

2019 Discharge to the Commission

**WRITTEN QUESTIONS TO COMMISSIONER
HAHN**

Hearing on 11 January 2021

Questions related to low absorption of programmes etc

1. The Court underlines again the low absorption of ESI funds (European Structural and Investment Funds). This remark was already made in last year's report. Many States have even seen their absorption capacity further reduced, such as Spain, Belgium, Germany and Denmark. How do you explain this phenomenon? How do you explain that the European average is below 40%?

Commission's answer:

2019 was the third year in a row when the totality of the voted budget and the majority of the assigned revenues available for the European Structural and Investment (ESI) Funds were consumed. The situation as regards overall absorption of the 2014-2020 envelopes varies between Member States, but in 15 Member States, at least 50% of the allocation is now covered by expenditure.

While the cumulative financial implementation lags indeed behind the pace observed in previous programming periods, this is mainly due to the initial slow set-up which has led to significant delays in the first years of the 2014-2020 programming period. An encouraging sign with regards to the progress of the implementation is the rate of project selection in the Member States, which is one of the preconditions of effective future absorption of available funds. Based on the data reported by the Member States in January 2020, the overall rate of project selection for Cohesion had reached 91 %.

The Commission has identified several possible reasons for the slower implementation in the first years of the 2014-2020 programming period:

-) The late adoption of the Common Provisions Regulation (6 months later than for the 2007-2013 period), the resulting delay in adoption of programmes, the need for many delegated and implementing acts, the overlap of the two periods. It is extremely important therefore to swiftly finalise the adoption of the cohesion policy legislation for the next programming period.
-) The capacity and time needed for authorities to set up an effective programme delivery system and put in place new provisions to increase quality and compliance (such as designation and ex-ante conditionalities) at the beginning of period. Administrative capacity issues continue to hinder implementation in

some Member States and programmes.

- J) Current rules such as the combination of higher pre-financing amounts (compared to the 2007-2013 period) and the introduction by the co-legislators of the generalised ‘N+3’ automatic decommitment rule (instead of N+2) alleviated pressure from Member States and slowed down financial execution. Unfortunately the need for stronger financial discipline in the post-2020 period by returning progressively to the N+2 rule was not favoured by the co-legislators and the N+3 rule was retained for 2021-2027.

The Commission regularly monitors the absorption rates in each Member State and provides technical support to Member States to improve their administrative capacity, absorption and performance, e.g. Peer2Peer exchange of good practices and expertise under REGIO TAIEX; fi-compass; JASPERS – helping to prepare quality projects that can improve absorption for 2014-2020; technical assistance support with experts from OECD or the World Bank to improve the administrative capacity and ensure good preparation of projects. These actions contributed to the good rate of project selection, as reported above, paving the way for upcoming absorption till the end of the implementation period (mid 2023, last programme accounts to be submitted by 15 February 2024).

Furthermore, the response to the COVID-19 outbreak (in particular the Coronavirus Response Investment Initiative (CRII) and the Coronavirus Response Investment Initiative Plus (CRII+)) are expected to boost funds absorption by re-directing allocations to the sectors of the economy that require the most-needed investments to counter the effects of the crisis.

2. This low absorption capacity can lead to many delays in terms of economic development for the Member States and risks being even more of a handicap for the implementation of the recovery plan. Has the Commission already thought about the initiatives to be taken to finally remedy this damaging situation? How will this issue be dealt with in the next multiannual budget and the recovery plan? Is there a planning / budgeting problem? What causes these delays? How can parliament help?

Commission's answer:

The new Common Provisions Regulation on which the co-legislators reached a political agreement on 1 December 2020 will provide for modernised, simplified and more flexible implementation of the eight shared management funds it covers, including the whole cohesion policy and the recovery support channeled via the Just Transition Fund and REACT EU.

Nearly all simplification measures proposed by the Commission (around 80 measures) were retained by the co-legislators. These measures will allow Member States to apply simplified costs options, combination of grants and financial instruments and make best use of multi-fund, integrated territorial investments to

facilitate faster, simpler and more effective implementation on the ground. One of the main reasons for the initial delays in the setup of the 2014-2020 programmes - the designation of the national authorities - has been simplified with Member States having now the possibility to roll-over existing authorities to the new programmes.

Concrete initiatives, mentioned in the reply to question 1, supporting Member States in their implementation, achievement of policy objectives and related absorption of funds will continue also under the MFF 2021-27, e.g. Peer2Peer exchanges, JASPERS, technical assistance support with OECD and World Bank experts. Additionally, all lessons learned will be taken on board during the completion of the programming exercise for the 2021-2027 programmes. Moreover, thanks to provisions on temporary measures, a mid-term review in 2025 and a flexibility reserve, as well as increased flexibility between funds and categories of regions, progress will be tracked and programmes' adjustments made, if needed.

As regards the Recovery and Resilience Facility (RRF), the biggest spending item under the recovery plan, the co-legislator reached a political agreement on 16-17 December 2020. The agreement foresees regular recovery and resilience dialogues to discuss implementation as well as a review report due in July 2022. Member States can formally submit their recovery and resilience plans for assessment from the moment the Facility is legally in force. The Commission encouraged Member States to submit their preliminary draft plans from 15 October 2020. Moreover, the Commission published guidance and a template to help Member States prepare and present their recovery and resilience plans in a coherent way.

For the RRF, which constitutes 90% of Next Generation EU (NGEU) funds, the Commission's payments will be made against the fulfilment of milestones and targets ("payment against results"). The indicative disbursement schedule and conditions will be agreed between the Commission and the relevant Member State. The milestones and targets should reflect the implementation of the reform and investments plan.

To ensure that funds are absorbed in a timely manner, Member States are invited to describe in their recovery and resilience plans if a mature project pipeline is in place or which steps would be necessary to create such a pipeline and support the maturing of projects. This reflection will help identify where technical support could be provided to Member States. Member States can request technical support under the Technical Support Instrument to implement their recovery and resilience plans or part thereof, including for support to meet milestones and targets. Member States are also encouraged to make use of other support services offered by the Commission services.

The Commission will closely monitor the implementation and progress of all Member State plans and Member States have clear reporting obligations in

particular in relation to payments.

The Commission is available at all levels to engage with Member States on the preparation of their Recovery and Resilience Plans. The Commission is in regular contact with national authorities from Member States to advance with the preparations of the plans.

The start of operations under the recovery plan also requires the ratification and entry into force of the new Own Resources Decision. While these procedures are progressing, the Commission is actively assisting Member States to advance the preparation of their national programmes for the 2021-2027 programming period, as well as their national recovery plans under the Recovery and Resilience Facility.

3. In 2019, only approx. 17% of funds within the financial instruments under shared management (FISM) reached final recipients. Has the Commission identifies causes or shortcomings that led to such low figure?

Commission's answer:

The figure quoted in the question reflects the situation at the end of 2018. As of mid-September 2020:

- 42% (EUR 11.7 billion) of amounts indicated in the programmes for use in the form of financial instruments were effectively paid into financial instruments and therefore available for investments into final recipients (most of the remaining amounts remain commitments, not yet paid and therefore not available to financial instruments);
- 59% of Financial Instrument available capital (EUR 6.8 billion) reached final recipients or was used for eligible management costs and fees. This amount of EUR 6.8 billion is almost doubled compared to the end of 2018. This figure is also likely underestimating effective progress, as it is based on the last payment claims and some authorities do not report in payment claims amounts which were paid out but not yet subject to full controls.

The main reasons for the relatively slow start of financial instruments include:

- Overlap with the instruments of 2007-2013 period, which continued to be implemented until 31 March 2017;
- Low administrative capacity of institutions responsible for implementation of financial instruments, as managing authorities have less experience than in case of grants and some Member States' lack the experience of repayable support;
- In some cases, financial products which were too complex and therefore

not attractive to recipients and financial intermediaries. In some cases the amount committed was too small to be able to attract commercial banks;

- The Commission will continue working with the national authorities, national promotional institutions and the EIB Group to help in designing instruments which while addressing market gaps, are in line with market practices and thus are able to attract private capital.

The Commission has been providing active support to Member States for setting up and implementing financial instruments and to foster an increased simplification of these instruments. Advice and support to Member States has continued via the FI-compass platform, which has continued to disseminate knowledge and practical know-how on Financial Instruments. This support for increasing administrative capacity and better product design has been effective as evident in the use of financial instruments in the COVID-19 context, where over EUR 4.2 billion has been made available very fast to help finance working capital needs in the crisis. This progress would be reflected in reporting only in 2021.

In order to accelerate the starting phase of the 2021-2027 programming period, the Commission would also encourage Member States to make use of the new simplified legislative framework, including in particular the possibility to continue implementation of financial instruments already set up.

4. During MFF 2021-2027, if the Commission no longer prepares an annual report for the different financial instruments of shared management. What evaluation method does the Commission intend to put in place?

Commission's answer:

The Commission is committed to continue monitoring the implementation of financial instruments. This would include a report to be prepared annually, not at the level of individual financial instruments, but at the level of priorities, and in the case of European Agricultural Fund for Rural Development (EAFRD) on the level of type of interventions, covering the scope of information which is submitted to the Commission in line with the future regulatory framework. In addition, at mid-term a report on implementation in the context of management costs and fees would be provided in line with the agreed common provision regulations. Data on individual financial instruments would still be available as part of the audit trail, as in the case of grant operations.

The Commission also underlines in this context that the future sectorial rules (i.e. the CPR for 2021-2027) will not require programme authorities to submit data at the level of individual financial instruments; as such, the Commission has no legislative mandate to impose such additional requirement.

Question related to the RAL

5. What solutions do you recommend to reduce the RAL (outstanding commitments) which amounts to 298 billion at the end of 2019?

Commission's answer:

The nominal value of the RAL has continued to increase in recent years but this development is a natural consequence of the implementation of the EU budget with differentiated appropriations, where the volume of new commitments increases nominally over the years above the authorised payments.

The RAL, however, does not in itself indicate lack of implementation of the budget. The level of the RAL depends on when payments from the EU fall due and its management rests on two main factors:

- The implementation speed of multiannual programmes, and in particular cohesion policy which accounts for more than 60% of the existing RAL; The current level of the RAL for cohesion policy is in line with the natural implementation cycle of the policy and the effect of a generalized 'N+3' automatic de-commitment rule;
- The payment ceiling of the Multiannual Financial Framework and its sufficiency to cover all needs arising in a given year.

For the 2021-2027 period the Commission proposed a series of simplification measures to facilitate and accelerate the implementation of cohesion policy – the main investment policy of the EU. While most of those have been retained in the political agreement reached between the co-legislators, the Commission regrets that the return to the N+2 decommitment rule, which would have additionally accelerated implementation, has not been approved.

As regards the overall financial framework, the payment ceilings for the 2021-2027 long-term budget have been agreed at a level compatible with the expected payment needs for honoring the commitments made in the past.

The Commission actively monitors the implementation of the budget and the evolution of the RAL and is regularly informing the European Parliament and the Council of the forecast needs potential risks for the future.

Questions related to error rates, audits etc.

6. It is indicated in some annual reports (such as Devco, research etc.) that some DGs applied the "de minimis rule" on the basis that if the error rate was indeed higher than 2%, the amount of the budget was considered low enough not to investigate further. Aren't you afraid that in the end this approach will give a

truncated picture of the accounts, prevent rigorous control over millions of euros and above all prevent any changes and improvements?

Commission's answer:

Under the 'de minimis' rule, first applied in 2019, reservations are no longer considered meaningful under two conditions: the part of the expenditure concerned represents less than 5% of the department's total payments and the financial impact is below EUR 5 million.

It should be kept in mind that the purpose of a reservation is to limit the assurance of the Authorising Officer by Delegation (AOD). As the reservations lifted by applying this rule mostly concerned legacy programmes, which are being phased out, their total financial impact would have only been EUR 15.2 million, or a mere 1.4%, of the total financial impact of all 2019 reservations. This is not considered a sufficient reason to limit the AODs' assurance.

Moreover, full transparency of the management reporting remains ensured, as this financial impact is duly included in the calculation of the risk at payment and at closure.

7. You point out weaknesses in the Commission's ex-post controls. Can you be more explicit? What methods should be put in place to reduce the risk of error in high-risk expenditure, in particular for the competitiveness and cohesion strands where you feel that controls are not always reliable?

Commission's answer:

The Commission considers that its multi-annual control systems are working effectively. This conclusion is based on a very detailed assessment of the functioning of these systems, involving hundreds of thousands of checks on EU expenditure. These checks enable us to identify the higher risk expenditure and take appropriate action, improving ex-post controls where necessary.

But one of the main sources of errors, also recognised by the Court of Auditors, is the complexity of the rules. The Commission has therefore examined the possibility to simplify these rules in its proposals for the post-2020 EU spending programmes.

In Competitiveness, the high risk expenditure concerns research expenditure (Horizon 2020), which is still largely based on reimbursement of costs incurred by the beneficiaries. Therefore the Commission has continued its efforts to simplify rules. As recognised by the Court, Horizon 2020 is already a step forward in the simplification of funding rules in comparison to previous Framework Programmes. The Commission proposal for Horizon Europe entails a further simplification of the funding rules.

In addition, the Commission has been running an enhanced information campaign and trainings for participants, with a focus on the most common errors and on

beneficiaries that are more prone to errors like SMEs and newcomers to help them access EU funding. All beneficiaries received information on “How to avoid errors when claiming costs in H2020 grants” in 2019 and again in 2020, and the information campaign will continue in 2021.

Better ex-ante controls are another key measure, aiming to prevent errors rather than detecting them. Project officers are being trained to identify risks and target ex-ante controls accordingly.

Furthermore, the Commission also conducts extensive information campaigns vis-à-vis the external audit firms, in order to make sure that they fully understand the specific rules of the programme and, as such, improve the quality of ex-post audits where necessary. Under the framework contract that will be signed with new audit firms (Q1 2021), training has become compulsory for the accreditation of auditors who perform the audits on-the-spot.

For Cohesion policy, the control system is built on multilevel controls and audits carried out at Member State’s level and at Commission’s level. The Commission works continuously and closely with all programme authorities (managing and audit authorities) to ensure that all verifications, controls and audits are up to expected standards. According to the Commission’s assessment, the risk at payment for many operational programmes remains below the 2% materiality threshold. We therefore do not consider that there are recurrent problems in all Managing Authorities.

Within this policy area, the European Social Fund is less prone to error than the European Regional Development Fund for instance, thanks to a greater use of standard costs options. The use of simplified cost options will thus be encouraged and the obligatory use of simplified reimbursement rules under specific minimum thresholds will thus be encouraged required, under the ERDF in the new 2021-2027 programming period.

When the Commission identifies weaknesses in management verifications it stops payments, imposes the necessary corrections and requests action plans to fix the systems to avoid errors in the future. Requested remedial measures entail improvement of methodological tools, recruitment of additional staff including experts, training activities on newly developed tools or on the correct interpretation of most frequent errors.

In addition, the Commission also implements crosscutting initiatives to improve the administrative capacity of programme authorities and beneficiaries to deal with complex eligibility issues, through targeted training and exchange of good practice among programme authorities, notably in the field of public procurement, state aid, fight against fraud and corruption. Member States also have at their disposal technical assistance, which allows them to provide support for administrative capacity of beneficiaries of cohesion policy.

Based on the ex-post audit work, the Commission applies corrective measures. In 2019 the confirmed ex-post financial corrections and recoveries amounted to 1,5 billion euros across all policy areas. This is an important element that demonstrates that the Commission's multi-annual control system is functioning.

For the purpose of control and audit, the Commission has designed new measures that would require the Member States to collect data on those ultimately benefitting from Union funding for cohesion and agriculture under shared management and for projects and reforms supported by the Recovery and Resiliency Facility. In practice, each Member State would be required to record and store data on natural persons ultimately benefitting, directly or indirectly, from EU funding, in addition to the already existing requirement to store and publish data on organisations benefitting from the funds. That data should be analysed and compared by Member States and the Commission to prevent, detect and correct irregularities.

It is of utmost importance that sectorial legislations will provide the Commission with the necessary instruments to effectively protect the EU Budget. In this context, the Commission regrets that the agreement reached by the co-legislators for the Common provisions Regulation (CPR) and the Recovery and Resilience Facility did not make obligatory the use of a single data-mining tool. However, the Commission will do its best to encourage the Member States to use such a tool.

8. The Court of Auditors continues to detect a high rate of errors regarding the procurement procedures for EU funds in the Member States. Has the Commission provided a training system in place where is the highest number of errors? What parameters the Commission is using to define and detect errors and to identify such abuses under criminal law?

Commission's answer:

The Court of Auditors (and the Commission in its own audits) detected additional public procurement errors but these included only 2 quantifiable ones (and 17 formal breaches without financial impact). This is much less than in past ECA reports. Indeed the Court also reported that audit authorities had already detected and quantified public procurement errors in 24 cases (paragraph 5.23 of ECA's 2019 Annual Report), which shows a good detection at the national level.

Audit authorities report irregularities following a common typology of errors agreed and shared between the Commission and the Member States. The typology allows for a common analysis of the root causes of errors and consecutive adjustments in risk assessments and approaches to management verifications.

The Commission notes that the figures quoted in the ECA report demonstrate a good and improved detection capacity for errors linked to public procurement by

audit authorities in 2019. However the important number of public procurement errors detected at audit level shows that such errors went undetected by verifications at previous implementation levels (i.e. at managing authorities and intermediate bodies' levels). The Commission addresses this issue by launching/continuing several initiatives to improve the capacity of programme authorities to prevent or detect public procurement errors. These include:

- Ñ Encouraging audit authorities to continue working closely with managing authorities when public procurement errors are identified to identify the root causes of these errors, improve risk-management and bridge the knowledge gap through training and professional development (managing authorities, intermediate bodies, contracting authorities);
- Ñ The Commission's Public Procurement Action Plan, which includes initiatives to help administrations and beneficiaries of EU funds improve their public procurement practices;
- Ñ A strategic training programme for Member States' experts from national and regional authorities responsible for the management of ESI funds, including on public procurement; (a total of 1187 Member State officials have participated to DG REGIO trainings so far).
- Ñ Pilot Integrity Pacts in cooperation with Transparency International to help governments, businesses and civil society fighting corruption in public contracting.
- Ñ A pilot action in cooperation with OECD on frontloading administrative capacity building for managing authorities in 5 Member States (BG, HR, EL, PL, ES).

Furthermore, the Commission would like to underline that, in reference to criminal law indicated in the question, the detected cases reported by ECA do not represent fraud but errors or lack of compliance with rules. The Commission will follow up these cases that remained undetected and will apply financial corrections when deemed necessary, in line with its guidelines.

9. Among the most common errors in the Commission's expenditure were: involvement of ineligible beneficiaries, ineligible costs, non-compliance with public procurement rules, irregular procedures for awarding of grants and absence of supporting documents for numerous dossiers. Yet, digital (performance) reporting systems are voluntary for Member States and final beneficiaries of EU funds prove difficult to identify (e.g. in CAP). What concrete actions have you undertaken to eliminate such errors and ensure

procedures in place, which could identify and prevent irregularities in a timely manner?

Commission's answer:

Based on its control results, the Commission considers that, overall, its multiannual control systems works effectively. It does not mean that there are no problems at all. But, thanks to our controls, we know where the issues lie and we are acting upon them.

Complexity of rules is clearly one of the main sources of errors. Therefore, we need to extend the use of available simplification options. For instance, in the last stages of its implementation of Horizon 2020, the Commission is making wider use of simplified cost options (such as lump sum funding) and will continue to do so under Horizon Europe. The same is applied to Cohesion policy where the use of simplified cost options was even made compulsory for programme authorities for operations under a threshold.

Furthermore, the Commission is constantly seeking to improve the efficiency of its control mechanisms, including both ex-ante and ex-post controls. The solution is not “more controls” but rather “better” or “more efficient” controls.

With this in mind, the Commission will continue working together with its partners to address the root causes of errors and take preventive measures, such as sharing good practices and ready-to-use tools, providing guidance and training, and strengthening its communication with beneficiaries.

In this perspective, the Commission has notably designed new measures for 2021-2027 to enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes. Those measures would require the Member States to collect data on those natural persons ultimately benefitting from Union funding for cohesion and agriculture under shared management and for projects and reforms supported by the Recovery and Resiliency Facility. In practice, each Member State would be required to record and store data on organisations and natural persons ultimately benefitting, directly or indirectly, from EU funding. That data should be analysed and compared to prevent, detect and correct irregularities. The European Anti-Fraud Office and the European Court of Auditors shall have the necessary access to this information

It is of utmost importance that sectorial legislations will provide the Commission with the necessary instruments to effectively protect the EU Budget. In this context, the Commission regrets that the agreement reached by the co-legislators for the Common provisions Regulation (CPR) and the Recovery and Resilience Facility (RRF) did not make obligatory the use of a single data-mining tool. However, the Commission will do its best to encourage the Member States to use such a tool.

10. Could you please elaborate on your rules of procedures regarding internal audit, with special emphasis regarding their timeframe? What is the maximum duration of an audit procedure as per internal regulations? With regard to auditing of funds under shared management, could you please indicate how many audit procedures were launched in 2019 and how many out of those haven't been concluded yet? Among those concluded, were there significant findings?

Commission's answer:

As regards audits to Member States under shared management, specific procedural rules apply for the European Fund for Regional Development and the European Social Fund on the one hand and the Common Agricultural Policy Funds (the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development) on the other hand. Both require effective communication with the Member State's authorities and audited entities. In addition, in order to ensure effective, fair and loyal communication with the Member State's authorities, also general legal and administrative rules as well as good practice apply where the fund specific regulations do not contain specific requirements.

The procedural framework provides for:

- Z A clear announcement to the Member State's authorities (as auditees) of the start of the audit procedure;
- Z The collection of the audit evidence in an objective and impartial fact gathering process. Sufficient and appropriate audit evidence has to be collected throughout the different stages of the implementation of the audit, including on-the-spot visits;
- Z An effective contradictory procedure with the auditee, with specific rules and both legal and administrative deadlines;
- Z Clear reporting to the auditee with findings and audit conclusions.

A DG REGIO or DG EMPL audit is followed by the monitoring of the implementation of audit conclusions and findings. In this framework, a new contradictory procedure (i.e. in addition to the audit procedure) is required to give the Member State the opportunity to demonstrate the actual extent of the irregularities identified. This is particularly important for deciding on possible financial corrections if recommendations are deemed insufficiently implemented.

For DG AGRI, the bilateral meeting with the auditee also serves to assess the extent of the risk to the CAP funds and the remedial action taken. In addition, the legislation foresees a conciliation procedure. This is set out in detail in the table in Annex. At the end of the procedure, Member States have the right to challenge the Commission decision in Court, in accordance with the Treaty (TFEU).

A detailed description, including the standard timeline, has been provided to the

CONT Committee by letter of 7 December 2020.

Further details on the number of audits carried out in 2019 in the fields of Cohesion Policy and of the Common Agricultural Policy, and their state of play, are presented in Annex 1.

11. Does the Commission agree that it is important prevent the conflict of interest also from the negotiations of the Common agriculture policy as well as the negotiations of the general EU budget? What preventive measure does Commission have in place to achieve this goal?

Commission's answer:

The Commission takes the protection of the Union budget against corruption, fraud, irregularities and conflicts of interest very seriously. The Financial Regulation 2018 ('FR 2018') has strengthened the measures to protect the EU financial interests. A key example is the strengthening of the rules on conflicts of interests (Article 61 FR 2018), which, in addition to direct and indirect management, are now explicitly extended to shared management. Article 61 FR 2018 applies to all persons involved in budget implementation under direct, indirect and shared management, including acts preparatory thereto. Moreover, Article 61 FR 2018 now also captures situations which may objectively be perceived as a conflict of interest. This also includes the Commission officials.

Developing of a common EU culture for avoiding conflicts of interest requires continuous dialogue and co-operation between the Commission and Member State authorities implementing the EU budget.

The Commission is taking action with respect to avoidance of conflicts of interest. The Commission has committed to accompany and guide the Member States in applying the new conflict of interest rules and has finalised a guidance document in this respect, addressed to the Member States and also to the EU institutions. The aim is to have it published in early 2021. Before finalisation, the document was shared with the European Parliament (CONT Committee) and presented to and consulted with Member States authorities both in writing and in the context of meetings organised with them.

In the context of Union funding for cohesion and agriculture, as well as the Recovery and Resilience Facility, the Commission has proposed new measures to enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes. These measures include the obligation for Member States to collect data on organisations and natural persons ultimately benefitting (directly or indirectly) from EU funding and the use of a single data-mining tool which would enhance the control mechanisms.

The use of a data mining tool like ARACHNE which is based on a set of risk

indicators would allow to identify the projects, beneficiaries, contracts and contractors that might entail risks of irregularities, fraud and conflicts of interest.

It is of utmost importance that sectorial legislations provides the Commission and the Member States with the necessary instruments to effectively protect the EU Budget. While the co-legislators agreed that the Member States have the data mentioned above available and accessible for the Commission, unfortunately they did not agree to require Member States to use a data-mining and risk-scoring tool made available by the Commission to compare the data and carry out checks. However, the Commission endeavours to encourage the Member State to avail themselves of such a tool.

The political negotiations for agriculture and rural development are still ongoing.

As regards negotiations of the Common Agricultural Policy, Member States decide who represents them. It is for the Council of Ministers and the European Parliament to ensure compliance with respect to the representatives of these institutions in negotiations.

Question related to Arachne etc.

12. Arachne is a major tool for detecting fraud. More or less 20 countries use it, but only 55% of cohesion expenditure is listed in it. What initiatives are being taken to get more countries to join this tool? And how to explain the refusal of some countries to participate? Does the Commission plan to launch a study to understand why some States do not use it?

Commission's answer:

As part of the fight against fraud (and irregularities), the Commission developed a data mining/risk scoring tool called 'ARACHNE' which was launched by DG's EMPL and REGIO in 2013 and offered it to Member State authorities for their voluntary use. Currently ARACHNE is being used for the ERDF, CF and ESF in all Member States (even if in not all of their programmes), with the exception of Germany, Poland, Sweden, Finland, Denmark, Cyprus and Estonia. In the CAP context, in the framework of a pilot launched in early 2019, five Member are currently using the tool and four Member States are doing preliminary testing.

Ever since its launch, the Commission has been raising awareness as to the usefulness and effectiveness of the ARACHNE tool and has been actively encouraging Member States to use ARACHNE in different events such as Paying Agencies' conferences. The Commission has been also providing training to Member State's authorities on how to use the tool.

ARACHNE identifies, based on a set of risk indicators, the projects, beneficiaries, contracts and contractors that might entail risks of irregularities, fraud and conflicts of interest.

The Commission consider that preventive and control mechanisms can become even more effective if data mining tools containing reliable data are available.

The European Council conclusions of July 2020, the European Parliament 2018 discharge procedure, and the Inter-institutional Agreement (IIA) between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management called for improvements on the information available on recipients of EU funding, and its interoperability, for control and audit purposes.

In the context of Union funding for cohesion and agriculture, as well as the Recovery and Resilience Facility, the Commission has proposed new measures to enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes. These measures include the obligation for Member States to collect data on organisations and natural persons ultimately benefitting (directly or indirectly) from EU funding and the use of a single data-mining tool which would enhance the control mechanisms.

It is of utmost importance that sectorial legislations will provide the Commission with the necessary instruments to effectively protect the EU Budget. In this context, the Commission regrets that the agreement reached by the co-legislators for the Common provisions Regulation (CPR) and the Recovery and Resilience Facility did not make obligatory the use of a single data-mining tool. However, the Commission will do its best to encourage the Member States to use such a tool.

Questions related to transparency of data etc.

13. Transparency of data on beneficiaries has been increased in recent years, but difficulties are still experiencing in the Member States to make available data on funding for programs such as immigration and integration. Could the Commission explain this difficulty?

Commission's answer:

The transparency of data on beneficiaries will be improved in the next programming period. The Commission proposals for CAP and for the Common Provisions Regulations (CPR) for the period 2021-2027 create a unique set of information to be published for all the funds under shared management including the CAP, Cohesion Policy Funds as well as the future Asylum, Migration and Integration Fund ('AMF'), the Internal Security Fund ('ISF') and the Border Management and Visa Instrument ('BMVI').

The Commission's aim is also to reinforce Member States' responsibilities as set out in Article 5(1) of Directive (EU) 2019/1024 on open data and the re-use of public sector information, which allows data to be sorted, searched, extracted,

compared and reused.

14. What is the policy of transparency data relative to the beneficiaries of projects funded with project bonds? What is the monitoring system that the Commission puts in place to verify the correctness of expenditure in projects financed by project bonds? In case of abuse of these funds, what action the Commission may undertake?

Commission's answer:

For the purpose of control and audit, the Member States will have to collect data on those ultimately benefitting from support under the Recovery and Resilience Facility (RRF), irrespective of the way the funding is provided by the Commission and channelled to the Member States. This data will be used by the Member States, in the first place, and by the Commission, following the disbursement of funds, to avoid double funding and prevent serious irregularities. Errors, misuse or serious irregularities in the use of the funds will be remedied through various measures, including suspension of payments and recoveries. The relevant data will also be available for the OLAF, the European Court of Auditors and EPPO, where applicable, for their investigations and other actions within their respective competences.

In the assessment of the national Recovery and Resilience Plans, the Commission will check that Member States put in place internal control systems for the management of the facility, taking into account the specific risks in implementing these funds, in particular to avoid risks of conflict of interests, fraud, corruption and double-funding.

During the implementation of the Facility, Member States will have to ensure sound financial management when using these funds and recover amounts unduly spent. In particular, for the purpose of audit and control, they will be required to collect data on the recipients ultimately benefitting, directly or indirectly, from support under the Facility.

Before disbursing the funds, the Commission will look at the management declaration that the Member States will submit when requesting payments and assess the fulfilment of milestones and targets.

After disbursements, the Commission will perform risk-based ex-post controls in case of doubt and, if serious irregularities (i.e. fraud, corruption or conflict of interests) are found, it will recover proportionate amounts if not already recovered by the Member States themselves.

However, it should be noted that funds borrowed by the Commission relating to the NextGenerationEU instrument, including the Recovery and Resilience Facility, are not project bonds.

Reliable information on who controls anonymous companies is central for preventing financial mismanagement, fraud and corruption. In fact, the EU's 5th Anti Money Laundering Directive (AMLD5) has already committed to opening up registers of beneficial owners of companies, and Member States are currently transposing that Directive and setting up these registers.

15. Is the Commission planning to ask the MS' company registers to include full ownership and corporate structure data and make this data freely accessible?

Commission's answer:

According to 5th Anti Money Laundering Directive (AMLD), Member States had to implement beneficial ownership registers at national level. While the Directive provides for full ownership and corporate structure data to be included, as well as accessibility of such data to any member of the general public, there is currently no obligation for a free access. The Commission is currently working with Member States on the interconnection of beneficial ownership registers (BRIS). This interconnection of beneficial ownership registers remains a priority action and will increase the European Union's high standards of beneficial ownership transparency. Following the consultations on the Action Plan on a comprehensive EU anti-money laundering / countering the financing of terrorism (AML/CFT) policy adopted in May 2020, the Commission intends to table a legislative package in early 2021. Without prejudging on the adoption, the Commission is committed to strengthen the EU AML/CFT framework by further improving beneficial ownership transparency.

For the purpose of control and audit, the Commission has designed new measures that would require the Member States to collect data on those ultimately benefitting from Union funding for cohesion, agriculture and migration under shared management and for projects and reforms supported by the Recovery and Resiliency Facility. In practice, each Member State would be required to record and store data on organisations and natural persons ultimately benefitting, directly or indirectly, from EU funding.

It is of utmost importance that sectorial legislations provides the Commission with the necessary instruments to effectively protect the EU Budget. In this context, the Commission regrets that the agreement reached by the co-legislators for the Common Provisions Regulation (CPR) and the Recovery and Resilience Facility (RRF) did not make obligatory the use of a single data-mining tool. However, the Commission will do its best to encourage the Member States to use the tool.

Questions related to fraud prevention etc.

16. What mechanisms have the Commission put in place to prevent the funding of companies involved in tax fraud? What action the Commission has put in place

to prevent European companies who receive funding to benefit from advantages linked to fictitious headquarters in tax havens?

Commission's answer:

The Financial Regulation (Article 136(1) (b), (g) and (h)) excludes from EU financing persons or entities for which a final judgement or a final administrative decision has established a breach of tax payment obligations or the creation in a different jurisdiction of a person or entity with the intent to circumvent fiscal obligations. In addition, in the particular case of creation of shell companies, the Financial Regulation provides now for the possibility of excluding from EU financing such shell companies and the entities or persons having created them, without waiting for a final judgment or final administrative decision, and on the basis of a preliminary classification in law established with due respect of the right of defence.

Additionally, Article 155 Financial Regulation provides that:

- persons and entities that implement EU funds have to comply with EU law and agreed international and Union standards with respect to, among others, tax avoidance, tax fraud or tax evasion;
- when implementing financial instruments and budgetary guarantees, those persons and entities may not sign new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant Union policy on non-cooperative jurisdictions;
- when concluding agreements with financial intermediaries, entities implementing financial instruments and budgetary guarantees in accordance with Title X of the Financial Regulation shall transpose the requirements referred to above into the relevant agreements and shall request the financial intermediaries to report on their observance;
- when implementing financial instruments and budgetary guarantees in accordance with Title X, persons and entities shall make funding under the Financial Regulation contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849 and publish country-by- country reporting data within the meaning of Article 89(1) of Directive 2013/36/EU of the European Parliament and of the Council (2).

17. May the Commission provide statistical certified data on the impact of corruption in Europe affecting European funds for each Member State?

Commission's answer:

At this stage, the Commission does not have statistical certified data on the impact of corruption on EU funds concerning 2019.

18. Have you discovered and reported new fraudulent behaviour or money misuses in 2019?

Commission's answer:

In 2019 the Commission reported to OLAF 107 allegations of possible irregularities or fraud in the use of EU funds, on the basis of which the Office opened 34 investigations.

Questions related to own resources

19. Can you tell us whether any improvements in customs services and their functioning have been implemented? If so, which ones? And what about e-commerce, where the Court of Auditors pointed out in 2019 that VAT on this aspect was not levied correctly?

Commission's answer:

In 2019, the Commission has designed and enacted a new type of customs declaration for the consignments typically involved in e-commerce (consignments of low-value) and is in the process of adapting the Commission's Surveillance system so as to collect certain data from those declarations. The whole process of declaration and collection of data is foreseen to be in place by mid-2021 and will contribute to a better monitoring of the risk of undervaluation involved in e-commerce both by the Commission and the Member States because it will gather information on transactions which are at the moment not subject to formal reporting. An evaluation of the effectiveness of these measures once also the VAT e-commerce package comes into effect in July 2021 is envisaged for 2022.

In addition, the Commission enacted in 2019 a legally binding definition for the term 'intrinsic value'. The new definition aims to provide legal certainty and enhance harmonisation across the EU regarding the implementation of the duty relief and new VAT e-commerce rules for low value imports.

The VAT e-commerce package will enter into application in July 2021. It is expected that it will ensure fair competition for EU businesses and combat VAT fraud. The removal of the EUR 22 VAT exemption threshold is expected to generate EUR 7 billion VAT revenues annually. Moreover, special provisions concerning the obligations of electronic interfaces (deemed supplier) will be introduced. However, there are signs that at least two member states will be late in ensuring compliance despite the fact that the deadline was agreed 3 years ago and an additional 6 month extension given due to COVID.

Businesses will be able to declare and pay import VAT using the Import One Stop Shop (IOSS). In the context of the Tax Action Plan (#5) the possibility to provide for the obligatory use of the Import One Stop Shop will be examined.

20. A reservation has been entered on the amount of own resources transmitted by England to the EU budget. What corrective procedures have been put in place? Can the brexit adversely affect the eventual recovery of these amounts?

Commission's answer:

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

On 29 August 2019, the Commission lodged its reply to the UK's Defence at the Court, maintaining its position. The oral hearing took place on 8 December 2020. However, while the date of the final judgment is fully under the discretion of the Court, the Commission does not expect a ruling before summer 2021. BREXIT has no adverse effect on recovery of the claimed amounts as they relate to imports before the end of the transition period. Such claims are covered by the Withdrawal Agreement and do not relate to the outcome of the negotiations on the future partnership between the EU and the UK.

21. You also point out weaknesses in relation to customs and the loss of revenue on VAT, undervaluation and customs duties. The Court points to the lack of harmonization at EU level of customs controls. In concrete terms, what do you recommend to harmonize them? Where does it stop?

Commission's answer:

The Commission has adopted the decision on financial risk criteria (FRC) which set up common financial risk criteria and standards to be used to select consignments that may lead to a customs control. The guidance on the implementation of this decision was endorsed in December 2019. While the FRC Decision is obligatory, the Member States did not agree to make the Guidance obligatory and this creates risks of uneven implementation as pointed out by the Court. An evaluation on the implementation of the decision is foreseen in 2021 and will determine whether Member States' approaches to risk based controls have converged and guide future action by the Commission.

The Commission, together with the Member States are currently working on updating the Guidelines for preventing and detecting irregularities (under-invoicing) of imports, with the aim to finalise it by Q2 2021. The update will provide improved guidance for the Member States in applying Union Customs Code (UCC) rules related to the valuation of goods, in particular reasonable doubts (Article 140 UCC Implementing Act) and secondary valuation methods (Articles 141-144 UCC IA).

22. As regards important shortcomings in Member States' controls to reduce the customs gap, ECA highlighted two main weaknesses. One concerns the lack of

EU-wide harmonisation of the performance of customs controls for mitigating the risk of undervalued imports throughout the Customs Union. The other relates to Member States not being able to identify the riskiest economic operators at EU level for post-release audits. What steps did the Commission take to specifically address these weaknesses?

Commission's answer:

On the lack of EU-wide harmonisation of the performance of customs controls for mitigating the risk of undervalued imports throughout the Customs Union:

See reply to Q21 above.

On the issue related to Member States not being able to identify the riskiest economic operators at EU level for post-release audits:

The Commission and the Member States have updated the customs audit guide (CAG) to identify different scenarios where a company may be headquartered in one Member States and transactions may have occurred in the same Member State or in others. The guidelines identify existing tools and methods to be used to ensure companies are adequately controlled. A pilot is also planned with Member States. It was meant to start in 2020 but was postponed due to COVID-19. However, further progress will only be possible once Surveillance III becomes fully operational in 2023, when it will enable the identification of operators acting in several Member States.

A recommendation is moreover already present in the CAG, mentioning that FRC are one of the elements to be used for the selection of relevant economic operators to be considered for post-release audits. The CAG identifies moreover that the exchange of risk information among Member States (MS) is crucial since it allows risks to be further investigated and tackled, also in cases in which customs operations carried out in other MS are concerned.

Also, the FRC Decision sets up criteria to electronically flag transactions considered to pose financial risk and which require further scrutiny or control action. The FRC Decision provides for financial risks to be addressed before or after the release of the goods, in post release control or in an audit. The FRC Decision also reiterates the legal obligation for the Member States to share risk information via Customs Risk Management System, in line with Articles 46(5) UCC and 36 of the UCC IA.

Lastly, a specific chapter of the guidance on the implementation of the FRC Decision is being drafted with the Member States in order to ensure a common understanding on how the FRC must be applied for post release controls and post release audits.

Therefore, certain measures to ensure a common interpretation and a proper implementation of the FRC Decision have been taken. However, additional measures will be proposed by the Commission once sufficient evidence are there

to convince Member States for a more harmonised approach (something that they currently resist).

23. ECA reviewed the management of long-outstanding VAT reservations set by the Commission (eight out of 15), and found that five of them related to infringement procedures against Member States on the grounds of possible non-compliance with the VAT Directive. ECA noted that the procedures took a long time due to lengthy dialogue between the Commission and Member States. The financial impact of three of the eight cases examined, for which reservations had been set more than seven years previously, was not yet known, and in two cases, where reservations had been set over six years earlier, the impact was only partially known and not yet confirmed by the Commission. What is the Commission doing in order to close long-outstanding reservations?

Commission's answer:

Reservations are a protective measure to mitigate the risk that an incorrect VAT Own Resources statement is time-barred. The majority of long outstanding reservations are linked to infringement proceedings, that may have a potential financial impact to the EU budget. In such cases, reservations and related calculations for correcting the VAT statements are mirroring the developments of the infringement proceedings which are influenced by several factors including the complexity of the infringement cases and the timing for possible referral to the Court of Justice. The different Commission's services work in close collaboration for identifying corrective measures related to open reservations. These consultations are an integral part of bringing the whole infringement process to a successful and timely ending. The active monitoring of all open reservations is regularly performed with the objective, among others, to achieve the annual reduction target set annually. More specifically, for the reservations set by the Commission related to infringements proceedings, 16% have been closed during year 2020. As part of its infringement-management policy, the Commission has introduced twice-yearly coherence exercises. The purpose of these exercises is to provide a horizontal view of the development of cases to ensure that they are dealt with consistently. The Commission Services also works in close partnership with Member States, actively identifying ways to solve issues and taking actions, in compliance with the Commission procedures and applicable legislation, in order to close long-outstanding reservations.

24. For the fourth year in a row, DG BUDG has maintained the reservation that the TOR amounts transferred to the EU budget are inaccurate owing to undervaluation of textiles and shoes imported from China. The reservation was first set in 2016, when TOR losses attributable to the United Kingdom were quantified, and then extended to other Member States in 2018, without quantification. Could you give as an update regarding the latest state of play?

Commission's answer:

Now that the Commission inspections in all Member States and most OLAF investigations are completed on the first waves of undervaluation cases on the import of textiles and footwear from China, the Commission will be soon in a position to quantify potential TOR losses for each Member State and to roll out its undervaluation enforcement strategy for previously imported goods. Preliminary figures show that by far the largest TOR losses were incurred in the United Kingdom. The Commission estimates that the combined TOR losses for these cases in all other Member States would not exceed the ones incurred in the United Kingdom, which are currently subject to the Court case filed by the Commission in March 2019.

Question related to indicators etc.

25. You indicate in your annual report that indicators have been put in place to better communicate the results achieved. Can you be more explicit?

Commission's answer:

For the new MFF, a limited set of core performance indicators has been selected. They are representative of the intended effects of the interventions and can be used as markers of progress over the MFF implementation period. In the Commission proposals of 2018, a total number of 334 indicators had been selected, which is a sharp reduction in comparison to the set of more than 700 indicators selected for the previous programming period.

The features and the advantages of this relatively small set of indicators include:

- Z they will be presented systematically in the Programme Statements accompanying the draft budgets, as consistent headline indicators during the implementation period: this stability avoids the risk of bias when selecting indicators and permits comparison year-on-year;
- Z they have been selected under common selection criteria across the different programmes: relevance of the information, quality of data, and cost-effectiveness of data collection;
- Z the identification of the indicators has been made along the intervention logic and under common definition (output-result-impact);
- Z the indicators will be presented under common quality standards: each indicator will be complemented by a technical description (metadata) and by the description of the method used for estimating its metrics (baseline, milestones and targets), thus reducing the risk of misinterpretation and enhancing the credibility of figures disseminated.

Question related to spending on studies etc.

26. What was the European Commission's spending on studies and consultations and other expenditures in 2019? What was the 20 biggest amounts paid and to which companies? Is there a transparent register with all the contracts? For what amount has the Commission and each DG purchased studies (both from private entities and from companies) during the 5 years term and which specialists or research institutions were the main beneficiaries? How were those companies and experts chosen?

Commission's answer:

During 2019, the European Commission contracted EUR 204,1 million on Consultancy contracts and EUR 150,3 million on Studies contracts. The total amount paid in 2019 on Consultancy and Studies contracts (concluded in 2019 or before) was respectively EUR 250,9 Million and EUR 87,3 million (first tab of the enclosed annex Question_26).

The top 20 beneficiaries for consultancy and studies contracts with regards to the paid amounts and contracted amounts is available in the second, respectively the third tab of the enclosed annex Question_26.

The web platform Financial Transparency System (https://ec.europa.eu/budget/fts/index_en.htm) shows the beneficiaries of funding (above EUR 15 000) from the EU budget implemented directly by the Commission (at Headquarters or in EU delegations to non-EU countries) and other EU bodies such as executive agencies in direct management, and beneficiaries of the European Development Fund. The following funding types are published on this site: Grants, Prizes, Public procurement, Financial Instruments Budget Support and External Experts. The website provides information about who receives the funds, the subject, location of the action, amount and type of expenditure by responsible department, budget line and accounting year.

During the last three years, the European Commission purchased studies for EUR 363,2 million (see fourth tab of the enclosed annex Question_26). Studies details per DG is available in the fifth tab of the enclosed annex Question_26. Since the central registry of contracts was not mandatory in 2014-2015 and data were not consequently complete for these financial years, the Commission cannot provide comparable and reliable information.

When procuring these services the Commission is bound by the Financial Regulation, following which it must ensure transparency, equal treatment and non-discrimination, proportionality and sound financial management, as tenderers may submit tenders as natural or legal persons, alone, jointly or with subcontractors. Non-discriminatory criteria must be laid down to determine whether a tenderer has the necessary technical and professional capacity.

Companies and experts are therefore selected in accordance with the procurement rules and procedures established in the Financial regulation, including inter alia an extensive publication of the services requested, and the exclusion, selection and award criteria of each tender evaluation before the award of the contract. The basic rule of public procurement is to ensure fair competition. The Commission must respect thresholds laid down in the Directive 014/24/EU[1] when selecting a procurement procedure. It can only launch negotiated procedures exceptionally, in cases exhaustively listed in the Financial Regulation. These procedures are reported in the Commission's Annual Activity Report on a yearly basis as well.



Question_26v2.xlsx

Question related to climate and sustainable development

27. Climate change and sustainable development are priorities for the Union. What is the sustainable development strategy (plastic, transport, travel, heating etc) for its own institution?

Commission's answer:

The Commission carried out a study which has made recommendations in September 2020 to make the Commission climate neutral by 2030. The Commission is intensively working on a Communication/Action Plan in which it will define its policy to decrease its emissions with the aim to achieve this ambitious goal. This Communication is expected in the first part of 2021. The major aspects of that policy should be, amongst others: buildings energy efficiency, mobility (missions and commuting), IT and Green Public Procurement.

The Commission is continuously making efforts to reduce the environmental impact of its buildings. For instance, a substantial number of buildings in Brussels are closed during the end of the year period to reduce the energy consumption. The Commission's real estate vision for the coming years is to make each square meter greener and nicer while using each square meter smarter. Consequently, whenever possible, the old buildings will be progressively replaced by new buildings that are more environmental friendly, with best possible ecologic footprint.

In 2020, the Commission included the CO₂ emissions resulting from missions in its dedicated IT tool for missions (MIPS) with the aim of getting better emission calculations and offering better ecologic guidance to its staff when booking travels.

The fleet of the Commission was made greener, for instance in Brussels more than

50% of the vehicles are electric or plug-in hybrids.

The Commission started decreasing single use plastics since 2018 and is continuously decreasing their use when possible.

In order to increase its services' participation in its greening policy, the Commission introduced a specific chapter in its strategic programming where DGs can develop greening actions in their strategic plans and management plans.

Questions related to catering tender termination on the grounds of “force majeure”

By the end of November, the Commission has communicated its intention to end the tender for catering services in its premises as of 1st January 2021 alleging “force majeure”.

28. Is the Commission aware that “force majeure” practically leads subcontracted companies to carry out a mass dismissal -more than 400 jobs- without any social agreement whereas the ‘force majeure’ cause should be used instead to adopt exceptional measures precisely to avoid a mass dismissal?

Commission's answer:

The Commission is aware of the implications of invoking “force majeure” and did not use it, neither to terminate the current catering contracts, nor to cancel the call for tender.

The Commission had no choice under the Financial Regulation but to cancel the call for tender for a service that is no longer needed. By doing so, the Commission allows current contractors to make use of Belgian social provisions.

29. Does the Commission believe that it can evade its responsibility arguing that is not directly firing the workers, who are working in the very same Commission buildings and are the weakest link in the chain?

Commission's answer:

The Commission applies the principles of sound financial management by not purchasing a service which is no longer adapted to its needs due to the Covid-19 crisis.

The contractors were providing services under a concession contract; upon Covid-19, they invoked “force majeure” to stop providing that service. The concession contract was modified into a service contract to open some points of sale in order to ensure a service where needed.

30. Is the Commission aware of the danger of the “carry-over” effect that this decision could have on the rest of the European institutions but also on other companies in Belgium and in the rest of the Member States, especially

considering that the decision is inconsistent with the objective of the NextGenerationEU Plan launched by the Commission?

Commission's answer:

Contrary to the Commission whose contract is expiring, the contracts of the other European institutions are ongoing and there is thus no risk of “carry-over” to other Institutions.

As the Commission must abide with the EU budgetary rules, and has no legal basis to support specific companies by purchasing services that are no longer justified. Support to companies is provided through the Member States.

Question related to funding of NGOs

31. What was the total amount in 2019 of NGO funding from the Commission’s directly? How are expenditures controlled? Which NGO’s are the 20 main beneficiaries of the EU funds? On what basis is the funding of NGO’s decided?

Commission's answer:

While the term non-governmental organization (NGO) is widely used, it has no generally accepted definition at international or EU level. The Commission has developed, on its own initiative, a system whereby organisations declare themselves as NGOs, under the pre-requisite that the legal entity concerned is flagged as both a private and not-for profit organisation, which are both objective and verifiable criteria.

Based on this approach, in 2019, the European Commission has **contracted** EUR 3.067.223.031,12 to the NGOs in the form of grants and contribution/delegation agreements, among which EUR 2.387.134.715,32 falls under the scope of Direct Management and EUR 680.088.315,80 under the scope of Indirect Management (3d tab of the enclosed annex Question_31).

In 2019, the Commission has **paid** EUR 2.861.969.459,57 to the NGOs in the form of grants and contribution/delegation agreements, among which EUR 2.260.530.684,97 falls under the scope of Direct Management and EUR 601.438.774,60 under the scope of Indirect Management (2d tab of the enclosed annex Question_31).

The **20 main** beneficiaries of the EU funds (payments and contracts) is available in the 1st tab of the enclosed annex Question_31.

The EU regulatory framework and, in particular the EU Financial Regulation provide for various mechanisms in order to ensure proper spending of EU funds. These mechanisms include reporting (taking the form of interim and/or final narrative and financial reports, depending on the specific policy area and type of

agreement), monitoring activities (e.g. general project reviews, on-the-spot visits, verification missions) controls and audits. The European Anti-Fraud Office, the European Public Prosecutor's Office and the European Court of Auditors may also carry out checks, reviews, audits and investigations. By applying to a call for proposals and subsequently signing a grant contract with the Commission, the grant beneficiary (which may include NGOs) is bound to respect the application of these mechanisms and ensure that the Commission and bodies mentioned can exercise their rights also towards the other entities involved in action implementation.

The Financial Regulation applicable to the EU budget does not distinguish beneficiaries with an NGO status from other beneficiaries. EU funding is mostly organised through calls for proposals and the signature of grant contracts, where the eligibility criteria can precisely target where desired, NGOs as the grant beneficiaries (amongst others). Applications are evaluated against selection and award criteria designed to award grants to projects maximising the overall effectiveness of EU funding.



Question_31.xlsx

Questions regarding funds towards the organisation Forum of European Muslim Youth and Student organisations (FEMYSO)

According to their website, FEMYSO relies on funding of the European Commission.

32. How much has been allocated to FEMYSO over the past five years?

Commission's answer:

The Commission has **contracted** EUR 57.080,64 with FEMYSO over the course of the last five years on two grants: one signed in 2015 amounting to 29.080,64 EUR and the other one signed in 2017 amounting to 28.000,00 EUR (1st tab of the enclosed annex Question_32).

The Commission has **paid** EUR 65.364,21 to FEMYSO over the course of the last five years for the two grants (EUR 57.080,64) as well as for a previous grant contract signed in 2012 (EUR 8.283,57) (2nd tab of the enclosed annex Question_32)



Question_32.xlsx

In addition, under the programme supporting civil society in Turkey and funded

by the IPA instrument, FEMYSO was one of the three co-applicants, together with the lead applicant KADEM for a project “EU-TR Civil Network for Women in Politics”, worth EUR 138 252,17 in total, with a duration of 13 months. It is estimated that FEMYSO received EUR 23 780 from this total amount, mostly in order to organise visits in Europe.

33. From which funds and programmes have these payments been made?

Commission's answer:

The two above mentioned grants signed in 2015 and 2017 have been awarded under the Erasmus+ programme; in the Key Action 3 ‘Support to Policy Reform’ part of the programme, under the action ‘Civil Society Co-operation Youth’. Information about the action including all relevant calls and results can be found on EACEA’s website here: https://eacea.ec.europa.eu/erasmus-plus/actions/key-action-3-support-for-policy-reforms/civil-society-cooperation-youth_en.

Payments were also made to FEMYSO in 2015 for the completion of actions in the field of rights and citizenship and equality (grant contract from 2012).

The funds originated from the IPA instrument, and in particular the EU-Turkey Civil Society Dialogue III funded under the 2010 national programme for Turkey financed by the Instrument for pre-accession Assistance.

34. On what eligibility criteria was the funding decision based?

Commission's answer:

Concerning the Erasmus+ grants, the eligibility criteria for both the 2015 and 2017 annual operating grants under the Civil Society Co-operation Youth action are of similar nature and are available in sections 2 of the call or under section 7 respectively 6 of the applicant guidelines. See:

OJ 2015/C338/05 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOC_2015_338_R_0005&from=EN.

https://eacea.ec.europa.eu/sites/eacea-site/files/1_applicants_guidelines_civil_society_youth_32-2015_en.pdf.

OJ 2017/C348/09 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOC_2017_348_R_0009&from=EN.

https://eacea.ec.europa.eu/sites/eacea-site/files/applicant_guidelines_call_eacea-26-2017.pdf.

The criteria establish the eligible applicants (in this case a European wide NGO or an EU wide network), the eligible countries (Erasmus+ programme countries) and eligible activities in the eligibility period (1/1-31/12 2015 and 1/1-31/12 2017). The eligible activities are linked to the objectives of the call which were (2017 specific objectives cited here):

The organisations active in the field of youth that will be supported under the Call are expected to carry out activities that aim to:

- J Promote a stronger participation of all young people in democratic and civic life in Europe; contribute to the debate on/development of policy issues affecting young people and youth organisations at European, national, regional or local level; make young people's voices better heard in society; encourage voting in European parliamentary elections; foster the empowerment of young people in society, and their participation in the decision-making processes; -
- J Encourage young people's fair and equal access to opportunities; facilitate the transition from youth to adulthood, in particular the integration into the labour market and youth employability; increase social inclusion of all young people and their participation in solidarity activities;
- J Foster the development of competences and skills through non formal learning, youth organisations and youth work; promote digital literacy, intercultural learning, critical thinking, the respect of diversity, and the values of solidarity, equal opportunities and human rights among young people in Europe.

With regard to the IPA instrument, the Civil Society Dialogue III programme was managed by Turkish authorities under Indirect management by the beneficiary country. A call for proposal was launched by the implementing agency on 7/11/2013 (reference EuropeAid/135252/M/ACT/TR). The eligibility criteria for applicants and co applicants were laid out in article 2.1 of the guidelines for the call (<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1608633951343&do=publi.detPUB&searchtype=AS&Pgm=7573840&zgeo=11962938&aonet=36537&ccnt=7573876&debpub=04%2F12%2F2011&finpub=02%2F08%2F2015&orderby=tit&orderbyad=Asc&nbPubliList=15&page=2&aoref=135252>).

35. For which programmes/activities has the funding been provided?

Commission's answer:

Concerning the Erasmus+ grants, Key Action 3 'Support to Policy Reform', action 'Civil Society Co-operation Youth'. Eligible activities of the call refer to general and specific objectives; please see as quoted under question 34. Under IPA, FEMYSO was a co applicant for a project "EU - Turkey Civil Network for Women in Politics" promoting greater participation of women in political life in Turkey through sharing best practices, encouraging and supporting women participation in politics and through developing a network among civil society organisations on the issue (please refer to reply to question no 32).

36. How and with what measures does the Commission control and verify that funds were actually used for the purposes outlined in the funding application?

Commission's answer:

Concerning the Erasmus+ grants, for all grants of this type, the use of funds is controlled and verified, as per relevant grant agreement provisions, through the final report where the deadline is end of February in year N+1.

With regard to the IPA instrument, under indirect management by beneficiary countries (IMBC), the Commission can use a variety of instruments for checking the use of funds. The Commission actively monitors the implementation of projects through the regular operational and financial reporting of the implementing partners and through participation to monitoring and evaluation missions. The Commission may conduct the necessary checks, including through audits, verification missions, on-the-spot checks and desk reviews on the use made of the EU contribution. Any person or entity receiving Union funds, shall, as a condition for receiving the funds, grant the necessary rights and access required for, inter alia, OLAF and the Court of Auditors, for them to comprehensively exert their respective competences. Contracts signed under IMBC are subject to ex-post control under the Residual Error Rate exercise managed by DG NEAR. At closure of the programme, the Commission applies clearance of account procedures. This is on top of the actions taken by the entrusted authority itself.

37. In the case of FEMYSO, has there been a scrutiny of the use of funds received in the past years by the Commission?

Commission's answer:

For the two Erasmus+ grants awarded to FEMYSO, EACEA has analysed the final reports received after the end of the eligibility periods of the 2015 and 2017 operating grants. Both reports were analysed on the basis of the relevant provisions in the grant agreement and the applicable funding scheme (unit costs for number of staff and statutory meetings).

With regard to the IPA funded project in Turkey, three monitoring reports were prepared. The last monitoring report concluded that implementation was in compliance with contract requirements and was effective in meeting targets according to the project's action plan.

Questions regarding measures taken to prevent the funding of organizations directly or indirectly linked to extremist or Islamist groups

38. If an organization that receives EU funding also allows individual donations, how and to what extent does the Commission verify that this organization does

not receive donations from individuals or associations that have an extremist or Islamist background?

Commission's answer:

The Commission attributes EU funds to third parties through call for proposals or direct awards. The entities participating in the award procedures are checked against the eligibility criteria, their financial and operational capacity and the award criteria. Their selection is also subject to the absence of any exclusion ground as these are defined in the Financial Regulation. Furthermore, those entities are requested to declare any other funding received, for the same project from other donors.

The checks against the exclusion criteria is based on a declaration on honor by the entity, complemented with relevant evidence, where appropriate, at the request of the competent authority which shall include information on beneficial owners, natural or legal persons that are members of the administrative, management or supervisory body of the participant or that have powers of representation, decision or control with regard to that participant, including persons and entities within the ownership and control structure and beneficial owners, as well as regarding natural or legal persons that assume unlimited liability for the debts of that participant. The noncompliance of the entity with the exclusion requirement must lead to the rejection of the entity to be funded. In addition, misrepresentation of information in the declaration amounts to grave professional misconduct, which is also a ground for exclusion.

Furthermore, the Early Detection and Exclusion System (EDES), established by the Financial Regulation, provides for the possibility to exclude entities linked to terrorist financing, terrorist offences or offences linked to terrorist activities from receiving EU funding (article 136) following a contradictory and transparent proceeding.

In addition to the above, all entities implementing EU funds are also subject to the EU Restrictive measures (sanctions - EURM) (Article 215 of the TFEU). These are legally binding measures agreed by the EU Member States and adopted by the EU Council as well as those imposed by the United Nations Security Council and implemented by the EU Council. All EU restrictive measures are therefore directly applicable in and to the Union, including in the implementation of Union budget. In this regard, any entity sanctioned by a EURM is prohibited from receiving EU funding. Reference to the application of EU restrictive measures is also included in the model documents for the elaboration of the annual or multiannual programmes adopted by means of Commission decisions. The Commission requires its implementing partners (under indirect management) in its contractual arrangements to ensure compliance with EU Council Decisions and Regulations establishing EU restrictive measures.

The Commission has developed and is managing the website

www.sanctionsmap.eu which is an online tool providing general up-to-date information on EURM which serves as reference for the entities implementing under indirect management EU budget to proceed to the exclusion of the persons or entities concerned by the EURM.

39. What regulations and measures are in place to ensure that funding of extremist groups or groups indirectly linked to extremist organizations or individuals is prevented?

Commission's answer:

The EU regulatory framework comprises of a wide range of legal acts and measures in this regard. The EU restrictive measures, stemming from Article 215 TFEU and enacted through Council decisions allow carefully targeting governments of non-EU countries, as well as companies, groups, organisations, or individuals where necessary to promote international peace and security, prevent conflicts, support democracy and the rule of law and defend the principles of international law. Other legal acts such as the Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the Union's financial system for the purposes of money laundering or terrorist financing and Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism, aim to ensure that money laundering and terrorist financing are prohibited and punishable. Linked to these directives, the Early Detection and Exclusion System set out by the Financial Regulation imposes the obligation to exclude or to reject entities from EU funding when the participants or recipients are linked to the activities included in the abovementioned directives. The Financial Regulation also establishes the requirement for participants to procedures for receiving EU funding to submit a signed declaration on honour declaring that they are not in one of the exclusion situations, amongst which is terrorist financing, terrorist offences or offences linked to terrorist activities.

There are currently over forty different EU sanctions regimes (restrictive measures) in place that are based on Council Decisions (Article 29 TEU) and Council Regulations (Article 215 TFEU) that prohibit to make funds or economic resources available, directly or indirectly, for the benefit of listed persons or entities. Some of the EU sanctions regimes are mandated by the United Nations Security Council, whereas others are adopted autonomously by the EU. Extremist groups, organisations or individuals subject to EU restrictive measures cannot receive any EU funding. As a consequence, when negotiating financial agreements with implementing partners that foresee provision of EU funds or economic resources, the European Commission systematically negotiates and includes clauses to effectively ensure that no EU funds or economic resources can be made available, directly or indirectly to, or for the benefit of, persons or entities

subject to EU restrictive measures.

40. When funding an umbrella organization, how and to what extent does the Commission verify whether the members of that umbrella organization are linked to extremist and Islamist organizations?

Commission's answer:

The proper implementation of the budget is closely linked to the organisational structure and the internal control systems of the implementing authorities. The different Commission services may, in accordance with their respective basic acts, operational priorities and specific concerns linked to actions' implementation, put in place a comprehensive risk analysis and a dedicated procedure for the selection of entities or persons to receive EU funding. For example, humanitarian EU funding is awarded to individual pre-selected non-governmental organisations (NGOs). When submitting requests for funding, these pre-selected NGOs have to provide the Commission with information on the implementing partners they will cooperate with to implement the envisaged action. This collection of data enables the Commission to track EU funding up to the final beneficiaries.

Commission services in charge of the respective policy areas check that participants or recipients of EU funds comply with the exclusion requirements set out in the Financial Regulation. These checks include not only the entity as such, but also beneficial owners, natural or legal persons that are members of the administrative, management or supervisory body of the participant or that have powers of representation, decision or control with regard to that participant, including persons and entities within the ownership and control structure and beneficial owners, as well as regarding natural or legal persons that assume unlimited liability for the debts of that participant. In addition, the revision of the Financial Regulation in 2018 has introduced the possibility to exclude shell companies and entities which create shell companies in order to avoid the application of law under a certain jurisdiction.

When providing funds or economic resources to implementing partners or organisations, the Commission negotiates sanctions clauses effectively ensuring that the partner in question contractually undertakes not to make any funds or economic resources, directly or indirectly, available to persons or entities subject to EU restrictive measures. As a standard, such a clause includes an obligation on the part of the partner to assess, and contractually require its intermediaries or subsequent partners to assess if any person or entity that benefits from EU funds or economic resources is subject to EU restrictive measures. If that is the case, the partner is obliged to promptly inform the Commission and, ultimately, engage in consultations to jointly determine remedial measures. Therefore, it would also apply to the funding of an umbrella organisation that further funds its members, provided that the extremist and Islamist organisation in question is subject to EU restrictive measures.

Questions regarding funding of Turkish Think Tank Siyaset, Ekonomi ve Toplum Ara tirmaları Vakfı (SETA)

According to investigative journalists, SETA has used the publishing of its *European Islamophobia Report*, which was financially supported by EU means to silence critical journalists and intimidate scholars of Islamic studies. In 2020, the Commission had reassured that SETA would no longer receive EU funds. Yet, according to information from journalists, EU grants were recently awarded to projects involving political scientist Farid Hafez. Mr Hafez is the author and editor of the *European Islamophobia Report*, which is published by SETA.

41. Can the Commission confirm that SETA has not and will not receive EU funding anymore?

Commission's answer:

Since 2017, the Commission has stopped entrusting Turkey with the management of EU funds in support to civil society. Therefore, I can confirm that SETA has not received any EU funding since 2017.

Should SETA apply for EU funding in the future, and in order to protect the financial interests of the Union, the responsible authorizing officer will have the obligation to refer the entity to the Panel set up within the framework of the early detection and exclusion system (EDES). The Panel will establish whether the entity is in an exclusion situation through means of a preliminary classification in law, and in such case, could recommend the Authorizing Officer to exclude the entity from being selected for implementing Union funds

As background, the “European Islamophobia Report 2018” issued in 2019 by SETA was the outcome of a project that was part of the 2015 EU-Turkey Civil Society Dialogue (CSD V) programme, financed under the Instrument for Pre-accession Assistance (IPA II) managed until 2016 by the Turkish authorities. Since 2017, the EU funds supporting civil society are directly managed by the Commission.

42. How does the Commission ensure that organisations, such as SETA, whose funding was cancelled once due to their affiliation with terrorist organisations or for inciting hatred or violence do not receive EU financial support from different funds/programmes?

Commission's answer:

Terrorist organizations are targeted in the framework of the restrictive measures imposed by the EU which concern governments of third countries, non-state

entities (e.g. companies) and individuals (such as terrorist groups and terrorists). In the majority of cases, these measures consist of asset freezes, including prohibition of EU funding, and travel bans.

To better protect the EU budget, the Commission has set up the Early Detection and Exclusion System (EDES) pursuant to Articles 135 ff of the Financial Regulation. The system goes beyond the prevention and detection of risks of fraud or corruption for the EU budget – it also ensures effective sanctions on unreliable persons or entities, and notably the exclusion from award and procurement procedures funded under the EU budget and the imposition of financial penalties.

As per the applicable rules, terrorist offences or offences linked to terrorist activities, including actions such as inciting, supporting, abetting or attempting to commit such offences, constitute a ground of exclusion. The behaviour of persons or entities inciting to violence or hatred, although not specifically linked to terrorist activities, can also be subject to exclusion on the grounds of grave professional misconduct.

It shall also be noted that, since 2016, EDES provides the possibility to take decisions on exclusions also in the absence of a final judgment or a final administrative decision on the basis of a recommendation of the Panel referred to in Article 143 of the Financial Regulation, which reinforces the system to avoid funding entities linked to criminal activities within the EU. Once the decision is adopted by the EU competent authority (the authorising officer responsible), all the other authorities responsible of the EU budget implementation have to abide by this decision, which is registered in the EDES exclusion database and is linked to the accountancy system. This ultimately prevents the adoption of new legal commitments with the excluded entity. This possibility has reinforced the effectiveness of the sanctions.

43. How is it possible that Mr Hafez apparently receives European financial support again and despite the fact that funding for SETA was cancelled due to content of the report, which he authored?

Commission's answer:

This beneficiary does not seem to feature in Financial Transparency System and we would therefore be grateful if the Honourable Member could share further information on which type of support Mr Hafez would have apparently received.

44. Based on which eligibility criteria was the funding awarded and from which funds/programmes?

Commission's answer:

The Civil Society Dialogue V programme referred to in the reply to question 41 was managed by Turkish authorities under Indirect management by the beneficiary country. A call for proposal was launched by the implementing agency on 20/11/2017 (reference EuropeAid/139354/ID/ACT/TR).

The eligibility criteria for applicants and co applicants were laid out in article 2.1 of the guidelines for the call (<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1574209842773&do=publi.detPUB&aonet=36538&orderby=upd&nbPubliList=15&aoref=139354&page=1&orderbyad=Desc&searchtype=AS&debpub=01/11/2017&userlanguage=en>).

45. Does the Commission consider placing certain individuals or organisations on a black list after their funding was cancelled once due to their affiliation with terrorist organisation, because they incite hatred or violence or on other comparable grounds?

Commission's answer:

See reply to question 42.

Questions related to the International Management Group

46. The Commission is requesting IMG to supply its act of establishment (November 1994) and its first legal status (March 1995). Was the Commission represented in those meetings? If yes, could the Commission explain why those documents are necessary?

Commission's answer:

In order to implement the Court of Justice's judgment of 31 January 2019 in joined cases C-183/17 P and C-184/17 P, and in particular to assess whether IMG is eligible to implement Union funds under indirect management as an international organisation under the financial rules applicable to the Union budget, the Commission asked IMG to submit a certified (signed) copy of the international/intergovernmental agreement establishing IMG as an international organisation and any other document not yet in the Commission possession confirming IMG's status as an international organisation, with an indication of its members (current or past). The Commission had been unable to identify either a signed version of these documents, including in its archives, or other equivalent information allowing it to make that assessment.

After IMG's refusal to produce such documents, the Commission contacted the States which IMG alleges to be its members, inviting them to indicate:

- i. whether the relevant State is currently (or was at any date, and if so, during which specific period) a member of IMG; and
- ii. whether the State has signed an intergovernmental agreement or an international agreement constituting IMG as an international organisation or as an international public-sector organisation.

In the affirmative, the Commission asked if the following could be provided: i) a certified copy of the agreement, and ii) proof that the signatory to the agreement had full powers to engage the country or, alternatively, copy of the instrument of ratification of the agreement by the country, where applicable. Such information derives from each state's internal ratification process of international agreements, and as such, it is not available to the Commission.

47. Under international law, how many states are necessary at least for the recognition of an international organisation? How many countries (EU Member States and third countries) have acknowledged in writing to the Commission that IMG is an international organization so far?

Commission's answer:

As confirmed by the Court of Justice in its Order of 9 June 2020 (case C-183/17 P-INT), the EU General Court in its judgment of 9 September 2020 (Case T-381/15 RENV) and in its Order of 9 September 2020 (Case T-645/19), in order to implement the Court of Justice's judgment of 31 January 2019, the Commission must re-assess IMG's status as an international organisation in full respect of the financial rules applicable to the Union budget. This assessment is almost finalised (one country has not replied yet) and the Commission should therefore be able to draw very soon a preliminary conclusion and to notify it to IMG in order to provide the latter with the opportunity to present its observations in that regard before the Commission adopts a final decision. Further details will be available once the final decision has been adopted.

Moreover, on 19 November 2020, IMG lodged appeals against the EU General Court's judgment of 9 September 2020 (Case T-381/15 RENV) and the EU General Court's order of 9 September 2020 (Case T-645/19); there are further pending appeals before the EU Court of Justice (cases C-619/20P and C-620/20P).

Therefore, in addition to the reasons set out above, the Commission is not in a position to respond in greater detail, as these matters are the subject of ongoing court proceedings.

48. It is clear that the flexible procedures to be used in crisis situations remain a derogation and that the assessment of the criteria are still in force. On the other hand, after dozens of direct contracts awarded to IMG between 1995 and 2015,

the Commission hasn't awarded any new direct contract to IMG since 2015. Can the Commission provide a reasonable explanation of this, other than a veto to IMG related to the conflict about its legal status as an international organisation?

Commission's answer:

Indeed, direct contract awards are a derogation.

The Commission's letter of 8 May 2015 informed IMG that until there was certainty as regards the status of IMG as an international organisation, its departments would not enter into any new delegation agreement with IMG based on the indirect management with an international organisation model. The same letter confirmed, on the other hand, that IMG continued to be eligible to apply under the normal tender rules for further contracts with the Commission where they meet the eligibility criteria. IMG could hence always participate to calls for tenders or proposals if the eligibility conditions were met.

Contrary to calls for tenders or proposals, direct contract awards can be conducted in the absence of competition, with a single economic operator, only in the limited cases defined in the financial rules applicable to the Union budget. For example, amongst other grounds, Article 11(1)(m) of Annex 1 to the Financial Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 provides for the possibility of direct contract awards in case of services provided by an international organisation. In the absence of confirmation of IMG's status as international organisation, the conditions for directly awarding contracts on this exceptional ground were not met.

An explicit prohibition from procurement or grant contract awards would only be possible in the form of an exclusion-decision under the provisions of Articles 135 to 145 of the above-referred Financial Regulation. The Commission has not adopted such a decision.

Questions related to former Commissioners etc.

The Commission provides former Commissioners with access to certain limited resources such as logistical support, a "bureau de passage" and access to certain information.

49. Does the Commission envisage revising its Code of Conduct in the context of such privileges especially with regard to the duties of collegiality and discretion of former members which at the moment are limited only to the Commission's decisions and activities during their term of office?

Commission's answer:

Article 11(1), second sentence, of the Code of Conduct covers the period when Members of the Commission had access to confidential or sensitive information

and participated in the collegial decision-making procedures of the Commission when they held office.

After the end of their mandate, former Members of the Commission do not have access to such information anymore and are also not involved in the collegial decision-making of the Commission.

However, the general obligation to behave with integrity and discretion after the end of the mandate as established by Article 245 TFEU and clarified by Article 11(1), first sentence, of the Code of Conduct, applies.

Therefore, the Code of Conduct covers the different situations comprehensively in accordance with the obligations of former Members established by the Treaties. Consequently, there is no need to change the Code.

50. How many former MEPs, Commissioners or high officials (from AD 14) still receive money from the budget of your institution as advisors, contract agents or others? What are their tasks and their respective salaries?

Commission's answer:

In 2019, the Commission had contracts of employment with a total of 21 former MEPs, Commissioners or senior officials as unpaid Special Advisers under Articles 5, 123 and 124 of the Conditions of Employment of Other Servants of the European Union. They received no remuneration but were entitled to the reimbursement of travel expenses. In addition one former Commissioner and one former senior official of another institution had contracts of employment as paid Special Advisers. One was paid 1/22 of a grade AD12/1 salary per day of work (for a maximum of 55 days) and the other was paid 1/22 of a grade AD16/1 salary per day of work (for a maximum of 35 days). They were also entitled to reimbursement of travel expenses. Complete information on the mandates of all the Commission's Special Advisers is publicly available on Europa at https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/special-advisers_en

In 2019, one former Commissioner was employed by the Commission as Director-General of the Article 50 Task Force. He had a temporary agent contract.

Questions related to staff

51. The ECA found fewer errors relating to staff costs and the PMO's management of family allowances than in previous years. The PMO has already corrected the errors the ECA found this year. Could the Commission comment on this trend and explain how they overcame control weaknesses?

Commission's answer:

The Commission would like to remind that this observation only concerns the allowances received from national systems and that it is the obligation of the staff members to declare this to the Commission. The family allowances paid directly by the Commission are managed in a correct and timely manner.

In 2019, the necessary actions were taken to respond to the recommendation made on family and household allowances: an overhaul of the current system managing family allowances, the recovery of allowances received from national sources, ensuring all cases are duly reported and all staff reminded of their responsibilities. This revamp of the management system will allow to address the issue of major changes in national systems, e.g. the devolution of family allowances in Belgium.

Finally the Commission would like to confirm that all the amounts declared by staff members are recovered immediately from their salaries.

52. What measures have been taken in 2019 in favour of staff with disabilities?

Commission's answer:

Since December 2017, there is a single entry point of contact for staff with disabilities (dedicated central portal on the Commission's intranet, together with dedicated functional mailbox and telephone line), where any staff having questions on any aspect of disability for themselves or family members, for their colleagues, for self-help groups asking for their members' issues but also for other institutions and agencies wanting to adapt their practices to Commission's implementations and other external stakeholders.

Reasonable accommodation continues to be offered to staff with a disability in order for them to be able to work as optimally as possible.

During 2019, new guidelines for the implementation of aid for persons with a disability were drafted via an inter-institutional process. The main objective of these guidelines is to financially assist staff and their dependants for non-medical costs linked to measures that are appropriate to enable them to attain and maintain maximum independence, physical, mental, social and vocational ability and facilitate social integration.

Compared to the previous guidelines, the categories of persons eligible for reimbursement were widened (staff receiving an invalidity allowance, staff's spouse with no or minimal income), the costs eligible for reimbursement were increased and, most importantly, the existing personal contribution in the costs by the staff member was abandoned (incl. 100% contribution to schooling fees if the disabled child is not able to attend a European School). The guidelines came into force in May 2020.

In 2019, the number of cases for social-financial support increased by 28% compared to 2018, the disability funds used increased by 50% in comparison with 2018 (from approximatively 2 to 3 million euros).

Since the end of 2019, the Commission also has also offered specific working arrangements for staff caring for a child under 14 with a disability, i.e. a 5% reduction of working time without any salary reduction. This constitutes an alternative to other part-time options.

53. Which measures have been taken to improve the management of family allowances for staff members in 2019?

Commission's answer:

Ref. reply to question 51.

54. How many people took sick leave in 2019 compared to previous years?

Commission's answer:

In 2019, there were 15.661 persons who took sick leave of at least half a day, compared to 16.127 in 2018 and 15.075 in 2017.

55. What steps were made to encourage more men to make use of the flexible working arrangement in 2019?

Commission's answer:

The Commission has noticed that these instruments are not used equally by male and female colleagues. For example, in 2019, 21% of the part-timers and 39% of teleworking staff were men; moreover only 29% of parental leave is taken by men. The situation reflects the current state of society and it will evolve along with social changes. In order to raise awareness on the measures that exist to enable a work-life balance, the very well-attended “work-life balance (for parents) course is given several times a year. Furthermore, personal stories of positive examples are being publicised on the Commission’s intracomm. Managers are encouraged to lead by example.

Different cultural, social and professional expectations of men and women continue to exist with regard to the balance between paid work and unpaid (care) work. For example, most people working part-time are women. It is important to monitor the correlation between part-time work and career development in order to avoid any inequality of treatment, particularly in the context of appraisal and promotion. In this regard, the Commission decision concerning part-time work clearly states that there should be no discrimination due to working part-time.

56. How many posts were open in the Commission in 2019?

Commission's answer:

On 1.01.2019, out of 23613 of Commission posts (all establishment plans

including Offices), 898 remained vacant. This figure decreased in the course of the year reaching 671 on 1.12.2019.

57. Could you please provide a table of all human resources broken down by nationality, type of contract, gender and grade for the year 2019, and an overview of how these figures compare with the year 2018 and 2017?

Commission's answer:

The requested table is attached.



Q57 Statistical
Bulletin 17-19...

58. How many harassment cases were there among the staff in 2019?

Commission's answer:

In 2019, there were 15 new cases of alleged harassment addressed to IDOC, in the framework of the formal procedure. Out of the 15 newly reported cases, 12 were closed as non-cases after the preliminary assessment. In the remaining three cases, IDOC opened an administrative inquiry. Following the inquiry, the pre-disciplinary procedure has been opened in all three cases. In two of these cases, the pre-disciplinary procedure is still ongoing and in one case the Appointing Authority opened the disciplinary procedure without referral to the Disciplinary Board, which is still pending.

Questions related to equality and diversity

59. How is the Commission promoting equality and diversity in the EU staff across the Commission DGs and other EU bodies?

Commission's answer:

In 2019, the Commission actively promoted equality and diversity among its staff and agencies, building on the strategy and charter it had adopted in 2017 and the subsequent 2018 action plan. A number of specific actions were added in response to the 2018 staff survey. Full details are available in the Diversity and Gender Equality Report published in November 2019. Here are some highlights:

- Leadership talks were organised for senior and middle managers on the topic of inclusion and gender balance;
- The overall share of women in middle management reached 42% and a second round of the Female Management Development programme was

organised;

- Several actions were taken to support candidates with disabilities in the selection and recruitment process as well as during their career in the Commission;
- EPSO developed a programme to attract more diverse candidates to their selection processes;
- Rules on special leave for welcoming a new-born into the household were revised, based on an inclusive interpretation of the Staff Regulations;
- Good practice guidance for inclusion of older staff was published.

60. How is the Commission promoting equality and diversity among the awarded with internships in the Commission and other EU bodies?

Commission's answer:

In 2019, the Commission's Traineeship Office continued to strive for diversity and inclusion in the management of the Commission's traineeships, including by encouraging geographical balance of candidates and stimulating the Trainees' Committee to carry out projects related to diversity, equality and inclusion. As part of the EU anti-racism action plan of September 2020, the Commission is committed to prepare a strategy with specific objectives in terms of representation of applicants reflecting diversity.

61. What measures have been taken in 2019 to improve the gender balance, the presence of women in top management and in economic bodies such as the European banking authority?

Commission's answer:

In 2019 the Commission continued its gender balance policy and by the end of its mandate it met the target of 40% of women in management functions.

With regard to the Single Resolution Board, which is the only EU economic/financial body where the Commission is alone responsible for establishing a shortlist, in November 2019 Vice-President Dombrovskis informed the ECON Committee that for future senior management vacancies the eligibility criteria as regards the total years of experience could be lowered from 20 to 15 years and in financial services from 10 to 5 years with the expectation that this change would increase the number of female applications. The Vice-President also committed to exploring a targeted outreach strategy in Member States and the use of head-hunter services in this context, within the boundaries set by the rules and principles of the Staff Regulations.

In the political guidelines issued in July 2019, President von der Leyen committed to reaching gender equality at all levels of management of the Commission by the end of the current mandate and reiterated this commitment in her mission letter to

Commissioner Hahn.

Questions related to away days etc.

62. What was the expenses for away days in 2017, 2018 and 2019 and for how many employees?

Commission's answer:

As a modern, future-oriented organisation that strives for excellence, the Commission remains committed to fostering teamwork and collaboration within and between its departments. Away days, participatory events and similar team-building measures are always work-focused and designed to have a direct and positive effect on staff in the medium and long term. They are addressed at teams at different organisational levels, often as part of larger change management processes. While such events are mostly aimed at giving staff the opportunity to discuss and reflect together on future challenges, strategies and working methods, they also improve the sense of belonging, team spirit, motivation and, ultimately, productivity.

Expenses for away days/team buildings have remained stable for these 3 years around 2 million EUR each year. The Commission does not maintain a central record of the number of participants as these events are organised at Directorate-General, Directorate and/or Unit levels, but we estimate that around 10,000 staff were involved each year.

63. What were the costs in 2019 respectively for away days, closed conferences or similar events for staff? How many staff members participated in the respective events? Where exactly did these events take place?

Commission's answer:

Costs for individual events in 2019 amounted to some EUR 2,1 million. The Commission does not maintain a central record of the number of participants as these events are organised at Directorate-General, Directorate and/or Unit levels, but we estimate that around 10,000 staff were involved. The vast majority of these events were held on Commission premises while some took place at external conference venues in Belgium and Luxembourg.

Question related to EU institutions in Luxembourg

64. The Commission is expected to publish its report on the salary method in 2022. In the meantime, is the Commission planning to carry out any measure to compensate the purchase power disparity suffered by the European civil servants posted to Luxembourg, mainly due to the housing cost?

Commission's answer:

The Commission is well aware about the necessity to consider measures for the reinforcement of the attractiveness of the Luxembourg site. Commissioner Hahn committed to explore with the other Luxembourg-based EU institutions as well as with the Luxembourg government ways of improving the working conditions in Luxembourg, as an enabler for addressing the attractiveness of the site. The first high-level meeting with the Secretaries-General of the EU Institutions took place on 10 December 2020.

Under the Staff Regulations, no correction coefficient is applicable in Belgium and Luxembourg, given the special and joint referential role of those places of employment as principal and original seats of most of the EU institutions.

The co-legislator has included a review mechanism for the salary method, i.e. that before 31 March 2022 the Commission shall publish a report on the functioning of the salary method of Union staff enshrined in Annex XI to the Staff Regulations. Among others, the report will contain an assessment related to the cost of living in Luxembourg, as anticipated by the 2018 Commission interim report on the application of the salary method (Report to the European Parliament and the Council on the implementation of Annex XI to the Staff Regulations). The Commission will have the possibility then, if appropriate, to make a legislative proposal based on its findings.

Questions related to burnout cases

65. In its follow-up to the 2018 discharge, the Commission announces that is investing in data mining of its IT medical system to count the number of cases of burnout registered during medical controls. It also announces that a first report will be available towards the end of 2020. Is this report available yet? What are the main conclusions of the data mining exercise and the Commission's follow-up actions?

Commission's answer:

The data mining exercise did not provide relevant results as it was based on a free text analysis, in a non-structured format. The Commission decided to invest in new software to replace its electronic medical record in 2021, to allow encoding of medical diagnostic and accurate statistics.

66. Can the Commission indicate how many long-term leave (longer than three months) there have been in 2019 (broken down by gender and grade please)?

Commission's answer:

In 2019, there was the following distribution of long-term absences (longer than three months): the total number was 613 from which 443 were female and 170 men. The distribution according to the function group and gender was: 168 female and 98 men in Administrators (AD) group, 214 female and 50 men in assistants

(AST) group and 61 female and 22 men in the contractual agent (CA) group.

Question related to selection and appointment procedures

67. In the frame of its autonomy within the Treaties and the applicable law, what follow-up actions is the Commission preparing on the Parliament's call "to clarify even further the selection and appointment procedures"?

Commission's answer:

The Commission fosters a human resources policy centred around the values of fairness, equality and transparency. The Interinstitutional Roundtable held by Commissioner Oettinger in September 2018 concluded that the procedures applied across the EU institutions are robust and fit for purpose. In August 2019, Commissioner Oettinger provided the CONT Committee with an update on progress to date and some proposals that he had put forward for consideration by the incoming Commission.

The von der Leyen Commission is fully committed to ensuring the transparency of its management selection procedures with a view to establishing itself as a modern, diverse and flexible organisation that can attract, develop and retain a skilled and dedicated workforce. Since taking up office, the von der Leyen Commission has continued to ensure the mobility of senior officials between Directorates-General at a stable rate compared to previous years (6%) but in line with the commitments taken in 2019, none of these transfers in the interest of the service have led to higher management responsibilities within the same type of post. The total number of appointments of senior officials made by the von der Leyen Commission during the first year of its mandate after publication of a vacancy notice was 16% higher than in 2019 and twice the number made in 2018.

In addition, in 2020, the College adopted a first set of measures on 1 April and an additional set of measures on 30 September which primarily target the reinforcement of gender equality at management level but which also streamline the senior management selection procedures and further enhance their transparency by clarifying the roles and responsibilities of the actors involved. The Rapporteur for the Procedure (responsible for following a procedure during its various stages and ensuring that it is properly carried out) is now formally required to take part in the pre-selection phase as a full member of the pre-selection panel and is additionally charged with supervising the procedure from the broader perspective of diversity, ensuring fairness and equality for all candidates. Furthermore, the College authorised the Director-General of Human Resources and Security to adopt and update guidelines on best practices aimed at ensuring balanced pre-selection shortlists. In taking these decisions and monitoring their application, the von der Leyen Commission has underlined its commitment to ensuring further clarity in the selection and appointment procedures for senior officials.

Questions related to open spaces etc.

68. In its follow-up replies to the 2018 discharge, the Commission announces its intention to establish a neutral governance structure to assist DGs in determining the most appropriate office space solutions. Could you please provide more details about this initiative, in particular the involvement of staff representatives?

Commission's answer:

The Commission created an ad-hoc group chaired by the Deputy Secretary-General and Chief Operating Officer and including all relevant services, which will oversee the onboarding of the new "The One" building and leverage its experience for the development of the relevant elements in the new HR strategy.

Special attention will be given to assist and support staff in changing working habits and working environment. The concept of more innovative office spaces in line with the needs will be coordinated by a task force on the "new ways of working" around a holistic approach of the 3B's (Behaviour, Bytes and Bricks). An integrated active support will be offered to departments before, during and after the moving process.

Concerning the staff representatives, they are involved in the process, via joint committees for prevention and protection at work in Brussels and in Luxembourg, when staff would move into collaborative spaces following the rules of the Housing Conditions Manual for Commission DGs and Services.

69. Since 2013, the Commission has created 477 open office spaces in Brussels. Today, more than 50% of staff is currently not in individual offices. What is the Commission's assessment office spaces in the light of the COVID-19 pandemic and the consequent working conditions? Is the Commission planning to update its communication "The workplace of the future in the European Commission" in which collaborative spaces seems to be preferred office space arrangement?

Commission's answer:

The Commission does not intend to revise the Communication "The Workplace of the Future in the European Commission" as it covers all types of working environments.

However, from the impact of the Covid-19 crisis (wide use of telework and the possibility of hybrid working) has accelerated the pace of change and requires the Commission to update the approach set out in the Communication. This will be reflected in the future HR strategy.

The approach envisaged ensures the most efficient use of office spaces, taking

into account the increased preference of staff to continue working from home on a much more significant scale than before the crisis. In the new “The One” building, an activity-based environment without dedicated workstation is envisaged, allowing staff to work in different spaces depending on the activity carried out.

Working conditions of staff are duly taken into account by offering suitable infrastructure (meeting and quiet rooms, project areas, kitchenettes, social corners and wellbeing infrastructures). This type of configuration enables the respect of social distancing.

70. Has the Commission studied the proceedings of the workshop on open spaces at EU institutions hosted by the committee on budgetary control on 29 October 2020? In particular, is the Commission aware of the impact of the increasing use of open spaces on the staff health and welfare?

Commission's answer:

As already answered in the context of the Commission’s discharge of 2018, the Commission internal joint committees: Committee for prevention and protection at work in Brussels (CPPT) and Committee for health and safety at work in Luxembourg (CSHT) are in charge of the implementation of the policy and the rules in the area of health, safety, prevention and protection at work.

Moreover, the medical services at the various Commission sites promote the health (physical and mental) of all active staff members and provides medical advice to the Institution. Hence, it is clear the Commission considers the psychological conditions of staff together with the physical conditions in decisions regarding office arrangements. The Commission plans to accompany the change to new ways of working in order to help staff adjust successfully.

71. Has the Commission evaluated the New Ways of Working approach, which introduces collaborative working spaces and a more flexible working culture? Especially after Covid-19, does the Commission plan to implement a “new working culture”? How does the Commission evaluate the success of teleworking in 2020? What have been main weaknesses?

Commission's answer:

New Decisions should be adopted by the College in the course of 2021. The flexibility brought and imposed by the COVID-19 crisis will enable our institution to go further in the modernisation of our ways of working and will be a positive factor in our organisational culture.

Full telework for most staff during several months in 2020 has been an excellent tool to ensure both business continuity and staff health and safety. The digital infrastructure's capacity was enlarged and it proved to be sufficient for teleworking and video-conference solutions.

The general conclusion during the COVID-19 pandemic crisis was that telework functioned very well. The Commission therefore decided to further analyse the lessons learned during the COVID-19 crisis and to revise both the decision on telework and the decision on working time. The revision process is currently ongoing.

There is still a margin to further expand teleworking expansion and introduce further work flexibility. The European Commission is reflecting on adjusting its legal framework, based not only on the experience of the crisis, but also on several years of teleworking in the organisation. Full telework has also shown some limits in terms of social interaction and shed light on the essential character of social connection and in-person interactions between colleagues. This reminds us of the importance of regular physical presence at the office in an organisation such as the Commission, where in-person meetings and networking are part of the work culture. This will be taken into account in designing the new legal framework applicable to teleworking.

In addition, a reflection is taking place on what is needed in terms of ergonomics in this new context; and aspects of safety at work, notably to ensure prevention against digital overload and respect for work/life balance will also be duly taken into account.

This entails assisting and training managers to develop further their ability to manage remote and hybrid teams (trust based management). This in turn implies increasing managers' knowledge of the rules in order to manage effectively (including in terms of reasonable accommodation and specific cases), decide and understand the responsibility of their decisions (awareness appropriate trainings), provide improved IT tools and instruments to facilitate and simplify their job, use collaborative technical solutions to improve communication, people management skills and tools for hybrid team management.

Question related to the surcharge for medical and hospitalisation services

72. What measures is the Commission implementing to avoid the surcharge for medical and hospitalisation services in Brussels applied to the EU staff?

Commission's answer:

The medical services of the Commission promote and organise vaccination campaigns (especially flu vaccination) and have set up prevention campaigns for pathologies of high epidemiologic impact on staff (for example metabolic and cardiovascular).

Annual medical visits are offered free of charge to all staff, for prevention purposes.

The medical services also provide medical advice and psychological support,

exercising duty of care through medical controls, allowing spending medical leave outside the place of employment in specific cases.

During the COVID-19 crisis, it has provided some testing for COVID-19, either as PCR test or rapid antigen test, keeping a registry of confirmed cases of COVID-19 and their contacts, taking front temperature in some of its most frequented buildings, fostering measures of hygiene, compulsory wearing of mask, avoiding physical meetings, recommending teleworking on a large scale.

Question related to the new SYSPER system

73. Is the Commission monitoring the functioning of the new version of the SYSPER system compared to the previous one? In particular, has the Commission noticed a worsening of the payment periods of the salaries and/or the unemployment benefits to the EU staff? If so, what are the reasons for it and why hasn't the Commission avoided it?

Commission's answer:

The Commission has not witnessed any delays in payment periods.

Question related to whistleblowing

74. How many cases of whistleblowing were reported in 2019? What improvements have been made regarding procedures for whistleblowing? How many of these reports have been notified to OLAF? Could the Secretariat General provide an evaluation of the frauds reported?

Commission's answer:

In 2019, the Commission reviewed for the second time the Guidelines on Whistleblowing and concluded that they provide a solid comprehension of the rules and their application.

As part of the Commission's endeavours to better inform staff members about their rights and obligations in the field of whistleblowing, the competent Commission services give, upon request, presentations on whistleblowing to the Directorates-General of the Commission and to the executive and decentralised European Union agencies. In addition, the Commission gives regular presentations to all newcomers at the Commission, together with other services. This general presentation covers the rights and obligations of the staff members, including those relating to whistleblowing.

The whistleblowing page on MyIntracomm is constantly being revised and updated to reflect the changes in the relevant rules and procedures. The last update took place in May 2019.

Indeed, the dedicated Q&A section on the whistleblowing page has been updated

to reflect the latest developments in this field. In particular, information related to

- 1) the feedback that can be expected after ‘having blown the whistle’,
- 2) a possible disciplinary procedure following the declarations of a whistleblower, and
- 3) the opening of an investigation following the reporting of information under the whistleblowing reporting channels have been added.

In addition, the whistleblowing page on MyIntracomm now contains a direct link to OLAF’s whistleblowing procedure, enabling staff members wishing to report irregularities to have an easy and direct access to ‘*OLAF procedure in the context of EU staff members reporting in accordance with Articles 22a and 22b of the Staff Regulations*’.

Moreover, the Commission will follow-up closely the implementation, by the Member States, of the Directive on whistleblowing and assess whether good practices could be taken in accordingly.

Reporting on fraud, or more generally serious misconduct by staff, is done by OLAF and is published, within the limits imposed by confidentiality, in annual reports (the Commission’s Annual Reports on the protection of the EU’s financial interests ("PIF" Report) and OLAF’s Annual Reports).

Since 2015, OLAF received in total five cases of potential internal whistleblowing concerning staff members of the Commission (two in 2015, none in 2016, one in 2017, two in 2018 and none in 2019). These five cases are cases where a person requested protection under Article 22a(3) of the Staff Regulations. This figure does not take into account the cases which were sent from the Commission to OLAF via normal administrative communication channels based on the obligation to report set out in Article 22a(1) of the Staff Regulations. This, together with the effective functioning of the Commission’s internal controls and financial circuits, explains the low number of cases of staff invoking whistleblower protection.

Questions related to contract staff

In its follow-up to the 2018 discharge, the Commission has justified the fixed-term contracts saying that they are necessary “to be able to maintain the stability of the service and allow the Commission to cope with higher workloads and meet its changing policy requirements in a flexible way”.

However, in its 2019 report the Court of Audit says that the EU institutions have reduced the number of posts for officials by 1 409 (3%), while gradually increasing the number of contract staff from 8 709 to 11 962. Over this period, the proportion of contract staff in total workforce forecasts rose from 17% to 22%. Therefore, there

seems to be a correlation between the reduction of posts for officials and the increasing of contract staff.

75. What is the Commission doing against the risk of creating an EU parallel low-cost staff and the coexistence of very unequal statutes in performing very often similar tasks?

Commission's answer:

The different categories of staff employed by the Commission and the other institutions are defined in the Staff Regulations and the Conditions of Employment of Other Servants (CEOS).

The Staff Regulations for officials and the CEOS for temporary agents and contract agents also specify for each category of staff their conditions of employment, level of remuneration, the types of posts, level of responsibilities and tasks corresponding to the different function groups and grades.

On that basis, a Commission decision specifies the applicable job titles for each type and level of staff. These specificities are then reflected in job descriptions corresponding to each job. At the time of recruitment, DG HR checks that the job description corresponds to the level of the post and the related tasks.

In addition, in accordance with the Conditions of Employment of Other Servants (CEOS) and types of duties defined thereof, contract agents do not carry out the same tasks as officials and work under the supervision of officials. The Commission does not develop a policy of hiring contract staff instead of permanent officials.

76. What is the Commission doing to avoid the worsening of working conditions of its staff and the negative impact on the EU institutions' attractiveness as employer?

Commission's answer:

Ref. reply given to question 78.

77. Could the Commission provide a calculation of the savings produced by the cost-cutting measures of the 2014 reform package of the Staff Regulation as a percentage of the 2014-2020 MFF?

Commission's answer:

The 2014 reform of the Staff Regulations brought savings of 4,2 billions on the 2014 – 2020 MFF. This was confirmed by the European Court of Auditors in its Special report 15/2019 “*Implementation of the 2014 staff reform package at the Commission - Big savings but not without consequences for staff.*” This represents 0,4 % of the overall 2014 – 2020 MFF.

The European Court of Auditors has stated in its 2019 annual report that the EU institutions and bodies have reduced the number of posts for officials by 1 409 (3 %), while gradually increasing the number of contract staff from 8 709 to 11 962. In other words, over this period the proportion of contract staff in total workforce forecasts rose from 17 % to 22 %.

On the other hand, in its Special Report 15/2019 the European Court of Auditors revealed that the twin objectives of cost-cutting and improving human resources pursued through the 2014 staff reform package brought also negative impacts on the staff of the European institutions, in particular on both the working conditions and the attractiveness of the EU institutions as an employer.

78. How does the Commissioner assess both analysis by the Court of Auditors? What concrete measures is he willing to take to avoid, compensate and reverse the worsening of the working conditions and the creation of a “low cost” EU civil service?

Commission's answer:

With regard to the number of contract staff, the Court of Auditors' 2019 annual report explicitly stated that the situation significantly differed from one institution, body or executive agency to another, including concerning the underlying reasons, which for the Commission are notably linked to:

- additional work performed by the Joint Research Centre (JRC) on behalf of other Commission departments and third parties and the replacement of grant holders previously employed under national law by a large number of scientific and technical support officers recruited in FG IV; and
- the need to provide a response to special or urgent situations.

In accordance with the Conditions of Employment of Other Servants (CEOS) and types of duties defined thereof, contract agents do not carry out the same tasks as officials and work under the supervision of officials. The Commission does not develop a policy of hiring contract staff instead of permanent officials.

With regard to the Court of Auditors Special Report 15/2019 on the implementation of the 2014 staff reform package, the Court made a number of findings and recommendations, and the Commission's answers are provided in the report. In particular, the Commission recalled that several policies and actions were designed and implemented to help mitigate the negative effects of the reform on staff:

- Z the talent management strategy;
- Z the learning and development strategy;
- Z the fit at work strategy, based on and including:
 -) a health monitoring tool analysing and reporting on absences and their causes from 2010-2015;

-) all measures put in place to achieve sound absence management;
-) the new medical control unit.

Finally, as stated in the report, the Commission is committed to implement the Court of Auditors' recommendations, notably the one concerning the attractiveness of EU careers (recommendation 1 to "Develop a workforce management plan"). In this respect, the Commission's new HR Strategy, which will be adopted in 2021, will provide for concrete measures aimed at improving the attractiveness of the Commission employment conditions.

Questions related to EPSO

In its Special Report 23/2020 on EPSO the Court of Auditors presents its own calculations of the average cost per laureate of EPSO competitions. It explains that it has done its own review because EPSO does not report on the cost of competitions.

79. How does the Commission make its proposal for the EPSO budget for competitions without such information and does the Commission consider it as an important information?

Commission's answer:

EPSO does its calculation on the basis of costs per laureate, based on available data, which it shared with the European Court of Auditors during the field work. However, the European Court of Auditors' cost calculation methodology is more comprehensive. EPSO has accepted the recommendation from ECA to monitor the costs of competitions on a more comprehensive manner and is working on its implementation by end 2021.

80. Given the substantial amount paid by the EU budget per laureate of EPSO competition, what is the reason that there is no mechanism for measuring the satisfaction of the institutions with the candidates recruited? Is the Commission ready to initiate such a mechanism and to use it?

Commission's answer:

Traditionally, EPSO has collected feedback from the institutions on their satisfaction rather informally in different cooperation fora. However, it is clear that a more structured feedback system would be useful. EPSO has accepted the recommendation by the European Court of Auditors to introduce a more formal feedback mechanism for the stakeholders by the end of 2021 to measure their satisfaction.

81. How many cases of whistleblowing were reported in 2019? What improvements have been made regarding procedures for whistleblowing, notably for whistle-

blowers' protection and diligent investigation into cases? Have all of these reports been notified to OLAF? And if not, why not?

Commission's answer:

Ref. reply given to question 74.

82. Travel of staff members: What percentage of work-related travel of Commission staff members is done by which mode of transport (plane, train, car, etc.)? Is there a mainstreaming and a concept for climate sustainable travelling in the Commission yet? And if not, why not?

Commission's answer:

Work-related travel of Commission staff by transport mode:

Year of departure	Transport mode	%
2019	Bus	3.03%
2019	Air	45.35%
2019	Boat	0.14%
2019	Rail	23.02%
2019	Car	28.46%

Sustainable traveling will be part of the Commission's Greening Communication/Action Plan which is under finalization (first part 2021).

In 2020, the Commission included the CO2 emissions resulting from missions in its dedicated IT tool for missions (MIPS) with the aim of getting better emissions calculations and offering better ecologic guidance to its staff when booking travels. In addition, the mission's guidelines will be modified to reduce the number of missions, and in particular the most polluting means of transport. The main objective of the new guidelines will be

-) To avoid missions and to replace them as much as possible by virtual meetings;
-) To reduce the number of participants in the same mission to the minimum and, when travel is necessary;

To ask staff to use the less polluting transport means available (e.g., train instead of plane).

Questions related to the restructuring of OLAF

83. One of the objectives of restructuring OLAF was to be ready to implement the revision of the Regulation n° 883/2013. Why did the OLAF not wait for the end of the negotiations so that it would have a clear understanding of the changes that needed to be introduced? How can the OLAF ensure now that it has

adopted the best organisational structure to handle the new rules when they come into force?

Commission's answer:

One of the objectives of the OLAF reorganisation was to prepare for the cooperation with the EPPO. In this context, the overall framework and the principles of cooperation between OLAF and the EPPO were known at the time of the reorganisation. The main principles of the revision of the OLAF Regulation, already embedded in the Commission proposal submitted in May 2018, mirrored the provisions of the EPPO Regulation of October 2017 regarding the cooperation between the two bodies. Other aspects included in the Commission proposal aimed at enhancing the effectiveness of OLAF's investigations, would not have had an impact on the organisational structure of the Office. Therefore, the Commission and OLAF were in a position to start and conclude the reorganisation process already before the adoption of the revised OLAF Regulation. Given how the unfortunate Covid-19 situation has since emerged, OLAF considers itself lucky to have been in a position to engage in a participatory process with OLAF staff, culminating in the reorganisation. This means OLAF is now in a position to support the EPPO as soon as it starts its operations.

84. Another objective of restructuring OLAF was to prepare the collaboration with the EPPO. However, the only visible structural change that has been introduced is the creation of the Liaison office in Luxembourg. What other structural changes have been introduced to improve the working relations with the EPPO and what concrete improvements will bring to the relations with EPPO?

Commission's answer:

The establishment of the OLAF Liaison Office in Luxembourg will facilitate OLAF's cooperation with the EPPO as well as other EU institutions and national authorities in Luxembourg. The reorganisation of OLAF also reallocated the work of investigative Units to ensure more effective and swift cooperation with the EPPO: all Member States participating or non-participating in the EPPO are grouped in the same Units. Moreover the data analysis function of OLAF has been reinforced by providing the Intelligence and Operational Analysis Unit ('Unit C.2') with additional resources. Furthermore, the management of all IT systems has been grouped in the same Unit also bearing in mind the need to design and fine-tune the support that OLAF will provide to the EPPO, in particular on exchange of information.

85. Regarding the increase of the effectiveness and efficiency of the investigative function of the OLAF, what measures improve the efficiency of the investigative functions? How many posts have been moved to the investigative

function in this restructuring? What is the percentage of staff on investigative positions compared to before the re-organisation?

Commission's answer:

The strict demarcation of OLAF's investigative and policy Directorates of the previous OLAF structure did not inherently foster cooperation and exchange between the investigative and policy functions, which is crucial for identifying OLAF's policy needs to perform its investigations in an efficient manner. OLAF's Directorates have been reorganised in a way to ensure closer topical links between the Units, use synergies between teams and streamline the work in OLAF wherever possible to achieve maximum efficiencies.

The new organisation has resulted in enhanced synergies and improved ability to rapidly respond to the operational needs of the Office also by policy means.

In the spirit of ensuring coherence and improving synergies, the two Units dealing with investigations in different non-EU countries under the previous organisation have been merged into one Unit. Moreover, taking into consideration that the Office will have to adapt its investigative work to new challenges linked to the European Green Deal, the Farm to Fork Strategy and to fight fraud in many other areas receiving EU funding, Units previously dealing with revenue fraud and counterfeit have been reinforced with additional staff.

With the OLAF reorganisation, investigative posts have been moved among different investigative Units based on investigative priorities. No posts were moved from OLAF's policy function to the investigative one. The percentage of OLAF staff working in investigative function has remained the same as before the reorganisation of 16 June 2020, i.e. it represented and still represents approximately 56% of OLAF's human resources. It should be noted that the majority of the staff falling in the remaining 44% of OLAF's human resources perform activities supporting OLAF's investigations, and are therefore to be considered essential to OLAF's investigative function. Support tasks are carried out, for example, within the whole Anti-Fraud Knowledge Centre Directorate ('Directorate C'), in particular when it comes to data analysis and digital forensics.

86. The OLAF has expressed its intention to increase the monitoring of the implementation of its recommendations. What was the reason to have a 'floating' taskforce attached to the DG and not a unit? If the investigative units have the additional burden of managing the increased monitoring activities, how will this impact of the resources available for the investigations?

Commission's answer:

Despite its name, the "Task Force Monitoring" functions and is organised in the same way as other OLAF Units. It centralises information on closed cases from both investigative Directorates and works closely with OLAF's Selection,

Investigation and Operations review Unit ('Unit 0.1'). Its placement under the direct supervision of the OLAF Director-General reflects its centralised role. The aim of Task Force Monitoring is to ensure that the monitoring of OLAF's recommendations is carried out in a coordinated manner so to largely alleviate the burden on the investigative Units. Its creation leads to improved efficiency, in particular through economies of scale.

87. How many posts were dedicated to stakeholder relations before the restructuring and after? Have these additional posts, together with those earmarked for monitoring in the task force and the investigative units, been to the detriment of the investigative function? What was the objective of moving the unit responsible for stakeholder relations directly under the DG rather than under Director D?

Commission's answer:

The Coordination and Communication Unit ('Unit 0.2') dealing with stakeholder relations had 12 posts before the reorganisation and 14 posts once the reorganisation took effect. Other posts in the Unit are a result of the merger of the Unit with the former OLAF Press Office in the reorganisation.

Having the Coordination and Communication Unit placed under the direct supervision of the Director-General reflects the organisation of many Commission Directorates-General. It ensures a more coordinated and streamlined outreach and communication function.

Moving the Coordination and Communication Unit and creation of a 'Task Force Monitoring' is intended to improve the functioning of the Office as a whole and is not detrimental to OLAF's investigative function, which is of critical importance. It is the prerogative of each Commission Directorate-General to consider how to allocate human resources among different Units depending on its operational needs.

88. Can the Office confirm that the staff representation was able to participate in the process at an early stage to provide the necessary support to staff? Can the OLAF confirm that there are no pending legal (or other) actions being taken against it as a result of the restructuring?

Commission's answer:

The reorganisation of OLAF was the result of an extensive participatory process which took place over the course of 2020 based on the principles set out in the Commission Communication on "Organisation Charts of Commission DGs and Services" and the relevant implementing guidelines. OLAF's management has collected suggestions from OLAF staff in the course of OLAF' staff seminar of 13

May 2019 as well as other participatory meetings aimed at identifying the needs of the Office and its staff for the years to come. Subsequently, the proposal for OLAF's reorganisation was subject to in-depth consultations with the Commission Directorate-General for Human Resources, the Commission Secretariat-General, the Legal Service and my Cabinet.

OLAF staff participated actively in the reorganisation process. Each staff member was given the opportunity to express up to three preferences for their future job allocation, including the possibility to keep working on current files. The process was accompanied by a dedicated Hearing Chamber which identified the priorities of staff, including those who did not answer the survey, were on leave during the reorganisation exercise or had special requirements. As result of the reallocation of tasks, the majority of staff was assigned to its first preferred job position and no modification of the Establishment Plan was necessary.

One action lodged under Article 90 (2) of the Staff Regulations is pending in regard to the OLAF reorganisation.

89. How did OLAF apply the principle of equal opportunities during the restructuring? What is the gender distribution in middle and senior management after the restructuring?

Commission's answer:

The principle of equal opportunities was duly applied throughout the whole process of the restructuring of OLAF. As outlined above in response to Question 88, each staff member was given the opportunity to express up to three preferences for their future job allocation, including the possibility to keep working on current files. The process was accompanied by a dedicated Hearing Chamber which identified the priorities of staff, including those who did not answer the survey, were on leave during the reorganisation exercise or had special requirements. As result of the reallocation of tasks, the majority of staff was assigned to its first preferred job position and no modification of the Establishment Plan was necessary.

The restructuring of OLAF did not change the gender balance within the organisation. Of the 22 positions in middle and senior management, 9 are occupied by women. Prior to the reorganisation, 10 of the 23 positions in middle and senior management were occupied by women. The slight change in number was the consequence of the merging of two investigative Units for effectiveness purposes.

90. How would you assess the cooperation with OLAF in 2019 and what still needs to be improved?

Commission's answer:

The Commission's day to day cooperation with OLAF is based on the working arrangements signed in 2018 and has been very efficient. Since 2019, the Secretariat-General of the Commission has been organising regular meetings with OLAF and the relevant horizontal Commission services in order to improve the follow-up, by Commission services, of OLAF's recommendations addressed to the Commission following its investigations. This has resulted in a better overview of the state of play as regards the recovery of funds affected by fraud and irregularities. Commission services also work closely with OLAF in the framework of the Commission's 2019 anti-fraud strategy. Based on the intelligence gathered in the course of its investigations, OLAF assists Commission services in designing their anti-fraud strategies. More recently, OLAF was extensively involved in the work of the Commission in the framework of the Recovery and Resilience Facility and it is participating, together with other Commission services, in the screening of national plans.

91. How many posts have been opened in 2019 within OLAF? Is the human capacity considered sufficient?

Commission's answer:

In 2019, OLAF received three additional posts to be dedicated to the implementation of the new Commission Anti-Fraud Strategy of April 2019. OLAF's human resources have been considerably cut in recent years. One of the aims of the OLAF's reorganisation was to maximise the allocation of existing human resources while awaiting the allocation of additional posts to the Office.

Questions related to the European Public Prosecutor's Office (EPPO)

As stated in the Commission's 31st Annual report on the protection of the European Union's financial interests – Fight against Fraud – 2019: “In period of crisis, every euro spent to support the economic recovery counts. This is why countering fraud and irregularities affecting the EU funds is of the outmost importance.”

On that note, in September 2020 the European Public Prosecutor Ms Laura Kövesi requested a budget of 55.5 million EUR for 2021 to cover 219 central office staff and 140 European Delegated Prosecutors.

92. What is the budget allocated to the EPPO in the 2021 budget provisional agreement reached on Friday, 4th December? What is the perspective of further development for the 7 years to come, taking into consideration in particular the role of the EPPO protecting the EU recovery plan?

Commission's answer:

In Budget 2021, the EPPO will receive EUR 45 million and will reach 130 staff in total (95 Temporary Agents and 35 Contract Agents). This represents an 87% increase of staff compared to 2020. It will more than triple the EPPO budget and double the EPPO staff in 2021, compared to the Legislative Financial Statement of 2017. With this major increase of budget and staff, the EPPO is equipped with high financial and human resources to start its full operation. It is premature to assess the future evolution. The EPPO should first become operational and subsequently establish workload indicators on the basis of the actually materialising case-load.

93. What is the Commission's assessment of the budget and staffing needs of the EPPO compared to Ms Kövesi's request?

Commission's answer:

The Budgetary Authority has made a major effort, granting a budget more than three times higher than the budget envisaged in the Legislative Financial Statement from 2017. It is based on the new estimates of EPPO that the future workload will be several times larger than what had been anticipated in 2017. It is crucial now that the EPPO starts its operations. Only then can the actual number of cases be observed and a realistic assessment of the workload be made.

94. How many suitable candidates has the EPPO selected so far? To how many of those candidates has the EPPO offered a position? How many candidates have refused a position in the EPPO and why, if known? To the Commissions' knowledge, are the rejections related to the working conditions of the EU institutions in Luxembourg, especially in terms of salary and housing cost?

Commission's answer:

According to the information shared by the EPPO, more than 200 suitable candidates have been selected so far and included in the EPPO's reserve lists. Out of these, 63 candidates have so far accepted a job offer, while 16 have refused it. The majority of the candidates who have declined the job offer have motivated this choice on account of the salary not being high enough to live in Luxembourg.

Annex 1

Additional clarifications to Q10:

In 2019, DG REGIO carried out 30 audits and 7 fact finding missions:

-) Fourteen risk-based compliance audits in 7 Member States covering assurance packages and programmes;
-) Eleven thematic audits, including two ad hoc audits on two Czech 2014-2020 programmes^[1], to follow up on specific allegations of conflict of interest and three audits to verify the implementation of previously agreed action plans to remedy to deficiencies in the management and control systems;
-) Four pre-ACR (Annual Controls Report) fact finding missions in three Member States, to preventively review the preliminary audit results to be reported in the 2019 Annual Controls Reports (ACRs) and three post-ACR fact finding missions covering all programmes of selected Member States with a view to clarifying audit information reported in the concerned ACRs;
-) Four audits on financial instruments;
-) One early preventive system audit to verify the set-up of the system in a delayed regional programme.

Final audit reports were issued for all these audits, in line with applicable deadlines described in point b) above. Audit recommendations issued in these final audit reports are either closed or being implemented and are under follow-up procedures. These 2019 audits by DG REGIO led to the identification of 126 system and 166 project findings in relation to the ERDF/CF operations audited on the spot. In line with the joint typology of errors agreed with audit authorities, the vast majority of the project findings related to public procurement irregularities (50%), ineligible expenditure and projects (13%), and inadequate audit trail (13%). These categories represent main risk areas for the ERDF/CF implementation.

The Commission underlines that not all of these findings were significant but in 13 cases (out of the 30 audits) DG REGIO assessed the audited parts of the management and control systems and processes in category 3 or 4 (“serious improvements needed”, or “systems essentially do not function”), as a result of the major deficiencies identified: The deficiencies which led to the qualification of the opinions mentioned above were linked to the inadequate verification of public procurement by managing authorities in five cases, to the inadequate or lack of verification of State aid projects in two cases, to deficiencies linked to financial instruments in another two cases, to deficiencies related to conflict of interest in two programmes and finally due

^[1] In addition to two 2007-2013 programmes also covered by the audits

to the recalculation of the error rates reported by audit authorities in two cases. These audits contributed to the 66 reservations issued in the respective 2019 annual activity report (AAR), taking into account all audit results, including those reported by the Member States. As a follow up procedures including interruption or suspension of payments were launched when applicable and remedial action plans to fix the systems were required from the concerned programme authorities in all cases.

In 2019, DG EMPL carried out 25 audits and 11 fact finding missions:

-) Seventeen risk-based compliance audits to review the work of the national Audit Authorities (i.e. re-performance of audits of operations at the level of beneficiaries) in order to assess the level of reliability the Commission can place on their work; These covered 26 out of the 191 ESF/YEI and FEAD programmes with accounts (13.6%) for an amount of EUR 2.4 billion;
-) five Early Preventive System Audits (EPSA) to verify the set-up of the system in delayed regional programmes;
-) three thematic audits; and
-) eleven pre-ACR (Annual Controls Report) fact-finding missions were performed at the level of the Audit Authorities, which aim to clarify methodological issues detected and/or prepare for the analysis of the next annual control.

Final audit reports were issued for all these audits. To date, on a cumulative basis since the beginning of the programming period, the compliance and EPSA audits carried out by DG EMPL's Audit Directorate have covered 50% of the 2014-2020 programmes representing 80% of the financial programming. In total, the Audit Directorate in DG EMPL audited 140 ESF/YEI projects of a total value of EUR 483 million from which EUR 206 million have been audited. In terms of results, the audits carried out in 2019 led to the identification of 74 findings/observations at the level of the management and control systems. Most of the findings concerned the Managing Authorities. They related to breaches in the selection of operations, flaws in the management verifications (on the eligibility and reality of expenditure), and lack of effective system in place to ensure proper audit trail. Other findings concerned the key requirements for the Certifying this audit work Authorities and the Audit Authorities regarding the performance of adequate system and audits of operations. The main irregularities detected during audits of operations and which represent the main risk areas for the ESF implementation are the inclusion of ineligible expenditure/project (34.1%), missing supportive information/documentation (27.1%) and breaches in public procurement procedures (11.8%).

Similarly to DG REGIO above, all programmes falling under the categories 'qualified opinion with significant observations – risk for the EU budget' (category 3) and 'adverse opinion' (category 4) are subject to a reservation in the annual

activity report (AAR). These are usually programmes where the audit findings were significant and the Member State had not taken any corrective and preventive actions, as of the date of the Annual Activity Report. All audits contributed to the reservations issued in the respective 2019 AAR of 29 ESF/YEI operational and 1 FEAD operational programme, including those reported by the Member States. The Commission follow-up procedures included necessary interruption or suspension of payments, when applicable, and remedial action plans.

The Honourable Member is also referred to Annex 10 of DG REGIO and DG EMPL Annual Activity Reports for 2019, which present details on the financial management of the Funds, especially the list of programmes under reservation, with the reason for the reservation.

The external audit procedure (i.e. the conformity clearance procedure) for the CAP implemented under shared management, is regulated in Regulation (EU) No 908/2013, which lays down the different steps of the procedure, as well as the time frame for each step, in particular in Article 12 of that Regulation. On average, DG AGRI audits are closed within 226 days, however, this number could vary depending on whether the Member State takes the possibility of a conciliation procedure in the Regulation.

Currently, there are 265 ongoing audits which is less than the number of ongoing audits in a normal year (almost 300), which is due to the restrictions following the Covid-19 pandemic. 97 of these ongoing audits were launched in 2019.

In 2019, DG AGRI carried out 117 audit missions and opened 37 conformity procedures after desk audits for the Member States in order to check that EU rules, and in case of the EAFRD also national rules, are complied with by the Paying Agencies when making payments to beneficiaries or recovering undue payments. As a result of the conformity clearance procedures, the Commission imposes net financial corrections on the Member States by which they reimburse to the EU budget the amounts corresponding to those corrections. The letters to the Member States were issued for all these audits, in line with applicable deadlines. The audit findings and recommendations in these letters are either closed or are being followed up in the conformity procedure.

As to the findings, the Commission cannot comment on them in order not to prejudice the outcome of the audits, where the procedures are ongoing.

The reservations issued in DG AGRI's 2019 annual activity report (AAR) are based on the audit findings of the Commissions and of the Certification Bodies. Taking into account all audit results, including those reported by the Member States, reservations were made in the 2019 AAR for 38 Paying Agencies with deficiencies in the management and control systems related to direct payments and rural development (parts 3.2 and 3.3 of Annex 10). In addition, there were 7 reservations for different Member States on market measures (part 3.1 of Annex 10).

The Honourable Member is referred to Annex 10 of DG AGRI's Annual Activity Report, which presents the details of the financial management of the Common Agricultural Policy and the functioning of the Member States management and control systems.