

2018 Discharge to the Commission

WRITTEN QUESTIONS TO COMMISSIONER HAHN BUDGET AND ADMINISTRATION

Hearing on 5 December 2019

Horizontal questions

1. Could the Commission list all error rates reported in DGs BUDG's AAR and the AMPR and provide an explanation for the basis of calculation (how does the Commission arrive at these error rates, are they based on historical data or projections?)?

Commission's answer:

The Commission presents error rates for each of its departments in the Annual Activity Reports (AAR) and across policy area in its Annual Management and Performance Report (AMPR). As EU spending programmes are multiannual by design, the related control systems and management cycles also cover multiple years (while errors may be detected in any given year, they are corrected in the current or in subsequent year(s)). Consequently, the risk is estimated at two key stages in the cycle: at payment and at closure.

The risk at payment quantifies those errors that might remain after preventive controls have been applied and payments have been made (see also reply to Question 5). It is estimated by each department in their annual activity report, typically based on the 'detected error rates' from their ex-post controls and audits. As part of this common methodology, some departments may also use more tailored terminology. To determine the risk at closure, the estimated future corrections are deducted from the risk at payment (see 2018 AMPR subsection 2.1 and Annex 2).

DG BUDG only manages administrative expenditure, for which risk at payment and risk at closure is presented in the AAR. DG BUDG uses an estimated error rate for the Commission's administrative expenditure (0.5%) as a conservative estimate. In 2018 and over the past years, the implementation of ex-ante and ex-post controls has not resulted in any financial correction/recovery order after payment. On this basis, no estimated future financial corrections are expected, i.e. the overall amount at risk at closure equals the estimated overall amount at risk at payment.

In addition, in the specific context of the overall assurance building process, the Commission's authorising officers by delegation qualify their declaration of assurance with a reservation when the so-called residual error rate (see 2018 AMPR subsection 2.5 and Annex 3) is above the materiality threshold. This rate takes into account corrections

made up to the moment of reporting (i.e. March n+1). This is also done for revenue (cf. the reservation on Traditional Own Resources).

2. Could the Commission provide a description of the auditing process, including the institutions involved, possibly with a timeline?

Commission's answer:

DG BUDG has set up internal control processes aimed to ensure the adequate management of the risks relating to the legality and regularity of the underlying transactions as well as the nature of the payments concerned.

For DG Budget's administrative expenditure, ex-ante controls are performed on 100% of payments, in order to detect and correct any procedural errors with or without financial impact. Ex-post controls are also carried out but did not detect any financial errors in 2018. See also reply to question 1.

As regards own resources, DG BUDG analyses the systems set up by Member States and assesses whether they provide reliable assurance as regards the accuracy of the information provided and the legality and regularity of these operations. Indicators of control performance are set up for the relevant stages of the collection and verification of own resources. DG Budget reports on these indicators in its Annual Activity Report.

3. What is the Commission's opinions about the idea of introducing centralised sampling where the Commission defines the sample for each Member State as the basis for the national audit authorities' checks?

Commission's answer:

Following the shared management principle, the selection and implementation of the sampling methodologies is one of the responsibilities of the audit authorities. For information, only for 295 ERDF-Cohesion Fund programmes there are more than 200 audit samples selected by audit authorities across Europe (no single sample by Member State) that provide representative audit results. The sampling methodology is to be chosen for each operational programme or group of programmes under a homogenous management and control system. It has to take account of the characteristics of each programme in order to ensure proportionate (and feasible) audit samples and representative and conclusive audit results.

Audit activities also need to be carried out in the most efficient way within the time given to audit authorities to carry out their duties (results have to be ready within 7,5 months after the end of the accounting year). This is why the Commission proposed various tools to audit authorities to spread their work over the year (multi-period sampling, different sampling techniques and methods compiled in a comprehensive guidance).

DG REGIO acknowledges that the use of sampling techniques require deep expertise and sound professional judgement to ensure that results are statistically valid and reliable. In this context, the audit authorities are benefitting from detailed guidance and training by the Commission on how to use statistical sampling techniques. Most of them have developed internal technical expertise or use also outsourced, specialised expertise, for

example from national statistical offices, when necessary. They also have an open, consultancy line with the Commission audit services with the help, under technical assistance monies, of one of the most recognised academic experts in the field of statistics at European level.

The Commission does not consider that it would be in a position to introduce a centralised sampling and that this would be beneficial to the policy. The general main principle remains that under shared management the Member States' audit authorities are fully responsible for the national audit work and results, including an adequate selection and implementation of sampling methodologies, and for applying the appropriate financial corrections that result from such audit work, at the level that Member States consider more appropriate in line with their institutional arrangements.

The Commission proposals for 2021-2027 continue with this line, but also open three possibilities for improvement in this area.

(a) First the possibility for Member States to opt for a single statistical sample at national level, selected by the audit authority or with the help of the national statistical services, covering all programmes. This could potentially reduce considerably the control effort while still providing national, valid results. It would also mean that in such case the Member State would define its internal rules for the application of the required financial corrections (at national / sub-national level).

(b) An exception for ETC (cross border) programmes that have historically suffered of a disproportionate audit effort in relation to the funds allocated and the level of risks identified over years. For such cross-border programmes, the Commission proposed that it would centrally draw an EU level common sample covering all ETC programmes in Europe (currently over 70 programmes), based on information to be provided in due time by programme authorities, and to request each concerned audit authority to carry out the audits that fall under its competence. This proposal is challenging but would indeed provide room for reduction of the audit effort for programmes, which globally present very low risks year after year. This may not be the case for mainstream national and regional programmes, which present very varied risk levels year on year.

(c) An empowerment for the adoption of a Delegated Act setting out standardised off-the-shelf sampling methodologies with the objective to provide to audit authorities a stable legal framework from the beginning of the period. In that regard the Commission also refers to its common reply to paragraphs 6.44 and 6.45 of the 2018 Annual Report of the Court, where we call for a community of views between all European Institutions in this technical area, so that audit authorities act under a stable framework.

4. Could the Commission provide a list of all studies paid for by DG BUDG since 2009 indicating the topic/title, who conducted the study, clearly showing if it was published or not (if published, including date of publication) and the total cost of the study?

Commission's answer:

Over the period 2009 –2018, DG BUDG signed and paid the following contracts related to studies as listed in the table below.

2011- Title	Contractor	Amount (€)	Published Y/N	Date publication
Benchmark study – Evolution of Commission Financial System architecture	Gartner Belgium	85.000	N	n/a
2016- Title	Contractor	Amount		
Study on the potential and limitations of reforming the financing of the EU Budget	Centre for European Policy Studies (CEPS)	237.900	Y	03/06/2016
2017- Title	Contractor	Amount		
Budgeting and Performance in the European Union	Organisation de coopération et de développement économiques (OCDE)	159.754	Y	30/09/2017
2018- Title	Contractor	Amount		
Study for the determination of standard scales of unit costs for travel within the EU and from any country in the world to EU countries	Sweco International	79.000	N	n/a

5. ECA uses a different methodology for calculating the error rate than the Commission. How does the Commissions methodology compare to ECA's methodology? Could the Commission explain why it uses its methodology and what its reasoning is for using this methodology rather than the methodology used by ECA?

Commission's answer:

As manager of the EU Budget, the Commission's objective is to identify weaknesses and to take remedial action, wherever possible, on a multiannual basis. The objective of the error rates reported by the European Court of Auditors, as external auditor, is to provide an audit opinion on the legality and regularity of expenditure of one specific year.

As EU spending programmes are multiannual by design, the Commission's related control systems and management cycles also cover multiple years. This implies that while errors may be detected in any given year, they are corrected in the current or in subsequent year(s) until the very end of a programme's lifecycle. Consequently, the risk (both as %

and in amount) is estimated at two key stages in the cycle: at payment and at closure, as per the terminology used in the AMPR.

In addition, in order to be able to provide bottom-up management assurance, and to identify and address issues in specific areas, the Commission calculates the error rates per programme (or other relevant segment). The Commission's error rates are based on a bottom-up approach, involving the results of thousands of checks on EU expenditure. This means that the Commission's information on error rates is more detailed than that of the Court. Without this level of detail, the Commission would not be able to take the appropriate remedial action, e.g. suspending a payment, asking a Member State or a beneficiary to pay back money, or asking a Member State to present a plan for improving its management and control system.

The Commission's methodology and concepts have been developed to fit the Commission's management context, but they largely converge with those used by the European Court of Auditors in its audit approach (see 2018 AMPR p. 153 and Annex 2). The "risk at payment" is closest to the European Court of Auditors' "most likely / estimated level of error". In recent years, the ECA has recognised that the Commission figures are, in most cases, broadly in line with the ECA's own estimates and/or within its range.

TOR

In the reservation regarding the collection of TOR by the UK in its AAR, the Commission mentions a suspicion that "the underevaluation fraud may have moved to other Member States, which could affect the collection of traditional own resources to an extent that cannot yet be quantified" (p. 60, AAR 2018). For this reason, the Commission maintained a non-quantifiable reservation.

6. Has the Commission investigated whether similar fraud has occurred in other Member States?

Commission's answer:

OLAF's investigations in these matters are on-going in good cooperation with the Member States concerned. It is only upon completion of such investigations that the findings can be revealed (except in exceptional "huit-clos" circumstances). The findings of previous OLAF investigations in this domain are given in its Annual Reports of 2016, 2017 and 2018. In these, the estimated total amounts of customs duties evaded were given as EUR 2,4 billion.

Between 2017 and 2019, the Commission services have inspected all Member States in order to examine their control strategy in the field of customs value. In general, Member States have not fully implemented the necessary measures to tackle the underevaluation fraud consistently. As a result, several inspection reports found that the EU financial interests were not effectively protected leading to significant losses of traditional own resources (TOR) for the EU budget.

Both OLAF and Commission findings of quantified fraud and TOR losses are followed up through the applicable administrative and legal procedures to recover any losses due to the EU budget.

7. Was there similar fraud concerning other goods? Is there an indication that the underevaluation fraud might shift towards other goods than shoes and cloths?

Commission's answer:

The Commission services concerned in close cooperation with the Member States keep such risk under regular review and take the necessary action to address it. So far underevaluation fraud has been detected only as regards footwear and textiles. Nevertheless, Commission services are carefully analysing relevant import statistics on a number of other product categories to detect other goods that could be affected by underevaluation. The results of such analysis and the relevant risk indicators will be included in the scope in further inspection and investigative activities as appropriate.

8. Which Member States did the Commission refer to in the above quote?

Commission's answer:

All Member States can in principle be affected: fraudsters exploit different entry points into the EU Customs Union, targeting particularly those with the weakest controls. This risk is therefore included in the scope of the Commission's annual TOR inspections in Member States. These inspections and statistical data indicate that if a given Member State closes a loophole by strengthening customs controls targeting the risk of underevaluation, undervalued goods imports are likely redirected to another Member State with a weaker control strategy. Therefore, all Member States can be at risk of being affected, which highlights the need for Member States to put effective control measures in place and ensure appropriate collection of Traditional Own Resources on behalf of the Union.

9. What is the estimated amount at risk?

Commission's answer:

An estimation of the latest amounts at risk will be possible upon completion of further currently on-going Commission audits, inspections, and follow-up as well as OLAF investigations. In 2020, the Commission intends to make a final quantification of the TOR losses as a result of targeted follow-up actions of previous-years TOR inspections on customs value. So far, inspections confirmed that by far the largest TOR losses were incurred in the United Kingdom. The Commission estimates that the combined TOR losses in all other Member States would not exceed the ones incurred in the United Kingdom, which are currently subject to a Court case filed by the Commission in March 2019.

10. Can the Commission share any new insights regarding TOR underevaluation fraud in other Member States or regarding other third-countries?

Commission's answer:

Pending completion of the Commission audits and OLAF investigations mentioned above the Commission is not in a position to comment further on this point at this stage.

See also replies to questions 6-9.

11. Are there any other ongoing OLAF investigations regarding TOR fraud?

Commission's answer:

OLAF also has on-going investigations in other TOR matters including, inter-alia, origin and transshipment fraud.

12. Has the UK fully addressed this problem of underevaluation?

Commission's answer:

The Commission services concerned keep this matter under constant review with the Member States concerned. As of 12 October 2017, the UK started implementing the measures recommended by the Commission, including checking the imports of textile and shoes declared at extremely low values at clearance, and taking guarantees for the customs duties due. This led to a dramatic reduction of TOR losses. While, several shortcomings remain leading to ongoing TOR losses, these are at a much-reduced scale.

13. According to the AAR, the process of recovery for the 2011-17 TOR losses is pending before the CJEU. When does the Commission expect closure of the case?

Commission's answer:

The Commission decided on 8 March 2018 to start a formal infringement procedure. On 7 March 2019, the Commission referred the case to the Court of Justice of the EU.

On 29 August 2019, the Commission lodged its reply to the UK's Defence at the Court of Justice of the EU, maintaining its position.

The oral hearing is foreseen in 2020. The date of the final judgment is fully under the discretion of the Court of Justice of the EU.

14. Could the Commission describe the process for recovery of TOR losses?

Commission's answer:

In general, Member States are financially liable for the TOR losses where they cannot recover the corresponding amounts from the debtors. DG BUDG communicates the amounts due to Member States. Late payment interest is calculated and communicated after payment of the TOR amounts. Where Member States do not make available the amount of TOR requested by the Commission services, infringement proceedings are initiated.

15. Did the UK recover any of the lost TOR by now?

Commission's answer:

According to the information available to the Commission, the UK has not recovered any of the TOR lost. As the UK refuses to pay to the EU budget the TOR amounts lost, the Commission decided to refer the case to the Court of Justice of the EU.

16. ECA also noted that the Commission did not rank Member States by level of risk, and therefore, the Court could not confirm that inspections properly covered the highest-risk areas. Does the Commission consider making such a ranking in order to identify the highest-risk countries?

Commission's answer:

The Commission took note of ECA's recommendation regarding its approach to documenting the process for selecting the topics to be examined during the visits in Member States, and has addressed in its 2020 inspection programme. In drawing up its inspection programme, the Commission uses a variety of internal and external risk indicators, documented in the annual inspection programme. Based on the risk-assessment performed, the Commission considers that its 2018 and 2019 inspection programmes covered the highest risk areas identified, being valuation fraud. Having regard to the magnitude of potential TOR losses involved, this inspection topic was prioritised in 2018 and 2019 and covered all Member States. The Commission already made changes in its risk assessment for the 2020 TOR inspection programme, and the way it is documented based on the ECA recommendation. The documentation of the process of selecting the customs and the accounting topics for the inspection plan 2020 was improved, including appropriate documentation of the evaluation of 11 risk criteria used and completing a questionnaire based on which the ranking of inspection topics is done.

17. The Court noticed an increase of TOR open points by 14% in 2018. In addition, they noted that 27% of the open points had been outstanding for more than five years. What are the reasons for delays in the Commission's follow-up and closing of TOR open points?

Commission's answer:

The Commission recognises the delays observed by the Court of Auditors due to open or outstanding points, which are subject to continuous exchanges with Member States to clarify such outstanding points. It should be noted, that these delays have not resulted in TOR losses. The Commission further considers the number of inspection findings or open points not a reliable performance indicator. Depending on the nature of an inspection finding, its follow-up can be rather extensive, for example by requiring procedural changes or IT modifications to be implemented by Member States. Where appropriate, existing procedures will be more stringently applied in order to start infringement proceedings after a limited number of exchanges with Member States in case of continued disagreement.

18. In 2018, the Commission placed a general reservation relating to France's estimation of its GNI, mainly because France provided insufficient information on the compilation of its GNI. This failure could increase the risk of needing to correct the country's contributions and may also impact the calculation of the other Member States' contributions. In March 2019, France has made available its updated GNI inventory. Is this inventory of sufficient quality? How could the quality be further improved? Does the Commission provide France with any guidance on that?

Commission's answer:

For completion of information following the setting of the reservation since the national authorities did not timely progress in their work, on 5 August 2019 the Commission services sent a formal letter reminding of obligations and highlighting the need to comply with the applicable regulatory framework. On 2 September, the French authorities provided a preliminary and tentative time schedule for the statistical work to be performed. The upgraded inventory is planned to be sent to Eurostat by the end of March 2020. Guidance on inventories was provided to all Member States, including France, in 2016. Cooperation with France is on-going.

19. The Commission and the Member States agreed on the end of 2024 as the deadline for developing a methodology to assess the impact of globalisation on the compilation of GNI data, particularly with regard to the relocation of large multinational companies. How far are you? What is the latest state of play?

Commission's answer:

The Commission has identified a number of transversal issues on which further work is needed in all Member States in order to further ensure comparability, reliability and exhaustiveness of the GNI estimates. The successful implementation of this work is dependent on the availability of an enhanced infrastructure in good time. Also an Early Warning System is in place; its purpose is to ensure early knowledge of important restructuring of multi-national enterprises and groups, to agree treatment among countries concerned, and then to guarantee consistent statistics and coordinated implementation and communication.

Terminology in AAR/AMPR

20. Although the Commission states that there are only two error rates, there are differences in terminology in the AARs of many DGs, often within the AAR of one DG. Despite the significant differences between the DGs, how can the terminology in the AAR be simplified and standardized?

Commission's answer:

The risks affecting EU expenditure is estimated at two moments in time: at payment and at closure. This standardized approach applies systematically across all AARs and in the AMPR and reflects the multiannual character of the programmes and of the control cycles.

Whereas the risk at payment is most commonly based on the “detected error rate” following ex-post audits, some departments use a more tailored terminology in function of the specificities of the programmes they manage. For instance, in shared management, the Member States communicate to the Commission the error rates detected/corrected at their level, which are then assessed and confirmed by the Commission before 'accepting' the expenditure. There is no equivalent in other management modes and therefore the shared management DGs disclose in their AARs specific error rates calculated by Member States for full transparency.

Within this context, maximum alignment will continue to be sought between programmes with similar features and the Commission departments will continue to report systematically on their risk at payment and risk at closure.

See also reply to question 1.

Revenues

21. While revenue was free from material error, the ECA has detected some weaknesses in internal control systems (p. 114 ECA AR). The Court found that key internal TOR controls at the Commission and in certain Member States were only partially effective. For example, the Auditors noted that the Commission, upon receiving TOR statements each month or quarter, did not carry out a systematic analysis of unusual changes in the statements or collect relevant information explaining the reasons for these changes. What does the Commission propose to do to strengthen internal control systems in order to ensure that the collection of revenue is improved?

Commission's answer:

The Commission will examine how reinforced desk checks focussing on unusual changes in the TOR statements could generate effective and efficient value added in detecting errors. Where appropriate, existing internal instructions would be adapted in line with the ECA recommendation. In addition, the Commission has a well-established and effective practice in this domain. A reconciliation of amounts recovered from the B account and paid to the EU budget via the A account statement is done systematically. In addition, the Commission's inspectors verify all TOR accounting statements in preparing their on-the-spot inspections on unusual changes and particularities in these statements and any issue is discussed with the Member States concerned. Additional measures were already included for the Commission's 2020 TOR inspection plan that has as main inspection topic the reliability of the TOR accounting in all Member States. All Member States will be asked to submit the total B account at national level (customs duties established but not recovered yet), i.e. not restricted any longer to the local/regional customs offices to be inspected. The Commission will verify the reliability of the TOR accounting by checking, on the basis of underlying entries in the accounts and Member States' systems, that the statements of A and B accounts are reliable (complete, accurate and truthful). This will be verified by establishing bottom-up and top-down audit trails as well as verification of complete account statements.

OLAF

22. The ECA reported nine instances of suspected fraud to OLAF found during its 2018 audit. Can the Commission confirm that whether any of the said referrals arose from the audit of the European Commission and if so, what is the status of such investigation?

Commission's answer:

None of the nine instances of suspected fraud reported to OLAF through the European Court of Auditors Annual Report for 2018 arose from an audit of the European Commission.

Out of those nine cases of suspected fraud OLAF opened two investigations, which are currently ongoing. As regards the remaining cases, two were dismissed based on insufficient suspicion, four based on the principle of proportionality and one was dismissed based on the principle of subsidiarity.

Special report 12/2019 “Ecommerce: many of the challenges of collecting VAT and custom duties remain to be resolved”

23. Many challenges in collecting correct amounts of VAT and customs duties on e-commerce remain to be resolved, according to ECA. In particular, EU controls are insufficient to prevent fraud and detect abuse, while enforcement of collection is still not effective, the report notes. Does the Commission see any role for itself in guiding the Member States to provide sound and common estimates of the VAT gap?

Commission's answer:

The Commission produces and publishes a yearly study of the EU VAT Gap. At the same time, the Commission cannot provide figures of the VAT Gap on e-commerce: the data needed for such estimates is only available to the Member States.

The Commission is ready to assist Member States in developing a methodology allowing them to produce periodic estimates of the compliance VAT gap in e-commerce. To this end, the Member States should be willing to invest in data collection at the national level, and consent to provide the necessary data to the Commission.

24. The ECA further points out the lack of effective controls on cross-border e-commerce.

25. What is the Commission doing in order to improve and enhance its monitoring activities?

Commission's answer:

The Commission follows-up the recommendations from the Court of Auditors in particular by carrying out fact-finding visits to the Member States. The visits aim to assess whether there is harmonious and robust implementation of the Authorized Economic Operator (AEO) provisions throughout the Member States and to further step up the sustainability and integrity of the EU AEO Programme. The specific objective of the visits is to identify possible weaknesses regarding the implementation of the AEO provisions and to propose recommendations to address and remedy these weaknesses. The fact-finding visits also

serve to identify best practices that can be replicated by other Member States. All Member States will be visited by the end of 2020.

26. According to the Court, the EU is unable to prevent abuse such as the deliberate undervaluation of goods below the thresholds for VAT and/or customs duty exemptions. Even after the entry of force of the new provisions in 2021, ECA considers that under-valuations are very likely to continue under these new rules. How does the Commission combat the under-valuation of products? Do you consider going further in designing new provisions to tackle this phenomenon?

Commission's answer:

The Financial Risk Criteria (FRC) decision entered into force in June 2019. Guidance will be endorsed at the end of 2019. The monitoring of the implementation of the FRC decision will be carried out in the course of 2021. The FRC decision only applies to goods subject to customs duties.

The FRC decision foresees the use of specific risk indicators to address the risk of undervaluation of goods. It requires that every member State is able to use these indicators electronically to flag consignment which may pose a risk. Further work needs to be done to agree on a common methodology to be applied for the risk indicator related to the value. Once such an agreement is reached, it will be possible to update the FRC decision and define more specific and targeted indicators.

The current framework of EU provisions on the valuation of goods for customs purposes, which are reflecting and are bound by the WTO Customs Valuation Agreement, will continue to apply. Further efforts, in cooperation with Member States, to address their correct and uniform implementation through appropriate guidance are ongoing.

Budgetary and Financial Management

27. Outstanding commitments have continued to grow, reaching 281,2 billion euros at the end of 2018 (2017: 267.3 billion euros). They have increased by 36 % (73.7 billion euros) over the past seven years since 2011, the corresponding year of the previous MFF. What kind of measures does the Commission envisage to undertake and when in order to manage this risk and avoid the repetition of the backlog at the end on the period 2007-2013?

Commission's answer:

The rising trend of the outstanding commitments (RAL) by the end of MFF constitutes a normal evolution, as commitment appropriations increase every year as foreseen in the Multiannual Financial Framework (MFF) and the payments based on the actual needs of implementation.

The RAL at the end of this MFF is forecast to increase compared to the actual RAL at end-2013 by EUR 83 billion. This is less than the increase observed between from 2006 to 2013 (EUR 89 billion). In relative terms, the RAL is forecast to grow by 0.2% of the EU-28 GNI over the course of this MFF, whereas over 2006 to 2013 the increase accounted for 0.5% of GNI.

The table below shows RAL in absolute amounts and in % of GNI at the end of 2006, 2013 and 2020:

RAL comparisons	in EUR bn	Incremental increase	in % EU GNI*	Incremental increase %
at end-2006	131		1,1%	
at end-2013	220	+89	1,6%	0,5%
estimate end-2020	303	+83	1,8%	0,2%

* GNI EU-27 until 2012, EU-28 afterwards

To be noted that the backlog mentioned at the end of the period 2007-2013 was not caused by the high level of RAL but by insufficient level of payment appropriations. The 2020 budget just adopted provides for a sufficient level of payment appropriations to avoid a backlog at the end of 2020. In addition, a margin of EUR 20 billion remains available under the payment ceiling. Both the Council and the EP agreed in a statement to adopt an Amending budget in case the payment appropriations in the adopted budget were not sufficient.

It is expected that the RAL will reach around EUR 300 billion at the end of 2020. This was taken into account when proposing the payment ceilings for the next MFF in May 2018. More than half of this RAL (around 51 %) should be paid in the first two years of the next MFF. The RAL development follows the normal evolution of the programmes' implementation cycles. No accumulation of backlog affecting the start of the next MFF is expected. However, in order to limit the accumulation of the RAL at the beginning of the next MFF, a timely adoption of the new MFF proposal and with appropriate level of payments is decisive. If adoption comes very late, as it was the case for the current MFF, then the implementation of programmes is delayed.

Slow implementation of some programmes can increase the RAL as a mechanical consequence and leads to slower delivery of results and EU benefits on the ground. The Commission proposal for the next long-term budget 2021-2027 addresses this issue with various measures to improve the absorption of EU funds: e.g. by simplifying procedures, allowing for roll-over of existing implementation systems or changing the existing N+3 rule to N+2 and an adequate ratio between commitment and payment appropriations.

28. A risk exists that not enough payment appropriations will be available to cover all amounts due in the first years of the new MFF. The Commission projected, in its long-term forecast that payment appropriations in 2019 and 2020 would be well below the ceilings. This suggests that payment needs that were previously planned to be covered in 2019-2020 will be carried forward to the first years of the new MFF. The Commission is of the opinion that the implementation of the ESI Funds has not been more delayed than in the previous MFF. Do you consider this situation satisfactory? Is "not more delayed than in the previous MFF" good enough?

Commission's answer:

- The implementation of the shared management programmes under the ESI Funds depends almost exclusively on the Member States in line with the Common Provisions Regulation (CPR). After a delayed start, the implementation of the programmes is progressing well. However, the Commission continues to monitor closely programmes,

and provides substantial support to Member States including technical assistance and advisory services.

- The payment appropriations in 2019 and 2020 will be well below the current ceilings because the margins below the previous years' payment ceilings, that proved to be more than sufficient, were moved to 2019-2020 via the Global Margin for Payments mechanism. Therefore, it is the payment needs that were previously planned for 2016-2017 that might be gradually carried forward to the next MFF. The reason is still the late start of the programmes implementation.
- The Commission took this information into account when it proposed the payment ceilings for the 2021-2027 MFF as well as the constraints of an own resources ceiling corresponding to 1.20% of EU-27 gross national income.
- The Commission has also proposed to increase the own resources ceiling, but the current level will still be applicable in the first years of the next financial framework due to the lengthy ratification process of the new Own Resources Decision.
- The Commission notes that in terms of implementation, the project selection rate for the 2014-2020 cohesion policy programmes as reported at end of October is ahead of the one at an equivalent point in time for the 2007-2013 programming period, and it will continue all its efforts to ensure that programmes deliver on the ground. Learning from the past experience, the Commission also proposed a number of measures for the post 2020 period to accelerate the start of implementation of cohesion policy programmes, e.g. an n+2 automatic decommitment rule instead of the current n+3 rule to incentivise Member States to faster budgetary implementation.

29. Guarantees have grown in the last few years, mainly due to the addition of the European Fund for Strategic Investments (EFSI) guarantee and the European Fund for Sustainable Development (EFSD) guarantee. In total, the actual exposure at the end of 2018 was 92,8 billion euros. Some of these guarantees are supported by guarantee funds, providing a liquidity cushion against potential losses. Is this level of protection sufficient, according to you Commissioner? How could the exposure to risk be further mitigated?

Commission's answer:

The Commission has a rigorous approach to the design and implementation of guarantee programmes. Three levels of defence have been built to ensure that losses do not exceed predefined tolerance levels.

The first layer of defence is an ex-ante pillar assessment of the capacity of implementing partners to use guarantees as investment support.

The second layer of defence is the provision set aside in the EU budget to honour any calls on the guarantee by implementing partners. These provisions will be held in a Common Provisioning Fund. The CPF represents the shock-absorber, that protects the rest of the EU budget from any losses that might materialise in the guarantee programmes. The provisioning rate of 50% for EFSD+ and 40% for InvestEU is very conservative and will be sufficiently large to be able to withstand all calls on the guarantee under all but the most extreme scenarios.

The third layer of defence consists of the enhanced monitoring of liabilities incurred by individual guarantee programmes and the sustainability of aggregate liabilities. This monitoring will allow flexibility within the system and any corrective measures to be activated in good time to prevent the emergence of situations where losses exceed provisions.

The system of guarantees is built on very secure foundations that will protect the budget under all foreseeable circumstances.

Oligarchs

The "New York Times" recently alerted the public opinion on "How Oligarchs and Populists Milk the EU for Millions" (press release of 3 November 2019).

30. What was the total amount received by Prime Minister Babis's companies in the Czech Republic collected in agricultural subsidies last year? Does the Commission see any conflict of interest or manipulations of national authorities to the benefit of certain companies?

Commission's answer:

The Commission replies to questions about beneficiaries of EU funding in line with the obligations set out for direct, indirect and shared management, and the duty to protect the confidentiality of ongoing audits and personal data.

Both CAP funds, EAGF and EAFRD, are almost exclusively managed under shared management. This means that payments to individual farmers and other CAP beneficiaries are made by the Member States. Therefore, it is the Member States who have at their disposal the relevant information on the payments made to a certain beneficiary or group of companies. Consequently, the legislator has created an obligation for Member States – and not the Commission - to ensure the transparency of EU funding under shared management.

Member States have to publish every year information about beneficiaries of the Common Agricultural Policy (CAP) funds. This information relates to the identity of beneficiaries, the amount awarded, the fund from which it comes, and the measure/intervention concerned (the integration of the transparency was accepted by the Council and inserted into the Financial Regulation by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006). The first publication had to cover EAFRD expenditure effected as of 1 January 2007 and EAGF expenditure effected as of 16 October 2007. The data were published for the first time in 2008. More information can be found at: https://ec.europa.eu/agriculture/cap-funding/beneficiaries/shared_en

The Commission is currently following up on allegations of conflict of interest in the Czech Republic. In January-February 2019 a coordinated audit was carried out by several Commission services (DG AGRI/DG REGIO/DG EMPL). DG AGRI audited the investment measures under Rural Development.

The enquiry is ongoing and, in order to respect the process for the contradictory procedure with the Member State, no further details from the audit can be shared at this

time. Confidentiality is of utmost importance and the Commission must ensure that the contradictory process will be fair and robust.

As a precautionary measure and until the situation is clarified, no payments from the EU budget under the European Structural and Investment Funds are being made to companies that could be potentially affected by the alleged conflict of interest.

In relation to the Rural Development Fund, the Commission is not reimbursing to the Czech authorities the amounts that could be potentially affected by the alleged conflict of interest.

In case a non-compliance with the applicable rules is established, appropriate measures to protect the EU budget will be taken, including corrective actions for the past where this is foreseen.

The European Parliament will be kept informed in a timely manner about the evolution of the file. In April 2019, Commissioner Oettinger already discussed the file with members of your Committee in an “in camera” session. The Commission is willing to continue doing this.

31. Will the Commission, bearing in mind the facts put forward in the abovementioned article, take any measure based on article 61 of the financial regulation to investigate and react upon possible situations of conflict of interest and land grabbing in Hungary, Bulgaria, Slovakia and Czech Republic? Could the Commission provide the state of play, also regarding Roumania, regarding conflict of interest?

Commission's answer:

The Commission follows up on any allegations of conflict of interests and land grabbing it receives and closely monitors the implementation of rules on conflict of interests.

As regards the Czech Republic, reference is made to the answer to question 30.

Regarding Slovakia, in 2018 several farmers complained that they were unable to receive Direct Payments either because third entities cultivate the land they are entitled to farm without their consent or because of overlapping (double) claims for the land they are farming. There is a mix of allegations of fraud, malfunctioning of the Paying Agency, and issues concerning the application of the rule of law.

Regarding the allegations of fraud, a number of investigations are being carried out by the OLAF, which is the competent body to investigate such allegations.

As regards the Slovak management and control systems, the Commission is closely monitoring the situation and following up on the Action Plans implemented by the Paying Agency. In June 2019 DG AGRI requested the Slovak authorities to reinforce the Action Plans concerning Direct Payments and Rural Development to address all the deficiencies identified by DG AGRI and by the Certification Body. The goal of the Action Plans is to correct the situation and to prevent similar cases in the future. Moreover, there are a number of audits going on and the financial risks to the EU funds will be covered by financial corrections, if necessary.

The Commission is very much aware of the rule of law aspects and is closely monitoring the situation. In August 2019 the Slovak authorities informed the Commission about the

legislative measures they are taking to improve the correctness and transparency of the “Land Registry” (cadastre), as well as about a new methodology implemented by the Slovak Paying Agency (APA) for the treatment of double claims. They also point out the number of persons accused of harming the financial interests of the EU (59 in 2018 and 37 in 2019), as well as the amounts recovered to the EU budget (EUR 3.9 million in 2018 and EUR 2 million in 2019) in relation to the alleged illegal practices.

It goes without saying that the EU institutions, hand in hand with the MS authorities, will do everything possible to enforce, inter alia, the basic EU principles, such as non-discrimination.

As regards Hungary, following the results of OLAF investigations, DG AGRI audits of 2015 and 2017 found a systemic lack of verification of conflict of interest in public procurement procedures under 2007-2013 Rural Development Programme. The Commission decided to apply financial corrections totalling around 6.5 million EUR. The Hungarian authorities committed to remedy the situation for the programming period 2014-2020, including appointing an audit company that would conduct the review of public procurement processes. DG AGRI is closely monitoring the situation.

Concerning Bulgaria and Romania, there are several DG AGRI ongoing audits in these Member States, which are focused on the implementation of the CAP, including the application of the Integrated Administration and Control System (IACS), but not specifically on allegations of conflict of interest or land grabbing.

EAGF direct payments aim at supporting farmers’ income. The direct payments are paid for the eligible land. Those who farm the land are entitled to direct payments.

If the land is obtained unlawfully or by political influence, then there may be a rule of law issue and the judicial system of the Member State should act. The Commission can assist the Member State, if necessary and will monitor whether the rule of law is upheld.

32. Why did the Commission propose, in the context of the CAP reform, COM(2018)393, to task the Member States to lead the conformity procedures aiming at correcting the financial irregularities whilst it is to be feared that, in some Member States, it will increase the risks of conflict of interest ?

Commission's answer:

The Commission has proposed for the CAP reform the New Delivery Model, which aims at moving away from compliance based approach in the policy implementation and focusing on performance. It increased significantly the subsidiarity for the Member States to design the intervention logic and align it to their particular needs. The design of the CAP Strategic Plans must respect the EU law, while the detailed eligibility criteria for the beneficiaries of the support, are left for the discretion of the Member States.

As today, in the context of the shared management the Member States will be obliged by the EU legislation to protect the financial interest of the Union, including the prevention, detection and correcting of irregularities. To that end, the Member States shall set up the efficient management and control systems to ensure that support paid from the EU

budget complies with the Union legislation. Also as today, the Commission will remain ultimately responsible for the implementation of the EU budget.

Commission will be obtaining assurance that the EU budget is correctly spent by the Member States from the work of the Certification Bodies (Member States' independent auditors) and from its own audit work. If in the course of that work, it concludes that any EU rules are not respected it will recover any unduly spent funds from the Member State following a conformity procedure and assessment of the risk to the fund related to the non-compliance.

In accordance with articles 47 and 53 of the Commission proposal for a new horizontal regulation COM(2018)393, the Commission will still have the possibility to conduct audits in the Member States, to launch conformity audit procedures, and to apply financial corrections where EU law has not been respected.

33. The NYT Article claims difficulties in obtaining data on the CAP beneficiaries and urges the Commission to increase transparency as regards the final beneficiaries. Last year, the Commission provided a list of the 20 largest CAP beneficiaries. Does the Commission see any room to improve its transparency further (e.g. provide a longer list of the largest beneficiaries)? Also, with the current way of presenting the data (links national webpages) it is difficult to compare the data - does the Commission see any possibility to improve the ease of comparability of data?

Commission's answer:

Both CAP funds, EAGF and EARDF, are nearly exclusively managed under shared management. This means that payments to individual farmers and other CAP beneficiaries are made by the Member States. Therefore, it is the Member States who have at their disposal the relevant information on payments to individual beneficiaries.

Article 38(4) second subparagraph of Regulation (EU, Euratom) 2018/1046 (Financial Regulation) establishes that it is the Member States (or their bodies, as designated in Article 63) that are responsible for publishing information in accordance with sector specific legislation.

The sector specific legislation for the CAP, Article 111 and following of Regulation (EU) No 1306/2013 imposes on the Member States the obligation to publish annually and ex-post the beneficiaries of the CAP Funds. In light of the above legal basis, it is the Member States that publish this information, not the Commission.

The Commission also recalls the implications of data protection legislation on the processing of personal data. Article 63(4) of the Financial Regulation explicitly refers to Member States obligations on the matter. The ECJ (Joined Cases C-92/09 and 93/09 (24) Volker und Markus Schecke GbR and Hartmut Eifert v Land Hessen) has ruled on this legislation.

The Commission considers that the current publication by all Member States of the data on beneficiaries of the CAP fulfils the transparency requirements. The information available on the following webpage https://ec.europa.eu/agriculture/cap-funding/beneficiaries/shared_en allows to search for beneficiaries by either name, or

municipality, or amounts received, or by measure, or by a combination thereof and to extract all the corresponding information as a single set of data.

Therefore, similar transparency requirements are proposed for new CAP in Chapter IV of COM(2018)393.

Information on performance and results

34. In the Ines Ayala report (Commission discharge of last year) paragraph 230, the Parliament “regrets once again that AARs do not include a declaration on the quality of the reported performance data, and that consequently in adopting the AMPR, the College of Commissioners takes overall political responsibility for the financial management of the Union budget but not for the information on performance and results”.

What is the position of the Commission? Is it a matter of responsibility of the Directors generals or of the College of the Commissioners?

Commission's answer:

The Commission is committed to producing high-quality and reliable reports on the performance of the EU budget. For this, the Commission relies on the data provided by Member States and other sources. Through the instructions provided by central services, Commission services are requested to provide comprehensive performance information for each programme and to ensure the quality and reliability of information submitted. Sources of performance data are systematically disclosed in the annual activity reports (AARs) and any concerns about data reliability signalled. In addition, as from 2018, directors responsible for risk management and internal control declare that the information presented in both parts of the AARs – on performance and on financial management – is reliable, complete, and accurate. This provides additional assurance for the Directors-General, responsible for the management of the budget in their area, and therefore also for the College, who use the declarations in the annual activity reports as the basis for their decision to take overall political responsibility for the management of the EU budget (in the Annual Management and Performance Report).

35. The Commission uses two sets of performance indicators/ objectives: in the management plan and AAR, on the one side and in the programme statements of operational expenditures annexed to the draft budget. Last year the Parliament called on the Commission to make its reporting based on single set of objectives and indicators (Paragraph 227 of the Ines AYALA report).

Wonders why the Commission uses two sets of objectives and indicators to measure the performance of financial management. On the one hand, the Directors-General evaluate the achievement of the objective defined in their management plan and annual activity reports and, on the other, the Commission measures the performance of spending programmes via the programme statements of operational expenditure annexed to the draft Budget.

To which extent can the Commission solve this issue without and actually simplify the state of play? Is it a matter of responsibility of the Directors generals or of the College of the Commissioners?

Commission's answer:

The Commission uses a single set of objectives and indicators for the performance of the EU budget. These objectives and indicators are defined in the legal bases of the programmes; comprehensive reporting is provided in the programme statements. As part of the Commission's internal performance framework for the services, the Commission services report in their Annual Activity Reports (AARs) based on a set of objectives and indicators directly relevant to their own performance, as defined in their multiannual Strategic Plans. For Directorates-General managing financial programmes, there will naturally be overlaps and linkages between the two frameworks. These linkages are shown through cross-referencing in the AARs, as required by the instructions setting the standard reporting requirements for the Commission services. The Commission will further clarify these linkages as part of the preparations for the next multiannual strategic planning and programming cycle and for the launch of the next generation of financial programmes.

2% Error rates: at payment, at closure?

According to the Commission, the budget is effectively protected when the risk at closure is below the materiality threshold (see page 157 of the AMPR).

However, so far the Court uses the materiality threshold in relation with its most likely error that is an error rate at payment and not a residual (or at closure) one.

36. Does the Commission consider that the residual error rate (or at closure) should not be closed to zero?

Commission's answer:

Please note that the residual error rate and the risk at payment/closure are not the same; (See also reply to question 1).

The materiality threshold of 2% is set by the central Commission services, in line with the European Court of Auditors (ECA)'s.

The Commission's objective is that both the residual error rate and the estimated risk at closure are as low as possible and below the materiality threshold of 2%.

For 2018, the Commission's overall risk at closure is estimated at 0.8 %. For some specific programmes however, it is possible that the residual error rate at the moment of reporting is still above 2%. In such cases, transparent reservations to the departments' declarations of assurance are duly issued.

More generally, when managing EU funds, the Commission departments need to find a balance between low error rates, reasonable payment times, as well as avoiding excessive control burden and cost. With this in mind, the estimated overall risk at closure of 0.8 % is thus very low and considered to be reasonable.

Nevertheless, the Commission is working continuously to improve its control systems wherever needed in order to maintain this low level of error.

37. According to the Commission, on page 171 of the AMPR 2018 “In cases where the residual error rate is above the materiality threshold, the financial impact resulting from a reservation is obtained by multiplying the relevant programme or segment expenditure by the residual error rate”
- Why do the Directors general issue a reservation in cases where the residual error rate is above 2% and not where the error rate at payment is above 2%?

Commission's answer:

The issuance of reservations is based on the residual error rate because this rate takes into account corrections made up to the moment of reporting, i.e. March n+1 (see also the reply to question 1).

The risk at payment does not include corrections made beyond the date of payment. This rate is thus not representative of the effectiveness of the control system at the time of the reporting. Using it would lead to having unjustified reservations in cases where the control system in place has effectively led to corrections.

OLAF

38. One major finding of the IAS in its 2017 audit on IT logical security controls in OLAF was the excessive access rights granted to a number of OLAF Content Management (OCM) user accounts.
- OLAF adopted an Action Plan to address the findings of the IAS audit. The Commission informed the Parliament last year that OLAF had already implemented a majority of the actions and the remaining ones are foreseen to be adopted by the end of 2018.
- The IAS would assess the effective implementation of OLAF's action plan in due course.
- Could OLAF please inform Parliament about the latest state of play in this regard?

Commission's answer:

All recommendations put forward by the Internal Audit Service (IAS) in its audit on IT logical security were successfully implemented in July 2019. The implementation of the recommendations was confirmed by the IAS in July 2019 and reported to the Audit Progress Committee (APC) in September 2019.

The European Court of Auditors - the financial watchdog of the EU - in cooperation with OLAF – the fraud investigator of the EU, have revealed and conducted hundreds of investigations in 2018. And this number is rising and thanks to whistleblowers protection another increase of investigated cases can be expected. Therefore, we ask:

39. How many staff left OLAF in 2018 and how many posts were open in 2018?

Commission's answer:

At the beginning of 2018, OLAF had 36 vacancies (including Seconded National Experts or Contract Agents type jobs). During 2018, 54 persons left OLAF, of which 52 were replaced. At the end of the year, there were 38 vacancies.

40. Do you plan to increase the capacity of human resources of the OLAF in order to conduct properly, efficiently and quickly investigate reported cases?

Commission's answer:

The Commission will make sure that the Office has the adequate resources to perform its mandate.

Missions of Commissioners

41. How many missions did Commissioners undertake in 2018, respectively? What were the total costs per Commissioner?

Commission's answer:

In accordance with the new Code of Conduct for Members of the Commission, the Commission publishes an overview of mission expenses per Member every two months covering all missions undertaken unless publication of this information would undermine the protection of the public interest. Only very few other public organisations have committed to a similar level of transparency.

The individual mission reports are available under the section entitled "Transparency" on the Commissioners' respective webpages (for example the link below):

<http://ec.europa.eu/transparencyinitiative/meetings/mission.do?host=829436d0-1850-424f-aebe-6dd76c793be2>

The system covers missions paid since December 2018 and includes information on the locations, purposes, costs and durations of the missions.

A summary for missions performed by Commissioners in 2018 is provided in the following annex.



Annex Copy of
Commissioners missi

Miscellaneous

42. DG HR lifted last year the reputational reservation on the European Schools, citing both the IAS and the ECA that sufficient action had been taken to reduce the risk to an acceptable level. Are there any recommendations by ECA and/or the IAS that are still outstanding?

Commission's answer:

The Court of Auditors is still to issue the final audit report on the financial year 2018.

In its report on the financial year 2017, the Court issued the following recommendations:

- accounting : the schools should address their weaknesses and develop adequate procedures, guidelines and training measures to improve their accruals-based accounting;
- internal control systems :

- o Recruitment procedures : the schools should apply rigorous staff selection rules and properly document each stage of the procedure;
- o Payment procedures: the Central Office should develop guidelines for the management of extra-budgetary items and provisional commitments; the Central Office and the schools should implement payment procedures more rigorously.

There are still 8 pending recommendations (critical and very important) issued by the IAS. These remaining recommendations mainly concern: accounting processes (4 recommendations), governance of security (2 recommendations) and treasury and financial management (2 recommendations).

43. A European official, found guilty of active corruption, was sentenced in October 2018 in Paris to 15 months suspended sentence and 150,000 euros fine for providing information to two company officials in public markets in exchange for money. Involved in this cases were the companies SARL Eurotrends and SARL Kic Systems. They were each sentenced to 200,000 euros.

The Commission replied last year: “The Commission is aware of the judgements pronounced in October 2018 and is analysing possible follow-up measures within the remit of the EDES panel”.

What is the latest state of play of this file? Did the Commission deem it necessary/ does the Commission intend to take any measures to prevent such issues for the future?

Commission's answer:

According to the information available, the European official and the concerned companies lodged an appeal against this judgement.

As regards follow-up measures, SARL KIC System may not be, for the time being, the object of administrative penalties (exclusion and/or financial penalty) because it does not fall within any of the categories listed in Article 135(2) of the Financial Regulation of economic operators to which such penalties can be imposed. In the case of SARL Eurotrends, the Commission is still analysing follow-up measures including administrative sanctions (i.e. exclusion from obtaining EU funds) in view of the ongoing judicial proceedings.

The Commission adopted on 15 October 2019 two decisions to reduce the amount of two contracts that were awarded fraudulently to another entity that benefited from SARL KIC System services. With these two decisions the Commission intends to recover all the amounts already unduly paid to the entity. On 19 November 2019, this entity lodged an application for annulment of the two decisions before the General Court of the European Union.

44. ECA estimated last year that less than 10% of the total ESI funding available through financial instruments had reached recipients to finance productive investments and activities. (2.34 annual report for 2017).

What is the situation this year according to the Commission?

Commission's answer:

According to the last summaries of the data on the progress made in financing and implementing financial instruments at the end of 2018 which will be published in December 2019, there was almost EUR 5.1 billion committed to final recipients (96% increase over the end of 2017), out of which EUR 3.7 billion ESI Funds. This constitutes 23% of commitments for financial instruments under ESIF programmes. In term of payments, 40% of all ESIF amounts paid to financial instruments were actually disbursed to final recipients.

45. EPPO is constituted as a “body”. From a budgetary point of view, the Commission is treating EPPO like an agency. Could the Commission explain its reasoning behind this? What are the implications of treating EPPO as an agency?

Commission's answer:

EPPO is established by Council Regulation (EC) 2017/1939. It is a body of the Union as referred to in Article 70(1) of Regulation (EU, Euratom) 2018/1046 (the Financial Regulation) which has legal personality and receives contributions from the EU budget.

From a budgetary perspective, EPPO follows the same rules as the other bodies set up under the TFEU and the Euratom Treaty and falling under Article 70(1) of the Financial Regulation.

In particular, EPPO is subject to the financial rules and obligations of the Financial Regulation and of Commission Delegated Regulation (EU) 2019/715 (the Financial Framework Regulation).

Being treated as an Agency put the EPPO under the same rules and budgetary constraints applicable to Agencies under the operational titles.

46. How will the Commission ensure added value of the EU budget and how will it assess performance and results achieved of EU budget implementation in the next MFF when there is no EU political strategy to which the Commission’s proposal for MFF 2021-2027 relates?

Commission's answer:

The Commission communication “A modern budget for a Union that protects, empowers and defends” lays down the strategy of the next Multiannual Financial Framework, in the context of the most recent Union political priorities. The EU is fully committed to the obligations of the Agenda 2030 and the Paris Agreement, which directly apply to the single programmes and their proposals for the 2021-2027 MFF. The proposals further include performance information in the form of result indicators, which the Commissions uses to report on the performance of programmes. Programmes consider EU added value in their design, implementation and legislation.

Questions about NGOs:

Transparency of final beneficiaries

47. Does the Commission consider promoting transparency of final beneficiaries when promoting NGOs, as is common with Structural Funds?

Commission's answer:

The Commission manages EU funds in compliance with the EU regulatory framework. It continuously strives to improve its systems to ensure transparency with regard to the beneficiaries of Union financing, including non-governmental organisations (NGOs). The Commission has already taken concrete steps to reinforce transparency.

For projects implemented by several beneficiaries, in some policy areas (e.g. research) the Commission has detailed information on all beneficiaries of Union funds. In other policy areas (e.g. external relations), the Commission is developing a management system that will enable recording of funding to all beneficiaries contracted by the EU. It is to be finalized by 2021. The data collected in the management system is also published in the FTS.

The Financial Transparency System (FTS) provides the data for all beneficiaries together with an estimated amount of the funding they receive (as a percentage of the total amount of the grant or as a set amount). The FTS allows for the search of recipients of EU funds in direct management. Mandatory information includes recipient's name and address/locality, the amount awarded and the nature and purpose of the expenditure.

48. If larger NGOs pass EU funds directly on to smaller NGOs, how does the Commission verify that the award criteria for EU funding are met?

Commission's answer:

The Commission manages EU taxpayer's funds in full compliance with the EU regulatory framework. It continuously strives to improve its systems. The Court of Auditor's recommendations of 2018 (ECA Special Report No. 35/2018) will feed into this effort. On sub-granting, including within the context of networks of non-governmental organisations (NGOs), the rules were clarified in the 2018 Financial Regulation, ensuring their consistent application in Article 204 FR which refers to financial support to third parties.

49. How does the Commission assess which financial sources NGOs have in addition to the money they receive from the Commission? Do you have an overview of which NGOs are members of networks receiving EU funding?

Commission's answer:

In relation to other funding sources, all applicants for funding are subject to an assessment of their economic and financial capacity in the selection criteria of a Call for proposal i.e., the Commission verifies whether the NGO has the means to carry out the action which is requested/proposed. Moreover, the principle of no double funding applies as well.

With regard to networks of international NGOs, the different Commission services may, in accordance with their respective basic acts and operational priorities, work with members of networks under a variety of arrangements, as foreseen under the Financial Regulation. Entities forming part of a network could constitute recipients of financial support to third parties. The information collected on EU funds implemented by NGOs cannot be uniform. The type of information required will depend on the context within which the EU funds are implemented. Networks of international NGOs have been transparent by providing information to the Commission on their working arrangements. The objective for these networks of international NGOs is to obtain efficiency gains by concentrating expertise and know-how in a unique set-up in the field and be in a position to react swiftly to a crisis.

Truthfulness

50. Is it possible that the Commission finances organizations that are proven to spread falsehoods and / or whose goals are against EU core values, or strategic trade and security objectives of EU institutions?

Commission's answer:

The Early detection and exclusion system included in the Financial Regulation aims at preventing that entities found in one of the situations described in Article 136 of such Regulation can receive EU funding. This system aims to protect the financial interests and image of the Union. Entities shall be excluded inter alia, where it has been established, that those are guilty of “grave professional misconduct”. While there is a non-exhaustive list of behaviours that could be considered as “grave professional misconduct” (distortion of competition, violation of intellectual property rights, attempt to obtain confidential information...) this is generally defined as the violation of applicable laws or ethical standards as well as wrongful conduct impacting on the professional credibility of the person or entity. In this context, the behaviours described (spreading of falsehoods or goals against EU core values, violation of trade or security rules), if established, could be considered as “grave professional misconduct” and the entities concerned could be excluded from obtaining future Union funds.

51. Is there an EU-wide code of conduct for NGOs applying for EU funding?

Commission's answer:

The Financial Regulation applicable to the EU budget does not distinguish beneficiaries with an NGO status from other beneficiaries.

EU funding is mostly organised through Calls for Proposals and the signature of grant contract, where the eligibility criteria can precisely target where desired, NGOs as the grant beneficiaries (amongst others).

Commission documentation for grants includes Ethics clauses and Code of Conduct.

In particular within the External Relations policies, that often work with Civil Society Organisations (including NGOs), some elements as listed below, although not limited to, are:

- Absence of conflict of interest
- Respect for human rights as well as environmental legislation and core labour standards, including zero tolerance for sexual exploitation and sexual abuse.
- Anti-corruption and anti-bribery
- Unusual commercial expenses
- Breach of obligations, irregularities or fraud

By applying to a call for proposals and subsequently signing a grant contract with the Commission, the grant beneficiary (which may include NGOs) is bound to respect ethical values as specified.

Target agreements

52. Does the Commission or do individual DGs enter into target agreements with NGOs they promotes and is the attainment of those targets monitored?

Commission's answer:

The Commission, and its services, work with NGOs primarily through grant agreements. These grant agreements have both objectives and deliverables. The achievement of those deliverables is monitored both during the implementation of the project, and afterwards, through various means, including audits and evaluations.

53. Do NGOs need to make lobbying contacts they have with the Commission or with MEPs public?

Commission's answer:

As far as face-to-face contacts between NGOs and the Commission are concerned, the publication requirements put the onus on the Commission and not on the interest representative.

In 2014 the Commission adopted two Decisions* whereby Commissioners, their Cabinet members and Directors-General shall make public information on all meetings held by them with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union (i.e. any meeting with interest representatives). The Commission also decided that these encounters shall only take place if the entity in question features on the Transparency Register.

* Commission Decisions 2014/838/EU, Euratom and 2014/839/EU, Euratom of 25.11.2014.

Question about IMG:

54. How much money did the International Management Group (IMG) receive from EU funds in 2018 and for what?

Commission's answer:

The International management group (IMG) has not received any EU funds during 2018.

Assessment system

55. In order to manage the EU budget efficiently and to avoid risks within the EU funds, does the Commission consider to develop an ex ante assessment system which would identify risky programs and risky entities which apply for subsidies even before sending the EU money? This could help prevent frauds with EU money.

Commission's answer:

The Commission departments duly apply (compulsory; FR art 74.5) ex-ante controls on all transactions. Furthermore, specific ex-ante assessments are applied for the Member States' designated bodies (management/audit authorities in shared management; FR art 63) and on the entrusted entities' control systems (pillar-assessments in indirect management; FR art 154) in order to ensure an equivalent level of sound financial management.

Conflict of interests- Czech Republic

The House of Deputies of the Parliament of the Czech Republic has adopted a draft law according to which the Prime Minister of the Czech Republic would not chair the meetings of the Commission for Structural and Investment Funds, an advisory body of the Government of the Czech Republic. A member of the Cabinet should replace him in this role.

56. Could you confirm that the resignation of the Czech Prime Minister from the Commission for Structural and Investment Funds has been one of the proposed solution the Commission has proposed to end the alleged conflict of interest of the Czech Prime Minister?

Commission's answer:

The audit procedure is ongoing. It is confidential and the Commission can therefore not comment on it.

57. Would the draft law be a sufficient solution to the alleged conflict of interest of the Prime Minister?

Commission's answer:

The Commission does not comment on a draft law of a Member State.

Additional questions

58. The Annual activity report 2018 - Human Resources and Security mentions on page 42 that two recommendations from audits prior to 2017 remain open and will be closed in early 2019:

The Management of Absenteeism in the Offices and the management of intra-muros contractors.

Could you please elaborate what measures have been taken in this regard?

Commission's answer:

Absence management:

The indicators, IT tools, alert system and resulting reporting arrangements have been developed and are currently being implemented. A new medical control unit has been created, incorporating in its control strategy, the tools, information and exchange of knowledge developed over the course of the implementation of the audit action plan. This will have a strong long-term impact that will enable the Commission to take absence management to the next level.

The result of these actions led the IAS to downgrade the recommendation from 'Very Important' to 'Important'.

The Commission still wants to work further on building reliable statistics on medical absences, which will be used to update the Commission's Health & Wellbeing strategy. The Commission expects to draw specific guidelines improving the prevention of absences and also integrate needed actions into the Health and Wellbeing Strategy. When finalised, at the start of 2020, the recommendation will be reported as closed to the IAS.

Management of intra-muros workers:

The recommendation has been reported to the IAS as 'ready for review', as DG HR considers all key features of the agreed action plan have been implemented.

A draft set of comprehensive corporate guidelines were developed that cover all main aspects defined in the recommendation and subsequent action plan, notably:

1. Advantages and disadvantages of the use of intra muros contractors;
2. Hidden costs related to the use of intra muros contractors;
3. Precautions and best practices in the daily management of intra muros contractors;
4. Assessment of impact of significant use of intra-muros contractors;
5. Improved monitoring through harmonised encoding criteria, required data and related processing in the Commission's Human Resources management information system (Sysper).

The IAS is currently carrying out a follow-up engagement to assess the implementation of the audit recommendations. The results are expected by the end of the year.

59. The audit in 2018: 'The IT project and programme management in the HR family': resulted in three recommendations, have these been closed? If not, what are the reasons for it?

Commission's answer:

The three recommendations were implemented with respect of the agreed deadlines, after which all three were closed by the IAS in 2019.

60. The audit in 2018 'Synergies and Efficiencies Review', which was received on 31 January 2019 resulted in three recommendations. Has there been progress made on the action plan and implementation?

Commission's answer:

The implementation of the Synergies and Efficiencies audit recommendations is progressing satisfactorily, respecting the deadlines set in the action plan agreed with the Internal Audit Service (IAS). The IAS is currently carrying out an initial follow-up on the first series of completed recommendations to assess their effective implementation. The results are expected by the end of the year.

61. DG BUDG has concluded its follow-up audit on the functioning of DG HR's local IT systems. Two recommendations required the following actions to be completed: The full migration of the eSire programme into the new ABAC module, Legal Commitment Kernel; and the documentation of the paperless eSire workflow. Could you please elaborate what measures have been taken in this regard?

Commission's answer:

Full migration of eSire: The Commission is currently developing its future accounting programme, which is due to replace the current accounting system ABAC. This has led to question whether it would be cost effective to invest in developing the integration of the eSire programme into ABAC or rather focus on its integration in the future budgetary and accounting system. The latter option would allow the Commission to commit its resources on the development of the new accounting system instead of developing a module in a system that will gradually be phased out.

Documentation of paperless eSire workflow: the workflow has now been documented. DG BUDG has assessed the measures implemented and concluded that the paperless eSIRE workflow has been adequately documented and implemented.

62. How many cases of whistleblowing has the Commission registered in 2018? Has the Commission review its internal process of whistleblowing, especially taking into consideration the new directive on the protection of persons reporting on breaches of Union law?

Commission's answer:

Since 2015, OLAF received in total five cases of potential internal whistleblowing concerning staff members of the Commission (two in 2015, none in 2016, one in 2017 and two in 2018).

These five cases are cases where a person requested protection under Article 22a(3) of the Staff Regulations. This figure does not take into account the cases which were sent

from the Commission to OLAF via normal administrative communication channels based on the obligation to report set out in Article 22a(1) of the Staff Regulations.

The rules on whistleblowing have been revised in 2014, on the occasion of the review of the Staff Regulations. The Guidelines on Whistleblowing proved to provide a solid comprehension of the rules and their application. Moreover, the Commission will follow-up closely the implementation, by the Member States, of the Directive on whistleblowing and assess whether good practices could be taken in accordingly.

Reporting on fraud, or more generally serious misconduct by staff, is done by OLAF and is published, within the limits imposed by confidentiality, in annual reports (the Commission's Annual Reports on the protection of the EU's financial interests ("PIF" Report) and OLAF's Annual Reports). The very small number of cases of whistleblowing does not lend itself to a general "evaluation".

63. How will the Commission guarantee that the aforementioned principles will be respected every time major changes in the workplaces will be carried out (e.g. establishing open spaces)? Does the Commission agree that psychological conditions of the staff will be considered together with the physical conditions while deciding office arrangements? Is the Commissioner ready to guarantee that an assessment of both physical and psychological conditions will be carried out together with a staff survey before deciding office arrangements?

Commission's answer:

The Commission adopted Communication C(2019)7450 "The workplace of the Future in the European Commission" in October 2019. Its aim is to create a working environment that helps staff work as effectively and efficiently as possible, where health and well-being of the staff is duly taken into account and contributes to the attractiveness of the Commission as an employer, taking into account the evolution in technology and working practices.

An internal service for 'prevention and protection at work in Brussels' and an internal service for 'health and safety at work' in Luxembourg are in charge of the implementation of the policy and the rules in the area of health, safety, prevention and protection at work. Moreover, the medical services at the various Commission sites promote the health (physical and psychosocial) of all active staff members and provides medical advice to the Institution.

It is worth mentioning that Principle 6 of the Communication states "A one-size-fits-all office set-up is not suitable in the Commission's highly diverse context. Various office arrangements should be available to match the demands of different types of work performed by Commission staff."

Hence, it is clear the Commission considers the psychological conditions of staff together with the physical conditions in decisions regarding office arrangements. And the Commission will continue to monitor the impacts of changing working arrangements, including possible issues such as discomfort, adaptation challenges and their potential consequences in terms of, for example, sickness, absence or loss of productivity and take appropriate measures to address problems identified.

64. Has the Commission taken a decision providing a possibility for former commissioners to have access to certain very limited Commission resources such as logistical support, an office and access to certain information? Does the Commission envisage to revise its Code of Conduct in the context of such a decision especially with regard to the duties of collegiality and discretion of former members which at the moment are limited only to the Commission's decisions and activities during their term of office?

Commission's answer:

Former Members of the Commission, and in particular former Presidents, continue to be ambassadors of the EU, both in Europe and beyond. Most of them will continue to defend and promote the achievements of the EU after the end of their mandate, for example, when they are invited to speak at conferences or participate in public debates about Europe and the role of the Commission.

In line with similar arrangements in national administrations and other institutions, the Commission decided at its meeting on 30 October 2019 to enable former Commission Presidents to carry out representational functions in an appropriate manner after the end of their mandate. Therefore, former Presidents should have access to certain very limited resources, for example logistical support, such as an office, and certain other assistance. Former Commissioners will have logistical support in the form of a “bureau de passage” and will be provided with certain communication material from the Commission.

After ceasing to hold office, former Members of the Commission remain bound by their duty of integrity and discretion pursuant to Article 245 of the Treaty on the Functioning of the European Union. The Code of Conduct already recalls this duty in Article 11(1), first sentence.

65. The Annual Management and Performance Report 2018 explains that in case of reservations in the annual activity report of the relevant Director-General action plans are developed to mitigate future risks and to strengthen control systems. Could the Commission present information about the action plans concerning 2018 reservations both for direct and shared management, and explain how the Commission supervises the action plans set up by Member States?

Commission's answer:

The Commission departments' action plans in the context of their (2018) AAR reservations are summarised in each AAR (see the standard reservation table following the Declaration).

At corporate level, the Commission follows up their progress made through the Corporate Management Board.

For Cohesion policy reservations relate mainly to weaknesses in the management and control systems at the level of programme authorities, such as insufficient quality of management verifications in complex areas (public procurement, state aid or eligibility issues). Action plans for system improvements are always requested with a view to prevent recurring irregularities, and the concerned Member States are required to apply appropriate financial corrections where necessary. The Commission carries out

verifications with a view to confirming the implementation of corrective actions, on the basis of which reservations are lifted when justified.

For the CAP, reservations relate mainly to weaknesses in the management and control systems of the Member States identified by the audits carried out by the Certification Bodies and/or by the Commission. Action plans for system improvements are always requested with a view to prevent recurring irregularities, and the concerned Member States are required to recover the amounts unduly spent. The Commission verifies the implementation of corrective actions, including through audits, on the basis of which reservations are lifted when justified. If the Commission concludes that a Member State concerned by serious deficiencies in its management and control systems is not in a position to implement an Action Plan with the necessary corrective measures, it may suspend the payments

66. The Commission has informed Parliament in several occasions by oral and written answers with regard to the Parliament's request to follow up on a specific case of alleged conflict of interest in the Czech Republic that as a preventive measure no relevant payments from the EU budget under ESIF and CAP are being made until the situation has been clarified. Could the Commission provide more information if a procedure of interruption or of suspension of payments has been applied and which programmes are concerned?

Commission's answer:

As already stated by Commissioner Hogan in his reply to the written questions for the hearing of 17 October 2019, as a precautionary measure and until the situation is clarified, no payments from the EU budget under the European Structural and Investment Funds are being made to companies directly and indirectly owned by PM Babiš that could be potentially affected by the alleged conflict of interest.

In relation to the Rural Development Fund, the Commission is not reimbursing to the Czech authorities the amounts related to Agrofert projects that could be potentially affected by the alleged conflict of interest.

In addition, I can inform you that on 28 November 2019 the Commission decided to suspend the relevant amounts included by the Czech authorities in their interim declarations of expenditure for Q4-2018 and Q1-2019 for the Czech Rural Development Programme.

Since the procedures for interruption or suspension of payments are linked to an ongoing audit, more details can only be given in an "in camera" session.

67. What are the project selection rate (contracted funds vs. 2014-2020 allocations) and absorption rate (interim payments to member states (shared management)/beneficiaries (direct management) vs. 2014-2020 allocations) at the end on 2018 and the last available ones for the main funds and programmes for the 2014-2020 period?

Commission's answer:

The project selection rates and latest implementation data(as of 30/11/2019) for Cohesion policy funds under the shared management:

	Project selection rate		cumulative net Interim payments rate	
	End-October 2018	End-October 2019	end-2018	30-11-2019
ERDF	65.7%	83.8%	17%	25%
CF	75.7%	93.5%	23%	31%
ESF	63.1%	78.4%	19%	28%
YEI	75.4%	88.9%	35%	43%
Total Cohesion Policy	66.8%	84.1%	19%	27%

Employment regimen for non-permanent agents and the contribution in the national regimens

The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (Regulation n° 31 EEC and n° 11 EAEC) was intended for workers that were not likely to see themselves in an unemployment situation. However, the change in the European institutions' hiring policy in recent years has increase significantly the number of contractual agents and other agents who, by the nature of their contracts, find themselves in an unemployment situation after passing through the institutions. In these cases, the unemployment benefit (*allocation chômage*) granted to those workers does not include the contribution for the retirement pension, whereas this is a right acquired in the Member States' employment regimen. This is a right acquired - in many modalities- in a large part of the Member States.

68. How do you assess this situation? Are you ready to introduce this item in the next reform of the staff regulation in order to alleviate this inequality?

Commission's answer:

The Unemployment scheme for temporary agents, contract agents and accredited parliamentary assistants of the EU institutions is governed by the relevant provisions of the Conditions of Employment of Other Servants of the Union as adopted by the European Parliament and the Council. The EU unemployment allowance is conceived as a supplementary allowance, paid on top of national unemployment benefits to which a former EU agent is entitled. Accordingly, former EU agents receiving national unemployment benefits and the supplementary EU unemployment allowance could

acquire pension rights in the national pension scheme when the national law under which the primary unemployment allowance is paid provides for that possibility.

However, the EU co-legislators did not include the possibility to continue acquiring pension rights in the pension scheme for EU staff while receiving the EU unemployment allowance. Therefore acquiring pension rights in the EU pension scheme while receiving the supplementary EU unemployment allowance is not legally conceivable under the CEOS as currently in force.

As regards the assessment of the current rules governing the situation of the other servants of the Union, the co-legislator provided that by the end of 2020 the Commission shall submit a report to the European Parliament and the Council assessing the functioning of the Conditions of Employment of Other Servants of the Union (Article 142 thereto).

IMG

A. Regarding the case of IMG (International Management Group), in its resolution of March 26 2019 on 2017 Budget Discharge, Parliament stated: *"urges the Commission to implement the judicial decisions and to fully recognise IMG's status as an international organisation, which was incorrectly put into question and denied by it and by OLAF; calls on the Commission to undertake all necessary measures in order to repair and compensate the damages inflicted on IMG and to ensure that IMG can participate in a fair procedure as is provided for international organisations in the Financial Regulation; asks the Commission to report to the discharge authority as soon as possible on the measures taken"*.

Unfortunately, this case has already cost the European taxpayer considerable sums paid, in pure loss, considering:

-) The huge number of hours of work uselessly spent on IMG files by dozens of Commission officials of the different services (1 248 hours for the sole arbitration judgement), including OLAF investigators;
-) The legal costs borne by the Commission following its condemnation by the Court of Justice;
-) The interests on the amounts unduly retained on IMG expenditures.

Moreover, those costs might be, following the decision pending in front of the Tribunal, heavily increased by the amount of compensations to be paid to IMG for the prejudice incurred following the OLAF report and the consecutive decisions taken by the Commission, which have been cancelled by the Court.

69. When will the Commission stop to throw out the taxpayer money instead of simply abide by the Court decision and the EP recommendations, which is what should be expected of an Institution which is to set an example by strictly respecting the rule of law?

Commission's answer:

The Commission is not throwing out any money and is committed to execute the judgment of the Court as soon as it is in a position to do so. The attitude of IMG has delayed the process.

IMG was the subject of an OLAF investigation, which was concluded at the end of 2014. The OLAF investigation was opened on possible irregularities in attributing EU funds to IMG related to IMG's eligibility to receive EU funds as an international organisation within the meaning of the Financial Regulation and its Implementing Rules that were applicable at the time. It was conducted in an impartial manner in accordance with the applicable legal framework.

In 2015, in light of the OLAF final report, and considering that there were doubts on IMG's status as an international organisation, the Commission took the necessary precautionary measures:

- until it would clarify its status as international organisation, no new contracts under indirect management would be concluded with IMG;
- a (then) future project in Myanmar would be implemented by another entity than IMG.

The appeal judgment of the Court of Justice of 31 January 2019 found that the Commission did not have sufficient elements to justify its decisions as regards IMG and annulled them. The judgment does not take a position as to whether IMG is an international organisation within the meaning of the applicable financial rules.

The Commission is fully committed to abiding by the Court of Justice's judgment of 31 January 2019. It must do so in full respect of the rules of the EU Financial Regulation, adopted under the ordinary legislative procedure. Under these rules, international organisations that apply to work under indirect management must transmit to the Commission the international agreements by which they are set up. The Commission is actively pursuing this matter and has asked IMG several times to provide the necessary documentation showing either that it is an international organisation.

IMG however has repeatedly refused to provide such documentation or to provide contact points in its alleged member countries which the Commission could contact as part of its assessment of IMG's status under the Financial Regulation. It has even lodged a new court action for annulment before the EU General Court, Case T-645/19.

70. Instead of aggravating those undue costs to the detriment of the Union Budget, would it not be more productive and rational if Commission services would propose to IMG to definitively solve all those contentious files by sitting around a table and finding, after more than 6 long years of legal battles, an amicable solution?

Commission's answer:

An amicable solution could only be found within the framework of the Financial Regulation. So far the attitude of IMG has not been forthcoming in this regard.

The Commission cannot engage in expenditure for which the underlying legality and regularity conditions are not met, in accordance with the Financial Regulation. The clarification of the legal status of IMG will necessarily condition any discussion on possible damages, including as regards Case T-381/15 RENV.

B. When Commissioner Oettinger appeared before the Committee on Budgetary Control on last 25th September took the commitment that Commission services will finally settle the everlasting

contentious file, opposing IMG and the Commission services since more than 5 years, to the satisfaction of both parties. He promised that Commission services will fully abide by the Court of Justice 's judgment of 31/1/19 and will faithfully follow the recommendations that our Parliament voted on last 23th March in its resolution on the 2017 Budget Discharge.

We were told that, within a few weeks, Commission services would fully re-establish IMG rights of access to all types of contracts reserved to international organisations by the Financial Regulation and would also pay to IMG the balance still due to IMG under its different contracts. Finally, after 5 years, all the indications suggest that the dialogue between the two parties has been restarted and this file will be soon closed after all the prejudice suffered by IMG following the wrong legal conclusions of the OLAF report which were condemned by the Court, will be fully repaired.

71. Can the Commission, please, confirm what is the state of this file and the results presently achieved at the level of the on-going negotiations between Commission services and IMG?

Commission's answer:

The Commission has repeatedly asked IMG, without success, for documentation demonstrating that IMG is an international organisation. Based on that information, the Commission will be able to assess IMG's status and consider whether it could work with IMG under indirect management under the new Financial Regulation.

As far as damages are concerned, there is no final judgment yet, as the Court of Justice with its judgment of 31 January 2019, referred Case T-381/15 back to the General Court for a ruling on the claim for damages submitted by IMG. The procedure in Case T-381/15 RENV is ongoing.

2014 EU staff reforms

The European Court of Auditors in its report published on Tuesday 24 September revealed that the twin objectives of cost-cutting and improving human resources, pursued during the 2014 EU staff reforms, have not been met in a balanced way. While the auditors acknowledged a "considerable" reduction in cost resulting from the implementation of this reform, they highlighted the negative impacts on the staff of the European institutions. Indeed, the HR implications of the cost-saving measures were not without negative consequences for both working conditions and the attractiveness of the EU institutions as an employer.

72. How does the Commissioner assess the report of the Court of Auditors and what concrete measures are he willing to take to avoid, compensate and reverse this dangerous situation for the European civil service?

Commission's answer:

As stated in the recent special report of the Court of Auditors on the implementation of the reform of the Staff Regulations, the Commission delivered on its commitments as all the savings promised to the budgetary authority are materialising in the current MFF.

It is true that the last reform of the Staff Regulations was challenging as it involved cuts in the number of posts, pay and pension freeze, changes in career structures and significant reductions in remuneration and benefits.

However, the Court also stated that the Commission found new ways to cope with the negative effects of the Reform. For example, by reviewing its internal processes to make them continuously more efficient in order to do more with less staff.

With regard to the attractiveness issue, it is a fact that in recent years the Commission has been struggling to attract candidates from Member States with a dynamic labour market. The Commission is already assessing corrective measures to ensure it remains an attractive employer for the best talents from all Member States.

Furthermore, while facing staff cuts, the Commission has kept on delivering, including in respect of new challenges and priorities such as the migration crisis. This has been possible thanks to specific measures such as internal redeployment or targeted analysis of synergies and efficiency gains.

Additional policies and actions were also designed and implemented to help mitigate the negative effects of the reform on staff, such as the talent management strategy, the learning and development strategy and the fit at work strategy.

Establishment of a correction coefficient for staff in Luxembourg

At the time that the Staff Regulations were introduced the authorities considered the cost of living in Luxembourg as equivalent to that of Brussels. As such, there is no specific adjustment applied for any potential differences in the cost of living between those two places of employment, making Luxembourg an exception among EU locations. Moreover, the legislator decided that the change in the cost of living for Belgium and Luxembourg would be measured by a joint index.

Since 2006, the purchase power disparity has always been lower than the trigger percentage for a correction coefficient set at 5%. In fact, the study carried out by AIRINC at the request of the European Commission in September 2019 corroborates the disparity problem and sets it at 10.5%, while ESTAT sets it at 18% (the difference is due to the fact that AIRINC includes the Greater Region of Luxembourg). In any case, they both exceed the trigger percentage of 5% established by the Staff Regulation.

Additionally, even though around 30 places of employment have a correction coefficient, the Staff Regulation expressly prohibits a correction coefficient in Luxembourg under the article 64, paragraph 3.

This situation is one of the most important factors affecting the attractiveness of the European civil service in Luxembourg, and endanger the principle of geographic balance and the principle of equal treatment.

73. How do you assess this situation in the light of the right to equal treatment of the EU staff regardless the place of employment? Are you ready to eliminate the discriminatory prohibition against Luxembourg as place of employment from the Staff Regulation? In addition to the foregoing, are you ready to launch a process to create a correction coefficient specific for Luxembourg?

Commission's answer:

Under the Staff Regulations, no correction coefficient is applicable in Belgium and Luxembourg, given the special referential role of those places of employment as principal

and original seats of most of the EU institutions. Recently, this provision has been subject to criticism by a number of staff members employed in Luxembourg, who claim it does not properly reflect differences in the cost of living between Brussels and Luxembourg.

Against this background, the co-legislator decided already in 2014 that the EU staff salary method was to take due account of the inflation in Luxembourg via the newly created Joint Index. Furthermore, the 2018 Commission interim report to the European Parliament and the Council on the implementation of Annex XI to the Staff Regulations (which covers correction coefficients matters) stated the Commission would closely follow the cost of living in Luxembourg before delivering its final report by 31 March 2022. In addition, the Commission flagged possibilities to modernise the correction coefficients methodology.

As a next step, in October 2019, the Commission published a study on the cost of living in Luxembourg. The study suggests a ten percent difference in the overall cost of living with Brussels, mainly due to higher rental fees. The study recommends possible solutions, the most important being the introduction of a housing allowance scheme as an alternative to the application of a correction coefficient, the latter being applied to all staff in a given place of employment, regardless of actual housing costs incurred.

A sustainable long-term solution on the cost of living issue in Luxembourg could be delivered only by strictly following the clear and precise provisions of the Staff Regulations on the timeline, the reporting and the necessary elements that will serve as a basis for their subsequent amendments. The 2018 Commission interim report on the application of Annex XI to the Staff Regulations and the 2019 AIRINC study have raised the attention of the cost of living in Luxembourg. However, only on the basis of the Commission report on the salary method that is due by 31 March 2022, will the Commission have the possibility, if appropriate, to make a legislative proposal covering the matter of correction coefficients.

In the meantime, the Commission services will assess the feasibility and the scope of temporary targeted measures that may help offset alleged cost of living disparities, in particular for the most vulnerable staff.

Workplace of the future

In its Communication “The workplace of the future in the European Commission”, the Commission notes a number of principles and recommendations to modernise its working environment. In particular, it is stated that before deciding on a particular office set-up, Directorate-Generals, departments and teams should receive help and advice and help to look at options and decide what the best office arrangement is for their work (principle 8). In addition, the principle 9 establishes that “staff affected should be involved throughout the process of conceptualising and implementing the new workspace.

Moreover, the few references to the staff wellbeing in the communication seem to refer to physical conditions (e.g. control of noise, temperature and lighting). However, no reference to psychological conditions can be found, such as anxiety, stress or burnout, for which the workplace plays a fundamental role.

74. How will the Commission guarantee that the aforementioned principles will be respected every time major changes in the workplaces will be carried out (e.g. establishing open spaces)? Does the Commission agree that psychological conditions of the staff will be considered together with the physical conditions while deciding office arrangements? Is the Commissioner ready to guarantee that an assessment of both physical and psychological conditions will be carried out together with a staff survey before deciding office arrangements?

Commission's answer:

Answer provided under question 63
