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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
TO THE COUNCIL**

on the follow-up to 2012 discharge - Replies to requests from the Council

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TABLE OF CONTENTS

INTRODUCTION.....	3
Council Recommendation on the 2012 discharge.....	4
Introduction.....	5
Chapter 1 - The Statement of Assurance and Supporting Information.....	14
Chapter 2 - Revenue	17
Chapter 3 - Agriculture: Market and Direct Support.....	19
Chapter 4 - Rural Development, Environment, Fisheries and Health	22
Chapter 5 - Regional Policy, Energy and Transport.....	25
Chapter 6 - Employment and Social Affairs.....	31
Chapter 7 - External Relations, Aid and Enlargement.....	35
Chapter 8 - Research and Other Internal Policies.....	36
Chapter 9 - Administrative and Other Expenditure	39
Chapter 10 - Getting Results from the EU Budget	41
SR 17/2012 The European Development Fund (EDF) contribution to a sustainable road network in sub-Saharan Africa	42
SR 18/2012 European Union Assistance to Kosovo related to the rule of law	44
SR 20/2012 Is Structural measures funding for municipal waste management infrastructure projects effective in helping Member States achieve EU waste policy objectives?	45
SR 21/2012 Cost-effectiveness of Cohesion Policy Investments in Energy Efficiency. 46	
SR 23/2012 Have EU Structural Measures successfully supported the regeneration of industrial and military brownfield sites?	48
SR 24/2012 The European Union Solidarity Fund's response to the 2009 Abruzzi earthquake: The relevance and cost of operations.....	49
SR 2/2013 Has the Commission ensured efficient implementation of the Seventh Framework Programme for Research?.....	50
SR 3/2013 Have the Marco Polo programmes been effective in shifting traffic off the road?	51
SR 4/2013 EU Cooperation with Egypt in the Field of Governance.....	52
SR 5/2013 Are EU Cohesion Policy funds well spent on roads?	53
SR 8/2013 Support for the Improvement of the economic value of forests from the European Agricultural Fund for Rural Development	54
Eighth, ninth and tenth European Development Funds	55
Bodies set up under the TFEU and the Euratom Treaty	58

INTRODUCTION

This Commission Staff Working Paper completes the Report from the Commission to the European Parliament and the Council on the Follow-up to the 2012 Discharge. It presents in detail the answers to 79 specific requests made by the Council in the comments accompanying its Recommendation on the 2012 Discharge¹.

¹ Document references 5848/14 ADD 1, 5849/14 ADD 1 and 5850/14 ADD 1 published on:
<http://www.europarl.europa.eu/committees/en/cont/publications.html?id=CONT00006#menuzone>

Council Recommendation on the 2012 discharge

Introduction

1. (§6 - 2012/COU/0219) The Council calls upon the Commission to further strengthen the control systems and to make them more efficient, to put more emphasis on measures preventing errors, on timely interruption and suspension of payments, to target the most risk prone programmes and to apply financial corrections and recoveries, rigorously in line with the relevant rules, in order to protect the EU budget.

Commission's response:

The Commission has taken the recommended actions. As a result of the Commission supervisory role, the Commission has continued in 2013 to apply a strict policy on interruption and suspension of payments in order to safeguard the EU funds. This policy, in force for the 2007-2013 period, operates on a preventive basis, triggering the interruption of interim payments - or the sending of a warning letter if no payment claim is outstanding - as soon as there is evidence to suggest a significant deficiency in the management and control system of all or part of an operational programme, thus avoiding to reimburse amounts which might be affected by serious irregularities.

Both procedures provide a mechanism for rapid agreement with the Member State on the complementary verifications to be carried out and, if need be, implementation of appropriate remedial actions, including improvements in the system for future expenditure and timely financial corrections for past expenditure. Whenever necessary, in case of serious weaknesses and where the Commission services consider that no or insufficient action has been taken by the concerned authorities within the regulatory time frame of the interruption (maximum period of 6 months), a formal suspension procedure starting with a pre-suspension letter addressed to the Member State is launched.

In 2013, in the area of the regional and urban policy, the number of warning letters, interruptions and pre-suspensions for ERDF/CF programmes has further increased compared to previous years: 61 warning letters have been sent and 130 new interruptions were decided and communicated to Member States in the year, and 78 suspension procedures were initiated. Two thirds of these interruptions and pre-suspensions are based on audit results reported to the Commission by audit authorities and analysed by the Commission services. In the majority of the cases, the interruption and suspension procedures have worked as an impetus to improve the management and control systems. The authorities rapidly took the remedial actions needed. 104 of the 191 cases that were on-going in 2013 were resolved by end of January 2014 and around 2/3 of cases were solved in 9 months or less. However, at the end of the year outstanding cases affect 71 operational programmes (ERDF, CF and IPA) in 12 Member States.

In 2013, in the area of Employment and social affairs, the strict policy of interruptions and suspensions continued as in previous years: 12 warning letters were sent, 25 interruptions of payment deadlines decided and 11 suspension decisions adopted. Interruptions and suspensions are discontinued only after due consideration of the commitment made by the Member State. This requires providing reasonable assurance, in particular on the basis of audit evidence by the national audit authority or by a DG EMPL (follow-up) audit, on the progress in the implementation of an action plan with corrective measures, and/or the

implementation of financial corrections at Commission level, i.e. financial corrections included in a payment claim submitted to the Commission or agreed with DG EMPL. To ensure consistency, transparency and equal treatment, each case is examined by the Senior Management of DG EMPL.

As regards the targeting of the most risk-prone programmes, DG Regional and Urban Policy carried out targeted audits to high risks programmes where it identifies that certain deficiencies could remain undetected or not timely detected by audit authorities, which could jeopardise the assurance process (assurance gap). The scope of this complementary audit enquiry is therefore to cover (part of) operational programmes or particular areas still considered at high risk after the review of the work of audit authorities considered as most at risk. Such risk-based audits focused mainly on the reliability of management verifications at the level of the managing authorities/intermediary bodies (59% of all audits carried out), and to a lesser extent on selection of operations, corrective capacity of the managing authority, certification of expenditure by the certifying authority and high risk operations not yet audited by the national audit authority. A total of 77 audit missions (including 22 in 2013) have been carried out since 2010 covering 15 Member 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 imposed to Member States, 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. The same approach will be implemented to address and follow-up the reservations in the 2013 annual activity report of the Directorate General.

A synthesis report on the results of these risk-based audits was provided to the European Parliament Discharge Rapporteur in December 2013 and concludes that the audit enquiry "Bridging the assurance gap" has proven to be a pro-active response by the Directorate-General to increase its assurance.

DG EMPL's audit strategy aims to provide reasonable assurance that the management and control systems established by Member States comply with the requirements of the regulations and are functioning effectively.

In 2013, 70 missions have been performed by EMPL auditors for the ESF 2007-2013 programming period focusing on three main issues:

- the enquiry related to the ACR re-performance, which is the key element to give the assurance to DG EMPL that the results of the ACRs from the AAs are reliable;*
- audit of programmes put in reservation in the 2012 AAR; In 2013, for 24 out of 27, programmes in reservation an audit mission was planned; Depending on the issues linked to each programme, the missions were a fact-finding, a follow-up, a system and projects audit or a review of the AA;*
- a thematic audit on management verifications, following the European Court of Auditors annual report's findings that in the area of Employment and Social Affairs 76 % and 67 % of the errors detected in 2011 and in 2012 respectively, should have been detected by the Managing Authorities, through their first level checks ; DG EMPL audit plan in 2013 included 8 missions for this specific thematic audit on Management Verifications; A report on the results of these*

audits including recommendations addressed to Member States to improve their management verifications, was sent to the EP in November 2013.

In the case of the Common Agricultural Policy, the Commission, in the new CAP reform legislation which was adopted at the end of 2013, has strengthened the provisions on interruption and suspension of payments. The Commission also continues to pursue its clearance of accounts procedure in respect of all cases of non-compliance of EU legislation (resulting from around 120 audit missions each year) in the field of agriculture and in 2013 adopted decisions to claw back over 1.1 billion EUR of undue expenditure to the EU budget by way of net financial corrections.

2. (§6 - 2012/COU/0220) The Council calls upon the Commission to continue fully executing its supervisory role in order to ensure the full protection of the EU budget and to provide guidance to Member States with a view to strengthening the efficiency of their administrative and control structures, and enhancing the quality of the different levels of controls, in particular the first level checks.

Commission's response:

The Commission is taking the recommended action. For the continuous execution of its supervisory role, see reply to the request No 2012/COU/0219.

The Common Provisions Regulation for the 2014-2020 programming period contains reinforced control provisions compared to 2007-2013 and requirements that improve the Member States' accountability so as to better address errors and ensure legality and regularity of co-financed expenditure. Two major aspects need to be underlined:

- The introduction of compulsory net financial corrections to be adopted by the Commission when EU audits detect irregularities indicating a serious deficiency not detected / reported by the programme authorities in relation to the programme accounts submitted by 15 February each year (see the Communication from the Commission on "Methods of application of net financial corrections impacting at the level of Member States" adopted on 13 December and transmitted to the European Parliament and the Budgetary control Committee). Net financial corrections reducing the Member States' allocations in case of undetected/non reported serious deficiencies will provide increased incentives for national robust and timely controls, including by the managing authorities, before certifying programme accounts to the Commission. For Agriculture and Rural Development, the clearance of accounts procedure has been in place for over 40 years in order to claw back net financial corrections to the EU budget where undue expenditure has been incurred and this procedure has been strengthened in the CAP reform legislation adopted at the end of 2013.

- The increased use of simplified cost options and their positive results in bringing down the error rate.

Other reinforced financial management and control provisions compared to the 2007-2013 programming period includes in particular:

- A new financial management framework with a programme accounting year running from 1st July to 30 June each year. The certifying authority certifies to the Commission the expenditure in the programme accounts drawn up for each accounting year, containing only legal and regular expenditure cumulatively

declared during the accounting year and cleared from all irregularities detected following national verifications and audits.

- A 10% retention mechanism on all Commission interim payments during the accounting year meaning that the Commission reimburses the entirety of claimed expenditure only once all national controls including the audits by the audit authority have been carried out and their results fully analysed and taken into account by the managing and certifying authorities.

- The submission by the programme managing authority of a management declaration confirming information contained in the accounts and that the control system in place gives the necessary guarantees concerning the legality and regularity of the operations and declared expenditure. This declaration will be accompanied by a report of the managing authority containing a summary of all management verification, control and audit results carried out up to certification of the accounts, an analysis of the nature and extent of errors and system weaknesses identified, as well as of corrective actions taken or planned.

- Independent audit work and audit opinion on the accounts, in addition to audits on the proper functioning of systems and on representative samples of operations and expenditure as in the current period, by the programme audit authority. This will include assurance that all detected irregular expenditure has been appropriately and correctly decertified and excluded from interim payment claims or from the annual accounts and that when serious deficiencies were detected, corrective actions were implemented.

These improved 2014-2020 financial control procedures imply that the Member States will have strong incentives to carry out timely, effective and robust control procedures, including management verifications, before certification of the accounts. When drawing up the accounts, the management declaration and the audit opinion, the programme authorities should have obtained reasonable assurance through such control procedures that all material irregularities have been corrected and that possible serious deficiency, at any level of the management and control system, have been detected and addressed, or are being addressed to avoid the risk of net financial corrections.

The Commission is also working closely with both the audit authorities and the managing authorities. On the audit side, regular meetings on methodological issues are organised: the regulatory annual bilateral control meetings where the Commission meets individually the audit authorities on general and specific audit issues and methodologies; multilateral technical meetings with representatives from all 28 Member States' audit authorities; and the annual meeting with the "Homologues group" where audit issues of common interest are debated extensively. On the implementation side, in the area of Regional and Urban Policy, the Commission services also organised and will continue to organise specific technical trainings targeted for some Member States on management verification, public procurement procedures and fraud prevention measures. It holds also annual technical meetings to develop and share best practices and guidance.

The Commission has therefore provided extensive guidance to programme managing and audit authorities throughout the 2007-2013 programming period.

Furthermore, DG Regional and Urban Policy has established a dedicated competence centre (unit) for addressing the significant weaknesses in

administrative and institutional capacities of some Member States and removing bottlenecks in the management of the Funds. A new instrument to learn from each other will make it possible for programme authorities to exchange experts and practices. The role of the Commission will be to promote the mechanism, collect requests and offers and provide quality control.

A training programme for the implementation of the 2014-2020 programming period is being developed and will be implemented in 2014-2015 for programming authorities.

3. (§6 - 2012/COU/0221) The Council calls upon the Commission, in the context of future measures taken to strengthen control systems, to fully respect the need to achieve simplification in the management of EU funds and to evaluate the potential additional burden of the measures on Member States before significant changes are introduced.

Commission's response:

The Commission has taken the recommended action. Key elements of the 2014-2020 reform emphasize on simplification, particularly for Member States.

The 2014-2020 framework contributes to cutting red tape and simplifying the use of EU Funds. A common set of rules for all European Structural and Investment Funds simplifies management particularly for beneficiaries who implement operations under more than one Fund. Synergies with other EU policies rules (e.g. research) are also foreseen.

From 2014 onwards, audit and control in the ERDF, ESF and the Cohesion Fund will be more proportionate to both the amount of funds that are actually received and also to the possible level of risk that investment could be misused or incorrectly spent. Commission audit work will be focused on the more risk-prone areas. In the case of well performing audit authorities, the Commission will limit its audits where national delivery systems work well. Proportional control rules will exclude repetition of audits by EU and national audit bodies to the same operations, except for the purpose of commission re-performance to test the work of audit authorities.

The wider use of simplified costs is encouraged, which enables to simplify financial management of operations while shifting the focus of beneficiaries on the delivery of quality outputs and results.

With simpler and clearer rules, legal certainty for beneficiaries will be reinforced, and with increased proportionality for small programmes and operations, their administrative burden will be adjusted to a lower level of risk. More targeted reporting requirements are defined, as reporting is focused on key indicators and hard data on progress made on the ground, and a requirement for electronic information exchange with beneficiaries by the end of 2015 under cohesion policy ("e-cohesion") has been set.

Furthermore, proportionality and reduction of the administrative burden are amongst the general principles regulating the intervention of the funds under the 2014-2020 programming period as set out in Article 4 of the Common Provisions Regulation.

The main tool to simplify and to streamline national eligibility rules is the use of Simplified Cost options (SCOs). In November 2013 the Commission produced a

report on "Simplification and gold-plating in the ESF" identifying the main sources of error due to unnecessary complicated national eligibility rules and addressing some recommendations to the Member States, based in particular on the use of SCOs.

The use of SCOs is particularly suitable for the type of expenditures reimbursed in ESF projects. The Commission actively promoted their use through seminars which were held by DG EMPL in all MS and also by introducing provisions in the 2014-2020 Structural Funds Regulation which will strengthen and encourage their use. This will enable simplifying financial management of operations while shifting the focus of beneficiaries to the delivery of quality outputs and results. The Commission also regularly invites the managing authorities to address guidance to beneficiaries on eligibility issues. The Commission fixed as a target the use of SCOs to go up to +- 50% of ESF transactions by 2017.

4. (§7 - 2012/COU/0222) The Council urges the Commission to continue improving its control systems, in particular the desk checks, while keeping the right balance between costs of controls and achieving the policy objectives.

Commission's response:

The Commission is engaged in improving its internal control systems. In this respect, as an example in DG RTD, the Director General has issued a guidance note to all the staff related to ex-ante controls – desk checks - and checklists for payments have been updated recently.

The aim of the guidance note is to establish the context where ex-ante controls have to be performed. In this respect, the ex-ante controls have to be rigorous and be sufficient to give reasonable assurance about the legality and regularity of commitments and expenditure, but without creating undue burdens on our beneficiaries. In order to keep the balance between policy and control objectives, further requirements to beneficiaries (on additional information to be supplied to the Commission, as example) will depend on the judgment of the Commission's official about the risk involved in the particular circumstances of the project.

Another example is the implementation of a knowledge base system in DG CNECT which provides all relevant guidelines to ex-ante controls and checklists.

5. (§8 - 2012/COU/0223) The Council invites the Commission and Member States to take full advantage of this opportunity in the implementation of the new multiannual financial framework and to use more extensively the variety of simplification measures, such as the simplified cost options, that were given a clearly positive assessment by the Court and in finding the right balance between risks and cost of controls. To this end, the Council reiterates the need for an appropriate guidance and training to be provided to Member States and to beneficiaries to encourage them in applying such measures and to help them fulfilling their role in pursuing the policy objectives while further bringing down the level of errors.

Commission's response:

In its replies to the Court's observations in the Annual Report for the year 2012, the Commission already confirmed that it will continue to actively promote and support Member States to put in place simplification measures such as the simplified cost option as foreseen in the regulations of the 2014-2020 programmes.

The draft Guidance on simplified cost options for Managing Authorities has been discussed during 2014 in the relevant committees (i.e. Expert Group ESIF (European Structural and Investment Funds), Rural Development Committee, etc.) and is expected to be adopted during Q3 2014.

6. (§9 - 2012/COU/0224) In the light of the newly revised public procurement rules and procedures, the Council invites the Commission to ensure through its technical assistance that the recently updated guidelines for determining financial corrections for non-compliance with the rules on public procurement are disseminated and understood by all relevant actors.

Commission's response:

The Commission is taking the recommended actions. In response to the request concerning dissemination and training measures on the new guidelines on financial corrections for non-compliance with rules on public procurement, DG Regional and Urban Policy developed together with European Structural and Investments Funds (ESIF) DG's and jointly with DG Internal Market and Services a Public Procurement Action Plan. This includes regular exchanges in a working group to ensure coherent approaches to common problems and to identify gaps where common actions are required. The Action Plan covers i.a.:

SHORT TERM PRIORITY

- *the preparation of practical guidance for practitioners on avoiding of common errors linked to Public procurement in ESI Funded projects,*
- *country specific Action Plans in Member States with weaker administrative capacity,*
- *Pilot Integrity Pacts for public procurement and contract management*
- *Stock taking and analyses of Member States' lessons learnt, dissemination of tools and good practices in order to improve public procurement capacity*
- *Compilation and analysis of public procurement evidence/ indicators on performance for assessment of ex ante conditionality on public procurement for negotiations 2014-2020 programmes. This covers as well training/guidance on how to prepare and follow-up on Action Plans to address weaknesses in case the ex ante conditionality is not/partially fulfilled by a MS.*

MID TERM PRIORITY

- *Preparation for new PP Directives (by 2016) – training, dissemination of guidance*
- *A new transparency initiative against corruption in Public Procurement (e.g. integrity pacts, use of "red-flags")*
- *Assessment of current practices and scope to improve further public procurement professionalization linked to funds*
- *Training on public procurement as a strategic tool for Cohesion Policy (e.g. e-procurement, Green public procurement, Innovation)*

7. (§10 - 2012/COU/0225) The Council calls on the Commission to continue, where appropriate, the implementation of all available corrective measures.

Commission's response:

The Commission has taken the recommended action. In the Communication on the "Protection of the European union budget to end 2012", the Commission has presented financial corrections implemented in 2012 from all budget areas under shared management and also indicated that in addition to making financial corrections and recoveries, it also implements a strict policy of interruptions and suspensions as soon as significant weaknesses are identified. This strict policy has contributed to reinforcing the Commission's supervision over Member States and speeding-up the adoption of the necessary corrective measures at Member State level, including implementation of financial correction, when necessary.

In 2013, as a result of its supervisory role, the Commission has continued to apply a strict policy on interruption and suspension of payments in order to safeguard the EU funds. This policy, in force for the 2007-2013 period, operates on a preventive basis, triggering the interruption of interim payments -or the sending of a warning letter if no payment claim is outstanding - as soon as there is evidence to suggest a significant deficiency in the management and control system of all or part of an operational programme, thus avoiding to reimburse amounts which might be affected by serious irregularities.

Both procedures provide a mechanism for rapid agreement with the Member State on the complementary verifications to be carried out and, if need be, implementation of appropriate remedial actions, including improvements in the system for future expenditure and timely financial corrections for past expenditure. Whenever necessary, in case of serious weaknesses and where the Commission services consider that no or insufficient action has been taken by the concerned authorities within the regulatory time frame of the interruption (maximum period of 6 months), a formal suspension procedure starting with a pre-suspension letter addressed to the Member State is launched.

In 2013, in the area of the regional and urban policy, the number of warning letters, interruptions and pre-suspensions for ERDF/CF programmes has further increased compared to previous years: 61 warning letters have been sent and 130 new interruptions were decided and communicated to Member States in the year, and 78 suspension procedures were initiated. Two thirds of these interruptions and pre-suspensions are based on audit results reported to the Commission by audit authorities and analysed by the Commission services.

In the majority of the cases, the interruption and suspension procedures have worked as an impetus to improve the management and control systems. The authorities took the remedial actions needed. 104 of the 191 cases that were ongoing in 2013 were resolved by end of January 2014 and around 2/3 of cases were solved in 9 months or less.

8. (§11 - 2012/COU/0226) The Council calls on the Commission to continue to harmonise the presentation and content of the annual activity reports between Directorates-General in order to improve their comparability across policy areas.

Commission's response:

The structure of the 2013 annual activity reports was revised significantly to help the DGs to comply with the reporting requirements under the new Financial Regulation and to respond to a number of audit recommendations. Much effort

has been devoted to ensuring that the reports include only what is relevant and to improve clarity and consistency across DGs. The aim is to ensure compliance, conciseness, clarity and consistency while at the same time reducing the reporting burden.

9. (§12 - 2012/COU/0227) The Council calls on the Commission to continue monitoring the evolution of the amounts of outstanding commitments (RAL), and to settle or decommit them in a timely manner and in line with the relevant rules.

Commission's response:

The Commission has taken the recommended action.

Results of the monitoring of outstanding budgetary commitments are presented yearly in a progress report on RAL, a working document of the Draft General Budget of the Commission. For cohesion, an analysis of outstanding commitments is published yearly in the Commission staff working paper (DG Budget) "Analysis of the budgetary implementation of the Structural and Cohesion Funds".

The yearly exercise for Potentially Abnormal RAL (PAR) provides a classification by the services of old and dormant outstanding commitments, the focus being in old cases. The services can classify open cases to following broad categories: normal/still ongoing/dispute cases/to be de-committed. This last category is considered as unjustified RAL (contracts can be closed and open amounts should be de-committed and possible recoveries made). All those cases were monitored in a follow-up exercise six months later.

These reports are sent to European Parliament (Committee on Budgets) and Council (Budget Committee), as are regular reports on implementation, which also show the level of decommitments.

10. (§12 - 2012/COU/0228) The Council invites the Commission to prepare and publish a long term cash flow forecast, projecting future payment requirements, to assist identifying future needs, planning budgetary priorities and ensure that necessary payments can be met from approved annual budgets.

Commission's response:

The Commission considers cashflow forecast as a useful tool of financial management and will analyse how this request can be best implemented.

Chapter 1 - The Statement of Assurance and Supporting Information

11. (No1, §2 - 2012/COU/0229) The Council encourages the Commission to continue to ensure that the high quality of the accounts is maintained in the coming years.

Commission's response:

The Council request has been implemented through the implementation of the accounting quality project and continued training of accounting correspondents of DGs. Evidence of this quality of the accounts can be seen in the fact that a fully clean, i.e. unqualified audit opinion, on the accounts has been received for many years. The Commission has a priority every year of maintaining the quality of the accounts and the clean opinion.

12. (No2, §1 - 2012/COU/0230) The Council reiterates its wish to see improvements in financial management systems and lower error rates.

Commission's response:

The EC notes the Council's request for further improving the financial management, especially regarding the necessity of a close follow-up of the RAL, which has lately further increased, and a limitation of the period covered by pre-financing. A new long-range cash flow forecast will help to alleviate the identified problem and the Commission is committed to use this accounting tool more thoroughly. However, the problem of RALs might be exacerbated by the fact that for 2014-20, the allocated commitment appropriations exceed by far the payment appropriations.

Furthermore, the EC wants to point to the new protective instruments foreseen during the coming 2014-2020 programming period:

The Commission is actively promoting the use of simplified cost options:

- *Simplified cost options reduce the administrative burden for the public administration and for beneficiaries.*
- *The European Court of Auditors did not for the DAS 2012 find any error in the 26% of ESF operations using these simplified options, whilst for the rest, the frequency of errors (big or small) was about 40%.*
- *Projects using simplified cost options place a greater focus on results and performance, as opposed to inputs.*

In the area of Agriculture, the Commission disposes of several instruments for improving the financial management, both ex-ante through interruptions and suspensions/reductions, and ex-post through net financial corrections and recoveries. Moreover, in order to comply with the standards of sound financial management, DG AGRI continued its efforts to identify the root causes of errors (ad-hoc task force were set-up), and to propose and encourage the widest use of the simplified payment schemes that are less prone to errors.

In addition to the above, the Commission's supervisory role is strengthened aiming to improve the Member States (MS) management and control systems and to reduce the error rates. For these purposes, the Common Agricultural Policy (CAP) regulatory tools were reinforced for the financial period 2014-2020, like: single system of monitoring and evaluation for both pillars, streamlining/speeding up of the conformity clearance procedure, better defining the criteria and methodology

for applying net financial corrections, introducing a new model for assurance by the Certifying Body (CB) on the legality and regularity of declared expenditure based on a representative sample.

Net financial corrections make the corrections imposed on Member States even more effective.

The formal certification of annual accounts once all national controls have been done, combined with the 10% retention mechanism on interim payments, net corrections when serious irregularities are detected once accounts have been accepted and the requirement of annual management declarations by managing authorities are meant to offset the risk that expenditure claimed is not legal and regular and to improve accountability at national level.

13. (No2, §4 - 2012/COU/0231) The Council encourages the Commission to further reinforce supervision and control structures, to further strengthen its cooperation with Member States and to continue to provide guidance to national managing authorities, in order to bring down the level of error in Union spending in the forthcoming years.

Commission's response:

The Commission will continue to rigorously exercise its supervisory role by ensuring that Member States address the weakest points in their management and control systems. In particular in the area of Cohesion funds, the Commission will address this by

- updating its audit risk assessment jointly with Structural actions services taking into account all available cumulative audit results and information;*
- targeting its joint audit plan for 2014-2015 on the main risks identified;*
- completing the review of the quality of the audits undertaken by the audit authorities and monitoring the single audit status granted so far and by*
- applying payment interruptions and proposing to the Commission to decide on suspensions of payments and financial corrections whenever necessary.*

In addition to the above and to the specific actions defined for each programme under reservation in AAR 2013, DG Regional and Urban Policy will continue to apply the three initiatives to mitigate the main risks and weaknesses identified: administrative capacity initiative, public procurement initiative and audit capacity initiative (AAR 2013 of DG Regional and Urban Policy pages 80-81).

A major reform of the Common Agricultural Policy was concluded in 2013. The financial management of the CAP was also reviewed as part of the reform, e.g. aligning the rules with the new Financial Regulation for the general EU budget, introducing a new model for assurance on the legality and regularity of payments to final beneficiaries, and enhancing the possibility for the Commission to suspend and interrupt payments to Member States. In order to comply with the standards of sound financial management, DG AGRI increased its efforts to further reinforce assurance for expenditures of the CAP by e.g.:

- creating working groups which identified the main causes of error in the areas of direct payments, rural development and market expenditures and laid down preventive and corrective actions. The more advanced works in rural development showed an increasingly good cooperation with the Member States and*

understanding of the root causes of the errors and the importance of controlling and rectifying them.

– establishing an additional unit that became effective in 2014, giving support to Member States in implementing the Integrated Administration and Control System (IACS) and Land Parcel Identification Systems (LPIS).

The control systems have also been improved to the greatest extent practically achievable. DG AGRI is determined to use all means at its disposal to ensure a sound management of the CAP on this basis. Yet, taking into account the need to balance legality and regularity with the achievement of policy objectives while bearing in mind the current control requirements and costs, the question cannot be eluded as to whether it will be possible, in the foreseeable future, to allow the error rate to descend below 2% on a sustainable basis.

Chapter 2 - Revenue

14. *(No1, §1 - 2012/COU/0232)* The Council calls on the Commission to continue to follow up the deficiencies identified concerning the Member States' custom supervision, to improve the estimates of traditional own resources (TOR) and to assist Member States in enhancing appropriate control frameworks in order to collect the maximum amount of TOR due to the Union.

Commission's response:

The Commission will continue to follow up the deficiencies identified concerning the Member States' customs supervision, and to assist Member States in enhancing appropriate control frameworks in order to collect the maximum amount of traditional own resources due to the Union.

15. *(No2, §1 - 2012/COU/0233)* The Council encourages the Commission, in close collaboration with Member States, to endeavour to resolve the outstanding issues [long-outstanding reservations regarding VAT-based own resources] as soon as possible.

Commission's response:

The request is accepted. Active collaboration is continuing with Member States to resolve those long-outstanding reservations not dependent upon action in the Court.

16. *(No3, §1 - 2012/COU/0234)* The Council calls on the Commission to examine the Court's findings on weaknesses in the Commission's verification of GNI data and to enhance its efforts in implementing the Court's recommendations, as well as to further improve the management of reservations.

Commission's response:

In preparation of the next verification cycle, starting in 2015, the Commission will review its control framework. In that process it will take into consideration the points raised by the Court.

The Commission will further develop its strategy for GNI verification to incorporate a structured and formalized programme. This will include a risk analysis and take full account of cost-effectiveness. Eurostat is committed to increase the focus on quantitative checks while still maintaining the mainly qualitative verification approach.

The Commission considers that the qualitative assessments are of the utmost importance since the methodology used has to be reliable, comparable and exhaustive. This is the only way of establishing the risks involved in an objective manner. However, as the verification model develops, there will be more quantitative assessments, within the constraints of existing resources.

The Commission agrees with the objective of limiting the use of general reservations. A new annex to the Memorandum of Understanding between DG Budget and Eurostat, "Good practice covering GNI reservations" was signed in April 2013; this will reduce significantly the number of general reservations.

The Commission agrees that it is desirable that reservations only cover material findings. However, since reliable quantitative information is rarely available at the

time a reservation is being set, the Commission's prerogative to set reservations to protect the EU's financial interests cannot be restricted. Eurostat agreed with BUDG in the spring of 2013 on the typology for different types of reservations. Eurostat will look into the possibility of, where possible, quantifying the criteria for setting a reservation.

Chapter 3 - Agriculture: Market and Direct Support

17. (§2 - 2012/COU/0235) The Council calls on the Commission and Member States to continue their efforts and to improve their supervisory and control systems.

Commission's response:

When the Commission services detect problems during the course of their audits, they request the Member State to take remedial actions. Where the problem is particularly acute, the Member State is required to implement a remedial action plan which is closely followed by the services. So far such plans have been found to be very effective. The Commission also ensures that the financial risk to the EU budget arising from such deficiencies is covered via financial corrections imposed via the conformity clearance procedure.

The Commission continues its efforts in supervising the control systems in the Member States (MS).

For the financial period up to 2014, the Commission made use of several supervisory instruments as regards the control systems in the MS:

- a conformity clearance procedure leading to financial corrections in case of deficiencies;*
- insistence on remedial action plans to be put in place by the MS in case of serious deficiencies and the close monitoring and follow-up of those plans.*

In addition, the CAP legal framework for post-2014 enables the Commission to use some additional supervisory instruments, like:

- a streamlined conformity procedure in terms of deadlines;*
- application of suspension of payments in case of failure to address deficiencies;*
- opinions from the Certification Bodies (CB) on the legality and regularity of declared expenditure.*

The Commission is also committed to strengthen its supervisory and monitoring role vis-à-vis the MS and provide more assistance, guidance and support in the implementation of direct payments (refer also to the requests 2012/COU/0236 and 2012/COU/0239).

18. (No1, §2 - 2012/COU/0236) The Council calls on the Commission to further engage with Member States to address the shortcomings identified in the Land Parcel Identification System (LPIS).

Commission's response:

To enable maintenance of agriculture in specific areas, the Member States can implement a procedure which ensures that the eligible area within these parcels is considered for payment, in so far that overall the parcel can still be considered as "agricultural". Guidelines including examples on how to assess the area to be taken into account have been discussed with and distributed to the Member States over the recent years.

Where it is found that the Member State fails to correctly record eligible area the case is subject to a clearance procedure.

The Commission has been continuing its efforts with MS in addressing the shortcomings identified in LPIS. Guidance notes and examples have been issued and extensively discussed with the MS over the recent years.

Further to the above, a new Unit "Implementation support, monitoring, IACS and LPIS" has been created within DG AGRI, whose mission is to ensure, inter-alia, the follow-up of the IACS legislative framework, including the provision of its interpretation to Member States and its eventual review and amendment, where necessary; to ensure that action is taken if implementation is lacking, including action plans by MS and Commission monitoring of implementation, including quality assessment of the LPIS.

19. (No1, §4 - 2012/COU/0237) The Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of cross-compliance on the error rate.

Commission's response:

The respect of cross-compliance obligations does not constitute an eligibility criterion for CAP payments and, therefore, the controls of these requirements do not pertain to the legality and regularity of the underlying transactions. Cross-compliance is a mechanism by which farmers are penalised when they do not respect a series of rules which stem in general from other policies than the CAP and apply to EU citizens independently of the CAP. The Commission maintains its position that violations of cross-compliance requirements should not be taken into account for calculation of the error rates for the CAP.

The Commission welcomes the request made by the Council and remains open for further collaboration with the Court so as to find the most appropriate way of tackling this issue.

20. (No1, §5 - 2012/COU/0238) The Council urges the Commission to ensure an appropriate follow-up of the systematic errors detected by the Court, and either to put in place, when necessary, the appropriate action plans or to proceed with clearance of accounts.

Commission's response:

The Commission underlines that it safeguards the financial interest of EU budget via financial corrections in the framework of the conformity clearance procedure. In addition, shortcomings in Member States' management and control systems are addressed through targeted and comprehensive action plans where necessary.

The Commission follows-up the Court's findings on a continuous basis. The systematic errors identified by the Court are pursued through financial corrections within the framework of conformity clearance procedure, comprehensive action plans, and/or guidance to the MS.

To respond to the Court's previous recommendations, starting with AAR 2012, the basis for calculating the residual error rate for ABB03 (decoupled area aids) has been developed to take into account all relevant information in assessing the reliability of the MS statistics, including adjustments based on ECA's findings.

In view of further improving the monitoring of the systematic deficiencies identified by the Court, several actions are taken:

- A thorough analysis will be carried out in DG AGRI, with a view to identifying the main patterns of deficiencies or the areas more prone to errors at Paying Agency level; the outcome of this process is to be followed-up in the strategic and annual audit programme in DG AGRI.

- The Certification Bodies are clearly requested through guidelines to duly consider within their work the weaknesses reported by the Court, and to report upon the corrective measures taken by the MS.

21. (No2, §1 - 2012/COU/0239) The Council urges all actors to continue their efforts to ensure that the Integrated Administration and Control System (IACS) remains an effective and functioning system.

Commission's response:

The Commission has been continuing its efforts to ensure that IACS remains an effective and functioning system. The risk for the fund is covered under the conformity clearance procedure.

Further to the above, a new Unit "Implementation support, monitoring, IACS and LPIS" has been created within DG AGRI, whose mission is to ensure, inter-alia, the follow-up of the IACS legislative framework, including the provision of its interpretation to Member States and its eventual review and amendment, where necessary; to support the MS in their implementation of the direct payments schemes, in particular as regards IACS, including dissemination of best practices.

Chapter 4 - Rural Development, Environment, Fisheries and Health

22. (No1, §2 - 2012/COU/0240) The Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of cross-compliance on the error rate.

Commission's response:

The respect of cross-compliance obligations does not constitute an eligibility criterion for CAP payments and, therefore, the controls of these requirements do not pertain to the legality and regularity of the underlying transactions. Cross-compliance is a mechanism by which farmers are penalised when they do not respect a series of rules which stem in general from other policies than the CAP and apply to EU citizens independently of the CAP. The Commission maintains its position that violations of cross-compliance requirements should not be taken into account for calculation of the error rates for the CAP.

The Commission welcomes the request made by the Council and remains open for further collaboration with the Court so as to find the most appropriate way of tackling this issue.

23. (No1, §3 - 2012/COU/0241) The Council encourages the Commission to ensure an appropriate follow-up of the systematic errors detected by the Court.

Commission's response:

The Commission follows-up the Court's findings on a continuous basis. The systematic errors identified by the Court are pursued through financial corrections within the framework of conformity clearance procedures, comprehensive action plans, and/or guidance to the MS.

To respond to the Court's previous requests, in the context of AAR 2013, the Court's findings were included as a parameter for adjusting the residual error rate in relation to all expenditure (ABB02, ABB03 and ABB04,).

With a view to further improving the monitoring of the systematic deficiencies identified by the Court, several actions are taken:

- A thorough analysis will be carried out by DG AGRI with a view to identifying the main patterns of deficiencies or the areas more prone to errors at Paying Agency level; the outcome of this process is to be followed-up in the strategic and annual audit programme in DG AGRI.

- The Certification Bodies are clearly requested through guidelines to duly consider within their work the weaknesses reported by the Court, and to report upon the corrective measures taken by the MS.

24. (No2, §1 - 2012/COU/0242) The Council calls on the Commission to pursue its efforts in providing targeted guidance and in increasing the mutual understanding between the administrations involved.

Commission's response:

Indeed, it is the responsibility of the Member States' authorities to ensure that the administrative and control system in place meets the legal requirements and ensures that there is no financial risk to the EAGF and EAFRD funds.

The shared management system of the EAGF and EAFRD funds is such that if weaknesses are present which lead to financial risks to the funds the Commission shall impose net financial corrections on the Member States concerned.

The Commission is aware of weaknesses in the Member States' control system for EAFRD, especially for non-IACS measures. The certification bodies (CB) report on these weaknesses in their annual certification reports. The CBs make recommendations to improve the control systems and follow up their recommendations. The Commission takes the findings of the CBs into account, as well as other available information, when performing its risk analysis and establishing its own audit program in the framework of the conformity clearance procedure

The Commission promotes periodic meetings of national experts –'Expert Group Meetings', to share best practices and improve overall understanding of the control systems for both EAGF and EAFRD.

Member States have themselves initiated an extra forum –the 'Learning Network', among the national administrations across EU; the Commission is periodically invited for providing guidance and interpretation on different subjects.

25. (No2, §2 - 2012/COU/0243) The Council encourages the Commission to use the conformity clearance procedure, in accordance with the relevant rules.

Commission's response:

Whenever in the framework of its audits the Commission identifies weaknesses in administrative checks, it pursues them through the conformity clearance procedure to protect the EU's financial interests.

The Commission will continue to improve its audit methodology and procedures. Moreover, it will continue to make efforts, notably in the framework of the preparation for the implementation of the CAP reform, to improve and speed up the process bearing in mind the need to maintain quality standards and the Member State's right of reply.

The Commission continues to use the conformity procedure in accordance with the relevant rules. The issues of the length of the conformity procedures and the coverage in its conformity audits are considered a very high priority in DG AGRI.

In the context of the drafting of the implementing act for the horizontal regulation, DG AGRI is proposing to introduce time-limits for each step of the procedure, whilst still safeguarding its capacity to appropriately protect the EU financial interest. A streamlining of the procedure is being proposed so that, in standards cases, the average length of the conformity procedure would be around 2 years. Regarding the audit coverage, the paying agencies audited are selected following the Central Risk Analysis, and in order to visit those which had not yet been audited during the programming period. The coverage of conformity audits is detailed in the annual activity reports. These enquiries help to detect the root causes for the error rate and identify possible remedial actions.

26. (No2, §4 - 2012/COU/0244) The Council invites the Commission to further develop and to fine-tune the procedures and guidelines required following the CAP reform, including the reinforcement of assurance procedures at the level of the final beneficiaries.

Commission's response:

The reinforcement of assurance exercise was conceived as a first step in a development process towards greater assurance with regard to the control work carried out by the Member States. It has proven, in this preparatory phase, to be a useful joint learning exercise with its voluntary participants with a view to developing and fine-tuning the procedures and guidelines for the legality and regularity work required in the new CAP reform legislation.

Such a possible capping, under certain conditions, of the level of financial corrections to the said error rate relates to conformity clearance of accounts procedures. Indeed, if a Member State implements the proposal set out above and if the certification body confirms the reliability of the control statistics for a given population, any financial corrections for deficiencies in the Member State's management and control of an aid scheme within that population would be limited to the error rate derived from the control statistic concerned. Where the certification body does not confirm the error rate derived from the control statistics of the paying agency, the conditions for capping financial corrections at the level of the error rate are not fulfilled.

The core guideline for the Certification Bodies (CB) covering the audit methodology in relation to the requirements enshrined in the new CAP legal framework for the CBs (opinion on legality and regularity of expenditure, control system and annual accounts), has been finalised and communicated to the MS.

A working group of experts from CBs and DG AGRI continue the work on additional guidelines for the CBs (e.g. reporting requirements and management declaration)

Chapter 5 - Regional Policy, Energy and Transport

27. (No1, §2 - 2012/COU/0245) The Council calls on Member States and the Commission to take their respective responsibilities for enhanced guidance and supervision, to provide targeted training and guidelines, and to ensure a better dissemination of information and of best practices while, at the same time, ensuring a greater stability of rules and procedures over time.

Commission's response:

The Commission is taking the recommended actions. In order to better prepare bodies managing European Structural and Investment Funds (ESIF) in EU Member States for the new programming period, the Commission is launching a series of training seminars which will focus on the key new elements and changes introduced by the legislative framework for 2014-2020. Training will consist of 2 modules: one dedicated to the programming and management of ESIF and the other focusing on financial and audit issues. While training will be delivered by the external service providers (EIPA, Ecorys and PWC), the Commission officials will be closely involved in the process and will be ready to provide explanations and answer questions. This training is seen as a pilot which will be implemented, assessed and, based on demand, could be organised at the Member State level for countries most in need of reinforcement of their administrative capacity.

The European Commission and in particular the DG Regional and Urban Policy is keen to look for ways in which potential difficulties can be overcome, primarily by promoting the "peer-to-peer exchanges" between Member State's administrations responsible for the implementation of ERDF and the Cohesion Fund. It is foreseen that one of these instruments will be a comprehensive exchange of experts system by which administrations involved in the management and implementation of the ESIF will have access to colleagues from similar administrative bodies in other Member States/regions. A demand analysis has been launched to test the interest of Member States in such an initiative. This analysis will build the basis for the design of a Common Expert Exchange System and the launch of the first pilot projects to match demand and supply between Member States.

Better exchange of available know-how and experiences in managing the Funds should lead to better networking and overall increase of governance in managing the Funds. The Commission wishes to take the initiative for setting up an exchange platform for managing authorities and intermediate bodies which should be supported and finally taken over by the Member States.

28. (No1, §3 - 2012/COU/0246) The Council encourages the Commission to continue concentrating its available audit resources on the most risk-prone areas and to focussing in particular on preventive measures, in order to better protect the Union budget.

Commission's response:

The Commission has taken the recommended action. In the area of Regional and urban policy, in addition to the enquiry to review the audit authorities' work, in some cases the Commission may identify that certain deficiencies could remain undetected or not timely detected, which could jeopardise the assurance process (assurance gap). The scope of such audits is to "Bridge the assurance gap" and to cover high risk operational programmes and part of operational programmes.

Audits are mainly focused on the reliability of management verifications at the level of the managing authorities/intermediary bodies (59% of these risk-based audits), and to a lesser extent on selection of operations, corrective capacity of the managing authority, certification of expenditure by the certifying authority, and on the audit of high risk operations not yet audited by the national audit authority. A total of 77 audit missions have been carried out since 2010 covering 15 Member States and 70 operational programmes, including at the level of beneficiaries (see DG REGIO Annual Activity Report 2013, page 41 and Annex 8).

As a result of the 77 audits carried out, the impact on payments has been that for 58 programmes, payments have been interrupted or (pre)suspended or warning letters have been sent to prevent declaration of irregular expenditure. This demonstrates that the enquiry has enabled DG REGIO to effectively address previous years' discharge request that it should systematically interrupt and suspend payments to the programmes when serious deficiencies are identified in management verifications. In such cases, as recommended by the Discharge authority, payments have been resumed in 2013 only where there was sufficient and reliable evidence that weaknesses had been remedied. The audit enquiry "Bridging the assurance gap" has proven to be a pro-active response to increase the assurance.

The implementation of preventive and corrective measures such as remedial actions plans, interruptions and financial corrections has led to improvements in the systems of programmes put under reservation, ensuring that past and future expenditure declared to the Commission is legal and regular. The same approach will be implemented to address and follow-up the reservations in the 2013 Annual Activity report of the Directorate General for Regional and Urban Policy.

In the area of Employment and Social affairs DG EMPL's audit strategy aims to provide reasonable assurance that the management and control systems established by Member States comply with the requirements of the regulations and are functioning effectively.

In 2013, 70 missions have been performed by EMPL auditors for the ESF 2007-2013 programming period focusing on three main issues:

- the enquiry related to the ACR re-performance, which is the key element to give the assurance to DG EMPL that the results of the ACRs from the AAs are reliable;*
- audit of programmes put in reservation in the 2012 AAR; In 2013, for 24 out of 27, programmes in reservation an audit mission was planned; Depending on the issues linked to each programme, the missions were a fact-finding, a follow-up, a system and projects audit or a review of the AA;*
- a thematic audit on management verifications, following the European Court of Auditors annual report's findings that in the area of Employment and Social Affairs 76 % and 67 % of the errors detected in 2011 and in 2012 respectively, should have been detected by the Managing Authorities, through their first level checks ; DG EMPL audit plan in 2013 included 8 missions for this specific thematic audit on Management Verifications; A report on the results of these audits including recommendations addressed to Member States to improve their management verifications, was sent to the EP in November 2013.*

On the preventive side, as recognized by the ECA in its 2012 Annual report, the main tool to simplify and to streamline national eligibility rules is the use of

Simplified Cost options (SCOs). In its audits on ESF the Court did not detect any error related to the use of SCOs (6.23) and concluded that more extensive use of SCOs would have a positive impact on the error rate.

In November 2013 the Commission produced a report on "Simplification and gold-plating in the ESF" identifying the main sources of error due to unnecessary complicated national eligibility rules and addressing some recommendations to the Member States, based in particular on the use of SCOs.

The use of SCOs is particularly suitable for the type of expenditures reimbursed in ESF projects. The Commission actively promoted their use through seminars which were held by DG EMPL in all MS and also by introducing provisions in the 2014-2020 Structural Funds Regulation which will strengthen and encourage their use. This will enable simplifying financial management of operations while shifting the focus of beneficiaries on the delivery of quality outputs and results. The Commission also regularly invites the managing authorities to address guidance to beneficiaries on eligibility issues. The Commission fixed as a target the use of SCOs to go up to +-50% of ESF transactions by 2017.

29. (No1, §5 - 2012/COU/0247) The Council calls on the Commission, in cooperation with Member States, to timely design the new rules and to agree on the guidelines for their implementation.

Commission's response:

The Commission is taking the recommended action. Following intensive negotiations, the co-legislators adopted the legislative package on 17/12/2013, i.e. less than one month after the adoption of the MFF (on 02/12/2013).

Preparatory work for delegated and implementing acts started in early 2013 and 24 meetings with Member State experts were held in 2013. 25 fiches outlining the contents of the acts have been presented and first draft legal texts were finalised and presented to the Member States' experts. Work has progressed according to plans and adoption of all relevant delegated and implementing acts necessary for the start-up of programmes is foreseen within 6 months of the adoption of the legislative package.

Close to 70 draft guidance notes on ESI Funds, which are needed by desk officers for programming, were prepared. Following the adoption of the legislative package at the end of the year, the content of the guidance is being updated and finalised so that it is in line with the adopted legislative package. This includes guidance for implementing the management and control systems, currently being discussed with Member States' experts, guidance on management verifications, on the implementation of Simplified Cost Options, on risk assessment, sampling methods and audit strategy as well as guidance in relation to financial instruments, the Youth Employment Initiative and FEAD.

30. (No1, §5 - 2012/COU/0248) The Council calls on the Commission, in cooperation with Member States, to avoid delays in the execution of programmes relating to the new programming period.

Commission's response:

The Commission is taking the recommended action. The eligibility period of 2014-2020 programmes started on January 1, 2014. Commission aims to adopt all

programmes as fast as possible, if the programmes are submitted early by the member States and are of sufficient quality. Where they are not, the Commission will make observations and request the Member State to take these into account before being able to adopt the programmes.

As of April 22, 2014, 81 Operational Programmes had been submitted by Member States to DG Regional and Urban Policy.

As of 5 May 2014, 63 Operational Programmes had been submitted by Member States to DG Employment and Social Affairs.

31. (No1, §6 - 2012/COU/0249) The Council encourages the Commission to continue applying the policy of suspension and interruption of payments, in accordance with the relevant rules, whenever significant deficiencies in the functioning of management and control systems are identified, until corrective action is fully implemented.

Commission's response:

See reply to requests No 2012/COU/0219 and 2012/COU/0225.

32. (No2, §2 - 2012/COU/0250) The Council encourages the Commission to continue providing guidance to the national audit authorities, with particular attention to the audit sampling methodology used, the reporting of audit findings and the treatment of errors.

Commission's response:

The Commission has taken the recommended action. A structured cooperation with audit authorities on methodology and reported audit results through multilateral and bilateral meetings has been set up. Multilateral meetings included in 2012-2013 technical meetings in Brussels in June and November 2012 (main issue: feedback on the use of sampling techniques) and in June 2013 (main issue: feedback on the assessment of Annual Control Reports) and the Homologue Group meeting in Bucharest in October 2013 (main issues: preparation of audit authorities for the 2014-2020 period, audit of public procurement and quality of management verifications and antifraud issues). The annual bilateral audit coordination meetings with each Member State are an opportunity to review the specific issues raised in the assessment of Annual Control Reports and Annual Opinions, implementation of the audit authorities' audit strategy as well as national audit results and to exchange information on planned audit work and respective updated risk assessments.

Guidance on various audit issues is continuously improved and discussed with audit authorities. In particular guidance on sampling methods for audit authorities was updated in April 2013 and accompanied by detailed sampling training sessions/workshops with most audit authorities in order to clarify any implementation difficulties encountered (practical workshops in November 2012 in Brussels for audit authorities from 22 Member States; on-the-spot seminars in Italy (end 2012), Germany, Spain, Ireland, Slovakia, Nordic and Baltic countries in 2013). Further written clarifications to the guidance notes on annual control reports, audit opinions and the treatment of errors, as a result of the June 2013 technical meeting, were also provided to audit authorities in December 2013. Guidelines laying down common rules on determining financial corrections to be applied for financial instruments were discussed with the Member States in 2013

and will be issued in 2014. This will help audit authorities quantify errors detected in the samples of operation they audit in a harmonised way, and thus further reinforce the reliability of reported error rates in this area.

As a follow-up to its audit work and assessment of Member States' reports on withdrawals and recoveries, DG Regional and Urban Policy issued additional horizontal recommendations to all certifying authorities to ensure an improved reporting exercise for 2013, to be received by end March 2014.

The Audit Directorate of DG REGIO also contributes to many capacity building actions for the benefit of managing and certifying authorities, to help address deficiencies found in Commission and national audits or to prevent such deficiencies. In this framework, several initiatives took place in 2013, including dedicated meetings, workshops or targeted actions related to various areas: public procurement (BG, RO, IT, ES, CZ and HR), quality of management verifications (BG, RO and CZ), retrospective projects (RO) or implementation of financial instruments (IT, ES) (see DG REGIO Annual Activity Report 2013, page 42 and Annexe 8).

33. (No3, §2 - 2012/COU/0251) The Council is concerned about the Commission's limited information as to whether the systems put in place by Member States for imposing financial corrections are effective. It invites the Commission to improve this situation in order to limit the resulting risk to the robustness of its own management assessment.

Commission's response:

The Commission is taking the recommended action. The joint audit enquiry on Member States' recoveries, carried out by DG Regional and Urban policy, DG Employment, Social Affairs and Inclusion and DG Maritime Affairs and Fisheries, is a response to a request from the Discharge Authority to obtain reasonable assurance that Member States' reporting to the Commission by 31 March each year in respect of recoveries and withdrawals is complete and reliable. These audits are covering, on a risk basis, a sample of certifying authorities' arrangements in place for keeping an account of amounts recoverable and for recovery of undue payments, following an analysis and risk-assessment made each year on the reports on withdrawals and recoveries transmitted by Member States by end March. This information reported by Member States is important since it contributes to the calculation of the cumulative residual risk (CRR) and therefore to the Directorate-General's assurance, and reflects the appropriate corrective actions taken by Member States as a result and follow-up of deficiencies detected by national or EU audits.

Pending the results of contradictory procedures on the four audits carried out in 2013, the preliminary conclusions of the audits on recoveries reported by Member States show that arrangements for keeping an account of amounts recovered or withdrawn are acceptable in the majority of programmes audited, and provide reliable information regarding recoveries and withdrawals. Exceptions concern programmes in the Czech Republic (request for correction of previous years' over-reporting, implemented by end 2013), the Italian programmes which under-report withdrawals and recoveries due to administrative delays, and Greece (ESF) for which additional corrections were implemented following the audit mission. The finding from the Czech programmes led the Commission services to issue

additional horizontal recommendations to all certifying authorities to ensure an improved reporting exercise for 2013 by end March 2014 and to request correction of past reporting where necessary. The Commission services intend to continue and adjust the enquiry in 2014 and beyond to focus on the completeness and reliability of reported data for an increasing number of Member States and programmes. Obtaining assurance on recoveries implemented at Member State level is of increasing importance for the purpose of calculating accurate cumulative residual risks at programme level, and in particular in view of the assurance at closure of programmes.

These audits will continue and increase in 2014-2015, with a more targeted scope in order to reach conclusion as to the reliability and completeness of data on withdrawals, recoveries and pending recoveries reported by Member States considered most at risk.

Chapter 6 - Employment and Social Affairs

34. (No1, §2 - 2012/COU/0252) The Council calls on the Commission and Member States to continue addressing the weaknesses in first-level checks carried out by national managing authorities and intermediate bodies, (...) in particular through preventive actions such as guidance and training.

Commission's response:

As a result of a thematic audit carried out on first level checks in various Member states DG EMPL published in November 2013 a report on this issue ("Overview report on the results of the thematic audit on management verifications conducted by Member States") which provides a detailed description of the audit findings and of the recommendations addressed by the Commission to MS in this area. The report was also presented to the MS during the ESF Technical Working group.

In the area of Regional and Urban policy, DG Regional and Urban Policy carried out targeted audits to high risks programmes where it identifies that certain deficiencies could remain undetected or not timely detected by audit authorities, which could jeopardise the assurance process (assurance gap). A synthesis report on the results of these risk-based audits was provided to the European Parliament Discharge Rapporteur in December 2013 and concludes that the audit enquiry "Bridging the assurance gap" has proven to be a pro-active response by the Directorate-General to increase its assurance.

On the preventive side, the Commission will continue to provide guidance and to organise capacity building seminars and address the issue at the Technical Working Groups with MS. It will also continue issuing targeted action plans for the riskiest MS and OPs, as explained in the DG EMPL 2012 AAR.

The Commission is also working closely with both the audit authorities and the managing authorities. On the audit side, regular meetings on methodological issues are organised: the regulatory annual bilateral control meetings where the Commission meets individually the audit authorities on general and specific audit issues and methodologies; multilateral technical meetings with representatives from all 28 Member States' audit authorities; and the annual meeting with the "Homologues group" where audit issues of common interest are debated extensively. On the implementation side, in the area of Regional and Urban Policy, the Commission services also organised and will continue to organise specific technical trainings targeted for some Member States on management verification, public procurement procedures and fraud prevention measures. It holds also annual technical meetings to develop and share best practices and guidance.

The Commission has therefore provided extensive guidance to programme managing and audit authorities throughout the 2007-2013 programming period.

Furthermore, DG Regional and Urban Policy has established a dedicated competence centre (unit) for addressing the significant weaknesses in administrative and institutional capacities of some Member States and removing bottlenecks in the management of the Funds. A new instrument to learn from each other will make it possible for programme authorities to exchange experts and practices. The role of the Commission will be to promote the mechanism, collect requests and offers and provide quality control.

A training programme for the implementation of the 2014-2020 programming period is being developed and will be implemented in 2014-2015 for programming authorities.

Furthermore, the set of regulations adopted for the programming period 2014-2020 contains some improvements compared to the current programming period, which should lead to enhancing the effectiveness of control checks at national level, and to improving the Member States accountability so as to better address errors and ensure legality and regularity of co-financed expenditure. These include, in particular, the introduction of net financial correction that should create an incentive for MS to implement effective management and control systems, and the strengthened use of simplification, in particular concerning simplified cost options, which should result in a reduction of errors.

35. (No1, §3 - 2012/COU/0253) The Council invites the Commission and Member States to seek possible ways to further simplify and streamline national eligibility criteria, in line with the Commission's recommendations, for the benefit of all stakeholders.

Commission's response:

The main tool to simplify and to streamline national eligibility rules is the use of Simplified Cost Options (SCOs). In November 2013 the Commission also produced a report on "Simplification and gold-plating in the ESF" identifying the main sources of error due to unnecessary complicated national eligibility rules and addressing some recommendations to the Member States, based in particular on the use of SCOs.

The Commission actively promoted them through seminars and also by introducing provisions in the 2014-2020 Structural Funds Regulation which will strengthen and encourage their use: it will enable to simplify financial management of operations while shifting the focus of beneficiaries on the delivery of quality outputs and results. The Commission also regularly invites the managing authorities to address guidance to beneficiaries on eligibility issues.

36. (No1, §4 - 2012/COU/0254) The Council encourages the Commission to enable a more extensive use of simplified cost options such as the declaration and payment of lump sums and flat rate costs instead of reimbursing real costs.

Commission's response:

The Commission has actively promoted the introduction of Simplified Cost Options in particular for ESF related programmes. In 2013 and 2014, seminars were held in 17 MS in order to explain the usefulness and modalities of the introduction of these features. The Structural Funds Regulations 2014-2020 also contain provisions to strengthen and encourage the use of SCOs, in line with ECA's views that they are an effective tool for reducing the risk of errors. It will enable to simplify financial management of operations while shifting the focus of beneficiaries on the delivery of quality outputs and results. ESF has set the target for the 2014-2020 period of 50% of expenditures reimbursed through SCOs.

37. (No2, §2 - 2012/COU/0255) The Council invites the Commission and Member States to seek improvement in the quality and reliability of the information provided by national audit authorities, through better guidance on the audit sampling methodology to be applied.

Commission's response:

The Commission has taken the recommended action. Through the results of its audit enquiry "review of the work of audit authorities", DG Regional and Urban Policy assesses if it can rely principally on the audit authorities' audit opinion and error rates for its annual assurance and implement Article 73 of Regulation (EC) No 1083/2006 (through the latter, DG Regional and Urban Policy relies on the audit authority in a formal manner and does not carry its own audits any longer). DG Regional and Urban Policy carried out a total of 232 missions on the spot cumulatively since 2009, including 48 fact-finding missions to validate the Annual Control Reports' error rates. Audits covered cumulatively the main 47 ERDF/CF audit authorities - out of 73 - responsible for more than 96% in total of the ERDF/CF total allocation.

Audit work included the on-the-spot re-performance of audits at the level of individual beneficiaries in order to test the reliance which can be placed on the audit work carried out by the audit authorities (in 2013, this was the case for 24 out of 28 audit missions carried out on the spot). As a result, and based on the audit reports issued so far, 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 can in general be relied upon.

The extensive audit work under this enquiry, which represents half of the on-the-spot audit work on average since 2009, has considerably contributed to DG Regional and Urban Policy's overall assurance for the programmes covered by the reviewed audit authorities through many aspects, such as increased assurance that the annual control reports and reported audit opinions and error rates are reliable; reduction of errors; concrete remedial action plans and significant capacity-building for audit authorities. This extensive audit work has also contributed to interruptions / pre-suspensions during the year and to the necessary reservations expressed in the annual activity report when deficiencies had not been remedied (for example in the case of the Slovakian audit authority).

In accordance with Article 73 of Regulation (EC) No 1083/2006 and as a direct result of its audits to review the work of audit authorities, the Directorate-General has concluded that it could formally rely on the work of 17 reviewed audit authorities presenting satisfactory audit results and covering 56 programmes, taking also into account the effective functioning of the management and control system of these concerned programmes (second condition under article 73).

At end 2013, DG EMPL had audited 85 AAs out of 91, covering 99% of the ESF total allocation. The Commission selected most audit authorities to be audited on the basis of an annually updated risk assessment which includes, among several risk criteria reviewed over time, programmes allocations.

Using also other sources of assurance, DG EMPL concluded that for the year 2013 the work of 106 audit authorities out of 117 can be relied upon.

The results of the audit work are used by the Commission to assess whether it can rely principally on the opinion of the Audit Authority with regards to the effective functioning of the systems. In this case, the Commission carries its own on-the-spot audits only if there is evidence to suggest shortcomings in the system affecting the expenditure certified to the Commission. In application of article 73 of the Regulation 1083/2006, DG EMPL has informed in 2013 one additional Audit

Authority (DE-Hessen) that it will mainly rely on their opinion. In total, 10 Audit Authorities fulfil the conditions for article 73 (BE (2 AAs), DE (4), ES (1), IT (2) and NL (1)). In addition, 1 Audit Authority (IT-PON GAS) has been granted the same reliance on the basis of the article 74 of the Regulation 1083/2006.

Guidance is continuously improved and discussed with audit authorities. In particular guidance on sampling methods for audit authorities was updated in April 2013 and accompanied by detailed sampling training sessions/workshops with most audit authorities in order to clarify any implementation difficulties encountered (practical workshops in November 2012 in Brussels for audit authorities from 22 Member States; on-the-spot seminars in Italy (end 2012), Germany, Spain, Ireland, Slovakia, Nordic and Baltic countries in 2013). Further written clarifications to the guidance notes on annual control reports, audit opinions and the treatment of errors, as a result of the June technical meeting, were also provided to audit authorities in December 2013. Guidelines laying down common rules on determining financial corrections to be applied for financial instruments were discussed with the Member States in 2013 and will be issued in 2014. This will help audit authorities quantify errors detected in the samples of operation they audit in a harmonised way, and thus further reinforce the reliability of reported error rates in this area.

Chapter 7 - External Relations, Aid and Enlargement

38. (*§4 - 2012/COU/0256*) The Council urges the Commission to take the necessary measures to correct the weaknesses identified in its control mechanism, namely in relation to the ex-ante checks, the clearing procedure, the management of documentation and contract awarding procedures, and the quality checks carried out by external auditors.

Commission's response:

An Action Plan aiming to correct the weaknesses in the implementation of DG DEVCO internal control system and to mitigate the related risks has been elaborated, following the reservation raised in its 2012 Annual Activity Report, and endorsed by its Management in May 2013. This Action Plan addresses all these issues through specific short-term and permanent measures agreed on with the relevant services. DG DEVCO is committed to monitoring and reporting regularly on the implementation of the different actions taken, notably through a comprehensive and detailed follow-up report at the end of each year.

Chapter 8 - Research and Other Internal Policies

39. (No1, §1 - 2012/COU/0257) The Council calls on the Commission to systematically remind beneficiaries of the eligibility rules and of the applicable calculation methods, as well as of the requirement to substantiate all declared costs.

Commission's response:

The Commission prepared a note with a list of the ten most common financial errors detected in cost claims by the FP7 beneficiaries. This note titled "How to avoid common errors identified in cost claims" was communicated to all registered FP7 beneficiaries.

The note addressed and summarized the most frequently recurring errors including some explanations. Also, the beneficiaries were reminded that more information could be found in the Guide to Financial Issues relating to FP7 Indirect Actions.

As example, the said note refers that "all costs claimed, with the exception of applicable lump sums and flat rates, should be based on the real costs incurred. They must be supported by evidence that they are real (recorded in the accounts of the beneficiary and supported by invoices for example), paid (supported by bank statements for example), and linked to the funded project..."

Furthermore, it covers also other aspects as third parties and sub-contracting, depreciation, indirect cost models and personnel costs.

40. (No1, §2 - 2012/COU/0258) The Council reiterates its earlier call for simplification, for the Commission to continue the efforts to simplify the EU instruments aimed at fostering Research, Development and Innovation in order to facilitate their take up by the best scientists and the most innovative companies, and to find a right balance between risk taking and risk avoidance.

Commission's response:

It is noted that changes in the legal basis are no longer possible for FP7. However, Horizon 2020 which is already in place since January 2014, incorporates many steps forward in relation to the legal basis. It contains a number of simplifications for participants and a considerable speeding up of the processes. The documents accompanying the legislative proposal prepared by the Commission set out the Commission's view on the correct balance between risk-acceptance and risk-avoidance.

In addition, any improvements in the Commission's internal control systems are being implemented without increasing the administrative burden on participants.

41. (No1, §3 - 2012/COU/0259) The Council encourages the Commission to continue reinforcing its internal supervisory and control systems.

Commission's response:

See answer to 2012/COU/0222

42. (No2.1, §1 - 2012/COU/0260) The Council encourages the Commission to further improve its methods and procedures which the Court still considered to be only partially effective, while maintaining an appropriate balance between trust and

control and without increasing the administrative burden for project promoters and beneficiaries.

Commission's response:

The Commission considers that the revision of the ex-ante checks is an on-going process. Some of the weaknesses identified by the Court lead the Commission to amend the rules for Horizon 2020 in order to avoid errors in the future. This was the case particularly in the area of sub-contracting, where more flexibility has been introduced in the rules with the aim to allow participants to adapt more quickly to any changing circumstances.

The above action has been implemented without imposing any additional administrative burdens to the participants.

43. (No2.1, §2 - 2012/COU/0261) The Council encourages the Commission to further increase awareness on this issue with the aim of improving the reliability of the external audit certificates.

Commission's response:

The Commission has undertaken several steps in order to address this request.

Firstly, the Commission has been running a communication campaign to remind beneficiaries and external auditors of the FP7 eligibility rules. In total, there have been organized 22 events covering 22 Member States and associated countries. These seminars have been attended by 3500 participants, including at least 300 certifying auditors, and this number will increase since this campaign will continue in 2014.

Secondly, the Commission services contact the certifying external auditors when the Commission's ex-post audits identify material differences between the certified cost statements and the ex-post audits' findings.

Finally, the "Research Enquiry Service" replies to any questions raised by the auditors.

44. (No2.1, §3 - 2012/COU/0262) The Council supports the Court's recommendations to monitor more closely the timely completion of ex-post audits, and to ensure a timely application of extrapolated corrections.

Commission's response:

The Commission is monitoring the implementation of the Commission ex-post audit reports on a permanent basis. Furthermore, the Annual Activity Reports (AAR) of the Commission's DGs provide detailed information on the progress of the ex-post audit strategy.

Substantial progress has been made by the Commission against the observations reported by the Court; as example, in DG RTD the percentage of extrapolation achieved from external audit findings at the end of 2013 is 78.2 % compared to 68.2% for the year 2012 (the implementation ratio represents the number of implemented recommendations divided by total number of recommendations with expected systematic errors).Furthermore, DG RTD has already implemented (accumulated figures) in 2013, 2407 recommendations which stem from ex post

audits and 3414 recommendations from extrapolation compared to 2051 and 1975 respectively, for the year 2012.

45. (No2.1, §4 - 2012/COU/0263) The Council calls on the Commission to monitor the lengthy delays incurred by several project coordinators in distributing the received funds to other project partners and to take appropriate action if necessary.

Commission's response:

The distribution of funds is the responsibility of the Coordinator. According to the provisions of the FP7 model grant agreement, annex II (general conditions) the coordinator shall administer the financial contribution of the Union regarding its allocation between beneficiaries and activities, in accordance with the grant agreement and the decisions taken by the consortium. In addition, the coordinator shall ensure that all the appropriate payments are made to the other beneficiaries without unjustified delay.

Therefore, the distribution of funds is a matter subject to the provisions of the consortium agreement concluded by the beneficiaries, to which the Commission is not a party.

When a case of delayed distribution of funds is detected, the Commission's standard practice is to follow up with the project coordinator on the reasons of this delay.

In addition, the Commission has reminded coordinators of their obligation to promptly transfer funds.

46. (No2.2, §2 - 2012/COU/0264) The Council invites the Commission to further strengthen its audit strategy for non-research funded projects and to ensure its full implementation.

Commission's response:

The Commission (DG CONNECT) has adopted a dedicated audit strategy covering the non-research strand of the DG's spending aiming at providing assurance to the DG's Director-General as to the management of the non-research funding.

The launch of 35 audits per year is foreseen in the timeframe 2012-2017 (a total of 215 audits). The strategy is in practice effectively in place starting from the second half of 2012 in order to provide the necessary input for AAR2013. In 2013 and 2014, 38 and 23 audits on non-research projects have been launched respectively. A second audit batch on non-research projects will be launched later in 2014. In total, 38 audits have been closed since 2013.

Chapter 9 - Administrative and Other Expenditure

47. (No2, §2 - 2012/COU/0265) The Council welcomes the measures already taken and encourages the institutions concerned to address the remaining weaknesses identified by the Court (i.e. a limited number of errors in the procurement procedures and the management of social allowances).

Commission's response:

1) *Following the recommendations issued by the Court of Auditors in its 2011 annual report pertaining to procurement procedures carried out by OIL, several simplification measures have been consistently implemented since mid-2011 with a view to enhancing the qualitative review of tender files (amongst others, reduction of the number of selection criteria, clear distinction between selection and award criteria and tender specifications simplified to the largest possible extent). In parallel, awareness raising actions (training courses, internal workshops) have also been held. The main objectives are to ensure full compliance with the Financial Regulation whilst applying common sense, hereby fostering the participation of more tenderers.*

2) *The automatic update of the amounts of allowances of like nature has been implemented and is fully operational. The automatic update already covers Belgium, Luxembourg, Ireland, Germany, France, The Netherlands, Finland, Sweden and Romania. Further extensions to Hungary, Austria and Latvia are currently being developed. Hence, the vast majority of staff concerned (working mainly in Brussels, Luxembourg and Strasbourg and the Joint Research Centres) are covered. The files of those agents who receive national family allowances of like nature from other Member States than the ones quoted are updated manually given their low number. The agents concerned by this already have the possibility to declare any indexations via the SYSPER2 module "declaration of allowances of like nature. Furthermore, checks are performed in the framework of existing procedures (entry into service, a posteriori-checks, and end of service).*

Concerning the declaration of allowances of like nature: in 2013, a module allowing the declaration of such allowances has been implemented. Moreover, another module permitting each staff member to declare the change of his/her spouse's professional activity will be launched by the end of 2014. The entitlement to the household allowance will only be given on condition of submitting – on an annual basis - a declaration of the spouse's income. Entitlement to allowances for dependent children over the age of 18 will be automatically cut when no annual education declaration is introduced. The family situation and declaration of allowances of like nature for pensioners is checked regularly.

48. (No3, §3 - 2012/COU/0266) The Council invites the Commission, when making budget proposals, to strictly scrutinise the level of carry-overs of agencies at the end of the financial year.

Commission's response:

The Commission has taken the recommended action.

When preparing the Draft Budget, the Commission makes a rigorous assessment of each agency's needs, in terms of EU contribution and staffing levels. As a result, in the Draft Budget DB the Commission proposes a stabilisation of the overall level

of EU contributions to the agencies, whereas a large number of individual agencies see their budgets frozen at the level of the previous year, or even reduced. The Commission performs its role of guidance and supervision in particular through the Commission representative(s) in the agency Steering committees.

Chapter 10 - Getting Results from the EU Budget

49. (§2 - 2012/COU/0267) The Council calls on all actors in the Commission, the Court and Member States to take advantage of the new legal framework agreed for the new multiannual programming period 2014-2020 and to pursue efforts towards developing a performance framework as to ensure that expected results and impacts laid down in the sector-specific regulations are achieved. This includes, among others, a consistent application of SMART objectives, using milestones and suitable indicators to evaluate on an annual basis the performance of multiannual programmes, focussing on timely and high quality performance data, and strengthening the link between goals, indicators and allocation of resources.

Commission's response:

The Commission has been working for several years to strengthen its performance framework. The Commission has taken a step-by-step approach. First, it has ensured that the legal bases of the 2014-2020 spending programmes include a more coherent framework for monitoring, evaluation and reporting on their performance. Secondly, the frameworks have been incorporated into the Directorates-General (DGs') 2014 management plans and, starting with the 2014 annual activity reports and the next edition of the Article 318 evaluation report, will serve as a basis for reporting on achievements.

All performance frameworks for the 2014-2020 programmes and funds comply with the performance-related principles enshrined in the Financial Regulation. They include accurate and detailed information on the added value of the 2014-2020 financial interventions and their relevance to the Commission's strategic objectives and the EU's sectorial policy objectives, and specific objectives, along with quantitative and qualitative indicators measuring their achievement. It is important to remember that the co-legislators were closely involved in the setting of the programme objectives and performance indicators.

50. (§2 - 2012/COU/0268) The Council urges the Commission to work further in developing a performance-focused approach.

Commission's response:

Please see the Commission reply to the previous request.

SR 17/2012 The European Development Fund (EDF) contribution to a sustainable road network in sub-Saharan Africa

51. (*Annex, No10.a - 2012/COU/0269*) The Council requests the Commission to ensure that, in assessing what steps are needed to strengthen partner Governments' efforts in relation to road maintenance and vehicle overload control, including through policy dialogue and EDF support geared to output-based performance assessment frameworks, the appropriate level of attention is given to the need for regionally-coordinated, national-level action to harmonise and enforce appropriate axle load control regulations, including fighting against the root causes of vehicle overloading.

Commission's response:

Under the upcoming 11th EDF, the Commission will strengthen its support to transport sector governance at regional level in order to enhance the sustainability of Africa strategic transport networks. Axle overload control will constitute a prominent point of EC support to Regional Economic Communities (RECs), using the regional programmes (RIPs) as means to develop and advocate harmonised standard regulatory frameworks across all regions. Translating such frameworks into national legislation and enforcing them at local level will be a further challenge to be addressed and supported also at national level.

Axle load conferences are foreseen in 2014-2015, organised by the respective RECs with the Commission's support in Western and Southern/Eastern Africa. The expected result will be the adoption of road-maps of activities focused on axle load control. Other governance measures in addition and complement to axle load control activities (which could also be financed under the EDF RIP) will be related to the establishment of corridor observatories, one stop border posts, traffic management, etc. Maintenance management and funding for the development of affordable and sustainable networks will continue receiving support and will be prominently taken into account as criteria for prioritisation and decision-making on corridor investments.

52. (*Annex, No10.b - 2012/COU/0270*) The Council requests the Commission to provide, when required, support to partner countries to improve their technical capacity in managing executive projects designs, with tender specifications in order to avoid deficient works management which often causes lack of sustainability in the infrastructures performance.

Commission's response:

Within the 9th and 10th EDF, the Commission financed more than 350 technical studies (identification and formulation) supporting Sub-Saharan African third-countries in the preparation of technical specification for the execution of works contracts in the transport sector. Since 2007, the EC-AU Infrastructure Trust Fund provided a support to the development banks to finance (via grants) technical preparatory studies. The Commission will continue providing such facilities within future scope of 11th EDF and other sources of financing (PanAfrican Program). In particular concerning works contracts, the Commission is carrying out a study to introduce other forms of procurement in addition to those based on unit price contracts traditionally used. These forms of procurement include Design and Build (DB) and Design, Build and Operate (DBO) and should enhance the maintenance capacity of the national administrations.

53. *(Annex, No10.c - 2012/COU/0271)* The Council requests the Commission to conduct an evaluation on the results and development impact of EU support to a sustainable road network in Sub-Saharan Africa. Furthermore the Commission should evaluate the capacity of the Sub-Saharan Africa Transport Policy Program. The Council recommends also to analyse whether the Commission can strengthen its own capacities to guide and monitor sector reform approaches in the context of EDF-funded interventions. The Council invites the Commission to launch this evaluation within the next twelve months.

Commission's response:

Following the Court of Auditor 2012 Special Report's recommendation, a global evaluation of the EU support to transport sector in Africa from 2005 to 2013 has started in January 2014. The duration of the evaluation is 18 months. It aims at providing an assessment of the EU performance, approaches and strategies to support transport sector in Africa. In parallel, as foreseen in its financing decision, the Commission will implement an end-term review of the Sub-Saharan Africa Transport Program (SSATP) beginning of 2015, following completion of the program.

SR 18/2012 European Union Assistance to Kosovo related to the rule of law

54. *(No5 - 2012/COU/0272)* The Council encourages the EEAS and the Commission to further enhance their efforts to ensure full coordination on rule of law activities.

EEAS's response:

Completed following renewed exchange of letters with Kosovo over EULEX Kosovo mandate and adoption of IPA II

SR 20/2012 Is Structural measures funding for municipal waste management infrastructure projects effective in helping Member States achieve EU waste policy objectives?

55. *(Annex, No16 - 2012/COU/0273)* The Council encourages the Commission and Member States to continue and improve management and control systems in the current programming period with a view to optimising the implementation in the next programming period, starting in 2014.

Commission's response:

The Commission, together with the Member States for those Funding programmes under shared management, are closely working together to improve the management of the Funds and the cost effectiveness of the actions and projects financed by them. Furthermore, efficient controls and audits are aiming to verify the actions on the ground and the actual costs incurred prior to making payments or for demanding any due return of unused resources or non-compliant spending.

SR 21/2012 Cost-effectiveness of Cohesion Policy Investments in Energy Efficiency

56. *(Annex, No10 - 2012/COU/0274)* The Council encourages the Commission and Member States to continue and improve management and control systems in the current programming period with a view to optimising the implementation in the next programming period, starting in 2014.

Commission's response:

The Commission is taking the recommended action.

The Commission is working closely with both the audit authorities and the managing authorities. On the audit side, regular meetings on methodological issues are organised: the regulatory annual bilateral control meetings where the Commission meets individually the audit authorities on general and specific audit issues and methodologies; multilateral technical meetings with representatives from all 28 Member States' audit authorities; and the annual meeting with the "Homologues group" where audit issues of common interest are debated extensively. On the implementation side, DG Regional and Urban Policy also organised and will continue to organise specific technical trainings targeted for some Member States on management verification, public procurement procedures and fraud prevention measures. It holds also annual technical meetings to develop and share best practices and guidance.

Furthermore, DG REGIO has established a dedicated competence centre (unit) for addressing the significant weaknesses in administrative and institutional capacities of some Member States and removing bottlenecks in the management of the Funds. A new instrument to learn from each other will make it possible for programme authorities to exchange experts and practices. The role of the Commission will be to promote the mechanism, collect requests and offers and provide quality control.

The Common Provisions Regulation for the 2014-2020 programming period contains reinforced control provisions compared to 2007-2013 and requirements that improve the Member States' accountability so as to better address errors and ensure legality and regularity of co-financed expenditure. Two major aspects need to be underlined:

- The introduction of compulsory net financial corrections to be adopted by the Commission when EU audits detect irregularities indicating a serious deficiency not detected / reported by the programme authorities in relation to the programme accounts submitted by 15 February each year (see the Communication from the Commission on "Methods of application of net financial corrections impacting at the level of Member States" adopted on 13 December and transmitted to the European Parliament and the Budgetary Control Committee). Net financial corrections reducing the Member States' allocations in case of undetected/non reported serious deficiencies will provide increased incentives for national robust and timely controls, including by the managing authorities, before certifying programme accounts to the Commission.

- The increased use of simplified cost options and their positive results in bringing down the error rate.

Other reinforced financial management and control provisions compared to the 2007-2013 programming period includes in particular:

- A new financial management framework with a programme accounting year running from 1st July to 30 June each year. The certifying authority certifies to the Commission the expenditure in the programme accounts drawn up for each accounting year, containing only legal and regular expenditure cumulatively declared during the accounting year and cleared from all irregularities detected following national verifications and audits.

- A 10% retention mechanism on all Commission interim payments during the accounting year meaning that the Commission reimburses the entirety of claimed expenditure only once all national controls including the audits by the audit authority have been carried out and their results fully analysed and taken into account by the managing and certifying authorities.

- The submission by the programme managing authority of a management declaration confirming information contained in the accounts and that the control system in place gives the necessary guarantees concerning the legality and regularity of the operations and declared expenditure. This declaration will be accompanied by a report containing a summary of all control and audit results carried out up to certification of the accounts, an analysis of the nature and extent of errors and system weaknesses identified, as well as of corrective actions taken or planned.

- Independent audit work and audit opinion on the accounts, in addition to audits on the proper functioning of systems and representative samples of operations and expenditure as in the current period, by the programme audit authority. This will include assurance that all detected irregular expenditure has been appropriately and correctly decertified and excluded from interim payment claims or from the annual accounts and that when serious deficiencies were detected, corrective actions were implemented.

These improved 2014-2020 financial control procedures imply that the Member States will have strong incentives to carry out timely, effective and robust control procedures, including management verifications, before certification of the accounts. When drawing up the accounts, the management declaration and the audit opinion, the programme authorities should have obtained reasonable assurance through such control procedures that all material irregularities have been corrected and that possible serious deficiency, at any level of the management and control system, have been detected and addressed, or are being addressed to avoid the risk of net financial corrections.

SR 23/2012 Have EU Structural Measures successfully supported the regeneration of industrial and military brownfield sites?

57. *(Annex, No11 - 2012/COU/0275)* The Council encourages the Commission and Member States to continue improving the management of Structural Funds in the current programming period with a view to optimising the implementation in the next programming period, starting in 2014.

Commission's response:

See reply to request 2012/COU/0274

SR 24/2012 The European Union Solidarity Fund's response to the 2009 Abruzzi earthquake: The relevance and cost of operations

58. (*Annex, No7 - 2012/COU/0276*) The Council invites the Commission to promote Member States' preparedness to act rapidly and effectively in emergencies, as reflected in the Commission's reply to the Court's recommendation.

Commission's response:

The Commission is taking the recommended action. The new Solidarity Fund Regulation, proposed by the Commission and currently under adoption by the legislative authorities, makes the Fund more responsive and simpler to use with clearer criteria as to who can benefit. The proposed legislation simplifies the existing rules so that:

- Aid can be paid out more rapidly, merging two stages of approval and implementation agreement into one decision.*
- Advance payments of up to 10% of the anticipated grant, with a maximum pay out of €30 million will be available for the first time.*
- The scope of the Solidarity Fund is clarified, limiting it to natural disasters and extending it to drought.*
- Eligibility, particularly for regional disasters, is clearer with 1.5% of regional GDP being set as a threshold for the activation of the Fund. This ceiling is lowered to 1% for the EU's Outermost Regions.*
- Beneficiary countries have more time to carry out recovery operations and use the Fund through the extension of the implementation period from 12 to 18 months.*
- Member States must implement legislative measures that are designed to prevent and mitigate the effects of natural disasters, as well as making use of available EU funding for such investments.*

For 2014-2020, in the framework of building climate resilience, a specific objective of cohesion policy has been set on adaptation to climate change, risk prevention and management: One of the 11 thematic objectives defined for the new 2014-2020 programming period, Thematic Objective 5, is specifically dedicated to Adaptation to climate change, risk prevention and management. It underlines the support that will be offered to regions and cities in order to develop their climate resilience. An ex-ante conditionality on "Risk prevention and risk management: the existence of national or regional risk assessments for disaster management, taking into account climate change adaptation" has also been set out in the Common Provision Regulation of the 2014-2020 programming period.

SR 2/2013 Has the Commission ensured efficient implementation of the Seventh Framework Programme for Research?

59. (*Annex, No5 - 2012/COU/0277*) The Council encourages the Commission to continue its efforts to carry out in-depth analysis of the procedures to ensure better implementation of the framework programmes and, where appropriate, their consistency with other European programmes.

Commission's response:

The Commission has undertaken the commitment to introduce further simplification in the implementation of the research framework programmes.

Horizon 2020 represents a step forward in this direction.

Among other aspects, the following ones can be highlighted: single IT platform for all EU research and innovation funding, overhaul of practical processes and requirements for proposal submission, negotiation, reporting etc. and a review of guidance documents, support services.

Furthermore, efforts have been made to ensure synergies between the different funds, in the legislation and in the detailed rules.

As an example, the eligibility rules for Horizon 2020 and Structural Funds have been harmonised with the rules of the Financial Regulation.

SR 3/2013 Have the Marco Polo programmes been effective in shifting traffic off the road?

60. *(Annex, No5 - 2012/COU/0278)* The Council invites the Commission, when taking a decision on a new scheme replacing the Marco Polo programme and considering new actions in the area of freight transport services within the framework of the trans-European transport network, to take the Court's recommendations into account.

Commission's response:

The Commission has taken the requested action. The Council request is considered implemented for the recommendations accepted by the Commission as they are being analysed in the context of the ex-ante analysis launched in September last year.

For information, the implementation of the Court of Auditors recommendations is planned for the second semester of 2014 (once the ex-ante analysis will be finalised) for all accepted recommendations, except for one (related to adequate data to demonstrate the performance achieved by the funded actions), which is planned by 2020 after the completion of a first set of funded projects and under the condition that a follow-up of Marco Polo is launched.

SR 4/2013 EU Cooperation with Egypt in the Field of Governance

61. (*Annex, No3 - 2012/COU/0279*) The Council encourages the EEAS and the Commission to further develop the political dialogue in order to ensure the implementation of jointly agreed reform objectives.

Commission's response:

The Commission will not be taking the requested action.

After the 2011 revolution, efforts have been constantly made in order to maintain the level of policy and political dialogue and to further develop it. However, the lack of stability in the country and of a lasting government has made it impossible for Egypt to embark on reform programmes. Therefore, at the current stage, the Commission and the EEAS cannot commit to implementing the request but stand ready to relaunch and step up the process as soon as conditions in the country allow for it.

62. (*Annex, No6(a) - 2012/COU/0280*) The Council encourages the EEAS and the Commission to continue their efforts in applying the incentive-based approach, with countries making greater efforts towards democratic reforms receiving more support.

Commission's response:

The requested action has been taken.

The new European Neighbourhood Policy (ENP) approach has emphasised the conditionality of deepening democracy and commitment to fundamental values for those countries willing to strengthen their partnership with the EU. The design of the new European Neighbourhood Instrument (ENI) gives more space to the "incentive based approach" which will be applied strictly. In relation to this, the proposed average allocation for Egypt for the next Multi-Annual Financial Framework (MFF) is lower than in the previous one. Moreover, Egypt was not a beneficiary of the SPRING allocation in 2013, and is not foreseen to be a recipient of additional incentive-based "Umbrella" funding for 2014.

63. (*Annex, No6(b) - 2012/COU/0281*) The Council underlines the importance for the EEAS and the Commission to place more emphasis on Public Finance Management and the fight against corruption in the negotiations for a new Action Plan, in particular in relation to guaranteeing budgetary transparency and fully independent external auditing.

EEAS's response:

Negotiations on the new Action Plan with Egypt have not yet started, the old Action Plan has been extended until March 2015. Once negotiations begin, due emphasis will be placed on the fight against corruption, in particular in relation to guaranteeing budgetary transparency and fully independent external auditing.

SR 5/2013 Are EU Cohesion Policy funds well spent on roads?

64. *(Annex, No10 - 2012/COU/0282)* The Council encourages the Commission to consider the establishment of European Union-wide unit cost information for engineers preparing estimates for new projects, in order to help the beneficiaries lower the procurement prices, in the update of the Commission's Guide to Cost-Benefit Analysis for the next programming period.

Commission's response:

The Commission is taking the recommended action. The Commission acknowledges the need for making available more detailed unit costs information.

As regards the methodology for carrying out the cost-benefits analysis, the Commission regulation laying down the relevant rules is currently being drawn up and should enter into force during the second semester 2014.

65. *(Annex, No11 - 2012/COU/0283)* The Council encourages the Commission and Member States to continue improving the management of Structural Funds and Cohesion Fund in the current programming period with a view to optimising the implementation in the next programming period.

Commission's response:

See replies to request 2012/COU/0274 and 2012/COU/0275.

SR 8/2013 Support for the Improvement of the economic value of forests from the European Agricultural Fund for Rural Development

66. *(Annex, No5 - 2012/COU/0284)* The Council considers that the Court's recommendation could be taken into account during the development of the new measure (replacement of the measure audited by the Court entitled "Improvement of economic value of forests" by a sub-measure entitled "Investments in forestry technologies and in the processing and marketing of forest products", which would be integrated in a single measure, covering all types of forestry support) in the next Rural Development programmes and its subsequent implementation.

Commission's response:

The Court's recommendations have been taken into account during the formulation of the new Rural Development Regulation No 1305/2013. Integrated in one single measure, Article 21 introduces the general requirement for the presentation of forest management plan or equivalent instrument for forests above a certain size, to be determined by MS. As a specific sub-measure Article 26 was introduced to support actions in connection with investments in forestry technologies and in processing, in mobilising and in the marketing of forest products (e.g. as it has been requested in recommendation 3.

67. *(Annex, No6 - 2012/COU/0285)* The Council invites the Commission to provide further guidance to Member States on the implementation of the measure (replacement of the measure audited by the Court entitled "Improvement of economic value of forests" by a sub-measure entitled "Investments in forestry technologies and in the processing and marketing of forest products", which would be integrated in a single measure, covering all types of forestry support).

Commission's response:

The Commission has provided substantial guidance on all forestry related support in the form of guidance documents for the measures established by the rural development regulation. These "Measure fiches" not only provide the rationale and cross-cutting objectives of the measure, but they also cater guidance on the types of operations, the details of eligible costs and conditions, as well as the description of beneficiaries, etc. for the measures and sub-measures. Concerning the ECA recommendations, these will be covered by several Measure fiches, covering analysis of the needs, providing support for the required forest management plans, requesting justification and monitoring of the expected investments and increase of the economic value of forest.

Eighth, ninth and tenth European Development Funds

68. (*Annex, No4.1 - 2012/COU/0286*) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to reviewing the residual error rate (RER) methodology.

Commission's response:

The Commission has already taken measures in order to refine the RER methodology on the basis of the lessons learnt from the first exercise in 2012: at the start of the 2013 exercise, the contractor has been requested the elaboration of a revised methodology and a manual which takes into account the lessons learnt. This refined methodology has then been applied during the 2013 RER exercise. The refinements mainly concerned improved guidance in the manual on how to deal with previous control work, how to calculate individual error rates and when and how to estimate errors in cases where documentation is missing. The sampling process has also been approved and reporting templates introduced.

69. (*Annex, No4.2 - 2012/COU/0287*) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to the timely clearance of expenditure.

Commission's response:

- Un suivi des vieux préfinancements est inclus dans le programme de travail. Il n'existe pas de note ARES officielle à ce sujet (correspondance par email avec les correspondants comptables des délégations). Cependant, la note de pré-clôture inclut un rappel concernant l'apurement de vieux préfinancements avant la fin de l'année 2013 suite au travail effectué en cours d'année – ARES (2013)3471570; le même exercice sera effectué également pendant l'année 2014;

- Un update des checklists a été publié dans le "DEVCO Companion" pour améliorer la performance de la DG concernant les délais de paiement (apurement des préfinancements y compris);

- Un rapport DataWare House est désormais disponible, le N° INV L04A (follow-up of the Payment Delays), ce qui permettra de faire des suivis réguliers concernant les délais de paiement à partir de l'année 2014, y compris pour les factures d'apurement des préfinancements.

70. (*Annex, No4.3 - 2012/COU/0288*) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to promoting better document management by implementing partners and beneficiaries.

Commission's response:

Concrete measures were put in place in 2013 aiming at better document management and storage by implementing partners and beneficiaries, apart from the training intended for the delegations staff.

As grant contracts are most exposed to risks in terms of document management, the following actions have been taken:

- *Obligation to declare the precise location of the supporting documents introduced in art.16.7 of the 2013 version of the General Conditions;*

- *Specific section introduced in the 2013 version of the narrative report where to declare the location of the supporting documents (Annex IV template);*

- *Link in the newly developed implementation manual for grant contracts to the financial toolkit, where additional information on document management is available;*

- *The template for Guidelines to be used in Call for Proposals now includes a link to the implementation manual and to the toolkit as well.*

Concerning Programme Estimates, where the risk of document management is also significant, the 2013 version of the Practical Guide on Programmes Estimates already contains clear instructions (Chapter 4.1.9) on this subject.

71. (Annex, No4.4 - 2012/COU/0289) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to enhancing the quality of expenditure verifications carried out by external auditors.

Commission's response:

The issue of the low quality of expenditure verifications carried out by external auditors is addressed through the Action Plan to correct the weaknesses in the implementation of DG DEVCO internal control system. Implementation began in September 2013. The quality of all the audit/expenditure verification reports has already been assessed and the main weaknesses analysed. Furthermore, DG DEVCO will develop quality review grids in order to allow the EU Delegations' staff to assess the reliability of the verification reports and provide guidance in case of non-compliance. Following a testing phase in EU Delegations and their final approval, the grids shall be available for implementation in early 2015.

72. (Annex, No4.5 - 2012/COU/0290) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to ensuring the correct application of specific conditions for budget support payments.

Commission's response:

In the framework of the new approach to Budget Support, new guidelines with strengthened assessments of the four eligibility criteria have been developed and entered fully in force on 1st January 2013. The internal governance of Budget Support was further boosted by the establishment of the Budget Support Steering Group, chaired by DG DEVCO and composed of Management from DG DEVCO, EEAS and ECFIN and which reviews all new proposed operations as well as all proposed disbursements. Furthermore, in March 2014, DEVCO Management endorsed an internal analysis of the main causes of errors in Budget Support operations with recommendations to reduce the number and magnitude of these errors wherever possible.

73. (Annex, No4.6 - 2012/COU/0291) The Council considers that the Commission should demonstrate that improvements have been made in the context of the Annual Report of the Court of Auditors with regards to making sure that recovery orders in respect of interest on pre-financing over 750 000 euro are issued annually.

Commission's response:

The Commission will remind sub-delegated Authorising Officers of the rules concerning annual recovery of interest for pre-financing above 750.000 euro. Additionally, in order to raise awareness, a full review of eventual interest received on these pre-financings will be made so as to ensure compliance with the financial regulation.

74. (Annex, No4 last par. - 2012/COU/0292) The Council requests that the Commission fully implements all of the recommendations of Court of Auditors Special Report (No 5/2012) on CRIS.

Commission's response:

DG DEVCO is committed to implementing the action plan defined for the four recommendations of the Court of Auditors Special Report No 5/2012 on CRIS. Implementation is still in progress and expected for the end of 2014.

75. (Annex, No5 - 2012/COU/0293) The Council requests that the Commission informs the ACP Working Party at regular intervals on the implementation of the action plan aimed at addressing the weaknesses of the control system, including data quality, starting with an update on its state of implementation as of 30 June 2014.

Commission's response:

DG DEVCO is committed to providing the Council with an update on the progress with regard to the implementation of the Action Plan (aimed at addressing the weaknesses of the control system) as of end of June 2014, and a comprehensive report on its state of implementation at the end of the year 2014.

76. (Annex, No7 - 2012/COU/0294) The Council invites the Commission to fully implement the outstanding recommendations (the Court's previous recommendations which are detailed in Annex 3 to the Annual Report) at the earliest opportunity.

Commission's response:

According to Annex 3 of the Court of Auditors 2012 Annual Report (Follow-up of previous recommendations), the only recommendation which falls under DG DEVCO's remit - i.e. the Commission should establish a coherent methodology for the external relations directorate to calculate the residual error rate - has been fully implemented by the Commission.

Bodies set up under the TFEU and the Euratom Treaty

77. (*Euratom Supply Agency, Annex, §2 - 2012/COU/0295*) The Council urges the Commission and the Euratom Supply Agency to ensure the Agency's full financial autonomy.

Commission's response:

The Commission will not be taking the requested action.

It is convinced that the present situation, whereby the Euratom Supply Agency is partially autonomous (i.e., for the operational costs) and the Commission uses its own budget to pay directly the major part of the expenses (i.e. the general administrative expenses - staff, offices, and other minor expenses, i.e. telephone, computers), should be maintained for cost-benefit reasons, while it does not jeopardize the Agency's independence. Indeed, the fact that the Commission bears the major part of the Agency's expenses enables economies of scale. Should the full financial autonomy be granted, this would no longer be the case. This in turn would negatively affect the Commission's budget because the subsidy it would have to pay to the Agency would be higher than the costs borne through its own budget.

For the sake of transparency, the Council will be informed about the costs borne by the Commission.

78. (*European Monitoring Centre for Drugs, Annex, §3 - 2012/COU/0296*) The Council is concerned about the annual costs borne by the European Monitoring Centre for Drugs and Drug Addiction for unused office space available in its former building and in its new headquarters. It invites the Centre to address this issue in cooperation with the European Commission and National Authorities.

Commission's response:

The EMCDDA continues actively to look for an adequate solution to the problem of selling or leasing the premises concerned, namely requesting agencies specialised in the Lisbon real estate market to promote the building to potential buyers, preferably, or tenants. As a result of these efforts, the EMCDDA consulted the EU Budget Authority twice in 2013 (in April, following the interest expressed by a company to lease the former headquarters' building of the agency – the Mascarenhas building – to install a university, and in July, following the interest of an entrepreneur to buy the building with a view to installing a home for the elderly). In both of these cases no objections were raised by either branch of the Budget Authority. However, for reasons related to each of the actors/projects behind the offers, neither of these proposals has yet been concluded. Furthermore, following a request from the Maritime Analysis and Operational Centre - Narcotics (MAOC-N), another European inter-governmental organisation with headquarters in Lisbon, which expressed recently an interest to be headquartered in the Mascarenhas building, the EMCDDA approached formally the Portuguese Government – which is responsible for providing headquarters to MAOC-N – seeking support to sell or rent the building in this context. In line with the requests of the European Parliament and of the Court of Auditors, the EMCDDA has kept the European Commission informed of the relevant developments on this matter. Meanwhile, the EMCDDA has further rationalised and reduced the running costs of the Mascarenhas building, namely by revising the security settings (-23 364.89 EUR), maintenance services (-4 267.27 EUR), cleaning (-3 575.39 EUR) and

reducing energy consumption (-11 650.51 EUR) in comparison to 2012. This was facilitated by the reduction of services and development of further synergies with EMSA, including the joint procurement of some of the services in question. Total savings of 42 858.06 EUR for the Mascarenhas building were achieved in 2013.

79. *(European Asylum Support Office, Annex, §5 - 2012/COU/0297)* The Council invites the European Asylum Support Office in cooperation with the Commission and the host Member State to clarify the situation relating to the financing of the renovation of the building offered to the Office.

Commission's response:

The Commission handed over the files regarding the renovation of the seat to EASO therefore it is for EASO to follow up the request. Nevertheless, to the extent possible, the Commission will support the agency in providing all the necessary information.