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**Detailed replies to the specific requests made by the Council complementing the report  
from the Commission on the follow-up to the discharge for the 2018 financial year,  
COM(2020)311 final.**

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## **INTRODUCTION**

This document complements the Report from the Commission to the European Parliament and the Council on the follow-up to the discharge for the financial year 2018<sup>1</sup>, which formed part of the Integrated Financial and Accountability Reporting 2019. It presents in detail the answers to 99 specific requests made by the Council in the comments accompanying its recommendation on the discharge for the financial year 2018.

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<sup>1</sup> COM(2020)311 final

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

1. (Nr 4 - 2018/COU/0351) The Council encourages the Court and the Commission to better coordinate their approach in interpreting legislation. The Council considers that the EU institutions should speak with one voice in order to avoid misunderstandings for beneficiaries and national authorities.

### Commission's response:

*The Commission is in constant dialogue with ECA aiming to coordinate the respective approaches.*

*As far as Cohesion policy is concerned, the Commission supports the pilot approach by the ECA for its Statement of Assurance which is in line with the single audit concept and the 2014-2020 assurance model. The Commission however mentioned in its written replies to the 2018 annual report divergent interpretations of applicable national or EU rules in five cases for which it considered not to have the necessary legal grounds to quantify the error and to impose financial corrections.*

*The Commission regrets that such divergences of analysis occurred and could not be resolved at the stage of the thorough adversarial process. The Commission fully agrees that programme authorities need a consistent and stable interpretation of the legal and audit framework to ensure legal certainty for all actors, including beneficiaries. That is the reason why the Commission services will continue to work in close collaboration with the ECA to overcome difficulties experienced and to further align audit methodologies and interpretation of legal texts.*

*In the framework of the cooperation between the institutions, ECA observers attend regularly the technical meetings with programme authorities including the annual Homologues Group meeting with audit authorities and the sharing of guidance and interpretation of legal texts. In addition, the Commission also invites the ECA to participate in specific working groups. As an example, the Commission has established a working group with the participation of several audit authorities and ECA as an observer with the objective to establish a common understanding and practice in the area of audit documentation, following some weaknesses identified in that respect by the ECA in the course of its audits.*

*The Commission and the ECA have also agreed on a procedure of early discussion of legal issues detected in the context of Statement of Assurance audits, also including programme authorities, so that there is a common understanding of the underlying applicable rules by all parties.*

## Chapter 2 - Budgetary and financial management

2. (Nr 3 - 2018/COU/0352) The Council recognises that an important acceleration of the implementation of funds, as well as positive developments regarding project selection on the ground, took place in 2018. It welcomes the improvements in Member States and the Commission's forecasts and monitoring mechanisms and reiterates its call for continuation of this process. The Council calls on the Commission to continue its support for Member States in further improving the speed of implementation.

### Commission's response:

*The 2014-2020 EU programmes are operating at cruising speed and contributing strongly to the delivery of the EU's priorities. As regards cohesion policy and in particular ERDF and CF funds, six years into the 2014-2020 period, the implementation of regional policy programmes progresses well, with EUR 324.6 billion already allocated to projects in Member States by December 2019. This is more than 92% of the Funds' total envelope and represents almost 380 thousand projects. This shows further acceleration compared to the results registered at the end of 2018, which stood at 77% of total funding allocated to projects. This trend slightly exceeds the one of the last programming period and anticipates a sustained pace of implementation towards the end of the period.*

*The absorption rate has continued to increase throughout the year: by end June 2020, nearly all the EUR 349 billion in total cost was allocated to projects. This compares to the same moment in the last programming period. But it is important to mention that a high selection rate does not automatically translate into prompt expenditure. Expenditure is slower to materialise for projects that are still in the planning or procurement stage, projects with multi-annual character or projects that are otherwise immature. The 2014-2020 regulatory provisions also reduced the pressure on Member States for prompt budgetary implementation. The financial execution since the beginning of the programming period stands at 45.5% for CF and 41.2% for ERDF end May 2020.*

*Regarding ESF programmes, the year 2019 has marked a further acceleration of their implementation. Nearly EUR 12.9 billion have been paid in 2019 to the 2014-2020 ESF programmes (including pre-financing) amounting to an absorption rate of 31%. This shows significant progress compared to the end of 2018 (19%) and is a strong signal that the implementation is accelerating. By the end of 2019, the average ESF project selection rate on the ground had exceeded 84%, paving the way for a strong contribution to the Europe 2020 objectives in this area.*

*Based on the Member States' execution reports from the end of June 2020, the project selection rate for ESF/YEI rate has reached 92 % of the total funding (EU and national),*

*The expenditure incurred on the ground by final beneficiaries has reached 46% of the total funding (EU and national).*

*In respect of the YEI, the mature phase of implementation continued in 2020. The average YEI project selection rate is 100%. As of end June 2020, one million ESF and YEI projects have been selected on the ground.*

*More generally, sound administrative capacity in Member States and regions is a key precondition for successful implementation. The Commission has continued to provide specific support and tools to programme authorities and beneficiaries of cohesion policy. By May 2020, 216 exchanges involving nearly 3,500 participants had been implemented under TAIEX-REGIO PEER2PEER12, the exchange tool for regional policy practitioners/experts in Member States, all with positive feedback. All Member States have so far been involved either as beneficiaries or as providers of expertise.*

*Other initiatives and actions are on-going, such as a strategic training programme for managing, certifying and audit authorities and intermediate bodies on the implementation of the 2014 – 2020 regulations, or a Competency Framework for efficient management and implementation of ERDF and CF aimed at supporting further professionalisation of management of the funds, with a web based self-assessment tool and comprehensive user guidelines available in 22 EU languages.*

*In addition, the consolidation of the results of the Catching-up Regions initiative continued in 2019 . It was created to overcome key development bottlenecks and enhance the impact of regional policy investments in low-income regions in Poland, Slovakia, Romania and Croatia. This successful model of cooperation of EU, national and regional actors is being transferred to other European regions facing similar challenges.*

*REGIO developed a methodology to assess the performance of programmes based on the assessment of annual implementation reports and of de-commitment risk per individual operational programme. Programmes identified as being in difficulty are under close monitoring, putting in place corrective actions tailored to the needs of each programme and following-up on specific issues identified throughout high level meetings, technical exchanges, targeted advice and dialogue with national authorities.*

*EMPL also developed a methodology to assess the performance of programmes based on the assessment of annual implementation reports and closely followed up on implementation progress in the ESF Technical Working Groups and ESF Committee meetings, which take place five times a year and gather representatives from the Member States, social partners and Commission representatives. Tailored support was provided to Member States through written Q&As, technical exchanges, discussions with national authorities and active presence in meetings such as annual review meetings and monitoring committee meetings. The list of programmes in difficulty is reviewed bi-annually.*

3. (Nr 4 (first part) - 2018/COU/0353) Considering contingent liabilities stemming from guarantees, the Council reiterates its call on the Commission to monitor the risk mitigating effect of the common provisioning fund, once it is established, to

apply a prudent approach when establishing the effective provisioning rate of the common provisioning fund and to provide up-to-date information on risk exposure.

**Commission's response:**

*The Common Provisioning Fund will be established on 01/01/2021 and will hold the provisions made to cover financial liabilities arising from financial instruments, budgetary guarantees or financial assistance.*

*Pursuant to Art 211 of the Financial Regulation (FR) the provisioning rate shall be based on the global provisioning needed in advance to cover the net expected losses and, in addition, an adequate safety buffer. The provisioning held in the Common Provisioning Fund will hence have a risk mitigating effect in case of guarantee calls and help ensuring the sustainability of the contingent liabilities related to the guaranteed operations.*

*The Effective Provisioning Rate as defined in Art 213 FR acknowledges that by pooling the provisioning from the different programmes together in the CPF, overall there can be less need for provisioning than if the provisions would be kept separately. The adoption of the delegated act with detailed conditions for the calculation of the effective provisioning rate, including a prudent methodology for its calculation is due at the beginning of October 2020, following the consultations with the Member State experts.*

*Up-to-date information regarding the risk exposures and the sustainability of the contingent liabilities will be provided through the annual reporting to the European Parliament and to the Council foreseen by Art 41.5 FR (draft budget) and Art 250 FR (Annual report on financial instruments, budgetary guarantees and financial assistance).*

4. (Nr 4 (second part) - 2018/COU/0354) The Council invites the Commission to carefully monitor the evolution of potential liabilities, in the current MFF, and to evaluate how to mitigate the EU risk exposure.

**Commission's response:**

*The Commission is fully transparent and treats contingent liabilities in line with international accounting standards. The annual accounts of the EU already contain detailed information on the existing liabilities, including on the EU budget exposure stemming from budgetary guarantees and guarantees from financial assistance programmes.*

*Furthermore, pursuant to the Financial Regulation as of 2021 the Commission will provide in a dedicated working document attached to the Draft Budget an assessment of the sustainability of those liabilities.*

5. (Nr 5 - 2018/COU/0355) The Council supports the Court's recommendation to the Commission to continue to provide the European Parliament and the Council with



relevant information on the funds transferred from the EU budget for financial instruments managed by the EIB group, in order to allow proper scrutiny and increase the transparency of such operations.

**Commission's response:**

*The Working Document Part X on Financial Instruments (Art 41(4) FR) attached to the Draft General Budget of the European Union for the financial year 2021 published in June 2020 include a detailed table with the funds transferred from the EU Budget for Financial Instruments managed by the EIB Group. The table is aggregating funds transferred, and other financial performance metrics, at EIB and EIF level and is showing the total for the EIB Group, hence allowing proper scrutiny and increase the transparency of these operations implemented by the EIB Group.*

### Chapter 3 - Getting results from the EU budget

6. (Nr 2 - 2018/COU/0356) The Council supports the Court's findings that performance indicators should be relevant to the programmes' general and specific objectives, provide quantifiable data and be sufficiently ambitious. Performance assessment undertaken by the Commission should increase the focus on results and impact of budget implementation. In that vein and acknowledging that programme implementation is often not linear, the Council calls on the Commission to assess performance on the basis of milestones, which would provide the Court with relevant information to assess performance progress.

**Commission's response:**

*The Commission accepts this recommendation. Key performance indicators are designed to measure progress on the general or specific objective that they relate to and are set out in the basic acts of the programmes. It will be necessary to use a limited number of indicators for which quantitative baselines, milestones or targets cannot be defined. Instead, qualitative milestones and targets are chosen. Indicator milestones and targets are chosen based on a realistic assessment of the programmes' capabilities at the time of their conceptualisation. Performance is then assessed based on these core performance indicators and their milestones and targets. Indicators are designed to be result indicators, i.e. showing the actual result of an intervention, wherever possible. Where this is not possible, output indicators are selected. Programme impact is assessed during the initial impact assessment as well as in the mid-term and final evaluations, in accordance with Better Regulation guidelines.*

*A new set of core performance indicators will be applicable to the 2021-2027 MFF programmes, subject to the adoption of the MFF and the legal bases of the programmes.*

7. (Nr 3 - 2018/COU/0357) The Council shares the view of the Court that indicators do not always reflect the actual progress properly and reiterates its calls on the Commission to provide up-to-date data on performance and on progress made towards targets and objectives. Such data should be of high quality and focus on the actual performance of the programme, rather than on the actions taken by the Commission or other bodies implementing them.

**Commission's response:**

*The Commission accepts this recommendation. The Commission notes, however, that it has to take account of feasibility and cost considerations as well as the fact that it requires a corresponding commitment of, in particular, Member States and beneficiaries to submit high quality data in a timely manner. The Commission reports on indicator results based on the latest data it receives. Results to be reported are defined in the core performance indicators, which are used to measure performance. They are set out in the respective legal bases of the*

*programmes, and they are therefore subject to the Parliament's and Council's approval.*

*A new set of core performance indicators will be applicable to the 2021-2027 MFF programmes, subject to the adoption of the MFF and the legal bases of the programmes.*

*The Commission publishes a wealth of performance information in the Programme Statements accompanying the annual draft budgets. The related Programme Performance Overview, which as from this year will be annexed to the Commission's Annual Management and Performance Report, contains summary information on performance for each of the programmes, including as regards the progress towards targets.*

8. (Nr 4 - 2018/COU/0358) As regards a timely information flow on performance, the Council supports the Court's recommendation that timely information should be provided in innovative ways, including in new reporting tools on internet platforms. This would allow Member States' authorities and final beneficiaries, as well as the general public and the EU institutions, to assess the state of play and the benefits of EU spending.

**Commission's response:**

*The Commission accepts the recommendation. The Commission reports regularly on progress made. The Annual Activity Reports and Programme Statements provide annually the latest available performance information for all performance indicators for the EU budget. The Annual Management and Performance Report for the EU budget is a summary report with references to other more detailed performance reports. All of these reports are available electronically through the Commission's internet presence. In addition, several programmes already publish timely information on their implementation and results through tailored internet platforms. The Commission is currently preparing the launch of the new internet pages which will present the programmes under the 2021-2027 MFF.*

9. (Nr 5 - 2018/COU/0359) The Council welcomes the Programmes' Performance Overview (PPO) provided by the Commission for the first time in 2018 and calls on the Commission to continue providing a reader-friendly report on performance, including an explanation on the choice of indicators and the method for calculating progress.

**Commission's response:**

*The Programme Performance Overview provides a reader friendly excerpt of the performance information provided in the Programme Statements and, as from 2019, is published as an annex to the Annual Management and Performance Report (AMPR). It provides an integrated, reader friendly approach on*

*performance reporting both on high-level reporting as well as programme specific performance insight. The Commission will continue to improve the content and layout of the Programme Performance Overview. Information is included on the progress towards the target of selected indicators, so as to provide a summary overview of the performance of different parts of the programme. Wherever possible, progress is calculated and presented in an easily identifiable way that shows the progress to the target from the baseline through a bar-chart visualisation, according to a consistent methodology explained in the overview. The programme performance part of the report provides information on performance and possible shortcomings. A structured section on key achievements provides reader-friendly examples of interesting specific achievements. See also reply to 2018/COU/0356.*

## Chapter 4 - Revenue

10. (Nr 2 (first part) - 2018/COU/0360) The Council supports the Court's recommendations made to the Commission to implement a more structured and documented risk assessment for its TOR inspection planning.

**Commission's response:**

*The Commission will consider changes in its risk assessment and the way it is documented along the lines recommended by the Court of Auditors. The Commission already made changes in its risk assessment for the 2020 TOR inspection programme, and the way it is documented. 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. Reflections to further improve risk assessment and the way it is documented is ongoing.*

11. (Nr 2 (second part) - 2018/COU/0361) The Council supports the Court's recommendations made to the Commission to reinforce the scope of its monthly and quarterly checks of TOR A and B accounts.

**Commission's response:**

*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. Also, 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. Provided the results during the testing phase are positive, existing internal instructions would be adapted in line with the recommendation.*

## Chapter 5 - Competitiveness for growth and jobs

12. (Nr 3 - 2018/COU/0362) The Council regrets that the level of error estimated specifically for research spending remains above 2 % and urges the Commission to continue its efforts to reach an error rate below the materiality threshold.

**Commission's response:**

*The Commission continues working to reach the lowest error rate possible for Horizon 2020.*

*In this regard, the Commission is tackling different aspects of the programme implementation, like providing information to beneficiaries at their request on the operational and financial aspects of the project implementation. In addition, events are planned in several Members States to raise awareness to auditors responsible for auditing Certificate of Financial Statements and beneficiaries on the Grant Agreement provisions.*

*The Commission is taking the following actions on a continuous basis:*

- a substantial audit campaign, together with recovery action, as appropriate;*
- development and improvement of its risk based ex-ante controls;*
- a number of communication actions, aimed at beneficiaries and their auditors;*
- pilot actions for lump sum funding;*
- further clarification of rules and their interpretation.*

*Furthermore, a number of simplifications which were introduced in Horizon 2020 have already had a positive impact on level of error. The Commission will further simplify in Horizon Europe.*

13. (Nr 5 - 2018/COU/0363) The Council reiterates its appeal to the Commission to continue its efforts to address the causes of error, with a particular focus on the programmes subject to persistently high error levels, and to strengthen its efforts to fully implement the measures already taken in this respect.

**Commission's response:**

*See response to 2018/COU/0362*

14. (Nr 7 - 2018/COU/0364) While recognising that the Commission has made considerable efforts towards reducing administrative complexity for Horizon 2020, the Council supports the Court's recommendation and invites the Commission to carry out more targeted checks of new entrants' and SMEs' cost claims under this programme, to enhance its information and communication efforts towards providing those beneficiaries with proper guidance on eligibility issues and funding

rules, as well as to further simplify the rules for calculating personnel costs in the next Research Framework Programmes.

**Commission's response:**

*The Commission aims to set targeted checks to new entrants and SMEs' without making their participation in Horizon 2020 more cumbersome. In addition, due to the huge number of beneficiaries on these categories, controls are to be designed with care, with a view to their cost-effectiveness.*

*The Commission addresses specifically newcomers and SMEs in its dedicated communication campaigns.*

*Horizon 2020 has introduced simplifications aimed directly at this category of beneficiary, including lump-sum grants. The Commission will further simplify in Horizon Europe.*

*Furthermore, the Commission has put in place a sound system of ex-ante controls which includes several automated checks. The system foresees risk-differentiated ex-ante checks, thus addressing appropriately also this category of beneficiary.*

15. (Nr 8 - 2018/COU/0365) The Council is concerned about the little impact on error prevention brought by the ex ante verification assessment procedures used by the Commission for the capitalised and operating costs of large research infrastructures (LRI). While recognising that the beneficiaries apply their own methodologies, the Council supports the Court's recommendation addressed to the Commission to improve its ex ante verification of operating costs for this type of project.

**Commission's response:**

*Under H2020, Beneficiaries can declare capitalised and operating costs for large research infrastructure (LRI) if they comply with certain conditions and after having obtained a positive ex-ante assessment (prior approval) of their costing methodology from the Commission. However, the correct application of the approved methodology still needs to be verified ex-post. In that context, it needs to be underlined that the ECA did not identify any issue on the ex-ante assessment of the LRI's but rather on the incorrect application by the Beneficiaries of their own LRI methodology, which could only be detected by means of an ex-post audit.*

*For a number of technical reasons and due to the complexity of the issue, the LRI assessment may be perceived as burdensome and time consuming for Beneficiaries. The Commission is ready to examine ways of simplification. However, the leverage effect of these ex-ante assessments is important since the Beneficiaries applying for this scheme are top Beneficiaries and the amounts claimed are significant. Besides quantifiable benefits (lowering of error rate), the LRI scheme has an important preventive effect towards errors of financial reporting and it helps Beneficiaries improving their systems of financial reporting of capitalised and operating costs of infrastructures. Its benefits can only be fully assessed in the longer run towards the end of the Framework Programme.*

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16. *(Nr 10 (first part) - 2018/COU/0366)* The Council supports the Court's recommendation and calls on the Commission to promptly address the findings identified by its Internal Audit Service (IAS) in the Education, Audiovisual and Culture Executive Agency's (EACEA) internal control system for managing grants for Erasmus+.

**Commission's response:**

*As regards the actions taken to address the weaknesses identified by the Commission's Internal Audit Service, the state of play is as follows:*

*a) Audit on Erasmus+ and Creative Europe – Grant Management phase I (from the call to the signature of contracts)*

*The IAS concluded positively on the implementation of the corresponding action plan and closed the 10 recommendations with no remarks in March 2019.*

*b) Audit on Erasmus+ and Creative Europe – Grant Management phase II (from project monitoring to payment)*

*During 2019 the action plan has been implemented including regular status feedback to senior management, parent DGs and Steering Committee. IAS assessed the implementation, closed the originally critical recommendation related to internal control and Authorising Officer by Sub-Delegation assurance building process and downgraded two Very Important recommendations to Important as they had been implemented in most aspects. EACEA has set the end of September 2020 as new completion date for the remaining three Important recommendations (the two downgraded and an additional ongoing) for which some action still needs to be taken to fully implement them.*

*c) Further elements: conclusion of the IAS on the state of internal control and EACEA 2019 AAR reservation*

*Based on all work undertaken by the IAS in the period 2017-2019, the IAS has concluded that internal control systems in place for the audited processes are effective.*

*In line with this conclusion, EACEA lifted in its AAR 2019 the reservation on the internal control system.*

17. *(Nr 10 (second part) - 2018/COU/0367)* The Council supports the Court's recommendation and calls on the Commission to promptly address the findings identified by its Internal Audit Service (IAS) in the monitoring of compliance with contractual obligations and reporting requirements on dissemination and exploitation of research and innovation projects.



**Commission's response:**

*The Commission put in place a series of actions to address this issue in the context of the IAS audit on Dissemination & Exploitation of H2020 results:*

*1. Strengthening internal capacity building: The Vademecum chapter on data and results has been updated in consultation with the whole R&I family of services. It has already been published in GoFund. In addition, a guidance document to project/policy officers (PO) and a relevant PO timeline on Dissemination and Exploitation (D&E) are available on the D&E wiki. These detail the checks that officers need to perform while monitoring the D&E contractual obligations. A dedicated D&E training was also offered in September 2019 with new dates programmed in 2020.*

*2. Encouraging and improving continuous reporting on Dissemination & Exploitation (taking open science aspects into consideration): A new approach has been developed with the Horizon Results Platform, which serves as one of the main tools for (i) continued reporting on R&I results with minimum administrative burden for the beneficiaries, and for (ii) following up on a project, after the end of its lifecycle. At the same time, the importance of continuous reporting (including on peer-reviewed publications and patents) has been highlighted through the Coordinator's Days (September 2019 & February 2020), other Horizon 2020 (e.g. H2020 outreach campaign) & Horizon Europe info-events (Q4/2019 & Q1/2020). The aspects of open access and of ensuring visibility of EU funding have been equally addressed on these occasions. Internally, relevant references have been inserted to the vademecum and guidance documents.*

*In addition, to address the aforementioned point, the Commission plans and implements (i) changes in the explanatory texts of the Annotated Grant Agreement and the H2020 online manual for beneficiaries, (ii) changes in the explanatory text on the H2020 reporting template (part related to Dissemination & Exploitation), and (iii) the introduction of control checks on the H2020 reporting template, where applicable, and in accordance with the regular updates of the Funding & Tenders portal. However, given the limitations of the current reporting template of Horizon 2020 and the limited change possibilities in the current corporate IT systems, the Commission has proposed to incorporate this action into the preparations covering the implementation modalities of Horizon Europe. To this end, a new template on D&E reporting for beneficiaries is being discussed with the R&I family of services for Horizon Europe. This will enable the collection of more meaningful and quality data on D&E activities, including feedback to policy aspects. The template will address both ongoing and finished projects taking into account the reporting needs after the end of their lifecycle.*

*3. Enhancing the quality and timing of publishable summaries and public deliverables in CORDIS: Regular communication and better coordination with the Publication Office have led to improvements in the timing for publication and quality of the publishable summaries & public deliverables of projects in CORDIS. The need for timely approval by the POs of the publishable summaries & public deliverables was addressed at the level of the R&I family of services (i) during a dedicated discussion on the D&E vademecum in November 2019, as well as (ii) at*

*the D&E Net meeting of January 2020. Relevant references have also been included in the D&E training material.*

*4. Raising visibility of the importance of D&E across the Commission services: A comprehensive article highlighting the importance of D&E for the proper implementation of the Framework Programme has been prepared by the Common Knowledge and Data Management Service. The article also showcases the main D&E activities performed by the R&I family so far, as well as those envisaged for the near future. It will be published in the website of RTD and the dedicated pages of the CIC in May 2020.*

*Therefore, the Commission has implemented the recommendation in most respects. The Commission keeps working for the full implementation of the recommendation.*

## Chapter 6 - Economic, social and territorial cohesion

18. (Nr 3 - 2018/COU/0368) The Council welcomes the guidelines adopted by the Commission on eligibility of VAT and the clarifications provided in this respect to audit authorities. The Council calls the Commission to continue providing appropriate and consistent training and guidance, along with sharing good practices to assist beneficiaries and national authorities in the implementation of the programmes.

### Commission's response:

*In shared management, the Commission continuously organises capacity building actions at the level of all programme authorities, which contribute to the smooth implementation of programmes as well as the assurance process. In particular, various seminars aiming to strengthen the capacity of Member States to deal with the provisions of the programming period 2014-2020 have been organised, addressing topics such as management and control principles, procurement, simplified cost options, anti-fraud and anti-corruption tools.*

*As far as audit authorities are concerned, the Commission hosts Annual Coordination Bilateral Meetings with each Member State's authorities covering the monitoring of / progress on audit strategy with and discussions on methodological aspects of common interest. Dedicated technical meetings provide the opportunity to compare the Commission and audit authorities' audit methodologies and points of view.*

*During all these events, programme authorities also received information on the ongoing discussions for the period 2021-2027.*

*Capacity building actions will be continued under the new programming period.*

*In spring 2019, launch events took place in all Member States starting the informal dialogue on the new programming period in order to approve as many programmes as possible as soon as the regulations come into force, and therefore start the implementation without delay. In that respect, the Commission organised a seminar on programming in June 2019, which almost 300 participants attended.*

## Chapter 7 - Natural Resources

19. (Nr 2 - 2018/COU/0369) The Council also takes note of the Court's findings that the estimated level of error would have been an additional 0.6 percentage points lower and below the materiality threshold if national authorities had made better use of all available information to prevent or detect and correct errors before declaring the expenditure to the Commission. Therefore, the Council encourages the Commission to continue its support to Member States to take all necessary actions to prevent, detect and correct errors.

### Commission's response:

*The Commission is continuously supporting Member States in identifying, designing and taking all necessary actions to prevent, detect and correct errors.*

*The existing assurance model with the work of paying agencies as the basic layer of controls allows for high level of assurance on CAP expenditure. The error rate for CAP is low and very close to the materiality threshold – as confirmed by the Court of Auditors.*

*The Commission is actively monitoring the completeness and prompt implementation of the action plans elaborated by the Member States when serious deficiencies and weaknesses are identified. The action plans include remedial actions addressing frequently found cases of error.*

*The Commission continues the work aiming at ensuring that the action plans properly address the causes of the errors. The error rate has been decreasing in the last few years, which proves that remedial actions have effect. It should be kept in mind that some action plans, because of their scope, may take some time to be completed.*

*The Commission also provides guidance to the Member States relating to most common problems and disseminates best practices among national authorities. A revision of the RD Guidance on controls and penalties (2015) was shared with Member States through uploading on CircaBC on 19/03/2020.*

*During the audits in different Member States, the best practices are shared, also in the form of recommendations given to improve the management and control systems. Fostering capacity building and exchanging best practices with the Member States' authorities is also done through the European Network for Rural Development. The Member States are encouraged to use less error-prone approaches such as Simplified Cost Options. The Arachne IT tool has been made available to MS authorities responsible for CAP to help them in carrying out controls on the eligibility conditions.*

*Furthermore, since 2013, 9 seminars on error rate in rural development have been organised, of which the latest took place on 13 June 2019. The seminars aim at presenting the lessons learnt from the audit work, sharing good practices in Member States' experience with the implementation of the programmes and provide guidance. In the meantime, the "geographical desks" [(the DG AGRI units responsible for the Member States' Rural Development programmes)] ensure*

*regular monitoring of the action plans and carry out follow-up activities in annual and ad-hoc meetings with Member States, monitoring committees and, if relevant, in the context of programme amendments. The European Network for Rural Development also has an enhanced role in disseminating good practices and guidance related to the reduction of errors, and improving overall RDP implementation.*

*In light of the above the Commission considers the recommendation to be implemented.*

20. (Nr 6 - 2018/COU/0370) The Council acknowledges that reducing the error rate for payments to beneficiaries below 2 % for rural development has to be balanced against the resulting costs and burdens, but encourages the Commission and the Member States to continue their efforts in this respect.

**Commission's response:**

*The Commission considers that this recommendation has been implemented.*

*The Commission is committed to continuing to work, together with the Member States, to reduce the error rate for rural development through proportionate efforts, taking into account the need to balance legality and regularity with the achievements of policy objectives while bearing in mind the delivery costs. By promoting administrative simplifications such as the use of Simplified Cost Options (SCOs) and IT-based checks, the Commission has seen the error rate decrease at a steady pace in the last years, a trend which is expected to continue going forward.*

*The Commission notes that expenditure rural development is more exposed to risk than direct payments under the EAGF. As such, it merits very close scrutiny. Furthermore, while the Commission supports the Member States, notably through guidance and on-the-spot audits, the Member States are ultimately responsible for the proper implementation of the respective rural development programmes in their territory. Nevertheless, as reported in DG AGRI's 2018 Annual Activity Report and the Director-General's Declaration of Assurance and reservations, the error rates have declined over recent years and, in 2018, reached 3.20% for rural development.*

*While the Commission acknowledges the impact of an error rate above materiality on the assurance regarding legality and regularity of the underlying transactions financed by the EAFRD for rural development, due consideration must also be given to the corrective capacity of the net financial corrections applied to claw back undue expenditure to the EU budget, and to the recoveries by Member States. The ongoing conformity procedures in respect of the deficient management and control systems which are subject to reservation ensure that the EU budget is ultimately sufficiently protected by the corrective capacity of Commission's net financial corrections.*

*Beyond the support to the Member States, supervision through on-the-spot audits and net financial corrections to recover ineligible expenditure, where necessary*

*the Commission also interrupts payments until remedial actions have been implemented. Where action plans are required, the Commission closely monitors their implementation by the Member States; failure to implement an action plan is addressed, where appropriate, via suspension/reduction of payments.*

*It should be noted that also for rural development, when taking into account the corrective capacity, there is assurance that the residual risk to the EU budget is below materiality. Indeed, for the overall CAP expenditure, the corrective capacity from net financial corrections by the Commission and recoveries by the Member States is estimated at 1.90% of 2018 expenditure. This provides sufficient assurance that, with the adjusted error rate for the CAP being at 2.15% according to DG AGRI's 2018 Annual Activity Report, the remaining overall financial risk to the EU budget, after all corrective action will have taken place, is significantly below materiality.*

21. (Nr 7 - 2018/COU/0371) The Council notes with concern the Court's findings on the weaknesses in the way in which the Commission and Member States applied the Common Monitoring and Evaluation Framework result indicators to measure and report on the performance of agricultural and rural development spending. The Council supports the Court recommendation to the Commission to address the weaknesses in performance measurement and reporting.

**Commission's response:**

*In 2018, the Commission's proposal for a regulation establishing rules for support for a new strategic plan to be drawn up by Member States under the Common Agricultural Policy (COM(2018) 392), Annex I defines the common Impact, Output and Result indicators of the CAP. The proposed result indicators should serve (i) to establish operational targets for the implementation of relevant interventions included in the CAP Strategic Plans and (ii) to monitor progress towards achieving those targets. In this respect, result indicators play a fundamental role in policy planning and monitoring of implementation. The Commission proposal is currently being negotiated with the co-legislator (the Council and the European Parliament). The Commission will endeavour to ensure that the result indicators reflect the intended effects of interventions.*

## Chapter 8 - Security and citizenship

22. (Nr 4 - 2018/COU/0372) The Council welcomes the Court's recommendation and calls on the Commission to ensure the proper examination of documentation it required from beneficiaries in order to properly control procurement procedures, as well as to provide clear instructions in this regard to Member State authorities responsible for AMIF and ISF national programmes.

### Commission's response:

*The Commission partially implemented the Council's discharge request.*

*For the part concerning direct management, DG HOME is preparing a note complementing the final payment methodology, which has a section on supporting documents. This complementary note would clarify that, in case supporting documents are asked for procurement, the project officer should clarify which documents are requested and avoid asking documents in national languages. Instead, appropriate information will be obtained from the beneficiary explaining in writing the procedure followed and the documentation that will be available for future audits.*

*In relation to shared management, DG HOME implemented already the recommendation. During the Asylum Migration Integration Fund (AMIF) and Internal Security Fund (ISF) Committee meeting held on 17 September 2019, DG HOME informed the Responsible Authorities of the Decision of 14 May 2019 C(2019)3452, laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non - compliance with the applicable rules on public procurement. The Commission (DG HOME together with DG GROW) also raised awareness among Audit Authorities of Member States on the most common cases of non-compliance with the applicable rules on public procurement during its workshop with the Audit Authorities in September 2019. This information was also presented to the Member States' Responsible Authorities during the AMIF and ISF Committee meeting held in September 2019.*

*Additionally, DG HOME has held training sessions for the Desk Officers responsible for assessing the Member States' annual accounts, on the importance of verifying the procurement procedures chosen and to request further information from the Member State when necessary.*

*In light of the COVID-19 situation, DG HOME prepared a guidance note for Member States on the possible flexibilities within the 2014-2020 financial framework and held a video conference to explain these measures. Member States were also informed of the Commission communication of 1 April 2020 C(2020) 108 I/01, on using the public procurement framework in the emergency situation related to the COVID-19 crisis, which highlights options under the public procurement framework for the purchase of the supplies, services, and works required to address the crisis.*

## Chapter 9 - Global Europe

23. (Nr 3 - 2018/COU/0373) The Council welcomes the Court's assessment of the residual error rate study of DG NEAR and fully supports the Court's recommendation to limit full reliance in that study on previous control work. The considerable increase of transactions where full reliance was placed on the audit work of others could have an impact on the calculation of the residual error rate in a chapter, where there is also only a limited review of transactions by the Court. The Council, therefore, urges the Commission to implement the Court's recommendation.

**Commission's response:**

*The ECA recommendation states that DG NEAR should “by 2020, take steps to adapt DG NEAR’s RER methodology to limit full-reliance decisions, and that it monitor its implementation closely.” In the Specific Terms of Reference attached to the request for services for the 2020 RER study (launched on 23/10/2019), DG NEAR included in the ‘tasks to be performed’ the following: ‘propose an update to the RER methodology to bring it in line with ECA recommendations and DEVCO RER methodology’. The contract entered into force early 2020 and this will be one of the first tasks to be performed. Therefore, steps have been taken to adapt the RER methodology as requested by the ECA recommendation.*

24. (Nr 4 - 2018/COU/0374) The Council is concerned about a possible overstatement of DG ECHO's corrective capacity and the occurrence of undetected errors and urges the Commission to follow up on the Court's recommendation in that regard.

**Commission's response:**

*DG ECHO has instructed the financial officers to ensure that reasons for recoveries are correctly encoded. In addition, a sample of recoveries performed in previous years has been verified to ensure that the corrective capacity declared for 2019 was not overestimated.*



## Chapter 10 - Administration

25. (Nr 2 - 2018/COU/0375) The Council regrets that the number of internal control weaknesses in the management of family allowances for staff members has increased compared to previous years. The Council calls on the Commission to improve its procedures to manage staff costs and statutory family allowances.

### Commission's response:

*It is important to recall that the responsibility to declare and update personal information, including on family allowances received from other sources, lies first and foremost with staff, in accordance with Article 67(2) of the Staff Regulations. This is an inherent element of the Commission's internal control system, rather than a control weakness. The Commission mitigates this inherent risk by recovering all amounts declared as soon as possible, without applying the 5-year limit provided for in Article 85 of the Staff Regulations. In addition, the Commission has taken the necessary measures to encourage officials to fulfil their obligations and is also in the process of strengthening the team in charge of allowances received. This way, they will be able to carry out regular checks on the basis of lists extracted from the Commission's databases in order to target/identify all files which are not up-to-date, or when the planned declarations have not been made. A first tangible proof of the impact of this approach is that amounts recovered have been constantly increasing in the last years.*

26. (Nr 4 - 2018/COU/0376) The Council regrets the Court's observation that in two of the five audited cases related to procurement procedures to improve the security of people and premises in the Commission, the Commission had used the negotiated procedure although the criteria of the Financial Regulation for its use were not met. In addition, in three examined procedures by the Court, there were shortcomings related to the evaluation process, namely that minimum requirements of the tender specifications were not met and there were no proper checks for compliance with the exclusion and selection criteria. The Council urges the Commission to improve its procurement procedures to avoid similar shortcomings in the future.

### Commission's response:

*The Commission confirms its commitment to analyse where adjustments to low and middle value procedures are necessary to improve the activity in the future. The amounts concerned by the errors were materially insignificant as these concerned a limited number of procurement procedures for very low values. Nevertheless, the Commission is taking the following actions to avoid such cases from occurring in the future:*

- *The Commission (DG HR) is developing an internal manual for low and very low value procurement for DG HR;*

- *The Commission is implementing a systematic internal check on low value procurement in DG HR.*

**SR No 15/2018 "Strengthening the capacity of the internal security forces in Niger and Mali: only limited and slow progress"**

27. (*Annex, Nr 5 - 2018/COU/0377*) The Council welcomes the measures taken to improve the operational efficiency of the Missions, implemented by the EEAS and the Commission. These include the operationalisation of the Core Responsiveness Capacity to improve the rapid deployment of qualified experts, the reinforcement of the Mission Support Platform, the establishment of the Strategic Warehouse and the delegation of procurement responsibilities to Heads of Missions. The Council also notes ongoing work by the EEAS aimed at enhancing implementation through the provision of practical guidance and examples of best practices to the Missions. It invites the EEAS and the Commission to take forward these different initiatives, as appropriate.

**Commission's response:**

*The EEAS and the Commission accept the recommendations, insofar as they are concerned.*

*Concerning the warehouse, the delegation agreement with the Swedish Civil Contingencies Agency (MSB) was signed on 30 May 2018. The Warehouse is now fully operational, and CSDP Missions and EUSRs are benefitting from its services, placing several orders and requests for shipments.*

*As for the Mission Support Platform (MSP), both the FPI and the CPCC MSP cells are fully operational. The Mission Support Platform will provide specific assistance to CSDP Missions, including the preparation of standard operating procedures.*

**SR No 20/2018 "The African Peace and Security Architecture: need to refocus EU support"**

28. (*Annex, Nr 8 (a) - 2018/COU/0378*) The Council invites the Commission and the EEAS to discuss with EU Member States ways to ensure a more coherent and forward looking approach of EU's support to APSA, building on the EU-AU MoU on Peace, Security and Governance signed on 23 May 2018, the Joint Africa-EU-Strategy and the Abidjan Summit Declaration. The Council calls on the Commission to:

(a) Progressively, and in a carefully planned and monitored manner, refocus support from APSA's basic operational costs to well-targeted, results-based capacity building programmes that are aligned with the African Union reform agenda and its commitment to African financial ownership.

**Commission's response:**

*The Commission's specific financial support to APSA's operational costs through the JFA AU Liaison Offices and the JFA Salaries programmes ended in December 2017 and December 2018 respectively. In parallel, under the third phase of the APSA support programme (APSA III), a rationalisation exercise was carried out that led to a significant decrease in the amount of funds dedicated to supporting staff at regional level.*

*Throughout 2019, the European Commission managed an inclusive identification and formulation process to design the fourth phase of the APSA support programme (APSA IV, 2020-2024). APSA IV takes into account the African Union reform agenda as well as the priorities of the African Union Commission in the area of peace and security. APSA IV is a results-oriented capacity building programme, based on a clear results chain and on a logical framework containing both quantitative and qualitative indicators to assess progress made throughout the implementation phase. The APSA IV contract was signed on 28 February 2020 and entered into force on 1 March 2020.*

29. (*Annex, Nr 8 (b) - 2018/COU/0379*) The Council invites the Commission and the EEAS to discuss with EU Member States ways to ensure a more coherent and forward looking approach of EU's support to APSA, building on the EU-AU MoU on Peace, Security and Governance signed on 23 May 2018, the Joint Africa-EU-Strategy and the Abidjan Summit Declaration. The Council calls on the Commission to:

(b) Further improve results-oriented monitoring systems and indicators of the APSA capacity building programmes to achieve standardised and consistent application and evaluation.

**Commission's response:**

*The results-oriented monitoring and reporting systems for the fourth phase of the APSA Support Programme (APSA IV) are based on a clear results chain, accompanied by a detailed logical framework (logframe). The logical framework includes a list of indicators and sources of verification meant to ensure measurability. The section of the Description of the Action on 'Performance and Results monitoring and reporting' details the relevant systems and processes which is to be used throughout the implementation of the programme. The contract was signed on 28 February 2020 and entered into force on 1 March 2020.*

30. (Annex, Nr 8 (c) - 2018/COU/0380) The Council invites the Commission and the EEAS to discuss with EU Member States ways to ensure a more coherent and forward looking approach of EU's support to APSA, building on the EU-AU MoU on Peace, Security and Governance signed on 23 May 2018, the Joint Africa-EU-Strategy and the Abidjan Summit Declaration. The Council calls on the Commission to:

(c) Continue to work towards best use of available financing instruments in the area of peace and security.

**Commission's response:**

*The Commission has prepared a draft note paving the way for the comparative analysis on the best use of available financing instruments in the area of peace and security. This note was finalized and approved in July 2020. The note includes an analysis of the current instruments but argues that an analysis of the future ones (the proposed Neighbourhood Development and International Cooperation Instrument and European Peace Facility) could be needed, in the course of the next Multiannual Financial Framework.*

**SR No 25/2018 "Floods Directive: progress in assessing risks, while planning and implementation need to improve"**

31. (*Annex, Nr 5 - 2018/COU/0381*) The Council stresses the importance of coordinating the implementation of the Water Framework Directive and the Floods Directive and underscores the report's findings that such coordination usually results in synergies; calls upon the Member States and the Commission, as appropriate, to ensure coherence in the implementation of relevant policies and legislation, notably, by ensuring that new floods infrastructure is in compliance with the Water Framework Directive.

**Commission's response:**

*Already now, most recently in its assessment of the Member States' 1st FRMPs, the Commission has checked whether the Member States are coordinating their actions under the Floods Directive (FD) and the Water Framework Directive (WFD). The Commission made its findings public in February 2019. Further, the Commission insists on the correct application of Article 4(7) of the WFD in relation to new modifications (including flood infrastructure) to water bodies. Notably, in terms of support towards the Member States, a Common Implementation Strategy (CIS) Guidance Document on the implementation of the WFD's Article 4(7) was published in January 2018 on the website "Communication and Information Resource Centre for Administrations, Businesses and Citizens" (CIRCABC)\*. The Commission will also investigate cases discovered or brought to its attention that jeopardise the attainment of the objective of the WFD, in line with the Commission Communication of 2017 'EU law: Better results through better application'. The Commission considers that this is a continuous action in its role of guardian of EU law.*

*\*[https://circabc.europa.eu/sd/a/e0352ec3-9f3b-4d91-bdbb-939185be3e89/CIS\\_Guidance\\_Article\\_4\\_7\\_FINAL.PDF](https://circabc.europa.eu/sd/a/e0352ec3-9f3b-4d91-bdbb-939185be3e89/CIS_Guidance_Article_4_7_FINAL.PDF)*

32. (*Annex, Nr 7 - 2018/COU/0382*) The Council recognises that serious floods have become more frequent in Europe and that climate change is an aggravating factor, triggering changes in precipitation, weather patterns and sea levels, emphasises that there is a need to improve the knowledge and modelling of the impact of climate change on all sources of floods, and calls upon the Commission to work together with the Member States to reinforce and/or develop appropriate tools that better analyse and forecast these impacts.

**Commission's response:**

*Overall, the Commission is already assessing how Member States have accounted for climate change in their 1st FRMPs - and made its findings public in February 2019. The Commission will assess and report on how Member States integrate the effects of climate change in line with Articles 14(4) and 16 of the Floods Directive. In line with Article 16 of the Floods Directive, the Commission shall submit to the*

*European Parliament and to the Council regular reports on the implementation of this Directive. The first of these reports was published as indicated above - and subsequently every six years (next report expected by December 2024). Between these reports, the Commission is directly cooperating with Member States under the Common Implementation Strategy process ([https://ec.europa.eu/environment/water/water-framework/objectives/implementation\\_en.htm](https://ec.europa.eu/environment/water/water-framework/objectives/implementation_en.htm)) and in the context of the EU Adaptation Strategy.*

33. (Annex, Nr 10 - 2018/COU/0383) The Council looks forward to receiving the Commission's report of the Fitness Check of the Water Framework Directive and the Floods Directive and to further discussions among Member States and other stakeholders in that context.

**Commission's response:**

*The Commission has published the report on the Fitness Check of the Water Framework Directive and of the Floods Directive on 10/12/2019.*

*Link to the Water Framework Directive and Floods Directive Fitness Check report:*

*[https://ec.europa.eu/environment/water/fitness\\_check\\_of\\_the\\_eu\\_water\\_legislation/index\\_en.htm](https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation/index_en.htm)*

**SR No 26/2018 "A Series of Delays in Customs IT Systems: What Went Wrong?"**

34. (*Annex, Nr 11 (a) - 2018/COU/0384*) The Council acknowledges the conclusions and recommendations of the Special Report that the Commission should be invited to step up efforts to:

(a) gear Customs programme design towards IT implementation.

**Commission's response:**

*For the Customs programme for the 2021-2027 Multiannual Financial Framework, the Commission has proposed objectives that relate explicitly to the planned IT systems to be developed.*

*The Commission has applied the Better Regulation principle to set precise and measurable, both general and specific, objectives of the programmes. These proposals are now being negotiated by the co-legislators.*

35. (*Annex, Nr 11 (b) - 2018/COU/0385*) The Council acknowledges the conclusions and recommendations of the Special Report that the Commission should be invited to step up efforts to:

(b) improve IT project time, resource and scope estimates.

**Commission's response:**

*The Commission adopted Commission Implementing Decision (EU) 2019/2151 on 13 December 2019 which updated the Union Customs Code Work Programme.*

*The dashboard is now aligned with the new UCC Work Programme and improves the way the Commission manage projects.*

36. (*Annex, Nr 11 (c) - 2018/COU/0386*) The Council acknowledges the conclusions and recommendations of the Special Report that the Commission should be invited to step up efforts to:

(c) facilitate cooperative IT development.

**Commission's response:**

*The Commission adopted the first annual progress report on the Member State and Commission implementation status of the Union Customs Code (UCC) on 13*



*December 2019 – (COM(2019) 629 final) along with a detailed accompanying staff working document – (SWD(2019) 434 final)*

*Furthermore, an expert group on IT Collaboration between Member States has been established.*

*Other project-specific groups have been (or will be) established as collaboration tools between Member States which aim to pool resources to achieve the intended results more efficiently and quickly.*

*Quarterly dashboards, produced by the Commission, highlight at an early stage potential risks of delays. These dashboards are presented to the Electronic Customs Coordination Group/Trade Contact Group.*

37. (Annex, Nr 11 (d) - 2018/COU/0387) The Council acknowledges the conclusions and recommendations of the Special Report that the Commission should be invited to step up efforts to:

(d) streamline governance by enhancing communication.

**Commission's response:**

*Quarterly dashboards are validated by DG TAXUD and presented to the Electronic Customs Coordination Group/Trade Contact Group.*

*Joined meetings are set up (e.g. Customs Business Groups, Customs Code Committees, IT System Development Group) as a support for a common steering and decision-taking process on the Union Customs Code (UCC) projects. In the absence of meetings, written procedures are used to have acceptance of the UCC projects documentation.*

*The Commission adopted the first annual progress report on 13 December 2019 – (COM(2019) 629 final) Report from the Commission pursuant to Article 278a of the Union Customs Code, on progress in developing the electronic systems provided for under the Code) along with a detailed accompanying staff working document – (SWD(2019) 434 final).*

*The 2019 e-Customs annual progress report was published on 22 June 2020.*

38. (Annex, Nr 11 (e) - 2018/COU/0388) The Council acknowledges the conclusions and recommendations of the Special Report that the Commission should be invited to step up efforts to:

(e) improve reporting on IT implementation, including through setting appropriate reporting arrangements and indicators.

**Commission's response:**

*Following the conclusions of the Mid-Term Evaluation, the Commission is working on an update of the current Customs 2020 Performance Measurement Framework and has launched a study with external contractors to review the framework. The objective is to simplify the current set of indicators and to give more emphasis to IT indicators.*

*For the post-2020 Customs programme, the core indicators have been established in Annex 2 of the Customs programme proposal (COM(2018) 442 final). Four out of eight core indicators relate to IT systems, including a new indicator "UCC completion rate", which measures the percentage of milestones reached for implementing the UCC electronic systems.*

*In relation to the reporting arrangements, the Customs 2020 progress report for 2017 contains clear cross-references to the complementary e-Customs progress report and a more extensive coverage of the state of play of the European Information Systems' implementation*

*In view of the amendment to Art. 278 of the Union Customs Code and the new reporting requirements included, the Commission has adopted a first annual report (COM(2019)629) on 13 December 2019 which was submitted to the EP and Council. This report on progress in developing the electronic systems provided for under the Code was presented to the Council at the Working Party on Customs Union Group on 12 February 2020 and a presentation was planned to the Committee on the Internal Market & Consumer Protection (IMCO) in March 2020 but the meeting did not take place (due to covid-19). The report was accompanied by a Staff Working Document (SWD(2019)434) detailing the planning and progress information received from the Member States on each of the projects referred to in the Union Customs Code Work Programme.*

39. (Annex, Nr 16 - 2018/COU/0389) The Council calls on the Commission to set appropriate arrangements and indicators, and report to the Council in a timely and transparent manner on the progress in the implementation of the IT systems. Upon request, the Commission should also present the report to the Directors General for Customs as it concerns important governance issues.

**Commission's response:**

*The 2018 Annual Progress Report of Customs 2020 was presented to the Customs Union Group (CUG) of the Council on 12/02/2020.*

*In view of the amendment to Art. 278 of the Union Customs Code (UCC) and the new reporting requirements included, the Commission has adopted a first annual report (COM(2019)629) on 13 December 2019 which was submitted to the EP and Council. This report on progress in developing the electronic systems provided for under the Code was presented to the Council at the CUG on 12 February 2020 and a presentation was planned to the Committee on the Internal Market & Consumer Protection (IMCO) in March but the meeting did not take place (due to*

*covid-19). The report was accompanied by a Staff Working Document (SWD(2019)434) detailing the planning and progress information received from the MS on each of the projects referred to in the UCC Work Programme.*

*See also reply to 2018/COU/0388.*

**SR No 27/2018 "The Facility for Refugees in Turkey: helpful support, but improvements needed to deliver more value for money"**

40. (*Annex, Nr 9 - 2018/COU/0390*) The Council underlines the strategic importance of a gradual transition from humanitarian assistance towards refugees' self-reliance and more sustainable forms of assistance, with a view to achieving increased ownership and continued commitment by the Turkish authorities. Consequently, the Council encourages the Commission, building on the existing strategic concept note and programming note presented to the Steering Committee, to increase the focus on the swift and timely development, and subsequent implementation, of a sustainable transition strategy, to be agreed with Turkey.

**Commission's response:**

*During its 12th meeting, the Facility Steering Committee endorsed a Commission proposal to implement a sustainable transition strategy to ensure remaining refugee needs would be met also after Facility funding will have come to an end. This strategy resulted in the joint programming of humanitarian and development assistance under the second tranche of the Facility and the complementary implementation of Facility interventions under the respective strands. Crucially, the strategy provided for the direct involvement of the Turkish authorities in its implementation.*

*By way of example, in the priority area of socio-economic support, interventions aim to support the transition of refugee socio-economic assistance into the Turkish system. The Special Measure of July 2019 provided for a direct grant to the Turkish Ministry for Families, Labour and Social Services under the Facility's development strand aimed to support the most vulnerable refugee beneficiaries of the Emergency Social Safety Net (ESSN) programme, which had hitherto been supported under the Facility's humanitarian strand. This was complemented by projects aimed to increase refugee employability of semi-skilled and skilled ESSN beneficiaries so as to reduce the total number of ESSN beneficiaries and facilitate their take-up by the Turkish system.*

41. (*Annex, Nr 11 - 2018/COU/0391*) The Council invites the Commission to regularly inform the Council and the Steering Committee of the Facility, on the issues raised by the Court of Auditors' Special Report and on the implementation of the aforementioned recommendations, and to ensure that they are addressed systematically and in full.

**Commission's response:**

*The Commission regularly informs the Facility Steering Committee on Facility programming and implementation, including on the follow-up of ECA recommendations. In addition, the issues raised by the ECA recommendations are discussed at Steering Committee meetings in which Turkey participates; the need to ensure a conducive environment for INGOs in Turkey is a key example. The*

*Commission also briefs the Council Working Group on Enlargement (COELA) on the Facility, including on the ECA report and its recommendations.*

**SR No 28/2018 "The majority of simplification measures brought into Horizon 2020 have made life easier for beneficiaries, but opportunities to improve still exist"**

42. (*Annex, Nr 4 - 2018/COU/0392*) The Council urges the European Commission based on the lessons learnt from previous framework programmes, including Horizon 2020, to improve its mechanisms for further simplification of rules in future framework programmes: two stage evaluation process, alignment of financial regulations between different EU funding programmes, streamlined communication with applicants while strengthening the role of NCPs, reduced time-to-grant, costs options such as lump sums, and personnel costs, and to thoroughly examine the quality of outsourced ex-post audits.

**Commission's response:**

*The Commission proposal for Horizon Europe addresses most of the points described in the recommendation of the Council. Nevertheless, some aspects are still subject of further action in the context of the Horizon Europe Implementation strategy endorsed at the end of 2019. The strategy will be reviewed as needed during the preparation and implementation of Horizon Europe.*

43. (*Annex, Nr 5 - 2018/COU/0393*) The Council recognizes the important role of the National Contact Points (NCPs) in informing and advising applicants and calls on the Commission to further improve the methodological and technical guidance to these advisory bodies, in view of their capacity building.

**Commission's response:**

*The Commission proposal for Horizon Europe addresses most of the points described in the recommendation of the Council. Nevertheless, some aspects require still further action before the end of the current year. These aspects are under development in the context of the Horizon Europe Implementation strategy.*

*In the specific case of improving the methodological and technical guidance for National Contact Points (NCPs) in view of their capacity building, the Commission engaged the Members States in several rounds of discussion in order to update the "Minimum standards and Guiding principles for setting up systems of National Contact Points (NCP systems) under Horizon Europe". This revised document contains further guidance on how to improve the work of the NCP.*

44. (*Annex, Nr 7 - 2018/COU/0394*) The Council notes that the Horizon 2020 rules for participation allow for both one and two stages evaluation processes; recognises that the two-stage evaluation approach may help applicants to avoid spending unnecessary time developing detail in ultimately unsuccessful projects, which has the potential to reduce the administrative burden for unsuccessful applicants. Accordingly, invites the Commission to consider the wider use of two-stage

proposals evaluation where and if appropriate and to monitor and assess the effectiveness and impact of this measure.

**Commission's response:**

*The Commission has already considered this matter (one or two stages evaluation process) in previous Horizon 2020 Work Programmes. Nevertheless, the Commission has considered this aspect when appropriate for the 2020 work programme. This recommendation will as well be carefully followed in the context of the future Horizon Europe programme.*

45. (Annex, Nr 8 - 2018/COU/0395) The Council considers that simplified cost options, e.g. lump sums and inducement prizes, can further reduce the administrative burdens for beneficiaries and appreciates that the Commission should intensify the testing of simplified cost options, in particular lump sums, by building, where appropriate, upon the evidence e from the Horizon 2020 pilot. Accordingly, invites the Commission to further explore the use of usual cost accounting practices for personnel costs.

**Commission's response:**

*The Commission has already considered this aspect in previous Work Programmes related to Horizon 2020 (simplified costs options). Nevertheless, the Commission will also consider this aspect for the Call for proposals to be launched at the end of this year 2020 according to the experience gained.*

46. (Annex, Nr 9 - 2018/COU/0396) The Council stresses that the evaluation of submitted proposals under the Union's research and innovation framework programmes should continue to be of high quality and notes that insufficient time has often been allocated to evaluations. Therefore, calls upon the Commission to reassess the time needed for experts to carry out reliable evaluations of project proposals.

**Commission's response:**

*The Commission will assess this aspect in the calls for proposals to be evaluated in 2020.*

47. (Annex, Nr 10 - 2018/COU/0397) The Council notes that evaluators' daily remuneration rate has remained unrevised for more than ten years. Thus invites the Commission to further assess the need of reviewing the remuneration conditions for expert evaluators.

**Commission's response:**

*This aspect is not research policy-specific but applicable to all the experts the Commission is dealing with. Therefore, the Commission is considering it in connection to the overall discussion of programmes within the new MFF.*

48. (Annex, Nr 11 - 2018/COU/0398) The Council noting that the information campaign undertaken by the Commission on the "Seal of Excellence" concept launched in 2015 has raised awareness, but that it is not yet fully recognized, acknowledges the Commission's Horizon Europe proposals that aim at increasing the recognition of the "Seal of Excellence" in order to promote excellent proposals evaluated above threshold but not funded under the Framework Programme; and by recalling the December 2017 Council conclusions (15320/17 paragraphs 8 and 23 refer to "state aid"), in particular its paragraphs 8 and 23, invites the Commission to explore further ways to increase the likelihood that projects awarded under the Seal of Excellence can more easily access other funding sources.

**Commission's response:**

*Re-enforcing the recognition of the Seal of excellence has been a priority for the Commission since early 2017 and will continue to be in view of Horizon Europe.*

*The Commission proposal for the regulation establishing Horizon Europe (art 11) and the mirroring provision in the proposal for a Common Provisions Regulation under cohesion policy (art 67.5) addresses the Seal of Excellence in a way to facilitate the recognition of excellent research projects. ERDF/ESF+ managing authorities may decide to grant support to Seal proposals "directly", i.e. without a new technical evaluation and up to the Horizon Europe co-financing rate, provided that such operations are consistent with the objectives of the programme.*

*Conditions will be in place to easily identify and reach out to Seal proposals: i.e. to ensure that future calls that will deliver the Seal will be clearly identified in the Horizon Europe work programme and that managing authorities will have easier access to information on the Seal of Excellence holders. The Commission will continue the 'Community of Practice' and proactively distribute data and details on the awarded Seals so that any national and/or regional funding body can be adequately informed and consider the possibility of providing alternative funding.*

*In addition, according to the Commission proposals for the next programming period, member states will be allowed to voluntarily transfer shared management funds (such as ERDF/ESF+) to Horizon Europe for the benefit of MS/regions providing the funding. Such transferred funds could be used to support Seal of Excellence proposals. The transfer mechanism will be rendered possible by specific 'mirroring' provisions included in both the forthcoming Common Provision Regulation and the Horizon Europe Regulation.*

*In parallel, substantial progress on the Seal of Excellence was achieved under the ongoing revision of state aid rules (General Block Exemption Regulation), which foresee that alternative funding (e.g. ERDF, ESF+ or national funding) for the Seal of Excellence proposals will be allowed to use the same co-financing rate and eligible costs of Horizon, without the need to run a new technical evaluation and*



*with an exemption from state aid notification. The same approach is proposed for co-funded projects stemming from Horizon transnational calls, including Teaming projects. These new opportunities will need to be crystalized in the legislative texts.*

*([https://ec.europa.eu/competition/consultations/2020\\_gber/index\\_en.html](https://ec.europa.eu/competition/consultations/2020_gber/index_en.html))*

*In addition see response to 2018/AUD/0222*

**SR No 31/2018 "Animal welfare in the EU: closing the gap between ambitious goals and practical implementation"**

49. (*Annex, Nr 7 - 2018/COU/0399*) The Council notes that the latest EU strategy from the protection and welfare of animals covered the period from 2012 to 2015 and encourages the Commission to consider, in the light of the outcome of that evaluation, a new strategy for the coming years to further promote animal welfare in the EU and as far as possible beyond the EU.

**Commission's response:**

*Following the special report on animal welfare of the European Court of Auditors (No 31/2018), the Commission has launched a series of actions to address the recommendations laid down in this report.*

*A comprehensive evaluation of the EU animal welfare strategy 2012-2015 has been launched and is foreseen to be completed by the end of 2020. In addition, the Commission has initiated actions to improve the reporting of Member States on their inspections on animal welfare and the development of target indicators.*

*Furthermore, in January 2020, the Commission has trained Member States' National Contact Points for animal welfare during transport on how to better use TRACES for target checks on animal transport and how to perform better retrospective checks on this area using data recorded by Satellite Navigation Systems.*

*In the area of transport of animals by livestock vessels, in 2019, the Commission initiated contacts with third countries receiving live animals by boat to get feedback on their welfare conditions during the journey and at arrival. The Commission is planning to use the support the European Maritime Safety Agency's database in the checks of livestock vessels, in order to improve the standards of official controls and hence the welfare of the animals during journeys. This work will be carried out during 2020-2021.*

*In addition, the Commission will initiate in 2020 two major pilot projects on animal welfare, one on laying hens to promote alternative farming systems to cages and another one to promote best practices on the welfare of dairy cows.*

*Furthermore, the Commission in the framework of the Farm to Fork Strategy that was adopted on 20 May 2020, intends to present other actions on animal welfare. In this context, the Commission has duly taken into account the AGRIFISH Council conclusions on animal welfare of December 2019.*

**SR No 32/2018 "The European Union Emergency Trust Fund for Africa: Flexible but lacking focus"**

50. (*Annex, Nr 5 - 2018/COU/0400*) The flexibility of the EUTF for Africa should not come at the expense of a focused strategy that delivers impact. The Council encourages the European Commission, in cooperation with Member States, to continue revising the strategic priorities and the regional operational frameworks, ensuring that they are more specific, focused and achievable. The Council appreciates the strong involvement of the Board to review strategic priorities in order to maximise the focus and impact of the EUTF for Africa. The Council also endorses the role of the Operational Committees to regularly update the regional operational frameworks, as the situation on the ground constantly evolves and to ensure that the strategic orientations are coherent and focused while ensuring the ownership of partner countries. The Council calls on the Commission to enhance its efforts to collect and share best practices as well as the to identify, use and share lessons-learned with all relevant stakeholders.

**Commission's response:**

*The EUTF has progressively reviewed the strategic priorities to reflect evolving needs, emerging challenges in the three regions, and inputs received from different stakeholders, also taking into account the availability of financial resources. Lately, the EUTF for Africa has focussed also on the response to the COVID-19 crisis and the related needs. Furthermore, the Operational Frameworks for the three windows of the EUTF for Africa were revised and submitted to the Operational Committees in December 2019.*

*To update the overall analysis and particular challenges of each region, the Commission used a wide corpus of research documents, including outputs produced under the Research and Evidence Facilities. Lesson-learned exercises have been carried out since 2018 through the monitoring and learning systems that have been put in place.*

51. (*Annex, Nr 6 - 2018/COU/0401*) The Council welcomes the Report's findings regarding project selection and stresses the importance of further improving the use of transparent, inclusive and clear procedures. It stresses the need to ensure that the Board and the Operational Committees receive complete and timely information and documentation, to allow for well- prepared and informed decisions. The Council also calls on the Commission to maximise complementarity with existing instruments, initiatives and programming processes, including the European External Investment Plan.

**Commission's response:**

*The Commission has not accepted in full the recommendations of the ECA Report on the EUTF for Africa concerning the selection criteria for programmes funded by the Trust Fund. The Commission does not consider it is necessary to establish a*

*list of general and common criteria for project selection, since the EUTF is not working on the basis of submission of proposals. Actions funded by the EUTF for Africa are identified and developed by the Commission (EUTF Managers) into project documents through a consultative process involving many actors at HQ and country level in line with the Commission common practices.*

*The Commission ensures that action documents submitted for approval clearly explain the link between the proposed action and the related strategic objectives. The Board and the Operational Committees are systematically informed of all substantial changes to projects. Moreover, the Commission revised in 2019 the template of the Action Fiche to include a section demonstrating the comparative advantage of financing the project under the EUTF for Africa versus other implementing tools, including the European External Investment Plan.*

52. (Annex, Nr 7 - 2018/COU/0402) The Council calls on the Commission to explore ways to accelerate and strengthen planning and implementation, notably by using the Commission's guidelines on emergency situations to their full potential.

**Commission's response:**

*The EUTF Africa has always promoted the use of accelerated procedures, in particular by using negotiated procedures and direct awards wherever it is justified and serves the objectives of the relevant action. Internally, EU delegations were informed and sensitised during EUTF regional seminars of the possibility to apply flexible procedures. The Commission has also called on implementing partners to adopt more flexible internal procedures to reduce delays under indirect management. Under direct management, implementing partners are informed of the possibility to use flexible procedures when justified. However, the Commission remains cautious to maintain a degree of procedural flexibility adapted to the specific context of each project and countries, and coherent with the principles of sound financial management.*

53. (Annex, Nr 8 - 2018/COU/0403) While recognising the efforts aimed at measuring the performance of the EUTF Africa more systemically, the Council calls on the Commission to fully operationalise the common monitoring and evaluation system. It also encourages the Commission to carry out an evaluation of the EUTF for Africa and to establish a specific risk assessment framework, in line with good practice in EU and UN trust fund management.

**Commission's response:**

*The Monitoring and Learning Systems (MLS) for the Sahel and Lake and the Horn of Africa windows of the EUTF Africa are now fully operational. MLS reports for the Sahel/Lake Chad and the Horn of Africa are published quarterly on the website of the EUTF for Africa. The monitoring and evaluation system for the North of Africa (MENOA) is fully operational as well, and its first monitoring*

*report was published in October 2019. Concrete results achieved across the three windows of the EUTF for Africa were presented to the Strategic Board in June 2019, and included in the 2019 Annual Report of the EUTF for Africa (published in March 2020 on its website) and widely distributed to donors and other stakeholders. A Risk Assessment Framework was developed in 2019 and made available on the website of the EUTF for Africa. Finally, the Mid-Term Evaluation of the EUTF for Africa was launched in early 2019, and the final report is expected in October 2020.*

**SR No 33/2018 "Combating desertification in the EU: a growing threat in need of more action"**

54. (*Annex, Nr 7 - 2018/COU/0404*) The Council invites the Commission to further investigate the strong correlation/ linkage existing between desertification, land degradation and effects of drought phenomena with climate change mitigation and adaptation, as well as biodiversity measures, as highlighted in the outcomes of the audit report.

**Commission's response:**

*The Commission does not accept this recommendation.*

*The mentioned correlation is already strongly established.*

*Within the actions addressing ECA recommendations, the Commission, in cooperation with MS, will analyse relevant data on desertification and land degradation.*

55. (*Annex, Nr 9 (ii) - 2018/COU/0405*) The Council encourages the Commission to consider, in cooperation with the Member States:

(ii) the available options and the status of commitments at the EU level regarding the land degradation neutrality target, including the necessity to foster the adoption of a shared methodological framework, based on harmonised and reliable definitions for addressing SDGs requirements [footnote 10: In particular, the MS will be fully involved in the project launched by the Commission on the implementation of soil and land related Sustainable Development Goals (SDGs) in the EU] related to desertification and land degradation.

**Commission's response:**

*The Commission accepts this recommendation.*

*The improvement of indicators is part of the Commission's work on agri-environmental indicators and SDGs indicators. In this context, discussions on and work for the establishment of a specific methodology to assess desertification and land degradation in the EU is ongoing in the context of the Commission's study on the implementation of soil and land-related SDGs at EU level. However, the adoption of this methodology will be subject to an approval by the Member States.*

56. (*Annex, Nr 9 (iii) - 2018/COU/0406*) The Council encourages the Commission to consider, in cooperation with the Member States:

(iii) the need to develop methods and indicators in accordance with the most innovative studies and technologies, including Earth Observation techniques and satellite imagery, in order to improve the measurements of progress in achieving SDGs with an efficient and concrete feed-back from all funded project.

**Commission's response:**

*The improvement of indicators is part of the Commission's work on agri-environmental indicators and SDGs indicators. In this context, the work for the establishment of a specific methodology to assess desertification and land degradation in the EU is ongoing in the context of the Commission's study "Providing support in relation to the implementation of soil and land-related sustainable development goals at EU level" . The adoption of this methodology will be subject to a decision by the Member States.*

57. (Annex, Nr 11, 12, 13 in connection with 9 (i) - 2018/COU/0407) The Council supports the Commission for undertaking a full assessment of desertification and land degradation in the EU in collaboration with Member States building on the World Atlas of Desertification [footnote 11: European Commission, Joint Research Centre, <https://wad.jrc.ec.europa.eu/aridityprojections>] and the outcomes of EU research projects, taking account of available information at EU and Member States level, including from Earth Observation data.

The Council invites the Commission to conduct such full assessment in building on existing data to the extent possible, taking into consideration the methodology developed for UNCCD reporting.

The Council recommends that the results of the dedicated study should be shared in a more interactive and user friendly way and to utilise the work of the Expert Group on Soil Protection for discussion on methodology development and possible target setting for LDN.

**Commission's response:**

*The Commission accepts this recommendation.*

*Without prejudging any agreement by Member States on a proposed methodology, the Commission may consider, subject to the availability of adequate resources, to work on a specific assessment of desertification and land degradation at EU level and the presentation of data in a more interactive and user friendly way, building on existing data and the approach developed for the 2018 World Atlas of Desertification.*

58. *(Annex, Nr 18 (i) in connection with 17 - 2018/COU/0408)* The Council invites the Commission to:

(i) Further reflect on a funding scheme to map the degraded land through dedicated soil inventories, based on the common policy approach.

**Commission's response:**

*The Biodiversity Strategy for 2030 (COM(2020) 380 final) sets that "The impact assessment [of the proposal for legally binding EU nature restoration targets] will also look at the possibility of an EU-wide methodology to map, assess and achieve good condition of ecosystems"*

59. *(Annex, Nr 18 (ii) - 2018/COU/0409)* The Council invites the Commission to:

(ii) actively engage in order to preserve and to increase the quality of soils and to stop the soil degradation process.

**Commission's response:**

*The Biodiversity Strategy for 2030 (COM(2020) 380 final) sets that "To [protect soil fertility, reduce soil erosion and increase organic matter and to address soil and land degradations] in a comprehensive way [...], the Commission will update the EU Soil Thematic Strategy".*

60. *(Annex, Nr 18 (iii) - 2018/COU/0410)* The Council invites the Commission to:

(iii) take arrangements in order to introduce the eligibility of desertification, land degradation and drought project in existing funding mechanisms in EU.

**Commission's response:**

*Eligibility of existing funding mechanisms in EU already allows for projects to address desertification, land degradation and drought. There is nothing that prevents desertification themes as such to be submitted, provided that it is covered by the objective of the call for proposals.*

61. *(Annex, Nr 18 (iv) - 2018/COU/0411)* The Council invites the Commission to:



(iv) study new ways of financing the implementation of direct actions against desertification.

**Commission's response:**

*The 2020 LIFE call for proposals for Preparatory Projects (<https://ec.europa.eu/easme/en/section/life/2020-call-proposals-preparatory-projects>) includes for the first time the eligibility for direct actions against desertification (point 7: Restoration of desertified land through nature-based solutions).*

**SR No 34/2018 "Office accommodation of EU institutions - Some good management practices but also various weaknesses"**

62. (*Annex, Nr 4 - 2018/COU/0412*) The Council notes with concern the Court's observation that the institutions' building strategies are set out in various documents, some of which are outdated or not formally approved, and that planning of property requirements does not always involve different scenarios, and urges the institutions to update and formalise their building strategies and to complement them with medium-term planning based on a regular assessment of needs.

**Commission's response:**

*The Commission considers that the European Court's of Auditors recommendation to which the Council is referring to is implemented.*

*The Commission's planning of property requirement documents (MAPFs and Working Document on Buildings accompanying the Draft Budget) are regularly updated and formally approved.*

*The Commission's building strategy document - COM(2007)501 - containing the main principles of the commission's real estate policy is still up-to-date.*

*A review of the policy could take place in the light of the developments in the context of the application of the approach set out in the Communication "The Workplace of the Future in the European Commission" - C(2019)7450 – and the COVID pandemic.*

63. (*Annex, Nr 8 - 2018/COU/0413*) The Council regrets the practice of some institutions to make significant advance payments for their construction projects at year-end and urges the institutions, in line with the Court's recommendation, to accurately foresee, where possible, the advance payments on building projects in the appropriate budget lines when establishing their annual budgets.

**Commission's response:**

*As of 2021, there will be a separate budget line in the Commission section of the Budget in order to record advance payments. Moreover, the Commission started providing information on advance payments in the Working Document on Buildings accompanying the Draft Budget (see Working Document VII of the Draft Budget 2020 and the section concerning JMO2 project in Luxembourg).*

64. (*Annex, Nr 9 - 2018/COU/0414*) The Council urges the institutions to carefully assess risks before launching large construction and renovation projects as well as long-term leases in order to set up the appropriate management procedures, aiming to avoid delays and additional financial costs, and calls on the Commission to collect and share examples of good practices in this respect.

**Commission's response:**

*The Commission partially accepts the recommendation.*

*The PM<sup>2</sup> project management methodology is in use in the Commission, and a utility-tailored management procedure is being developed for large construction and renovation projects, as it is the case for the L130 project.*

*The method is based on a risk assessment and includes a clear division of responsibilities to insure an efficient administrative and operational follow-up and to avoid costs related to delays.*

*Good practices are shared between the institutions through the bias of two inter-institutional working groups: the Inter-Institutional Infrastructure, Logistics and Internal Services Working Group (ILISWG) in Brussels and the “Groupe Interinstitutionnel de Coordination Immobilière à Luxembourg” (GICIL) in Luxembourg.*

65. (Annex, Nr 10 - 2018/COU/0415) The Council regrets the insufficiency and inconsistency of reported data for space categories and cost ratios identified by the Court and urges the institutions to adopt a common methodology for monitoring the efficiency of their building portfolios with a view to ensuring comparability of information by harmonisation of the data.

**Commission's response:**

*The Commission partially accepts the recommendation.*

*The Commission participates in two inter-institutional working groups aimed at improving the sufficiency and consistency of reported data within the EU institutions. A common methodology for ensuring the comparability of data has been developed. This methodology will, amongst others, ensure a harmonised approach to space categories and measuring of surfaces. The report and the methodology have been approved by the different institutions at the beginning of 2020.*

*A second working group including all EU institutions where the Commission is ‘chef de file’ is currently working on the harmonisation of cost indicators and the development of a common methodology and presentation of the data. It will finalize its conclusions by the end of the year.*

*Once the common methodology is approved, the monitoring of the efficiency of the building portfolios will be considerably improved.*

66. (Annex, Nr 13 - 2018/COU/0416) The Council invites the Commission to regularly provide, on an annual or semestrial basis, an indicative calendar of submission of its building project requests to the European Parliament and the Council.

**Commission's response:**

*The Commission considers this recommendation already implemented.*

*The Commission follows the requirements of the applicable articles of the Financial Regulation regarding the submission of its projects to the Budgetary Authority- the Council and the European Parliament.*

*In addition to this, other documents such as the Working Document accompanying the draft budget prepared under the coordination of DG Budget provide information on planned developments in buildings portfolio on an annual basis.*

*Taking into consideration the above-mentioned procedures, the Commission considers that a regular indicative reporting on the submission of its building projects is already provided.*

**SR No 35/2018 "Transparency of the EU funds implemented by NGOs: more effort needed"**

67. *(Annex, Nr 5 (first part) - 2018/COU/0417)* For projects under direct management, applying the new provisions of the 2018 Financial Regulation [footnote 2: Article 204 of Regulation (EU, Euratom) 2018/1046] should ensure consistent application of sub-granting rules across the Commission.

**Commission's response:**

*DG ECHO has formally required all beneficiaries, to inform - at proposal and final stage of the grant - of any amount sub-granted. This includes amounts sub-granted to members of the same family or network of NGOs.*

*In addition, DG ECHO is currently preparing for the pre-identification process of its partners for the period after 2020. This pre identification is carried out on the basis of a certification. In this context, DG ECHO is in contact with DG BUDG to ensure that Article 204 of the 2018 Financial Regulation is adequately reflected.*

68. *(Annex, Nr 5 (second part) - 2018/COU/0418)* For projects under indirect management, the Commission should ensure through its verifications that UN bodies correctly apply their rules and procedures when selecting their implementing partners and disclosing the contracts awarded with EU funding. All sub-granting must be made transparent. In the area of humanitarian assistance, full transparency of the sub-granting of EU funds will also provide better evidence regarding commitments taken under the Grand Bargain signed at the World Humanitarian Summit in May 2016 with the aim of improving the way humanitarian aid is delivered. However, the application of sub-granting rules should not impede or delay the provision of flexible and life-saving humanitarian funding and contributions to pooled funds, based on urgent needs.

**Commission's response:**

*The Commission signed a revised framework agreement with the UN (UN FAFA) on 31 December 2018 which contains provisions that allow the Commission to conduct relevant verifications. To make best use of controls already carried out within the UN system, the Commission and the UN agreed on 20 March 2020 on a "Common Understanding" on the use of its standard terms of reference for verifications of operations co-funded by the EU and implemented by UN Organisations that have signed the UN FAFA.*

*The "Common Understanding" does not limit the Commission's right to verify that the UN bodies correctly apply their rules and procedures for the selection of implementing partners, or the Commission's right to verify UN bodies' fulfilment of their obligation to adequately disclose the contracts awarded with EU funding, and includes possibilities to verify the costs reported to UN organisations by their implementing partners.*

69. *(Annex, Nr 6 - 2018/COU/0419)* For projects implemented by several beneficiaries, the Commission must ensure transparency regarding the distribution of funding among all beneficiaries contracted by the EU. Where an external action project is implemented by a network of partners or a consortium having signed a contract with the Commission, the information held in the Commission's systems must fully reflect the network's actual setup, not only the lead organisation. For projects under indirect management via UN bodies, sufficient information should be provided on the indirect costs declared by all implementing partners. This should contribute to improving the traceability of funds in external action.

**Commission's response:**

*Concerning the first part of the recommendation, the identification of the beneficiaries implementing the actions within a consortium is envisaged in the course of 2021-22, through the development of the OPSYS IT system and subject to the adoption of the eGrants corporate system for the management of grant contracts. Please note that in the case of the projects implemented by DG ECHO through a beneficiary with the help of a network of partners, these partners need to be identified already at a proposal stage (and final report stage) and the part of the grant they get is also recorded in the ECHO IT system.*

*Concerning the second part of the recommendation, the Commission signed a revised framework agreement with the UN (UN FAFA) on 31 December 2018 which contains provisions that allow the Commission to conduct relevant verifications, including on the indirect costs declared by all implementing partners in projects under indirect management via UN bodies. To make best use of controls already carried out within the UN system, the Commission and the UN agreed on 20 March 2020 on a "Common Understanding" on the use of its standard terms of reference for verifications of operations co-funded by the EU and implemented by UN Organisations that have signed the UN FAFA. The "Common Understanding" includes possibilities to verify the costs reported to UN Organisations by their implementing partners. In addition, the revised terms of reference for Pillar Assessments, adopted by Commission Decision in April 2019 (C(2019)2882), also contribute to improving the traceability of funds in external action. Pillar assessments based on the updated ToR contain important elements for the assurance on costs declared to UN organisations by their implementing partners under the accounting and grants pillar.*

70. *(Annex, Nr 7 - 2018/COU/0420)* All Commission services should publish the same types of information in the Financial Transparency System, enabling users to better identify the beneficiaries contracted by the EU and the amounts of funding they have been awarded. However, the Commission should retain the flexibility not to disclose such information in cases where this would put the beneficiaries at risk, including with regard to the safety, rights or freedom of the organisations or persons involved, especially in the field of humanitarian assistance. The Council welcomes the fact that the Commission started to publish IATI data on EU trust funds, as well as data

on project results, in 2017. The Council calls on the Commission to continue enhancing its capacity to provide accurate information on EU funding.

**Commission's response:**

*As indicated in reply to the corresponding recommendation from the Special Report No 35/2018 "Transparency of the EU funds implemented by NGOs: more effort needed" in relation to the Financial Transparency System, the Commission accepts the recommendation to standardise and improve accuracy of the information published.*

*The Commission also actively monitors the implementation of projects and may conduct the necessary checks on the fulfillment of UN bodies of the disclosure obligations, in accordance with the relevant legal framework.*

*The Commission retains the possibility not to disclose confidential information.*

71. (Annex, Nr 8 - 2018/COU/0421) The Council welcomes the fact that the Commission has accepted recommendations 2 to 4. The Council welcomes the Commission's commitment to implementing these recommendations, within a timeframe agreed with the Court of Auditors. The Council encourages the Commission to report back to the Council on the steps it has taken to this end.

**Commission's response:**

*Concerning the recommendation 2(a) the Commission is working on improving a consistent application of the Financial Regulation among different services. In particular, the recent adoption of the corporate model grant agreement to be used by all the Commission's services represents a step forward in this process. The use of this model grant agreement in the eGrants corporate system for the management of grants provides defined conditions for support to a third party, in line with the Financial Regulation.*

*Concerning humanitarian aid in particular, DG ECHO has formally required all beneficiaries to inform - at proposal and final stage of the grant - of any amount sub-granted. This includes amounts sub-granted to members of the same family or network of NGOs.*

*In addition, DG ECHO is currently preparing for the pre-identification process of its partners for the period after 2020. This pre identification is carried out on the basis of a certification, which involves a check of the relations between its future partners and the third parties used on the ground. In this context, DG ECHO is in contact with DG BUDG to ensure that Article 204 of the 2018 Financial Regulation is adequately reflected.*

*Regarding recommendation 2(b) the Commission actively monitors the implementation of projects and may conduct the necessary checks on the selection of UN implementing partners in accordance with the relevant legal framework. Furthermore, under indirect management, ex-ante assessments provide assurance*

*to the Commission that it can rely on the systems, rules and procedures of the entrusted entity (including rules and procedures on providing financing to third parties, e.g. through sub-granting and procurement) (Article 154 of the new Financial Regulation), as they are deemed equivalent to the ones used by the Commission. If assessed positively, these systems, rules and procedures are considered to guarantee the protection of the financial interests of the Union.*

*In addition, the revised terms of reference for Pillar Assessments, adopted by Commission Decision in April 2019 (C(2019)2882), also contributes to improving the traceability of funds in external action. Pillar assessments based on the updated ToR contain important insights into the rules and procedures in place at UN organisations for the selection of implementing partners under the grants pillar, particularly with regard to their respect of the principles of equal treatment and non-discrimination. Pillar assessments based on the updated ToR contain important elements for the assurance on costs declared to UN organisations by their implementing partners under the accounting and grants pillar, and they also include a pillar on the publication of information on recipients of funds.*

*The Commission also signed a revised framework agreement with the UN (UN FAFA) on 31 December 2018, which contains in Article 12 provisions that allow the Commission to conduct the necessary verifications.*

*To make best use of controls already carried out within the UN system, the Commission and the UN agreed on 20 March 2020 on a “Common Understanding” on the use of its standard terms of reference for verifications of operations co-funded by the EU and implemented by UN Organisations that have signed the UN FAFA. The “Common Understanding” does not limit the Commission’s right to verify that the UN bodies correctly apply their rules and procedures for the selection of implementing partners, nor the Commission’s right to verify UN bodies’ fulfilment of their obligation to adequately disclose the contracts awarded with EU funding. It actually includes possibilities to verify the costs reported to UN organisations by their implementing partners.*

*Regarding recommendation 3(a) the Commission is working on improving the transparency of the Union financing. In particular, the recent adoption of the corporate model grant agreement to be used by all the Commission’s services represents a step forward in this process. The use of this model grant agreement in the eGrants corporate system for the management of grants implies recording the financing received by all the beneficiaries in a consortium and not only the information regarding the lead beneficiary.*

*Regarding the recommendation 3(b) in the case of international cooperation and development projects, the identification of the beneficiaries implementing the actions within a consortium is envisaged in the course of 2021-22, through the development of the OPSYS IT system and subject to the adoption of the eGrants corporate system for the management of grant contracts.*

*In the case of the humanitarian assistance, projects implemented by a beneficiary with the help of a network of partners, these partners currently need to be identified already at a proposal stage (and final report stage) and the part of the grant they get is also recorded in the ECHO IT system. In addition, DG ECHO is*



*currently preparing for the pre-identification process of its partners for the period after 2020. This pre identification is carried out on the basis of a certification.*

*Regarding the recommendation 3(c) the Commission actively monitors the implementation of projects and may, where deemed necessary, conduct the necessary checks in accordance with the relevant legal framework (delegation/contribution/financing agreement, the Financial and Administrative Framework Agreement (FAFA) concluded with the UN). In accordance with these agreements, the execution of the delegation/contribution/financing agreement and the obligations contained therein, including on costs, may be subject to scrutiny of the Commission, or any of its authorised representatives. The Commission signed a revised framework agreement with the UN (UN FAFA) on 31 December 2018. The UN FAFA contains in Article 12 provisions that allow the Commission to do the necessary verifications.*

*The Commission and the UN agreed on 20 March 2020 on a “Common Understanding” on the use of its standard terms of reference for verifications of operations co-funded by the EU and implemented by UN Organisations that have signed the UN FAFA. The “Common Understanding” includes possibilities to verify the costs reported to UN Organisations by their implementing partners.*

*The revised terms of reference for the Pillar Assessments for indirect management was adopted by Commission Decision in April 2019 (C(2019)2882). Pillar assessments based on the updated ToR contain important elements for the assurance on costs declared to UN organisations by their implementing partners under the accounting and grants pillar.*

*Regarding 4(a) the Commission is working on improving the transparency of the Union financing. In particular, the recent adoption of the corporate model grant agreement to be used by all the Commission’s services represents a step forward in this process. The use of this model grant agreement in the eGrants corporate system for the management of grants implies recording the financing received by all the beneficiaries in a consortium and not only the information regarding the lead beneficiary.*

*Regarding 4(b) the Commission continues to work on further increasing its compliance with international standards on aid transparency. The Commission started to publish International Aid Transparency Initiative (IATI) data on EU Trust Funds in October 2017 and data on results as of November 2017. Results are also included in the “Annual Report on the implementation of the European Union’s instruments for financing external actions”. The Commission launched a new online EU Aid Explorer (<https://euaidexplorer.ec.europa.eu/>) in 2019 that increases access to development assistance data of the EU and its Member States, as published to OECD-DAC as well as in IATI, with the aim to facilitate data use for transparency and informed decision-making.*

*Regarding 4(c) the Commission actively monitors the implementation of projects and may, where deemed necessary, conduct the necessary checks in accordance with the relevant legal framework. The Commission signed a revised framework agreement with the UN (UN FAFA) on 31 December 2018. The UN FAFA contains in Article 12 provisions that allow the Commission to do the necessary verifications.*

*The Commission and the UN agreed on 20 March 2020 on a “Common Understanding” on the use of its standard terms of reference for verifications of operations co-funded by the EU and implemented by UN Organisations that have signed the UN FAFA. The “Common Understanding” does not limit the Commission’s right to verify the UN bodies’ fulfilment of their obligation to adequately disclose the contracts awarded with EU funding.*

*The revised terms of reference for the Pillar Assessments for indirect management was adopted by Commission Decision in April 2019 (C(2019)2882). Pillar assessments based on the updated ToR include a pillar on the publication of information on recipients of funds.*

**SR No 1/2019 "Fighting fraud in EU spending: action needed"**

72. (*Annex, Nr 3 - 2018/COU/0422*) The Council supports the Court's recommendation to the Commission and the Member States to make better use of fraud prevention tools and calls on the Commission to continue working with the Member States on improving irregularity reporting, notably through the Irregularity Management System (IMS).

**Commission's response:**

*The Commission is committed to continuously working with the Member States on the improvement of the reporting of irregularities.*

*The Irregularity Management System (IMS), managed by OLAF, is developed and updated on a continuous basis. For example, in 2019, two new versions were introduced in order to add new features, solve emerging issues and streamline the reporting activities. More specifically, the search functionality was improved by widening the number of fields on which it is possible to perform search, the administrators were given a possibility to amend information in bulks by importing excel files and a built-in analytical tool providing pre-defined analytical reports was deployed. The analytical tool gives users a possibility to interact with the data set, by applying a number of pre-defined filters. The tool is also at disposal of IMS users at national level and its development will continue over the next years in order to provide for a more and more refined and tailored made reporting. For example, it is expected to provide tailored analysis modes depending on the budgetary sector, linking, for instance, irregular amounts to expenditure at Member State, Operational Programme and priority level, while other reports will specifically deal with typologies of irregularities, to show how they appear across Member States and budgetary sectors.*

*In addition, training material (manuals and a training environment in the IMS) is put at disposal of all users and regularly updated. The Commission has trained national officials on the basis of the "train the trainer" principle and provided assistance and support to national authorities whenever requested. Several Member States have held training sessions over the last two years reaching out to about 1,200 users. Furthermore, since 2017 users have at their disposal the Commission's Handbook on the reporting of irregularities providing a harmonised interpretation of legal provisions concerning the reporting obligation.*

*The Commission will continue disseminating the analysis of the data developed at the Commission level among the Member States' authorities in different fora (committees, bilateral meetings, seminars, workshops) and documents (notably the Annual Report on the protection of the EU's financial interests and its accompanying staff working documents), ensuring that Member States can benefit from the European point of view.*

*The quality of data provided by Member States is, however, primarily a responsibility of national authorities. The IMS foresees multiple roles, including "creator" (the official that creates and inputs data into the system) and "manager" (whose task is to verify the accuracy, completeness and timeliness of the*

*reporting). The fact that the IMS reporting workflow can be structured on a cascade system enables national authorities to set-up a quality review system grounded on several layers of control. This is complemented with a number of semi-automated and pre-defined quality and consistency checks by the Commission.*

73. (Annex, Nr 4 - 2018/COU/0423) The Council notes with concern the Court's opinion on the low rate of recovery of misused funds recommended to be recovered pursuant to the European Anti-Fraud Office's (OLAF) investigations and the low rate of follow up of judicial recommendations and calls on the Commission and Member States to improve it.

**Commission's response:**

*Both the Commission and OLAF are investing significant efforts to further improve the follow-up to OLAF's financial and judicial recommendations.*

*To address the long-standing challenge of the follow-up given by national authorities to OLAF's judicial recommendations, the Commission proposed the creation of the European Public Prosecutor's Office (EPPO). Established by Regulation (EU) 2017/1939, the EPPO is expected to bring about a more consistent and effective prosecution policy in the EPPO Member States for crimes affecting the EU budget, leading to more successful prosecutions and a higher level of recovery of the defrauded money. In addition, the Commission proposal to amend Regulation 883/2013 aims to improve the follow-up to OLAF's judicial recommendations. The co-legislators reached an agreement in principle on 26 June 2020. If the text of the agreement is formally adopted by the Council and the European Parliament, it will provide for the admissibility of OLAF evidence in all judicial proceedings except those of a criminal nature. For the latter, the current rule of Regulation 883/2013 (admissibility according to the same rules that apply to reports by national administrative inspectors) would continue to apply. It should also be mentioned that Directive (EU) 1371/2017 (the "PIF Directive") addresses differences in the scope and definition of criminal offences and – by harmonising national rules – should facilitate the operation of Union offices involved in the fight against fraud.*

*From its side, OLAF has in recent years enhanced its cooperation with the judicial authorities on the follow-up to its recommendations. It is, furthermore, a frequent good practice that OLAF and national judicial authorities work in parallel already during an OLAF investigation and coordinate their operational activities.*

*As regards financial recommendations and the recovery of misused funds, the Commission has committed itself, inter alia in its 2019 Anti-Fraud Strategy, to enhance the monitoring of the follow-up given to OLAF recommendations by the Commission and its Executive Agencies in order to identify the systemic reasons for any non-implementation or partial implementation of recommendations. The Commission's Corporate Management Board assumes a strategic oversight role in*

*this process. In this context, the Commission will also closely monitor Member States' follow-up of OLAF's financial recommendations.*

*Within OLAF, in December 2019 the Director-General set up a dedicated Task Force Monitoring, which was formalised on 16 June 2020 with creating a dedicated structure through the OLAF reorganisation. The Task Force is charged with streamlining, centralising and thereby strengthening the monitoring of the follow-up to OLAF's recommendations. As a priority the Task Force is currently dealing with the follow-up to OLAF financial recommendations, in cooperation with DG BUDG. In the near future, its work will be extended to all types of OLAF recommendations.*

74. (Annex, Nr 5 - 2018/COU/0424) The Council looks forward to the publication by the Commission of the study on Member States' compliance with the requirement to carry out a fraud risk assessment as required by the Common Provision Regulation [footnote 1: see Article 125(4)(c) of Regulation (EU) No 1303/2013] and calls on the Commission and the Member States to improve follow-up of OLAF investigations.

**Commission's response:**

*See reply to recommendation 2018/COU/0423 above.*

**SR No 4/2019 "The control system for organic products has improved, but some challenges remain"**

75. (*Annex, Nr 4 - 2018/COU/0425*) The Council recalls that the new Organic Regulation, which enters into application in 2021, foresees the specification of uniform arrangements in relation to suspected or established non-compliances; invites the Commission to issue guidance on the drafting of national catalogues of measures in this regard rather than proposing full harmonization in this area.

**Commission's response:**

*The discharge request is being implemented in the framework of the secondary legislation of the new Organic Regulation (EU) 2018/848. The act should be adopted by the end of 2020 at the latest and should enter into force in 2021. In fact, according to Article 41(5) of the same Regulation, the Commission may adopt Implementing acts to specify uniform arrangements for the cases where competent authorities are to take measures in relation to suspected or established non-compliance. Therefore, every Member State will maintain its own catalogue of sanctions, while being harmonised at European level.*

**SR No 5/2019 "FEAD - Fund for European Aid to the Most Deprived: Valuable support but its contribution to reducing poverty is not yet established"**

76. (*Annex, Nr 9 - 2018/COU/0426*) The Council calls on the Commission to continue its knowledge sharing regarding FEAD, including about the measures accompanying the provision of food and/or basic material assistance. The ECA Special Report could provide useful input for such knowledge-sharing activities.

**Commission's response:**

*The knowledge sharing among FEAD stakeholders ("FEAD Network") continued throughout 2018 and 2019. Both the accompanying measures and the ECA Special Report have been included in the deliberations of those meetings, also in view of the next programming period.*

*From December 2019, the FEAD network meetings are replaced by mutual learning activities aiming to enhance the dialogue of the 'FEAD Community' on remaining implementation challenges as well as on opportunities under the next programming in the context of the ESF+.*

77. (*Annex, Nr 10 - 2018/COU/0427*) The Council In the light of Recommendation 3 of the Special Report, calls on the Commission to continue to arrange seminars and/or peer learning on how to monitor, assess and evaluate measures assisting the most deprived persons, also taking into account, as far as relevant, the findings presented and the good practices identified in the Special Report.

**Commission's response:**

*The knowledge sharing regarding FEAD, including about the measures accompanying the provision of food and/or basic material assistance is a continuous process and relevant issues are discussed with MS representatives during FEAD Evaluation Partnership meetings. An important tool for the monitoring and the next programming period will be the structured survey. The work on this structured survey will start once the specific fund (ESF+) regulation will be adopted.*

**SR No 7/2019 "EU actions for cross-border healthcare: significant ambitions but improved management required"**

78. (*Annex, Nr 10 (first indent) - 2018/COU/0428*) The Council encourages the Commission and Member States to continue to cooperate closely towards the full implementation of the Cross-border Healthcare Directive through:

- further development of an EU-wide eHealth Digital Service Infrastructure (eHDSI), which enables the voluntary cross-border exchanges of patients health data such as e-prescriptions and patient summaries and, in particular, the establishment of connections between national eHealth systems and the eHDSI through dedicated National Contact Points for eHealth (NCPeH).

**Commission's response:**

*The Commission will monitor and report the results achieved through the eHDSI governance structures.*

*In order to provide the overall assessment, a critical mass of Member States is needed and this will be achieved, at the earliest, by 2023.*

79. (*Annex, Nr 10 (second indent) - 2018/COU/0429*) The Council encourages the Commission and Member States to continue to cooperate closely towards the full implementation of the Cross-border Healthcare Directive through:

- further support to the development of the ERNs.

**Commission's response:**

*The Commission works closely with the Member States and the Networks in the ERN Board, in the ERN Coordinators Group and in various thematic working groups which focus on the different challenges faced by the networks in their first years of activities.*

*The Commission is fully committed to supporting the Member States and the European Reference Networks.*

80. (*Annex, Nr 11 (first indent) - 2018/COU/0430*) The Council encourages the Commission to:

- further support the work of National Contact Points established by the Directive to improve the information provided to patients on their right to cross-border healthcare, including a comprehensive and systematic information on the ERNs.



**Commission's response:**

*The Commission will build on its actions to support the work of the National Contact Points (NCP) including advice regarding the different legal routes for cross-border healthcare and make the NCP toolbox available to the wider public.*

*The toolbox includes useful decision-trees for planned cross-border treatment to guide patients to the best legal pathway - either the cross-border healthcare Directive 2011/24/EU or the Regulation (EC) No 883/2004 on the coordination of social security systems.*

81. (Annex, Nr 11 (second indent) - 2018/COU/0431) The Council encourages the Commission to:

- simplify the financial and administrative procedures for the ERNs and reduce their administrative burden.

**Commission's response:**

*The Commission has made legislative proposals to simplify the financing of the Networks in the context of the future Multi-annual Financial Framework, but it cannot commit at this stage on the outcomes of the ongoing negotiations with the co-legislators.*

82. (Annex, Nr 11 (third indent) - 2018/COU/0432) The Council encourages the Commission to:

- assess the results of the 2008 strategy on rare diseases and consider whether it needs to be updated, adapted or replaced.

**Commission's response:**

*The Commission will assess the progress made as regards the implementation of the rare disease strategy building on the outcomes of several processes that are currently ongoing or foreseen.*

*Taking stock of achievements, lessons learned, and persistent challenges, the Commission then plans to consult Member States and relevant stakeholders, and revise its rare disease strategy, where appropriate and relevant, by 2023.*

83. (Annex, Nr 11 (fourth indent) - 2018/COU/0433) The Council encourages the Commission to:

- further develop the ERNs' platforms providing guidelines, sharing knowledge and best practices, including the European Platform for Rare Diseases Registries, aimed to connect registries in the EU and thus facilitate inter alia epidemiological and clinical research on rare diseases.

**Commission's response:**

*The Commission works closely with the Member States and the Networks in the ERN Board, in the ERN Coordinators Group and in various thematic working groups which focus on the different challenges faced by the networks in their first years of activities. The Commission is fully committed to supporting the Member States and the European Reference Networks.*

*The ERN Research working group brings together the research leads of all ERNs as well as five Member States. After a Workshop in January 2019 to agree on common priorities, the working group continues to exchange and explore synergies with EU-funded Research projects such as the European Joint Programme Co-fund for Rare Diseases or Solve-RD.*

84. (Annex, Nr 11 (fifth indent) - 2018/COU/0434) The Council encourages the Commission to:

- continue monitoring and assessing the results achieved by the 2012 eHealth Action Plan and implementation of the 2018 eHealth strategy in terms of cost-effectiveness of the taken actions and their sustainability.

**Commission's response:**

*The Commission will monitor and assess the eHealth Strategy and the eHealth Action Plan and will consider appropriate follow-up action. The focus of the assessment concerning cost-effectiveness and meaningful input to national healthcare systems will be only on the eHDSI, which is the major element of the EU funding.*

*The assessment will build upon the outcome of the actions undertaken under the recommendation 2018/COU/0428 after 2023.*

**SR No 11/2019 "The EU's regulation for the modernisation of air traffic management has added value – but the funding was largely unnecessary"**

85. (*Annex, Nr 12 - 2018/COU/0435*) The Council welcomes the fact that the Commission accepts the European Court of Auditors' recommendations and urges the Commission to reflect, based on the lessons learnt and the European Court of Auditors' Special report, on how to improve SESAR's deployment and to avoid any conflict of interests.

**Commission's response:**

*The problems relating to the potential conflict of interest within the SESAR Deployment Manager was raised when the Specific Grant Agreement No 5 was agreed between the SDM and the Commission. As one of the outputs of the 5th financing period, the SDM prepared a set of respective activities and published a document: "Preparation of applications for Common Projects implementation to CEF Transport Calls Key steps and mitigation measures to prevent potential conflicts of interest, January 2020". These measures will ensure that the risk of conflict of interest is mitigated.*

86. (*Annex, Nr 13 - 2018/COU/0436*) The Council invites the Commission to review the Pilot Common Project in the light of the European Court of Auditors' recommendations, as the review is intended to address a number of the shortcomings reported and to explore the means for improving the effectiveness of common projects within the SESAR innovation cycle, while maintaining the momentum already initiated by the Pilot Common Project.

**Commission's response:**

*The review process of Pilot Common Project started in 2019. The ongoing PCP review process will make sure that the principles of maturity, synchronization and system wide benefits will take the prominent role.*

*The outcome of the PCP review will be a Common Project 1 legal proposal. Due to the characteristics of the legal process, it will be completed in 2021.*

*The Commission also intends to propose a mandatory modulation of charges as an incentive mechanism within Implementing Regulation (EU) 2019/317.*

87. (*Annex, Nr 14 - 2018/COU/0437*) The Council invites the Commission, together with the involved bodies, in the light of the recommendations made by the European Court of Auditors, and in order to reinforce the effectiveness of common projects, to better define priorities and target financial support provided by the Union, so as to ensure that the projects have the greatest possible impact, to clarify and review the role of the SESAR Deployment Manager so as to enhance transparency in preparing

and submitting applications for funding, and to ensure appropriate monitoring of the benefits delivered to the whole aviation sector.

**Commission's response:**

***The recommendation was taken into account when launching the 2019 call for proposals for CEF financing in the area of SES deployment.***

88. (Annex, Nr 15 - 2018/COU/0438) The Council invites the Commission to reflect on how to better link the definition, development, industrialisation and implementation processes of the SESAR project and enhance their connection with other Single European Sky mechanisms, also considering the European Court of Auditors' recommendations from its Special Report n° 18/2017 on the performance of the Single European Sky.

**Commission's response:**

***The Commission sees the SESAR program as a cycle – the needs defined, will lead to development of solutions which will be industrialised and then deployed. The deployment experience feeds back to the SESAR innovation cycle.***

***Currently there are several projects ongoing that will better link different stages of the SESAR cycle.***

- SESAR Industrialisation study;***
- PCP review and CP1 proposal;***
- Impact assessment and the launch of the third period of the SESAR Joint Undertaking.***

***These activities will ensure that the SESAR innovation cycle will function and the development and deployment will be fully synchronised.***

**SR No 12/2019 "E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved"**

89. (*Annex, Nr 13 - 2018/COU/0439*) The Council takes note of the Court's recommendations concerning the effectiveness of the regulatory framework; invites the Commission, together with Member States, to explore thoroughly the possibility to use suitable technology-based systems to tackle VAT fraud on e-commerce as recommended by the Court while taking into account cost-efficiency for both tax authorities and enterprises.

**Commission's response:**

*The Commission accepts the recommendation. It is always prepared to investigate alternative and realistic collection methods presented and will analyse them as to their added value for fighting VAT fraud, taking due account of their feasibility.*

*The exploration of suitable "technology-based" collection systems should be done in relation with the implementation of the extended One-Stop-Shop to have hands-on experience.*

90. (*Annex, Nr 15 - 2018/COU/0440*) The Council acknowledges that the EU–Norway Agreement on administrative cooperation, combating fraud and recovery of claims in the field of VAT is an important step in exchanging information with third countries; invites the Commission to explore opportunities for new agreements on mutual assistance arrangements in VAT and recovery with third countries.

**Commission's response:**

*As part of the Commission Tax Action Plan due by 15 July 2020, the Commission opened negotiations for EU cooperation agreements with third countries in the field of VAT and recovery assistance. One example is opened negotiations with UK. Commission intends to open negotiations with other countries.*

91. (*Annex, Nr 16 - 2018/COU/0441*) The Council invites the Commission to reflect on appropriate measures to improve the functioning of the mutual administrative assistance agreements in customs and tax matters, with a view to reaching their full and timely potential, as well as to reflect on innovative methods of international cooperation and mutual administrative assistance in matters related to customs union, including an enhanced and automated exchange of information, as necessary and with appropriate governance and safeguards, targeted to address the challenges posed by e-commerce for the collection of customs revenue; emphasises the importance that Member States continue to provide the Commission with the necessary information.

**Commission's response:**

*The Commission will engage in a reflection on the way EU international customs cooperation and mutual administrative assistance are conducted, and assess the adequacy and fitness for purpose of the relevant international agreements with strategic partners. This reflection is already ongoing in regard of the EU-China Agreement on Cooperation and Mutual Administrative Assistance in Customs Matters (CCMAA). In the field of taxation Regulation 904/2010 on VAT administrative cooperation has been recently amended in order to extend the automated access of tax administrations to some customs information (on Customs procedure 42). Furthermore, the Commission will implement a new database for the collection and exchange of payment data to fight e-commerce VAT fraud (in force from 2024).*

*The Commission will decide whether to request negotiating directives for a renegotiation of the EU-China CCMAA. The assessment of other relevant agreements will follow*

92. (Annex, Nr 18 - 2018/COU/0442) The Council encourages Member States to also take into account the recommendations on producing estimates of the compliance VAT gap on e-commerce, where possible with specific attention to VAT fraud; and invites the Commission to assist in developing a methodology for such estimates especially as regards VAT fraud.

**Commission's response:**

*The Commission will approach Member States and offer the assistance on request in this matter. The Commission has not received any specific requests from the Member States, yet. The Commission will approach Member States to clarify their needs and will assess what our level of involvement should be.*

**SR No13/2019 "The ethical frameworks of the audited EU institutions: scope for improvement"**

93. (*Annex, Nr 9 - 2018/COU/0443*) The Council expresses its intention to follow up on the implementation of ethical frameworks in the EU institutions and calls upon the Appointing Authorities of the respective institutions to consider setting up appropriate strategies, including targeted and tailored actions to raise staff awareness as well as continuous monitoring and self-corrective mechanisms.

**Commission's response:**

*The Commission notes that the Special Report on Ethical Frameworks of the EU institutions of the European Court of Auditors considered that the Commission has established overall strategies on ethics, which include notably objectives, performance indicators, notably on awareness raising actions on ethics, and annual risk assessment exercise (see paragraphs 34 to 37 of the Report).*

*When it comes to improving staff's awareness and perception of their ethical framework and culture, the Commission accepted the recommendation of the European Court of Auditors and considered it as already being implemented. The Commission has already taken extensive measures to increase staff awareness in relation to ethics and will continue to roll out these measures. The Commission has put in place a very comprehensive training policy on ethics that reaches the staff at different moments of their career. The Commission will continue building on these efforts and expects this policy to improve staff awareness levels on a short-term basis.*

**SR No 14/2019 "‘Have your say!’: Commission’s public consultations engage citizens, but fall short of outreach activities"**

94. (*Annex, Nr 3 - 2018/COU/0444*) The Council calls on the Commission to pay attention to the quality of consultation documents, including readability, as well as to sufficient time for contributions, especially during holiday seasons.

**Commission's response:**

*The Better Regulation Toolbox (Tools #53 and #54) provides guidance on how to prepare high quality consultation documents and questionnaires. The quality of consultation documents (consultation strategy, questionnaire) is ensured by the interservice steering group, which discusses and validates these documents for the initiative. Pertinent Directorates-General as well as the Secretariat-General are consulted upon. Significant emphasis in the discussions of the interservice groups is also placed on the readability of the documents. The Commission intends to further address the quality aspect in the update of the Better Regulation guidance and toolbox, planned for the fourth quarter of 2020 and provide guidance to include a specialised set of questions for targeted stakeholders. The Better Regulation Toolbox (Tool #53) recommends strongly to prolong the general minimum 12 weeks period if it overlaps with holiday periods.*

95. (*Annex, Nr 4 - 2018/COU/0445*) The Council calls on the Commission to clarify the criteria for classifying initiatives, which serve as a basis for language arrangements, and to translate questionnaires and other key consultation documents for all priority initiatives and initiatives of broad public interest into all official languages.

**Commission's response:**

*The upcoming revision of the Better Regulation Toolbox will further clarify the language regime of consultation documents.*

96. (*Annex, Nr 5 - 2018/COU/0446*) The Council stresses the importance of high standards of data processing and security, in particular protection against manipulation of results. The Council invites the Commission to further improve its data processing and security for all public consultations.

**Commission's response:**

*The Commission is putting in place a system to support high standards of data processing and security.*

*The Commission will perform systematically checks on the contributions to public consultations to report on anomalous situations and behaviour (detection of cyber-attacks, duplication of IP addresses, campaign detection) by using the web security*



*measures and analytics associated to the consultation. Anomalous situations and behaviour will be signalled in the factual report associated to the consultation. These measures will reinforce the authentication mechanism already put in place as from July 2018.*

*In addition, the European Commission has also introduced analytics associated to the consultations run via the 'Have your say' portal covering, among others, campaigns detection, clustering by nationality, identified categories, within the limitations of the technical information available and exploitable for these purposes, in compliance with the personal data protection and security frameworks. These measures are constantly updated to take benefit from technological advancements and fit-for purpose design of the questionnaires.*

97. (Annex, Nr 6 - 2018/COU/0447) The Council notes the Court's findings that the Commission has not always been able to give timely feedback on the outcome of the consultation. The Council calls on the Commission to improve its feedback mechanism and publish the results duly after the consultations and, where relevant and appropriate, translate the consultation feedback into all EU official languages.

**Commission's response:**

*Recent developments of the 'Have your say' website would allow for the publication of factual summaries and contributions to public consultations directly on the consultation page. The need for displaying prompt feedback to respondents as well as its language regime will be further clarified in the upcoming revision of the Better Regulation Toolbox.*

**Bodies set up under the TFEU and the Euratom Treaty in respect of the implementation of the budget for the financial year 2018**

98. *(EU-OSHA - Annex to ANNEX 8 (last paragraph) - 2018/COU/0448)* The Council regrets that the level of commitment appropriations carried over to 2019 was again high, for the third year in a row. The Council urges the Agency to follow the recommendation of the Court and to analyse, together with the Commission, the reasons for the constant recurrence of excessive carry-overs and improve budget planning accordingly, in line with the budgetary principle of annuality.

**Commission's response:**

*As from 2020, EU-OSHA has a monthly planning for both commitment and payment appropriations in order to have an early estimate for the carry forward to next budget exercise. The planning is subject to quarterly review (monthly in last quarter) for corrective actions (if necessary).*

*The monthly planning for both commitment and payment appropriations will be part of the final Programming Document as from 2021 onwards.*

99. *(ECHA - Annex to ANNEX 22 (fourth paragraph) - 2018/COU/0449)* The Council is concerned about the risk of a mismatch between the Agency's expenditure and revenues that could arise from the expected drop in revenues from 2019 onwards. It invites the Agency to work with the Commission to explore the possibilities for a new financing model that would also reduce administrative burden and the lack of transparency of multiple financing strands.

**Commission's response:**

*The Commission and the Agency will look into possibilities to ensure a more stable financing of the agency. However, a strict segregation of the revenues by activity that the ECHA manages is enshrined in the different legislations ECHA implements: four regulations and one directive. This generates undeniably a high workload for the Agency compared to having one budget. However, a new financing model as requested by the Council could require opening the current regulatory framework. The Commission and the Agency are working together to assess all the possible options to ensure that ECHA is identifying efficiency gains and propose solutions to allow the Agency to implement its mandate.*