

2013 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER CREȚU

Hearing on 8 December 2014

Management and control systems, administrative capacity

1. The 2012 annual report of the Court of Auditors state that the managing authorities' level is one of the weak points in implementing EU funds. How many managing authorities were controlled in 2013 by DG REGI?

Commission's answer :

DG Regional and Urban Policy is performing since 2010 on-the-spot risk-based audits targeted mainly to the quality and effectiveness of 'first level checks' carried out by managing authorities and intermediate bodies. The objective is to complement the audit results obtained from audit authorities in order to obtain direct assurance on the functioning of management and control systems for high-risk programmes when there is a risk that such national audit work does not sufficiently or not timely covers a risk identified by DG Regional and Urban Policy.

In 2013, 22 such risk-based audits covering 20 managing authorities and 19 intermediate bodies were carried out (28% of DG Regional and Urban Policy's on-the-spot audit work in 2013). These audits led to interruptions of payments in 7 cases.

Up to end of 2013 a total of 77 audit missions have been carried out cumulatively under this audit enquiry covering 15 Members States and 70 operational programmes, including on-the-spot at the level of beneficiaries. These risk-based audits thus contributed to the implementation of preventive and corrective measures such as remedial actions plans, interruptions and financial corrections, and to improvements in the management and control systems for programmes put under reservation, ensuring that past and future expenditure declared to the Commission is legal and regular.

A synthesis report on the results of this enquiry was provided to the European Parliament Discharge Rapporteur in December 2013 and in the information package sent on 4 November 2014 by Director General Deffaa to the CONT chair following his hearing¹. The results of this audit enquiry are also described in the 2013 annual activity report of DG Regional and Urban Policy (page 41).

The adequacy of the management verifications carried out by the managing authorities or intermediate bodies is also assessed as part of DG Regional and Urban Policy's audit work to verify the reliability of the work of audit authorities, in particular through audits of operations. In case audits of operations carried out by audit authorities or re-performed by DG Regional and Urban Policy reveal a high frequency of errors and/or high error rates, this is a direct indicator that the first level checks have not functioned effectively. In addition to these risk-based audits on the spot carried out by DG Regional and Urban Policy, the Directorate-general also

¹ E-mail of 4 November 2014 to Ms Gräßle, cc. CONT Secretariat

obtains assurance on the effective functioning of programme managing authorities and intermediate bodies through the analysis of national audit results contained in system audit reports sent to DG Regional and Urban Policy by audit authorities throughout the year. This allows assessing on a continuous basis the functioning of key legal requirements of the managing authorities and intermediate bodies, (the Honourable Members are referred to the general monitoring coloured table which was part of the information package sent by Mr. Deffaa to the CONT Committee on 4 November 2014).

2. How many certification authorities were controlled in 2013 by DG REGI?

Commission's answer :

In the context of the joint thematic audit enquiry on the Member States' reporting on financial corrections implemented by Structural Funds audit directorates, six ERDF/Cohesion Fund certifying authorities have been audited in Germany, France (x2), Italy, Greece and the Czech Republic) in 2013.

In 2014, DG Regional and Urban Policy launched the 4th enquiry on the reliability of the certifying authorities' reporting on financial corrections, with a total of 12 audits to be carried out in time for the next Annual Activity Report. This represents a substantial increase in terms of the number of on-the-spot audits in relation to what has been performed by DG Regional and Urban Policy in previous years (11 audits between 2011 and 2013). These risk-based audits complement the Commission's desk-review of the reporting of the Member States selected and aims to reinforce the Commission's assurance on Member States reporting on financial corrections.

On the basis of the latest available audit results, including from the work carried out by audit authorities, certifying authorities for 302 out of the 322 ERDF/Cohesion Fund programmes (94%) are working well or work well subject to some improvements not putting into question the assurance obtained (green and yellow categories, respectively).

3. Why are audit authorities not requested to provide the Commission - for its work to verify the annual control reports - with specific information on their audits of operations?

Commission's answer :

The assessment of annual control reports (ACR) by the Commission is to be seen in the wider context of the Commission audits and supervision of the work of audit authorities, including re-performance of the audit authorities' audit work. The regulations explicitly foresee the systematic exchange of system audit reports between the audit authorities and the Commission (547 received by DG Regional and Urban Policy in 2013). The transmission of detailed audit results on thousands of operations audited by audit authorities is made on request, when the Commission requires it for its assessment. The Commission considers this approach more cost/efficient from an administrative point of view, as fixed by the legislator in the legal framework.

In addition, the Commission systematically requests the information concerning audits of operations carried out by the Member States' audit authorities (AA) which is relevant for its supervisory function and assessment of ACR, namely in regard to:

- planning of those audits: this is a standard issue discussed in the annual bilateral coordination meetings between the Commission audit services and the audit authorities, enabling the Commission to follow-up the Member State's audit strategy;
- sample selection of operations and projection of error rates, which is a subject of regular desk review in Brussels concerning detailed information provided by the audit authorities in advance and after the ACR submission to the Commission:
- desk review of final conclusions on the audits of operations disclosed in aggregate terms in the ACR, including on the spot "fact-finding" missions by the Commission where the risk warrants further examination in time for Annual Activity Report of each DG;
- analysis of a sample of individual reports from the AA on its audits of operations, in the context of the Commission's review of AA work, namely the on-the-spot re-performance of the AA audits of operations by the Commission's auditors.

4. In the programming period 2007-2013 six Member States (the Czech Republic, Greece, Spain, Hungary, Poland and Romania) are responsible for 75% (equalling EUR 1 342 million) of the confirmed financial ERDF/CF and ESF corrections.

Can the Commission comment on how the quality of the management and control systems has changed for the programmes concerned?

Commission's answer :

Concerning the **Czech Republic**, in 2011, DG Regional and urban Policy and the European Court of Auditors detected significant deficiencies in the functioning of the management and control systems in the Czech Republic. As a result, in its Annual Activity Report for 2011, DG Regional and Urban Policy made reservations for all 14 mainstream programmes. The main deficiencies that we identified related to

- a lack of independence of the Delegated Audit Bodies,
- insufficient Audit Authority (AA) supervision of the Delegated Audit Bodies
- weak management of irregularities
- inadequate administrative capacity
- weak management verifications

In addition to making the reservations in the Annual Activity Report, in March 2012 DG Regional and Urban Policy effectively interrupted payments to these 14 programmes until improvements had been made to the systems and other appropriate corrective action taken. An action plan set out the corrective actions to be undertaken by the Czech authorities to address these weaknesses. The Czech Authorities subsequently implemented these corrective actions, particularly on the side of the functioning of the audit authority. As a result, in July 2012, the Commission was in a position to resume payments to seven of the 14 programmes. The other seven programmes remained interrupted but for reasons which were programme specific and not linked to the audit function (see below).

In 2013, DG Regional and Urban Policy carried out nine audit missions in the Czech Republic including two audits to verify the ongoing effective functioning of the systems and two follow-up audits to assess the effective functioning of the audit

authority. Based on this audit work DG Regional and Urban Policy was able to confirm that

- the independence issue relating to the Delegated Audit Bodies had been adequately addressed through the centralisation of these audit bodies within the audit authority from 1 January 2013 and
- the audit authority's work effectively improved
- improvements were also made to the system for detecting, reporting and following up irregularities.
- there were also improvements in the area of management verifications.

In addition to these horizontal weaknesses, DG Regional and Urban Policy had also identified other programme specific weaknesses for seven of the 14 programmes and requested the national authorities to implement various other corrective actions including both system improvements and significant financial corrections.

As a result of the corrective actions taken in relation to both the horizontal and programme specific weaknesses four programmes were still interrupted at the end of 2013. Due to further corrective action taken since the start of 2014, the reservations have been fully resolved for two of these four programmes. For the remaining two programmes (Enterprise and Innovation and the Integrated Programme) there are still outstanding issues.

DG Regional and Urban Policy continues to audit the effective functioning of the management and control systems and to review the work of the audit authority, including through re-performance of audits at the level of beneficiaries, to ensure that improvements noted in 2013 and 2014 .

As far as **Greece** is concerned, the audit work carried out by the Commission during the 2007-2013 programming period has not evidenced so far the repetition of past weaknesses that had led to significant net financial corrections under the 2000-2006 programming period. This can be considered as an indicator that the management and control system has improved for 2007-2013.

As far as the Greek ERDF/CF corrections (contributing to the EUR 1 342 million mentioned below) are concerned, more than 85% of them are linked to one reputational reserve issued by the Commission on 2012. The Greek authorities had then undertaken an action plan that has resulted to significant corrections. This action plan has been accepted by the Commission and the reserve has been lifted. It is to underline that the Greek system now takes preventive measures either to avoid declaring or to timely correct expenditure as soon as the national management and control system detects irregularities. In any case, DG Regional and Urban Policy continues to monitor the effective functioning of the Greek management and control system, including through a periodical review of the quality of the work of the national audit authority that entails re-performance of audits of operations at beneficiary level.

As regards **Spain**, improvements have been implemented at different levels of the management and control system, including the relevant authorities and also numerous intermediate bodies. However problems persist in 16 intermediate bodies (out of around 150) put under reservation in the 2013 annual activity report for which

remedial action plans are currently on-going (the Honourable Members are referred to the reply to question 47). Furthermore, it should be noted that most of the financial corrections applied for the programming period 2007-2013 relate to deficiencies and/or irregularities detected by the audit authority (whereas the financial corrections applied for the programming period 2000-2006 related to irregularities that remained undetected by the national authorities and identified ex post by the Commission services), thus evidencing the effectiveness of the controls carried out by the national audit authority during the programming period 2007-2013.

As regards **Hungary**, until 2014 the Hungarian management and control system was mostly centralised for 15 mainstream operational programmes. The managing authorities were located in a central body (National Development Agency) with one single Audit Authority and Certifying Authority for all programmes.

Over the period the control system had adequate administrative capacity and disposed of well-defined procedures to support the implementation of EU co-financed projects.

The management and control system for the Structural Funds has undergone a fundamental change as of 1 January 2014. The managing authorities were transferred to the line ministries and coordination is now ensured by the Prime Minister's Office. The intermediate bodies to which certain implementation tasks are delegated were merged with the managing authorities, which resulted in transferring and integrating more than 2.000 members of staff to the different ministries. Serious concerns have been expressed about the effective functioning of the new institutional set-up in particular linked to the potential loss of staff and accumulated expertise.

Throughout the programme implementation, public procurement remained the main source of irregularities. In the past years, several measures have been undertaken at the initiative of the Commission, which also included setting up a dedicated body to control public procurement for all contracts above EC thresholds. This centralised verification system helped to improve in general the quality of the public procurements. Nevertheless, the Commission closely monitors the situation since Hungary needs to further enhance compliance of public procurement procedures and to increase transparency and competition.

It is to be noted that interruptions currently ongoing are linked to public procurement and project selection. The Commission requested the implementation of corrective actions – including appropriate financial corrections and the necessary improvement of the control system. The Honourable Members are also referred to the reply to question 52.

For **Poland**, a significant share of detected irregularities was made in the area of public procurement during the first years of implementation but improvements have been ensured since then. The programmes managing authorities tightened the procedures to ensure full compliance with the Regulations and Directives. Poland changed its legislation in the area of procurement in 2008. A number of systemic bad practices which were identified in the past are now abolished such as:

- Requirement of availability of the equipment at the stage of tendering,
- Extension of deadlines for tenders or expressions of interests without corrigendum in the OJ,

- Limitations to the possibility of meeting selection criteria jointly by all members of a consortium
- Limitation to subcontracting and
- Requirement to have previous experience in the implementation of projects in Poland or projects co-financed with EU and/or National funds.

Another example of the improvement of the management and control system can be observed in the programme Infrastructure and Environment: following an interruption of the payments by the Commission following a suspicion of collusion around tenders for projects in the road sector in Poland, the Polish authorities developed a procedure to prevent, identify or respond to fraud risk indicators, in particular with regard to price fixing in the implementation of projects.

An example of the continuous co-operation between the Member States and the Commission services is that following the adoption of the Commission Decision on a revised guideline for determining financial corrections for non-compliance with the rules on public procurement, Poland amended the Polish equivalent of this document to take into account this Commission Decision.

Concerning **Romania**, systemic weaknesses in management verifications in the area of public procurement and fraud detection were detected by the Commission in 2011. As a result, financial corrections of between 10% and 25% of the contract value for contracts launched before October 2011, were proposed by DG Regional and Urban Policy in August 2012 and accepted by the Member State for all four concerned programmes (Transport, Competitiveness, Environment and Regional programmes). These corrections will continue to be implemented as long as expenditure related to the concerned public contracts is declared to the Commission. In addition, financial corrections and corrective measures were implemented on an ESF programme based on the results of the audit work conducted by DG EMPL in 2012. In 2013, an audit was conducted by the national audit authority at the request of DG EMPL, focusing on specific risk areas, and was followed by individual financial corrections at project level.

In order to fully mitigate the above mentioned weaknesses, action plans have been implemented as required by the Commission pre-suspension letters. The Commission closely followed the implementation of the agreed action plans. The implemented action plans, as confirmed by our audits, have ensured that all deficiencies have been resolved and the statements of expenditure presented to the Commission are now correct. They contributed also to strengthen the management verifications in the area of public procurement and fraud prevention and detection for all the bodies involved in the system. All measures having been satisfactorily implemented, pre-suspensions were lifted in October 2013.

It can be concluded that the confirmed financial corrections have contributed to the improved quality of the management and control system for the programmes concerned and to the effectiveness of the management verifications. The Commission now has reasonable assurance that the underlying transactions are legal and regular. Nevertheless, the Commission services are continuously monitoring the implementation of the commitments made by the Member State and the continuous effective functioning of the corrective measures.

5. The Commission claims that " Firstly, the capacity of national management and control systems to prevent, detect and correct errors before expenditure is declared to the Commission has been strengthened. On the one hand, the Commission services invested significant management and audit efforts in improving the functioning of Member States' first level verifications. On the other hand, the 2007-2013 regulations introduced the obligation for audit authorities to use statistical samples for audits of operations."

How does the Commission assist Member States to improve 'first-level-verifications' and administrative capacity? Why does the Commission see the necessity to mend the statistical sampling method of audit authorities? How was it done so far?

Commission's answer :

On the Commission assistance to Member States to improve 'first-level-verifications' and administrative capacity:

In the frame of its supervisory role, the Commission is carrying out since 2010 targeted audits on management verifications of high risk programmes where it has identified that such risks could remain undetected or not timely detected by the programme audit authority. Such audits lead, where necessary, to action plans to remedy the identified deficiencies (the Honourable Members are also referred to Commission's reply to question 1 above). The Commission continues to closely supervise the concerned high risk programmes after the implementation of the remedial actions, to ensure that the thus improved management and control systems of programmes do not deteriorate again.

These audits contribute to improvements in the management and control systems for programmes put under reservation ensuring that past and future expenditure declared to the Commission is legal and regular.

The Commission is also providing the programme authorities the necessary guidance and targeted trainings for each of the implementation phases of the programmes. This includes sharing good practices. DG Regional and Urban Policy has set-up a specialised competence centre to improve the administrative capacity in Member States with difficulties. The competence centre has launched three initiatives to improve the managing authorities' administrative capacity and to improve enforcement of public procurement rules and State aid rules namely during first level verifications through: targeted action plans to address the causes of weak administration; additional guidance targeted to common errors, including for public procurement procedures; set-up of a Common Expert Exchange System for better sharing the existing expertise and good practices in the programme authorities.

Reinforced procedures for first level checks are also designed in the regulatory framework for the 2014-2020 programming period, where management verifications (including on-the-spot checks) will have to be carried out on time for the certification to the Commission of programme annual accounts and submission of management declarations by the managing authorities. The existence of remaining serious weaknesses in first level checks, a serious deficiency in the sense of the delegated regulation (EU) N° 480/2014, detected by the Commission or the Court after the submission of accounts will lead to net financial corrections for the concerned programmes. In addition, enhancing institutional capacity of public authorities and

efficient public administration, including programme administrative capacity and good governance, will be eligible to EU funding under thematic objective 11 as foreseen in Article 9 of the Common Provision Regulation (EU) N° 1303/2013. The Commission considers that these reinforced control procedures will result in lasting reductions of the error rate.

As regards the necessity to mend the statistical sampling method of audit authorities:

Additional detailed information on reported errors and error rates are requested from audit authorities in writing or during meetings with audit authorities when DG Regional and Urban Policy auditors detect inconsistencies or raise doubts on the reported information. This allows DG Regional and Urban Policy to validate the error rates as reported or to adjust / recalculate them in full agreement with the audit authorities, based on clarified facts and information made available by audit authorities. It is important to point out that such error rates recalculations by the Commission can be for purely technical reasons, in a complex environment of statistical rules, while audit authorities have carried out correctly their audits. On the basis of clarifications and explanations obtained (e.g. on the treatment of some types of errors, the use of the correct statistical extrapolation method, etc.), DG Regional and Urban Policy is then in a position to recalculate the correct error rate using the appropriate extrapolation formula. Recalculated error rates, therefore, do not mean that audit authorities carried out their audits wrongly or are hiding information to the Commission. It is worth mentioning that audit authorities ensure a significant coverage of expenditure through their audits on operations: approximately a third of the expenditure declared by Member States each year.

6. Wie möchte die Kommission die Wirksamkeit ihrer Sanktionssysteme erhöhen? [*How does the Commission want to increase the effectiveness of its sanctioning system?*]

Commission's answer :

The legal framework does not foresee sanctions for deficiencies in the management and control systems of the Member States. In order to exercise its supervisory role when management and control systems are not effective, the Commission has at its disposal a range of preventive and corrective legal tools. They serve to ensure that the funds are implemented according to the rules and to protect the EU budget in case irregularities appear. On the basis of audit results, the Commission can interrupt or suspend payments to Member States, require from Member States the implementation of appropriate remedial action plans and implement financial corrections to protect the EU budget. The Commission considers that these legal tools, including the possibility to replace irregular expenditure detected by national audits and controls, have already provided incentives so far for Member States to implement controls efficiently and effectively under shared management. Furthermore, the regulation for the 2014-2020 programming period provides the Commission with additional tools to protect the EU budget and to strengthen the incentive effects for Member States. The Commission will have to apply net financial corrections in case EU audits detect serious deficiencies that have not been detected and reported by the Member State authorities before. Net corrections mean that the Member States and programmes will lose the corrected appropriations (The Honourable Members are referred to the Commission's communication COM(2013)934 of 13 December 2013 with a description of this new tool). This will have an increased incentive effect for Member

States to do their utmost to timely detect and correct errors before they provide the Commission with the programme annual accounts. In addition the Commission will have the possibility to increase the rates of financial corrections in case the same type of deficiency is repeated in a programme. The Commission will also withhold 10% of each EU reimbursement during the accounting year, until the programme authorities submit each year the programme annual accounts accompanied by a management declaration that all required verifications have been implemented, an annual summary presenting the results of such verifications and follow-up given and an annual control report and audit opinion confirming based on audit evidence that the accounts are complete and accurate, that all expenditure included in the accounts is indeed legal and regular and that the management and control systems has functioned effectively. Failure by any programme authority to apply these reinforced control provisions will provide a basis to apply financial corrections, including net ones under the conditions fixed in the regulation.

7. The control over the use of regional funds implies a certification system and ex post control by an audit system that, by its nature, is carried out on a sample. What ex-post qualitative control performs the Commission, in addition to the administrative and accounting, on the funding?

Commission's answer :

DG Regional and Urban Policy has an audit strategy in place covering all structural action instruments, which is updated annually based on its risk-assessments reviewed annually to take into account new audit results and other information and to set up the 18-month rolling audit plan of the Commission services.

The audit work contributes to DG Regional and Urban Policy's assurance, and is a combination of desk audit work and on-the-spot audit missions:

a) Commission desk review of the work of the national audit authorities through the continuous analysis of their systems audit reports (including consistency with Community audits results; 547 reports were received in 2013), the analysis of annual control reports and audit opinions issued for all programmes by year end, annual bilateral control coordination meetings with all Member States and ad hoc technical meetings and contacts with the audit authorities to monitor the progress and results of all audit work in line with the approved national audit strategies;

b) Commission on-the-spot audits to conclude, including through the re-performance of samples of audits on systems and on operations carried out by audit authorities, on the reliability of the work carried out and reported by the audit authorities;

c) Commission on-the-spot risk-based audits on national bodies, parts of management and control systems or horizontal issues identified at risk (such as public procurement, State aid, financial engineering or the national systems for recording and reporting irregularities and recoveries), in order to complement the assurance obtained from the national audit authorities. On-the-spot risk-based audits are usually at the level of programmes authorities and/or intermediate bodies, and can include verifications down to the primary source of audit evidence at the level of beneficiaries (in 2013, this was the case for 24 out of 28 audit missions carried out on the spot).

Concerning 2007-2013 programmes, DG Regional and Urban Policy carried out 79 audits in 2013 and has planned another 90 audits in 2014. The main findings and

results of the abovementioned two audit enquiries, i.e. the results of the 232 audit missions carried out on the spot cumulatively since 2009 to review of the work of the audit authorities and of the 77 targeted audits to high risk programmes, are described in pages 38 to 41 of the 2013 annual activity report under heading D "Audit activity of the Directorate-general", with further details provided in annex 8 (pages 44 to 47).

The results of the audit enquiry "review of audit authorities" are used to assess whether DG Regional and Urban Policy can rely principally on the audit authorities' audit opinion and error rates for its annual assurance. A total of 232 missions have been carried out on the spot cumulatively since 2009, including 48 fact-finding missions to validate the annual control report error rates. Each year fact-finding missions are carried out in January-February to verify on the spot the reported error rates for programmes considered most at risk or where inconsistencies are detected during the desk review of annual control reports. On the basis of its work, DG Regional and Urban Policy considered that the audit opinions and error rates reported by audit authorities were largely reliable in 2013: 89% of the reported error rates were assessed as a reliable source of information for the Directorate General's assurance process; and DG Regional and Urban Policy could validate and follow the audit authorities' audit opinions for 304 programmes out of 322 (94%).

The audits carried out on the spot to verify the work of audit authorities covered cumulatively the main 47 audit authorities responsible for more than 96% in total of the ERDF/CF total allocations. As a result, and based on the audit reports issued as at end 2013 the Directorate-General concluded that the work of 40 audit authorities in charge of auditing around 90% of ERDF/CF allocations for the 2007-2013 period work effectively or with some improvements needed and could in general be relied upon. As of end November 2014, the updated result of the audit enquiry is that the assessment is satisfactory for 43 of these 47 audit authorities in charge of auditing 91.4% of ERDF/CF allocations.

8. DG REGI announces that the audit strategy of the DG is revised. Could you please inform Parliament about this revision?

Commission's answer :

The DG Regional and Urban Policy audit strategy for 2011-2013 dated 8 April 2013 which contains an update of the 18-month audit mission plan for 2013-mid 2014 and outlook for 2014-2015 has been made available as part of the information package for the attention of the CONT Discharge Rapporteur MEP Pieper in the context of Discharge 2012.

On 31 March 2014 DG Regional and Urban Policy has updated its audit strategy for the period 2007-2013 based on updated risk assessments for the different audit enquiries, taking into account the lessons learnt from the cumulative audit work carried out and the results of the analysis of 2013 annual control reports. The audit mission plan for the 18 months January 2014 / June 2015 has been updated accordingly, with an identification of the risk programmes, bodies or areas to be audited in 2014-mid 2015. This updated audit strategy for 2007-2013 is available to the Honourable Members on request.

For the new period 2014-2020 an outline for a Single Audit Strategy has also been prepared jointly by the three Directorates-General responsible for the Funds, namely

the Directorate Generals for Regional and Urban Policy (DG REGIO), Employment, Social Affairs and Inclusion (DG EMPL), and Maritime Affairs and Fisheries (DG MARE). The strategy defines the main audit objectives, the risks identified and the audit actions to be undertaken to address these risks, setting out a single audit framework to be applied by the three Directorates-General (desk and on-the-spot audit work) over the overall programming period. A first audit plan for on-the-spot audits for the new programming period is set out on a rolling basis for 18 months (2014-mid 2015). At this stage this audit plan focuses on the designation process and the first preventive audits on the effective functioning of systems, in case of serious risks identified, and is being adjusted to take account of updated information on the adoption of the new programmes. .

Extracts from the outline for this Single Audit Strategy have been included in annex 8 to the 2013 annual activity report of DG REGIO (pages 51-57).

9. How does DG REGIO take the performance (efficiency, effectiveness, economy) of a project into consideration?

Commission's answer :

Under the shared management of cohesion policy the Commission evaluates the performance of the policy, not of individual projects. The Commission evaluates the effectiveness, efficiency, coherence and European value added of the policy in the context of ex post evaluations. It does not evaluate each project. The comprehensive 2007-2013 ex-post evaluation foreseen in the regulation is under way and its results will be released end 2015/early 2016.

The managing authorities in the Member States and regions are responsible for project selection, monitoring and reporting, including for verifying that projects deliver their specific objectives set at national level. At closure, DG Regional and Urban Policy will check that the planned outputs of the programmes were delivered. The programme authorities will provide the list of any uncompleted projects which will be taken into account by the Commission in calculating the final amount of EU assistance justified.

The provisions of the new regulations for the Period 2014-2020 are much clearer in relation to the result orientation of the programme, in relation to the monitoring of programme outputs and result indicators that will have to be declined down to the level of individual projects and on evaluation of the effects of the programmes. These provisions will also influence the choice of the projects to be financed. But the selection and management of projects will remain with the national and regional managing authorities.

10. Is there a system to verify that the active funds provided have actually been fully used for the project approved? There are "protocols" to identify the "chain" of money from the paying agencies to the final beneficiaries?

Commission's answer :

Under shared management, Member States have primary responsibility for the efficient management and implementation of programmes co-funded by Structural

and Cohesion Funds, including for ensuring that public funds provided have actually been fully used for the projects that programme authorities have approved.

One of the core tasks of managing authorities and / or their intermediate bodies is to verify that the co-financed products and projects are delivered and that the expenditure declared by the beneficiaries has actually been incurred and complies with EU and national rules. To this end, managing authorities perform ex-ante management verifications i.e. desk checks on all payment claims submitted by beneficiaries and on-the-spot checks on sampled operations before declaration of expenditure to certifying authorities, as well as additional ex-post checks.

Managing authorities must ensure that certifying authorities receive all necessary information on the procedures and verifications done in relation to expenditure to be certified.

Certifying authorities receive expenditure claims from managing authorities and verify that adequate verifications have been made by managing authorities and / or their intermediate bodies and that all results from other controls and audits have been taken into account before certifying expenditure in a certified payment claim to the Commission.

Following its verifications, the Commission reimburses the EU co-financing to the Member State corresponding to the validated payment claim, in accordance with the co-financing rate established at the priority level. If the payment claim is acceptable, the Commission must proceed with the payment of the EU funding within 60 days. When the Commission identifies deficiencies in the systems or serious irregularities included in a payment claim, it interrupts or suspends the payment deadline for the specific payment claim and imposes remedial corrective actions to the programme concerned, failing which it suspends payments to the programme in question.

The Commission has provided detailed guidance to Member States to explain the regulatory requirements and responsibilities of managing and certifying authorities at the beginning of the 2007-2013 programming period.

11. In the event of persistent deficiencies in the projects presented by certain regions, does the Commission undertake to improve access to the provided funds by training and support? Are there specific trainings for officials of the regions?

Commission's answer :

The Commission is providing the programme authorities guidance and targeted trainings for each of the implementation phases of the programmes. This includes sharing good practices. DG Regional and Urban policy has set-up a specialised competence centre to improve the administrative capacity in Member States with difficulties. The competence centre has launched three initiatives to improve the managing authorities' administrative capacity and to improve enforcement of public procurement rules and State aid rules namely during first level verifications through: targeted action plans to address the causes of weak administration; additional guidance targeted to common errors, including for public procurement procedures; set-up of a Common Expert Exchange System for better sharing the existing expertise and good practices in the programme authorities.

The Commission has also carried out numerous capacity building actions at the level of managing, certifying and audit authorities which contribute to preventing and correcting errors, and which help to address deficiencies found in audits or to prevent such deficiencies. Examples a capacity building actions as well as a list of dedicated trainings organised in 2013 is given in the 2013 Annual activity report of DG Regional and Urban policy (annex 9, pages 50-51).

DG Regional and Urban Policy has started providing training for 2014-2020 (programming and management and control systems) for managing and audit authorities. So far, there were seminars in the UK (with participants from Ireland), Greece (with participants from Cyprus), Sweden (with participants from the Denmark, Finland, Lithuania, Estonia and Latvia) and Portugal, as well as a series of Brussels based seminars and practical workshops with small groups of 30 participants from various Member States to ensure debates and exchange of good practices.

12. Concerning recommendation 6 of the Court: Could the Commission indicate which OP profited from exceptions from the Commission guidelines or internationally accepted audit strategies?

Commission's answer :

The Court of Auditors discloses the cases and provides a brief description of its findings in box 5.6 of its 2013 Annual Report. The Commission points out that during its verification process it detected all deviations from its guidance and approved audit strategies when calculating the error rates. However, after analysis of each case, it considered that the exceptions could be statistically justified. The Commission notes that the Court of Auditors did not conclude that these exceptions should have triggered additional reservations in the annual activity report.

Errors and error rates

13. Jedes Jahr finden wir die gleichen Fehlerarten wie im Vorjahr: Verstöße gegen die Vorschriften für die Vergabe öffentlicher Aufträge sowie Geltendmachung nichtanrechenbarer Ausgaben. Warum gelingt es der Kommission nicht, diese abzustellen? [*Each year we find the same types of errors as in the previous year: breaches of public procurement rules and declaration of ineligible expenditure. Why does the Commission fails to remedy that?*]

Commission's answer :

The possible quantifiable errors underlying the error rate calculated by the Court are by nature linked to compliance with the rules: public procurement, State aid, eligibility of expenditure or of projects and treatment of revenue (funding gap).

With a view to public procurement errors, the Commission is concerned by the repeated high level of error in this area which is however not strictly related to the implementation of cohesion policy projects but a wider issue for all EU and national public policies on the internal market. The key to the reduction of errors in this area is not on the Commission's side but at the level of the Member States. Therefore, the Commission also provides assistance and help to programme authorities to improve their understanding of public procurement and to prevent errors in this area. Targeted

audits on public procurement risks are also carried out by the Commission and audit authorities, and as a result important financial corrections have been made to protect the EU budget. The Honourable Members are referred for detailed actions to the specific reply to question 19 on this subject.

With a view to ineligible expenditure, the Commission considers that it is important that all actors involved in the management and implementation of the programmes, including the beneficiaries, are aware of and apply the eligibility rules in place. A clear definition of the operation and projects supported under the programme and the clear definition of beneficiaries' obligations, for example in the grant approvals, is key to avoiding errors in the implementation stage. This is not always the case, as detected by EU and national audits. In that regard staff turn-over in programme authorities also leads to a loss of expertise and the need for continuous and repeated training in this area. But managing authorities have to make sure that the knowledge is carried over to all bodies in charge of implementing the programmes, including by supervising the understanding and verification of eligibility rules by their intermediate bodies.

Moreover, the declaration of ineligible expenditure is often triggered by unnecessarily complex rules. In order to simplify the procedures for Member States authorities and to reduce the risk of error, for the 2007-2013 programming period eligibility rules had to be laid down at programme and Member State level, instead of defining them mainly at EU level, as it was the case for the previous periods. The aim was to give Member States' authorities the possibility to align the programme specific rules with other national rules in place, thus reducing the risk of error. In some instances, this possibility has however led Member States to define unnecessarily complex rules which turned out to be more prone to errors (so-called gold plating). Furthermore, simplified cost options were created to offer a reduction of administrative burden and of the risk of errors when declaring costs. However, the latter were taken up only to a limited extent by the Member States in regional policy and mostly for declaring expenditure under the ESF.

The legal framework for the 2014-2020 period has further broadened the range of opportunities for simplification to motivate programme authorities to increase their use. These include a set of common rules for all ESI Funds and coordination with other EU instruments under the common strategic framework, an extended use of simplified costs options, simplified rules for revenue-generating projects and financial instruments, and e-cohesion. However, Member States and regions have to play their role in taking advantage of the simplified cost possibilities offered by the regulations but also in ensuring that no ineligible expenditure is declared to the Commission. The Commission will carefully look at what Member States intend to do to effectively simplify eligibility rules and procedures, to effectively implement the simplification options offered under the regulations and check expenditure more effectively.

On the preventive and assistance side, the Commission is providing the programme authorities the necessary guidance and targeted trainings for each of the implementation phases of the programmes. The Honourable Members are referred to the details provided in reply to questions 5 and 11.

14. The most likely error rate in this policy area is 6,9%. The sources of error have remained unchanged over the last years: Serious errors in public procurement (39%), ineligible projects (22%), claiming of ineligible costs

(21%) and non-compliance with state aid rules.

How will the Commission remedy the situation?

Commission's answer :

The Honourable Members are referred to the reply to question 13.

15. Could you please provide Parliament with a separate error rate on the Cohesion Fund and the ERDF?

Commission's answer :

The Court of Auditors provides in its annual report a combined error rate for ERDF, Cohesion Fund and energy and transport projects of the TEN falling under the responsibility of DG Mobility and Transport and DG Energy.

For DG Regional and Urban Policy validated error rates in the annual activity report: For the programming period 2007-2013, and unlike the 2000-2006 programming period, the Cohesion Fund projects are implemented and integrated under programmes, together with ERDF projects. As such they are not sampled separately for audits but are part of common sample drawn from expenditure co-financed by ERDF and Cohesion Fund together. Consequently, the error rate reported by the audit authorities and validated by the Commission is also common to both Funds.

16. Could you please provide Parliament with an error rate per OP and the notification of the audit authority to the Commission?

Commission's answer :

DG Regional and Urban Policy has provided the requested information to the CONT Chair and Secretariat on 4 November 2014 by e-mail.

17. Could you please provide Parliament with the error rate of the OP and the notification of the managing authority and the respective notification of the certification authority?

Commission's answer :

The Honourable Members are referred to the reply to question 16 and information submitted to the CONT Chair and Secretariat on 4 November 2014 by e-mail. The legal framework of the Structural Funds for 2007-2013 is different than the one applicable to agriculture: the error rates reported by Member States for Structural Funds are the ones disclosed in the annual control report drawn-up by the relevant audit authorities, based on ex-post controls of representative samples of operations, in order to test the effectiveness of verifications of managing or certifying authorities.

18. Reliability of error rates: in 2011 the Court noted an error rate of 6% in the cohesion policy, 2012 it noted 6,8%. DG REGIO calculated an error rate of 3,1% in 2011 and for 2012 DG REGIO indicated between 2,2% and 5%. In 2013 the Court notes 6,9%, DG REGIO notes 2,8%-5,3%. In its comments

to the Annual Report of the Court the Commission answers in par. 5.54 underlining the different methodologies. In Box 5.7. of its annual report the Court compares the methodologies insisting that without recent changes on Commission's side the result would have been identical - 6,9% instead of 5,3%. If we take into account the lack of reliability of member states figures and that "the Commission's desk reviews cannot properly address the risk of Member States reporting inaccurate and unreliable information" (Par. 5.48) - how does the Commission explain the lower error rate (which was a result of "better use of all available information reported by audit authorities when considered reliable" (box 5.7.)? How reliable are the Commission's calculations?

Commission's answer :

In the annual activity report 2013 DG Regional and Urban Policy has calculated an error rate established in the range of 2,8% to 5,3%. The calculation of the lower limit of the Commission estimate is confirmed by the review made by the Court, based on information obtained from the audit authorities and validated by the Commission. The Court indicates in Box 5.7 of its Annual Report that "*The Court's recalculation (2,9%) basically confirms the Commission's estimate of the lower error rate (2,8% ...)*".. The Court also recalls in paragraph 5.54 of its 2013 Annual Report that "*the annual error rates reported by the Commission are not directly comparable to those estimated by the Court*" for the reasons disclosed in its special report 16/2013 (paragraph 11).

The Commission considers that the different levels of error rate calculated by the Commission and by the Court are mainly explained by the following facts:

- The error rates calculated by the Court is an overall statistical estimate covering all programmes in Europe, independently of the quality of the different underlying management and control systems. The Commission calculation is an average based on representative, statistical samples of operations for almost 2/3 of programmes or groups of programmes under the same management and control systems, on non- statistical samples of operations for the remaining programmes due to the limited number of operations to be audited under such programmes and on risk estimates by the Commission fixed at flat rate for 11% of the reported error rates judged non reliable at the date of the annual activity report. As indicated in DG Regional and Urban Policy's 2013 annual activity report, this average is based on a significant coverage of expenditure as reported by audit authorities (31% of 2012 expenditure, 35% cumulatively up to December 2013; reference is made to DG Regional and Urban Policy's 2013 annual activity report, page 34).
- The Commission has access to evidence at a different stage in the multiannual control cycle when assessing the error rate, and estimates the average error rate for the annual activity reference year based on the error rates reported by audit authorities and validated for expenditure in the previous reference year.
- There remain some differences in the approach to calculate the error rate. When calculating its error rate, the Court does not fully take into account flat rate financial corrections imposed by the Commission to programmes. Also the Court makes a different quantification of public procurement errors than the one applied by the Commission and Member States. Both aspects taken together would bring the most likely error rate calculated by the Court for 2013 to 4,8% (instead of

6,9%), i.e. within the range indicated by the Commission in its annual activity report.

Finally, and despite the different approaches, it is to be noted that DG Regional and Urban Policy's estimate of risks to 2013 payments (2,8% - 5,3%) is within the precision (statistical range) calculated by the Court and reported in footnote 14 of its 2013 Annual Report: "*the Court has 95% confidence that the rate of error in the population lies between 3,7% and 10,1% (the lower and upper error limits respectively)*", 6,9% being the most likely error.

19. Could the Commission comment on the fact that 45% of all errors in the cohesion sector since 2009 go back to severe infringement of public procurement laws as this non respect of fundamental principles of the EU internal market has several repercussions on the Union itself?

Commission's answer :

Shortcomings in the implementation of public procurement rules are amongst the most common errors found by the Court since 2006. The Commission is concerned by this - it is also an issue raised by many of the Commission's audits - and takes this into account for its own risk assessment and audit work.

However, public procurement legislation covers all EU and national public policies and is therefore not strictly related to the implementation of cohesion policy projects. It concerns any public spending in Member States. The Commission will continue to work with Member States to reduce the risk of errors in public procurement because public tendering requirements exist to ensure value-for-money for European taxpayers on the internal market.

The Commission carries out targeted audits in Member States and for programmes where it identified risks or difficulties with public procurement procedures. In particular it verifies whether management verifications by managing authorities allow detecting problems with public contracts. In half of its targeted, risk-based audits the Commission has found that management verifications of public procurement procedures were not appropriate. As a result of its audits the Commission imposes financial corrections for past expenditure and requires Member States to fix the system for the future. The Commission has carried out important financial corrections for public procurement deficiencies for ERDF and CF, both in the past (namely in Spain and Greece) and more recently (Romania, Czech Republic and Slovakia) to ensure that the EU budget was protected.

The Commission also provides assistance and help to programme authorities to improve their understanding of public procurement and to prevent errors in this area. Numerous seminars, workshops, presentations and training sessions have been and will continue to be organised with programme authorities to increase their knowledge and administrative capacity in this area. This includes targeted actions on a bilateral basis to assist Member States to tackle specific issues.

DG Regional and Urban Policy's competence centre for administrative capacity building has launched a public procurement initiative and action plan, in close cooperation with DG Internal Market and Services and DG Employment, Social Affairs and Inclusion. The actions under way include:

- A Guidance for Practitioners on "How to avoid common public procurement errors", based on an assessment of the most frequent types of errors identified in the last years; presented to Member States' representatives at the 2014 Open Days. The guidance will now be disseminated across Europe for programme managers. A presentation / explanation of this new guidance for practitioners is also scheduled in the Member States where it is most needed;
- Development of an expert exchange system for managing authorities to share expertise in public procurement capacity building. This will be part of a platform for exchanging expertise and experience between managing authorities;
- Definition of country-specific action plans to address identified weaknesses in Romania, Bulgaria, Greece and Italy;
- Presentation of the new public procurement directives and the related simplification and increased transparency, including through e-procurement, in seminars across Europe.

The EU public procurement directives have been revised in 2014. Public procurement procedures will be simpler more flexible in the future. This will benefit both public purchasers and businesses, particularly small and medium-sized companies. It will reduce the risk of errors. However the revised public procurement directives will not have immediate effect as the Member States have until April 2016 to transpose the new rules into their national law.

20. The Court states that infringement of state aid rules account for 17% of the error rate. How does the Commission explain this worryingly high percentage?

Commission's answer :

As acknowledged in a Special Report published in 2011², the European Court of Auditors pointed out that “[...] *the complexity of the concept of State aid makes it difficult for Member States to decide whether a measure constitutes State aid and needs to be notified to the Commission*”. State aid legislation covers all EU and national public policies and is therefore not strictly related to the implementation of cohesion policy projects.

For the 2007-2013 programming period, DG Regional and Urban Policy reinforced the focus of its audits in the Member States on the compliance with State aid rules, a key risk factor identified for the planning of audits. It also took actions to raise awareness and improve the knowledge of national authorities responsible for the management and control of ERDF/CF programmes in this regard. In particular, in 2011 DG Regional and Urban Policy shared with audit authorities its specific audit checklist (drawn from the ones used by the Court) covering the main State aid rules, and requested them to share them with managing authorities as well to improve their management verifications in this area. The Commission auditors also use this tool on-the-spot to re-perform audits of operations carried out by the audit authorities. Furthermore, DG Regional and Urban Policy also discussed methodological approaches on audit of State aid in technical meetings with the audit authorities of all

² European Court of Auditors Special Report No 15/2011, Do the Commission's procedures ensure effective management of State aid control?, paragraph 28.

the Member States: 17/10/2011 in Malta, 24/09/2012 in Lithuania and more recently in Brussels on 26/11/2014 (including an overview of the ongoing State aid modernization presented by DG Competition). DG Regional and Urban Policy's competence centre is also currently elaborating a State aid action plan in cooperation with DG Competition, which will be released shortly. Its aim is to increase awareness and understanding of the subject by programme authorities and beneficiaries.

For the 2014-2020 programming period, compliance with State aid rules will remain one of the main challenges when implementing cohesion policy. An important step towards further preventing irregularities related to State aid rules is the related 'ex-ante conditionality', a requirement specified in the Common Provision Regulation for the 2014-2020 programming period that Member States must carry out an assessment of the arrangements in place for the effective application of Union State aid rules for all operational programmes in view of the adoption of programmes. This includes information in the programmes on training and dissemination of information for staff involved in the implementation of the European Structural and Investment Funds. The necessary steps for addressing weaknesses identified during this assessment must be implemented by the end of 2016 at the latest, and in case of serious prejudice the Commission may suspend payments to the corresponding parts of programmes when adopting programmes or in case of insufficient application of agreed measures by end 2016.

The revision of the legislation in 2014, in particular the extension of areas under the General Block Exemption Regulation and the updated guidance on existing concepts by the European Commission should help managing authorities to better understand and correctly interpret the applicable rules.

21. Which kind of follow-up is given to the Court's examples of infringement of state aid rules (Box 5.4.)? Could the Commission inform Parliament about each of the 16 cases the Court discovered?

Commission's answer :

The Commission follows-up all errors identified by the Court. The Commission follow-up is audited every year by the Court and is part of subsequent DAS exercises. In case the Commission agrees with the Court's finding of a quantifiable error, it imposes financial corrections to the Member State concerned.

As regards the follow-up to be given to the State aid cases identified by the Court in Box 5.4:

- The Commission agrees with the Court's assessment made on the Slovenian and the Hungarian cases that the beneficiary cannot be considered as an SME and therefore it was not entitled to an SME bonus. Therefore the Commission already requested that unduly paid SME bonus be corrected by the programme authorities.
- Concerning the two Polish cases and the Bulgarian case, the follow-up procedures are on-going and the final position of the Commission services will be sent to the Member States authorities.

Concerning the information about the 16 cases audited by the Court, the Commission invites the Honourable Members to request the detailed information from the Court.

22. Box 5.6 of the Court's annual report - the UK cases: The Court concludes a much higher error rate than the Commission. Is the Commission's procedure laid down in Box 5.6 the Commission's standard procedure for a.) drawing audit samples and b.) calculating the error rate for an OP in putting several OP together? c.) How many OP were calculated this way? Which one? Which follow-up is planned by DG Regi?

Commission's answer :

The Audit authority is required to select and audit a statistical sample from the total population certified to the Commission, for each programme separately or in case of common management and control systems for groups of programmes, as allowed for in the regulation. In the case referred to in box 5.6 by the Court of auditors, the Scottish Audit authority grouped its four operational programmes implemented under a common management and control system together in view of drawing a common sample and applied, for the first time during this programming period, a statistical sampling method. When a number of operational programmes are grouped together then the projected error rate for the common sample audited is normally applied for all grouped programmes. However, sampling techniques also allow stratification, meaning splitting the population to be sampled into separate sub-samples called 'strata'. This allows having a better representativity of audit results for the population. If the number of operations controlled under the different strata is sufficient (the Commission guidance refers to a minimum of 30 sampling units audited to allow projection of audit results), it is possible to conclude also for each stratum separately in addition to calculating an overall error rate.

As the Court of Auditors reports, the Commission noted that error rates reported by the Scottish audit authority for each programme separately was not correct as it was not reaching the necessary coverage for each programme. Instead the Commission has proposed the audit authority to recalculate the projected error rates by grouping the audited operations of the two Highlands & Islands ERDF & ESF programmes and the two Lowlands & Uplands ERDF & ESF programmes, since it was then statistically possible to conclude for each of the two strata. This stratification is helpful since it appeared that audit results were slightly different for these two strata of the audited population. The Scottish authorities confirmed a revised combined error rate for the two ERDF & ESF programmes in Lowlands & Uplands of 3.7% and applied an extrapolated financial correction of 1.71% or £3,826,265. The projected error rate for the two ERDF and ESF programmes in Highlands & Islands was under the 2% materiality level and thereby no further extrapolated financial correction had to be applied beyond the correction of individual errors detected in the sample. Stratification therefore allows to have reasonable samples to audit (administrative efficiency) while ensuring representative, statistically sound refined audit results and conclusions.

Concerning the incorrect sampling population, the Commission services identified this issue of the reconciliation of the population used by the audit authority with the amounts certified to the Commissions services in the annual control report's assessment letter of March 2014.

In the case of Lowlands and Uplands ERDF programme (2007UK162PO001), and due to the materiality of the difference not reconciled, this deficiency was also

included in the pre-suspension letter of April 2014. DG Regional and Urban Policy auditors validated positively the final reconciliation provided by the audit authority in the framework of the follow-up to the pre-suspension procedure.

In the case of Highlands and Islands ERDF programme (2007UK161PO001), the sampling population used by the audit authority did not fully reconcile but the difference was immaterial. DG Regional and Urban policy auditors considered at the time of the annual activity report that this had no impact on the reported results. This assessment was confirmed during the follow-up of the annual control report's assessment, where the figures were satisfactorily reconciled and had no impact on the recalculated error rate of this programme.

As shown in the table of error rates reported by audit authorities and validated by the Commission (annex II), attached to the e-mail sent by Director General Walter Deffaa to the CONT Chair and Secretariat on 4 November 2014, for the following Member States and number of programmes, the error rates were common for grouped programmes: Austria (8 ERDF programmes), Cyprus (1 ERDF + 1 ESF programme), Estonia (2 ERDF + 1 ESF programme), Finland (4 ERDF programmes), France (31 ERDF programmes), Germany (2 ERDF + 2 ESF programmes), Greece (10 ERDF programmes), Hungary (6 ERDF programmes), Latvia (2 ERDF + 1 ESF programme), Lithuania (2 ERDF + 1 ESF programme), Netherlands (4 ERDF programmes), Portugal (2 different samples for 8 ERDF and 2 ERDF programmes), Sweden (8 ERDF programmes), Slovakia (4 ERDF programmes), Slovenia (2 ERDF programmes), Spain (3 ERDF programmes + national parts of the 19 regional programmes) and United Kingdom (3 different samples for 10 English ERDF programmes, 4 Scottish programmes (2 ERDF + 2 ESF) and 4 Welsh programmes (2 ERDF + 2 ESF)).

No specific follow-up is carried out by DG Regional and Urban Policy as the use of common error rates by group of programmes is perfectly in line with the regulation and sampling methodology.

23. Box 5.6 of the Court's annual report - the NL cases: Is the procedure of the Dutch audit authority laid down in Box 5.6. by the Court in accordance with the rules? Which follow-up is planned by DG REGIO?

Commission's answer :

As reported by the Court, the Commission identified that the Dutch audit authority grouped all four Dutch programmes implemented under a common management and control system for the purpose of drawing a common sample of operations. However, the audit authority subsequently reported individual error rates and opinions for each programme in four distinct annual control reports submitted at the end of December 2013. The Commission rejected all four reports and error rates which were not compliant with the rules and guidance, asking the audit authority to provide a global opinion and error rate for the grouped programmes, unless it could be demonstrated that stratification per programme or group of programmes was possible. In the revised annual control reports submitted in February 2014, the audit authority reported one material error rate and qualified opinion for the programme 'West', and one error rate below 2% and unqualified opinion for the group of three programmes 'Noord', 'Zuid' and 'Oost'. This a posteriori stratification was in line with the Commission guidance, since a sufficient number of operations was audited to obtain conclusive results for

each of the two strata. The error rate calculation for the group of three programmes was done in line with the applicable guidance on sampling and could finally be accepted by the Commission. In this example as well, stratification is a useful statistical technique to obtain more refined audit results that allow targeting the financial correction to the part of the population that is affected by material error (programme 'West'), instead of imposing an across the board, blind correction to all four programmes.

However, as a follow-up, the Dutch audit authority and the Commission discussed the sampling methodology in May and June 2014. In order to avoid similar discussions in the future, the Dutch audit authority has decided to draw separate samples for each of the four programmes from now on (additional audit work) and to report separate error rates for each programme in the 2014 annual control reports.

24. Box 5.6. of the Court's annual report - the Spanish cases: Which follow-up is planned by DG REGIO concerning the non-respect of the two years obligation concerning the working posts?

Commission's answer :

As regards Spain, the Commission has a different position than the Court's conclusions. The finding of the Court refers to a single operation (within a sample of 77 operations related to 19 grouped programmes) where the audit authority identified a potential risk of the beneficiary's non-compliance with the aid conditions, in particular related to the maintenance of the employment level for two years. This incidence was not considered irregular for the error rate calculation, given that the 2-year deadline for maintaining and computing the employment level had not yet been reached by the time of the audit, nor by the time of issuing the 2013 annual control report. Furthermore, the concerned intermediate body has adequate procedures in place that guarantee that the beneficiaries' compliance with the employment maintenance requirement is verified (on a 100% basis) once the 2-year deadline is reached. The Commission therefore considers that this issue was correctly not included in the error rate reported by the audit authority, and that no specific follow-up is required. It also notes that despite its conclusion, the Court did not identify the need for additional reservations in the annual activity report in this case.

25. Box 5.6. of the Court's annual report - the German cases: Which follow-up is planned by DG REGIO concerning the application of a flat-rate error rate?

Commission's answer :

The Commission agrees with the Court's finding since DG Regional and Urban Policy had already identified and discussed this issue during its audit to Niedersachsen in 2011 (audit reference 2011/DE/REGIO/J2/814/4). The data base established by the authorities of Niedersachsen, which is used by the audit authority for the sampling population, indeed includes expenditure declared to the Commission in previous years, which were subsequently taken out from the expenditure statements to the Commission (due to on-going investigation procedures by the managing authority, certifying authority or audit authority), and which were then reintroduced in the expenditure statement in the reference year.

However, as already for the 2012 annual activity report, the Commission's assessment of the impact and consequences to draw from this situation fundamentally differs from the Court's one, for the following reasons:

1. The amounts could not be reconciled on a yearly basis but they could be reconciled cumulatively: on request of DG Regional and Urban Policy, the audit authority of Niedersachsen has provided cumulative reconciliation of the sampling population with the expenditure declared until end 2012. DG Regional and Urban Policy has tested individual items included in the population and could follow the relevant justifications provided by the audit authority. DG Regional and Urban Policy calculated the amounts until the end 2012 and confirm that they correspond to the cumulative amount declared to the Commission.

2. The work of the audit authority is reliable (the Niedersachsen programme was granted the "article 73 – single audit" status): DG Regional and Urban Policy has assessed the work of the audit authority of Niedersachsen through on-the-spot audit missions in 2011, 2012 and 2013. To ensure the proper assessment of the error rate DG Regional and Urban Policy re-performed audits of operations already audited by the audit authority, to test their quality. During those missions, DG Regional and Urban Policy obtained reasonable assurance that it can rely on the work and results of the audit authority.

3. The coverage of expenditure audited by the audit authority is very high: for the ERDF programmes, an amount of EUR 242.807.264 was declared to the Commission in 2012. The amount of audited expenditure is EUR 121.377.542, or 50%. This represents a considerable coverage, above the average of 35% cumulatively since 2007 for all programmes. Therefore, the audit work performed represents a sufficient and substantive basis for conclusions on the legality and regularity of expenditure declared to the Commission in the reference year.

Based on the above and after an in-depth analysis of all available information, DG Regional and Urban Policy therefore considered that the error rates reported by the audit authority are reliable and reflect correctly the risk in the expenditure to the programmes. DG Regional and Urban Policy does not consider that the use of a flat rate estimate of the risk was justified and proportionate for these programmes.

For the future and starting with the annual control report 2014, the audit authority agreed that audit samples will be based only on the new expenditure declared to the Commission in the reference year. As the IT systems for the period 2007-2013 are not designed to provide this data, the authorities of Niedersachsen will make additional calculations. There is an agreement that for the period 2014-2020 the authorities of Niedersachsen will amend their IT systems accordingly, as confirmed during DG Regional and Urban Policy's second monitoring audit in November 2013.

26. Par. 5.61. The Commission underlines that the error rate 2007-2013 remains below the one for 2000-2006. Reviewing the Commission's arguments during the discharge debates 2005 to 2009 expectations were formulated about the then new legal base with a presumed easier application for the 2007-2013 funds. Why did the results of the implementation in this period 2007-2013 remain below the expectations?

Commission's answer :

The changes for 2007-2013 have delivered in line with expectations in that they have resulted in a very substantial reduction in the error rate found by the Court in the DAS.

Indeed, the oscillation of the Court's error rate between 5%-7% in the annual reports of the last years confirms for Regional and Urban Policy the general improvement in the functioning of the management and control systems over the years, namely since 2000-2006 when the calculated error rate was more than double of what it is now. This development derives from two elements: a) the reinforced control provisions included in the 2007-2013 regulatory framework and b) the Commission's reinforced supervision over Member States and programmes, namely the strict policy to interrupt/suspend the Commission payments to Member States when weaknesses and problems are identified in management and control systems. The Commission has stepped up its supervisory role and calls on the Member States and programme authorities to step up their efforts by improving their management and controls. Member States should also take advantage of the support that the Commission offers – for example training of officials from programme authorities – and further deliver it to all levels of programme implementation.

This said, the Commission accepts that the changes to the regulation did not lead to the hoped system improvements for all and every programme which would prevent errors effectively prior to expenditure being declared to the Commission. Nevertheless the strengthening of the audit authorities in 2007-2013 and the evidence of the increasing reliability of their work provides a good basis for the application of preventive and corrective measures such as interruption / suspension of payments and ex post financial corrections to protect the Union budget. The Commission will continue to take account in its risk-assessment of the evolution of management and control systems and of evolving factors such as staff turn-over, administrative capacity and expertise/knowledge in order to target the programmes, authorities and bodies most at risk.

Changes introduced for 2014-2020 introduce further safeguards and controls to encourage an even better and more rigorous management of taxpayers' money. The Honourable Members are referred for details to the reply to question 5.

27. Which follow-up will be given to the cases reported by the Court in box 5.1 a) and b)?

Commission's answer :

The Commission is following up all Court's findings.

The case mentioned by the Court in box 5.1 a) refers to the transport policy area and therefore the reply is provided in cooperation with Commissioner Bulc's services. The INEA Agency is further analysing the Court's findings and will seek further clarifications from the beneficiary before taking a decision on the course of action.

For the case mentioned by the Court in box 5.1 b), the Member State and the Commission agree with the Court's finding concerning the use of an illegal award criterion in the tender procedure. The Member State has agreed to apply the necessary financial corrections and the Commission will follow-up the effective implementation of such financial corrections in the subsequent payment claim submitted by the Spanish authorities.

28. Which follow-up will be given to the cases reported by the Court in box 5.2.?

Commission's answer :

The Commission is following up all Court's findings.

With regards to the Polish case mentioned in box 5.2, the Commission does not consider that a firm conclusion can be drawn at this stage. The Commission will verify the compliance of the project with its objectives (output and result indicators) at the only moment when this is possible, that is at full completion of the project. The verification is ongoing. In case of non-compliance, the necessary financial corrections will be applied.

For the Hungarian case mentioned by the Court in box 5.2, the Commission considers that the relevant call for applications aimed to provide incentives for innovative companies and not to support actual R&D&I activities. It was not the actual activity co-financed - the purchase of an excavator in this case – that needed to be innovative but the beneficiary company itself. This innovative nature of the beneficiary was to be determined on the basis of particular selection criteria defined in the programme, which were assessed appropriate and which were duly met by the beneficiary for the project in question.

On this basis Commission considers the project expenditure eligible and will not request financial corrections.

29. Which follow-up will be given to the cases reported by the Court in box 5.3.?

Commission's answer :

The Commission is following up the Court's findings.

The cases mentioned by the Court in box 5.3 refer to the energy and transport policy areas and therefore the reply is provided in cooperation with Commissioners Arias Cañete's and Bulc's services.

For the case mentioned by the Court in box 5.3 a), the Commission has taken into account the observation made by the Court and has launched a full audit. The audit work is still ongoing and the report will most probably be issued by the end of February 2015.

For the case mentioned by the Court in box 5.3 b), the INEA agency is following up the Court's finding and a contradictory procedure is on-going with the beneficiary.

30. Of 322 operational programmes more than 50 show a validated projected error rate of 5% or more.

Can the Commission inform CONT about the action plans in place?

Commission's answer :

The Honourable Members are referred to Annex 7 of DG Regional and Urban Policy's 2013 annual activity report which describes the identified deficiencies, including high error rates reported or alternatively risks estimated at flat rate by the Commission, and remedial actions that have to be taken by Member State authorities for the programmes that are under reservation.

52 programmes have a projected error rate of 5% or more. 47 of them are under reservation.

The following table provides an update of the action plans in place for these 47 programmes.



Cont request.xls

The remaining 5 programmes are without reservation for the following reasons:

2007CZ161PO002	Czech Republic: programme Central Moravia	No reservation considered necessary. CRR <2% after financial corrections implemented as a result of the action plan. Error rate >5% before implementation of the action plan.
2007CZ161PO010	Czech Republic: programme Moravia-Silesia	
2007CZ161PO013	Czech Republic: programme South-West	
2007CZ161PO001	Czech Republic: programme South-East	
2007SK161PO002	Slovakia: programme Environment	No reservation needed. Exception disclosed in the AAR 2013 (footnote 53, page 40). DG Regional and Urban Policy has obtained reasonable assurance through its own audit work and the implemented 2012 action plan, including flat rate financial corrections.

31. It would appear that the European Court of Auditors accepted the concept of "residual error rates" in 2013. What is the current state-of-play?

Commission's answer :

The European Court of Auditors takes into account any financial correction or recovery made *at projects level at the time of the Court's audit* and does not include the amounts in question any longer in its error rate calculation. However, the Court's calculation does not make a provision for the corrective effect of controls which are made *at a flat rate basis* for a programme or parts of a programme or that will be implemented *in the subsequent years*.

Yet in reality, due to the legal framework for protecting the EU financial interests and the related procedures, in many areas (especially shared management) it is unavoidable that errors are corrected at a flat rate basis or only several years *after* they have occurred.

The Commission does take into consideration the impact of multiannual corrective mechanisms, as the impact of the control systems in reducing error rates is usually only seen in subsequent years. Since the 2011 annual activity report, all DGs implementing appropriations under Cohesion policy incorporate the consideration of the multi-annual impact of the error rates calculated since the start of the programming period by calculating a cumulative residual error rate which takes into account the recoveries and withdrawals implemented at EU and national level since the start of the programming period, as well as pending recoveries and withdrawals accepted by the certifying authorities.

32. Next to the likely error rates the Commission's estimates also show a "residual error rate", an extrapolated, end-of-programme figure.

How reliable is this figure? Will the Commission in future confirm in the annual activity report (AAR) of the Directorate-General for Regional and Urban Policy that the Commission's calculation of the 'residual error rate' is based on accurate, complete and reliable information on financial corrections?

Commission's answer :

The cumulative residual risk mentioned above in the reply to question 32 corresponds to the Directorate-General's best estimate of expenditure which is not in full conformity with the contractual or regulatory provisions and which have not been corrected at the date the annual activity report is signed.

It is based on information which is to the best knowledge of the Commission accurate and exhaustive. This is also certified by the Resources Directors of every Directorate General who signs an annual statement to confirm this.

Regarding the information on financial corrections, the Commission wishes to point out that there are no questions as regards the accuracy, completeness and reliability of the information on financial corrections and recoveries implemented as a result of the Commission's supervisory work (and included in Note 6 of the certified consolidated annual accounts of the Commission).

Furthermore the Commission has taken a number of initiatives aimed at improving the reliability of the financial corrections reported by the Member States. This include an increase of the audit coverage of data on withdrawals and recoveries reported by Member States, and the use of all available audit results from audit authorities in order to increase the assurance on reported data used for the calculation of the cumulative residual risk.

The Commission continues to take any measures to ensure that the information disclosed in the annual activity reports provide a fair view of the 'residual error rate'.

Since AAR 2011, the Directorates-General in charge of cohesion policy calculate a cumulative residual risk (CRR) for each programme, an indicator to assess whether

the programme financial risk is manageable on a cumulative basis from the beginning of implementation. For operational programmes with validated error rates between 2% and 5%, a reservation is made if the calculated CRR is above the materiality threshold of 2%. The CRR is therefore a criterion for additional reservations compared to the situation before AAR 2011, to follow-up a 2010 Court observation to address the situation of programmes with an error rate between 2% and 5%.

The CRR is the best estimate of the residual risk taking account of the corrective capacity of the programme over the period. It is calculated by DG Regional and Urban Policy for each programme by multiplying the validated error rates (or alternatively flat rates set by the Commission) by amounts paid for each year and by deducting the amounts of financial corrections formally reported by certifying authorities by 31 March each year, adjusted in some cases where the Commission identifies inconsistencies in these reported amounts of financial corrections.

This calculation method presents some limitations, as indicated in DG Regional and Urban Policy's annual activity report for 2013 (pages 49-50 and annex 8, pages 63 and 64) and should only be seen as an indicator and a criterion for additional reservations. Indeed, the level of assurance that can be placed in the CRR calculation depends on both aspects of the calculation basis: on the one hand the estimation of the level of risk based on validated error rates or estimates at flat rate in case of unreliable reported rates; on the other hand the amounts of financial corrections applied to the programme since the beginning of the programme implementation. In particular, while a thorough and robust process is in place to validate the error rates or to alternatively assess the risks to payments, reporting by certifying authorities on financial corrections refer to aggregated amounts at priority axis level as a result of management verifications by the managing authorities and their intermediate bodies, additional controls by the certifying authority and audits on systems and operation by audit authorities. The quality of this reporting depends on the robustness of the internal reporting and monitoring system of certifying authorities, and on their good understanding of the Commission guidance in that regard. DG Regional and Urban Policy is therefore taking measures to improve the reliability of information reported by Member States on financial corrections, including an increase audit effort on the reporting by certifying authorities, as described in the reply to question 2 above.

The current CRR methodology will be used up to closure 2007-2013 but not for the new period. Indeed, for the 2014-2020 programmes, residual risk will be calculated each year by audit authorities at the time of presenting annual accounts and based on financial corrections stemming from the audit work only.

Absorption, implementation and RAL

33. Some European regions are still not able to absorb the funds provided. The Commission has identified the different problems that underlie this phenomenon?

Commission's answer :

Absorption corresponds to the level of EU payments made to a country and is compared to the overall allocation at priority, programme, or national level. Depending on the region and Member State, there may be a number of reasons why

certain regions lag behind, but tailored actions have been undertaken where appropriate at country or programme (i.e. region-specific) level.

Low absorption is linked to an insufficient preparation of the project pipeline (incl. immature projects) leading to slow start of the programmes, delays in physical implementation including lengthy permits, tendering and subsequent appeal procedures and inappropriate contracting leading to disputes.

Reasons for the delays are to be found in weak public administrations (managing authorities, intermediate bodies, certifying authorities) related to fund management at national level as well as in inappropriately designed national procedures. They are confronted with the following administrative bottle-necks and challenges:

- **Structures:** Complex and unclear organisation structures (unclear delegations, too many programmes and too many intermediate bodies); insufficient capacity and power of coordinating bodies to take up their role; unclear definition of tasks with a resulting lack of clarity about task ownership.
- **Human resources:** Lack of appropriately qualified and experienced staff, staff allocation not aligned with needs, and high staff turnover rates; weak competences to comply with complex EU rules, e.g. public procurement, State aid and environmental legislation; limited analytical and programming capacity; insufficient capacity (and political backing) to deliver results oriented strategies; limited administrative capacity of beneficiaries, especially local authorities in areas such as public procurement.
- **Systems and tools:** Insufficient monitoring systems and quality of data for measuring the impact of investments (strong focus on financial monitoring but not on impact); lack of strategic vision documents or follow up on implementation of strategies; insufficient evaluation systems and follow up (no clear overview where projects are in state of progress); slow up-take of new technologies to reduce the administrative burden on beneficiaries and for sharing data to improve transparency.
- **Governance:** Weak governance arrangements for holding managers accountable for performance, permeability to fraud and corruption, lack of transparency, poor partnerships, undue political influence over staff appointments and project selection, and difficulties to ensure compliance with public procurement (high level of irregularities), State aid and environment regulatory requirements (EIA, Natura 2000).

The Commission has been closely monitoring the situation for the concerned regions from the point in time when problems became apparent (i.e. underperformance compared to the average). Joint monitoring and technical meetings took place, bottlenecks were identified and corresponding solutions proposed and agreed with the Member States. These triggered measures like redesigning the project-pipeline, reprogramming, phasing of projects, including new projects or types of expenditure. DG Regional and Urban Policy recently established an internal Task Force for Implementation to help Member States with low absorption (see reply to question 34).

34. For the 2007-2013 financial period 11 Member States are reported to have committed the Structural funds below the EU average. Among these 11 Member States we found two founding members of the European

Communities, Italy and France? Which kind of problems is responsible in these two member states for being "under performers"? Which kind of problems is responsible for Romania, Croatia and Slovakia for leading the list of "under performers"? Will "flexibility" (n+3, agreed in 2013) solve the problem?

Commission's answer :

Out of the 28 Member States receiving ERDF/CF support in the 2007-2013 period, 12 are below the weighted average as regards financial execution of the Member States (based on payments made at EU level to have an aggregated and comparable basis). Some of them have a backlog of only a couple of percentage points (i.e. France, UK and Spain) which should not give rise for concern as this indicator can change rapidly (for instance, when a more substantial payment claim is submitted).

DG Regional and Urban Policy has recently set up an internal Task Force for implementation for those 8 Member States, including Italy, having a significantly low rate of financial implementation (around 60% for at least one of either the ERDF or the Cohesion Fund) or require close monitoring on the basis of earlier records. Insufficient administrative capacity for managing the funds and designing projects coupled with deficiencies in governance and insufficient political engagement remain the key factors at the origin of underperformance. The internal Task Force is responsible for drawing up action plans for each Member State concerned (or reviewing and fostering implementation for existing action plans if already in place). It will ensure an exchange of experience and good practice among the countries concerned, so that the actions being undertaken in the various countries to foster implementation are shared across the countries. New measures and proposals will be discussed at a high level with the relevant Member States early next year.

Italy is in general suffering from systemic problems linked to governance and complex administrative structures. However, problems are not equally spread across the country and are mostly concentrated in the south (Sicily, Calabria, Campania). The main weakness in France is complicated administrative structures which increase the administrative burden for beneficiaries who have to deal with several levels of public authorities, different administrative procedures and different conditions for co-financing of Structural Funds projects.

The extension of the N+3 rule for automatic decommitments will help Romania, Croatia and Slovakia to some extent, but will not solve the underlying problem of insufficient administrative capacity. This is particularly an issue for Romania which, inter alia, suffers from an overregulated environment, cumbersome and inefficient procedures, weak policy making capacity and ineffective strategic and operational policy coordination. As a new Member State, Croatia is relatively inexperienced and has to build up its administrative capacity and to recruit and be able to retain many new staff. The Slovak public administration suffers from weak human resources, high staff turnover and underdeveloped analytical capacities which hampers policy development and implementation and efficient delivery of public services and the construction of important public infrastructures. Slovakia needs to improve its performance in the field of public procurement as shown by the numerous public procurement errors detected by audits.

While the change to n+3 for the 2011 and 2012 commitments for Romania and Slovakia has reduced the risk of de-commitments at the end of 2013 for both

countries, it did not have a direct effect on absorption. Only concrete actions to accelerate implementation can change the rate of absorption of the funds.

35. Could the Commission comment on the fact that the overall RAL in cohesion policy is 38% at the end of this MFF despite a lot of measures to allow a quicker implementation?

Commission's answer :

The existence of RAL, the difference between commitments and payments in the EU budget, is inherent to the multiannual financial mechanisms of Cohesion Policy foreseen in the regulations where commitments are automatically made at the beginning of each year and payments, apart from the initial advance, are subject to implementation on the ground and payments claims submitted by Member States (2007-2013). Various factors have been responsible for the growth of the RAL during the 2007-2013 framework. Even though the commitments were spread equally over the programming period, the payment appropriations started at a lower level, taking into account the start-up of the programmes (i.e. adoption of the operational programmes, setting up and approval of the monitoring and control system etc.). Moreover, there were indications that significant progress on the ground of the 2007-2013 operations was only made after 2008, as Member States were concentrating their efforts on the closure of 2000-2006 programmes, where deadline for eligibility was also extended by six months. The repeated cuts by the budgetary authority of the Commission's requested payment credits in the last years and the tight MFF payment ceilings also lead to an increasing backlog of unpaid claims hampering the reduction of the RAL.

As of end November 2014, the overall RAL for cohesion policy is at 25%, showing that implementation is at full speed, as expected at this stage of the programme cycle, bearing in mind that 5% of the full allocation for each programme will not be paid out until closure (regulatory ceiling of 95% for EU reimbursements).

36. Which projects were done in which member states following the change of the automatic de-commitment rule?

Commission's answer :

The Commission has the responsibility to manage programmes and not projects for Cohesion Policy under shared management. It is therefore not in a position to provide the Honourable Members with detailed projects linked to the change of the automatic de-commitment rule at Member State level.

37. Which projects were additionally done in Greece, Ireland, Portugal, Hungary, Latvia, Romania, Spain and Cyprus where higher co-financing rates were possible? Or was the effect only more money for the same projects?

Commission's answer :

Increasing the EU co-financing rate in 2007-2013 can be done at the level of the programme priority under which operations are financed. This increased rate then applies to all expenditure and projects belonging to that priority. Whenever there is an

increase in co-financing, the initially agreed financial volume of EU funding in the programme and priority is maintained. It only results in changing the proportions between the national and the EU financing for expenditure under that priority. The rationale for increasing the co-financing rate is principally to reduce the budget pressure on the Member State or the region concerned (for example to take account of changed socio-economic circumstances). It is intended to ensure that already prepared and agreed projects are implemented as planned and do not suffer from these changes through shifting part of the national/regional co-financing burden onto the EU budget.

Therefore whenever additional projects were implemented in the mentioned countries, these were not linked to the increased co-financing rate but rather to changes in project features already planned. The Commission has the responsibility to manage programmes and not projects under shared management. It is therefore not in a position to provide the Honourable Members with detailed projects decided at Member State level and specifically linked to the decision to increase the EU co-financing rate at priority level, if any.

38. About 250 Mio. Euros have been de-committed end of 2013. Could the Commission give us a break down of member states and indicate how it deals with these de-committed commitments?

Commission's answer :

For DG Regional and Urban Policy, the final de-commitments in 2014, following the application of the n+2/3 rule at the end of 2013, amount to EUR 398 million for ERDF/CF and EUR 80 million for IPA. The automatic de-commitments were executed in full compliance with the regulatory provisions (Regulation (EC) No. 1083/2006) and the legal deadline of 30 September 2014, following the contradictory procedure with the Member States initiated at the beginning of the year.

The breakdown per Member States is as follows:

Member State	ERDF/CF de-commitments per MS (million EUR) in 2014
Austria	12,9
Bulgaria	53,5
Belgium	2,6
Czech Republic	296,7
Germany	6,9
ETC	20,4
United Kingdom	4,7
TOTAL	397,8
Country	IPA de-commitments per MS (million EUR) in 2014
Turkey	67,0

IPA -Cross border	13,3
TOTAL	80,3

39. At the end of 2013 about 23,224 billion EUR of payment order have not been processed by the Commission. At the end of 2010 this amount was 6 billion EUR. The amount of outstanding payments has quadrupled in the last 3 years.

Which payment orders for which beneficiaries in which countries have been stalled in cohesion policy sector for how long?

Commission's answer :

Subject to budget availability, the Commission is paying the claims of the Member States' programme authorities within the legal deadline of 60 days. All payable claims of the end of 2013 backlog are paid. All Member States from all Cohesion Policy objectives, were affected by the 2013 backlog, such as Spain (EUR 3 billion), Poland (EUR 2.7 billion), Czech Republic (EUR 2.9 billion), Italy (EUR 1.9 billion), Greece (EUR 1.5 billion), Romania (EUR 1.4 billion), the United Kingdom (EUR 935 million), Germany (EUR 649 million) and European Territorial Cooperation programmes (EUR 734 million).

The Commission has emphasised in the inter-institutional dialogue in September 2014, that Cohesion Policy beneficiaries with little capacity to re-finance expenditure, in particular the most vulnerable ones such as SMEs and NGOs, are suffering from delayed payments due to lack of credits.³

a. What is the situation this year?

Commission's answer :

Based on the payment claim forecast submitted by Member States in September 2014, the total Heading 1b backlog expected at end 2014 is EUR 27 billion. Out of this amount around EUR 23 billion refer to ERDF and Cohesion Fund. This figure should be understood without full 2014 amending budget N° 3 as proposed by the Commission, assuming that all the Member States forecasts are materialised by the end of the year.

b. How many of the outstanding payment orders have been due to an uncompleted processing and verification of the order?

Commission's answer :

Payment claims which reach the Commission in the very last days of the year cannot be fully processed anymore in the same calendar year. Out of the EUR 23 billion cohesion policy backlog at the end of 2013, around half (EUR 11 billion) could have been paid in December 2013 if the payment credits had been available in the EU budget.

³ http://europa.eu/rapid/press-release_SPEECH-14-620_en.htm

- c. According to which system has the Commission identified payment orders for bills within the cohesion sector that had to be paid in 2013 and which could wait until 2014?

Commission's answer :

The Commission is processing claims in compliance with the legal deadline of 60 days subject to budget availability. In case of payment shortages, priority is given firstly to Member States under financial assistance and then to programmes with bottlenecks in programme implementation (following the lifting and reimbursement of previously interrupted payments for a significant time).

40. The Court of Auditors found that in many cases the projects funded would still have been supported at the national level: in these cases the European added value does not seem to exist. What criteria do you follow for assessments of infrastructure projects funded at by ERDF? Are there criteria relating to the value added as well as economic? How are evaluated the technical and economic performances in project realized?

Commission's answer :

The Commission evaluates the effectiveness, efficiency, coherence and European value added of the policy through the ex post evaluation. It does not evaluate each project. Under shared management, programme managing authorities must ensure the sound financial management of programmes and the selection of projects which comply with selection criteria set up by Monitoring Committees. For 2007-2013 there were no obligations for Member States to evaluate their projects and the only requirement for programme evaluation was the *ex ante* evaluation; although many did, following the Commission's recommendation to evaluate against an evaluation plan. For 2014-2020, the requirements of the Common Provision Regulation are more rigorous. There must be an evaluation plan for each programme. In addition, at least once during the programming period, there must be an evaluation to assess how the Funds are contributing to the achievement of each specific objective of the programme. However, this is not a requirement to evaluate each project. Also for 2014-2020 managing authorities are required to ensure that the result indicators of the programme are translated into selection criteria, which will be approved by the Monitoring Committees.

It is difficult to establish if projects funded would have gone ahead without the ERDF, as answers from project holders are subject to bias. Only counterfactual impact evaluation, where the outcomes for benefiting and non-benefiting similar entities are compared, can tell this. However counterfactual impact evaluation is demanding and only possible in some areas. It is not possible for infrastructure projects as there cannot be a control group. For major projects with total eligible costs of more than EUR 50 million a cost benefit analysis must be carried out before the project is approved. In this case there is an established methodology where the costs and benefits are monetised.

Programmes and priorities are evaluated against their objectives which may be economic, social or environmental, depending on the area of intervention, or a combination of the three.

Reliability of data communicated by Member States

41. Over the last three years the Court has continuously expressed doubts about the reliability of data communicated by Member States authorities.

How does the Commission reconcile its conclusions with the findings of the Court and target its own risk-based audits?

Commission's answer :

Data communicated by Member States authorities refer to both error rates reported by audit authorities and financial corrections reported by certifying authorities. The Commission considers it has a thorough and robust verification process in place, including desk and on-the-spot audit work, to assess the accuracy and reliability of error rates reported by audit authorities. This verification process is also to be seen in the context of an exhaustive on-the-spot audit enquiry carried out by DG Regional and Urban Policy since 2009 to assess the reliability and effectiveness of the work of audit authorities (more than 232 audit missions carried out cumulatively by end 2013). These audits include re-performance by the Commission auditors of system audits and audits of operations at the level of beneficiaries, to assess the reliability of the audit authorities' reported results. When reported error rates are not considered reliable (11% of the cases in 2013), DG Regional and Urban Policy assesses the risk to its payments using flat rates. Concerning financial corrections reported by Member States, DG Regional and Urban Policy has reported in its annual activity reports the risk that such reporting may not be fully accurate and complete and has carried out since 2011 desk consistency checks and risk-based audits to verify the accuracy of the reported data, as explained in detail in the reply to question 2 above.

Regarding reconciliation between Commission's and Court's conclusions, the Honourable Members are referred to the reply to question 18 above.

Regarding its own risk-based audits, DG Regional and Urban Policy has in place a detailed risk assessment model that integrates a variety of risk factors, including the reliability of the work of audit authorities, the reported deficiencies in the management and control systems, the error rates, complexity of the structure of the systems (i.e. high number of intermediate bodies), financial allocation and payments made to the operational programme. This risk-assessment is updated each year in view of the annual activity report exercise, based on the analysis of all audit results obtained during the year, including with the annual control reports and audit opinions from the audit authorities at year end. As a result of this risk assessment, DG Regional and Urban Policy sets out its audit plan for the forthcoming 18 months (calendar year and first semester of the next one), targeting the risks identified for audit authorities (as explained above), for programmes or parts of programmes and their implementation bodies, including for processes such as management verifications of public procurement or State aid rules, selection of projects etc.

The Honourable Members are also referred to the detailed reply to questions 1 and 5 on the targeted audits carried out by DG Regional and Urban Policy on high risk programmes where deficiencies could remain undetected or not timely detected by the programme audit authorities.

42. Bei den meisten fehlerbehafteten Vorgänge im Bereich Regionalpolitik (quantifizierbar und/oder nicht quantifizierbar) lagen den mitgliedstaatlichen Behörden nach Ansicht des Hofes Informationen vor, die ausgereicht hätten, um einen oder mehrere Fehler vor der Bescheinigung der an die Kommission übermittelten Ausgabenerklärungen aufzudecken und zu berichtigen. Kommt die Kommission in ausreichender Weise ihrer Aufsichtsfunktion nach? Welche Ideen hat die neue Kommission, um die Ausgabenerklärung der Mitgliedsstaaten in der neuen Förderperiode zu verbessern? Was sind nach Meinung der Kommission die Gründe für die hohe Anzahl fehlerhafter Angaben seitens der Mitgliedsstaaten? [*In most of the regional policy transactions affected by error (quantifiable and/or non-quantifiable), in the Court's opinion, the authorities of the Member States had information which would have enabled it to detect and correct one or more of the errors prior to certifying the expenditure to the Commission. Does the Commission appropriately carry out its supervisory role? What ideas has the new Commission to improve the statement of expenditure of the Member States in the new programming period? In the Commission's view, what is the reason for the high number of incorrect declarations by the Member States?*]

Commission's answer :

The Honourable Members are referred to the Commission's reply to questions 1, 5, 11 and 51 which describe the Commission supervisory role over management and control systems, including preventive and corrective measures in place, and the improved control requirements for the 2014-2020 programming period which include the additional legal tool of net financial corrections under the conditions fixed by the legislator in the regulations.

43. Could you please provide Parliament with the comments of DG REGIO on the reliability of to Member States' notifications as 1/3 of the results of members states audit authorities needed to be corrected by DG REGI.

Commission's answer :

DG Regional and Urban Policy has provided information on the validation of the error rates reported in the annual control reports of the audit authorities in its 2013 annual activity report (pages 33-36). Furthermore, Director General W. Deffaa has provided detailed information on the validation process of error rates reported by audit authorities by e-mail to the CONT Chair and Secretariat on 4 November 2014 (the Honourable Members are in particular referred to annex 1 of this email, page 4). The Commission points out that a recalculated error rate does not mean that audit authorities carried out their audits wrongly or are hiding information to the Commission. On the contrary, when the Commission reports an error rate as recalculated, it considers that it can rely on the audit work and reported audit results but spotted technical shortcomings, in the context of complex statistical rules, like clerical mistakes, the use of incorrect parameters, etc. On the basis of the audit report or of additional information requested and obtained from the audit authority, the Commission is then able to recalculate the exact projected error rate (either to higher or slightly lower levels). That is why the Commission reports error rates which are validated as reported or after recalculation as reliable information in general (89% of the reported error rates in 2013),

based on validated and solid audit evidence. The Honourable Members are also referred to the table and indications in annex II of Director General W. Deffaa's email of 4 November 2014 to the CONT Committee.

44. Could you please enumerate the 5 highest corrections done on the figures of the audit authorities?

Commission's answer :

As shown in the detailed information provided by the Director General W. Deffaa by e-mail to the CONT Chair and Secretariat on 4 November 2014 (annex 2), the Commission re-calculated the error rates communicated by the audit authorities for the 21% of the programmes (55 programmes) in addition to the 11% of programmes for which DG Regional and Urban Policy could not rely on the error rates provided by the audit authorities and therefore the estimation was done through a flat rate.

The 5 programmes with the highest adjustments made by DG Regional and Urban Policy are the following:

For the OP 2007PL161PO002 the error rate was increased by 4,57%.

For the OP 2007DE162PO010 the error rate was increased by 3,84%.

For the 2007CB163PO065 the error rate was increased by 2,84%.

For the 2007IT162PO012 the error rate was increased by 2,81%.

For the 2007UK162PO001 the error rate was increased by 2,44%.

45. Could you please enumerate the 5 lowest corrections done on the figures of the audit authorities?

Commission's answer :

As shown in the detailed information provided by DG Regional and Urban Policy by e-mail to the CONT Chair and Secretariat on 4 November 2014 (annex 2), for 12 programmes DG Regional and Urban Policy recalculated the error rates communicated by the Member State by reducing them after applying the correct methodology. The 5 programmes with the highest reduction are the following:

For the OP 2007ES162PO009 the error rate was recalculated by -13,79%

For the OP 2007RO161PO001 the error rate was recalculated by -1,83%

For the OP 2007RO161PO004 the error rate was recalculated by -1,06%

For the OP 2007HU161PO002 the error rate was recalculated by -0,72%

For the OP 2007IT162PO016 the error rate was recalculated by -0,29%

46. How does DG REGIO intend to address the Court's remarks in par 5.50, that some audit authorities underreport problems and that information on financial corrections reported by Member States may not always be reliable or accurate? Is DG REGIO not critical enough, if we look at the Court's

remark in 5.48 on the results of desk reviews? Does the Commission agree that this undermines the credibility of the Commission's control systems?

Commission's answer :

On the reliability of the error rates communicated by audit authorities and reports on financial corrections communicated by certifying authorities, the Honourable Members are referred to the replies to questions 2, 3, 18 and 41 above.

The Commission wishes to underline the extensive audit work its services have carried out since 2009 to review the work of audit authorities in the programming period 2007-2013, including re-performance of system audits and audits of operations carried out by audit authorities to assess the reliability of the reported results, as described in DG Regional and Urban Policy's annual activity report 2013, pages 38 to 43. The conclusions reached by DG Regional and Urban Policy in its annual activity report are based on a critical review of all audit and management information available, including following on the spot missions to clarify facts.

The work of the Commission means that it is able to identify and mitigate risks of under reporting.

The Court in box 5.48 identified differences of approach between Commission services or programmes when verifying the information reported by audit authorities in individual cases. These slight variations are due to the fact that annual control reports are analysed based on legal requirements and methodological guidance drawn-up by the Commission, but also considering on a case by case basis all available information provided for the specific situations described and using professional judgement, as required by accepted auditing standards. The Court's conclusion is that DG Regional and Urban Policy should further disclose in its annual activity reports all information taken into account to reach its conclusions for these specific cases, but not that DG Regional and Urban Policy's analysis was lenient. As a matter of fact, the Court did not report in its Annual Report the need for additional reservations for such cases, which shows that the Commission's control system has been effective.

The Commission therefore considers that its supervision is soundly based.

Financial corrections

47. Spain having 15% of the funds in cohesion and agriculture is responsible for 32% of financial corrections. Which conclusions does the Commission draw for Spain being the "worst performer" since 20 years?

Commission's answer :

The question of the Honourable Members refer to the information contained in the Court's accompanying overview of EU spending in shared management, agriculture and cohesion, over 2007-2013. The Commission wishes to clarify that the 15% mentioned by the Honourable Members represent the amount at risk for Spain and not the funds allocated for cohesion and agriculture to this Member State. In order to put this figure in perspective with the share of Spain in total financial corrections, 32% for both agriculture and cohesion, it should be underlined that the 15% refer only to 2013 and amounts at risk calculated on an annual basis, while the 32% refer to financial corrections reported on a multi annual basis for the years 2007 to 2013 (not programming period). They include financial corrections from three different

programming periods. The Spanish share of all for ERDF and Cohesion Fund financial corrections, for example, was 28.7% for the 1994-1999 period, 48.0% for the 2000-2006 period and is 8.8% for the 2007-2013 (or 39,5% in total for these three periods). It is therefore difficult to draw an overall conclusion based on financial corrections covering different management and control systems for different Funds under shared management and for different programming periods, including for Spain.

For the programming period 2007-2013, the situation as regards Spain's management and control systems has improved significantly. Although the global situation for ERDF and Cohesion Fund Spanish programmes in 2007-2013 is much better compared to 2000-2006, the complex implementation structure of Spanish programmes where the responsibility stays basically at the level of around 150 national, regional or local intermediate bodies generates deficiencies in specific intermediate bodies and therefore partial reservations, interruption or suspension of payments for parts of programmes. DG Regional and Urban Policy has issued partial reservations in its 2013 Annual activity report for 22 Spanish programmes, caused by deficiencies in 16 intermediate bodies, 2 of which (DGI and DGCI) affecting respectively 13 and 12 programmes. Most of the deficiencies have been detected by the national audit authority which shows that the Spanish audit authority functions effectively. The intermediate bodies concerned by these partial reservations are not necessary the same as in previous annual activity reports, which is inherent with so many bodies involved in the management of the Funds.

For each reservation, payments are interrupted or suspended, and targeted remedial action plans have been launched. They consist in correcting the past expenditure at risk but also in addressing the deficiencies in the management and control systems to ensure future regular expenditure. Financial corrections for Spain are thus the result of the Commission's rigorous exercise of its supervisory role as well as the effective audits of the national audit authority. The high level of ERDF/ Cohesion Fund financial corrections for Spain in the 2000-2006 programming period is due to deficiencies, including in public procurement procedures, identified in the systems for the previous period and ultimately deducted at closure. The Spanish situation illustrates well the multi-annual character of control mechanisms under cohesion policy, the last filter for irregular payments being at closure.

The Commission therefore acknowledges - as it has always reported - that Spain represents an important part of ERDF/ Cohesion Fund financial corrections for 2000-2006. However, Spain is now on the average so far for the 2007-2013 programmes under Cohesion Policy (and even below average for ERDF/Cohesion Fund only), in relative terms (comparison of financial corrections imposed by the Commission to the total allocations received). This is also corroborated by the information reported in table 4.2.5, page 19 of the Commission Communication on the protection of the EU budget to end 2013, COM(2014)618 final, which includes the corrections for ESF.

48. What are the financial consequences when the Commission renounces net financial corrections in favour of member states despite having discovered systemic failures or irregular expenditure in these member states? Which member states profited in 2013? How much money were they allowed to claim again?

Commission's answer :

In applying financial correction procedures the Commission applies the rules foreseen up to the 2007-2013 regulatory framework for Cohesion Policy, which expressly gives the possibility to Member States at any step of the procedure to accept and voluntarily implement financial corrections, without Commission decision, by withdrawing the affected expenditure from an interim payment claim. This provides the Member State with the possibility to replace thus corrected amounts by new, legal and regular expenditure, in a subsequent interim payment claim. The regulations thus aim at ensuring the best possible use of the allocated financial resources, and not at punishing Member States by systematically reducing the allocated funds, while at the same time ensuring sound management of funds, effective controls by the Member States and protection of the EU budget.

Net financial corrections under Cohesion Policy have been introduced in the 2014-2020 regulations as a further incentive for effective and timely controls at national level. Their implementation by the Commission will be compulsory (no margin of discretion) when conditions foreseen by the legislator will be fulfilled.

49. Concerning ERDF and the Cohesion Fund, EUR 502 million are financial corrections confirmed but not yet implemented at the end of the quarter. EUR 341.55 million relate to 2000-2006 programming period. This amount is the result of long discussions with the Member States on the financial corrections to be deducted from final expenditure declaration as part of the on-going closure procedure. The Member States with the highest level of corrections not yet implemented are Italy (EUR 136.32 million), the United Kingdom (EUR 107.77 million), the Czech Republic (EUR 80.04), Poland (EUR 72.56 million), Greece (EUR 29.77 million) and Romania (EUR 21.68 million).

- a. When does the Commission expect the corrections to be implemented, i.e. when will they be set off or paid by the Member States?

Commission's answer :

In line with the established procedures for the reporting of financial corrections, confirmed by the Court of Auditors, the Commission does not report the implementation of a financial corrections until a new payment claim (or a recovery order/de-commitment, in case of closure of the programme) is executed in its accounting system. As a consequence, financial corrections which have been off set in payment claims which are being processed by the Commission continue being monitored and reported as not yet implemented, regardless of whether already implemented or not at Member State level. This is particularly relevant for the EUR 341.55 million corrections reported as accepted by the Member States for the 2000-2006 programming period and for which the closure procedures are not yet finalised. These corrections will be reported as implemented only with the closure (final payment) of the relevant programmes (expected in 2015 due to the on-going contradictory procedures).

- b. Which issues are open for discussion, what exactly needs to be "discussed" between the Commission and the Member States as the amounts are already determined?

Commission's answer :

There are no discussions on the amounts of financial corrections already agreed and accepted, which continue being reported as "not yet implemented" until a payment off-setting the agreed correction is authorized by the Commission for the relevant programmes, as indicated in the reply to the previous question. This is valid for corrections 'not yet implemented' for any programming period.

Regarding the 2000-2006 programming period, financial corrections not yet implemented concern a few programmes in Italy, the United Kingdom, Poland and Greece for which there are ongoing contradictory procedures in relation to further, additional financial corrections proposed by the Commission and contested by the concerned Member States (a reason for blocking the closure of these programmes until the contradictory procedure is concluded, either by the Member State's acceptance of the correction or otherwise by a Commission decision for financial correction). Once the contradictory procedure is finalised, all outstanding corrections will be offset in the framework of the clearance of the final payment requests submitted by Member States.

For Italy, the main issues relate to additional corrections proposed by the Commission for the closure of the programmes concerned and contested by the Member State: flat rate corrections due to deficiencies on the management and control system, extrapolated corrections due insufficient corrective measures taken by the Member State at its own initiative and additional individual corrections.

For the United Kingdom, the main issues relate to the calculation of the value of unaudited expenditure (over which the residual error rate will be applied to quantify the financial correction amount still to be recovered by the Commission) and the effects of capping on the final calculation.

For Poland, the issues open for discussion include breaches of EU law, notably in the field of public procurement, as well as the completeness and operational nature of the projects which might trigger additional financial corrections for the projects concerned.

For Greece, the main issues relate to financial corrections which the Commission might apply for the not respect of the deadline for the completion of the uncompleted and non-operational projects declared in the final payment request.

- c. Why has the Commission not yet set off the amounts due from payments to the Member States?

Commission's answer :

A correction reported by the Commission as "not yet implemented" does not mean that the necessary adjustments have not yet taken place (amounts offset in a payment claim sent to the Commission). On the contrary, most of the corrections reported are already included by the Commission in its calculations for the amounts to pay to the Member State but they will be formally reported as "implemented" only once the transaction is executed in its accounting system, see also reply to question 49 a. and b. This approach was recommended by the European Court of Auditors when auditing the Commission reporting on financial corrections in 2011-2012 (Spanish financial corrections for 2000-2006).

50. Seit der aktuellen Förderperiode gibt es auch in der Strukturpolitik die Möglichkeit der Nettofinanzkorrektur. Unter Berücksichtigung der Fälle, die letzte Periode unter der aktuellen Gesetzgebung zu einer Nettofinanzkorrektur geführt hätten - wie oft schätzt die Kommission eine solche Nettofinanzkorrektur tatsächlich vorzunehmen? Wie viele Monate schätzt sie wird sie für ein Verfahren benötigen (unter Berücksichtigung eines kooperativen / unkooperativen Mitgliedsstaates)? Wie möchte die Kommission, die Mittel, die durch Nettofinanzkorrekturen eingezogen werden, neu verwenden? [*In the current programming period there exists also the possibility of net financial corrections for cohesion policy. Taking into account these cases of the last period that would result in a net financial correction under the current legislation – according to the Commission's estimates how often would a net financial correction actually be carried out? How many months does it estimate it will need to apply a correction (including a cooperative/non-cooperative Member State)? How does the Commission intend to re-use the funds that are recovered through net financial corrections?*]

Commission's answer :

Concerning the application of net financial corrections in the 2014-2020 period, the Commission refers to its Communication COM(2013)934. The application of the 2014-2020 rules to the 2007-2013 period and estimations on theoretical net financial corrections in the 2007-2013 period is not possible. The conditions under which net financial corrections are going to be applied in the new period did not exist in the 2007-2013 period. This also holds true in particular for new features of 2014-2020 linked also to the issue of net financial corrections, such as the annual submission of the accounts by the Member States and their acceptance by the Commission.

The Commission has estimated in its Communication referred to above the time needed for contradictory procedures, in accordance with the regulatory deadlines and in case of cooperative Member States. In the absence of cooperation from a concerned Member State, the Commission will have to implement the net financial correction taking into account all information at its disposal and it will defend its position in Court, would the Member State challenge the financial correction decision.

Net financial corrections would induce revenues to the EU Budget. These revenues cannot generate new additional commitments for Cohesion Policy as the annual budgets and the various programmes are already at the ceilings set by the relevant Regulation. However, they could generate additional payment appropriations that the Commission would use to address the payment needs.

Reservations

51. According to the 2013 AAR of DG REGIO 74 programmes in 15 Member States were under reservations due to weaknesses in the management and control systems (MCS). Furthermore, of the 332 MCS, when checked against key requirements, only 75 functioned satisfactorily (green).

What can the Commission do to increase Member States vigilance which is a corner stone to a single audit chain?

Commission's answer :

In relation to the preliminary comments made by the Honourable Members, DG Regional and Urban Policy considers that based on the overall assessment of the 15 system key requirements as at 31/10/2014, 249 ERDF/Cohesion Fund programmes out of 322 (77%) have management and control systems that function satisfactorily, i.e. those systems work well (72 programmes) or worked well subject to some improvements (177 programmes) not putting into question the assurance obtained (green and yellow categories, respectively). A detailed situation of the overall assessment of the functioning of management and control systems for the 322 ERDF/Cohesion Fund programmes has been included as Annex IV in the information package submitted to the CONT Chair and Secretariat on 4 November 2014 by Director General Walter Deffaa following his hearing in the Committee. Summary tables at the time of signing the annual activity report were also provided in DG Regional and Urban Policy 2013 annual activity report (page 44 and Annex 8 page 58).

On the Commission actions to increase the Member States' vigilance in relation to their management and control systems, the Honourable Members are referred to the Commission's reply to questions 1, 5 and 11. In particular, for all programmes for which the Commission assessed the system as not functioning satisfactorily (orange and red categories reported in annex IV transmitted to the CONT Committee respectively), the Commission protects the EU budget by interrupting or suspending payments and requires remedial action plans to correct irregularities included in past declared expenditure and to fix the management and control system to ensure that such irregularities are not repeated in future expenditure. EU Payments are not resumed until the Commission obtains audit evidence, through its own follow-up audits or from a reliable audit authority, that all required remedial actions have effectively been implemented. Such programmes are also subject to a reservation by the Director General disclosed in the annual activity report, with the indication of the type of system deficiency identified (for 2013 the Honourable Member are referred to DG Regional and Urban Policy annual activity report, annex 7 pp. 27-38).

52. Age of Reservations: a. For Spain we note 22 reservations in 2011, 22 reservations in 2012 and 22 reservations in 2013. Please explain to Parliament if there were changes in these reservations. Please explain the progress in the management and control systems in Spain. b. The Czech Republic had 14 reservations in 2011, 3 in 2012 and 9 in 2013. Please explain to Parliament if there were changes in these reservations. Please explain the progress in the management and control systems in the Czech Republic. c. Hungary: In 2011 we count 13 reservations, in 2012 3, in 2013 9. Please explain to Parliament if there were changes in these reservations. Please explain the progress in the management and control systems in Hungary.

Commission's answer :

1. Spain

The Commission acknowledges that the majority of 2013 reservations was made for Spain (22 partial reservations). This was also the case in the annual activity report (AAR) 2011 and AAR 2012. This is explained by the high number of intermediate bodies at national, regional and local levels (approximately 150) involved in the implementation of Spanish programmes. Any weakness identified at the level of one intermediate body can impact several Spanish programmes (e.g. currently two deficient Spanish intermediate bodies, DGI and DGCI, are affecting respectively 13 and 12 programmes).

However the reasons for partial reservations in the annual activity reports of DG Regional and Urban Policy (DG REGIO) are evolving as the Commission and the Spanish audit authority are capable of clearly identifying the concerned deficiencies within the management and control system.

In the AAR 2011, the main reasons for the Spanish reservations were the high error rate on the national part of the programmes as well as the deficiencies at the level of several intermediate bodies (notably AENA). All issues were addressed except for one intermediate body (DGTDE) affecting one programme, the payments of which being currently suspended through a Commission decision.

In the AAR 2012, the reservations were due to deficiencies at the level of 14 intermediate bodies. The identified deficiencies could not be satisfactorily addressed for 6 of these before the issuance of the AAR 2013, and the corresponding reservations were therefore carried over in 2013. In the AAR 2013, the reservations were due to deficiencies at the level of 12 intermediate bodies, including the 6 which were carried over from 2012, as well as high reported and validated error rates at the level of the regional part of four programmes (as reported in the detailed annex 7 of DG REGIO's AAR 2013). Remedial action plans are on-going for these 16 programmes and intermediate bodies, and progress on their implementation will be reported in the annual control reports to be submitted by end 2014.

2. Czech Republic

The reasons for the 2011 reservations (14) were due to mainly the lack of independence of the Delegated Audit Bodies (DAB), insufficient supervision and coordination of the Czech audit authority on the DAB and weak management of irregularities. The Honourable Members are referred to the CONT mission report to the Czech Republic and explanations provided to this Committee by DG REGIO's auditors. The Czech Authorities implemented satisfactorily the main actions for all programmes except three (regional programmes ROP North-West and ROP Central Bohemia and partially for programme Enterprise and Innovation) for which additional corrective measures still needed to be implemented.

The reasons for the 2012 reservations (9) were due to deficiencies at the level of the managing authorities as well as remaining, targeted deficiencies at the level of the audit authority. In AAR 2013, reservations were issued for 2 additional programmes (Transport and Integrated Programme) for newly detected deficiencies in management verifications (while the functioning of the audit authority was clearly improved as verified during Commission on-the-spot audits), thus bringing the total number of reservations to 4 in 2013. The Honourable Members are also referred to the reply to question 4.

3. Hungary

The 13 reservations in 2011 were reputational reservations for which the DG considered that there could be potential risks in the area of public procurement.

In 2012, audit evidence was obtained that there were indeed deficiencies in public procurement (discriminatory selection criteria) for 3 programmes for which full reservations were issued (Programme for Environment and Energy, Transport Programme and Programme for Social Infrastructure)

In 2013, new deficiencies were detected at the level of projects selection in the tourism sector as well as public procurement (discriminatory criteria identified) impacting 9 out of the 13 Hungarian programmes. The tourism related deficiency was linked to the 6 regional programmes in Hungary, while the deficiency linked to restrictive selection criteria affected the road priorities of the Transport and 7 Regional programmes. In addition, one reservation was linked to the Economic development programme due to potential ineligible expenditures detected during an audit of the Court of Auditors.

Most of the reservations in the last 3 years were due to one single horizontal issue linked to public procurement, in particular to restrictive selection criteria, which had a transversal impact on several programmes. Therefore, on the basis of the number of reservations it is not possible to conclude that the system improved or deteriorated. The Hungarian management and control system has adequate administrative capacity and disposes of well-defined procedures. Nevertheless, on the basis of the Commission audits further improvements are needed to improve the management verification activities.

53. We see in DG REGIO's AAR 5 reservations for ERDF projects for the 2000-2006 period. Which kind of problems was discovered? Since when this problem was known?

Commission's answer :

The 3 Italian programmes concerned were the Sicilia, Calabria and Campania regional operational programmes. The 2 Irish programmes concerned were operational programmes Economic and Social infrastructure and Productive Sector.

For these programmes, the Commission consider that the work carried out by the winding-up body and reported in the winding up declaration at closure did not provide the requested assurance on the legality and regularity of the cumulative amount of expenditure declared, i.e. that the residual risk was above materiality and hence additional financial corrections need to be applied. The Member States have contested the Commission conclusions and contradictory procedures are on-going. For these programmes, the Commission consider that the work carried out by the winding-up body and reported in the winding up declaration at closure did not provide the requested assurance on the legality and regularity of the cumulative amount of expenditure declared, i.e. that the residual risk was above materiality and hence additional financial corrections need to be applied. The Member States have contested the Commission conclusions and contradictory procedures are on-going

54. How do financial corrections impact on reservations?

Commission's answer :

The financial corrections impact on the calculation of the cumulative residual risk as detailed in the Commission's reply to question 32 above. The cumulative residual risk

is used as a criterion to decide additional reservations on the basis of the estimation of the corrective capacity of the Member State over the programming period 2007-2013.

55. How does the Court treat reservations with regard to the Statement of Assurance?

Commission's answer :

The Commission understands this question is addressed to the European Court of Auditors that provided the following reply:

"With regard to the regularity of payments authorised during 2013, the Court:

- identified the key legality and regularity indicators disclosed by the Commission in its Annual Activity Reports (AARs), in particular the percentage of rate of payments at risk and the reservations listed in the AARs;
- checked the consistency and accuracy of these indicators against the Commission's own underlying data;
- tested compliance with the methodology developed by DG BUDG for preparing the AARs;
- assessed reliability of the error rates reported for 194 programmes and their validation by the Commission, determining whether additional reservations should have been raised or whether these reservations should have been quantified at higher amount; and
- compared the Commission Directors-General's declaration of assurance in the AARs against the Court's audit findings, concluding on the coherence of this declaration with the Court's own audit findings."

56. Eine Bedingung zur Aufhebung der Vorbehalte in der Haushaltsentlastung 2012 war die Fokussierung auf auffällige Mitgliedstaaten im Rahmen von bilateralen Vereinbarungen ganz nach dem Modell des Europäischen Semesters. Kommissar Semeta war in seinen Ausführungen während der Anhörung im Oktober sehr zurückhaltend. Wirkliche Maßnahmen werden jedoch wohl nicht ergriffen. Sehen Sie eine Möglichkeit zusätzliche Länderberichte zu schaffen um auffällige Mitgliedstaaten besser zu beobachten und Fortschrittsbericht zu liefern, damit gewährleistet wird, dass die Mitgliedstaaten auch wirklich handeln? [*A condition to lift the reservations in the discharge for 2012 was to focus on distinct Member States under bilateral agreements, following the model of the European Semester. Commissioner Semeta was very prudent in his remarks during the hearing in October. Real measures will probably not be taken. Do you see a possibility to create additional country reports on Member States in order better to monitor and to provide progress reports, so as to ensure that Member States are genuinely acting?*]

Commission's answer :

As outlined in letters from President Barroso and Commissioner Semeta regarding the discharge 2012, the Commission has committed itself to address weaknesses in Member States. Commissioner Semeta's letter provides a comprehensive outline of instruments and actions put in place to, inter alia, identify Member States with serious

systems deficiencies, address the problems and report on the actions taken. This will be possible within the existing legal framework put in place for the spending programmes under the new financial framework. Different processes are put in place to steer the governance and reporting on Europe 2020 which is a common endeavour of Member States and the Commission with both targets defined at EU and national level.

57. Kommissar Šemeta sagte, dass Europäische Semester wäre nicht verpflichtend genug. Was ist an bilateralen Vereinbarungen zwischen der EU und einem Mitgliedstaat nicht verpflichtend genug? [*Commissioner Semeta said the European Semester would not be binding enough. Why are bilateral agreements between the EU and Member State not mandatory enough?*]

Commission's answer :

The Honourable Members are referred to reply to question 56.

58. Wie wird allgemein mit den Vorbehalten der Haushaltentlastung 2012 umgegangen, damit für das Haushaltsjahr 2013 eine Entlastung erfolgen kann? [*How are the reservations of the budgetary discharge 2012 generally treated, so that the discharge for the financial year 2013 can be given?*]

Commission's answer :

With the letter of Commissioner Semeta of 10 March 2013, referred to under the reply to question 56, the Commission took the formal commitment to implement fully and timely the actions and measures presented in it. These actions and measures aim at having a structural effect in the years to come. In the letter, the Commission equally pointed out that the Member States should also commit formally towards implementing the necessary actions falling under their responsibility and obligation as far as the programmes under shared management are concerned.

Financial engineering instruments (FEI)

59. By the end of 2013 47% of OP contributions, or EUR 6,678.20 million, have been disbursed to final recipients.

Does the Commission believe that the absorption rate will improve considerably in 2015?

Commission's answer :

The rate of disbursement of 47% to end recipients is a statistical average calculated for above 900 financial instruments (FIs). The individual absorption rates vary in Member States from 15% to over 90%. For the majority of the FIs implementation is progressing, some are already in a second cycle of investment (revolving effect of FIs).

For the significant number of FIs established in 2012 or even 2013 the very low implementation rate (which has impact on the calculated average) is expected, until such FIs reach cruising speed.

The disbursement of programme resources to final recipients may continue until 31/12/2015, which implies that Member States had by end 2013 (cut-off date for the reporting to the Commission) another two full years to disburse the remaining 53% to end recipients. The Commission continuously reminds Member States about this deadline and Member States mobilize their efforts to foster implementation (active follow up through monitoring committees, on-the-spot visit, more active promotional campaigns). Some Member States also started proactive reprogramming i.e. a re-allocation of resources from FIs to other operations under the programme in order not to lose the expected unused funds from FIs at programme closure.

The Commission has information from several Member States that absorption has accelerated in 2014 and therefore believes that the absorption will raise significantly in 2014 and 2015.

What will happen with OP contributions paid to FEIs at the end of the financial period 2007-2013, including n+2?

Commission's answer :

Any programme resource paid into a financial instrument and not disbursed to final recipients or not used for eligible management costs by 31/12/2015 (end of the eligibility period for 2007-2013) will have to be paid back to the Commission (net loss for the programme and Member State). Member States have the possibility to de-commit programme resources from financial instruments and re-program them in other operations under the same programme until 31/12/2015.

60. Why did the Commission pay important sums to financial instruments without making sure that this money is paid to the final beneficiary? Why did the Commission not assure itself about the real financial needs? Could the Commission make a breakdown of Member States using financial instruments and indicate a) the pre-financing sums end of 2013 and b) the sums paid out in that member state to the final beneficiary?

Commission's answer :

Cohesion policy is implemented under shared management where the implementation of programmes and all the operations under these programmes remain with 28 Member States and over 200 regions.

The establishment of a financial instrument (FI) and programme contribution to the FI is a decision of each managing authority responsible for the relevant programme. The Commission has recommended to Member States that the contributions to FIs should be based on a thorough assessment of market needs and that payments to FIs should not be used to circumvent the n+2 de-commitment rule.

Nevertheless, the Commission acknowledges that there are cases where the managing authority have programmed significant programme resources to FIs which were remaining at FI level for some time, without being disbursed to final recipients.

In the 2014-2020 period, such excessive allocations will not be possible. The Common Provisions Regulation contains the following safeguards with the view to ensure sound implementation:

- FIs will be better targeted in terms of allocation and the strategy (obligatory ex-ante assessment for each FI)
- Programme payments into FIs will be made in tranches related to the effective performance of the FI
- management cost and fees must be performance oriented. This will give a strong motivation to fund manager to deliver support to final recipients

The breakdown by Member State with the programme resources paid into FI and disbursed to final recipients at end 2013 is part of the annual summary report transmitted to the European Parliament and made public in October 2014. It is available under:

http://ec.europa.eu/regional_policy/thefunds/instruments/doc/summary_data_fei_2013.pdf

61. Could the Commission comment on the reason for the low disbursement of financial instruments in Bulgaria, Greece and Italy?

Commission's answer :

For Bulgaria agreements with financial intermediaries were signed only in 2011 and 2012. Considering the limited time of operation of these financial instruments (FIs), the low absorption rate is as expected. Information from the Member State authorities indicate an acceleration of implementation of the instruments in 2014.

In Italy, the majority of the financial instruments are implemented at regional level, but not only. Significant differences in the performance of FIs can be observed, some funds are already in the second round of investment (revolving effect), whereas others have not made any investments yet. In Italy, the banking crisis plays a significant role in the delayed implementation as the banks' ability to deliver the financial instruments has been affected. Italian authorities have gradually adapted the rules related the instruments to accelerate the investment of the allocations into the real economy.

At the end of 2013 the total value of commitments from Structural Funds to Italian FIs stood at EUR 4.1 billion. Compared to end 2012, Italy increased its FIs in 2013 by an additional EUR 215 million. This increase was motivated by the ever more serious credit crunch in the country in the last two years, which virtually shut off SMEs from bank credits. The current contributions paid out by managing authorities to FIs are around EUR 3.6 billion. The FIs contributions paid to final recipients are EUR 1.3 billion, which equals 37% of the amounts paid into the funds.

The main reason for the relatively low levels of disbursement at final recipient level is the high number of FIs being implemented in Italy, which in some circumstances also leads to overlapping between activities carried out by FIs implemented at regional and national level. Moreover, in the absence of clear regulatory requirements in the 2007-2013 Structural Funds regulations, some FIs were set-up without adequate gap assessments, covering both the regional and national dimensions, especially at the beginning of the programming period. This resulted in some cases in a disproportionate volume of funding allocated to FIs, poor design or ineffective

implementing provisions. These weaknesses were aggravated by the lack of capacity by some of the regional authorities to design and implement such instruments, coupled with the N+2 incentive built in the regulations to allocate large sums to FIs. Finally, the Italian legal and administrative framework regarding public support to SMEs, urban regeneration and energy efficiency (the three areas covered by financial instruments in 2007-2013) is still strongly biased towards grants and is insufficiently equipped to implement a higher share of public support through risk capital instruments.

At this stage of the programming period, the low level of disbursements to final recipients observed in Italian FIs calls for a close monitoring and more proactive action by the Italian authorities with a view to ensure full disbursement to final recipients by 31/12/2015.

With respect to the various FIs available in Greece supported by EU structural funds, the situation remained unsatisfactory until mid-June 2013 given the very high needs of the Greek business community. A total amount of EUR 1.6 billion of public funds is committed to FIs, while disbursements to final recipients reached 34.2%, according to the latest available data for the end of September 2014. This is the result of the extreme economic and financial crisis in Greece and the subsequent problems of the Greek banking system. After June 2013 the rate of disbursements to final recipients has increased significantly but the situation for certain FIs remain critical.

Significant efforts have been deployed both by the Commission and the Greek authorities, to better use the financial instruments put in place in Greece, with a view to addressing the extreme credit and liquidity crunch faced by SMEs but also by banks in Greece in the last four years. A Steering Committee was set up by DG REGIO in July 2013 and a number of actions/measures elaborated have been already applied, such as: the change of the percentage of combination for grants/loans, especially for vulnerable population groups in the EXOIKONOMO-Energy Efficiency Fund. For the JEREMIE and ETEAN products, eligibility expanded to include working capital. Loan upper limits were increased for a series of products.

Specific cases

Water project in Czech Republic

62. A project to lay water pipes in the municipality of Skorkov (Czech Republic) received EU funding of CZK 30 898 905 (approx. EUR 1.1 million) and was co-financed to the tune of CZK 5 452 748 (approx. EUR 180 000) by the Czech authorities. The pipes were intended to supply 500 people in 267 homes in three neighbouring municipalities (Skorkov, Podbrahy and Otradovice). The project was completed in February 2014. The district council then rented the water pipes to the company which was already operating the waste-water disposal system, which had also been modernised with the aid of EU funding (approx. CZK 40 million, or EUR 1.4 million). The response to the project has been less than enthusiastic: high water bills have prompted many residents to carry on using their own private wells. Drinking and waste water bills are CZK 112 (approx. EUR 4) per m³, CZK 58.58 (approx. EUR 2.10) for drinking water and CZK 53.37 (approx. EUR 1.90) for waste-water disposal. The prices are thus 45%

higher than the national average. Commissioner Hahn replied to the Parliamentary question E-006284/2014 that the project had never been audited neither from Czech Authorities nor from the Commission.

Has the project been audited in the meanwhile?

Commission's answer :

Neither the Commission nor the national audit authority have carried out an audit of this project. However, the type of issue raised for this project, which involves the poor uptake of connections to the water supply due to perceived high water supply prices, has been examined from a value for money perspective in the context of DG REGIO's performance audits of projects in the water sector, carried out in Bulgaria, Hungary and Romania.

In relation to the specific project in the municipality of Skorkov (Czech Republic), as previously explained to the CONT committee in Commissioner Mr Hahn's reply of 2 October 2014, the network is operated by a private company that is responsible for setting tariffs. The major increase of prices (from 38 CZK/m³ to 50 CZK/m³) occurred mainly in 2011 and 2012, prior to approval of this project. The Commission introduced the 'water agreement' rules that promote incentive pricing policy and sustainability for projects financed by the EU. Prices for water need to reflect the cost of the infrastructure in order to provide enough resources for the operation and replacement of the infrastructure at the end of its lifetime. The profit for the private operators is limited. The Commission has also requested the establishment of an Independent Water Regulatory body in the Czech Republic that would set up and monitor common national water pricing policy.

63. According to Commissioner Hahn, the Commission introduced the 'water agreement' rules that promote incentive pricing policy and sustainability for projects financed by the EU. Prices for water need to reflect the cost of the infrastructure in order to provide enough resources for the operation and replacement of the infrastructure at the end of its lifetime. The profit for the private operators is limited.

a. How are these "water agreement" rules monitored?

Commission's answer :

The water agreement is the annex 7 of the 2007-2013 Czech Environment Programme and forms an integral part of it. The implementation of the "water agreement" provisions are monitored on the ground on the basis of a specific monitoring tool/table which is also provided to all members of the Environment Programme monitoring committee during its sessions (twice a year). The managing authority of the Environment Programme is responsible to update this tool prior to each monitoring committee meeting. It is in fact, a very detailed tool providing the full picture of all processes/actions taken so that to make sure that all co-financed water infrastructure projects by the Structural Funds comply with the Water Agreement provisions.

b. How does the Commission make sure that the rules are implemented on the spot?

Commission's answer :

The Commission ensures implementation on the basis of the monitoring tool and process explained in the reply to question 63a.

64. The Commission has requested the establishment of an Independent Water Regulatory body in the Czech Republic that would set up and monitor common national water pricing policy. Has the Czech Republic established such a Water Regulatory body? If yes when? If no when will it be set up?

Commission's answer :

Taking into consideration the Czech water market context (multiple type of water operating arrangements and practices), the Commission has recommended the establishment of an independent water regulator. However, it is up to the Czech authorities to take the final decision on that respect. The Czech authorities are currently considering this option but no decision is taken so far. It is agreed that, in the absence of an independent water regulator, the Water Agreement provisions will also apply during the 2014-2020 programming period.

65. What other measures has the Commission undertaken to guarantee that national authorities comply with public procurement rules in order to ensure best value for money and monitored the objectives of such projects?

Commission's answer :

Regarding the 2007-2013 programming period, besides trainings provided by the Commission and technical meetings on the topic, a general action plan was elaborated in 2012 aiming at improving the overall management and control systems and the management verifications of the Czech managing authorities in particular, which encompasses also the area of public procurement.

As for the 2014-2020 programming period, the new regulatory framework established a new set of rules regarding the so called ex ante conditionalities in numerous areas, public procurement being one of them. In order to be able to provide financing for the new programmes, the Commission has to be firstly assured of the existence of arrangements for the fulfilment of these conditionalities, in this case - for the effective application of EU public procurement law in the field of the ESI Funds. Currently, the Commission is working with the Czech authorities on an action plan which aims at improving the situation in this area.

Due to the fact that the Structural Funds are implemented under shared management, the task to "ensure best value for money and monitor the objectives of such projects" remains however in the first place in the responsible Czech authorities (primarily the managing authorities).

66. How much funds in which budgetary lines does the Commission intend to spend over the next years for water projects in which Member States?

Commission's answer :

Under the 2007-2013 programmes (which run until end 2015) EUR 22 billion is programmed for investment in different water investments.

In the 2014-2020 programmes the ERDF and the Cohesion Fund may finance investments in different water related investments under Thematic Objective 6 "preserving and protecting the environment and promoting resource efficiency" programmes. The preparation of and dialogue on the programmes for the 2014-2020 period is on-going. As a result the Commission cannot yet provide an accurate picture of the planned investments in 2014-2020.

The Commission plans to provide a full overview to the Parliament of the range of planned investments in the report required under Article 16 of the Common Provisions Regulation in late 2015.

Lack of information on hospital funding

67. In response to the parliamentary question E-004906/2014, Commissioner Hahn explained, that the Commission has no systemic overview on the projects financed by the European Union.

Commission's answer :

For the 2007-2013 period the Commission has some aggregated information on "Health infrastructure" across the 322 programmes in the 28 Member States. In particular the Commission has information that EUR 5.3 billion is programmed for health infrastructure across 98 programmes. But under shared management the individual programme managing authorities have specific details on projects implemented..

68. How does the Commission intend to improve the available data to oversee the projects financed?

Commission's answer :

Under shared management, the Commission focusses on the programme level and the policies being pursued, and does not oversee individual projects, which is the responsibility of the Member States and regions. 2014-2020 programmes must have a set of indicators relating to outputs (including EU common output indicators) and results. These data relate in aggregate to programme priority axes, not to individual projects. The programme Monitoring Committees and the European Commission will review the overall progress and performance of each priority axis on an annual basis through review of the Annual Implementation Reports. The managing authorities will confirm in their management declaration each year the reliability of data relating to indicators. Audit authorities will be expected to give assurance on the effectiveness of monitoring systems to report output data through thematic audits, complemented by system audits by the Commission from 2015/2016 onwards. The audits on operations

will also comprise a module on outputs reported by the beneficiaries to the managing authorities and registered in the monitoring system. This will mean that checks will be undertaken that the outputs reported by projects to the intermediate body and managing authority are a reliable reflection of what the project has delivered on the ground. Finally, DG Regional and Urban Policy is moving towards more transparency in the publication of indicator data submitted related to the priority axes and this will also contribute to enhancing the reliability of data reported.

69. Has the Commission considered asking the Member States in order to answer the Parliamentary Question E-004906/2014?

Commission's answer :

The Commission has the responsibility to manage programmes and not projects for Cohesion Policy under shared management. It is therefore not in a position to provide the Honourable Members with detailed information about all hospitals in the EU that have received structural funding and about the equipment that has been purchased with that funding during the last 10 years.

In the context of shared management, the managing authorities (98 in this case) have such information, but probably in very different formats thus implying huge administrative burden on these programme authorities to collect this information on an ad-hoc basis.

70. As the Commission has praised the publication of beneficiaries by the Member States as a great leap towards transparency, it is, however, surprising that the Commission cannot answer the Parliamentary Question E-004906/2014. Therefore:

- a. How transparent are Member States towards the Commission when European funds are spent?

Commission's answer :

In the context of shared management and integrated programmes Member States (programme authorities) provide definitive information on the projects financed only at the point of closure. Expenditure in interim payment claims during implementation is declared at the aggregated level of programme priority axes. Verifications on the projects payment declarations are carried out by managing authorities and ex post controls on samples of operations are carried out audit authorities, as further explained below.

- b. Which data on projects and beneficiaries do they supply to the Commission?
- c. How are these data processed by the Commission?

- d. In the lifecycle of funds for a project and the project itself, which data has to be submitted to the Commission by whom at which point, for which purpose?

Commission's answer :

Common reply to questions 70.b) to 70.d)

In line with the principle of subsidiarity and rules of shared management, projects are selected and managed by the programme managing authorities in the Member States and regions. DG Regional and Urban policy estimates that more than 1.5 million projects are supported by ERDF and Cohesion Fund in the period 2007-2013. The following are the key rules on the management of projects:

- Throughout the programme period the managing authorities monitor the supported projects, verify claimed expenditure and retain key data listed in EU implementing rules. They must provide such project level details to the programme audit authorities, Commission auditors and European Court of Auditors on request to allow them to examine the financial regularity of supported operations.
- Managing authorities must publish regularly lists of beneficiaries in their national languages for the benefit of citizens in their programme areas. This is done on their own websites in different formats and in different levels of detail. The Commission currently does not further process these lists.
- For major projects (total project cost above EUR 50 million) the programme authorities notify the projects to the Commission. Data to be submitted in the framework of a major project include: details on the body responsible for implementing the project, description of the investment and location, total cost and total eligible cost, feasibility studies, cost-benefit analysis, environmental impact assessment, relevance to the priority axes of the programme, financing plan and timetable. These data and other elements must be submitted in order to allow the Commission to approve the project. The annual reports provide information on financial and physical progress. The level of detail provided on implementation varies by programme.
- At closure (as from March 2017) the programmes must definitely certify expenditure for all projects, following completion of all controls and deduction of irregular expenditure / projects, and identify uncompleted projects and the corresponding EU support, to allow the Commission to calculate the final EU contribution to be paid or recovered.

71. When will the Commission be able to answer Parliamentary Question E-004906/2014?

Commission's answer :

In the period 2007-2013 the Commission is aware that EUR 5.3 billion is programmed for health infrastructure across 98 programmes. It does not have information on the individual hospitals supported. The Honourable Members are referred to the reply to question 69.

The Commission is currently running as part of the 2007-2013 ex-post evaluation a contract on "Urban Development and Social Infrastructures" (including health

infrastructures). The evaluation's objectives are to establish the nature and objectives of co-financed investments in the fields of urban development and social infrastructures (including health infrastructure), the evidence available on the results and effects and to assess the extent to which investments were delivered through integrated strategies. However the aim of this study is not to provide a list of hospitals supported.

Information on the funding of media

72. How much structural funds went to media in the years 2012 and 2013 in which Member States?

Commission's answer :

Media companies may receive Structural Funds monies in two main ways.

In the 2007-2013 programmes technical assistance support to the information and communication activities of programmes often involve service contracts signed by the Commission with different media enterprises (delivery of services against payment). These activities are part of an overall programmed budget of EUR 1.7 billion (0.6% of ERDF/CF) for " Evaluation and studies; information and communication" across all Member States.

Media companies may also be beneficiaries of grants or other public aid under different innovation and business support measures of co-funded programmes implemented by the Member States. However, the Commission does not have data to give a systematic overview of such media related support. The Honourable Members are referred to the reply to question 69.

Human Bio Sciences

73. A total of EUR 13.6 million has been granted to the Luckenwalde-based firm Human BioSciences GmbH (HBS) for a project to build a wound care dressing factory; EUR 6.5 million has already been paid out. The owner of HBS was convicted of tax fraud back in 2004. By virtue of its obligations under the Financial Regulation, the Commission has to ensure that it satisfy itself as to a project manager's integrity, also when the funds are handled under shared management. Furthermore, the company HBS was not founded at the date of its project application, and it never had a business account, nor a bank at all in Europe. According to a witness in court, the Investment Bank of the state of Brandenburg (ILB) wanted to reject the application of the firm at first, however, the Ministry for Economic Affairs intervened and in October 2008 the ILB granted EUR 13.5 billion to the non-existent company. Even after the ILB had been tipped off and reported the firm, it transferred 3.3 million EUR. Up to now, the ILB has never tried to get the money it spent back.

74. What are the lessons the Commission draws from the fraud? What will be the future procedure regarding the application for EU-funds by the Land Brandenburg?

Commission's answer :

The Commission is in close contact with the national authorities to monitor that adequate corrective measures are undertaken in cases which prejudice the EU-budget. For the project in question there is an on-going court case at regional level that will take into account the final results of the investigation. The authorities of Brandenburg have withdrawn the project from the ERDF programme and have deducted all expenditure related to this project from the application for EU funds submitted in May 2014. Thus the public expenditure for this project is since May 2014 covered exclusively by national funds (financing of the Land Brandenburg). Depending on the outcome of the court case and final verdict, if necessary the authorities of Brandenburg might be able to recover the national tax payers' monies for this project from the beneficiary.

75. According to Parliamentary Question P-004579/2014 the Brandenburg taxpayers will have to cover the fraud and not the European taxpayers. The European rules foresee zero tolerance for fraud. Will the Commission recover the initial sum foreseen for the project? Will Brandenburg be allowed to use this European money for another project?

Commission's answer :

In 2014, the managing authority has decided to cancel the ERDF funding for this project, to take the project completely out of the respective ERDF programme and to withdraw any related expenditure. Therefore, there is currently no longer any EU money in this project. The public expenditure for this project is covered exclusively by national funds (financing of the Land Brandenburg). The ERDF funds that were thus voluntarily taken out of the ERDF programme by the programme authorities may be re-used by the programme authorities for other eligible projects.

76. What measures has the Commission initiated to prevent such a fraud in the future?

Commission's answer :

The Common Provisions Regulation for the 2014-2020 programming period, under Article 125.4 c), sets out that the managing authority shall put in place effective and proportionate anti-fraud measures, taking into account the risks identified.

In order to assist the Member States in the implementation of this requirement, the Commission has drafted detailed guidance that has been discussed and finalised with the Member States in June 2014. Notably, the Commission guidance provides a practical fraud risk assessment tool, which the Commission advises all Member States to use in order to assess their management and controls systems' capacity to prevent fraud risks and to take appropriate action to mitigate residual fraud risks by putting in place additional effective and proportionate anti-fraud measures. In addition, the Commission services, in cooperation with Transparency International, have organised one major anti-corruption / anti-fraud event for all 28 Member States end of 2013 in Brussels and thirteen individual anti-corruption / anti-fraud seminars in selected Member States are being carried out until March 2015.

As regards this particular suspected fraud case, the Commission notes that there is a court case ongoing at national level. The Commission is transmitting a clear and strong message in its anti-fraud / anti-corruption guidance as well as in its anti-fraud / anti-corruption seminars that prosecution of suspected fraud cases is very important since it has a deterrent and preventive effect on other potential fraudsters.

77. According to the Commission, in 2012 the Brandenburg audit authority reviewed the expenditure declared for the HBS case for the previous year — including the cash flows — within the scope of its annual sample-based audits. In these audits the only matters queried were one discount amount (under EUR 10) and different amounts in respect of the payment of an invoice for the sum of EUR 427 EUR, and these were corrected. Should the audit authority have been able to discover the fraud?

Commission's answer :

According to international auditing standards, auditors should have sufficient knowledge to identify fraud indicators but are not to have the expertise of a person whose primary responsibility is detecting and investigating fraud. The main objective of the audit work is to detect irregularities in general terms. According to the information at hand, the Commission considers that the audit authority carried out its work with due diligence in auditing this project, including in taking steps to obtain acceptable audit evidence.

78. How can the Commission guarantee the regularity of European spending, when an audit authority certified by the European Commission is not able to detect such blatant fraud in such a late stage?

Commission's answer :

The Commission does not certify audit authorities. It approves their audit strategies and audits their effective functioning and reporting.

In the case under analysis, the audit authority audited in 2012 the expenditure declared by the beneficiary in 2011, as part of its random annual sample of project audits. It has taken steps and has obtained audit evidence supporting the eligibility, at that point in time, of the vast part of the expenditure audited. The Commission has no elements to reject this audit evidence; this is for the fraud investigation currently carried out by the regional court to establish.

Only an extremely limited share of the Cohesion Fund spending is affected by fraud suspicions (less than 0,5% on average in the last 5 years according to the OLAF report on the Protection of the Financial Interests of the Union). Fraud suspicion requires specific and expert investigations, carried out by specialised anti-fraud services, not by auditors.

Lake Karla

79. In response to P-001897/2014, the Commission is aware of the difficulties of the rehabilitation project at Lake Karla in Thessaly has faced and is following these closely with the Greek authorities. The Commission was confident that the difficulties will be overcome and that the project will be completed before the end of 2015. According to the Commission, the EU has paid EUR 13.8 million for this project so far and a further EUR 18.2 million of EU funding was planned to enable completion.

80. How much money was spent in the earlier financing periods for the lake Karla? For which projects?

Commission's answer :

The project started in the 2000-2006 period but was not finalised within the regulatory deadlines due to delays. The Greek authorities requested to the Commission a co-financing in the 2007-2013 period. On the basis of the progress implementation achieved so far, it is expected that the project will be completed in the programming period 2007-2013.

Under the 2000-2006 programming period the project was co-financed by the programme "Environment". At closure the total eligible public expenditure declared in the final payment claim to the Commission amounted to EUR 100.279.065 including the EU contribution (EUR 74.968.629).

81. How much money was spent in total around the lake?

Commission's answer :

The amounts declared to the Commission up to now are as follows:

2000-2006 period: Total eligible public expenditure including the EU contribution: EUR 100.279.065 (EU contribution EUR 74.968.629)

2007-2013 period: Total eligible public expenditure including the EU contribution: EUR 16.563.596 (EU contribution EUR 15.735.416) included in payment claim.

Therefore, the total amount (national + EU) spent up to now on this project is EUR 116.842.661 of which EUR 90.704.045 is EU contribution.

82. What progress has the Commission achieved together with the Greek authorities?

Commission's answer :

The Commission has achieved together with the Greek authorities to ensure that this project would be completed in the 2007-2013 period. This was achieved through technical meetings, monitoring committees meetings or letters addressed to the Greek authorities.

83. What archaeological excavations have prevented the progress?

Commission's answer :

The archaeological excavations are related to various works for the protection of ancient buildings or other architectural remaining of the Hellenistic era in various places such as Tsiggenina, Amigdali, Tserli.

84. Is it planned that a project including the Lake Karla will be financed from the MFF 2014-2020?

Commission's answer :

According to the information received from the Greek authorities, the project will be completed during the programming period 2007-2013 and therefore to the Commission knowledge no further project is planned under the 2014-2020 programming period.

Information concerning a cycling path in Italy

85. In the context of European funding in Italy a project for a cycling path in the Lago Trasimeno area was foreseen, originally divided into three pieces. The first part was from Panicarola to Castiglione del Lago - apparently this part was approved and Co-financed by the EU already in 1996. Due to information we've received the Italian authorities built the cycling path aside of the approved plans which means amongst others that the cycling path now runs in direct proximity and in parts even in the Lago Trasimeno instead of a originally foreseen distance of 1 km from the lake which poses problems like parts of the path are not accessible and the path runs within a protected area (FFH and birds directive). According to recent media information the other 2 parts of the cycling path will be financed through EU-Structural Funds.

- a. Is it true that there will be further EU-financing for the above mentioned cycling path?

Commission's answer :

No further EU funding for the Trasimeno cycling path is foreseen. The cycle path will be completed with national resources.

With respect to the indication that part of the path constructed 20 years ago would run within a protected area, it is to be noted that the case was the subject of an infringement procedure (no. 2002/4342) by the Commission against Italy over the degradation of a habitat and disruption to species within the Special Protection Area (SPA) IT5210070. This proceeding was closed after the production of appropriate supporting documents by the Italian authorities, on the basis of which the Commission concluded that the cycling path was unlikely to have a significant impact on the SPA concerned. The Honourable Members are referred to the Commission's answer to written question E-2054/2003.

- b. If yes, what will be the amount of EU-funding?
- i. If yes, will these new amount also be used for repair and maintenance of the "old" part of the cycling path? Had there been any acceptance inspection (collaudo) of the "old" part of the cycling path and was this one of the conditions to receive the full amount of EU-funding?

Commission's answer :

No further EU-funding for the Trasimeno cycling path is foreseen.

- c. Are there any recoveries foreseen or were there already recoveries implemented? If yes, of what amount?

Commission's answer :

The co-financed first stretch of the cycling path was part of the 1994-1999 programme of the Region Umbria. There has been no recovery in the past because the allegations about an environmental infringement were unfounded and because no proof has been presented that, at the time, the original 1996 project was not correctly implemented. This programme was closed in February 2004, i.e. more than 10 years ago, therefore the deadline for keeping supporting documents, three years after the date of confirmation of closure, has elapsed.

Belarus

86. Has Belarus received any EU Structural funds through European parent enterprises or sub-companies? If yes, what amount of money did they receive and which projects were concerned?

Commission's answer :

The transnational Baltic Sea Region Programme involves currently Belarus (eu.baltic.net). The programme is co-funded by the ERDF and the ENPI (European Neighbourhood and Partnership Instrument) and includes the following countries: ERDF - Denmark, Estonia, Finland, Latvia, Lithuania, Germany, Poland, Sweden, Norway (with its own funds), ENPI - Belarus and Russia (not eligible because the financing agreement was not signed). In the 2007-2013 period, 40 Belarussian partners have participated in 21 joint projects (all projects can be found under http://eu.baltic.net/Project_Database.5308.html?&contentid=) and received EUR 6.3 million of EU co-financing from the ENPI. However, due to various challenges not all the funding allocated to the partners in Belarus will be spent. The project promoters will submit their final reports by spring 2015.

Belarusian partners participate in projects that handle different themes:

- Support to SMEs
- ICT and transport development
- Waste water management

- Energy efficiency
- Rural and urban development

Task force for Greece

87. Task Force for Greece: According to the 6th report 51 out of 181 priority projects have been completed (1 Bn Euro co-financed), 73 are implemented on schedule (4,5 Bn co-financed), 43 projects (EU co-financed with 5,3 Billion Euros) need to be accelerated. Compared to the 2012 discharge - the figures we've received in this context (state of play mid-October 2013) were the following: 37 projects have been completed (913 mio. euros), 83 projects are advancing according to schedule (3,4 bn. euros), 49 projects need to be accelerated (6,7 bn. euros). This means that according to the 6th report still 23% of the priority projects need to be accelerated in comparison to 27% in mid-October - which shows a progress of only 4%.

- a. Could the Commission please comment on this last figure and the slow progress of these projects?

Commission's answer :

The implementation of the priority projects has encountered problems, the main ones being a) delays at maturation stage, b) delays in licensing, c) dissolution of contracts due to lack of liquidity of contractors and d) lengthy court appeals during awarding procedures. The Greek authorities have reinforced the process of implementation for the priority projects with the use of project managers, Jaspers assistance and close follow-up by MOU. As of today (November 2014), 48 projects need to be accelerated. To this extent, additional measures to speed up the implementation are considered by the Greek authorities such as reinforcement of close monitoring so as to resolve implementation problems (redesign of projects, meetings with all involved project stakeholders, actions to ensure maturity of project).

- b. Could the Commission provide Parliament with a list of these 43 projects?

Commission's answer :

On the basis of the latest report submitted by the Greek authorities in October 2014, 48 projects need to be accelerated. The list of these projects can be found in the list attached to this reply.



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- c. What were the costs respectively for expropriations in these projects in per cent of the overall project costs?

Commission's answer :

Article 7(1b) of Regulation (EC) No 1080/2006 defines that purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation is not eligible. In relation to the aforementioned 48 projects, the costs for expropriation, where applicable and if required, will not exceed 10% of the total eligible expenditure of the project.

In relation to the 48 projects, only 10 projects listed in the annex (n°39, 51, 71, 81, 96, 97, 100, 111, 128 and 129) include costs for expropriation of EUR 318 million which represent 17,4% of the total estimated costs of these 10 projects. As already mentioned the expropriations eligible costs declared on these projects are limited to 10% of the overall costs for each project.

88. Which administrative expenditure (HR, travel...) of the Task Force for Greece were borne to the European taxpayers in 2013?

Commission's answer :

The administrative expenditure of the TFGR in 2013, financed from the administrative budget of the Commission, consisted of:

- 60 Commission agents (situation on 16 July 2013)
- Office in Athens: 246.000 Euro (including security, utilities, telephone - no rent is paid)
- Missions: 589.252,38 Euro
- Representation expenditure: 3.461 Euro
- Costs for external and internal meetings: 6.027 Euro.

Information on a 'new Container Terminal' in Cádiz

89. The 'new Container Terminal' in Cádiz requires the building of a new 0,9 km access tunnel. Ultimately the Spanish authorities estimate its cost with 25 million euros, although in the past far higher figures had been cited. Are 25 million Euros realistic and is this cost included in the project presented to the Commission, that is to say, is it incorporated in the cost-benefit analyses the Commissions services carry out?

Commission's answer :

The major project New Container Terminal in Cádiz is still under assessment by the Commission and therefore the Commission has not yet taken any decision on funding this project. Regarding access to the new container terminal in Cádiz, the application form submitted to the Commission indicates that it has a total length of 1,3 km from which 0,9 km are a tunnel. The total estimated cost (TVA excluded) is EUR 28 million and has been duly incorporated in the cost-benefit-analysis carried out by the Port Authority.

New programming period 2014-2020

90. Die neue Förderperiode der Strukturfonds ist soeben angelaufen. Wie hat die Kommission sichergestellt, dass einige Mitgliedsstaaten nicht durch komplizierte, sogenannte "vergoldete" nationale Gesetzgebung, eine korrekte Umsetzung der Strukturfondsmittel erschweren und somit die Fehlerquote in die Höhe treiben? [*The new programming period for the structural funds has just started. How has the Commission ensured that some Member States do not complicate national legislation, so-called "gold-plating", making it difficult to apply correctly the Structural Funds - thus increasing the error rate?*]

Commission's answer:

The new regulations offer a broad range of opportunities for simplification and reduced administrative burdens. These include a set of common rules for all ESI Funds, the extended use of simplified costs options and the move towards e-cohesion. During the discussions on the future programmes, the Commission recommended to Member States to draw lessons from the past and to take advantage of the simplifications offered in 2014-2020. Similarly, discussions in the expert group on European structural and investment funds (EGESIF) on the guidance on Simplified Cost Options draw their attention to the advantages to keep the access to the funds and their management simple and attractive for beneficiaries, in order to reduce administrative burdens and the risk of error. The Commission is providing trainings to managing authorities on these simplified cost options.

Member States and regions have to play their role. There are Member States where more than 40 signatures are needed to submit an application. This is not required by EU law.

The Commission will carefully look at what Member States intend to do to reduce the administrative burdens. For this purpose the Commission will first need a solid assessment of how the new provisions have contributed to a reduction of administrative burdens and to simplification. In 2015, the Commission will launch a study which will identify how opportunities for simplification have been taken up and how the proportionate approach has been implemented with a view to assessing the actual impact on programme management (administrative costs for Member States) and beneficiaries (administrative burdens on beneficiaries). The study should also explore additional options for simplification with a view to a further reduction of the administrative burdens and costs.

As part of the process of analysing and adopting Partnership Agreements and programmes, the Commission has established detailed checklists and executed in-depth work on the various action plans regarding all aspects of ex-ante conditionalities, administrative capacity and the reduction in the administrative burdens. This has been done to have more assurance to achieve a reduction in the administrative burdens for the Member State.

Furthermore, DG Employment and Social Affairs transmitted to the European Parliament a report on Simplification and Gold-plating in the ESF as a response to a

recommendation from the Discharge Resolution for the financial year 2011 (Ares(2013)3470397 of 13/11/2013).

91. Wurden bei in der Vergangenheit (letzte Finanzperiode) wiederholt auffälligen Mitgliedsstaaten (mit hohen Fehlerquoten) entsprechende Reformbedingungen in die Partnerschaftvereinbarungen geschrieben? Wenn ja, welche? Wenn nein, warum nicht? [*Do the partnership agreements for Member States that were repeatedly notorious (high error rates) in the past (last financial period) contain the appropriate reform conditions for those? If yes, which ones? If no, why not?*]

Commission's answer :

The main tools introduced in the 2014-20 period to support Member States in their reforms are the Country Specific Recommendations (CSR) in the frame of the economic governance exercise (European Semester) and the ex-ante conditionalities.

Follow up actions of Member States to the CSRs need to be described by the Member States in their Partnership Agreements. They must also include an assessment of the need to reinforce the administrative capacity of authorities involved in the management and control of the programmes and a summary of actions to be taken for that purpose. This needs to be translated into operational measures in the operational programmes.

Ex ante conditionalities should guarantee that framework conditions for effective and efficient investments co-financed by the ESIF are in place. Partnership Agreements must include a summary of the assessment of the fulfilment of applicable ex ante conditionalities at national level, and in case of non-fulfilment action plans ensuring fulfilment by end 2016 have to be developed. If Member States fail to complete actions by the deadline the Commission may suspend all or part of interim payments to programmes concerned. In specific circumstances payments can be suspended already when programmes are adopted. Action plans need to include clearly defined actions with clear outputs and a realistic timetable with milestones. Their execution should be monitored regularly. Examples: With regard to the ex-ante conditionalities on public procurement, 11 Member States will have to develop actions plans to ensure fulfilment and for 4 Member States (Bulgaria, Greece, Italy and Romania) more in-depth public procurement strategies are developed in close cooperation between DG REGIO and DG MARKT; 5 Member States do not fulfil ex-ante conditionalities for State aid and their action plans are being screened by the Commission on completeness and usefulness; and with regard to the ex-ante conditionality linked to institutional capacity building, 11 Member States have to prepare action plans but the number may still evolve with the progressive submission and adoption of programmes where [this ex ante conditionality](#) is assessed.

Finally the Commission ensures in the negotiation process that complex or unclear implementation structures source of errors in the past be replaced by more streamlined systems (example: reduction of the number of intermediate bodies in Spain; reduction in the number of audit authorities in Italy and separation of functions ensured with managing authorities).

These reinforced preventive measures negotiated during the programming process in partnership agreement and programmes have also to be seen in relation with the

general reinforcement of Member States' accountability and increased incentives in the regulatory framework for timely and control measures for 2014-2020 programmes, with a view to ensure the legality and regularity of expenditure in annual accounts certified to the Commission,

92. Fehlerhaft ausgegebene Mittel können auch in der Zukunft mit neuen Projekten wiederverwandt werden. Gibt es eine Aufstellung seitens der KOM über "nachgerückte" Projekte in der letzten Finanzperiode pro Mitgliedsstaat? Falls nein, wie hoch schätzt die Kommission die Anzahl fehlerhafter & ersetzter Projekte ein? Kann die Kommission schätzen, welcher Schaden dem jeweiligen nationalen Steuerzahler durch diese "nachgerückten" Projekte (100% nationale Mittel im gestrichenen Projekt + erneute Ko-Finanzierung im nachgerückten Projekt) entstanden ist? *[Incorrectly spent funds may be reused also in the future for new projects. Does the Commission have a list of "replacements" projects for the last programming period by Member State? If not, what is the Commission's estimation of the number of erroneous and replacement projects? Can the Commission estimate the damage to the national taxpayer by these "replacement" projects (100% national funds in the erroneous project and new co-financing in the replacement project)?]*

Commission's answer :

Under Cohesion policy and shared management the Commission manages programmes and Member States have details on projects selected for inclusion in programmes and implemented. The Commission is therefore not in a position to provide the Honourable Members with a list of 'replacement' projects at Member State level.

As a general rule, only recoveries which are made at the level of the beneficiary are not supported by national taxpayers (EUR 583,4 million of recoveries reported cumulatively by Member States for ERDF/CF since 2007). Member States also report amounts effectively withdrawn (deducted) from programme expenditure before effective recovery from individual beneficiaries, as part of their obligatory annual reporting to the Commission since 2007. Cumulatively, since 2007, Member States reported EUR 2.317,6 million of withdrawals for ERDF/CF to the Commission, in addition to the recoveries quoted previously, which could be reused for new, eligible projects and expenditure. The Commission understands that part of these withdrawals may subsequently be recovered from beneficiaries at national level (this is in the interest of the public bodies concerned with a view to protect their budget). However, the Commission is not in a position to estimate precisely such amount since once Member States withdraw irregular amounts from co-funded programme expenditure, the EU budget is protected and the recovery process becomes a national issue. Member States are not obliged under the regulations to report back to the EU level on their national recoveries.

93. Can the Commission give an estimate of how much has been paid out from the EU Structural Funds in support of private companies (in percentage and absolute numbers) in 2013?

Commission's answer :

The Commission is not in a position to provide the Honourable Members with the requested information. Member States do not have to provide such information in their payment claims to the Commission. The Commission can only deduct the private contribution to expenditure declared under programmes in payment claims, not of support to private companies. More general data was provided in the Sixth report on economic, social and territorial cohesion. For example, between 2007 and 2012, the ERDF invested in 200.000 small and medium-sized enterprises projects and 80.000 business start-ups, and supported more than 400.000 of people becoming self-employed. Figures for 2013 are not yet fully validated by the Commission and will be available only in January 2015.

94. According to EU-regulation 1083/2006, EU funds may not support the relocation of companies within the European Union.

a. How does the Commission ensure that this EU-regulation is applied?

Commission's answer :

The General Regulation (EC) N° 1083/2006 does not define the term "relocation" but includes a number of elements that can help to deal with this issue. In relation to assessment of major projects, recital 42 of the General Regulation states that the Commission, when assessing major project applications, should have all necessary information to consider whether the financial contribution from the Funds does not result in a substantial loss of jobs in existing locations within the European Union, in order to ensure that EU funding does not support relocation within the European Union. Accordingly, each major project application must contain information on inter-regional employment effects of the given major project (Annex XXI of the Commission Implementing Regulation).

When assessing major project applications, the Commission analyses the information received according to Article 40 of the General Regulation. One of the main elements is the cost benefit analysis, which contains, where appropriate, information on the impact on the socio-economic situation of other regions of the EU. In this respect, the Commission takes all available information into account and, where appropriate, it may decide to either ask the Member State to withdraw or take a negative decision on the major project application.

It should nevertheless be underlined that the question of substantial job loss should be assessed in relation to all projects. It is on that line that, in 2007, the Commission recommended to Member States to include a clause in the programmes with a view to develop a system that would ensure that direct aid given to large firms does not lead to firms going to other regions in the EU (letter sent to the Permanent Representations to EU of all Member States on 17/09/2007).

The term "substantial job loss" is not precisely defined. However the European Commission encourages the managing authorities to apply the concept in a rigorous way, i.e. also a partial dismissal of staff may constitute a substantial job loss, depending on the size and of other characteristics of the enterprise and of its economic environment. An assessment on a case by case basis, taking into account criteria such as "negative effects on territorial cohesion" and taking on board specific circumstances should be applied.

Except in the case of major projects, in line with the principle of shared management, it is the Member States' responsibility to ensure that projects selected for funding comply with the regulation. Where a Member State has doubts about whether a request for assistance could lead to support to investment that concerns the relocation of production or service facilities from another Member State, it may consult the Commission services.

- b. How many complaints has the Commission received in this regard in the past 5 years?

Commission's answer :

The Commission has received a limited number of enquiries this year, mainly from journalists to this particular topic.

- c. How does the Commission investigate such complaints?

Commission's answer :

In case of official complaint and in line with the principle of shared management, the Commission would ask the Member State to investigate the projects at stake and to report back on its findings.

95. Can the Commission provide an estimate of how much of the Structural Fund support to private companies, which has directly or indirectly supported the relocation of services or production from one member state to another member state?

Commission's answer :

One case in 2011 led to the suppression of a grant (EUR 12 million) to Twinings, a company based in the UK who opened a plant in Poland. The investigation led by the Member State confirmed that this was indeed a case of relocation and that necessary actions needed to take place to avoid misused of EU Funds. Potential cases of relocation are regularly brought to the attention of the Commission, mainly through the media. So far, with the exception of Twinings, all investigations concluded that there was no breach of the regulation. To date the Commission services therefore have no evidence that the ERDF/Cohesion Fund have supported relocation of services or production leading to substantial job losses in existing location in the EU.