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**Detailed replies to the specific requests made by the Council complementing the  
Commission report on the follow-up to the discharge for the 2016 financial year,  
COM(2018)545 final.**

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## **INTRODUCTION**

This document complements the Report from the Commission to the European Parliament and the Council on the follow-up to the discharge for the financial year 2016<sup>1</sup> which formed part of the EU Budget Integrated Financial Reporting Package 2017. It presents in detail the answers to 100 specific requests made by the Council in the comments accompanying its recommendation on the discharge for the financial year 2016.

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<sup>1</sup> COM(2018) 545

## **Council Recommendation on the 2016 discharge**

## Chapter 1 - The statement of assurance and supporting information

1. (Nr 3, § 2 - 2016/COU/0321) The Council considers that financial corrections and recoveries are important instruments and takes into account their multiannual character while assessing their impact on the protection of the EU budget. The Council calls on the Commission to continue, where appropriate, the implementation of all available corrective measures.

### Commission's response:

*The Commission continues to implement corrective measures where appropriate. Details on the implementation of financial correction for the year 2017 can be found in the 2017 AMPR annex 4 on the Protection of the EU budget which was made available in June 2018.*

*For any given year, the Commission's ('gross') amount at risk at payment, after expenditure has been accepted and/or payments have been made, is higher than 2 % of the relevant expenditure. This is in line with the European Court of Auditors' own findings. However, while errors are detected in any given year, they are also duly corrected in the subsequent year(s). A multi-annual analysis of those errors and corrections is thus necessary and more relevant.*

*The forward-looking overall amount at risk at closure, i.e. when all corrections (will) have been made, is estimated to be less than 2 % of the total relevant expenditure. This implies that the Commission departments' multi-annual control mechanisms in general ensure an adequate management of the risks relating to the legality and regularity of the transactions and that the financial corrections and recoveries made over the subsequent years do protect the EU budget overall.*

2. (Nr 6 - 2016/COU/0322) The Council encourages the Court and the Commission to continue working together in order to converge their approaches in the evaluation of the impact of financial correction on the estimated amount at risk at closure and to provide comparable data.

### Commission's response:

*The Commission continues to implement corrective measures where appropriate. The 2017 financial corrections and recoveries amounted to EUR 2.7 billion confirmed, or EUR 2.8 billion implemented. This amount contains all corrections and recoveries during 2017 regardless of the year during which the initial expenditure had been made. More details can be found in the 2017 AMPR annex 4 on the Protection of the EU budget.*

*For a given year, the Commission's ('gross') amount at risk at payment, after expenditure has been accepted and/or payments have been made, may be higher than 2 % of the relevant expenditure. This is in line with the European Court of Auditors' own findings. However, errors detected in any given year, are duly corrected in the subsequent year(s), which will further lower the amount at risk. A multi-annual analysis of those errors and corrections is thus necessary and more relevant.*

*The forward-looking overall amount at risk at closure, i.e. when all corrections (will) have been made, is estimated to be less than 2 % of the total relevant*

*expenditure. This implies that the Commission departments' multi-annual control mechanisms in general ensure an adequate management of the risks relating to the legality and regularity of the transactions and that the financial corrections and recoveries made over the subsequent years do protect the EU budget overall.*

*While the multi-annual design of the Commission's control systems is by now fully acknowledged by the European Court of Auditors, a joint ECA-Commission working group has been set up in 2017 with the objective to further enhance the common understanding of the types of corrections and recoveries, their impact on the protection of the EU budget, and their presentation in the Commission's related reporting. A common understanding on major points concerning financial corrections has been found during 2017.*

*The Commission is continuously working on increasing consistency in the calculation of estimated amount at risk at closure, taking into account the observations from the European Court of Auditors in its Annual Report. The 2017 AAR Instructions, Template and Guidance included further clarifications on these aspects. The various concepts and indicators have nevertheless been defined in a sufficiently flexible manner to enable taking account of the specific circumstances of the various DGs and yet, ensure a sufficient degree of consistency to enable the consolidation of data for the AMPR.*

3. (Nr 9 - 2016/COU/0323) The Council welcomes the communication [reference to Doc. 6978/17 (COM(2017) 124 final)] submitted by the Commission providing the budgetary authority with a comprehensive analysis on the areas where the estimated level of error is persistently high, its root causes and the corrective actions. The Council encourages the Commission to continue providing this kind of analysis.

**Commission's response:**

*On the requests of the European Parliament and the Council to draft a report on 'persistently high levels of error and their root causes', the Commission presented on 28 February 2017 a communication which provided a thorough analysis of the root causes of persistent errors in the context of the implementation of the EU budget and the actions taken, in line with Article 32(5) of the Financial Regulation. The Commission will provide an update when new data is available.*

## Chapter 2 - Budgetary and financial management

4. (Nr 1 - 2016/COU/0324) The Council underlines that it attaches great value to a stable and predictable budget. Therefore the Council calls on the Commission to continue improving its capacity to anticipate and predict expected needs thereby limiting, when possible, the recourse to amending budgets or the mobilisation of special instruments in full compliance with the legal framework.

**Commission's response:**

*The Commission indeed continues to improve its capacity to anticipate needs: examples of this during the current programming period are the document "Elements for a payment plan to bring the EU budget back onto a sustainable track" of March 2015, and continued improvements since that year of the Active Monitoring and Forecast of Budget Implementation information notes, and the mid-term payment forecasts, the latter being now integrated into the annual financial reporting cycle with the revision of the Financial Regulation.*

*The Commission highlights that one of the main obstacles to a stable and predictable budget in recent years has been the delayed implementation of programmes implemented in shared management. Among the measures taken at Commission level were the preparation of the "Omnibus" regulation, where several important simplifications for beneficiaries and national authorities are provided, such as reliance on one single audit, simpler rules for grants and financial instruments, extension of scope and use of simplified cost options, and streamlining of reporting. The Commission also carried out monitoring on under-performing programmes and on the implementation of individual action plans at Member State level.*

5. (Nr 2 - 2016/COU/0325) The Council takes note of the level of implementation of payment appropriations in 2016 which is mostly due to the lower than expected submission of claims for European Structural and Investment Funds by the authorities of the Member States, that has led to a higher gap than previous years between adopted and used payment appropriations. The Council acknowledges that the pressure on payments can be expected to increase in the future years as observed by the Court. Therefore, it calls on the Commission to anticipate an orderly disbursement of payments in order to avoid any shortage of appropriations.

**Commission's response:**

*The Commission refers to the continuity of its actions described in previous responses. It recalls that disbursements are made in accordance with the regulatory framework.*

*During 2017 the Commission was able to confirm (for example, in the March 2017 edition of the Active Monitoring and Forecast of Budget Implementation – 2016 Information Note) that the abnormal backlog built up at the end of the 2007-2013 MFF had been fully phased-out and that in 2016 appropriations had been more than sufficient to cover the needs. In the March 2018 edition of the same note, the Commission noted full payment implementation for the year 2017, following the necessary Amending Budgets (principally Amending Budget 6/2017) to adjust the gap between adopted and expected payment appropriations. The Commission will*



*continue to monitor the evolution of payment claims in relation to Member States' forecasts, and will propose any further adjustments or other measures which it considers necessary. The Commission will continue to inform the EP and the Council about the evolution of payments during interinstitutional meetings and/or trilogues three times a year.*

*The revised Financial Regulation introduces an obligation for the Commission to present, together with the integrated financial and accountability reporting, a long-term forecast of future inflows and outflows covering the next five years.*

*In conclusion, improved Member States' forecasts for the implementation of the ESI funds and the annual budget adopted at a sufficient level as proposed by the Commission, will allow us to avoid any abnormal backlog in the remaining years of the current MFF.*

6. (Nr 3 - 2016/COU/0326) The Council is concerned about the Court's observation that the outstanding commitments (RAL) are increasing and calls on the Commission to continue the monitoring of this matter and the presentation of a long-term and transparent forecast, including needs and potential decommitments, and to ensure an orderly balance between commitment and payment appropriations.

**Commission's response:**

*According to the projections of the Commission published in the medium term payment forecast in October 2017, outstanding commitments at the end of 2020 will amount to EUR 286 bn. It is estimated that more than 95% of this amounts will be paid out by the end of 2024 under the payment ceiling of the next MFF. Details were provided to the European Parliament and the Council in October 2017 in the forecast of payment appropriations according to point 9 of the Interinstitutional Agreement on budgetary discipline, cooperation in budgetary matters and sound financial management of 2 December 2013.*

*Article 247(1) of the new Financial Regulation sets out an obligation for the Commission to communicate annually to the European Parliament and the Council an integrated set of financial and accountability reports, including a long term forecast of future inflows and outflows covering the next 5 years.*

7. (Nr 4 - 2016/COU/0327) The Council takes note of the Court's observation on the increasing financial exposure of the EU budget due to long-term liabilities, guarantees and legal obligations. The Council calls on the Commission to closely monitor their development and the associated financial risk.

**Commission's response:**

*The Commission closely monitors the development of long-term liabilities and guarantees. The related risk management policies are disclosed in the 2017 annual accounts.*

8. (Nr 5 - 2016/COU/0328) In line with the Court's conclusions, the Council invites the Commission to establish a comprehensive reporting structure on the use of funds tackling the refugee and migration crisis.

**Commission's response:**

*The Commission is analysing possible consolidation of its existing reports in order to produce comprehensive information on refugee and migration expenditure. As interventions on the refugee and migration crisis can take different forms over time, it is difficult to define this topic exhaustively beforehand and the underlying content and implicit definition of the information presented might vary over time. Nevertheless, the Commission will analyse possible improvements to this existing system of reporting, while bearing in mind cost-benefit aspects and the challenges in defining relevant expenditure.*

9. (Nr 6 - 2016/COU/0329) The Council calls on the Commission to improve the transparency, simplicity and accountability of all the EU budgetary instruments.

**Commission's response:**

*The new Financial Regulation brings about:*

- A coherent legal framework for EU financial instruments and budgetary guarantees (new Title X). With respect to budgetary guarantees, the new Financial Regulation also provides for the setting up of a Common Provisioning Fund, allowing for a coherent management of the provisioning.*
- Rules for financial instruments are simplified, notably through introducing a “single rule” for combinations of financial instruments or budgetary guarantees with other forms of support (Article 215 (2)).*
- The new Financial Regulation also provides for improved and coherent reporting on financial instruments and budgetary guarantees, notably in the form of a single report, attached to the draft budget.*
- The Commission proposal for a Regulation of the European Parliament and of the Council establishing the InvestEU Programme COM(2018)439 provides for a single EU investment support mechanism for internal action for the 2021-2027 MFF. As a delivery tool, the InvestEU Fund aims to implement the EU budget through a budgetary guarantee more efficiently, achieving economies of scale, increasing the visibility of EU action and simplifying the reporting and accountability framework. The proposed structure has the objective of simplification, increased flexibility and removal of potential overlaps between seemingly similar EU support instruments. In addition to the EU guarantee at Union level, the proposal foresees the possibility for the Member States to use part of the funds under shared management through a dedicated compartment in the EU guarantee under the InvestEU Fund in pursuit of the same objectives where market failures or sub-optimal investment situations are present at national or regional level. The aim of the InvestEU Fund is to simplify the EU investment support by establishing a single framework that helps to reduce the complexity. Due to a reduced number of agreements under a single set of rules, the InvestEU Fund will simplify the access to EU support for the final recipients, the governance and the management of investment support instruments. Moreover, as the InvestEU Fund covers all investment support policy needs, it allows for the streamlining of and harmonisation of reporting requirements and performance indicators. A similar approach is adopted for external policies, within the*

*framework of the Commission Proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument.*

*• Finally, the Commission has proposed to simplify rules for financial instruments in shared management in its proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument COM(2018)375. This Regulation contains a single set of rules for financial instruments for the seven funds covered by it.*

## Chapter 5 - Competitiveness for growth and jobs

10. (*Introduction, § 3 - 2016/COU/0330*) The Council reiterates its appeal to the Commission to continue its efforts to address the causes of error with a particular focus on the programmes that are subject to persistently high error levels and to strengthen its efforts to fully implement the findings already made.

### Commission's response:

*Horizon 2020 has been conceived to address, to the extent possible, the sources of error through the introduction of a number of simplifications. In view of the complexity of the rules, the Commission has introduced many simplifications into Horizon 2020. These include:*

- one funding rate per action, identified in the call for proposals,*
- a flat rate for indirect costs,*
- simplified time recording and greater use of beneficiaries' practices,*
- more flexible rules for third parties and subcontracting,*
- simpler and clearer rules for calculation of productive hours (and so personnel costs)*

*Where policy objectives allow for even simpler rules and mechanisms, these have been introduced. European Research Council and Marie Skłodowska-Curie grants are straightforward; the MSCA funding, for example, is based on unit costs. This limits the scope for misinterpretation, and error rates are below 2 % for these schemes.*

*Simplification is a continuous endeavour and has been kept high under the priorities of the Common Support Centre (CSC). The most significant achievements in 2017 have been the implementation of measures contained in the 'Second Wave of Simplification'.*

*The CSC coordinated and contributed to the implementation of the second wave of simplification which is to be finalised with the adoption of the 2018-2020 Work Programme:*

- preparation of the pilot actions for testing lump sum funding for collaborative projects that will start with two topics in 2018;*
- contribution to the implementation of the European Innovation Council pilot to improve SME Instrument;*
- a number of practical improvements to grant management were agreed in 2017 with the HORIZON 2020 stakeholders and the HORIZON 2020 Model Grant Agreement updated accordingly.*

*In addition, standard ex-ante control functions in the IT system to support harmonised process were implemented end 2017. In particular, the risk management module of the IT tool SyGMA has been enhanced and the support for the assessment of reported costs was automated, including improved traceability and follow-up.*

*Another achievement to be highlighted for 2017 is the design and approval of the audit implementation process, including the guidance documents and necessary templates. To support and ensure a harmonised approach, the CSC Steering Board also agreed that the coordination of audit implementation will be centralised in the CSC. The IT Audit implementation workflow for ongoing projects was released.*

*Additionally, guidance documents are available in internet for the beneficiaries to consult in case of any doubt. Events are also organised at Member State level where beneficiaries and their auditors are invited to get acquainted of any novelty or to ask any question they may have related to the implementation of the Framework Programme.*

## Chapter 6 - Economic, social and territorial cohesion

11. (*Introduction, § 2 - 2016/COU/0331*) While acknowledging the positive impact of the corrective measures taken by Member States, the Council calls on the Commission and Member States' authorities to make additional efforts to achieve a significant reduction of the estimated error rate.

**Commission's response:**

*For cohesion policy, the revised framework for 2014-2020 period with the annual assurance and acceptance of accounts will ensure a lasting reduction of the amount of residual errors affecting the Union's budget, due to the obligation to take corrective actions during the year. The objective to bring down the level of residual error below the materiality threshold had been already met regarding the set of accounts received in February 2016 and was confirmed regarding the set of accounts received in February 2017 and February 2018.*

*As regards ERDF/CF, the estimated overall amount at risk at payment for the 2017 expenditure paid for all management modes is approximately 1.1% (1.9% to 3.7% for the 2016 expenditure). This decrease is explained by the new control architecture set up for the 2014-2020 period which further protects the EU budget through annual corrective actions to bring the annual residual risk for each programme below materiality and by the fact that the payments made for the 2007-2013 period were done following the closure process ensuring that any remaining material irregularities have been appropriately corrected. The risk at closure is also estimated at approximately 1.1%.*

12. (*Introduction, § 5 - 2016/COU/0332*) While acknowledging the complex spending structure and the multiannual character of the instruments in this policy area, as well as the multiple EU and national regulations to be taken into account by the beneficiaries, the Council calls on the Commission and Member States' authorities to make additional efforts to ensure the regularity and sound financial management of EU funds, to take full advantage of all possibilities of simplification and to avoid unnecessary layers of complexity or administrative burden that do not add value to the results set to be achieved.

**Commission's response:**

*The set-up of the assurance model for the 2014-2020 programming period strengthens the Member States' accountability and reduces the risk of having a material level of error in the certified programme accounts on a yearly basis. Moreover, timely identification of deficiencies and reporting of reliable error rates is in the Member States' best interest since the European Commission shall make net financial corrections in case Member States have not appropriately addressed serious deficiencies in their management and control systems errors before submitting annual accounts.*

*As part of the mid-term review of the Multiannual Financial Framework (MFF), the Commission proposed in September 2016 an ambitious package to further strengthen measures to simplify the use of the ESI Funds for the beneficiaries (Omnibus package), building on the recommendations made by the Commission's High-level Group on Simplification.*

*Political agreement was reached between the co-legislators on all parts of the Omnibus regulation in December 2017. The Omnibus regulation entered into force on 2 August 2018.*

*The main novelties expected to increase the efficiency of the funds are the following:*

*1. Simplified rules and improvement of legal clarity and consistency*

*The main aim of this mid-term reform is to cut the red-tape that puts extra burden to regions and citizens. Increasing – and making partly obligatory - the use of simplified cost-options as well as minimizing the number of necessary audits so as to strike the right balance between flexibility for the beneficiaries and ensuring effectiveness of controls, are some of the novelties included in the reform.*

*2. Streamlining the implementation of financial instruments (FIs)*

*Measures contained in the approved package will notably introduce: i) new possibilities to combine ESIF/EFSI while also encouraging higher leverage; ii) direct award of contracts to bodies implementing FIs under well-defined conditions, thus streamlining and increasing legal certainty for implementing authorities; iii) prolongation of the eligibility period for the SME Initiative.*

*While these measures constitute an ambitious package of changes which can have a real impact in reducing administrative burden, removing bottlenecks and putting the focus on achieving results, it is not yet possible to assess the impact of their actual simplification effects.*

*These will depend on how much of the options are actually taken up by Member States in their day-to-day management of programmes. This is why, further to the entry into force of the new provisions, the Commission will also accompany Member States so as to make sure that necessary consequential updates of affected implementing and delegated regulations as well as guidance notes can be made available to Member States as soon as possible, thus encourage a large uptake of the new provisions and maximise their simplification potential.*

13. (Nr 1, § 2, first sentence - 2016/COU/0333) The Council urges the Commission to follow up on the cases of errors identified by the Court, to set up an integrated monitoring system covering both preventive and corrective measures taking into account the principle of proportionality, and to strengthen cooperation within the Commission, as well as with Member States.

**Commission's response:**

***REGIO is working on the development of an integrated IT tool to monitor the preventive but also the corrective measures.***

14. (Nr 1, § 2, second sentence - 2016/COU/0334) The Council invites the Commission to continue providing appropriate and consistent training and guidance, along with sharing good practices to assist beneficiaries and national authorities in the implementation of the programmes.

**Commission's response:**

*As confirmed by the 7th Cohesion Report, the Commission agrees that the performance of Member States and regions in the implementation of Cohesion Policy is to a large extent influenced by the administrative capacity of their public administrations. Therefore, DG REGIO has continued and will continue its work on providing specific support tools to programme authorities and beneficiaries in the Member States to ensure that they are capable of managing Funds at their disposal.*

*During 2017, the Commission continued to deploy efforts in supporting Member States' authorities to accelerate the implementation of the 2014-2020 programming period on the ground. Support was provided through technical meetings, targeted advice, dialogue with national authorities, and closer follow up on the implementation, which was instrumental in addressing the remaining bottlenecks.*

*Among those actions is the continued implementation of the TAIEX REGIO PEER2PEER, an exchange tool for regional policy practitioners/experts in Member States, which experiences great success. In this framework, 130 exchanges were implemented by December 2017, involving 1,920 participants from 26 MS (mainly from LT, CZ, RO, BG and HR). These exchanges should help Member States increase the quality and the legality of spending and accelerate the absorption of Funds.*

*Several actions have also been carried out in the framework of specific actions plans developed jointly with other Commissions services in order to prevent irregularities and reduce the error rates related to public procurement (action plan developed jointly with DG GROW, other ESIF DGs and EIB) and to State aid (action plan developed jointly with DG COMP). Training sessions on these issues attracted 182 participants from Member States in 2017.*

*Measures to prevent fraud and corruption included the implementation of a study on appropriate anti-fraud and anti-corruption practices in the management of the Funds applied in the Member States, as well as work in relation to the Integrity Pacts in cooperation with Transparency International to help governments, businesses and civil society to make public procurement procedures more transparent and efficient. As a result of this, 15 pacts were signed by end of 2017 and are being implemented in pilot Member States.*

*A Competency Framework for the management of the funds was also finalized in 2017, after a test phase in a few pilot projects in Member States. A brand new tool is now available for all public institutions involved in managing the ERDF and CF - national coordinating bodies, managing, audit and certifying authorities, joint secretariats and intermediate bodies – in order to identify and address competency gaps and adapt their training strategies.*

15. (Nr 1, § 3 - 2016/COU/0335) The Council calls on the Commission to continue actively promoting the use of simplified cost options, in particular for those areas which the Court confirmed to be more prone to error.



**Commission's response:**

*The Commission considers that simplified cost options (SCOs) are less prone to errors and therefore has actively worked with programme authorities since the introduction of the SCOs to progressively extend their use. This has already led to positive results.*

*The Commission continues to actively promote the use of SCOs in the 2014-2020 programming period, where they have been significantly strengthened both in the Common Provisions Regulation and in the ESF specific regulation, in order to reduce the administrative burden on the beneficiaries, promote result-orientation and further reduce the risk of error.*

*Besides providing extensive guidance and direct support to Member States on the implementation of SCOs, DG EMPL has conducted numerous simplification seminars, with a particular focus on certain priority Member States which have experienced recurring high error rates in the 2007-2013 programming period and have not yet made sufficient use of SCOs.*

*In the context of the mid-term review of the Multi-Financial Framework, the Commission had made proposals in 2016 to offer further simplification measures and flexibility in the legislative framework for ESI-Funds. According to these proposals, the scope of the simplified cost options has been considerably expanded and their use made obligatory for ESIF operations below 100.000 euros. These proposals have been implemented with the Omnibus regulation, which entered into force 2 August 2018.*

16. (Nr 1, § 4 - 2016/COU/0336) The Council supports the Court's recommendation for the Commission to pay particular attention, when closing 2007-2013 programmes, to areas in which there is a high risk of ineligible expenditure. It invites the Commission and Member States to intensify their efforts and take into account all available information and supporting documentation, and to strictly follow up management verifications to prevent irregularities.

**Commission's response:**

*All closure packages received in 2017 by the Commission have been assessed and have led to assessment letters to Member States. This included requests for additional explanations or information in relation to final implementation reports or for legality/Regularity issues, including the request for additional audit work in case of scope limitations reported.*

*The Commission has reviewed all related final control reports and validated the error rates communicated by the audit authorities or requested additional information or audit work to be performed, based on a standard checklist applied to all programmes and paying particular attention to some risks, in particular those identified by the European Court of Auditors in its 2016 Annual Report, namely confirmation of audits on the eligible amounts reported for financial instruments, verification that State aid or contractual advances were covered by real expenditure at closure, appropriate coverage of programmes by audit activities over the programming period, appropriate controls of the reliability of financial*

*corrections used for the purpose of the calculation of the residual risk rate at closure).*

*At closure, audit authorities had to disclose a residual risk rate (RRR) calculated on the basis of the expenditure certified during the whole programming period, the identified risk rates and the validated financial corrections. The RRR is the best estimate of a programme's corrective capacity, i.e. of the residual risk taking account of the corrective capacity of the programme over the programming period. It assesses whether the financial risk for programmes has been kept at a tolerable level at closure.*

*The residual risk rates (RRR) communicated in closure declarations are below the materiality threshold of 2% for all programmes. This is the result from the important level of additional corrections carried by Member States at closure, based on reported error rates.*

*Following its thorough examination, the Commission could validate the reported error rates and residual error rates in most cases. However, for some programmes, the residual risk rate has not yet been validated as it requires assessing further information from Member States, including for the validation of the reported error rate for the last audit or due to additional audit work requested by audit authorities when additional expenditure was declared at closure, too late for the audit authority to be able to cover it in the closure declaration.*

*After its validation, and taking account of the reportable residual risk for the above 32 programmes, the Commission concludes at this stage of closure that the residual risk rate applied to the expenditure certified for the whole programming period is well below the materiality level of 2%, as mentioned in the 2017 Annual Activity Reports of DG REGIO and DG EMPL respectively. This indicates that appropriate financial corrections have been applied up to and at closure, as expected, by programme authorities. This also demonstrates that closure has indeed acted as an additional filter to correct any remaining material level of errors, following the multi-annual corrective capacity of programmes, as the Commission has argued over the multiannual implementation of programmes. The Commission services will carefully complete the assessment of this indicator for the programmes which are not yet closed and after all additional audit work requested from some audit authorities is assessed and will apply additional financial corrections where necessary.*

17. (Nr 1, § 8 - 2016/COU/0337) With regard to errors, weaknesses and inaccuracies in the information on the implementation of financial instruments reported by Member States, the Council calls on the Commission, in cooperation with Member States, to further improve the completeness and accuracy of data pertaining to implementation in particular to address the risk of an artificial increase of the declared amount of eligible expenditure at closure in the case of guarantees.

**Commission's response:**

*The Commission has already taken into account the particular aspects pointed out by the Council concerning financial instruments when reviewing the 2007-2013 closure packages that have been submitted by the Member States. It has also developed together with the audit authorities reflection on possible ways forward*

*for the audit of advances paid to financial instruments under the 2014-2020 period.*

*As mentioned in the 2017 Annual Activity Reports of DG REGIO and DG EMPL respectively, the Commission has reviewed all final control reports submitted in 2017 and validated the error rates communicated by the audit authorities or requested additional information or audit work to be performed, based on a standard checklist applied to all programmes and paying particular attention to some risks, in particular those identified by the European Court of Auditors in its 2016 Annual Report.*

*The Commission concludes at this stage of closure that the residual risk rate applied to the expenditure certified for the whole programming period is well below the materiality level of 2%. This indicates that appropriate financial corrections have been applied up to and at closure, as expected, by programme authorities. This also demonstrates that closure has indeed acted as an additional filter to correct any remaining material level of errors, following the multi-annual corrective capacity of programmes, as the Commission has argued over the multiannual implementation of programmes. The Commission services will carefully complete the assessment of this indicator for the programmes which are not yet closed and after all additional audit work requested from some audit authorities is assessed and will apply additional financial corrections where necessary.*

*The Commission refers to its reply provided under recommendation 2016/COU/0336.*

## Chapter 7 - Natural Resources

18. (Nr 2, § 2 - 2016/COU/0338) The Council notes with regret the Court's findings that the estimated level of error would have been 1.5 percentage points lower if national authorities had made better use of all available information to prevent or detect and correct errors before declaring the expenditure to the Commission. It calls on the Commission to continue its support to Member States to take all necessary actions to prevent, detect and correct errors, while keeping an appropriate balance between the administrative costs and the benefit resulting from the controls.

### Commission's response:

*The Commission continuously supports Member States to take all necessary actions to prevent, detect and correct errors.*

*In February 2017 the Commission published a Communication to the Council and the European Parliament on the root causes of errors and actions taken (COM (2017) 124 final), following Article 35(2) of the Financial Regulation, including several spending policies. For CAP expenditure, the document acknowledges the relatively low level and stability of EAGF error rate and the decreasing although still high level of the EAFRD error rate. During 2016 and 2017 several legal simplification initiatives were proposed by DG AGRI, with the major simplification initiative proposed through the Omnibus Regulation. Thanks to these amendments, the management and control system was simplified and new possibilities were introduced, such as the "yellow card" system for penalties or simplification of controls for financial instruments.*

*In 2017 DG AGRI participated in 3 Conferences with the Heads of the Paying Agencies.*

*Furthermore, since 2013 eight seminars on error rate in rural development have been organised, of which the latest took place in July 2018. The seminars aim at presenting the lessons learnt from the audit work, sharing good practices in Member States' experience with the implementation of the programmes and provide guidance. In the meantime, the "geographical desks" [(the DG AGRI units responsible for the Member States' Rural Development programmes)] ensure regular monitoring of the action plans and carry out follow-up activities in annual and ad-hoc meetings with Member States, monitoring committees and, if relevant, in the context of programme amendments. The European Network for Rural Development also has an enhanced role in disseminating good practices and guidance related to the reduction of errors, and improving overall RDP implementation.*

*DG AGRI has reinforced its actions to inform the responsible bodies in the Member States about applicable rules under direct payments and their implementation and has also developed guidance documents addressing problematic issues, in particular in the following areas:*

- principles of the LPIS and the layer identifying the Ecological Focus Areas,*
- on-the-spot checks and area measurement,*
- aid applications by farmers,*

- the "active farmer" provision and
- the definition and implementation of permanent grassland.

*As from 2015, DG AGRI has further improved the system of action plans reporting by Member States concerned, including a reinforced focus on audit findings as well as improved indicators and milestones for monitoring purposes. The action plans are expected to address the identified deficiencies by describing, for each of them, the corrective actions to be taken and the established benchmarks and timetable for implementing their actions. The action plans are normally triggered by serious deficiencies identified in the framework of conformity procedures.*

*The regulatory quality assessment (QA) which Member States must carry out of their LPIS is actively followed-up by DG AGRI to ensure that Member States take the remedial actions required to meet the quality standards that are considered appropriate, in view of the fundamental role played by the LPIS in ensuring correct claims and payments. Moreover, an assessment of the correct application of the LPIS QA method will continue to be included in the conformity audits.*

*Overall, the existing assurance model with the work of paying agencies as the basic layer of controls, yields solid results and allows for high level of assurance on CAP expenditure. The error rate for CAP is low and very close to the materiality threshold – as confirmed by the Court of Auditors. Therefore the Commission considers the system is functioning properly and the recommendation is implemented.*

19. (Nr 3, § 2 - 2016/COU/0339) The Council, while recalling that the principle of sound financial management shall be respected when implementing the Union's budget, invites the Commission to continue its guidance to Member States, focussing on better targeting and selection of projects and a more thorough assessment of the reasonableness of costs.

**Commission's response:**

*The Commission considers this recommendation implemented, as an on-going task. DG AGRI offers guidance to Member States, notably through a checklist in the Guidance Document on controls and penalties. DG AGRI also encourages the use of Simplified Cost Options to simplify the assessment of the reasonableness of costs. The appropriate checks on reasonableness of costs, including the use of simplified cost options, are promoted through Commission guidance, trainings and sharing of good practices via the European Network of Rural Development. The related risk is covered by the Commission through conformity audit procedures, when weaknesses are identified.*

## Chapter 8 - Security and citizenship

20. (Nr 3 - 2016/COU/0340) The Council calls upon the Commission and Member States to tackle the weaknesses identified by the Court when applying their control systems in the area of migration and security.

**Commission's response:**

*The Commission partially implemented the recommendation. The weakness mentioned by the Court referred to the Commission's assessment of Member States' systems for AMIF and ISF which – according to the Court - were often based on insufficiently detailed information, particularly in the area of audit strategy. Despite the fact that the legal basis does not require the Audit Authority to submit their system audit reports, the Commission requested systematically to Audit Authorities to submit such reports when needed. Based on the assurance model under shared management, it is considered neither realistic nor efficient to review and analyse the entire content of all individual system audit reports. The Audit Authority audit reports are only one of the tools which allow the Audit Authority and subsequently the Commission to obtain assurance on the veracity of the three opinions expressed by the Audit Authority in the accounts (together with summary of audit strategy, results of system audit work, result of financial audit work, etc). The Commission approved a revision of the Delegated Regulation 1042/2014, clarifying the scope of system audits, the obligation to perform audits of expenditure and providing a standard reporting model. The revision is expected to be in force by mid-September 2018 and to be applied already for the next accounts (February 2019).*

## Chapter 9 - Global Europe

21. (*Nr 2 - 2016/COU/0341*) The Council notes that the Court detected some control weaknesses in the Commission's systems at the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and at the Directorate-General for International Development and Cooperation (DG DEVCO) which led to the acceptance of ineligible costs. The Council welcomes the Court's recommendations and calls on the Commission to implement them effectively.

**Commission's response:**

*The requested action has been taken. All recommendations made by the Court of Auditors are suitably addressed by the Commission and their effective and timely implementation is duly monitored through a tracking system in place.*

## Eighth, ninth, tenth and eleventh European Development Funds

22. (*Annex I, Nr 5, second paragraph - 2016/COU/0342*) The Working Party remains concerned with the Court's findings that should the Commission have used all the information at its disposal, it could have lowered the error rate by 0.7 percentage points, while acknowledging the Commission's efforts given that in 2015 the relevant figure was 1.7 percentage points. Therefore, the Working Party calls on the Commission to continue its efforts to pay more attention to ex-ante checks and apply appropriate measures to address existing weaknesses.

**Commission's response:**

*The requested action has been taken. The Commission strives to apply the most strict and rigorous mechanisms to the control of its financial transactions. However, it is important to remember that - given the particular context in which external actions take place - a certain level of error, linked to specific factors, is difficult to avoid. In any event, the Commission considers that the implementation of the measures contained in the current action plan aiming to address the weaknesses in DG DEVCO's control system will contribute to further reduce this level of error on the long-term.*

23. (*Annex I, Nr 6 - 2016/COU/0343*) The Working Party notes that new Action Plan was adopted by DG DEVCO in July 2017, encourages its full implementation and awaits its assessment by the Court in the next year's annual report. In addition, the Working Party looks forward to an update from the Commission on the implementation of this action plan at the end of the first half of 2018, including an update on the implementation of the recommendations in the Court's report from 2016.

**Commission's response:**

*The Commission is taking the requested action. DG DEVCO closely monitors the Action Plan adopted in July 2017 as a result of the reservation concerning the error rate in the 2016 AAR, and will produce a report on the progress in the implementation of the actions one year after its launch. This report will be shared with all relevant audit and control stakeholders.*

24. (*Annex I, Nr 10, first indent - 2016/COU/0344*) In agreement with the Court, the Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:

– strengthening the monitoring of old open expired EDF contracts.

**Commission's response:**

*The requested action has been taken. The recommendation was addressed through increased monitoring of open expired contracts via the KPI dashboard and regular follow-up campaigns (for the 8th & 9th EDFs).*

25. (*Annex I, Nr 7 and Nr 10, second indent - 2016/COU/0345*) In agreement with the Court, the Working Party acknowledges that improvements should be made in



certain important areas, and supports the recommendations of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:

- completing the revision of ToR for all DG DEVCO's audits and expenditure verifications by the end of 2017.

**Commission's response:**

*The requested action has been taken. The new Terms of Reference for expenditure verifications have been approved by DEVCO Management on 28/03/2018 and will be used for verifications launched by both the Commission and reporting entities. In addition to their simplification, the new ToR will increase their focus on the expenditure eligibility aspect and will provide more factual elements compared to the existing ToRs, supporting the decisions of the Authorising Officers by Subdelegation (AOSD) on financial follow-up. They will be integrated into the next version of the PRAG as annexes.*

26. (Annex I, Nr 10, third indent - 2016/COU/0346) In agreement with the Court, the Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:

- extending the actions in the 2017 action plan to also cover grants and programme estimates under indirect management.

**Commission's response:**

*The requested action has been taken. Targeted actions have been defined and included in the action plan adopted by DG DEVCO Management in July 2017 to address the new high-risk spending areas as identified through the reservations made in DG DEVCO's 2016 AAR, following a risk analysis based on the RER study and the Court of Auditors' error rate (i.e. grants and programmes estimates under indirect management with beneficiary countries).*

27. (Annex I, Nr 10, fourth indent - 2016/COU/0347) In agreement with the Court, the Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:

- considering reduction of the extent of the RER substantive testing of individual low-risk budget support transactions and reallocation of the saved resources to increase the substantive testing of project-related transactions.

**Commission's response:**

*The requested action has been taken. The issue was discussed with Ernst&Young, current contractor for DG DEVCO's RER study. The possibilities of substantive testing are very limited in Budget Support operations and the resources used for these checks are already at a minimum level. Further reducing the checks would basically mean that no checks would be performed at all, which would not be compatible with the spirit of the study and undermine its credibility. The other*

*possibility would be to systematically exclude Budget Support operations from the population of the study. This approach would, however, distort the result as the overall RER study is supposed to estimate a representative residual error rate across all DEVCO activities.*

28. (Annex I, Nr 10, fifth indent - 2016/COU/0348) In agreement with the Court, the Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:
- further improving the calculation of the 2017 corrective capacity.

**Commission's response:**

*The requested action has been taken. The Commission has taken necessary measures for preventing errors in the encoding of recovery orders. New instructions and guidelines have been developed and transmitted to the authorising officers. Controls have been reinforced through the development of a data quality dashboard which identifies potential errors and allows for necessary corrections in due time.*

**SR 21/2016 EU pre-accession assistance for strengthening administrative capacity in the Western Balkans: a meta-audit**

29. (*Annex, Nr 5 - 2016/COU/0349*) The Council invites the Commission to inform the IPA Management Committee regularly on the issues raised by the Court of Auditors' Special Report and to ensure that they are addressed systematically, including through meetings under the Stabilisation and Association Agreement, as appropriate.

**Commission's response:**

*The Commission transmitted for information the ECA Report on "Strengthening administrative capacity in the former Yugoslav Republic of Macedonia: limited progress in a difficult context" to the IPA Committee on 26 January 2018 via Communication and Information Resource Centre for Administrations, Businesses and Citizens (CIRCABC). The Commission points out that the role of the IPA Committee is to provide an opinion on legal acts to be adopted on proposals from the Commission, and not to monitor progress on ECA findings. Discussion on such issues should be part of the exchanges between Commission and Council in context of the discharge. The Commission monitors the implementation of the Court's recommendations via other fora such as monitoring committees with national authorities or Stabilisation and Association (SA) meetings.*

*The Commission monitors the implementation of the Court's recommendations through Stabilisation and Association meetings, monitoring committees with national authorities and through the whole IPA cycle in general.*

*The Commission has been encouraging the national authorities to make full use of IPA best practices in other parts of the public administration, e.g. first and second IPA II monitoring committee, at the SA Sub-Committees on Economic and Financial Issues and Statistics in February 2017 and on Agriculture and Fisheries in April 2017, 13-th meeting of the SA Council. At the Justice and Home Affairs sub-committees the Commission is constantly insisting on the country to continue to develop the track record on organized crime and corruption. For example, at the sub-committee for Justice and Home Affairs held on 14 and 15 November 2017, the issue of a credible track record on high level corruption cases that demonstrates progress and effectiveness in tackling and prosecuting corruption was stressed and included in the sub-committee conclusions.*

*Ensuring political commitment from the national authorities and sustainability of the IPA projects are featuring in the conclusions of the first and second IPA monitoring committees.*

*The Commission uses a mix of political and financial tools, to incentivize national authorities to deliver on key reforms. Relevant recommendations related to the efficiency of the public procurement system, transparency of public spending and internal control are issued in the Commission's progress report and their implementation is regularly followed up within the framework of stabilisation and association (SA) process and economic reform programme.*

*The current government has demonstrated greater political commitment on reforms in key areas which could be seen with the adoption of the justice strategy and the Public Finance Management (PFM) Reform Programme, and is in the*

*final stage of adoption of strategic document on Public Administration Reform (PAR).*

*Further on, the Commission has strongly advocated for the Government to launch a PFM policy dialogue, which finally took place in September 2017 and involved all relevant national stakeholders and international stakeholders. The PFM reform programme was adopted by the Government in December 2017, paving the way for the implementation of the reforms. The programme has clear objectives, indicators and targets for each PFM subsystem.*

*The draft law on whistle-blowers has been prepared and it is at the final stage of adoption.*

*As regards the EU financial support, in line with ECA recommendations, the Commission continues to use a combination of positive and negative incentives to secure strong political commitment to the key reforms. Around EUR 48 million of the indicative country envelope for the country were cut in 2015 and 2016 due to lack of commitment from the national authorities to deliver on required reforms.*

30. (Annex, Nr 6 - 2016/COU/0350) In order to raise effectiveness under IPA I and II, the Council underlines that the Commission should continue supporting sustainable regional cooperation, which along with strengthened administrative capacity is of high importance in the region as a whole.

**Commission's response:**

*The Commission has launched in September 2016 a request for services in order to perform an overall independent assessment of the regional organisations (including RCC and ReSPA - Regional Cooperation Council and Regional School of Administration) and fora in the Western Balkans and the instrumental role they play in the regional integration and accession perspective including recommendations on possible streamlining. This evaluation will feed into the ongoing discussion on regional cooperation and how the countries best focus their limited administrative and financial resources on those regional initiatives which help them addressing specific problems they are unable to solve on their own. The report, including recommendations, was finalised in December 2017. It confirms that the limited number of regional organisations that the EU funds provide important added value. There are many recommendations as to how the organisations could avoid overlap in their activities, and how to improve their sustainability. However, there are a much larger number of organisations which do not depend on EU funding, and for which the responsibility lies mainly with the countries of the region. For this reason, the Commission will draw up guidelines to improve the value for money, which could potentially include recommendations to close down some of those organisations.*

*The Regional Cooperation Council (RCC) was primarily set up by the countries in the region as a forum to meet and discuss common challenges and this objective has been met. Indeed, the RCC organised several sector-related discussions at regional level, including a dedicated donor coordination meeting. These actions have contributed to providing a regional perspective in donor assistance. The RCC has also built a donor database (SEEDAD) which was presented to the donor community at the donor coordination meeting held in March 2016.*

*The RCC set up a Working Group on Justice with the Western Balkans Ministries of Justice, which adopted a Regional Action Plan on Justice. They established two regional networks (Judicial Training Institutions and Associations of Mediators) to work on the implementation of the action plan. The RCC has also engaged the European Institute for Public Administration, European Judicial Training Network and the Council of Europe on the development of seminars and materials for judges and prosecutors.*

*The Commission monitor RCC's implementation of the actions via the numerous reporting procedures, as well as through a more rigorous use of indicators/targets to ensure measurable and sustainable results. The Commission continue to support regional cooperation through actions under the IPA II Multi-country programmes; in particular a new contract has been recently concluded with the RCC for the period 2017-2019 (ref. CRIS IPA/2016/380-471). Results Oriented Monitoring (ROM) has been planned for early 2018 in relation to this contract which will allow obtaining input related to the relevance, efficiency, effectiveness and sustainability of this particular action.*

*With the approval of a new grant to the Regional School of Public Administration in June 2016 and the appointment of the new ReSPA Director, the Commission is supporting the ReSPA Secretariat in increasing its visibility and also in aligning ReSPA activities with the Commission's work on PAR and the needs of the IPA beneficiaries.*

*ReSPA's Programme of Work for 2017-18 was for the first time developed in consultation with all the national authorities, the Commission services and other stakeholders and which includes measurable indicators in order to measure the impact.*

*During 2017, the Commission has closely monitored the implementation of the ReSPA's Programme of Work for 2017-18 and has ensured that the ReSPA work is fully in line with the Principles of Public Administration, which are the result of the Commission's new approach on Public Administration Reform (PAR) since the 2014-15 enlargement strategy. Evidence of the monitoring to ReSPA is the report on the ROM mission to ReSPA carried out in Q1 2017, which provided a snapshot on the implementation of ReSPA current contract (June 2016-December 2018) and the actions included in the report, so as to ensure that ReSPA activities are fully in line with the Commission's approach on PAR. In addition, all ReSPA activities for 2017 have been planned according to the core areas of PAR promoted by the Commission. (see ReSPA 2017 Annual Report <http://www.respaweb.eu/11/library#reports-18>).*

*The coordination between the OECD/SIGMA programme and the ReSPA work has also improved during 2017. For instance, in June 2017 a Regional Conference on Functioning of the Centre of Government Institutions was organised at ReSPA premises by OECD/SIGMA, ReSPA and the Regional Cooperation Council to discuss key challenges and common ways of enhancement of the functioning of the Centre of Government Institutions. (See references to the conference in the ReSPA Annual Report). Another example of good coordination between SIGMA and ReSPA has been the development of a methodology for the costing of PAR strategies by ReSPA and a PAR toolkit made by SIGMA (both documents*

*addressing the costing of strategies) and their presentation in a regional event in Ohrid in November 2017.*

**SR 23/2016 Maritime transport in the EU: in troubled waters — much ineffective and unsustainable investment**

31. (*Annex, Nr 7 - 2016/COU/0351*) The Council calls upon the Commission to work together with Member States, to reduce administrative burdens which could delay project implementation.

**Commission's response:**

*The Commission carried out and published a 'Study on permitting and facilitating the preparation of TEN-T core network projects' in 2016. Building on the results, the Commission has conducted an impact assessment to evaluate the various options proposed by the study. This process is now completed and an option is proposed with a limited legislative action whose application will be decentralised and applied at national level. This proposal was part of the 3rd Mobility Package presented in May 2018. The underlying legislations will be subject to the scrutiny of the legislative authority in view of an adoption by end 2019.*

32. (*Annex, Nr 11 - 2016/COU/0352*) The Council acknowledging the fact that full integration of the ports in the TEN-T network is a must, calls for building upon the success achieved by the current CEF financial framework to complete the "Trans-European Transport Network".

**Commission's response:**

*The recommendation is being implemented in the context of EU TEN-T policy. The EC is bound by Regulation 1315/2013 to complete the TEN-T core network by 2030. The work is ongoing thanks to coordinated planning of the TEN-T policy by European Coordinators with the support of CEF budget and its successor in the future.*

33. (*Annex, Nr 14 - 2016/COU/0353*) The Council calls for good and robust long term planning at port and Member State level for better use of EU funding.

**Commission's response:**

*Long term planning of ports investments is assured through TEN T policy and related programming of CEF funding. The core port investments as well as maritime waterways projects are identified by the respective work plans for 9 Core Network Corridors as well as the Detailed Implementation Plan for the Motorways of the Sea programme. These documents, covering period of 2017-2018 are currently being approved by respective Transport Ministers. They highlight future investment needs necessary for the timely completion of the TEN T network and a building of a robust maritime network of Motorways of the Sea. Furthermore the Commission initiated a consultation of stakeholders in 2017 in the context of the 'maritime transport year' as to whether to update the Communication 'ports: an engine for growth'.*

34. (*Annex, Nr 16 - 2016/COU/0354*) The Council highlights that EU added value is a key condition for EU co-financing of projects and that due to the nature and specificities of certain high added-value infrastructure projects funding gaps are encountered. In these cases, calls for caution when emphasizing the need for a large private investment component while agreeing that EU funded port projects must be

based on a proper needs assessment and that mobilizing private capital and using financial instruments continues to be promoted.

**Commission's response:**

*This recommendation partially falls under the remit of the Member States. Under ESIF, the selection of individual projects is the responsibility of the Member States and the Commission direct responsibility is limited to major projects.*

*The Commission partially accepts the recommendation with regards to the EU-added value and, where applicable, the private investment component-related conditionalities as explained below.*

*The award criteria for projects applying in the CEF calls for proposals already include the demonstration of 'EU added value' and, where applicable, the need to have the potential of stimulating public and private investment, as referred to part V of Annex I of the CEF Regulation. CEF calls require as of 2015 systematic submission of Cost-Benefit Analyses demonstrating the amount of required EU support and highlighting the project impacts.*

*Regarding structural funds, it is to be noted that the Cost Benefit Analysis ensures that only the financing gap is covered, even in those projects where there is no private finance. The Commission recalls that, regarding the specific cases of maritime accesses to ports (such as dredging), as well ports located in peripheral regions (islands), securing private investment components is not always achievable.*

35. (Annex, Nr 17 - 2016/COU/0355) The Council calls upon further enhancement of coordination and communication, including the sharing of information between the EIB and the Commission, to strive towards the better use of the European direct grants and the European Fund for Strategic Investments (EFSI), and to further develop these new financial instruments to the needs of ports.

**Commission's response:**

*Following extensive discussions with the relevant Commission services to render more efficient the process of Article 19, the Commission is engaging in discussions with the EIB on a revised Memorandum of Understanding in view of achieving compliance with ECA recommendation.*



**SR 25/2016 The Land Parcel Identification System: a useful tool to determine the eligibility of agricultural land - but its management could be further improved**

36. (*Annex, Nr 3 - 2016/COU/0356*) The Council supports the goal of simplifying the Common Agricultural Policy (CAP), including the LPIS, and considers that the Commission should focus on the applicability of simplification tools (e.g. the stability threshold) when reviewing the LPIS-related rules, requirements and options for the new CAP post-2020.

**Commission's response:**

*The Commission proposal on the CAP reform has been adopted on 1st June 2018. The new delivery model is based on true subsidiarity which will be achieved through less prescription, fewer detailed provisions at European Union level, less complexity and fewer exceptions and more clarity that, detailed rules and measures should be set at Member States/regional level, closer to the reality of farmers.*

*As Commissioner Hogan stated at the AGRIFISH Council on 16/7/2018, the future CAP will take benefit from new technologies, Copernicus/Earth Observation data and the fully implemented geo-spatial aid application. Firstly, the monitoring approach Earth Observation data collected and processed in an automated way can provide valuable information on agricultural activities. Secondly, it can also provide information that is essential for demonstration of environmental and climate performance. Hence, it serves the dual purpose of ensuring, at comparatively low cost, data relevant for policy monitoring and controls.*

*The monitoring approach and geo-spatial aid application combined with data contained in the existing systems of an appropriate quality such as Land Parcel Identification System (LPIS), will make many of the on-the-spot checks redundant, reducing the administrative burden sustained by both national administrations and farmers. The farmers will fulfil their CAP obligation in an easier way and avoid penalties thanks to warning alerts.*

*Finally, the Member States, by providing them with enhanced subsidiarity, will have greater discretion with regard to IACS controls and penalties. In the Future CAP the Member States will be able to design their own control and penalty system, including making decisions about control methods, levels, tolerances, how to deal with measurement differences and how to define types and design of penalties.*

37. (*Annex, Nr 4 - 2016/COU/0357*) The Council considers that any change in LPIS-related rules should be the result of political and legislative decision-making and should be substantiated in the basic acts.

**Commission's response:**

*The Commission agrees the LPIS-related rules should be the result of political and legislative decision-making but if they are substantiated in the basic acts, it would not allow flexibility and taking advantage of the rapid development in uptake and use of new technologies such as Copernicus data.*

38. (*Annex, Nr 5 - 2016/COU/0358*) The Council underlines in this regard that the administrative costs and burdens involved in maintaining and possibly updating the LPIS should be limited to the extent necessary and should avoid, for instance, that the Member States' paying agencies unnecessarily and too frequently update the reference parcels in the LPIS for minor variations in measured areas.

**Commission's response:**

*Currently there is no legal obligation concerning the frequency of the LPIS update.*

*The Commission proposal on the CAP reform has been adopted on 1st June 2018. The new delivery model is based on true subsidiarity which will be achieved through less prescription, fewer detailed provisions at European Union level, less complexity and fewer exceptions and more clarity that, detailed rules and measures should be set at Member States/regional level, closer to the reality of farmers.*

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39. (*Annex, Nr 6 - 2016/COU/0359*) The Council considers that LPIS generally, including the Court's recommendations in its special report on LPIS, should be addressed further in the context of the discussions on the CAP post-2020, with due account to be given to the objective of reducing administrative costs and burdens.

**Commission's response:**

*End of December 2017 the Commission awarded a contract for a study on "Analysis of administrative burden arising from the CAP". One of the main tasks of the study is to develop a framework that the Member States can use to assess the cost of running and updating of their LPISs. The deliverables of the project are foreseen by the end of 2018. Follow-up activities between the Commission and the*

*Member States, based on the results of the study, are expected until the end of 2020.*

*Three ECA's recommendations have been implemented and one has been partially implemented: the monitoring of Quality Assessment (QA) results by analysing any inconsistencies in QA reporting, following them up, providing feedback to the Member States, and ensuring that remedial action plans are prepared and executed when needed. The detailed annual trend analysis is finalised.*

*The revised by JRC sampling methodology considers the ECA's cost-benefit concerns and has been fully implemented for the 2017 LPIS QA campaign.*

*The Commission proposal on the CAP reform has been adopted on 1st June 2018. The new delivery model is based on true subsidiarity which will be achieved through less prescription, fewer detailed provisions at European Union level, less complexity and fewer exceptions and more clarity that, detailed rules and measures should be set at Member States/regional level, closer to the reality of farmers.*

*As Commissioner Hogan stated at the AGRIFISH Council on 16/7/2018, the future CAP will take benefit from new technologies, Copernicus/Earth Observation data and the fully implemented geo-spatial aid application. Firstly, the monitoring approach Earth Observation data collected and processed in an automated way can provide valuable information on agricultural activities. Secondly, it can also provide information that is essential for demonstration of environmental and climate performance. Hence, it serves the dual purpose of ensuring, at comparatively low cost, data relevant for policy monitoring and controls.*

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**SR 26/2016 Making cross-compliance more effective and achieving simplification remains challenging**

40. (*Annex, Nr 3, first indent - 2016/COU/0360*) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– overall simplification of the cross-compliance management and control system for the Common Agricultural Policy (CAP) post-2020.

**Commission's response:**

*On 1 June 2018, the Commission published its proposal for a reform of the Common Agricultural Policy (CAP) including the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties).*

*Two sets of rules and two control systems (cross-compliance + greening) will be replaced by one (new conditionality) and, most importantly, the Member States, will determine the details of these rules and will have the flexibility to better adapt them to the reality on the ground.*

*Current rules set at European Union level regarding controls and penalties will be significantly simplified - in the future, Member States will be able to design their own control and penalty system, including making decisions about control methods and levels, types and design of penalties etc. This flexibility together with the future scope for Member States to design their own interventions as regards cross compliance and various definitions is expected to result in a support set-up much more customised to the individual Member States and its farmers, thus reducing the administrative burden and in all likelihood the control pressure on farmers.*

41. (*Annex, Nr 3, second indent - 2016/COU/0361*) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– identification and analysis of the reasons for cross-compliance related infringements.

**Commission's response:**

*The Commission considers that cross-compliance is not a tool to enforce other policies but a sanctioning mechanism under the CAP. Consequently, analysing the reasons for infringements is done in the context of sectorial legislation.*

42. (*Annex, Nr 3, third indent - 2016/COU/0362*) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– adaptation of rules regarding on-the-spot and risk-based checks of cross-compliance rules.

**Commission's response:**

*The simplification of the cross compliance scope has been already carried out several times in the past. Moreover Member States have now a wide margin of*

*manoeuvre to take into account the risks in the control sampling and to optimise their control systems. The Commission considers that this recommendation might result in loosening the rules on on-the-spot checks by reducing the cross-compliance's scope, which would ultimately undermine the effectiveness of cross-compliance.*

43. (Annex, Nr 3, fourth indent - 2016/COU/0363) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– the co-existence and simplification of greening requirements and standards of good agricultural and environmental condition of land (i.e. the GAEC standards).

**Commission's response:**

*The proposal on the future Common Agricultural Policy (CAP) published on 01/06/2018 takes account of this recommendation.*

*On 1 June 2018, the Commission published its proposal for a reform of the CAP including the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties).*

*Two sets of rules and two control systems (cross-compliance + greening) will be replaced by one (new conditionality) and, most importantly, the Member States, will determine the details of these rules and will have the flexibility to better adapt them to the reality on the ground. This flexibility together with the future scope for Member States to design their own interventions as regards eligibility conditions and various definitions is expected to result in a support set-up much more customised to the individual Member States and its farmers, thus reducing the administrative burden and in all likelihood the control pressure on farmers.*

44. (Annex, Nr 3, fifth indent - 2016/COU/0364) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– identification of administrations' needs for adequate operational assistance as well as reduction of the administrative costs and burdens involved in implementing cross-compliance.

**Commission's response:**

*The Commission has launched a study on administrative burden for farmers in the context of the Common Agricultural Policy (CAP). The results of this study will be published by end of 2018.*

*Concerning administrative burden for Member States, "The Statutory management requirements (SMR) stem from sectorial legislations and Member States may make use of their existing administration and control systems (Article 96 of Regulation (EU) No 1306/2013). Existing control systems can, thus, synergistically be used for the cross-compliance control system. Standards for good agricultural and environmental condition of land (GAEC) should not either entail significant costs for farmers since they are meant to be basic standards. Costs of their controls are born by the Integrated Administration and Control System*

*(IACS) which serve also other CAP instruments. The Commission quantified in its Annual Activity Report 2014 the overall costs related to control in Member States taking the reservation that 'the deterrent effect of ex-post controls' (such as cross-compliance) 'also bring unquantifiable benefits''*

*Furthermore, Member States define GAECs taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures hence, they have margin of manoeuvre to establish cost efficient controls.*

*Regarding the future CAP, the Commission published its proposal for a reform of the CAP on 1 June 2018, which includes the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties):*

*Two sets of rules and two control systems (cross-compliance + greening) will be replaced by one (new conditionality) and, most importantly, the Member States, will determine the details of these rules and will have the flexibility to better adapt them to the reality on the ground.*

*Current rules set at European Union level regarding controls and penalties will be significantly simplified - in the future, Member States will be able to design their own control and penalty system, including making decisions about control methods and levels, types and design of penalties etc. This flexibility together with the future scope for Member States to design their own interventions as regards cross compliance and various definitions is expected to result in a support set-up much more customised to the individual Member States and its farmers, thus reducing the administrative burden and in all likelihood the control pressure on farmers.*

45. (Annex, Nr 3, sixth indent - 2016/COU/0365) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– proportionality of cross compliance reductions, minor non-compliances without sanctions and early warnings in cases of non-intentional, minor error.

**Commission's response:**

*The design of evaluation grids is responsibility of Member States. When deciding on the sanction rate for an individual infringement, Member States have to take account of the severity, extent and severity of the infringement. Hence, it's the Member State's obligation to ensure the sanctions applied are proportionate.*

46. (Annex, Nr 3, seventh indent - 2016/COU/0366) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– harmonised application of penalties for non-compliance by clarifying the criteria to assess non-compliance, the scope of controls and relevant reporting operations, including those not covered in cross-compliance legislation (Annex II of Regulation 1306/2013).

**Commission's response:**

*The Commission organised and continues organising cross-compliance expert groups, the latest on 30 May 2018, allowing for an exchange of best practices between Member States. The exchange of best practices cover controls and penalties reflecting proposals made by Member States and, if necessary, actual developments like judgments of the Court of Justice of the European Union, presented by the Commission.*

*Furthermore, Member States have the possibility to address written questions to the Commission, which are replied and made available to all Member States' experts via CircaBC. Finally, on request, the Commission conveys bilateral meetings or attends national expert groups.*

*The part of the recommendation referring to controls and penalties outside the scope of the cross-compliance cannot be addressed, as this would not be in accordance with the applicable legislation.*

*Regarding the future Common Agricultural Policy (CAP), on 1 June 2018, the Commission published its proposal for a reform of the CAP including the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties). The new model establishes minimum generic requirements for penalties which will allow for a level playing field and the control and sanction system continue to be basically the same. Therefore, past efforts in harmonizing implementation (via e.g. interpretations) as well as recent initiatives to further increase common procedures (via e.g. expert groups on best practices) will not be lost in the future and will provide a solid ground for further harmonization.*

47. (Annex, Nr 3, eight indent - 2016/COU/0367) The Council calls upon the Commission, when following-up on the Court's recommendations, to give due account to the following issues:

– the double control and sanction systems for greening and cross-compliance and the risk of additional burdens and inefficiencies.

**Commission's response:**

*The Commission has launched a study on administrative burden for farmers in the context of the Common Agricultural Policy (CAP). The results of this study will be published by end of 2018.*

*Concerning administrative burden for Member States, "The Statutory management requirements (SMR) stem from sectorial legislations and Member States may make use of their existing administration and control systems (Article 96 of Regulation (EU) No 1306/2013). Existing control systems can, thus, synergistically be used for the cross-compliance control system. Standards for good agricultural and environmental condition of land (GAEC) should not either entail significant costs for farmers since they are meant to be basic standards. Costs of their controls are born by the Integrated Administration and Control System (IACS) which serve also other CAP instruments. The Commission quantified in its Annual Activity Report 2014 the overall costs related to control in Member States*

*taking the reservation that 'the deterrent effect of ex-post controls' (such as cross-compliance) 'also bring unquantifiable benefits'''*

*Furthermore, Member States define GAECs taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures hence, they have margin of manoeuvre to establish cost efficient controls.*

*Regarding the future CAP, the Commission published its proposal for a reform of the CAP on 1 June 2018, which includes the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties):*

*Two sets of rules and two control systems (cross-compliance + greening) will be replaced by one (new conditionality) that requires that the control and sanction regime is the same and, most importantly, the Member states, will determine the details of these rules and will have the flexibility to better adapt them to the reality on the ground.*

*Current rules set at European Union level regarding controls and penalties will be significantly simplified - in the future, Member States will be able to design their own control and penalty system, including making decisions about control methods and levels, types and design of penalties etc. This flexibility together with the future scope for Member States to design their own interventions as regards cross compliance and various definitions is expected to result in a support set-up much more customised to the individual Member States and its farmers, thus reducing the administrative burden and in all likelihood the control pressure on farmers.*

48. (Annex, Nr 4 - 2016/COU/0368) The Council considers that cross-compliance generally, including the Court's recommendations in its special report on cross-compliance, should be addressed further in the context of the discussions on the CAP post-2020, with due account to be given to the objective of reducing administrative costs and burdens.

**Commission's response:**

*On 1 June 2018, the Commission published its proposal for a reform of the Common Agricultural Policy (CAP) including the new delivery model providing Member States with great flexibility in designing the compliance and control framework applicable to beneficiaries (including controls and penalties).*

*As the CAP will focus on objectives and results, Member States are given the possibility to reduce administrative costs and burden. Two sets of rules and two control systems (cross-compliance + greening) will be replaced by one (new conditionality) and, most importantly, the Member states, will determine the details of these rules and will have the flexibility to better adapt them to the reality on the ground.*

*Current rules set at European Union level regarding controls and penalties will be significantly simplified - in the future, Member States will be able to design their own control and penalty system, including making decisions about control methods and levels, types and design of penalties etc. This flexibility together with the future*



*scope for Member States to design their own interventions as regards cross compliance and various definitions is expected to result in a support set-up much more customised to the individual Member States and its farmers, thus reducing the administrative burden and in all likelihood the control pressure on farmers.*

## SR 27/2016 Governance at the European Commission – best practice?

49. (*Annex, Nr 8 - 2016/COU/0369*) The Council invites the Commission, in the context of the implementation of the recommendations regarding the publication of the annual accounts (recommendation 2(c)) and the preparation of a single accountability report or suite of reports (recommendation 2(d)), to reach preliminary agreement with Member States on any reviews of deadlines for providing necessary data, in order to assess their feasibility and impact on the integrity of the data provided.

**Commission's response:**

*The composition and the deadlines of the accountability reporting were agreed by the legislators as part of the revision of the Financial Regulation. Based on this agreement, the new version of the Financial Regulation entered into force on 2 August 2018.*

50. (*Annex, Nr 9 - 2016/COU/0370*) The Council invites the Commission to clarify, in response to the recommendation on the publication of the estimate of the level of error (recommendation 2(f)), whether any actions have been devised to improve the current error rate methodology, especially if the changes would have an impact on the common approach to estimating the level of error defined in cooperation with Member States' audit authorities.

**Commission's response:**

*The Commission publishes in the DGs' annual activity reports their estimations of the corresponding amounts at risk. The methodology to make the estimation has been adapted during the last years following corporate instructions and taking into account the Court of Auditors' recommendations. The calculation is based on the error rates communicated by the audit authorities, which are subject to the Commission's assessment. The Commission has also issued guidance and clarifications to the audit authorities on how to calculate their total and residual error rates. Subsequently, the Commission issues its Annual Management and Performance Report including the estimation on an overall amount at risk.*

51. (*Annex, Nr 10 - 2016/COU/0371*) The Council call upon the Commission to pay the utmost attention to the implementation of the recommendations contained in this Special Report and upon the Court to report on the progress achieved.

**Commission's response:**

*The Commission paid the utmost attention to the implementation of the recommendations contained in this Special Report on Governance. The Commission has reported on this in section 2.8.1 of the 2017 Annual Management and Performance Report for the EU Budget (COM(2018)457 final).*

**SR 28/2016 Dealing with serious cross-border threats to health in the EU: important steps taken but more needs to be done**

52. (*Annex, Nr 9 - 2016/COU/0372*) The Council invites the Commission to report regularly to the Council on progress in the implementation of Decision 1082/2013/EU.

**Commission's response:**

*The Commission already implemented this recommendation with the report to the European Parliament and the Council on the implementation of Decision No 1082/2013/EU submitted for the first time in 2015 (COM(2015)617).*

*The obligation to report regularly on the implementation of Decision No 1082/2013/EU is stipulated in Article 19, which provides that the report is to be submitted by 7 November 2015, and every three years thereafter. The next report is due in November 2018.*

**SR 30/2016 The effectiveness of EU support to priority sectors in Honduras**

53. (Annex, Nr 10 - 2016/COU/0373) The Council thanks the Court for its most valuable analysis and invites the Commission to implement the Court's recommendations as appropriate.

**Commission's response:**

*The Commission is taking the requested action. The Commission has accepted all of the Court's recommendations from its Special Report 30/2016 and has been systemically integrating them in its work. A detailed reply is prepared by the Commission on a regular basis, indicating which recommendations have already been implemented and reporting on the implementation progress of the remaining ones.*

*Five out of eight recommendations have been implemented already. For instance, as regards Budget Support (recommendation 2), the Commission is already ensuring the consistency of its messages transmitted to the Government when taking decisions on Budget Support contracts. The macroeconomic and public finance management expertise has also been taken into account during the last rotation exercise in 2016.*

*In addition, the Commission has strengthened and structured its policy dialogue (recommendation 4) across the priority sectors. An assessment of the progress of each of the sector dialogue strategies has also been carried out demonstrating positive advances in the achievement of the expected results. As regards the remaining recommendations, these will be addressed by 2019. Nevertheless, work on their implementation has already begun. For example, on monitoring tools (recommendation 3), the Commission is strengthening its efforts towards a reinforced performance measurement, both in terms of baselines and indicators, in its future actions. To this end, it is providing support to national data systems in relevant areas of cooperation, in particular food security and forestry.*

**SR 31/2016 Spending at least one euro in every five from the EU budget on climate action: ambitious work underway, but serious risk of falling short**

54. (*Annex, Nr 14 - 2016/COU/0374*) The Council urges the Commission and Member States to identify areas in spending programmes with untapped potential and to consider opportunities and action to increase climate relevance as well as the efficiency and effectiveness of investments in those areas.

**Commission's response:**

*The Commission has taken note of the entirety of the Council Conclusions 7495/17 of 21/03/2017, including this element, and refers to its reply to the recommendation 7.a of the ECA special report 31/2016. It has considered and will continue to consider options for increasing the climate relevance of EU spending in the context of the relevant processes for individual programmes and policies.*

*The Commission is not in a position to reply on behalf of the Member States on the implementation of the Council's recommendation, or the ECA recommendations targeted to them.*

55. (*Annex, Nr 15 - 2016/COU/0375*) The Council emphasises that the common tracking methodology for climate-related spending established by the Commission [footnote: EU climate coefficients: 100% (significant contribution), 40% (moderate contribution), 0% (no contribution), e.g. the Commission implementing regulation No 215/2014 of 7 March 2014.], which is based on the OECD 'Rio markers', is suitable but should be further improved to provide relevant and substantiated information for policy decisions, to enhance its consistency across spending programmes, taking into account the OECD work, to limit the possibility of overestimation, as well as to consider differentiating between mitigation and adaptation measures when the methodology is revised, without creating an excessive administrative burden on national administrations or the Commission.

**Commission's response:**

*The Commission has taken note of the entirety of the Council Conclusions 7495/17 of 21/03/2017, including this element, and refers to its reply to the recommendations 2.c and 4 of the ECA special report 31/2016. It will consider options for improving and streamlining the tracking method for the next MFF without creating an excessive administrative burden on national administrations or the Commission.*

56. (*Annex, Nr 18, first sentence - 2016/COU/0376*) The Council invites the Commission and the Member States, inter alia to follow up on relevant recommendations in the above Special Report, to further mainstream climate action in EU spending programmes, thereby seeking to spend a higher proportion of the EU budget during the remaining period of the MFF 2014-2020 on climate action.

**Commission's response:**

*The Commission has taken note of the entirety of the Council Conclusions 7495/17 of 21/03/2017, including this element, and refers to its reply to the recommendation 7.a of the ECA special report 31/2016. It has considered and will continue to consider options for increasing the climate relevance of EU spending*

*in the context of the relevant processes for individual programmes and policies while recognising that changes to the multiannual programming or development of new measures is neither practicable nor feasible at this stage, as also stressed by the Council Conclusions 7495/17.*

*The Commission is not in a position to reply on behalf of the Member States on the implementation of the Council's recommendation, or the ECA recommendations targeted to them.*

57. (Annex, Nr 18, second sentence - 2016/COU/0377) Further invites the Commission to set out next steps in connection with mainstreaming climate action in the EU budget at the time of the Commission proposal for the next financial framework (footnote 15: See Council Regulation No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020, Article 25).

**Commission's response:**

*Reflecting the importance of tackling climate change, in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, the Commission proposes to set a more ambitious goal for climate-related spending of 25% of the total Multiannual Financial Framework (MFF) 2021-2027. This increase means that in current expenditure through climate mainstreaming an overall amount of EUR 320 billion will contribute to climate objectives over the period 2021-2027, representing an increase of EUR 114 billion compared to the current MFF.*

*This target of 25% is ambitious but realistic, taking into account the experience with climate related expenditure in this MFF and the growing importance of new non-climate-relevant priority areas (e.g. border management, security and defence, Erasmus+).*

58. (*Annex, Nr 5, third sentence - 2016/COU/0378*) The Council emphasizes the relevance of conditionality to ensure further concrete progress on reform, in particular in the fight against corruption, and calls for a careful and controlled use of budget support.

**Commission's response:**

*The Commission uses all the tools at its disposal to monitor EU assistance implementation and to ensure progress in reforms, including the suspension of budget support payments in case of lack of satisfactory progress in reform process.*

*Although there have been no cases of suspension of budget support payments due to the non-fulfilment of general conditions, the lack of achievement for certain specific indicators has resulted in a significant reduction of relevant budget support disbursements.*

*At the moment the Commission is not planning to have new budget support operations in Ukraine.*

*Substantial reform steps have been taken by the Government to set up an effective system for Fight Against Corruption (FAC) including the establishment of newly specialised institutions for investigation and prosecution of high level corruption cases. FAC is a central element of EU policy dialogue and progress in this area is closely monitored, notably in the context of visa liberalisation and of specific assistance, such as the € 43.5 million programme to support the fight against corruption (2016 Special Measure I).*

59. (*Annex, Nr 7 - 2016/COU/0379*) The Council invites the Commission to provide regular updates on the issues raised by the Court of Auditors' Special Report ensuring they are addressed systematically, including through Association Council and Committee meetings, as appropriate.

**Commission's response:**

*The Commission addressed the issues raised by the Court of Auditors' Special Report providing regular updates, including through Association council and Committee meetings. In particular,*

***On Public Finance Management***

*The Commission has further intensified its policy dialogue on Public Financial Management (PFM) issues and has contributed substantially to the drafting of a new PFM Strategy, which was adopted in February 2017. In November 2017 the Commission adopted the second Special Measure including a €50 million support programme for PFM reforms.*

*In the context of Macro Financial Assistance (MFA), strong focus was put on PFM reforms: in total, nine PFM-related conditions were attached to disbursements under MFA III.*

***On design of conditions for and disbursement of financial assistance***

*Further efforts have been made to better define indicators in the policy matrix for budget support programmes. For budget support the latest example is the Policy matrix for the budget support programme "Support to comprehensive reform of public administration in Ukraine (PAR)" (relevant financing agreement was signed in December 2016).*

*At the moment the Commission is not planning to have new budget support operations in Ukraine.*

*The programme on Public Administration Reform (PAR) is the most recent budget support operation in Ukraine. The programme was discussed with other development partners including International Financial Institutions.*

*The indicators for the latest budget support programme (support to Public Administration Reform) have been set realistically and thoroughly discussed with the national counterparts. They have a reasonable degree of ambition and reform leverage.*

*For the MFA III Ukraine operation, the Commission defined policy objectives in a more precise and targeted way in the Memorandum of Understanding (MoU) between the EU and Ukraine. In addition, when assessing Ukraine's compliance with conditions attached to disbursements under MFA III, the Commission restricted itself to the assessment categories "fulfilled", "broadly fulfilled" and "not fulfilled". This approach has also been taken in compliance assessments for MFA disbursements to other countries.*

*The conditions attached to the latest MFA programme for Ukraine (MFA III, adopted in April 2015) were in line with conditions attached to programmes managed by other DGs, such as the state-building contract or the visa liberalisation action plan.*

*The Commission will continue for all its MFA programmes, as it has always done in the past, to coordinate closely with the IMF and other donors.*

*The Commission will strive to strike the right balance between leverage and disbursement speed in its Micro Financial Assistance (MFA) operations with Tunisia (MFA II), Jordan (MFA II) and Moldova, as well as in other future MFA operations. Crucial elements in determining the right positioning in this trade-off are the specific economic situation of each country, as well as political circumstances and the reform track record.*

*On strengthening monitoring of EU assistance*

*The monitoring system (successfully introduced with the State Building Contract) was extended to all on-going budget support programmes, including regular assessment of progress in Public Finance Management (PFM) area.*

*Dedicated funds for evaluation were included in the financing agreement of the recent budget support programme "Support to comprehensive reform of public administration in Ukraine"*

*A specific budget support evaluation plan was established in collaboration with the EU Delegation.*



*The Commission uses all the tools at its disposal to monitor EU assistance implementation and to ensure progress in reforms, including the suspension of budget support payments in case of lack of satisfactory progress in reform process.*

*On effective implementation and sustainability of reforms*

*Substantial reform steps have been taken by the Government to set up an effective system for Fight Against Corruption (FAC) including the establishment of newly specialised institutions for investigation and prosecution of high level corruption cases. PFM and FAC are central elements of EU policy dialogue and progress in these areas is closely monitored, notably in the context of visa liberalisation and of specific assistance programmes, such as the € 43.5 million programme to support the fight against corruption (2016 Special Measure I) and the € 50 million programme to support PFM reform (approved as part of the 2017 Special Measure II). A new ambitious PFM strategy was adopted by the Government in February 2017. Each budget support disbursement is based upon a thorough assessment of the degree of implementation of the PFM Strategy and related Action Plan. Civil society continues to be involved in the framework of the assessment of budget support disbursements. As far as Macro Financial Assistance (MFA) is concerned, the policy measures attached to each disbursement were focused on implementation, with the majority of the PFM- and FAC-related measures consisting of actions to be taken, rather than legislative changes. As regards the necessity to ensure the financial sustainability of anti-corruption bodies, measure N. 6 in the Memorandum of Understanding (MoU) (p.6) specified that the new anti-corruption institutions should be made "independent and operational, i.e. endowed with the financial resources, staff and equipment required to perform their functions." This measure was implemented by Ukraine. Finally, the Commission evaluated disbursement conditions attached to MFA III in a strict manner: the weak implementation by Ukraine of four measures attached to the third tranche - two of which were related to the fight against corruption - triggered the cancellation of this instalment.*

**SR 33/2016 Union Civil Protection Mechanism: the coordination of responses to disasters outside the EU has been broadly effective**

60. (*Annex, Nr 8 - 2016/COU/0380*) The Council invites the Commission to report to the Council on progress made in the implementation of the Court's recommendations by the end of 2017, and thereafter on a regular basis.

**Commission's response:**

*DG ECHO provided an update to the Council Working Party on Civil Protection (PROCIV) on the status of the implementation of the Court's recommendations in 2017. Further updates have been provided on the same matter to PROCIV and the CECIS usergroup in 2018.*

**SR 35/2016 The use of budget support to improve domestic revenue mobilisation in sub-Saharan Africa**

61. (*Annex, Nr 6 first indent - 2016/COU/0381*) The Council takes note of the recommendations of the Court and calls on the Commission to:

- strengthen DRM assessments and risk analysis.

**Commission's response:**

*The requested action has been taken. Strengthened guidance for DRM assessments and the monitoring of their implementation has been included in the update of the Budget Support guidelines completed in September 2017.*

62. (*Annex, Nr 6 second indent - 2016/COU/0382*) The Council takes note of the recommendations of the Court and calls on the Commission to:

- strengthen the use, of DRM-specific disbursement conditions.

**Commission's response:**

*The requested action has been taken. Strengthened guidance on the use of disbursement conditions and indicators has been included in the update of the Budget Support guidelines completed in September 2017.*

63. (*Annex, Nr 6 third indent - 2016/COU/0383*) The Council takes note of the recommendations of the Court and calls on the Commission to:

- strengthen reporting on the use of budget support to improve DRM.

**Commission's response:**

*The requested action has been taken. More information on DRM has been provided in the Budget Support report on trends and results 2017, which came out in December 2017, as well as through the reporting on the implementation of the Addis Tax Initiative (in June 2017).*

64. (*Annex, Nr 6 fourth indent - 2016/COU/0384*) The Council takes note of the recommendations of the Court and calls on the Commission to:

- strengthen the policy dialogue component in DRM.

**Commission's response:**

*The requested action has been taken. Better guidance on policy dialogue in the framework of Budget Support has been integrated in the revised Budget Support guidelines finalised in September 2017. The outcomes of policy dialogue are and will be an important part of any evaluation. Nevertheless, the Commission would like to stress the political sensitivity of tax reform in particular, and political objectives in general, and therefore maintains that dialogue strategies have to be formulated in a manner that allows appropriate structuration but in the same time allows also for respect of the Commission's role when undertaking political and policy dialogue or other negotiations pertaining to its mandate.*

65. (*Annex, Nr 6 fifth indent - 2016/COU/0385*) The Council takes note of the recommendations of the Court and calls on the Commission to:

- strengthen the use of capacity development in DRM.

**Commission's response:**

*The requested action has been taken. Strengthened guidance has been included in the update of the Budget Support guidelines completed in September 2017.*

66. (Annex, Nr 6 sixth indent - 2016/COU/0386) The Council takes note of the recommendations of the Court and calls on the Commission to:

- evaluate the impact of budget support on the improvement in DRM.

**Commission's response:**

*The requested action has been taken. The OECD/DAC budget support and country evaluation methodology has been updated (in the version used by the European Commission) to add an explicit mention to the need to consider the influence of budget support on DRM in those cases where this has been a clear objective of budget support. The mention to DRM has already been included in the Terms of Reference for Budget Support evaluations prepared in March 2017.*

67. (Annex, Nr 9 first sentence - 2016/COU/0387) The Council calls on the Commission to step up its efforts regarding DRM, particularly in the context of the Collect More - Spend Better approach, and thus paying increased attention to the expenditure aspect of public finances.

**Commission's response:**

*The requested action has been taken. The workplan for the implementation of the 'Collect More - Spend Better' approach (2016-2020) includes actions to improve and strengthen public procurement, investment and management of spending. The workplan is being executed as planned and several actions have been decided in 2017.*

68. (Annex, Nr 9 second sentence - 2016/COU/0388) The Council further calls on the Commission to strengthen guidance on DRM analysis and policy dialogue particularly in the context of the ongoing update of the Budget Support Guidelines, as well as to improve the evaluation and reporting framework on DRM.

**Commission's response:**

*The requested action has been taken. Strengthened guidance for DRM assessments and related policy dialogue has been included in the update of the Budget Support guidelines completed in September 2017.*

**SR 36/2016 An assessment of the arrangements for closure of the 2007-2013 cohesion and rural development programmes**

69. (*Annex, Nr 6 (a) first indent - 2016/COU/0389*) Regarding further improvements of the closure arrangements for the next programming periods, the Council invites:

a) the Commission:

– to consider further simplification measures, as applicable, of the regulatory provisions for closure of the relevant funds in the area of Cohesion and rural development policy, whenever it contributes to a more effective and simpler implementation at national and regional level.

**Commission's response:**

*The recommendation will be taken into account when preparations start for the 2014-2020 closure.*

70. (*Annex, Nr 6 (a) second indent - 2016/COU/0390*) Regarding further improvements of the closure arrangements for the next programming periods, the Council invites:

a) the Commission:

– to provide the budgetary authority (the European Parliament and the Council) with information of the main performance and compliance aspects of programme implementation, based on existing reporting procedures and documents.

**Commission's response:**

*As far as the ERDF and Cohesion fund programmes of the period 2007-2013 are concerned, the Commission has worked with the programme managing authorities since the receipt of the closure documentation in late March 2017 to establish the final achievements values for 2007-2013. The final values by Member States have been finalised and published in March 2018*

*- In this dataset: <https://cohesiondata.ec.europa.eu/w9mt-s8si>*

*- And displayed graphically on this webpage:*

*[http://ec.europa.eu/regional\\_policy/en/policy/what/key-achievements/](http://ec.europa.eu/regional_policy/en/policy/what/key-achievements/)*

*For the period 2014-2020, under art 53(1) of the Common Provisions Regulation, the Commission transmits a summary report based on the annual implementation reports of the Member States. In year 2017 the Commission had to prepare a strategic report under art 53(2) and the next one is due in 2019.*

*Data related to delivery of outputs of the ESIF programmes is also published on the Open Data Platform. The ESIF Open Data platform, building on the reinforced performance elements and structured exchange of data, displays progress in the implementation of the common indicators (in relation to targets) for the different ESIF Funds.*

*With the publication of the 2017 Strategic report in December 2017, cumulative values for the decided and achieved values from projects selected by the programmes are shown in time series by year in the “achievement tiles”. The Open Data platform will be updated annual with indicator achievement values.*

- <https://cohesiondata.ec.europa.eu/overview>

*The ERDF, Cohesion Fund and ESF programmes have an obligation to evaluate the impact of programmes for the first time and have put evaluation plans in place to do that, at least once during the 2014-2020 period. The Commission also provides annually a synthesis of the evaluations conducted by the programmes and the Commission.*

*In addition, the Commission stresses that the necessary accountability and transparency in programme implementation is annually provided in the Annual Activity Reports (AARs) of the respective DGs. These AARs disclose every year all financial and performance details for the programmes in question. It also encompasses closure: the budgetary authority will be provided with information on the outcome of the 2007-2013 closure process in the Annual Activity Reports of respective DGs.*

*Finally, detailed information on performance is reported in the programme statements for EU spending programmes which are attached to the annual draft budget. They have been progressively improved to provide a more focused and structured snapshot on the programmes' progress. Those attached to the Draft Budget 2019 include both ex-ante and ex-post information on programmes' performance including on EU added value, outputs and results and the progress toward their targets, as well as updated information on the programme implementation, and the conclusions from the evaluations of the programmes.*

**SR 2/2017 The Commission's negotiation of 2014-2020 Partnership Agreements and programmes in Cohesion: spending more targeted on Europe 2020 priorities, but increasingly complex arrangements to measure performance**

71. (*Annex, Nr 5 first sentence - 2016/COU/0391*) The Council, regarding the timing for the adoption of the programming documents for the period post 2020, reiterates its call on the Commission to submit the legislative proposals for Cohesion Policy post 2020 as soon as possible in 2018, with a view to allowing a timely agreement between the co-legislators and an early start of the programming process.

**Commission's response:**

*The submission of the legislative proposals for cohesion policy post 2020 is closely connected to the preparation of the next Multiannual Financial Framework (MFF). The latter was presented at the beginning of May 2018, followed by proposals for post-2020 cohesion policy programmes. The Commission will work closely with the co-legislators with a view to a timely adoption and entry into force of the legislative framework.*

72. (*Annex, Nr 5 second sentence - 2016/COU/0392*) The Council calls on the Commission to facilitate an early preparation of the next programming documents by ensuring inter alia a rapid adoption of limited secondary legislation.

**Commission's response:**

*In order to accelerate the programming process, the Commission will limit the secondary legislation to the absolute minimum. The Commission's legislative proposal includes some key elements – such as the programme template or categories of intervention – that are covered in the secondary legislation for the 2014-2020 programming period.*

73. (*Annex, Nr 6 - 2016/COU/0393*) The Council calls on the Commission to optimise the use of PAs by aiming for simpler, more strategic and shorter documents, taking into account the relevance of all PA conditions and the proportionality principle, thus leading to increased effectiveness of the OPs; as well as to reconsider the value added for PAs in Member States with one OP covering the funds.

**Commission's response:**

*The Commission's legislative proposal for the post-2020 contains simpler programming arrangement in terms of content of the Partnership Agreement and proportional solutions for Member State with one programme covering all the cohesion policy funds.*

74. (*Annex, Nr 8 (a) - 2016/COU/0394*) The Council calls on the Commission, in view of the period post 2020 and taking into account the need to reduce the administrative burden for Member States, to:

a) define a common terminology for indicators across the various funds and to develop a common approach as to their reporting and interpretation, while taking into account the different policy objectives of the funds.

**Commission's response:**

*The new Financial Regulation which applies since 2 August 2018, includes the definitions of “output” and “result”. The Better Regulation guidelines and toolbox provide general guidance on output, result and impact indicators, as well as the links between objectives and indicators.*

*In line with the Interinstitutional Agreement on Better law making where the three institutions have agreed to, as appropriate, establish reporting, monitoring and evaluation requirements in legislation, the Commission proposals for the different funds include a common approach to and provisions on monitoring and evaluation.*

*Furthermore, the Commission proposal for the new Common Provisions Regulation for structural funds contains definitions of output and result indicators (Article 2(12) and (13), COM(2018)375 final). Also in the proposals for sectoral legislation for the period 2021 – 2027 indicators are better streamlined, the overall number of indicators has been reduced and the Commission is aiming at better aligning the indicators with the overall objectives.*

*In working out the further elements of the monitoring and evaluation frameworks for the different funds as appropriate, internal coordination in the Commission is aiming at streamlining definitions of similar indicators across funds where possible and ensuring maximum exploitation of existing data sources thereby minimising costs for those involved in providing and collecting data.*

75. (Annex, Nr 8 (b) - 2016/COU/0395) The Council calls on the Commission, in view of the period post 2020 and taking into account the need to reduce the administrative burden for Member States, to:

b) analyse, in cooperation with Member States and their Managing Authorities, the 2014-2020 programme-specific and common indicators in order to identify those which are most relevant and best suited to measure the progress towards results and evaluate the impact of the policy taking into account the need to ensure cost efficient data collection.

**Commission's response:**

*The use of common and programme specific indicators was examined as part of the preparation of the legislative proposals for cohesion policy post 2020 (closely connected to the preparation of the next Multiannual Financial Framework (MFF)). The Commission’s work involved the examination of the programme specific indicators, surveys and interviews with managing authorities, through a dedicated workshop and discussion with the Evaluation Network of national experts.*

*The MFF proposals were presented in May 2018, followed by proposals for post-2020 cohesion policy programmes.*

*The Commission will work closely with the co-legislators based on its proposal for the future performance framework (including common and specific indicators).*



76. (Annex, Nr 8 (c) - 2016/COU/0396) The Council calls on the Commission, in view of the period post 2020 and taking into account the need to reduce the administrative burden for Member States, to:

c) support and offer advice to Member States in the development of programme-specific indicators, as appropriate.

**Commission's response:**

*The use of common and programme specific indicators was examined as part of the preparation of the legislative proposals for cohesion policy post 2020. The need for programme specific indicators will be influenced on the one hand by the system of common indicators proposed and on the other hand on the actions proposed for EU support and the relevance of the common indicators to those actions.*

*For 2014-2020, where the available common indicators were not a relevant measure of significant investments then Member States were invited to propose specific indicators. Their choice of indicators is largely dependent on national or regional systems which fall under their responsibility.*

*The balance between common and programme specific indicators in the future will be a function of the agreement reached on a set of "RACER" common indicators and on the agreements reached in partnership between the Member states and the Commission.*

*The Commission also refers to its reply to recommendation 2016/COU/0396.*

77. (Annex, Nr 9 - 2016/COU/0397) The Council calls on the Commission to reflect, together with Member States and other institutions, on which long-term EU strategy or long-term objectives will guide the future of Cohesion Policy programming.

**Commission's response:**

*The Commission presented its proposals on the future cohesion policy on 29 May. Five main objectives are foreseen to drive EU investments in 2021-2027:*

*- Smarter Europe, through innovation, digitisation, economic transformation and support to small and medium-sized businesses*

*- a Greener, carbon free Europe, implementing the Paris Agreement and investing in energy transition, renewables and the fight against climate change*

*- a more Connected Europe, with strategic transport and digital networks*

*- a more Social Europe, delivering on the European Pillar of Social Rights and supporting quality employment, education, skills, social inclusion and equal access to healthcare*

*- a Europe closer to citizens, by supporting locally-led development strategies and sustainable urban development across the EU.*

*The proposals foresee that cohesion policy investments are strongly focused on objectives 1 and 2. 65% to 85% of ERDF and Cohesion Fund resources are to be allocated to these priorities, depending on Member States' relative wealth.*

*The discussions with the other EU institutions on the new cohesion policy framework are ongoing. The Commission aims at swift agreement on the new*

*legislative package with a view to ensuring that EU funds start delivering results on the ground as soon as possible.*

78. (Annex, Nr 10 - 2016/COU/0398) The Council encourages Member States to make best use of the ESI Funds Open Data Platform and of the data collected in their evaluations of the impact of Cohesion Policy during the current period; calls on the Commission to support these efforts by disseminating best practices and building on lessons learnt.

**Commission's response:**

*The ESIF Open Data platform is regularly updated and promoted systematically by the Commission.*

*Through its Annual Summary Reports ([http://ec.europa.eu/regional\\_policy/index.cfm/en/policy/how/stages-step-by-step/strategic-report/](http://ec.europa.eu/regional_policy/index.cfm/en/policy/how/stages-step-by-step/strategic-report/)) the Commission has been making available annual syntheses of the evaluation plans of the programmes and evaluation work conducted by the Member States and the Commission. It is also working with the "Evaluation Helpdesk" on supporting evaluation capacity in the Member states and on a database of evaluations conducted and of selected findings.*

*The next cohesion policy evaluation conference is being considered for early 2019.*

**SR 3/2017 EU assistance to Tunisia**

79. (*Annex, Nr 5, fourth sentence - 2016/COU/0399*) In line with the Court's recommendation and, as already foreseen through the Joint Communication of the High Representative and the Commission, 'Strengthening EU support for Tunisia', EU assistance should now be focused on supporting the Tunisian government in its work to adopt and implement the urgent reforms identified in the national development plan.

**Commission's response:**

*The 5-year development plan for 2016-2020 was adopted by the Tunisian parliament on 12th April 2017.*

*The new Single Support Framework 2017-2020, adopted in August 2017, has been drafted on the basis of and in support to the Tunisian National development plan. Programmes are particularly focused on supporting the implementation of reforms (cf adoption of the Annual Action Programme 2017 for an amount of € 300 M)*

*In line with this recommendation and the identified need to revive the socio-economic reform process in Tunisia, Commissioner Hahn, during his visit in Tunisia in September 2017, discussed with Prime Minister Chahed the opportunity to prepare and publicly adopt a roadmap on the most urgent socio-economic reforms, to be updated each six months. The roadmap was adopted by the cabinet of the Presidency and it was published in early May, following the visit of PM Chahed on 24/04/2018 in Brussels.*

**SR 4/2017 Protecting the EU budget from irregular spending: The Commission made increasing use of preventive measures and financial corrections in Cohesion during the 2007-2013 period**

80. (Annex, Nr 7 (a) - 2016/COU/0400) The Council invites the Commission to:
- a) devise and extend, in cooperation with Member States, measures which aim at preventing errors before they occur.

**Commission's response:**

*Sharing of good practices and most frequent errors is done on a regular basis. For example, the second edition of the public procurement guidance for practitioners on avoiding the most common errors in projects funded by the European Structural and Investment Funds has been published in February 2018. Moreover capacity building actions are organised. Tools like the Peer2Peer initiative also help Member States to better learn from each other.*

81. (Annex, Nr 7 (b) - 2016/COU/0401) The Council invites the Commission to:
- b) apply a consistent approach to preventive and corrective measures.

**Commission's response:**

*REGIO and EMPL adopted a common approach to be followed in case significant deficiencies are detected in the management and control systems in order to ensure consistency across programmes and funds.*

82. (Annex, Nr 7 (c) - 2016/COU/0402) The Council invites the Commission to:
- c) ensure that such measures are proportionate to the errors and risks they entail and that the treatment of cases across programmes and Member States is harmonised.

**Commission's response:**

*All decisions on preventive and corrective measures are taken by a Committee chaired by the respective Director General in order to ensure proportionality of the measures requested, consistency across time and equal treatment between Member States.*

83. (Annex, Nr 7 (d) - 2016/COU/0403) The Council invites the Commission to:
- d) communicate in time towards Member States' authorities on potential errors to facilitate solutions at an early stage, thereby diminishing financial risks.

**Commission's response:**

*In order to communicate deficiencies in the functioning of the management and control systems at an early stage of the implementation of operational programmes the Commission has decided to carry out Early Preventive system audits. These audits are carried out as soon as projects are selected by programme authorities and some expenditure has been declared to the Commission but before the first annual accounts are submitted. The aim of such audits is to identify deficiencies as soon as possible in order to allow the corrective measures in due time and to reduce the risk of financial corrections at a later stage.*

84. *(Annex, Nr 7 (e) - 2016/COU/0404)* The Council invites the Commission to:
- e) keep existing guidance notes up to date, and therein further develop methodologies and tools which help Member States to prevent and correct errors, in particular those related to non-compliance with public procurement rules, and inform Member States without delay of any changes.

**Commission's response:**

*Following the transposition of the public procurement Directives of 2014 into national legislation the Commission is currently finalising the new guidelines for the financial corrections to be applied in case of errors in public procurement procedures.*

*Moreover, following the adoption of the Omnibus Regulation the Commission is updating all guidance notes to Member States.*

85. *(Annex, Nr 7 (f) - 2016/COU/0405)* The Council invites the Commission to:
- f) set up transparent and predictable rules on proceedings in case corrective measures are applied, especially as regards communication with Member States and deadlines.

**Commission's response:**

*The Common Provision Regulation (CPR) sets up clear deadlines to be respected for interruption of payment deadlines and suspension of payments. The CPR includes also clear deadlines for adoption of financial correction decisions.*

*In addition the Omnibus Regulation defines a new deadline for the issuance of draft and final audit reports.*

86. *(Annex, Nr 8 - 2016/COU/0406)* The Council acknowledges that many errors are a direct consequence of the complex regulatory framework and that the simplification of implementation rules will be key for preventing such errors in the future; calls, in this context, on the Commission to reflect, when preparing its legislative proposals for the period post-2020, on the recommendations of the High Level Group on monitoring simplification for beneficiaries of European Structural and Investment (ESI) Funds.

**Commission's response:**

*Many of the recommendations for simplification such as the increased use of SCO's and lump sums have already been included in the Omnibus regulation in view of the post-2020.*

*The Commission took into account the recommendations on simplification of the high level Group in its proposal for the post-2020 legislative proposal which will be based on the Omnibus. The post-2020 legislative proposal also further took into reflection the recommendation to further take into account the risk to the expenditure and the well-functioning of the existing management and control system.*

**SR 5/2017 Youth unemployment - have EU policies made a difference? An assessment of the Youth Guarantee and the Youth Employment Initiative**

87. (*Annex, Nr 13 - 2016/COU/0407*) The Council notes that due consideration should be given to the recommendations made in the Special Report of the European Court of Auditors with a view to continuing efforts to tackle youth unemployment and inactivity and achieving the aims set out in the YG, specifically with regard to setting realistic and achievable objectives and targets.

**Commission's response:**

*The Commission has given due consideration to the recommendations made in the ECA Special Report on Youth unemployment. For example, the proposal for a Directive amending Directive 2004/37/EC in the protection of workers from the risks related to exposure to carcinogens or mutagens at work, the proposal for a Directive on work-life balance for parents and carers and the proposal for a Directive on Transparent and Predictable Working Conditions show the Commission's commitment to setting realistic and achievable objectives and targets in recent initiatives in the area of employment. The preparatory process for these proposals involved impact assessments and consultations with stakeholders and social partners.*

**SR 7/2017 The Certification Bodies' new role on CAP expenditure: a positive step towards a single audit model but with significant weaknesses to be addressed**

88. (*Annex, Nr 3 - 2016/COU/0408*) The Council recalls the Council conclusions of 15 December 2014 on 'the error rate for agricultural expenditure' [footnote: Doc. 16798/14] and calls upon the Commission to appropriately involve the Member States' paying agencies and certification bodies in providing the most accurate assessment of the level of error in the expenditure of the Common Agricultural Policy.

**Commission's response:**

*The Commission considers that the error rates provided by the Member States' paying agencies present an assessment of the errors they find when checking the payments to individual beneficiaries. The work of certification bodies on legality and regularity gives an additional assurance as to the accuracy of the assessment or necessary adjustments.*

*The Commission applies, when necessary, adjustments to the error rates reported by the Member States to take into account systemic deficiencies in the management and control system of the Paying Agencies, detected by the Certification Bodies or the Commission and notified to the Member State, which prevent them from detecting all errors in individual transactions.*

*As confirmed by the Court of Auditors, the overall error rate for CAP is low, very close to the materiality threshold. Therefore, the Commission considers that the existing assurance framework yields solid results in protecting the EU budget. The recommendation is implemented.*

89. (*Annex, Nr 6 - 2016/COU/0409*) The Council remains concerned that the additional audit obligations on certification bodies introduced by Regulation (EU) 1306/2013 may increase their workload and stresses therefore, that guidelines should clearly demarcate the work requirements of certification bodies so as to avoid an increase of administrative burden.

**Commission's response:**

*The Commission considers the recommendation implemented. The new guidelines on CBs' work on legality and regularity provide comprehensive clarifications and guidance as to the scope of work expected to be carried out. The guidelines have been updated based on the experience gathered. The updated guidelines applicable as from financial year 2018 (voluntary) and financial year 2019 (obligatory) offer all the clarifications to avoid increase of administrative burden.*

*The Commission also recalls that the guidelines reflect the requirements set out in EU law, in this case in Regulation (EU) No 1306/2013, which was adopted by the co-legislator, i.e. the European Parliament and the Council.*

90. (*Annex, Nr 7 - 2016/COU/0410*) The Council calls upon the Commission to continue to fully involve the Member States in the elaboration of guidelines with clarification and guidance in respect of the certification audit to be performed and the determination of the reasonable level of audit assurance to be achieved from audit testing in order to best implement the single audit model, acknowledging

certification bodies' ability to plan and carry out their audit according to risk and materiality.

**Commission's response:**

*The Commission considers the recommendation implemented. The Member States were informed and consulted on the work of the Commission on updating the guidelines on CBs' work on legality and regularity. The draft versions were discussed in the framework of Funds committee meetings and expert group meetings. The Commission services were also active in providing guidance and explanations bilaterally to explain particular questions coming from the Member States, as well as organised group discussions and workshops during the expert group meetings.*

91. (Annex, Nr 8 - 2016/COU/0411) The Council underlines that the Commission's guidelines should provide certification bodies' adequate clarity as to their role in the single audit model.

**Commission's response:**

*The Commission considers the recommendation as implemented. The new guidelines on the CBs' work on legality and regularity provide comprehensive clarifications and guidance as to the scope of work expected to be carried out. The guidelines have been updated based on the experience gathered. The updated guidelines applicable as from financial year 2018 (voluntary) and financial year 2019 (compulsory) offer all the clarifications to enable certification bodies to perform adequately their role within the single audit model.*



**SR 10/2017 EU support to young farmers should be better targeted to foster effective generational renewal**

92. (Annex, Nr 8 - 2016/COU/0412) The Council invites the Commission to consider the particular effects on young farmers when preparing new legislative initiatives for the CAP post-2020 in order to stimulate generational renewal in agriculture.

**Commission's response:**

*The Commission has followed-up to this recommendation in its legislative proposal for the CAP post-2020, by identifying generational renewal as a key policy priority. The proposal has been published on 1 June 2018 and will then be subject to negotiations with the Council and the European Parliament. In particular, Member States will be requested to provide for a strategic approach and identify a clear and coherent set of interventions for generational renewal under the specific objective in the CAP strategic plan dedicated to this issue. The aspects of access to land, land mobility and land restructuring, access of finance and credits, and access to knowledge and advice, will have to be addressed, in order to achieve a more targeted policy action. The main elements of the proposal also include a minimum ring-fencing of at least an amount corresponding to 2% of the annual direct payments' envelope for income support and installation aid, and the possibility to set preferential conditions for young farmers under a number of interventions, e.g. financial instruments.*

**SR 11/2017 The Bêkou EU trust fund for the Central African Republic: a hopeful beginning despite some shortcomings**

93. (*Annex, Nr 6, first indent - 2016/COU/0413*) The Council takes note of the two recommendations of the Court and calls on the Commission to:

– develop further guidance on its choice of aid vehicle including a concise and structured assessment of the comparative advantages of trust funds relative to other aid vehicles in terms of responsiveness and adaptability to crisis situations and for each trust fund to carry out needs analyses of its added value prior to establishment of such trust funds.

**Commission's response:**

*The Commission is taking the requested action. An analytical framework has been developed to guide the services in the establishment of any new trust fund. The revised guidelines on EU Trust Funds have been prepared and are in force since August 2018.*

94. (*Annex, Nr 6, second indent - 2016/COU/0414*) The Council takes note of the two recommendations of the Court and calls on the Commission to:

– improve donor coordination, selection procedures and performance measurement and optimise the management of administrative costs within EU trust funds in general and more particularly within the BTF. Such improvement will be critical to deliver the full potential of the BTF.

**Commission's response:**

*The requested action has been taken. The recommendations made by the Court of Auditors in its Special Report 11/2017 have been duly addressed by the Commission.*

*In particular, the Bêkou Trust Fund already coordinates its activities with other relevant donors and actors. The Commission nevertheless agrees that coordination opportunities should be taken advantage of by all participants in the Trust Fund. In this context, a specific point on donor coordination has been systematically included in the agenda of the Bêkou TF Operational Committee.*

*Ways are also being explored in order to increase further the speed of the selection procedures beyond what the internal rules currently allow, whilst striking the right balance between speed and transparency.*

*Lastly, considering the limitations due to security and lessons learned from crisis situations, the Commission considers that the Trust Funds already maximise the amount of aid that goes to final beneficiaries. Whenever possible, the Bêkou TF already strives to reduce implementing costs, as it was the case for the FAO contract where it negotiated 5% management fees instead of 7%.*

**SR 12/2017 Implementing the Drinking Water Directive: water quality and access to it improved in Bulgaria, Hungary and Romania, but investment needs remain substantial**

95. (Annex, Nr 6 - 2016/COU/0415) The Council calls upon the Commission to facilitate reporting on the implementation of the Drinking Water Directive and promote different IT solutions.

**Commission's response:**

*On 1st February 2018, the Commission published a proposal for a revised Drinking Water Directive (COM(2017)0753 final). The proposal includes provisions concerning monitoring of implementation (new Article 15), in particular the set-up of datasets containing relevant information (such as incidents, exceedances, risk assessments, etc.). Member States will have to regularly update the datasets (e.g. every year for exceedances and incidents) thereby ensuring availability of up-to-date information.*

96. (Annex, Nr 8 - 2016/COU/0416) The Council calls upon the Commission and the Member States to take the necessary measures to ensure that consumers have easy access to up-to-date information on the quality of drinking water.

**Commission's response:**

*On 1st February 2018, the Commission published a proposal for a revised Drinking Water Directive (COM(2017)0753 final). The proposal contains improved and ambitious provisions on transparency and information to consumers. These provisions are twofold:*

- First detailed information (about water consumption, cost structure, comparison with average household) should be provided directly to the consumers, for instance on their bills*
- Second, additional information should also be available online, such as information on monitoring results, risk assessments, indicator parameters (relevant for consumers' acceptance of and confidence in tap water). Very large water suppliers will also have to provide additional information on energy efficiency, cost structure and investments.*

*Therefore, comprehensive provisions on transparency and access to information are now foreseen in the Directive, also adapted to modern technologies.*

97. (Annex, Nr 10 - 2016/COU/0417) The Council looks forward to receiving the proposal from the Commission for a revised Drinking Water Directive.

**Commission's response:**

*On 1 February 2018, the Commission published a proposal for a revised Drinking Water Directive (COM(2017)0753 final) and transmitted to co-legislators. The Council has already started examining the proposal.*

**SR 13/2017 A single European rail traffic management system: will the political choice ever become reality?**

98. (*Annex, Nr 14 - 2016/COU/0418*) The Council calls on the Commission together with the Member States and the stakeholders to develop a monitoring system alongside with the clear milestones for the ERTMS deployment on the TEN-T network.

**Commission's response:**

*The ERTMS European Deployment Plan (Commission Implementing Regulation 2017/6) sets out the dates by which railway infrastructure managers shall equip the core network corridors. In order to follow the progress of ERTMS deployment on the core network corridors, Member States should notify to the Commission the timely implementation of their sections by means of the TENtec system and the European Register of Infrastructure. The currently applicable EDP is included in the Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan. The TEN-TEC system is now operational.*

99. (*Annex, Nr 20 - 2016/COU/0419*) The Council recalls that the Court extrapolated that the investment needs for ERTMS deployment, together with the required associated works for the core network corridors, until 2030 could be up to € 80 bn and calls on the Commission and the Member States to further assess the overall cost of ERTMS deployment across the Union.

**Commission's response:**

*Insofar as it is within its remit, building on the submission of the National Implementation Plans of the national cost-benefit analysis and the work on the ERTMS business cases provided by DMT, the Commission will provide a cost estimate on the basis of this documentation.*

**Executive Agencies in respect of the implementation of the budget for the financial year 2016**

100. *(Research Executive Agency, Annex to ANNEX 5, last sentence - 2016/COU/0420)*  
The Council invites the Executive Agency and the Commission to improve their internal dialogue and cooperation, and their external communication, as well as specific issues in the area of IT and HR management.

**Commission's response:**

*The different modalities and procedures of interaction between the parent DGs and the Agency on the aforementioned fields of HR, IT and external communication have been already commonly agreed and further defined in the applicable legal framework (Council Regulation 52/2003, the Establishment Act, the Instrument of Delegation, the Guidelines for the establishment and operation of the Executive Agencies, and the Memorandum of Understanding (MoU)).*

*In performing its tasks, the Agency works closely with its parent DGs at different levels: through the Steering Committee meetings, parent DG's management meetings, 3-year evaluation, etc. For instance, on external communication, there is a dedicated provision in the MoU regulating the interaction between the Commission services and the Agency. In addition, internal dialogue is ensured through a group on external communication activities of the Research and Innovation family. The parent DGs and the EAs work together to make sure that information communicated outside the Commission is coherent.*

*Similarly, human resources matters are regulated across the applicable legal framework and there is an established structured dialogue at working group level chaired by DG HR, with the participation of parent DGs and Executive Agencies.*

*Moreover, DG RTD's Common Support Centre provides common IT services and tools to all research R&I family implementing H2020. DGs, EAs and JUs are represented at the Steering Board of the CSC.*

*In conclusion, the horizontal fields of HR, IT and external communication are effectively coordinated by the parent DGs in cooperation with EAs, either as part of a common agreed operational/working level framework and/or as part of the exercise of the supervision strategy on EAs (Steering committee meetings, review of SPP documents, 3-years evaluations, etc.). DG RTD remains open to dialogue for the improvement of relations and modes of interaction with EAs, on the basis of the applicable legal framework.*

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