only be reimbursed or "implemented" at the beginning of the following year (for example ad hoc decision no. 43 (Commission Decision 2013/763/EU) for 314 million EUR was adopted on 12/12/2013 and could therefore only be reimbursed by the Member State in 2014).

- b. Recoveries of payments in 2013: When were the payments made originally that were recovered in 2013?

Commission's answer :

The information available to the Commission on recoveries by Member States (which have no relation at all to the reservations as suggested by the title of the question) does not extend to information on the year in which the irregular payment originated.

- c. What has the Commission done and will do in the future to detect these kinds of problems at an earlier stage?

Commission's answer :

The problems referred to are detected at the earliest possible stage bearing in mind the available resources.

For one reservation, the information resulted from the Certification Body's audit work on the financial year in question and thus is has been detected at the earliest possible stage. For two of the reservations, it was the MS's own control statistics which indicated the high error rate – therefore they too are detected at the earliest possible stage.

Several of the other problems had been detected during conformity audits carried out in the same budget year for which the reservation had been established, while others, notably those for producer organisations, had been part of a wider multi-annual audit enquiry.

In 2014 DG AGRI developed a multi-annual audit work programme in order to ensure the optimal coverage of Member States and measures/schemes. However, it must be emphasised that with 82 paying agencies and almost 50 individual measures to audit,

it is not possible for DG AGRI to audit every measure every year in every paying agency. Its audits are therefore based on risk analyses which enable it to concentrate its efforts on the main or riskiest measures and on the big spenders.

18. In some of the cases member states reported an error rate below the materiality threshold. However, the Commission reported very high residual error rates in many cases. The Commission reports in annexes: "The corrective future actions will need to draw on the Commission services and Member States in equal measure, cognisant of the fact that containing the error rate will depend on the cooperation between all the stakeholders in the implementation chain, that is to say the Commission, Member States and paying agencies." a. What has the Commission done and what will it do in the future to improve the cooperation between the parties?

Commission's answer :

In the first place, the Commission has worked closely with those Member States subject to reservations to help them design their remedial action plans. In 2014 the Commission produced a report on the root causes of error in market measures and has shared this with the Member States in a number of fora where discussion took place on how to tackle error. The Commission regularly shares its most common audit findings with the Member States in order to help them learn from each other's experiences.

19. The Commission indicates that for 491 Mio. euros for the most deprived, 60 Mio. euro for Olive oil, 17 Mio. for textile plants, 449 Mio. euros for Wine, 50 Mio. euros for promotion, 229 Mio. for other plant products, 7 Mio Euro for milk and 30 Mio. Euro for pigmeat no control statistics were available (DG AGRI AAR 2013, Annex X, p. 116 of 213). This corresponds to 42% of market measure expenditure. The Commission auditors indicate that they "have used their judgement to estimate the maximum amount at risk in that expenditure." Could the Commission explain this "judgement-method" for providing assurance on regularity of the expenditure? How can Parliament be sure about this expenditure?

Commission's answer :

For market measures control statistics were not requested in all cases because many aid measures are subject to a 100% on-the-spot and administrative check prior to payment and many concern low levels of expenditure,.

For those measures for which there were no control statistics, DG AGRI considered in the first place the inherent risk for that measure and also the control risk. In the case of the biggest measure mentioned above, aid for the most deprived, as described on pages 102 and 103 of Annex 10 to the AAR, the fact that the scheme was managed by charitable organisations where those administering it were often doing so for altruistic motives, was considered to render it low risk. This was corroborated by DG AGRI's audits whose overall assessment was that there were some limited problems with deadlines and public procurement but that the schemes were running rather well in

most cases. For wine investment measures (209.4 million EUR), as for many other market measures, 100% of aid applications are checked on the spot as well as administratively and this mitigates the risk. DG AGRI's audits detected a significant issue in the Czech Republic only and this has resulted in a reservation in the 2013 AAR. For wine promotion on third country markets (145.3 million EUR), the DG AGRI auditors, considering the measure to contain some inherent risk, attributed it the average residual error rate for ABB02. For by-product distillation and harvest insurance, on the other hand, it was considered that these two measures had a very low risk and therefore no additional risk was attributed.

This sort of assessment was carried out on a case-by-case basis where possible but in the event that no elements were available to enable the auditors to use their professional judgement to assess the amounts at risk, an amount at risk of 2% was retained. The Commission does not consider it appropriate to attribute a higher risk due to absence of information as this would have led to reservations for measures/Member States without any justification.

Please note that the scheme for the most deprived is no longer managed by DG AGRI but will in future be reported upon by DG EMPL. For POSEI measures, templates for control statistics have been developed by DG AGRI and will be used by the MS for the first time in 2014.

20. The high error rate of 7.44% for market measures: How does the Commission intend to bring this error rate down?

Commission's answer :

It should be emphasised that there are a limited number of high impact cases which make up most of the 7.44% as these particular cases result from a high degree of non-conformity with the rules.

The Commission can contribute to "bringing the error rate down" by encouraging the Member States to do better and by working (but only with the full cooperation of the European Parliament and the Council) to simplify legislation. It has also already carried out and reported on an exercise to identify the root causes of error in the market sector (Commission Staff Working Document SWD(2014) 176 of 26 May 2014). In addition, the Commission has specifically been following up Member States' market measures subject to reservations in the AAR 2013 by way of requesting Member States to establish actions plans where appropriate or by way of other remedial actions. And the Commission continues to protect the EU budget from financial damage by clawing back ineligible expenditure via net financial corrections. For all the measures subject to reservations in the 2013 AAR, in addition to the remedial actions just mentioned, conformity clearance enquiries are underway which will result in such financial corrections. In the period 2011-2013, the net financial corrections imposed by the Commission amounted to a yearly average of 170 Mio, representing 5,3 % of the expenditure (p. 21 of DG AGRI AAR 2013). This corrective capacity is to be taken into account when assessing the real and final impact of the errors on the EU budget.

21. Which market measures should be closed down from an assurance point of view?

Commission's answer :

The decision to “close down” a measure is of a political nature that does not depend on the error rate as the sole criterion. The objectives of the policy, the performance of its implementation and the administrative costs have to be considered altogether.

Market measures exist to provide stability and support for European producers. Each of these measures has been introduced because a need for it had been identified. While the legislation for certain support schemes may be complex or allow national flexibility and thus be inherently risky, this does not justify simply "closing down" a scheme. It is first necessary to see where the legislation can be simplified or whether the way of delivering support to a sector can be improved.

22. Export refunds: Could the Commission explain the problems detected in France with poultry exported with refunds that 2/3 of the expenditure concerned was ineligible? What was the reason for the Commission to reduce the export refund for poultry to zero? Were there any cases transmitted to OLAF?

Commission's answer :

A DG AGRI audit enquiry detected severe weaknesses in key controls (laboratory analysis) on eligibility; control quality was very poor, or absent or the controls were insufficient in number. In the limited number of cases where controls were applied, there was also an almost complete absence of remedial actions by the French authorities when irregularities were detected. The extremely high rate of expenditure considered as ineligible is due to the fact that most of the analyses carried out gave irregular results and that most of the beneficiaries were concerned by those widespread irregularities. A conformity clearance procedure is underway which will ensure that any undue expenditure is recovered via a net financial correction.

The setting to zero of the export refunds for poultry meat was based on an analysis of the market situation as well as the market trends. The conclusion of this analysis was that refunds were no longer necessary in order to ensure a market equilibrium given the price developments as well as the trading conditions obtaining in the market for poultry meat in general.

The result of the audit mission for poultry export refunds in France was transmitted to OLAF.

Direct payments:

23. This year DG AGRI applied corrections like the years before. In 2011 the error rate of direct payments and market measures of DG AGRI was 0,69% (2012: 2,2 %; 2013: 2.7%), the one of the European Court of Auditors amounted to 2,9 % (2012: 3,8 %; 2013: 3.6%). Apparently the flat rate correction of 25% was too

low. Which presumptions are the current corrections based on? Are the new data closer to the real figures than the ones reported by the Member States?

Commission's answer :

A perfect match between the two error rates (Most Likely Error as DAS error rate and Residual Error Rate) cannot be achieved for different reasons:

1). The ECA establishes one error rate for the overall spending at EU-28 level. DG AGRI on the other hand estimates an error rate per paying agency for direct payments and for rural development and error rate per aid measure per Member State in the case of market measures).

2). The objectives of the two error rates differ:

- The DAS error rate is a tool for the discharge procedure. It gives an estimation of the amounts deemed to be irregularly spent at EU level.

- The error rates in the AAR are management tools, used to flag the deficiencies in the Member States' and Paying Agencies control systems and trigger the necessary remedial actions. They are much more targeted and are designed to pinpoint exactly where the problems are so that they can be addressed in a precise manner.

DG AGRI auditors apply their professional judgement to adjust the residual error rates, by taking into consideration all available information from the previous three years (DG AGRI's conformity audits, the ECA's system assessments in the annual reports) or the Certification Bodies' reports for the year in question. Details are provided in Annex 4 to the AAR 2013.

In fact, if we analyse thoroughly, the two figures are not so far apart. In order to have a true comparison of the two error rates, it is necessary to remove cross-compliance from the ECA's error rate (DG AGRI does not include cross-compliance in its error rate – see reply to question 30 for further explanation). The error rate of the Court for the first pillar would then be 3,1% (3,6% minus 0,5% points for cross-compliance) whereas the rate disclosed in DG AGRI's AAR is 2,7%. If we consider only the contribution of direct payments into the error rate for the first pillar, the DAS error rates would be 2.7% for 2012 and 2.4% for 2013, while the residual error rates disclosed by those of the Commission were 2.32% in 2012 and 2.34% in 2013. In addition, for the last two years, when the revised DG AGRI methodology for estimating residual error rates was applied, the error rates disclosed in the AARs fall largely within the confidence interval determined by the Court. This shows that the methodology for estimating the amount at risk (including the applied top-ups when necessary) is sound and largely within the same range as that of the Court.

24. What were the reasons for DG AGRI not to put in question the accreditation of the paying agencies under the given circumstances that there were such high corrections necessary?

Commission's answer :

Under shared management, accreditation of the paying agencies falls within the responsibilities of national authorities. The Commission's role is to supervise compliance with the accreditation criteria by the paying agencies.

The accreditation criteria concern the overall structure and organisation needed to perform the main function of a paying agency i.e.: authorisation and control of payments, execution of payments and accounting.

Where one or more of the accreditation criteria are no longer respected by a paying agency, or are so seriously deficient as to affect the agency's ability to fulfil its tasks, the national competent authority must put the agency's accreditation under probation.

Most of the systems audits carried out by DG AGRI did not put into question the overall structure and organisation of the paying agency. They do, however, reveal specific deficiencies in the management and control that can be remedied within the existing structure and organisation.

The controls carried out by the Member States may not always be as effective as they should be and therefore DG AGRI auditors may consider that the level of error resulting from the Member States' control statistics do not show the full picture. However, the resulting adjustments made by DG AGRI do not put into question the overall effectiveness of the paying agency or its accreditation.

25. What still remains to be done to improve the accuracy of the LPIS to reduce the error level associated with over-declaration of land area from that seen in the ECA 2013 report? How far are technological improvements changing things and what legal/administrative barriers are continuing to block improvements and where? When will such improvements be seen? Can the Commission explain why, in some Member States, it takes so long to update and correct the Land Parcel Identification System (LPIS)?

Commission's answer :

The updating of LPIS is a continuous work. To be of the required quality, the LPIS database needs to be updated regularly to reflect the changes in the landscape. The Commission works with Member States to ensure proper update and maintenance of LPIS, putting in place action plans with deadlines when it detects that a Member State has not updated its LPIS database.

Technological improvements can facilitate the update, speed up the process by making good quality ortho-images more easily available or cheaper, but there is no quick way to update LPIS in any country.

There are no legal or administrative barriers which block the improvement of LPIS other than the need for Member States to comply with public procurement rules when

contracting flights or acquiring ortho-images to update their database. The practical obstacles that exist are the high cost and the heavy administrative work required.

Countries where there were or remain specific problems relating to the updating of LPIS have put in place action plans. For example, Portugal has completed its action plan in 2013 and France expects to have finished its update work in 2016.

Updating LPIS takes time. As the name indicates, LPIS is a database of every single land parcel in every single country. In general, the bigger the agricultural surface of a country, the bigger the number of parcels, the longer it takes to obtain ortho-images of sufficient quality and analyse and interpret them to update LPIS. When there are doubts about the eligibility of a parcel because the ortho-image is not precise enough, on-the-spot visits are required. A country like France has around 6 million land parcels.

26. How are the variations between Member States in IACS (paragraph 73 “Agriculture & Cohesion overview of EU spending 2007-2013”) being addressed to ensure more uniform operation in the control systems, and further reductions in error rates in the new funding period?

Commission's answer :

When control systems are assessed as non-effective or partially effective, action plans are put in place to remedy the identified deficiencies and monitored by DG AGRI.

Details of these action plans can be found in the Annexes of the 2013 AAR (p135 onwards).

27. According to the annual report, 31 out of 68 paying agencies had a RER above 2 % (of which two were above 5% - Greece and the UK -RPA (England)). 20 reservations were set at paying agency level. The amount subject to reservation is 652 million EUR while the total amount at risk for direct payments is 974 million EUR.

a. Recoveries of payments in 2013: When were the payments made originally that were recovered in 2013?

Commission's answer :

The information available to the Commission on recoveries by Member States does not extend to information on the year in which the irregular payment originated.

b. What is the schedule for payment corrections adopted in 2013?

Commission's answer :

Article 11(4) of Regulation 884/2006 defines precisely how financial corrections are reimbursed by the Member State:

The normal schedule for EAGF is that the Member State reimburses the financial correction by deducting it from the declaration of expenditure for the second month following the adoption of the Commission's Conformity Clearance Decision.

In 2013, the Commission adopted four ad hoc conformity clearance decisions in respect of 861.9 million EUR for the EAGF. However, 481.9 million EUR in financial corrections was implemented. This is because some corrections from previous budget years had been carried over into 2013 as the Member State had requested to pay in (a maximum of three) instalments. Some of the 2013 corrections will be reimbursed by the Member States as instalments in 2014 and 2015. Additionally, if an ad hoc decision is adopted at the very end of the year, it would only be reimbursed or "implemented" at the beginning of the following year (for example ad hoc decision no. 43 (Commission Decision 2013/763/EU) for 314 million EUR was adopted on 12/12/2013 and could therefore only be reimbursed by the Member State in 2014).

- c. What has the Commission done and what will it do in the future to detect irregularities at an earlier stage?

Commission's answer :

Irregularities and deficient control systems are detected at the earliest possible stage bearing in mind the available resources.

For the vast majority of reservations, the information resulted from DG AGRI's conformity clearance audits. The conformity audits lead to net financial corrections and net recoveries which protect the EU budget; the financial corrections can cover the two previous financial years.

DG AGRI has also worked on identifying the root causes of error and has issued a communication on this topic. This document has been discussed with the Member States in various fora. Furthermore, a new unit was established within DG AGRI in order to give support to the Member States in the implementation of control systems (IACS and LPIS) and for the follow-up of action plan implementation. In addition, three conferences of Paying Agencies' Directors take place each year at which best practices and experiences are shared between the Commission and the Member States. All these preventive measures play a key role in dealing with irregularities.

In 2014 DG AGRI developed a multi-annual audit work programme in order to ensure the optimal coverage of Member States and measures/schemes: no MS will be left out, but more risky MS will be audited more intensively. DG AGRI will continue to verify through its own risk-based system audits that the national authorities cover the risks for the Funds sufficiently.

d. How does the Commission monitor member states' action plans?

Commission's answer :

The Commission monitors the Member States' action plans on a regular basis. The frequency depends on the benchmarks agreed with the Member States in the action plans. For example, the progress in the implementation of the action plan for addressing the LPIS deficiencies in France was monitored by the Commission on the basis of the reporting by the French authorities through desk reviews every 2-3 months. In addition, ad-hoc verification missions are regularly scheduled in order to monitor the corrective actions.

Due to an incomplete implementation of the action plan, a reduction of payments was initiated for Greece. Four other Member States were required to submit an action plan (Spain – for 15 paying agencies – France, UK and Portugal). These are considered on track. Their implementation will continue to be monitored by DG AGRI both with progress reports and on-the-spot verification missions. The implementation of Portugal's action plan was deemed completed in 2013. No further action should be taken by Portugal but the effectiveness of the remedial actions continues to be monitored.

It should also be noted that DG AGRI monitors not only the action plans requested from the Member States due to control system deficiencies, but also those initiated by Member States themselves.

As regards direct payments, a new unit within DG AGRI gives support to the MS in the implementation of control systems (IACS and LPIS).

e. What has the Commission done and what will it do to shorten the correction periods?

Commission's answer :

The conformity audit procedure has been streamlined by Article 34 of Implementing Regulation No 908/2014. In particular, deadlines for each step of the procedure are introduced for both the Commission and Member States, and if a Member State does not send the required information in time the Commission will be able to proceed to the next step on the basis of the information available. The Commission will endeavour to limit the maximum duration of the conformity clearance procedure to the strict minimum necessary, while respecting the different stages of the conformity procedure (i.e. contradictory and conciliation) required by the relevant regulations.

28. Payments in France: Box 3.5. of the 2013 ECA annual report underlines that France - since 2010 - does not respect EU regulations and pays too much to its farmers.

a. Which action did the Commission take to enforce the EU regulation?

Commission's answer :

Following the findings of the Court of Auditors in 2012 (for DAS 2011 and not 2010 as stated in the question) DG AGRI analysed the situation to establish the underlying causes and potential risk to the Fund. DG AGRI concluded that the French authorities had not applied correctly the reductions on the value of payment entitlements. This had caused overpayments and thus a risk to the EU Budget. The French authorities were notified of this non-compliance by letter in 2012 and a conformity clearance procedure was launched.

The French authorities have undertaken to remedy the deficiency from claim year 2014. DG AGRI is monitoring the implementation of the remedial actions.

b. Financial corrections in France:

- b1) Could the Commission please give a state of play concerning the financial corrections in France?

Commission's answer :

The financial correction for FY 2011 and FY 2012 will be included in clearance ad-hoc decision 46 which (see answer to question 27 (b)) will be adopted in the near future.

- b2) Which sums were repaid to the EU and when? Which sums are still outstanding?

Commission's answer :

The amounts will be repaid to the EU budget after the adoption of ad-hoc clearance decision 46.

- b3) Which sums were overpaid by France since 2010?

Commission's answer :

The undue payments (which are fully recovered to the EU budget via financial corrections) are estimated at EUR 51 million and EUR 89.8 million for Financial Years 2011 and 2012 respectively. The amounts concerning Financial Years 2013 and 2014 will be established in the framework of other on-going conformity clearance procedures.

29. Conformity procedure work in practice.

If in CAP direct payments an audit reveals deficiencies in the functioning of the national systems, the Commission initiates a conformity clearance procedure with a view to determining whether to impose a net financial correction on the Member State in question and, if so, what the amount of that correction should be. After the official notification by the Commission of its audit findings, the bilateral meeting with the Ms concerned, the official communication of the conclusion to the MS including the financial correction it envisages to impose on the Member State, the Member State may submit the case for conciliation to the "Conciliation Body" which will try to reconcile the positions of the Commission and the MS.

Can the Commission give the name or at least the nationality of the members of the conciliation bodies put in place the last five years and for which cases? What happens in particular in the above mentioned case with France?

Commission's answer :

The composition of the Conciliation Body, its independence and its working arrangements, as well as the conciliation procedure, are precisely established in articles 12 to 16 of Regulation 885/2006, and, from next year, in articles 36 to 40 of Regulation 908/2014.

The Conciliation Body is composed of at least five members. The chairperson, the members and their substitutes are appointed by the Commission after consultation of the Committee on the agricultural Funds. Members are nominated for an initial term of three years that can be renewed for a year at a time only. They shall be selected among eminent persons offering every guarantee of independence and who are highly qualified in matters regarding the financing of the CAP or in the practice of financial audits.

The members shall carry out their work independently, they shall not take part in the work if, in a previous office, they have been personally involved in the matter at issue. Any information acquired by them in the course of their work for the Conciliation Body is confidential and covered by the obligation of professional secrecy.

Reports shall be adopted by an absolute majority of members present, the quorum for deliberations being three.

The **Table 1** (see at the end of the replies) presents the composition of the Conciliation Body from 2010 to now.

During the last 5 years, the Conciliation Body issued 241 reports, covering 24 Member States (no reports for Cyprus, Estonia, Malta and Croatia, as illustrated in **Table 2** (see at the end of the replies).

The specific case referred to in the question 28 went to conciliation this year (2014) and will be part of the ad-doc 46 decision to be adopted by the Commission in the near future.

30. The Court of Auditors, in its report 2013, states that "Under all EAGF direct aid schemes, beneficiaries have an obligation to fulfil cross-compliance requirements.

These requirements comprise Statutory Management Requirements (SMRs) relating to the protection of the environment, public health, animal and plant health, animal welfare; and the GAEC obligations. If farmers do not comply with these requirements their aid is reduced". Could the Commission provide more details about these corrections?

Commission's answer :

Cross-compliance is a mechanism by which farmers face reductions of their payments when they do not respect a series of rules which stem in general from other policies than the CAP and apply to EU citizens independently of the CAP.

If, during their primary controls, the Paying Agencies identify infringements of cross-compliance requirements, a penalty is applied by reducing the direct payments. This system of reductions by the Paying Agencies is applied before the payments are made to the final beneficiaries, and it should **not** be confused with the system of financial corrections applied by the Commission to Member States in case of deficiencies in the control systems of the Paying Agencies.

The respect of cross-compliance obligations does not constitute an eligibility criterion for CAP payments and, therefore, the controls of these requirements do not pertain to the legality and regularity of the underlying transactions. Thus, we consider that reductions imposed for violations of cross-compliance requirements should not be taken into account for the calculation of the error rates for the CAP.

The error rate for Cross Compliance (as established by the Court of Auditors at 0.5% points) has a significant impact on the overall error rate of 3.6%.

Article 97(4) of Regulation (EU) No 1306/2013 confirms now what was meant since the very beginning (also for the 2007-2013 period), namely that for all CAP support "The imposition of an administrative penalty shall not affect the legality and regularity of the payments to which it applies".

31. At point 3.23 of the Annual Report, the Court say: "Under EU legislation, Member States should recover sums lost as a result of irregularities or negligence and initiate the process within one year of becoming aware of the loss. If the undue payments are not recovered within four years or within eight years where recovery action is taken in the national courts, the loss should be shared equally between the Member State and the EU." Could the Commission provide a table for Each Member about the irregularities and the undue payments? What kind of procedure is currently on-going to insure the necessary corrective measures?

Commission's answer :

The information about the amounts recovered is presented in **Table 3** and **Table 4** (see at the end of the replies).

The EU legislation provides for an automatic clearing mechanism under which 50 % of any undue payments which the Member States have not recovered from the

beneficiaries within 4 years or, in the case of legal proceedings, 8 years, will be charged to their national budgets (50/50 rule). Even after the application of this mechanism, Member States are, however, obliged to pursue their recovery procedures and, if they fail to do so with the necessary diligence, the Commission may decide to charge the entire outstanding amounts to the Member States concerned. Moreover, since 2008, Member States are required to off-set any outstanding debts against future payments to the debtor (compulsory compensation).

The recovery of irregular amounts is the responsibility of the Member States and is therefore subject to their national administrative and legal proceedings in which the Commission cannot intervene. This is why the 50/50 rule was introduced – in order to speed up the recovery to the EU budget of at least part of the irregular amounts and, to act as an incentive to the Member States to expedite their procedures.

Lastly, it is regrettable to observe that the Commission's proposal in the CAP reform to improve debt management (in particular the provision of the possibility to charge the Member State concerned with 100% of any unrecovered amounts of debts two years after its recognition) was rejected by the co-legislator, so that the principle of shared responsibility (50/50) for unsuccessful recovery was kept in the new regulation.

32. Errors related to over-stated eligible hectares were found in 69 transactions relating to 15 out of the 17 Member States visited. Half of these errors have a small impact on the estimated level of error, and the larger errors in this category related to payments for ineligible land declared as eligible permanent grassland. The Commission replied that it will further discuss with the Court about the most suitable methodology for field measurements, in particular the use of GPS measurements for determining the eligible area, in order to ensure that Member States will get consistent guidance from the EU Institutions. Is it that methodology convenient? Is it providing good results?

Commission's answer :

The Commission replied that it would further discuss with the Court the most suitable methodology for field measurements. As indicated in the reply to the Court's annual report, GPS measurements sometimes have to be superimposed on ortho-images. The Court and the Member States do not follow the same guidelines when doing the GPS measurements, which explain the discrepancies.

Once the Court and the Commission have agreed on which methodology is the most appropriate, Member States will be informed.

Rural development:

33. In its annual report the ECA estimates that the most likely error rate to be 6.7% for the four following policy areas taken together: rural development, environment, fisheries and health.

The error rate in the specific policy area of rural development is very likely to be higher than this amount as the other policy areas are not co managed (shared management) in the same way but also higher than the maximum amount at risk estimated by DG AGRI as 5.19% of the expenditure for ABBO4.

How does the Commission explain this discrepancy? Which arguments is the Commission using in its dialog with the ECA in this regards? How can the Commission explain that the situation has progressed in this end of programming period whilst last year the Commission itself considered that no amelioration was possible before two years?

Commission's answer :

The discrepancy is only apparent. The Court gives a confidence interval of 3.3%-9.9%, the rate of 5.19% given by the Commission falls within this interval.

The dialog between the Court and the Commission does not focus on the difference between the Court's most likely error rate and the Commission's residual error rate but on the content of the Court's findings for individual transactions and the conclusions that can be drawn from them in terms of actions to be taken. The AAR in which the residual error rate is disclosed is signed in March when the Court's error rates are not yet available.

34. In 2011 the error rate of DG AGRI in the area of rural development was 2.36% (2012: 1,6 %), the European Court of Auditors found an error rate of 7,7 % (2012: 7.9%). In 2013 the error rate according to DG AGRI is 5.19 %. Apparently there will be a Special Report of the European Court of Auditors with an error rate which will be clearly above yours and above the one of the Court of last year. What will be your measures to take?

Commission's answer :

For 2013, from a sample of 177 transactions of which 162 for rural development and 15 for environment, fisheries and health, the European Court of Auditors estimates in its annual report the most likely error to be 6,7 % , with a lower limit of 3,5 % and a upper limit of 9,9 %.

Taking into account the differences in the methodologies used by the Court and by the Commission and some divergences in the interpretation of errors (such as infringements to cross-compliance), the figures from the Court and from the Commission in the DG AGRI annual activity report 2013 do not fundamentally differ.

The Commission and the Court made a similar diagnosis: the error rate is too high, especially for investments measures not managed under the IACS, and the two main

sources of errors are too complex rules (in particular national rules) and deficiencies in the control systems.

Remedial measures (improvements to the management and controls systems) to be taken by the Member States are tailored at the level of each paying agency, and described in details in the annual activity report of DG AGRI.

Via the conformity procedure the Commission applies net financial corrections that protect the EU budget. From 2014, the Commission may also use the new instruments of interruption (EAFRD only) and suspension (both Funds), and is already using them.

The conjunction of net financial corrections by the Commission, remedial actions by the Member States and, where remedial actions are not implemented, interruptions and suspensions by the Commission, is the only way to ensure that, once all controls and corrections have been made, the EU budget is properly protected.

35. Last year the reservation concerned all of the Member States. In 2013, 31 paying agencies of 19 Member States were still affected by the reservation. 39 paying agencies had an error rate above 2%, 13 paying agencies above 5% - which means under reservation. Out of the 26 paying agencies which have an error rate between 2% and 5%, 8 are not under reservation. What is the progress in comparison to last year?

Commission's answer :

All the reservations in the 2013 AAR were carried over from the previous (2012) AAR when a general reservation was made for the ABB as a whole – even if individual Member States or Paying Agencies had error rates which were below materiality.

This is the result of a more precise and targeted approach. Instead of one reservation covering 71 paying agencies for Rural Development in 2012, there were reservations for 31 paying agencies in 2013.

The relatively high number of reservations is not in itself a negative indicator; on the contrary, it shows that DG AGRI identified weaknesses more precisely and disclosed them transparently, at the level of paying agency or scheme, in its Annual Activity Report.

The reservations indicate indeed potential risks; however, the conformity clearance procedures and the resulting financial corrections will systematically cover the financial damage to the EU budget.

DG AGRI supervises the implementation of the remedial actions that accompany each of the reservations. The failure to address the deficiencies in the control system may lead to suspension or interruption of payments.

36. According to the annual report, as a result of the "top-ups" made, an adjusted residual error rate (RER) has been calculated of 5.19% with 39 out of 71 paying agencies having a RER above 2% (of which 13 were above 5% - Bulgaria, Denmark, Spain (Asturias), France (ODARC), France (ASP), UK (England), Greece, Italy (AGEA), Luxembourg, Netherlands, Portugal, Romania, and Sweden). The amount subject to reservation is 599 million EUR while the total amount at risk for ABB04 is 674 million EUR.

a. What is the schedule for payment corrections adopted in 2013?

Commission's answer :

Article 11(4) of Regulation 884/2006 defines precisely how financial corrections are reimbursed by the Member State:

The normal schedule for EAFRD is that the Member State reimburses the financial correction by deducting it from the next quarterly payment request after the adoption of the Commission Conformity Clearance Decision.

In 2013, the Commission adopted four ad hoc conformity clearance decisions in respect of 236.2 million EUR for Rural Development. However, 229.8 million EUR in financial corrections was implemented. This is because some corrections from previous budget years had been carried over into 2013 as the Member State had requested to pay in (a maximum of three) instalments while some of the 2013 corrections will be reimbursed by the Member States as instalments in 2014 and 2015. Additionally, if an ad hoc decision is adopted at the very end of the year, it would only be reimbursed or "implemented" at the beginning of the following year.

b. According to the annual report the member states have recovered 192 417 850 euros in 2013 in the field of rural development. When were these payments made originally?

Commission's answer :

The Commission's information on recoveries by Member States does not extend to information on the year in which the irregular payment originated. While this information was not previously requested, Commission Implementing Regulation 908/2014 laying down the rules for the application of Regulation 1306/2013 now requires Member States to furnish additional details about amounts recovered, including the financial year in which the payment concerned was originally made.

It should however be noted that in DG AGRI's AAR the figure of 192 417 850 EUR refers to the total for the CAP and has since been revised. The revised amounts appear in table 2, attached. For the EAFRD the amounts recovered in 2013 were 98.824 million EUR.

- c. In 9 member states the recovery rate of assets is below 50 %, and the overall recovery rate in 2007-2013 in all member states is 49 %. What has the Commission done and what will it do to improve the situation and shorten the recovery period?

Commission's answer :

The recovery at the level of final beneficiaries falls under the responsibility of the Paying Agencies (shared management). It is subject to national administrative and legal proceedings in which, due to the principle of subsidiarity, the Commission cannot intervene. Due to the length of these proceedings the 50/50 rule was introduced in order to claw back to the EU budget amounts which had not been recovered after four years or after eight years in the case of legal proceedings. The Commission tried, in its legislative proposals for the CAP reform, to replace the 50/50 rule with a 100% claw-back. This would have ensured that the EU budget did not have to wait for lengthy periods to recover undue payments. Unfortunately the co-legislator decided not to support this proposal and therefore the 50/50 claw-back is maintained.

- d. How does the Commission monitor member states' action plans?

Commission's answer :

For Rural Development, action plans are regularly monitored by the responsible units at the occasion of annual review-meetings with Managing Authorities, meetings of the monitoring committees and ad-hoc meetings.

The Commission also requests an update of the action plan every 6 months to all Member States. A dedicated Seminar on Error Rates under rural development is then organized with all Paying Agencies and Managing Authorities in Brussels, to present the main conclusions and trends. Issues of interest in the context of error rate and action plans are regularly discussed within the Rural Development Committees. Finally, for the future programming period, the European Network for Rural Development (ENRD) will also be involved in the organization of events on specific topics (e.g. public procurement, simplified costs, etc.) and sharing of good practices.

Additionally, Directors of Paying Agencies have been requested to include in their annual Management Declaration, a state of play on the implementation of action plans. The Certification Bodies will be required to give their opinion on this.

37. Serious weaknesses in Romania's management and control system in the rural development: which kind of weaknesses was discovered by DG Agri? What is the state of play concerning the action plan? Which financial corrections and recoveries are foreseen for these weaknesses in Romania?

Commission's answer :

The Commission services have carried out in the past years several audit missions in Romania. Serious shortcomings have been detected in a number of Rural Development investment measures.

The main weaknesses concerned the assessment of the reasonableness of costs by the paying agency, the check of the respect of public procurement provisions, the check of the eligibility of the beneficiary (the fulfilment of the SME criteria obligatory for certain investment measures; the creation of artificial conditions in order to circumvent thresholds for certain other measures), the application of selection criteria and the scope of the on-the-spot checks.

Following these findings, the Romanian authorities undertook a series of measures to address the problems detected by the Commission's auditors, including new improved control procedures introduced in the first part of 2013. Even when certain weaknesses remain, an audit mission carried out in September 2014 confirmed that the control system has been significantly improved.

The Commission has already decided on a first financial correction against Romania. (Financial correction of 12.5 Mio EUR adopted in Commission Implementing Decision 2013/123/EU of 26/02/2013 (OJ L 67, 9.3.2013)). Several other conformity clearance procedures are still on-going.

38. Advance payments in rural development in Bulgaria: what is the assessment of DG Agri concerning the circumvention of the n+2 rule? What about financial corrections? Which other measures were taken by the Commission?

Commission's answer :

Advance payments are an important financial tool to ensure that respective beneficiaries (specifically small municipalities in cases of larger infrastructure projects) have the necessary financial resources in order to implement on time their projects. However, when using this tool MS should respect the principles of sound financial management and take due care of EU funds. MS should not pay excessive advance payments to beneficiaries which are counted as MS expenditure under the programme in order to avoid the application of the n+2 rule.

The Commission services have carried out in the past years several audit missions in Bulgaria which covered the payment of advances for the Rural Development measures 321 and 322. It is the opinion of the Commission that Bulgaria pays such advances relatively early and at a quite high level.

The Commission services examined in detail whether the manner in which the advances are paid (early and in high amount) is meant to circumvent the "n+2" rule. The conformity clearance procedure with the Member State is still on-going to determine whether the practice applied in this constitutes an abuse of rights (ECJ case C-110/99, Emsland Stärke, paragraphs 52 et seq). If confirmed, the Commission would exclude ineligible expenditure from EU financing.

The Bulgarian Paying Agency (BG PA) has been requested to take effective measures in order to avoid that advance payments not used for project implementation are staying for a long time on the accounts of the beneficiaries. According to information provided by BG authorities, the BG PA has modified its procedure requesting beneficiaries to return any advance within two months from having received the payment if the respective contract has not been signed. Respective penalties are also envisaged in case of delays. The discussion between DG AGRI and the BG authorities on this issue is still on-going.

Financial instruments

39. Financial instruments: 6 member states use financial instruments under the EAFRD fund.

a. How is the Commission surveying these instruments?

Commission's answer :

The Commission collects information on a regular basis from Member States in the framework of the established reporting obligations. During the Annual Review meetings, the implementation of the financial instruments is systematically included in the agenda. The shortcomings are then analysed and remedial actions proposed.

b. 443,8 Mio. euros were transferred from rural development programmes to financial instruments. How much reached the final beneficiary?

Commission's answer :

According to Commission statistics, confirmed by the ECA, from 510 Mio. euros committed in the 2007-2013 RDPs for financial instruments, 429 Mio. euros were actually disbursed to 1.981 beneficiaries until 31 December 2013. This data includes the 6 MS where financial instruments were active (BG, FR, IT, LV, LT, RO).

c. Could the Commission elaborate on its audit findings ("risk of over financing... compared to the actual necessities...") in Italy, Romania and Bulgaria?

Commission's answer :

The audit findings are similar in the three Member States. As soon as the guarantee fund was set up, the Paying Agencies transferred the whole budgeted capital, without considering the fact that the actual needs would only increase progressively with the activity of the fund. Also, the budgeted needs proved to be overestimated, and this at least partly due to the economic crisis that reduced investment opportunities. In addition, in Romania, a part of the activity of the guarantee fund was not in

conformity with the EU regulation. This had an influence on the level of the needs of the guarantee fund.

At policy level, the Commission assessed amounts programmed by the Member States taking into account the forecasts submitted, which to some extent have later on shown to be over-estimated. There are several causes that could be mentioned: first of all, the MS hit by the financial crisis experienced a considerable reduction of demand since many of the undertakings were facing serious difficulties and stopped planning investments. On the other hand, the low absorption (budget implementation) levels in some MS, due mainly to co-financing difficulties, could have also influenced the programming of financial instruments, in order to avoid de-commitments. This situation has been very closely followed by the Commission and in several cases MS have been requested to amend their programmes when there was substantiated evidence that the amounts were considerably over-estimated compared to the needs and implementing potential.

For the next programming period 2014-2020, this situation has been corrected. Payments will only be transferred to the Funds managing financial instruments when the actual disbursement to the final recipients has reached a certain percentage (phased payments). This will be done in at least four tranches.

Fraud, SAPARD, IPARD

40. Fraud cases in the CAP budget: 52 out of 76 OLAF cases concerned SAPARD projects. Could the Commission please specify the countries and the respective number of cases? 16 cases concerned EAFRD projects. Could the Commission please specify the countries and the respective number of cases in EAFRD?

Commission's answer :

The Commission wishes to clarify that 76 cases were closed by OLAF in 2013 out of which 52 cases concerned SAPARD projects and 16 EAFRD projects.

Of the 52 SAPARD cases closed by OLAF in 2013, 21 concerned Bulgaria, 30 concerned Romania, and one concerned Hungary.

Concerning the EAFRD, the distribution of the 16 cases closed by OLAF was as follows: Bulgaria: 2; Hungary: 3; Hungary/Italy/Poland: 1; Italy: 4; Poland: 1; Portugal: 1; Romania: 3; Spain:1.

41. Which own investigations on presumed fraud cases DG AGRI is doing? How many officials are covering this field? Which kind of thresholds do exist?

Commission's answer :

DG AGRI has no powers to conduct any administrative investigations into allegations of fraud. This competence lies exclusively with the European Anti-fraud Office (OLAF).

One official in DG AGRI holds the function of anti-fraud adviser in charge of coordinating the implementation of the DG's anti-fraud strategy, coordinating contacts with OLAF and providing information and training to Member States. This adviser however has no mandate for investigative work.

42. Concerning SAPARD in Romania: An enquiry was closed in December 2013 (AAR p. 127 of 179). Which follow-up was given to this enquiry? Which recoveries took place?

Commission's answer :

The follow-up given consisted in another audit mission carried out in 2014 (RD2/2014/20/RO) for which the clearance of accounts procedure is on-going (bilateral meeting should take place in February 2015).

43. What was the financial result of the follow-up investigations by DG Agri after OLAF investigations on SAPARD projects in Romania, Bulgaria and Croatia?

Commission's answer :

As explained under Question 41, DG AGRI does not carry out investigative work with regard to Fraud. It does however follow up on the implementation of financial recommendations given by OLAF.

In this respect there has been a continuous process on the follow-up of SAPARD OLAF cases in these three countries. Regular missions have been carried out in order to cover the issues related to the OLAF investigations as well as the ex-post checks of the projects.

In both Romania and Croatia, DG AGRI also went on specific ad-hoc missions in order to review the open OLAF cases and their states of play.

Both the Debtor's ledger and the OLAF cases will continue to be the object of examinations during planned missions in 2015 in Bulgaria and Romania.

44. IPARD: Turkey: Which financial follow-up was given to the audit findings in Turkey (inflated prices, non-independence of offers)?

Commission's answer :

The Commission services have carried out two conformity audit missions (in 2013 and 2014) during which weaknesses in the procurement checks have been found. For the first audit mission, the Commission services are going to propose to the Commission in the near future to decide on a first financial correction. With regard to the second audit mission, the conformity clearance procedure is still on-going.

45. Despite high error rates the Audit Authorities in Croatia and Turkey (8,1%) provided unqualified opinions on the management and control systems. Which corrections of error rates undertook the Commission? What was the error rate of Croatia and FYROM in IPARD? What was the Commission's reaction to this incorrect reporting?

Commission's answer :

The 8,1% error rate presented in the Annual Activity Report arises from a weighted average of the assessment made by the conformity unit during an audit in Turkey.

The financial correction which will be proposed affects only Turkey and there are no reasons to question the opinions of the Audit Authorities in Croatia and in the former Yugoslav Republic of Macedonia. In this respect it should be taken into account that the conformity unit also carried out an audit mission in Croatia and no financial correction was proposed.

The fact that the Audit Authority (i.e.. external auditors for pre-accession funds) in Turkey did not identify similar findings to those spotted by DG AGRI auditors during the conformity audits, showed that there was a need to improve the audit procedures and verifications performed by the Turkish Audit Authority, in particular concerning the checks in the IPARD Agency on the reasonableness of accepted costs. This weakness in the Audit Authority's procedures is being followed-up by DG AGRI's auditors. It should be mentioned that the deficiency concerning reasonableness of costs was the only one that had a financial impact and that the control environment in Turkey did not show other substantial deficiencies.

The European Court of Auditors, in the DAS 2013 exercise, audited five transactions of the IPARD in Turkey and did not identify any non-respect of any legal requirements for the five audited projects (zero error identified). By contrast, the ECA observed that the control procedures did not allow modifications that would improve projects once applications for support were approved and the contract for aid was concluded. This resulted in a higher incidence of rejections of claimed expenditure and of reductions of payments to the beneficiaries than necessary. The ECA also pointed out that an excessive number of on-the-spot visits for the same project were carried out, generally providing decreasing added value and audit assurance and generating additional costs for the beneficiaries and for the IPARD administration (not for the EU funds however).

DG AGRI monitors the work performed by the Audit Authorities and performs checks in the framework of the clearance of accounts exercises and during audit missions. In addition to the yearly clearance exercise, during the second semester of the year 2014 three verification missions were carried out to the Audit Authorities of the three IPARD beneficiary countries: Croatia, the former Yugoslav Republic of Macedonia and Turkey. The general objective of these missions was to obtain reasonable assurance that the Audit Authorities of these countries were still operating in compliance with the agreements and to provide recommendations where necessary.

[Which corrections of error rates undertook the Commission?]

The amount at risk presented in the Annual Activity Report was estimated based on an error rate of 10% proposed as a flat-rate financial correction for Turkey (measure 101 'Investment in agricultural holdings') as a result of a conformity audit enquiry. The EU budget is thus protected.

In addition, to avoid further issues regarding the verification of the reasonableness of the costs claimed, DG AGRI is examining alternative control methods with the Turkish Authorities in order to ensure full compliance of the sound financial management principles.

The IPARD annual accounts of Turkey for the financial year 2013 have not been cleared to date. The audit mission to the Turkish Audit Authority carried out by the financial audit unit in October 2014 confirmed the need for the Audit Authority to reassess some of the findings and to provide new error quantification before the accounts can be cleared.

[What was the error rate of Croatia and Former Yugoslav Republic of Macedonia in IPARD?]

The error rates reported by the Audit Authorities of the three countries beneficiary of IPARD for financial year 2013 are: Croatia=0,004%; former Yugoslav Republic of Macedonia=0%; Turkey=0%.

For Croatia, DG AGRI requested the recovery of the amounts regarding the EU contribution corresponding to the errors identified by the Audit Authority. It was confirmed by the Croatian Authorities that the amounts have already been recovered.

For the Former Yugoslav Republic of Macedonia, the error rate reported to DG AGRI for FY2013 is currently being reassessed. In previous years the financial correction quantified based on the work of the Audit Authority is EUR 264.772,47 for FY 2011 (31.6% of the cleared expenditure) and EUR 30.981,92 for FY2012 (2.74%). The enquiry is still on-going and the final results are expected by the first quarter of 2015. It is also worth mentioning that in the Former Yugoslav Republic of Macedonia the Audit Authority reviewed all the projects paid for financial years 2011, 2012 and 2013 (and not just a sample as is the norm), hence no extrapolation of the error needs to be performed.

For Turkey, as explained above, a new error evaluation has been requested from the Audit Authority and DG AGRI is expecting the feedback before finalising the error assessment.

[What was the Commission's reaction to this incorrect reporting?]

Please refer to the paragraphs above.

* * *

Question 29

Table 1 –List of members of the Conciliation Body

01.01.2010 – 31.07.2010	01.08.2010 – 31.01.2011	01.02.2011 – 30.06.2011	01.07.2011 – 31.07.2013	01.08.2013 – 31.07.2014	01.08.2014 -
Perrin (FR) Chair	Perrin (FR) Chair	Perrin (FR) Chair	Baumann chair	Baumann chair	Baumann chair
Burian (AU)	Lindemann (DE)	Byrne (IE)	Byrne (IE)	Byrne (IE)	Byrne (IE)
Baumann (DA)	Baumann (DA)	Baumann (DA)	Kevvai (EE)	Kevvai (EE)	Kevvai (EE)
Trevelyan (UK)	Trevelyan (UK)	Trevelyan (UK)	Trevelyan (UK)	Hooyberghs (BE)	Hooyberghs (BE)
Sanchez Trujillano (ES)	Sanchez Trujillano (ES)	Sanchez Trujillano (ES)	Sanchez Trujillano (ES)	Sanchez Trujillano (ES)	Bombal Diaz (ES)

Table 2 –Reports issued by the Conciliation Body during 2010-2014, broken down at Member State level:

AUT	3
BE	4
BG	9
CZ	4
DE	7
DK	2
ES	28
FI	1
FR	17
GR	26
HU	6
IE	4
IT	26
LT	6
LUX	1
LV	1
NL	6
PL	12
PT	10
RO	12
SE	1
SI	4
SK	6
UK	10
Total	206

Question 31.

Table 3 - Amounts recovered by Member States in 2013 – see AAR 2013, Annex 10, section 5.2 (the table has been updated)

Countries	EAGF	EAFRD	TRDI
AT	3,757,497.98	11,946,004.52	
BE	1,572,237.88	1,303,367.66	
BG	5,421.61	1,612,745.38	
CY	412,073.69	592,282.33	
CZ	63,541.33	1,734,288.83	285,888.48
DE	6,524,917.71	7,968,623.57	
DK	768,034.41	590,580.66	
EE	47,477.39	1,645,233.32	20,366.29
ES	11,740,227.74	2,748,129.07	
FI	2,639,598.53	1,065,848.93	
FR	13,724,720.38	2,076,280.66	
GB	5,420,791.40	4,597,863.10	
GR	1,983,989.47	669,713.12	
HR			
HU	2,139,246.77	8,590,602.04	658,315.10
IE	2,711,879.86	1,542,227.02	
IT	9,163,731.60	3,548,017.11	
LT	453,051.06	516,355.80	101,153.39
LU	42,031.78	27,254.13	
LV	269,603.39	514,777.45	48,413.40
MT	2,414.57	96,893.90	9,271.48
NL	5,893,214.34	850,002.52	
PL	10,261,630.05	8,615,909.05	2,687,151.74
PT	5,065,480.02	4,897,933.47	
RO	3,791,787.46	28,685,177.22	
SE	5,152,778.12	1,125,117.06	
SI	610,087.71	439,474.74	70,549.77
SK	89,529.39	823,477.50	3,427.35
Total	94,306,995.63	98,824,180.18	3,884,537.00

Table 4 – Recoveries from beneficiaries for cases detected since 2007 – EAGF– see AAR 20313, Annex 10, section 5.3

MS	New cases since 2007	Adjustments	Recoveries	Recovery rate
AT	30,280,062.66	-1,946,845.24	-28,772,459.96	100%
BE	79,526,001.75	-	-27,046,616.46	54%
BG	837,332.26	149,091.97	-40,303.17	4%
CY	2,832,629.95	-19,501.93	-1,844,488.65	66%
CZ	2,305,173.49	-111,396.44	-2,175,609.75	99%
DE	71,414,418.06	1,186,434.80	-59,671,779.81	82%
DK	31,138,346.76	9,084,609.35	-22,153,719.26	55%
EE	2,383,217.79	-1,022,114.52	-1,238,756.02	91%
ES	220,571,422.82	-	-119,795,859.68	62%
FI	9,216,561.17	243,866.29	-8,738,418.80	92%
FR	177,825,573.47	85,747,021.88	-67,207,653.08	25%
GB	46,469,268.56	-8,673,262.92	-31,941,900.61	85%
GR	49,316,439.29	-	-7,454,539.07	21%
HU	47,832,029.22	-	-11,553,428.10	33%
IE	26,038,579.50	-2,744,365.91	-20,759,608.57	89%
IT	239,646,089.54	55,180,751.70	-112,222,627.49	38%
LT	5,960,856.12	-2,453,439.84	-3,216,287.84	92%
LU	1,052,204.18	-489,191.39	-307,928.14	55%
LV	1,753,582.20	-45,027.38	-1,299,338.45	76%
MT	1,063,440.27	76,849.13	-589,262.17	52%
NL	64,229,289.51	-7,736,523.07	-20,590,405.44	36%
PL	17,706,588.77	5,247,926.09	-18,638,328.90	81%
PT	68,705,367.81	-	-30,804,829.81	58%
RO	19,422,115.88	858,855.92	-9,201,507.40	45%
SE	26,044,336.33	-3,618,021.75	-16,708,893.81	75%
SI	15,206,322.96	1,790,353.26	-4,317,226.23	25%
SK	2,638,156.89	-843,345.11	-487,586.03	27%
Totals	1,261,415,407.22	30,790,211.89	-628,779,362.69	49%