

2015 Discharge to the EDF

WRITTEN QUESTIONS TO COMMISSIONER MIMICA

Hearing of 8 November 2016

1. How does the Commission explain the divergence of error rate estimation between DEVCO and the European Court of Auditors? Can the Commission explain the error rate estimated for EDF 2015 and which projects and actions were affected?

Commission's answer:

The sampling for the RER study and ECA cover different sets of transactions (i.e.: RER: transactions within contracts closed during a given 12-month period; ECA: payment made in a given year). This means that while the ECA analysis also looks at transactions from ongoing contracts, for which there may be corrections at a later stage, the RER only looks at closed contracts, i.e. transactions for which all controls and checks have been applied. The resulting ECA error rate can therefore be higher than the RER. There is also a difference in scope. The ECA calculates two different error rates, one for the EDF and one for the EU Budget (for the Chapter Global Europe: including, besides DG DEVCO also other services such as DG NEAR, ECHO and FPI), while the RER study shows one overall error rate (Budget and EDF taken together) for DEVCO only. Since the scope of the RER concerns contracts closed during a certain period this means that the specific transactions analysed can date back a number of years. Therefore - contrary to the ECA analysis - the RER analysis has a multiannual approach. The RER study also includes estimated errors while the ECA does not estimate errors.

There is no separate EDF error rate in the Commission's RER study, but when all controls have been implemented (RER study) the final error rate should be lower than the one estimated during the implementation of the contracts (ECA).

Concerning the detailed calculation of the ECA error rate for the EDF please refer to the ECA.

In the attached excel file you will find a list of quantifiable errors identified by the ECA.



Microsoft Excel
97-2003 Worksheet

2. To what extent the results the Court of Auditor's annual report regarding EDF 2015 expenditures for budget support corresponding to 0% are reliable? What is the methodology used by DEVCO when analysing estimated error related to budget support?

Commission's answer:

Over time less and less errors are being identified by the ECA in the area of budget support. This is consistent with the findings in the Commission's RER studies which also identified very few errors in this spending area (none for 2015). The approach to and methodology for budget support transactions in the Commission's RER study is the same as the one for all other transactions analysed by that study.

3. For DEVCO, the estimated overall amount at risk for 2015 payments made is EUR 174 million. What is the specific amount at risk concerning EDF? Can the Commission explain the actions that are taken to prevent and correct errors related to direct subventions and indirect management with International Organisations concerning EDF? Can the Commission give more details concerning the dedicated Task Force in charge of defining remedial actions concerning the reservation made on African Peace Facility?

Commission's answer:

The amount of risk related to the EDF is EUR 98 million. The actions undertaken are the ones mentioned in the reply to question 37 of the questionnaire addressed to MM Hahn and Mimica related to the EU budget: A new action plan was adopted in July 2016 with actions specifically targeted at these two higher risk areas. For International Organisations (IO) actions included are, inter alia:

- Suspension of indirect management in case of repeated errors;
- Adaptation of the Terms of Reference for Verification Missions to International Organisations;
- Raising awareness and monitoring action for the clearing of pre-financing paid to IO;
- Regular meetings with International Organisations to ensure continued cooperation;
- Creation of a focal point unit to coordinate relations with International Organisations at all levels.

For grants in direct management, the actions included are:

- Revision of the Terms of Reference for expenditure verifications implemented by beneficiaries and service contractors;
- Audits to complete insufficient expenditure verifications carried out by beneficiaries;
- Requesting supporting documents of randomly selected transactions related to requests for payment;
- Simplification of procedures and contractual conditions for grants.

Concerning the APF Task Force: in February 2016 the Commission set up a special Task Force bringing together all relevant Commission services and European External Action Service. The Task Force developed an action plan with mitigation measures. The Commission has already implemented a substantial part of these measures, including in particular the following: 1) The signing in April 2016 of an Aide Mémoire and related monitoring action plan with the African Union Commission (AUC), including the follow-up of an institutional assessment; 2) The inclusion of remedial measures at contract

level for ongoing contacts and for each new contract; 3) The identification of the AUC's capacity building support needs, specifically in financial management (with contracting of TA's foreseen still in 2016); 4) The creation of a steering committee co-chaired by the AU Deputy Chairperson and DG DEVCO's DDG which meets every quarter to monitor progress of the action plan; 5) Improved reporting on the situation towards stakeholders; 6) Closer coordination between the different EU services; 7) Increased human resources at HQ as well as in the EU Delegation to the AU in Addis.

4. Are EDF/ERDF regional platforms (West African, Caribbean, and Indian Ocean) operational since 2015? What are their achievements and results in 2015? Can the Commission indicate if more synergies are still possible, and to which extent? What was the change in volume of financing of EDF-ERDF projects in 2015 compared to previous years? What actions were undertaken in 2015 by DEVCO in terms of discussions with the ACP, OCTs and ORs of the three areas concerned to make concrete progress EDF-ERDF programming levels?

Commission's answer:

DG DEVCO and DG REGIO have signed a Memorandum of Understanding in September 2013, in order to enhance cooperation between Outermost Region (OR), Overseas Countries and Territories (OCT) and African Caribbean Pacific countries (ACP). In this context, discussions with the concerned countries and regions occur on a regular basis, for example during EU-OCT forum.

Regarding regional platforms, at the end of 2015, only the Indian Ocean Region had an operational regional platform for EDF/ERDF funding. This platform is the "Comité de concertation régionale FED-FEDER" and includes the EDF Regional Authorising Officer and the managing authority of the Indian Ocean Interreg programme, ie the "Conseil Régional de la Réunion". Other regional platforms are in preparation in West Africa and in the West-Indies/Guyana region.

On the project side, one example of a good collaboration is that negotiations have started in 2015 between the OR Saint Martin and the OCT Sint Maarten, for a joint financing of a waste water management plant EUR 7 million from the EDF and EUR 3 million from the ERDF.

Furthermore, in order to facilitate regional cooperation and dialogue between the parties, DEVCO financed a Caribbean OCT Regional Conference in British Virgin Islands in February 2015, with participation of the four ORs and CARIFORUM (on behalf of the Caribbean ACP countries). The conference resulted in an agreement among the parties upon a coordination mechanism to facilitate the use of resources from the EDF and the ERDF for the benefit of joint projects and allowing for regular consultations among the relevant authorities of the OCTs, ORs and ACP States of the Caribbean.

Additionally, DEVCO approved the project for the Wider Caribbean Cooperation under the 10th EDF Caribbean ACP Regional envelope with the purpose to strengthen dialogue and cooperation between CARIFORUM, French Caribbean Outermost Regions (FCORs) and OCTs, including for enhancing CARIFORUM participation in interregional projects (INTERREG).

5. How in 2015 the Commission have integrated the ORs and the interests of the ORs in their political dialogue with ACP countries? Which actions DEVCO has taken in 2015 related to integration of ORs strategies and priorities in the EU development policy and EDF execution? Is DEVCO collaborating with DG REGIO and MS when it takes actions, regarding direct or indirect management of EDF, with countries or International Organisation linked to the same regional area than ORs?

Commission's answer:

EDF regulation as well as ERDF one provide for a coordination of cooperation programmes between Regional Indicative Programme (EDF) and Territorial cooperation programme INTERREG (ERDF). Both RIP and INTERREG have been adopted in 2015.

INTERREG programmes foresee platform for EDF-ERDF dialogue in region including OR, ACP and OCT; especially in Caribbean and West Africa zones (This platform already exist in the Indian Ocean region)/

In February 2015; during the EU-OCT forum the CARIFORUM (managing authority for INTERREG) and the EDF Authorising Officers for ACP and OCT agreed to create this platform in the Caribbean.

Concerned EU delegations are also members of those platforms.

The biggest achievement so far is the transfer of EUR 2.9 million from the EDF Caribbean RIP towards the Caribbean INTERREG Managing Authority. The objective is to allow ACP to participate in the INTERREG cooperation projects, being also financed by the EDF. IN 2015; no project was yet financed.

The most ambitious cooperation project with an OR is the cross border *waste management plant project concerning the OR Saint-Martin and the OCT Sint-Maarten* for which negotiations started in 2015.

6. What were the actions taken in 2015 concerning Comoros? What concrete actions DEVCO has undertaken regarding the situation of Mayotte? Did DEVCO consulted with Mayotte to determine their priorities in relations to the political dialogue between UE and Comoros?

Commission's answer:

In 2015 the EU and France (the only Member State in the country) adopted the Joint Programming and the 11th EDF NIP with Comoros focussing on i) political stability, ii) economic growth and sustainable development iii) contribute to human development and poverty reduction. The NIP (EUR 68 million envelope) supports the focal sectors of Good Governance, Education/Vocational Training and Sustainable Transports (Ports and Roads).

The Annual Action Programme for 2015 included the following projects: EUR 4.1 million to support the Presidential and Island Governors elections of 2016 and ii) EUR 4 million to provide capacity building to the Government. Mayotte is no longer eligible for funding under the EDF since it became an outermost region of France (as from 2014).

However, within the European Regional Development Fund both Comoros and Mayotte will benefit from the INTERREG V programme (EUR 12 million) which main objectives are to increasing trade between the islands, improving the health system including rescue capabilities and developing access to education. In the framework of the 11th EDF programming cycle, DEVCO/EEAS consult the partner Countries and Member States (in particular France) in order to determine priorities and focal sectors of intervention.

7. Can the Commission give more details regarding execution of projects in 2015 in OCTS? What are the main difficulties related to EDF execution for OCTs? Which aid implementation modality is best suited for OCTs? What actions DEVCO has undertaken in 2015 to support and facilitate payments for OCTs?

Commission's answer:

2015 has been an important year for the initial programming stages of the 11th EDF in the OCTs. The strategic orientation of the programmes has been established, and concentration sectors were proposed for all programmes, both territorial and regional/thematic.

Regarding the implementation of financing resources under the 10th EDF, varying degrees of progress has been achieved in 2015. The implementation modalities used were budget support and project modality, and a total of about EUR 156 million has been disbursed up till now, representing about the 62% of the overall allocation of about EUR 253 million.

Concerning project approach via indirect management, implementation has encountered some difficulties - as it has been the case for other isolated small island states (SIDs) - mostly due to geographic isolation and a possible lack of competition among contractors, which could have led to some unsuccessful tender procedures in 2014 and 2015 in some OCTs. It is worth noting that the European Commission has been actively supporting the concerned administrations throughout the implementation by providing full support via their Delegations; and in 2015 a training in EDF tender and contract procedures for Dutch OCT Territorial Authoring Officer staff was financed under the TCF 10th EDF in 2014/2015.

As far as budget support programmes are concerned, there was good performance overall, even though the innovative characteristics of the modality and the capacity constraints in OCT administrations have caused in some cases delays in the implementation of activities. The Commission has therefore not only been accompanying budget support programmes through regular dialogue in the form of meetings, but also been providing intensive backstopping to counterbalance the weak capacities of OCT's public administration. The support measures, which the European Commission has been providing in this context, included technical assistance to the OCT Association (OCTA), as well as training courses in budget support (funded under the Technical Cooperation Facility). For example, a training course in budget support for Pacific OCTs was organised in 2014 and another one is currently ongoing, whilst a further training for Caribbean OCTs is scheduled for 2017.

Building on the lessons learnt from the 10th EDF-OCT and considering the special characteristics and inherent vulnerabilities of OCTs economies, it is the view of the

European Commission that budget support continues to be the most appropriate implementation modality for supporting OCTs. Budget support, and accompanying measures are a suitable tool to address the challenges that OCTs are facing in terms of economic and social development, and can help building up economic resilience by enhancing sector policies and reforms, including capacity development. Supporting key sectors through budget support makes possible to focus on a limited range of objectives as OCTs often have limited administrative capacity and facilitates policy dialogue and programme monitoring. This is clearly reflected in the 11th EDF, for which budget support has been proposed as the implementation modality by most OCTs.



Completed State of
play 10th EDF OCT-

8. Can the Commission give more details concerning KPI and its future use in terms of EDF execution control?

Commission's answer:

A detailed analysis of the KPI results for year 2015 was transmitted to the European Parliament with an explanatory note co-signed by Commissioners Hahn and Mimica on 18/10/2016. Those results will be presented by the Commission at the Joint Meeting of the CONT and DEVCO Committees of 28/11/2016.

In 2015, a great majority of KPIs used by the Commission in the management of External Assistance were in line with the objectives set for the year. Positive trend can be observed in all sectors of financial management and especially on the following aspects: reduction of old "Reste à liquider" (old RAL) and old pre-financing, closure of expired contracts, payment delays, control effectiveness and audits. These global figures are confirmed by very good performances achieved by Union delegations. Thanks to the action plans implemented during the year a vast majority of the delegations within DG DEVCO's and DG NEAR's remits have achieved the benchmark of 60% of green KPIs in 2015.

9. The Commission has put more efficient and innovative instruments and performance indicators to control the EU budget and EDF payments. Can the Commission give more details on the achievements made in 2015 to improve cost-effectiveness and efficiency of controls? If any, could improvements made on cost-effectiveness and efficiency of controls lead to a reduction of cost of controls?

Commission's answer:

The estimated cost of control of DG DEVCO was reduced from EUR 371 million in 2014 to EUR 293 million in 2015 (i.e. by 21%). The main indicator of the effectiveness of

control is the error rate established by the residual error rate study which has decreased steadily from 3.63% in 2012 to 2.20% in 2015. Together, both these trends indicate that the cost-effectiveness of DG DEVCO's control appears to be improving.

Some elements in the action plan following the reservations may indeed have had a positive effect on cost-effectiveness and efficiency of controls: the revision of Annex IV to the grant contract template means that instead of imposing grant beneficiaries detailed procurement procedures, the revised rules now allow a beneficiary to use its own procedures, provided they guarantee best value for money/lowest price, absence of conflict of interests and basic principles of procurement. Other measures in the field of grants are: to allow the use of the beneficiaries' currency conversion rules by default; allowing depreciation, leasing or rental of equipment as eligible costs; introduction of a new simplified cost option (apportionment of costs related to field offices). Last but not least, it has been clarified with regard to simplified cost options that - once they have been assessed and approved by the contracting authority - such costs will not be subject to an ex post verification of the underlying cost data.

10. Audits of the EU-Delegation to Papua New Guinea show an extrapolated error rate of 65% mainly due to the absence of justification pieces or activities which were not within the implementation period. Could the Commission please inform Parliament about the findings at the respective measures taken in response to them?
- a. An external audit for the Eco-Forestry-Programme revealed that due to missing or inadequate documentation an amount of more than EUR 420 000 was considered as ineligible. Could the Commission please inform the Parliament if the amount was completely recovered? If not what was the recovered amount and what were the reasons not to recover the total amount?

Commission's answer:

The Commission would like to underline that the final error rate extrapolated by the Court for the audited contracts under the portfolio of the EU-Delegation to Papua New Guinea is 21% instead of 65%.

a. The external audit mentioned by the Parliament took place after the end of the implementation period of the Programme Estimate. By that time, the National Authorising Officer did not have any obligation anymore to keep the supporting documents justifying the eligibility of the expenditures. However in the process of the contradictory procedure following the audit, the NAO was able to provide supporting documents reducing the amount of the ineligible costs to EUR 1 597. This converged with the results of the audit performed by Deloitte in 2005, which did not identify financial findings.

- b. A serious systematic error was detected for the project Disaster Risk Reduction in Eight Pacific ACP States due to the absence of key supporting documents which resulted in a 100% error rate in relation with this project. Could the Commission please inform the Parliament about the consequences drawn from that finding? Could the Commission please explain where these documents are to be located? Was the total amount

recovered? If not what was the recovered amount and what were the reasons not to recover the total amount? Could the Commission please inform Parliament about the consequences drawn from that finding?

Commission's answer:

b. The final extrapolated error rate calculated by the Court is 52,95% instead of 100% and the actual amount of the detected error is EUR 43 842.

The mission of the Court of Auditors was performed only in Papua New Guinea. The supporting documents for this contract are being held in the respective country offices of the beneficiary (SPC) in Fiji, Marshall Islands, Micronesia and Papua New Guinea. Between 18 May and 16 June 2015, Moore Stephens performed an audit on the same contract and could access all the supporting documents in the different offices of the beneficiary. The result of this audit was that only one minor finding of EUR 3 190, representing 0.03% of the costs of this action was identified. No recovery order was issued since this minor error could be directly compensated under the heading indirect costs.

- c. An extrapolated error rate of 60% was calculated in relation with the Programme “Non State Actors in Solomon Island” mostly due to the absence of supporting documents. Could the Commission please inform Parliament about the consequences drawn from that finding? Were the findings regarding the expenditure breakdowns, financial reports and expenditure verifications identically with the external audit carried out by Ernest and Young? If not what are the differences and reasons? Could the Commission please explain where these documents are to be located? Was the total amount recovered? If not what was the recovered amount and what were the reasons not to recover the total amount?

Commission's answer:

c. This findings submitted by the Court of Auditors in their final report was not sufficiently detailed to allow a definite assessment by the Commission. According to the rule, the original supporting documents must be located in the premises of the NAO. Indeed, most of the documents are in the premises of the NAO. However, due to the NAO having moved premises in June 2012 and again in 2015 some documents may have gone missing. The Delegation is actively verifying with the NAO the possibility to retrieve some of these documents. The Delegation has already recovered EUR 180 490, including EUR 95 449 of ineligible expenditures already identified by Ernst and Young. Further investigations are ongoing.

The Delegation is closely monitoring the implementation of the programme estimates managed by the NAO and ensure that they are all subject to verification of expenditures performed by internationally recognised auditors shortly after the end of their implementation period.

- d. An extrapolated error rate of 70 % was calculated in relation to the “Water and Sanitation Programme” due to the absence of supporting documents. Could the Commission please explain where these documents are to be located? Was the total amount recovered? If not what was the recovered amount and what were the reasons not to recover the total

amount? Could the Commission please inform Parliament about the consequences drawn from that finding?

Commission's answer:

d. The final extrapolated error rate calculated by the Court is 30% instead of 70% and the actual amount of the detected error is EUR 27 034. It relates to the partial submission of supporting documents under one grant contract awarded under the programme estimate. The missing supporting documents were supposed to be archived by the NAO.

The total final amount recovered under this contract is EUR 58 276 including the ineligible expenditure of EUR 23 967 already identified by Ernst and Young. Further investigations are ongoing on whether additional funds should be recovered.

Considering the management capacity of the NAO, it has been decided with the NAO and the Government of PNG to limit this type of implementation modalities in the programming of the 11th EDF.

e. Who was identified as accountable?

Commission's answer:

The Government of Papua New Guinea and the Government of Solomon Islands are accountable for their respective projects.

11. There is a serious tendency to divert development funds to them for other sectors (border control, anti-terrorism, migration, etc.). Could the Commission provide data on the funds that have been diverted from the original target to fund other priorities?

Commission's answer:

Migration and security are an integral part of development policy and as such can be targeted by development funding.

The 2030 Agenda on Sustainable Development recognised the migration and development nexus and called for facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. The Agenda also calls for peaceful and inclusive societies for sustainable development and to provide access to justice for all and to build effective, accountable and inclusive institutions at all levels thus recognising the role of security in the context of development.

The recently adopted EU Global Strategy places migration and security in the new development and cooperation framework. This will also be reflected in the new EU Consensus for Development to be proposed by the Commission in November.

Funding available for development is clearly earmarked under the present MFF, be it

under the EDF or other instruments of the budget. The thematic allocation of funds is made in each individual NIP, RIP or intra ACP programming decision, in full partnership with the ACP counterparts. There is no shift of priority at present on the thematic priorities that were set in 2014. Additional funds allocated to the migration/security and development nexus have come from the (unallocated) reserve of the EDF.

12. The Court examines whether the Commission, with respect to budget support to third countries, has complied with the specific conditions to perform the payments and whether it has verified compliance with the general eligibility conditions. However, the Commission has considerable discretion in deciding whether these general conditions have been met and the transferred funds are then to merge with the recipient country's budgetary resources. Could the Commission provide the financial data for each country involved in 2015? What are the results?

Commission's answer:

The budget support policy is a contract providing funds, policy dialogue and technical assistance to partner countries in exchange for tangible development results and reforms and meeting specific targets and benchmarks. Budget support payments are disbursed only when disbursement conditions have been fulfilled.

The Commission closely monitors performance and results in relation to its budget support portfolio. The attached 2016 Annual Budget Support Report contains the latest review of key results indicators across EU budget support countries which confirms that this group of countries overall continues broadly on the right track in terms of poverty reduction, and macroeconomic and fiscal management. A review of data comparing budget support with other developing countries shows a clear trend of faster poverty reduction, lower inequality, higher and less volatile economic growth, lower fiscal deficits and debt levels, higher levels of investments, stronger public financial management systems, more budgetary transparency, and a better control of corruption, which nevertheless remains a challenge. A review of specific selected sector results also largely suggests positive trends in budget support recipients. The report will be officially transmitted to the European Parliament in the coming weeks.

Annex 1 of this report contains country by country information on budget support commitments and disbursements. This table shows also key data and indicators for each country receiving budget support.



Budget Support
2016 Report Fin...

13. Evaluating the effectiveness of development aid still has some deficiencies with regard to the results, verification of expenditure and the monitoring visits. Could the Commission provide data Country by Country on performance indicators, results and number of irregularities detected?

Commission's answer:

The Commission provides data on key performance indicators (KPI) based internal information systems. KPIs are also produced at corporate level and reported in the Annual Activity Report. Annual Activity Report is submitted to the European Parliament. Summary tables with all KPIs for all Delegations have been submitted to the Parliament on request in 2016.

In 2016 the Commission published for the first time a comprehensive report on results achieved on external assistance during a specific period of time. Reporting is based on the EU results framework which includes a selection of impact, outcome and output indicators. Details can be found https://ec.europa.eu/europeaid/eu-international-cooperation-and-development-first-report-selected-results-july-2013-june-2014_en.

From now on, results achieved by external cooperation will be systematically reported in the Annual Report of EU financial assistance.

14. The European Commission has launched Emergency Trust Funds from the EU budget and European Development Fund, combined with contributions from EU Member States and other donors. Did the Member States already brought their contribution? Is there a list available in this sense?

Commission's answer:

Concerning the EU emergency Trust Fund for Africa, a total amount of EUR 81491921 was pledged by EU Member States, Norway and Switzerland. To date, a total of EUR 47141921 has been paid. For further details on the contributing Member States and donors, please see Annex 1.



Emergency Trust
Fund for Africa.docx

It is worth bearing in mind that according to the Constitutive Agreement of the Trust Fund, donors can pay their contribution to the Trust Fund in up to 5 annual instalments. Therefore the capacity of donors to honour their commitments should not be called into question because they have not paid in full what they pledged. For example, one donor may contribute EUR 15 million over five years while another donor may contribute EUR 10 million in one single instalment.

15. 2015 was a crucial year for development. New innovative instruments alongside existing mechanisms were put in place to tackle the root causes of irregular migration while ensuring a global response, presence and added-value of the EU. In 2015 DEVCO launched as a major initiative - EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa'(EUTF Africa). Can you, please, explain how the control and accountability will work for these instruments?

Commission's answer:

Management of the EUTF for Africa is done directly by the Commission. The Commission nominates the EUTF manager who is an agent (official or temporary agent) of the Commission. The staff working in the EUTFs is recruited by the Commission following normal procedures. The decisional, financial and contractual procedures are defined by the Commission. Decisions on the use of funds are taken by the Operational Committee, representing all donors and chaired by the Commission, following a proposal by the Commission. Annual Reports are presented to the donors of the EUTF and include the results/achievements of the Trust Fund based on a specific monitoring framework approved by the Operational Committee. External audit reports, prepared by external audit companies, will be shared with all donors thorough the Operational Committee and the Board on an annual basis.

All standard controls, as for any other implementing actions of the Commission, are applicable. As established in the Constitutive Agreement, the EU institutions including the European Parliament and the Court of Auditors, maintain their rights and prerogatives over the EUTFs.

Article 11 of the Constitutive Agreement indicates that the Commission undertakes appropriate measures to ensure, during the implementation of Trust Fund activities, that financial interests of the European Union and of the donors are protected against irregularities, fraud, corruption and any other illegal activities, by effective controls and the recovery of the amounts wrongly paid. The Managers of the EUTF will set up internal controls in place for DG DEVCO and DG NEAR and in particular will initiate Annual Audit Plans. The Commission's internal auditors, as well as the Court of Auditors and OLAF are able to exercise their competence over the EU Trust Funds. In addition, an independent external audit of the annual accounts of the EUTF will be launched on an annual basis.

The European Parliament and the Council are also involved in the follow-up of the activities of the EUTF, through the comprehensive annual report after it is adopted by the Operational Committee.

- 16.** Looking at the ECA Special Report 9/2016 (2015 Discharge): “EU external migration spending in Southern Mediterranean and Eastern Neighbourhood countries until 2014”, we believe that, in addition to the funding gap, the existing fragmentation of instruments with their own specific objectives without being interlinked, hinders parliamentary oversight on the way funds are implemented, the identification of responsibilities and therefore making it difficult to clearly assess the financial amounts actually spent to support external action on migration; regrets that it leads to a lack of effectiveness, transparency and accountability; considers it necessary to refocus ways of using existing policy instruments with a clear and renewed architecture of objectives to increase their overall effectiveness and visibility; How does the EC consider clarifying objectives, developing, expanding and improving the performance measurement framework and focusing on available financial resources on clearly defined and quantified target priorities, while developing an appropriate coding in the Commission’s information systems?
Did you face any cases of misappropriation of funds and/or double financing?

Commission's answer:

The Commission has a clear strategy in the Neighbourhood and beyond. Last year it adopted two guiding policy frameworks: the **European Agenda on Migration** and the **reviewed European Neighbourhood Policy**. In line with those and as a follow-up of the Communication on establishing a new Partnership Framework with third countries (COM2016 385 final), the focus on clear and measurable objectives and coherent, concrete deliverables will be at the core of new co-operation frameworks with partner countries.

However, in light of the protracted crises occurring in the Neighbourhood, **differentiation and flexibility mechanisms** need to be ensured.

At the **Migration Summit in Valletta** on the 11th and 12th of November 2015, African and European leaders agreed on a common Action Plan (**Valletta Action Plan - VAP**) and officially adopted the EU Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa (EU TF).

In parallel with the adoption of the EU TF, at Valletta Summit, leaders endorsed a **strategic orientation document for the three windows of the EU TF** (Sahel and Lake Chad, Horn of Africa and North of Africa). Those strategic orientations clearly reflect priorities established by guiding policy frameworks, such as the European Agenda on Migration and the **reviewed European Neighbourhood Policy**.

At the **expert level stocktaking review meeting on the state of play of the implementation of the VAP**, held in Brussels on the 21st and the 22nd of June 2016, the representatives of the members of the steering committees of the Khartoum and Rabat Processes decided to adopt a common methodology for the **mapping, monitoring and reporting of the actions of the VAP**. To this end, since the EU TF is a significant financial instrument providing funding to the VAP, the Commission has already taken actions. A **results' matrix for the EU TF** was already drafted and constitutes a living document to be further elaborated and refined as the EU Trust Fund progresses in the establishment of its performance monitoring system.

Additionally, to contribute to this exercise of setting up of a coherent, measurable and impact-oriented cooperation framework for the EU TF, the European Commission has initiated several *ad hoc* initiatives, as follows: the North of Africa window of the EU TF is developing a tailor-made **monitoring and evaluation framework for the North of Africa window's strategy**, in order to steer coherently the formulation of programmes and projects financed by this window and to allow the measurement of achievements and impact, as well as its harmonized reporting. Other relevant exercises have been launched or are being developed by the other two windows of the ET TF, such as the **Research and Evidence Facility**, adopted by the Horn of Africa window, the **Research and Evidence Facility for the Sahel and Lake Chad Region and the North of Africa**, and the **IT system** that the three windows are setting up with the aim to coherently and timely report on the actions adopted under the two windows of the EU TF.

An overall results framework was shared with the Board of the EU Regional Trust Fund in response to the Syrian crisis, and will serve as a living document. Individual projects' log-frames will be trimmed to feed into the overarching results framework, in line with the strategic priorities and objectives of the Madad Fund.

With regard to the **Facility for Refugees in Turkey (FRIT)**, an overarching monitoring and evaluation system and results framework is being developed in consultation with all stakeholders. This will be an active management tool providing strategic guidance, serving accountability purposes, as well as information needs. The management of monitoring data will be facilitated by means of an online platform – a data-management tool organised by the architecture of the results framework.

Finally, the Commission's information system uses OECD codes to characterise contracts by sector of activities. There is no current unique code for migration sector, which comprises a wide range of diversified activities. The Commission is about to initiate a discussion with the OECD (and other relevant stakeholders) to rapidly identify best possible ways to capture migration expenditure by various development agencies and discuss the creation of a specific code.

The Commission has not faced any cases of misappropriation of funds. The risk of double financing is closely assessed and monitored. Each Action Document to be approved by the EU needs to explain how complementarity will be ensured with other related actions. In addition, the EU Delegations have set up coordination mechanisms with Member States on all the different aspects of their cooperation policy and participate to donors' coordination meetings.

Questions related to the Annual Report of the Court of Auditors 2015

17. According to ECA Annual report, in 2015 the spending included 8th EDF opened as long ago as 1995. When the 8th EDF will be closed and assessed as a whole?

Commission's answer:

Legal basis (Internal Agreement and the Financial Regulation) do not foresee formal obligation to close an expired EDF, nor to transfer the relevant outstanding commitments.

In this regard article 35.2 of the Internal Agreement setting up the 8th European Development Fund (1995), states that the Fund *shall remain in force for as long as is necessary for all the operations financed under the Convention and the Protocol to be fully executed.*

In 2011 it was agreed between DG BUDG and DG DEVCO that the 8th EDF would remain open for cost efficiency reasons, instead of deciding a migration of the open amounts in the accounting system to the 9th EDF.

Therefore, the accounts of the 8th EDF will be closed after all global and individual commitments have been closed and all payments executed. There are a number of decisions having contracts still open for different reasons, which makes difficult to predict the date when this closure will be effective.

18. **Concerning paragraph 3.c)**

Since the European Parliament is not involved in the establishment and allocation of resources, and since the error rate is generally lower for EU-budget development aid than EDF development aid, is there a possibility to permit relevant Members of the European Parliament to attend meetings of the EDF committee or to take on an advisory role?

Commission's answer:

The EDF is established by an intergovernmental agreement concluded among the EU Member States (known as Internal Agreement). Its article 8 deals with the establishment and functioning of the EDF Committee. The rules of procedure of the EDF Committee, adopted by the Council, are precise in terms of its composition. The attendance of the European Parliament is not foreseen.

For the 11th EDF, in order to enhance the role of the European Parliament vis-à-vis the EDF, the Commission voluntarily aligned the Parliament' scrutiny over the EDF programming documents to that of the DCI. Draft programming documents related to ACP countries and regions have been transmitted to the European Parliament DEVE Committee and screened by relevant internal working groups along the lines of a mutually agreed approach. Such an approach includes an annual debate to be held by Commissioner Mimica before the DEVE Committee, the first debate having taken place in January 2016.

19. **Concerning paragraph 4 - Commission reply:**

The Commission's reply states that Commission "made efforts to simplify the Financial Regulation ('FR') and to align it with the FR of the general budget in order to ensure the continuity of the service." What do these "efforts" entail? Will there be an action plan for

harmonisation? Who is in charge of this simplification and process of alignment, a Commission Task Force or a Commission Working Group?

Commission's answer:

The 11th EDF is governed by the Financial Regulation (FR) 2015/323 adopted by the Council on 2 March 2015. Prior to the entry into force of the 11th EDF Internal Agreement, the Bridging Facility's Financial Regulation (BF FR: Council Regulation No 566/2014 of 26 May 2014) applied whose provisions were almost identical to those of the 11th EDF FR.

The simplification was obtained through an almost complete alignment with the General Budget FR, which the 11th EDF FR and BF FR achieve through transparent and clear references to the General Budget FR and its Rules of Application (RAP). The very few remaining specificities applicable to the EDF, notably the principle of annuality pointed out in the Annual Report, emanate from the Internal Agreement establishing the 11th EDF or from the Cotonou agreement itself, and therefore cannot be addressed through alignment of the Financial Regulation.

20. Concerning paragraph 5:

It has been repeatedly pointed out that the principle of annuality does not apply to the EDF. Is there no "statute of limitation" or is there a maximum time span after which money can no longer be disbursed? How do expired contracts factor into the principle of "non-annuality" (worth of 2,9bn EUR at the end of 2015)?

Commission's answer:

The principle of annuality of the General Budget of the Union means that appropriations entered in the Budget of a given year, are used to cover budgetary commitments made that same year. As a rule, if the appropriation is not used, it is cancelled.

The annuality principle is not applicable to the 11th EDF which has a multiannual nature (2014-2020): this offers the possibility to plan on a multiannual basis, secure the necessary funds and finance actions during the entire duration of the 11th EDF. It further implies that 11th EDF funds which are decommitted within this period return to the allocation from which they originated and become available again.

In pursuance of article 1(5) of the 11th EDF Internal Agreement, the funds of the 11th EDF shall no longer be committed beyond 31 December 2020, unless the Council acting unanimously decides otherwise. As for the decommitted amounts from previous EDFs, they reduce the part of the Member States' contributions to the 11th EDF, unless decided otherwise by the council unanimously.

The principles of annuality and multi-annuality apply to budgetary commitments, as a rule preceded by financing decisions adopted by the Commission.

In addition, other deadlines exist for the further implementation of a financing decision: financing decisions are to be committed through the conclusion of financing agreements or delegation agreements by the 31 December of the year following the one in which the budgetary commitment is made. In their turn, contracts implementing a financing

agreement are, as a rule, to be concluded within 3 years following the date of conclusion of the financing agreement. In both cases, disrespect of the deadlines implies (partial) decommitment of the underlying budgetary commitment. Likewise, the balance of the individual budgetary commitment of an expired contract is to be decommitted. Those rules on contracts, financing agreements or delegation agreements, however, have no bearing with the principles of annuality and multi-annuality.

21. Concerning paragraph 7:

EDF interventions implemented under indirect management through international organisations are said to amount to 31%. Which sum, does this percentage amount to? How much of these 31% is implemented through the United Nations (please also provide the sum, in addition to the percentage)? And taking the UN as a starting point, how much is disbursed via sub-programmes, such as a) the UN Development Programme, b) the World Food Programme, c) the Food and Agriculture Organisation and d) the UNHCR?

Commission's answer:

The total amount paid in the framework of EDF interventions implemented under indirect management through international organisations in 2015 is EUR 810 million. 43% of this amount (EUR 347 million) is implemented through the United Nations. The amounts disbursed to the main UN programmes are presented in the table below:

UNITED NATIONS CHILDREN'S FUND	116,347,049
UNITED NATIONS DEVELOPMENT PROGRAMME	54,919,470
WORLD FOOD PROGRAMME	39,495,232
THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS	77,549,479
UNITED NATIONS OFFICE ON DRUGS AND CRIME	74,455,663
UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION	17,600,587
WORLD HEALTH ORGANIZATION	10,738,266
INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT	10,656,795
INTERNATIONAL ORGANIZATION FOR MIGRATION	10,547,217
UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES	1,980,000

22. Concerning paragraph 11:

The European Court of Auditors has continuously mentioned the problematically broad scope of assessing whether general provisions of Budget Support have been met. Are there plans to develop more stringent Key Performance Indicators for a better assessment? At which level is the decision taken, that the partner country has met the general provisions? Which Key

Performance Indicators are currently used and which other data factors into the assessment and final decision?

Commission's answer:

The EU Delegation and the Headquarter verify each time and in a very rigorous manner if all eligibility criteria for payment are met before processing the payment. The assessment covers the relevant national policy, public finance reform, macro-economic stability and transparency and oversight of the budget.

Always, when a request for payment is introduced by an ACP State, the EU Delegation has to perform a first level of assessment of the four eligibility criteria. If the payment request introduced by the partner country is not complete, the Delegation requests additional information. After this first level of assessment, the Delegation sends the payment package (containing the payment request of the partner country and the Delegation's assessment) to Headquarters where the second level review is performed by the geographical directorate along with the budget support and public finance management unit for thematic support.

Budget support payments where there are substantial or high political or policy risks are discussed in the Budget Support Steering Committee to ensure that senior management makes an informed decision and provides strategic guidance on the programs.

The assessment of the eligibility criteria is based on the dynamic approach, looking at past and recent performance benchmarked against reform commitments, but allowing for shocks and corrective measures and refining objectives and targets if justified.

In addition to the four eligibility criteria, a variable tranche is usually part of budget support programs to encourage the achievement of certain specific targets. Variable tranche indicators are assessed quantitatively and the analysis provides a percentage of the variable tranche which can be paid, depending on performance.

The information for the assessment of payments is, on the one side, taken from the country's performance assessment framework (PAF) using country frameworks and country indicators. On the other side, assessments also require standard data, notably for PFM and macro-economic assessments which are listed in the guidelines for budget support. The aim is to have as complete as possible systematic data giving a comprehensive picture of the situation and, while being adapted to the country's situation, allowing rigorous analyses.

The Commission produces yearly internal analyses reporting on Budget Support. This report will be transmitted to the European Parliament in the forthcoming weeks. Similar to 2014, the review of key results indicators across EU budget support countries confirms that this group of countries overall continues broadly on the right track in terms of poverty reduction, and macroeconomic and fiscal management. A review of data comparing budget support with other developing countries shows a clear trend of faster poverty reduction, lower inequality, higher and less volatile economic growth, lower fiscal deficits and debt levels, higher levels of investments, stronger public financial management systems, more budgetary transparency, and a better control of corruption, which nevertheless remains a challenge.

The concept of key performance indicators is used globally by the Commission in the management of external assistance. It is not specifically related to budget support.

23. Concerning paragraph 12:

The European Court of Auditors has repeatedly mentioned the problematic nature of the so-called notional approach, as it works with the hypothesis that when the Commission's contributions to multi-donor projects are pooled with those of other donors and are not earmarked for specific identifiable items of expenditure, the Commission assumes that EU eligibility rules are complied with as long as the pooled amount includes sufficient eligible expenditure to cover the EU contribution. How much of these pooled funds flow to the UN and how are the funds then distributed to sub-programmes, such as a) the UN Development Programme, b) the World Food Programme, c) the Food and Agriculture Organisation and d) the UNHCR? Please provide as detailed information as possible about direct and indirect costs and cash flows.

Commission's answer:

The notional approach is used in order to contribute to Multi-donor Actions where the funds from different donors are pooled together without the possibility to trace which costs are covered by which donor.

EU funding instruments are subject to a number of specific requirements regarding eligibility of costs which do not necessarily apply to the other donors. It is neither possible to apply these requirements only to the EU funds since they are pooled, nor to impose them on the other donors. This would make it practically impossible for the Commission to take part in this type of actions, which however are the most effective due to their coordination and leverage effect.

The ECA report does not qualify notional approach as problematic: it only states that the notional approach limits the extent to which transactions are prone to error and hence limits the work of the auditors. Without notional approach, the Commission would be obliged to impose all its cost-eligibility requirements upon the totality of the co-financed project (ie also upon the part of the project financed by other donors) making it impossible for the Commission to participate in projects in which it is not the only (or by far the largest) donor.

The Commission encourages the participation in actions which are multi-donor and therefore most effective due to their coordination and leverage effect. They in fact represent an important vehicle in which to invest for a bigger impact. As already replied in Question 21, the total amount paid in the framework of EDF interventions implemented under indirect management through international organisations in 2015 is EUR 810 million. 43% of this amount (EUR 347 million) is implemented through the United Nations. For a detailed breakdown please refer to the table provided under the reply to Question 21. Since our IT systems do not allow to easily differentiate, we are not in a position to define at this stage the exact proportion of the above mentioned funds which are dedicated to pooled funds.

Regarding Indirect Costs, the specific amounts are negotiated project by project, but they cannot exceed 7% of the total direct costs.

24. Concerning paragraph 14:

It is stated that 1052.5 million EUR earmarked for the Commission's expenditure on programming and implementing the EDF. Which areas of expenditure are subsumed under this amount? Is it solely administrative expenditure? Does it also cover staff expenditure in the

relevant EU-delegations? Please provide a detailed breakdown of the major areas of expenditure.

Commission's answer:

The stated amount, allocated to the Commission for support expenditure (point (a)(iii) of Article 1(2) of the Internal Agreement), shall cover, according to article 6 of the Internal Agreement, costs linked to the programming and implementation of the EDF which are not necessarily covered by the strategy papers and multiannual indicative programmes.

The detailed breakdown of the major areas of expenditure is the following:

- the preparation, follow-up, monitoring, accounting, audit and evaluation activities, including reporting on results, directly necessary for the programming and implementation of the EDF resources;
- the achievement of the EDF objectives, by way of development policy research activities, studies, meetings, information, awareness-raising, training and publication activities, including provision of information and communication activities which, inter alia, report on the results of the EDF programmes. Budget allocated to communication shall also cover the corporate communication of the political priorities of the Union in relation to the EDF; and
- computer networks for the exchange of information, and any other administrative or technical assistance expenditure for the programming and implementation of the EDF.

These resources cover expenditure both at Headquarters and in Union Delegations on the administrative support needed to programme and manage operations financed under the ACP-EU Partnership Agreement and the Overseas Association Decision. Thus, it covers temporary staff (contract and local agents) expenditure in the relevant EU Delegations and in Headquarters, with the exception of core tasks of the European public service (permanent staff).

25. Concerning Illustration 2 - Use of EDF resources at 31 December 2015

- a) What happens with the recommitted amounts?
- b) The implementation rate of outstanding commitments dropped from 19,7% (budget year 2014) to 15,1% (budget year 2015). How does the Commission explain this drop when the total amount of outstanding commitments only increased from 9673 million EUR to 11618 million EUR?
- c) Does the Commission have a work plan to increase the implementation rate of available resources, which amounted to 30,3% at the end of 2015?

Commission's answer:

a) Decommited funds under a project from the current 11th EDF can simply be recommitted through the normal commitment procedure for implementing new projects.

Decommited funds under a project from a previous EDF cannot be recommitted '*unless the Council acting unanimously on a proposal of the Commission decides otherwise*' (Art

1.4 of the Internal Agreement). If the Council does decide to recommit funds, then those funds are recommitted under the 11th EDF regulation commitment procedure.

b) Due to late ratification of the 11th EDF a Bridging Facility was set up in 2014 as a temporary arrangement to avoid a gap in commitments. However, only EUR 1616 million was available for commitment under the Bridging Facility. As the 11th EDF entered into force on 1/3/2015 the whole amount for the period 2014-2020 became available. This explains that the implementation rate dropped from 19.7% end 2014 to 15.1% end 2015.

c) The 11th EDF is foreseen for the period 2014-2020. The Commission foresees that by end 2016 more than EUR 10 billion will be committed, which represents 35% of the total available amount. This is in line with the programming of the EDF and the Commission is confident that the funds of the 11th EDF will be completely used by end 2020.

26. Concerning footnote 21

- a) What happens with the 182 (311 million euro) out of 1 091 expired EDF contracts (16,7 % in number; 10,9 % in value), that had expired before the end of 2010?
- b) Is decommitment an issue here?
- c) What is the Commission's procedure concerning expired EDF contracts in general?

Commission's answer:

a) 32 of the 182 EDF contracts expired before the end of 2010 have meanwhile been closed. For further 12, the closure is in the workflow. For the remaining contracts, the closure process is on-going but all necessary conditions are not yet met (see point c.).

b) When a contract is closed all unused funds are decommitted.

c) As a general rule prior to closing a contract Commission services verify that the contractor has fulfilled all of its obligations under the contract and that there are no outstanding claims left. Upon closure of the contract, unused funds are decommitted. Commission services monitor closely all expired contracts in order to close them and to decommit unused funds. However closure of a contract can be delayed if for example

- supporting documents are yet to be received
- a recovery order is pending
- there is litigation with the beneficiary
- there is an legal action ongoing

In 2015 Commission services have closed 820 expired contracts and EUR 98 million unspent funds have been decommitted.

27. Concerning paragraph 20.b)

Does the Commission also consider the sample size of 140 audited transactions representative?

Commission's answer:

The Commission considers that this question should be addressed to the ECA as it concerns the methodology applied by the ECA.

28. Concerning paragraph 23

What happens with interest that registers below 250 000 or above 750 000, does the Commission have information on these cases? How much do they amount to in total and why does the developed IT tool only register amounts from 250 000 to 750 000?

Commission's answer:

The accounting tools of the Commission allow the correct recording of all interests yielded from open prefinancings (PF), regardless of the level of open PF, and allow a precise reporting on those interests.

Under the 11th EDF, following rules are applicable on interest generated by open PF:

1) When the open PF is below EUR 250000, the authorising officer has no obligation to issue a recovery order. In case he does, the interest is considered as additional resources for the project.

2) When the open PF is between EUR 250000 and EUR 750000, the authorising shall recover at least once in the lifetime of the project the interest yielded. The interest can however be used as additional resources for the project.

3) When the Open PF is above EUR 750000, the authorising shall recover at least once a year the interest yielded. The interest is recorded as a revenue for the EDF on a dedicated income budget line.

In 2015, a total amount of EUR 306280 has been recorded as interests from open prefinancings above EUR 750000.

A total amount of EUR 2490742 has been recorded as a revenue for the project (Open PF below EUR 750000).

29. Concerning paragraph 24 - Commission reply

The Commission undertook corrective action in two cases but in one case, the amount in question (7,5 million EUR) was not decreased from the pre-financing envelope, since "no pre-financing amount was open at the time of recovery." How will the 7,5 million EUR be recovered, if not via a decrease in the pre-financing envelope and when will the recovery of funds take place?

Commission's answer:

This amount of EUR 7.5 million was entirely recovered in September 2015. As no balance of pre-financing was open, the recovery was booked directly in revenue.

30. Concerning paragraph 27

How do you explain the significant divergence between the error rates 3,8 and 5,8%? And does, taking account of the difference in percentage, the statistical use of budget support data as well as the notional approach distort the error rate to a questioning degree?

Commission's answer:

3.8% is the average error rate for the entire EDF and 5.8% the error rate when budget

support and notional approach transactions are excluded. The two latter types of transactions have a significantly lower error rate than the remaining transactions, which is why by excluding them from the calculation the error rate is bound to increase. As already explained in the previous discharge exercise, the Commission cannot share this approach. Excluding two types of funding modalities, which account for about half of our expenditure, because they are less prone to error, goes against the logic of a full and fair estimation of the error rate. The Commission does not exclude these types of transactions from its own error rate and, even if less frequently, they also affected by error, so that they could not be excluded from the estimation.

31. Concerning paragraph 28

How is it possible, that 70% of the error rate are made up by lack of supporting documentation and non-compliance with procurement rules respectively? On which base are funds disbursed when these criteria are not fulfilled?

Commission's answer:

The percentage of 70% is composed of equal parts (35% each) for lack of supporting documentation and non-compliance with procurement rules. Concerning procurement in particular, reference is made to the reply given to question 31 of the questionnaire concerning the EU Budget addressed to Commissioners Hahn and Mimica.

Funds are not disbursed without the performance of ex-ante controls. The impression that funds are disbursed although the rules, either for document retention or for procurement have not been respected stems from the fact that the audit by the ECA is carried out at a later point in time than the payment. Having said that, the RER studies also confirmed that a significant part of the error is due to inadequate or missing documentation, but this lack of documentation was only detected after the payment.

The Commission systematically applies its control systems and procedures in order to prevent and detect, to the highest possible level, all errors in transactions. While the calculation made by the ECA could be a good indication of the possibilities of improvement to be implemented in the future, it is not in itself an indicator of deficient management.

The question has two different aspects:

The first one is that the full absence of error is an unrealistic objective: while improvements can and must always be implemented, errors in terms of regularity or legality cannot be entirely excluded due to a number of factors not linked to mismanagement (strains on resources, missing or incomplete information, national context...).

Secondly, control systems have to be designed on the basis of cost-benefit criteria, thereby striking a compromise between the number and type of controls and their cost. While always maintaining the objective of reducing the level of errors even further, the Commission considers that the current levels are already quite satisfactory taking into account the complex, sometimes very difficult, context in which external actions take place.

32. Concerning paragraph 29

Of 125 audited transactions in relation to projects, 16 were final transactions authorised after all ex-ante checks had been carried out. At which level does the final decision take place and who is held accountable in such cases, taking into account the fact that the Commission “bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts of the EDFs (Article 317 of the TFEU).”?

Commission's answer:

Payment transactions either cover the payment of the entire amount due, or the payment in tranches through prefinancing, interim payment and payment of the balance. Each payment implemented by the accounting officer, is preceded by the validation and authorisation of the expenditure.

During the validation of the expenditure of a final payment, the responsible authorising officer verifies the existence of the creditor's rights, the reality and amount of the claim and the conditions under which payment is due. Validation of expenditure includes, amongst others, a statement made by a technically competent staff member that the services are actually rendered, supplies actually delivered or works actually carried out. In conformity with article 66(5) of Regulation No 966/2012, each payment is subject at least to an ex ante control based on a desk review of documents, and on the available results of controls already carried out, relating to the operational and financial aspects of the operation.

The authorisation of expenditure is the act whereby the responsible authorising officer by (sub)delegation, after having verified that the funds are available, instructs the accounting officer to pay an amount of expenditure which (s)he has validated.

The responsibilities of authorising officer are delegated and sub-delegated within the Commission to staff of an appropriate level, both in Headquarters and in the EU Delegations, with their liabilities laid down in articles 71 to 73 of Regulation No 966/2012.

With the ex-ante control referred to in the ECA's report, being a desk review of documents, it can occur that, after the final payment, an ex-post audit launched by the Commission, reveals ineligibilities which lower the amount due. If so, the difference will be the subject of a recovery order issued by the Commission. The same applies to findings revealed during ex-post audits conducted by the ECA.

33. Concerning paragraph 30

- a) Please provide us with a break-down of the implementing partners you mention? Which service agreement is established between the implementing partners and the Commission? What are the direct and indirect cost of the cooperation with implementing partners?
- b) Please provide us with a breakdown of international organisations with whom the European Commission has so-called contribution agreements. What are the direct and indirect costs of these contribution agreements? Please also provide us with a list of how many contributions can be attributed to the individual international organisations.

Commission's answer:

- a) The Implementing Partners of the Commission are the entities that can be entrusted

with the management of EU Funds, in Indirect Management, as listed in Art. 58.1(c) of the Financial Regulation. The main categories of partners being: Partner Countries, International Organisations and Member States development Agencies. Regarding the type of agreements that the Commission signs with these Partners: with Partner Countries it is a Financing Agreement, with International Organisations and Member States Agencies it is a Delegation Agreement. When working with Partner Countries it is not foreseen in the Financing Agreement to pay for Indirect Costs. With International Organisations and Member States development Agencies the Indirect Costs are of maximum 7% of the total direct costs.

b) The term Contribution Agreement was used in the past to refer to the contract signed with International Organisations. In the framework of the 2013 Financial Regulation the term contribution agreement has been replaced by Delegation Agreement and this document is signed by both International Organisations and Member States development Agencies. As mentioned above under a), the maximum amount of Indirect Costs is 7% of the total direct costs. In 2015, the number of open on-going contracts with International Organisations funded by the EDF (10th and 11th) in Indirect Management is 496 and the total amount to EUR 4781 million (please see detailed break-down in annex). As for the payments made in 2015 to International organisations in Indirect Management, as mentioned in the replies to Q21 and Q23, they amount to EUR 810 million.



List of EDF on-going contracts in IM with I

34. Concerning paragraph 31 a) to e)

- a) Please provide us with a detailed breakdown of the affected sums, per different category or errors.
- b) Please inform us at which level the final decision was made to grant funds, even though only incomplete data was available and other elements should have been a clear enough indicator to prevent the erroneous disbursement of funds.

Commission's answer:

a) The sum per category is given in EUR; where the ineligible amount was given in local currency, the average exchange rate for 2015 was applied.

- 1) lack of sufficient documentation : EUR 3692883
- 2) non-compliance with some procurement rules: EUR 1176140
- 3) ineligible expenditure : EUR 39506
- 4) expenditure not incurred yet: EUR 3494084
- 5) incorrect calculation of expenditure : EUR 126612

b) Decisions regarding payments/clearings are made by the authorising officers in charge of the operations in question.

Concerning the decision to grant funds for which the ECA has subsequently identified errors, please refer to the answers given to questions 31 and 36.

35. Concerning Figure 4 - Examples of quantifiable errors in project transactions

'Support to the Institutional Development of the Ministry of Interior' programme implemented by a national development aid agency in Mozambique'

- a) Will the funds be recovered directly or will the relevant amount be deducted from future payments?
- b) How long will the recovery of funds take in the Commission's estimate?
- c) Where will the recovered funds flow?

Commission's answer:

'Support to the Institutional Development of the Ministry of Interior' programme implemented by a national development aid agency in Mozambique'

'The Commission initiated the recovery procedure with a pre-information letter sent out to the Delegatee body on 23/06/2016 concerning the full amount of EUR 874 309 found ineligible by the Court. In response, the Delegatee body sent substantial supporting documentation and the Commission requested further information, which would allow establishing the funding recoverable (Commission letter of 21/10/2016). In the meantime, the Commission has launched an external audit, which is still ongoing. The audit is expected to be finalised in the beginning of 2017. The Commission will eventually finalise the recovery procedure in a short timeframe, either via offsetting against future payments of the Commission to the Agency or direct reimbursement to the Commission. In case of recovery, the funds will flow back to the 10th EDF.

Supply contract for agricultural product testing laboratory equipment in Ethiopia

- a) Will the funds be recovered directly or will the relevant amount be deducted from future payments?
- b) How long will the recovery of funds take in the Commission's estimate?
- c) Where will the recovered funds flow?

Commission's answer:

Supply contract for agricultural product testing laboratory equipment in Ethiopia

'The Commission initiated the recovery procedure with a pre-information letter sent out to the beneficiary on 15/06/2016 concerning the full amount of EUR 427 956 found ineligible by the Court.

Following a reply from the beneficiary on 29/07/2016, in which the Commission's position has been contested, the Commission intends to set a new deadline of 16/11/2016 for the beneficiary to answer the allegations of the Court in order to subsequently finalise the recovery procedure in 2017. If necessary, the Commission will offset the amount to be recovered from future budget support payments given that all payments under the sampled contract have already been concluded. In case of recovery, the funds will flow back to the 10th EDF.

Expenditure amounting to 76 609 euro under the 'Facilité de Coopération Technique' programme in the Democratic Republic of the Congo.

- a) One item concerned extension works on a building that was not covered by the programme.
- b) Please provide a detailed breakdown of the direct and indirect cost of this one item.

- c) The Commission's reply does not mention a recovery procedure, please provide us with details regarding the recovery of funds.

Commission's answer:

Expenditure amounting to EUR 76609 under the 'Facilité de Coopération Technique' programme in the Democratic Republic of the Congo.

The totality of funds pertaining to the sampled items 3 and 4 are direct costs.

In order to guarantee the sustainability of the works, the Commission agreed to accept the costs incurred during the transitional period, therefore no recovery is foreseen.

36. Concerning paragraph 32

The Court's findings indicate that "in nine cases of quantifiable error, the Commission had sufficient information, via its systems, to prevent, detect, and correct the errors before accepting the expenditure." Can the Commission please explain why these payments were still executed, particularly in light of the fact that timely action could have reduced the error rate by 1,7%?

Commission's answer:

The Commission systematically applies its control systems and procedures in order to prevent and detect, to the highest possible level, all errors in transactions. While the calculation made by the ECA could be a good indication of the possibilities of improvement to be implemented in the future, it is not in itself an indicator of deficient management.

The question has two different aspects:

The first one is that the full absence of error is an unrealistic objective: while improvements can and must always be implemented, errors in terms of regularity or legality cannot be entirely excluded due to a number of factors not linked to mismanagement (strains on resources, missing or incomplete information, national context...).

Secondly, control systems have to be designed on the basis of cost-benefit criteria, thereby striking a compromise between the number and type of controls and their cost. While always maintaining the objective of reducing the level of errors even further, the Commission considers that the current levels are already quite satisfactory taking into account the complex, sometimes very difficult, context in which external actions take place.

37. Concerning paragraph 34

In 7 cases, the error were not quantifiable. Can the Commission please explain why that is the case? Is this for a lack of sufficient documentation?

Commission's answer:

The Court of Auditors classifies the errors identified as quantifiable or non-quantifiable on the basis of its own methodology. Although answering this question is not in the hands of the Commission, we refer the Parliament to the following link:

http://www.eca.europa.eu/Lists/ECADocuments/DAS_ERRORS/DAS_ERRORS_EN.PDF

38. Concerning paragraph 38

- a) Please provide us with a detailed explanation why the frequency of the errors found in the control system, including some affecting final claims which had been subject to ex-ante external audits and expenditure verifications, remains significantly high.
- b) Please explain what the Commission intends to do, to rectify this ongoing trend.

Commission's answer:

- a) The number of quantifiable errors identified in the RER study does not show a clear trend: 2015: 39, 2014: 47, 2013: 39; 2012: 26. While the objective of reducing the error rate below the level of materiality (2%) remains, it has to be kept in mind that reducing errors comes with a cost and cost-benefit considerations also apply here, as to all other activities.
- b) The action plans following the reservations in the Annual Activity Reports aim at reducing not only the size but also the frequency of errors. The actions in the latest action plan have been mentioned in the reply to question 3 of the present questionnaire.

39. Concerning paragraph 39

- a) Please provide us with the legal basis, which enables beneficiaries to directly contract local audit companies on audits and expenditure verifications.
- b) Please provide us with details on the legal set-up of the contracting procedure and whether there is a need for tender.
- c) Please indicate the direct and indirect cost of cooperation with local audit companies.
- d) Please indicate why this system of contracts between beneficiaries and local audit companies is still in place, when audit and verification reports do not contain sufficient information on the actual work done to enable the quality grid to be used effectively.

Commission's answer:

- a) Service contracts are the type of contracts used by Beneficiaries to contract audits and expenditure verification's missions. The legal basis enabling the Beneficiaries to directly contract local audit companies to perform audits or expenditure verifications related to grant contracts is to be found in articles 15.7 of the General Conditions and 5.2 of the Special conditions of the DEVCO Grant contract. It should be noted, however, that the Contracting Authority, when preparing the contract, has the right to request the change of the appointed auditor if it is found not to be compliant with the conditions set forth in the Terms of Reference for expenditure verifications (Annex VII to the grant contract).
- b) Beneficiaries are bound to abide by Annex IV of the grant contract, which states the general principles and rules applying to procurement by grant beneficiaries under the DEVCO grant contract. Consequently, grant beneficiaries will have to launch a competitive open tender procedure or, alternatively, justify the choice of tenderers that have been invited to submit an offer. The contract will have to be awarded to the tender offering best value for money. The beneficiary shall keep sufficient and appropriate documentation with regard to the procedures applied to engage the audit firm. In

preparing the audit contract the Beneficiary has to use necessarily the standard Terms of reference for an expenditure verification of a grant contract which constitutes Annex VII to his contract.

c) Since audit contracts are service contracts they do not foresee, as in grant contracts, that a portion of their value will be paid to cover indirect costs. Audit contracts can be either fee based or global price ones (lump-sum to be paid upon reception of a satisfactory audit report). In both cases the contracting authority will cover the direct costs arising from the audit, be they in the form of fees or reimbursable expenses. Same applies to global price contracts. Indirect costs of the audit company are factored in the fees or the agreed lump-sum. As for the direct costs of cooperation with local audit companies, it should be noted that working with local audit firms is significantly cheaper than engaging large audit firms normally based in Europe or in countries that differ from those where the action financed by the grant has taken place.

There is, however, no relation between the direct costs of an audit and the value of the audited contract that could be expressed as a percentage of the latter, although there is a clear link between the number of transactions to be checked and the value of the audit contract.

d) The system of audit contracts (compulsory for all grants above EUR 100 000) between beneficiaries and local audit companies is still in place for the following reasons:

- It constitutes a first layer of assurance that can be complemented, depending on its results and on a risk analysis carried out by the Commission, with financial or systems audits. Such audits are scheduled yearly in an Audit Plan (comprising around 800 audits per year) drafted by each Delegation and Operational Unit in Headquarters. These Audit plans, which represent the second layer of controls, are checked and approved by DEVCO which merges them into one single DEVCO Audit plan. The close follow-up of the implementation of this plan is an essential element of DEVCO's holistic control framework. Furthermore, DG BUDG is also following all recovery orders stemming from audits launched by DEVCO until the amounts are fully recovered.

- The use of local audit firms means important savings (in terms of fees and travel expenses by the audit team) when compared to large international audit firms or the ongoing Audit Framework contract.

- In addition to the above reasons, local audit firms are well placed to cope with the requirements of the audit since they are close to the field, have a better knowledge of local procedures in different areas (taxation, labour law, procurement, etc.). Finally, working with local audit firms helps to build local capacities, increases ownership by our partner countries and is fully in line with the principles of Aid Effectiveness. However, working with local audit firms is an option. Depending on the size and complexity of the grant contract to be audited, alternatives exist and the use of a larger international audit firm can be envisaged.

DG DEVCO is currently working on a revision of the terms of reference for this kind of engagements, based on the lessons drawn from its own experience, the work of the ECA and the input from the Internal Audit Service of the Commission. The aim is to modify the system so that expenditure verification reports are subject to a real quality control, provide sufficient information for evidence-based decision-making and allow for clear decisions on the contracts on the side of the Commission. This requires a revision of the existing Terms of Reference, as suggested in recommendation 2 in the ECA report: "adapt the terms of reference of audits and expenditure verifications with a view to obtaining all relevant information on the actual work done that is necessary to assess

their quality using the new quality grid". The Commission fully subscribes to this recommendation and is already working in that sense.

40. Concerning paragraph 40

Why does the new audit application, just like the quality grid, not cover audits and verifications contracted directly by beneficiaries? Is this set to change since the current monitoring system does not enable DG DEVCO to obtain reliable information about aggregate costs and results?

Commission's answer:

The audit module has been created as a tool for the register and follow-up of audits launched by the Commission (the annual audit plan includes around 800 audits). Expenditure verifications carried out by grant beneficiaries and service contractors are a different type of engagement (they are compulsory for grant contracts above EUR 100 000). It is not a separate audit but an element in the financial report. As such, errors detected by the auditors are already integrated into the beneficiary's financial report and, therefore, no follow-up is needed. Even if errors are detected on this basis, they will be registered and corrected during the ex-ante checks for the payment and recorded in CRIS/ABAC. Therefore, no additional follow-up is necessary. Because of these reasons, there would be little added value in using the audit module for monitoring this type of verifications.

41. Concerning paragraph 47

Please provide us with more details on the reservation regarding the African Peace Facility, particularly the quantification of the impact/actual exposure.

Commission's answer:

The amount at risk for the reservation related to the African Peace Facility (APF) was calculated as follows: the expenditure for the APF in 2015 was EUR 307 million. This amount was multiplied with the error rate (in order to have a conservative estimate the upper error limit of 4.54% was used for this calculation instead of the RER of 2.2%). Since the APF contracts are transactions in the management mode 'indirect management with International Organisations' the result was multiplied with the risk index related to that management mode (129/100). The resulting amount at risk was EUR 18 million.

42. Concerning paragraph 48

Please plain why the European Court of Auditors came to the conclusion, that the 2015 residual error rate results are significantly less reliable than those of the 2012-2014 analysis.

Commission's answer:

The comment from the ECA has to be considered within the context of its remarks about the risk assessment for the management mode 'indirect management with beneficiary countries'.

Within this context, the remark that "the RER results are nonetheless less reliable than those of the 2012-2014" refers exclusively to the use of the RER results concerning indirect management with beneficiary countries and not to the RER results as a whole. As explained in the footnote to the text, only 51 cases related to this management modality appear in the RER, as compared to a higher number of cases for the 2012-2014 analysis. This makes this smaller population less reliable in the assessment of the risk for this particular modality, than the bigger population in the 2012-2014 analysis. It does not imply any questioning on the reliability of the overall RER results for the estimation of the annual error rate.

The RER exercise is considered a reliable instrument by the ECA.

43. Concerning paragraph 49

Please explain why DG DEVCO does not differentiate between the two main areas with distinct spending and control mechanisms and thus different risk profiles when it comes to indirect management with beneficiary countries.

Commission's answer:

The current risk assessment was carried out at the level of the five existing Internal Control Templates (ICTs) or implementation modalities that are used for the Annual Activity Reporting: 1. Direct Management - Grants, 2. Direct Management - Budget support, 3. Direct Management - Procurement, 4. Indirect management with Beneficiary Countries and 5. Indirect management with International Organisations and Member States' Agencies. For this analysis to be relevant, this level is generally quite appropriate, since the populations of transactions concerned are relatively high. Smaller numbers of transactions deliver less significant conclusions in terms of risk.

In the 2016 AAR exercise a renewed risk assessment will be undertaken. On the basis of the assessment done, it will be decided whether distinguishing between different risk profiles within indirect management with beneficiary is feasible or relevant. It has to be kept in mind that the management modality "IV Indirect management with Beneficiary Countries" includes various spending categories, out of which indirect grants only represent 29% of 2015 spending (EU Budget) under this management mode, the others being procurement and programme estimates.

44. Concerning paragraph 50

Please provide us with details on cancellations of recovery orders previously issued:

- a) When was the recovery order issued?
- b) Which amount was affected?
- c) Why was the recovery order cancelled?

Commission's answer:

Out of the total amount of EUR 191.8 million of recovery orders issued for the EDF during the period from 2009 to 2015 and which was included in the computation of the corrective capacity of DG DEVCO for year 2015, a total amount of EUR 36.3 million was cancelled.

- A total amount of EUR 29.6 million of recovery orders was cancelled for technical reasons. In these cases, new recovery orders were issued in order to proceed with the recovery of the funds.
- A total amount of EUR 0.17 million of recovery orders was offset against payment requests and the funds were recovered.
- A total amount of EUR 5.5 million of recovery orders was cancelled as the complementary justification received from the beneficiary/contractors required the recovery orders to be decreased or cancelled.
- A total amount of EUR 1 million of recovery orders was cancelled because the situation of the debtor required the recovery orders to be waived.
