



Brussels, 25 November 2021

**Detailed replies to the specific requests made by the Council complementing the report from the Commission on the follow-up to the discharge for the 2019 financial year, COM(2021)405 final.**

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## **INTRODUCTION**

This document complements the Report from the Commission to the European Parliament and the Council on the follow-up to the discharge for the financial year 2019<sup>1</sup>, which formed part of the Integrated Financial and Accountability Reporting 2019. It presents in detail the answers to 109 specific requests made by the Council in the comments accompanying its recommendation on the discharge for the financial year 2019.

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<sup>1</sup> COM(2021)405 final

## CHAPTER 1 - THE STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

1. (*Nr 8 in connection with Nr 3 - 2019/COU/0238*) The Council recognises shortcomings identified by the Court in the work of some audit authorities. Based on the findings of the Court, the Council encourages actors involved in the management and control of EU budget implementation to coordinate and further improve their work, so that the Court could make more use of the work performed by national and Commission auditors in view of developments connected to the principle of cross reliance.

### **Commission's response:**

*The Commission continuously provides support to all programme authorities to improve their administrative capacities through guidance, targeted support, continuous training and professional development, peer-to-peer exchange of experience, action plans to improve implementation of public procurement or State aid rules, transnational networks to simplify procedures and to avoid gold-plating. The Commission also actively promotes less error-prone simplified cost options and put at the disposal of Member States, free of charge, the data mining tool Arachne to increase capacities to detect fraud suspicions or possible conflicts of interest.*

*As regards audit authorities, when the Commission identifies that individual audit authorities do not appropriately, exhaustively or timely detect errors, targeted and technical support is provided to them in order to ensure they work up to expected standards and improve their detection capacity. The Commission requires that they apply targeted actions to improve their methodology and their capacities. Finally, the Commission also continuously monitors and analyses the root causes of errors that remained non-detected by managing and /or audit authorities. Such results feed the annual risk assessment for selecting programmes in view of subsequent risk-based audits.*

*The Commission takes due account of the findings of the ECA in its monitoring and coordination work with programme authorities, for instance:*

- *sharing a detailed analysis of the errors found in both the Commission and ECA audits*
- *providing an overall analysis comparing the main error types identified by the audit authorities and by the Commission auditors, based on the joint typology of errors.*

*The Commission notes in that respect the mention in the ECA 2019 AR - Chapter 1 that they intend to provide assurance on the Commission's (management) statements where possible for auditing the regularity of transactions, and have continued working with the Commission to establish the conditions necessary to progress towards this approach.*

2. *(Nr 11 in connection with Nr 9 - 2019/COU/0239)* The Council shares the view that there is still room for improvement in the quality of performance indicators and the reliability of performance information in some areas, as well as in the calculation of progress to target and transparency of target-setting, and reiterates its calls on the Commission to take further appropriate actions on all recommendations made by the Court.

**Commission's response:**

*The Commission is committed to presenting high-quality performance information and continues to improve constantly its quality in the programme statements and the AMPR. While the Commission is not in a position to fully control or guarantee the reliability of performance information in some areas, it has taken steps to mitigate the related risks. The Commission is and will continue to be reliant on Member States and other parties for the provision of reliable and timely performance information in some areas. Commission services are instructed to ensure that any reliability concerns are transparently reported.*

*The Commission is required, pursuant to the Financial Regulation, to report in the Programme Statements on all indicators set out in the legal bases of the spending programmes.*

*The Commission has further improved the calculation of the progress towards the target in the Programme Performance Overview (Annex 3 of the Annual Performance and Management Report) through the inclusion of baselines (when relevant), and a more consistent approach in the use of formulas.*

*The European Commission is fully committed to ensuring that the 2021-2027 MFF: (i) is implemented in full accordance with the highest standards of financial management, (ii) is as effective as possible in achieving its key objectives, and (iii) delivers value for all EU citizens. Thereto, the Commission adopted a Communication on the performance framework for the EU budget under the 2021-2027 MFF (COM(2021) 366 final) on 8 June 2021, alongside the draft budget 2022 and the 2019 Annual Management and Performance Report. The Commission hereby puts performance of the EU budget front and centre with the provision of a sound performance framework. The framework comprises all the tools and procedures necessary to set objectives and measure and monitor progress towards them. It covers all EU programmes, including those financed from NextGenerationEU.*

*In an accompanying Staff Working document (SWD(2021) 133 final), Programme and Performance fiches set out the key features of each EU spending programme, namely the challenges it addresses, why an intervention at EU level can add value, the programme's objectives, the types of interventions it will finance to help achieve these objectives, and the indicators to assess its performance, including key technical information such as the source, data availability, and the methodology to estimate the baselines and targets.*

## CHAPTER 2 - BUDGETARY AND FINANCIAL MANAGEMENT

3. (Nr 2 - 2019/COU/0240) The Council remains deeply concerned about the risk of pressure on the payment appropriations available in the first years of the MFF 2021-2027 and supports the Court's recommendation to the Commission to closely follow payment needs, including those arising from the pandemic, and to take action, within its institutional remit.

### Commission's response:

*The Commission prepares forecasts for payments based on a wide range of available data, including the execution of the previous year's budget, the implementation and latest developments of the current budget and the future needs presented in the draft budget for the following year. In addition, the Commission is taking into account the Member States' forecasts for the implementation of the ESI funds - the main driver behind the overall payment estimations. On a regular basis, the Commission presents to the Council and the Parliament the Active Monitoring and Forecast of Budget Implementation (AMFBI) information notes, with a view to closely following the implementation rates of budget appropriations.*

*Starting from 2018, the Commission presents the annual Long-term forecast of future inflows and outflows report for the next five years, in accordance with the Article 247 (1) (c)*

*of the Financial Regulation. This Report takes into account the latest available information on the developments of the on-going year's budget as well as the information on expenditure and revenues known at the time of the draft budget for the following year.*

*The Commission constantly monitors the payment needs and submits proposals for amending budgets and budget authority transfers accordingly, and it will continue to do so in the future.*

*As for the availability of payment appropriations during the first years of the MFF 2021-2027, the Commission considers that the payment ceilings for the 2021-2027 long-term budget have been agreed at a level compatible with the expected payment needs for honouring the commitments made in the past. At the same time, the Commission recalls that the final agreed ceilings, set out in Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027, represent the outcome of the overall MFF negotiations.*

*Against this backdrop, as for taking action with a view to ensuring the availability of sufficient payment appropriations, the Commission recalls that the adoption of the budget lies ultimately within the remit of the budgetary authority, which involves the granting of a sufficient level of payment appropriations, including those arising from extraordinary needs linked to the COVID-19 pandemic. In this context, the Commission will continue to cooperate closely with the European Parliament and Council.*

4. (Nr 3 - 2019/COU/0241) The Council notes with concern the EUR 15.6 billion increase in liabilities for pensions and other employee benefits, and urges the Commission to take actions to prevent further deterioration of the EU balance sheet.

**Commission's response:**

*The EU Annual Accounts are prepared according to accounting rules based on Internationally Accepted Accounting Standards (IPSAS), the highest available standards. The figure for pension and other post-employment liabilities presented on the EU balance sheet represents the actuarial valuation of the current monetary value of the obligations of the EU budget to pay, in the future, the pension and other rights acquired by its staff (active and already retired). This valuation is based on the forecasted payments to be made by the EU budget to pensioners over a time horizon of several decades.*

*One of the key variables required for the calculations is the rate of interest as this discounts the estimated future cash payments to arrive at the current value of these future amounts. As explicitly referred to in the 2019 annual accounts, this increase of the liability resulted almost entirely from the sharp decline of the long-term interest rate used to value employee benefit obligations, which became negative for the first time, meaning that any given amount is worth more today than in the future. The decrease in the long-term interest rate is an external factor, meaning that the Commission has no role in the increase of the liability and therefore has no room for manoeuvre to "prevent further deterioration".*

*It should be noted that while the rate of interest significantly impacts the current value of the EU's future pension obligations as presented on the balance sheet at a particular point in time, it does not change the amount of pensions that will have to be actually paid – it only reflects the current value of those amounts today.*

## CHAPTER 3 - REVENUE

5. (Nr 5 - 2019/COU/0242) The Council calls on the Commission to propose a revision of the Regulation for making available all categories of own resource (MAR) as soon as possible, with the aim of achieving a single, streamlined MAR for all categories of own resources.

**Commission's response:**

*Following the Council conclusions of the European summit in July 2020 and in particular point no 142, the Commission has assessed the Making Available regulation and has committed in a declaration in February 2021 to present a proposal in June 2021. Member States gave their assessment of the functioning of that regulation in their replies to a questionnaire and in bilateral talks with the Commission. Taking the Member States' interests into account, the Commission has drafted a proposal for making the Making Available regulation that sets forth a carefully calibrated system to ensure regular and timely payments to the EU budget, which is essential for the smooth functioning of the EU system of own resources, the daily management of the Union budget and, in turn, the functioning of the EU as a whole. The proposal was adopted on 25 June 2021.*

## CHAPTER 4 - COMPETITIVENESS FOR GROWTH AND JOBS

6. (Nr 4 - 2019/COU/0243) The Council reiterates its appeal to the Commission to continue its efforts to address the causes of error, with a particular focus on the programmes subject to persistently high error levels, and to strengthen its efforts to fully implement the measures already taken in this respect.

**Commission's response:**

*The Commission has tackled different aspects of the programme implementation and has created a robust action plan aiming at reducing the error rate.*

*1. The Commission is continuing its outreach campaign to H2020 beneficiaries with a special focus on the cost category contributing the most to the error rate (personnel cost calculation, time registration, annual productive hour methods). In addition, the Commission is undertaking targeted information campaigns to the Horizon 2020 beneficiaries most vulnerable to errors (newcomers, SMEs, third country participants, one-time participants).*

*2. In addition, events have taken place in several Members States to raise awareness to auditors responsible for auditing Certificate of Financial Statements and beneficiaries on the Grant Agreement provisions. For example, on 14/12/2020 a webinar session was organised with more than 1000 participants representing SMEs and new beneficiaries, on "avoiding errors in declaring personnel costs in H2020 grants". These communication initiatives will continue in 2021.*

*3. The Common Audit Service in the common Implementation Centre, continues to provide information on the most common errors and feed the information presented to the officers responsible for ex-ante controls.*

*4. A number of simplifications were already introduced in Horizon 2020. Further simplifications will be implemented in Horizon Europe. For example, the rules for cost accounting in Horizon Europe will be simplified, in particular the rules for personnel costs. The extended use of simplified cost forms (in particular lump sum project funding), as an alternative to reimbursement of actual costs, is being piloted.*

*5. An adaptive control strategy is being put in place, focussing on reinforced control for more risky transactions*

7. (Nr 5 - 2019/COU/0244) The Council also takes note with concern of the Court's analysis that personnel costs continue to be the root cause for most errors, notably in research, where the methodology for calculating personnel costs has become more complex in some respects under H2020, increasing the risk of error. The Council supports the Court's recommendation on H2020 and renews its invitation to the Commission to carry out more targeted checks on cost claims by SMEs, to enhance its information campaign and communication efforts towards providing beneficiaries with proper guidance on eligibility issues and rules for the calculation and

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

**Commission's response:**

*The Commission will continue its communication campaign on funding rules, including reinforced communication efforts to the Horizon 2020 more vulnerable to error beneficiaries, such as SMEs and newcomers. A dedicated communication to Horizon 2020 beneficiaries “How To Avoid Errors When Claiming Costs In H2020 Grants” was dispatched to all beneficiaries of on-going grants in 2019 and in 2020. To illustrate, in 2020 and 2021, a series of webinars was organised, in which several thousand beneficiaries participated. The recorded webinars are also available on the Web and attracted so far more than 20 000 views.*

*In its H2020 corporate sample, the Common Audit Service of the Commission has drawn risk based samples specifically targeting SMEs and/or newcomers.*

*Furthermore, the Commission has put in place a sound system of ex-ante controls which includes several automated checks. The system foresees risk-differentiated ex-ante checks, thus addressing appropriately also this category of beneficiary. This adaptive ex-ante control strategy, combining a moderate level of standard checking with reinforced controls for risky transactions, keeps the overall control burden for the majority of beneficiaries at a moderate level, while still being able to go deeper if necessary.*

*Horizon 2020 has also introduced simplifications, including lump-sum grants. One measure introduced in order to facilitate SMEs’ participation and reduce errors is the use of lump-sum payments in phase one of the SME instrument.*

*Finally, for Horizon Europe, the Commission introduced a major simplification of the personnel cost rules (in the context of a corporate model grant agreement, applicable to all centrally managed EU funding programmes).*

8. (Nr 6 - 2019/COU/0245) The Council is concerned about weaknesses and inconsistencies signalled in the Court's review of the ex-post audits on H2020 carried out by both the Commission and contracted external auditors. In this regard, the Council invites the Commission to increase its efforts to remedy these weaknesses.

**Commission's response:**

*Following the recommendations of the ECA, the Commission reinforced a number of ongoing actions aiming at improving further the quality of its audit procedures as well as introduced a number of new actions aiming to tackle the weaknesses identified by the ECA. In the framework of the ongoing DAS 2020 campaign, the ECA has recognised that its previous recommendations have all been implemented “fully” or in “most respects”. The actions undertaken by the Commission include:*

### ***1. Quality assurance***

*Each outsourced audit file is assigned an internal quality reviewer. In addition, each audit file is subject to an additional thorough quality review by an independent team reporting directly to the Head of Unit. The objectives of the quality reviews are to ensure the quality of the audited procedures including respect of the Indicative Audit Programme. It should be noted that although audit reports are based on the principle of “reporting by exception”, the outcome of the main audit tests are explicitly mentioned in the report.*

### ***2. New Framework Contract (FWC) for outsourced audits***

*A new procurement procedure for the selection of External Audit Firms (EAF) was launched in 2020. The Working Arrangements outline general requirements concerning the quality of the services.*

*The new tender documentation tackles the weaknesses identified by the ECA as reported in the annual report 2018 and 2019 and aims at further improving the quality of the deliverables of the audit firms. For instance, H2020 training has become mandatory for auditors.*

### ***3. Meetings with the audit firms***

*The CAS is convening regular monthly meetings (at working level and at senior management level) with the audit firms in which the status and quality of audit files is discussed in detail (including the observation raised by the ECA).*

*Furthermore, ad hoc meetings to discuss particular risky files are organised with the audit firms in which full review of the documentation (e.g. working papers, Indicative Audit Programme, audit evidence).*

### ***4. Joining the EAFs on the spot***

*Before the pandemic, CAS auditors joined the auditors of audit firms on one occasion. Once the travel restrictions are eased, this action will be further reinforced.*

### ***5. Information campaign and training courses***

*Specific outreach on various audit topics such as sampling, remuneration of SME owners and other complex provisions has been provided to auditors.*

## CHAPTER 5 - ECONOMIC, SOCIAL AND TERRITORIAL COHESION

9. (Nr 3 (first part) - 2019/COU/0246) The Council supports the Court's recommendation addressed to the Commission to:

(a) analyse the main sources of undetected errors.

**Commission's response:**

*The Commission is already providing in the AARs (see p. 26 of the 2019 AAR for REGIO and see p. 41 of the 2019 AAR for EMPL) an overall analysis by comparing the main error types identified by the audit authorities and by the Commission auditors.*

*Furthermore, a discussion on existing discrepancy of the Commission findings and the audit authority's findings are a permanent point in the Annual Coordination Meetings since 2018. Since 2020, a more structured discussion with the concerned audit authorities includes a detailed analysis of the additional errors found by EU audits, with recorded actions by the audit authorities to address the non-detection of these errors.*

*REGIO together with EMPL and MARE already started a more general dialogue with audit authorities on the types of irregularities found in Commission audits not detected by programmes' management verifications and audits, with a specific workshop on the latest findings concerning public procurement aspects taking place in November 2020. Furthermore, in the Technical meeting of 12 March 2021, REGIO shared its findings from audits on financial instruments.*

*The Commission will continue sharing its findings with Audit Authorities in different fora, depending on the topic and the needs.*

10. (Nr 3 (second part) - 2019/COU/0247) The Council supports the Court's recommendation addressed to the Commission to:

(b) develop, together with the audit authorities, the necessary measures to improve the reliability of the reported residual rates.

**Commission's response:**

*The Commission is already providing in the AARs (see p. 26 of the 2019 AAR for REGIO and see p. 41 of the 2019 AAR for EMPL) an overall analysis by comparing the main error types identified by the audit authorities and by the Commission auditors.*

*Furthermore, a discussion on existing discrepancy of the Commission findings and the audit authority's findings are a permanent point in the Annual Coordination Meetings since 2018. Since 2020, a more structured discussion with*

*the concerned audit authorities includes a detailed analysis of the additional errors found by EU audits, with recorded actions by the audit authorities to address the non-detection of these errors.*

*REGIO together with EMPL and MARE already started a more general dialogue with audit authorities on the types of irregularities found in Commission audits not detected by programmes' management verifications and audits, with a specific workshop on the latest findings concerning public procurement aspects taking place in November 2020. Furthermore, in the Technical meeting of 12 March 2021, REGIO shared its findings from audits on financial instruments.*

*The Commission will continue sharing its findings with Audit Authorities in different fora, depending on the topic and the needs.*

11. (Nr 4 (first part) - 2019/COU/0248) The Council notes that half of the estimated level of error is caused by ineligible projects and supports the Court's recommendation to the Commission:

(a) to clarify what is meant by "physically completed" and/or "fully implemented" operations.

**Commission's response:**

*The Commission considers this recommendation as fully implemented.*

*The Common Provisions Regulation (CPR) does not contain the definition of 'physically completed or fully implemented operation' referred to in Article 65(6). The Commission is of the opinion that given the varied nature of operations, compliance with the provisions of Article 65(6) must be assessed by programme authorities for each operation concerned on the basis of its own merits, taking into account its specificities its scope as defined in the contractual grant decisions and compliance with national law. In doing this, programme authorities must ensure compliance with Article 65(6) CPR.*

*The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The Commission agrees to the need to provide further clarification to this Member State based on experience collected so far to avoid any risks. Moreover, the clarification provided to this Member State will be further made available to other Member States concerned.*

*The Commission insisted in the guidance it has issued in the past that the programme authorities satisfy themselves with the legality and regularity of retrospective operations, in particular regarding the rules on eligibility of*

*expenditure, the selection criteria fixed by the Monitoring Committee, the compliance with Union and national rules.*

*The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission services have warned Member States against this practice at several occasions, particularly in this country.*

*The Commission has taken the following actions to address the specific issue of retrospective projects in this country:*

- 1. It has provided the programme authorities with detailed check lists which include control points on the eligibility of retrospective operations.*
- 2. It has shared the findings of the Commission and ECA audits on the retrospective operations with the audit authorities in October 2019 and gave interpretation and guidance on the interpretation of Article 65(6).*
- 3. It has performed several on-the-spot audit missions focused on the risk of retrospective abuse of assistance and requested corrective measures to improve the functioning of the management and control systems, which are being implemented.*

12. (Nr 4 (second part) - 2019/COU/0249) The Council notes that half of the estimated level of error is caused by ineligible projects and supports the Court's recommendation to the Commission:

(b) supporting Member States to verify compliance of their operations with Article 65(6) of the Common Provision Regulation (CPR).

**Commission's response:**

*considers this recommendation as fully implemented.*

*The Common Provisions Regulation (CPR) does not contain the definition of 'physically completed or fully implemented operation' referred to in Article 65(6). The Commission is of the opinion that given the varied nature of operations, compliance with the provisions of Article 65(6) must be assessed by programme authorities for each operation concerned on the basis of its own merits, taking into account its specificities its scope as defined in the contractual grant decisions and compliance with national law. In doing this, programme authorities must ensure compliance with Article 65(6) CPR.*

*The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular*

*linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The Commission agrees to the need to provide further clarification to this Member State based on experience collected so far to avoid any risks. Moreover, the clarification provided to this Member State will be further made available to other Member States concerned.*

*The Commission insisted in the guidance it has issued in the past that the programme authorities satisfy themselves with the legality and regularity of retrospective operations, in particular regarding the rules on eligibility of expenditure, the selection criteria fixed by the Monitoring Committee, the compliance with Union and national rules.*

*The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission services have warned Member States against this practice at several occasions, particularly in this country.*

*The Commission has taken the following actions to address the specific issue of retrospective projects in this country:*

- 1. It has provided the programme authorities with detailed check lists which include control points on the eligibility of retrospective operations.*
- 2. It has shared the findings of the Commission and ECA audits on the retrospective operations with the audit authorities in October 2019 and gave interpretation and guidance on the interpretation of Article 65(6).*
- 3. It has performed several on-the-spot audit missions focused on the risk of retrospective abuse of assistance and requested corrective measures to improve the functioning of the management and control systems, which are being implemented.*

13. (Nr 4 (third part) - 2019/COU/0250) The Council notes that half of the estimated level of error is caused by ineligible projects and supports the Court's recommendation to the Commission:

(c) to better detect ineligible operations.

Commission's response:

*The Commission considers this recommendation as fully implemented.*

*The Common Provisions Regulation (CPR) does not contain the definition of 'physically completed or fully implemented operation' referred to in Article 65(6). The Commission is of the opinion that given the varied nature of operations, compliance with the provisions of Article 65(6) must be assessed by programme authorities for each operation concerned on the basis of its own merits, taking into account its specificities its scope as defined in the contractual grant decisions and compliance with national law. In doing this, programme authorities must ensure compliance with Article 65(6) CPR.*

*The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The Commission agrees to the need to provide further clarification to this Member State based on experience collected so far to avoid any risks. Moreover, the clarification provided to this Member State will be further made available to other Member States concerned.*

*The Commission insisted in the guidance it has issued in the past that the programme authorities satisfy themselves with the legality and regularity of retrospective operations, in particular regarding the rules on eligibility of expenditure, the selection criteria fixed by the Monitoring Committee, the compliance with Union and national rules.*

*The Commission has explained in a Q&A the difference between operations 'physically completed' and other operations that could be considered 'fully implemented', due in particular to absence of a physical object/investment. The risk of selection of 'physically completed' and/or 'fully implemented' operations varies between Member States and programmes, and is in particular linked to one Member State where the border between national and EU schemes is deliberately kept thin to allow mobilising national investments rapidly whenever needed. The Commission services have warned Member States against this practice at several occasions, particularly in this country.*

*The Commission has taken the following actions to address the specific issue of retrospective projects in this country:*

- 1. It has provided the programme authorities with detailed check lists which include control points on the eligibility of retrospective operations.*
- 2. It has shared the findings of the Commission and ECA audits on the retrospective operations with the audit authorities in October 2019 and gave interpretation and guidance on the interpretation of Article 65(6).*
- 3. It has performed several on-the-spot audit missions focused on the risk of retrospective abuse of assistance and requested corrective measures to improve the*

*functioning of the management and control systems, which are being implemented.*

## CHAPTER 6 - NATURAL RESOURCES

14. (Nr 2 - 2019/COU/0251) The Council encourages the Commission to continue its support to Member States to take all necessary actions to prevent, detect and correct errors.

**Commission's response:**

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

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

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

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

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

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

*Furthermore, since 2013, 9 seminars on error rate in rural development have been organised, of which the latest took place on 13 June 2019. Since 2020, the Rural Development Committee has integrated the updates on Action Plans and the latest conformity findings. The seminars aim at presenting the lessons learnt from the audit work, sharing good practices in Member States' experience with the implementation of the programmes and provide guidance. The European Network for Rural Development also has an enhanced role in disseminating good practices and guidance to support improving overall RDP implementation.*

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

15. (Nr 4 (first part) - 2019/COU/0252) The Council supports the Court's recommendations made to the Commission to

(a) update its analysis of the Common Agricultural Policy (CAP) fraud risks more frequently.

**Commission's response:**

*The Commission considers that the fraud risk analysis is an ongoing process based on OLAF investigation reports, the Commission's own audit work and other information related to alleged fraud cases. Since 2016, no substantial changes in fraud patterns as regards the eligibility of expenditure of CAP funds have been observed.*

*The recently publicised alleged fraud cases have related to persons obtaining surfaces in an allegedly illegal way for which they then claim direct aid in an apparently regular and legal way under CAP regulations. Remedies against such actions would be a question of rule of law in the Member States concerned.*

*At the same time a review of the Fraud Risk Assessment is foreseen in the context of the CAP reform on which a political agreement has been recently reached by the co-legislators (target date 1.1.2023);*

16. (Nr 4 (second part) - 2019/COU/0253) The Council supports the Court's recommendations made to the Commission to

(b) perform an analysis of Member States' fraud prevention measures.

**Commission's response:**

*The Certification Bodies (CBs) assess on an annual basis the compliance of the Paying Agencies (PA) with the accreditation criteria, including the measures in place to prevent and detect fraud. The Commission monitors the PAs' compliance with the accreditation criteria by assessing the annual certification reports prepared by the CBs and the Management Declarations made by the heads of the PAs. In case there are findings related to the compliance with the accreditation criteria, the Commission opens conformity enquiries to protect the EU budget.*

*In addition, the Commission is monitoring on yearly basis the measures adopted by the Member States to protect the EU's financial interests, in the context of the Annual Report on the protection of the EU's financial interest and the fight against fraud (the so-called "PIF Report"). More specifically, the Commission requests Member States to report the most important measures adopted for the protection of the EU financial interests in the previous year. These measures are mentioned in different parts of the PIF Report, according to topic, and presented*

*in detail in a Commission Staff Working Document accompanying the PIF Report.*

*In relation to the performance (by the Commission) of an analysis of Member States' fraud prevention measures, the Commission also points to the Action Plan accompanying the Commission Anti-Fraud Strategy (COM(2019)196 final), in particular actions 37 and 38, the section concerning shared management.*

17. (Nr 4 (third part) - 2019/COU/0254) The Council supports the Court's recommendations made to the Commission to

(c) disseminate best practices in the use of the Arachne tool to further encourage its use by paying agencies.

**Commission's response:**

*The Commission is continuously encouraging Member States to use the Arachne tool to identify potential risks, including by presentations and training delivered in the Member States.*

*With regard to ARACHNE, following the EUCO conclusions and the discharge 2018 resolution, the Commission proposed to improve the information currently collected by the Member States on beneficiaries of certain EU funding implemented under shared management and the way such information is analysed and used for control and audit purposes by the Member States and for supervision by the Commission. The compulsory use of a single data-mining tool (i.e. ARACHNE) would strengthen sound financial management of the Common Agricultural Policy (CAP) expenditure. Thus, the Commission suggested mandatory use of the single data-mining tool for all CAP funding (including direct payments). Under the new CAP, ARACHNE would enable more efficient controls when assessing the aid applications/payment claims under the CAP for issues such as: conflict of interest and active farmer. The tool could also be very useful to check circumvention of rules.*

*In line with other shared management funds, the co-legislators have agreed that the tool will be voluntary for the CAP. There will be an obligation for the Commission to provide the tool to the Member States and there will be a review clause with possible legislative proposals to be based on a Commission's report in 2025, assessing the use of the single data-mining tool and its interoperability.*

*Through presentations and working groups, the Commission is continuously encouraging more Member States to start using ARACHNE as a pilot for EAFRD for the current programming period (2014-2020) in order to acquaint themselves with the usefulness of the tool and its functionalities. There is an ongoing development to make the tool 100% suitable for the CAP funds and to develop it for direct payments, so that it could be available to Member States as of the start of the new CAP. In addition, there will be a high-level event to be organised by the*

*Commission in autumn, which would be an opportunity to even further discuss and promote the use of ARACHNE.*

## **CHAPTER 7 - SECURITY AND CITIZENSHIP**

## CHAPTER 8 - GLOBAL EUROPE

18. (Nr 2 (first part) - 2019/COU/0255) The Council supports the recommendations of the Court regarding

(a) the strengthening of checks by in order to identify and prevent recurrent errors.

**Commission's response:**

*The Commission has made progress in addressing this recommendation to reinforce checks and take action to prevent recurrent errors. Instructions on the clearing of pre-financing were issued in November 2020 to INTPA staff at HQ and Delegations. The February update of the Companion incorporates these instructions and a new control on clearing for expenditure incurred. In June 2021 a new checklist for clearing and a new control on the VAT ineligibility were added and some other controls (ex. costs outside implementation period) were improved. In addition, as an awareness raising measure, INTPA communicates the findings to all the delegations and financial units and reinforces their follow up and recurrent errors were also discussed at the regional seminar for EU Delegations in Africa.*

*The controls carried out in DG CLIMA are fully in-line with the INTPA Companion's procedures, and checklists, and DG CLIMA attends the relevant trainings.*

*DG NEAR has taken a number of measures, as part of the ongoing effort to reinforce checks and take action to prevent recurrent errors:*

*- Instruction notes to DG NEAR staff at HQ and in EU Delegations on the prevention and early detection of errors in grant contracts (ARES (2021)3825575 and ARES(2021)2730028). These instructions include a new extended sampling methodology and gather in a comprehensive way best practices and guidance.*

*- Information sessions with potential beneficiaries of calls for proposals and kick-off meetings with selected ones, to outline the conditions of grant contracts and share good practices.*

*- Several actions to enhance training/outreach/awareness of staff in HQ and EU Delegations, in the form of seminars, online sessions, and the circulation of management notes to draw attention to the recurrent errors, in the aim of reducing them and boosting detection capabilities, by building on the results of audits, verifications and the residual error rate studies (RER).*

*- New chapter on cost recognition and clearing of pre-financing introduced in DG NEAR Manual of procedures (§ H.6.7) to update and complete previous instructions, and an instruction note (Ares(2021)1631580) on the matter sent to DG NEAR staff at HQ and in EU Delegations in March 2021.*

*The FPI Regional Team (RT) for Middle East and North Africa has taken a number of follow up measures as a response to ECA recommendation 2019/AUD/0220 (2019/AUD/0235) issued after the audit of the final clearing invoice of contract ICSP/2016/372-741.*

*In particular, the following measures to strengthen the internal control systems have been adopted:*

*(i) ToR and annex 1 for the audit of contract ICSP/2016/372-741 were drafted immediately after the receipt of the recommendations. FWC signed and field work about to start. Delays were due to technical hiccups in OPSYS and unavailability of administrative funds under NDICI. It is expected that the audit will be concluded in Q4 2021.*

*(ii) The RT has increased the number of desk reviews for all type of transactions, particularly final payments. We have also increased the number of random requests for additional information/supporting documents based on our internal risk assessment.*

*(iii) Unfortunately, due to the COVID-19 pandemic, it has not been possible to perform any missions during 2020. In order to palliate this and in addition to the increased number of desk reviews (please, see paragraph (i) above) we have kept permanent contact both with the Delegations and with our implementing partners, and organised regular telephone and video-conferences to receive updates and solve questions.*

*Operational measures adopted:*

*(i) We are planning to organise an information session with the implementing partners of the 12 new grant contracts that were signed in 2020 in early February 2021. The vast majority of the new grants were signed in the second half of the year, therefore it was considered more efficient to group them in one single information session, to allow for synergies and sharing of experiences/best practices. A new information session was organized on 29/06/2021.*

*(ii) We have introduced a new cover letter that is sent at the moment of signature of new contracts and that includes information on the most frequent questions/mistakes, including a reminder to keep duly documented time-recording systems, and links to the Handbook for visibility and communication of EU external actions and to the DEVCO Financial Toolkit.*

*(iii) The monitoring of projects and follow up to technical and financial reports is done by Operational Project Managers in close coordination with the Financial Officers. The RT holds weekly meetings with all members of the team (both C&F and OPS), where specific cases and upcoming transactions are discussed. In the last months we have emphasized several times during these meetings the implications of signing “read and approved” on interim and final reports and providing the “certified correct” statement on the request for payments, to remind Project Managers of their duties and responsibilities as operational initiators.*

*(iv) In December 2020 the RT signed the second contract for Third Party Monitoring (TPM) in the region, following the lessons learnt from the first TPM project in Libya. It is expected that additional TPM projects will be launched,*

*particularly in those countries where the RT cannot conduct monitoring missions due to security concerns. The third consecutive TPM contract is expected to be signed by the end of 2021.*

*In the field of humanitarian aid, to receive funding, since 1 January 2021 all NGOs have to pass beforehand a certification process which requires them submitting a positive ex-ante assessment of their management and control systems signed off by a professional independent auditor. In order to qualify the ex-ante assessment the auditors have performed design and effectiveness audit tests that ensure amongst other issues that the NGOs systems have the capacity to prevent that non-eligible expenditure are claimed to DG ECHO. DG ECHO has also enhanced its ex-ante checks specifically on VAT eligibility.*

19. (Nr 2 (second part) - 2019/COU/0256) The Council supports the recommendations of the Court regarding

(b) the disclosure of the limitations of DG NEAR's Residual Error Rate study in the Annual Activity Reports (AAR).

**Commission's response:**

*The Commission has accepted the recommendation and DG NEAR has duly reported, in its Annual Activity Report for 2020 (page 34), that the residual error rate study does not provide an audit opinion.*

20. (Nr 2 (third part) - 2019/COU/0257) The Council supports the recommendation related to the methodology for calculating the "grant rate" by DG NEAR in order to reflect more accurately the higher risk in the area of direct management grants.

**Commission's response:**

**Response published in the report:**

**Recommendation 8.2**

*The Commission does not accept this recommendation. The purpose of the additional grant sample is to provide the Commission with corroborative information complementing (and improving upon) the grants-related information provided by the main sample. A higher confidence level would necessitate a much larger sample, with a corresponding increase in cost, without making a substantial contribution to the overriding purpose of having an additional grant sample. This approach also respects the principle of cost-efficiency of controls.*

## CHAPTER 9 - ADMINISTRATION

21. (Nr 6 - 2019/COU/0258) The Council takes note of the Court's finding that EU institutions and bodies had reduced their establishment plans by 1 409 posts (3 %) from 2012 to 2018, while the number of contract staff increased by 3 253 budgeted full-time equivalents (FTE) (37 %) during the same period. The Council calls on the Commission to monitor this development closely with the aim of stabilising the total workforce in line with the July 2020 European Council conclusions.

**Commission's response:**

*The Commission monitors the evolution of its workforce when preparing its annual budget request as well as during the budget implementation throughout the year. Given that the current MFF has been built on a stable staffing level over the whole period, the Commission carefully assesses any requests for additional posts or contract agents by its services and strives for meeting new needs by identifying negative priorities and internal redeployment.*

*In its consolidation role for establishing the budget request for Heading 7 of the MFF, laid down in Article 314§1 of the TFEU, the Commission also exercises a close scrutiny on the other Institutions' budget request and, when deemed justified and possible, adjusts them with a view to respecting a stable staffing level. This principle has been applied in the budget requests for the first two years of the MFF and the Commission will continue on this path for the remaining years until the end of the current MFF. However, it has to be borne in mind that the ultimate decision on the number of staff allocated to the institutions and bodies lies with the Budget Authority.*

*Regarding the evolution of the contract agent population, the evolution of the overall number of contract agents has been driven by very specific needs, such as the replacement of grant holders previously employed under national law by a large number of scientific and technical support officers in the Joint Research Centre and the implementation of new programmes delegated by the Commission to the executive agencies which was neutral in budgetary terms and in terms of Commission staff transferred. In the context of the new additional tasks attributed to the Commission under NGEU, the Commission intends to deploy additional staff financed from assigned revenues. Given the temporary nature of the work, these will be mainly contract agents, engaged for a limited period until 2027.*

## Annual Report on Performance - INTRODUCTION

22. (Nr 5 (first part) - 2019/COU/0259) The Council encourages the Commission to continue its efforts in particular to:

(a) improve the reliability of the performance information presented in the programme statements and the AMPR.

### Commission's response:

*The Commission acknowledges the importance of solid and reliable performance information and is committed to presenting high-quality performance information, to which significant attention is given in the instructions and the preparation of the performance reports.*

*The Commission is constantly seeking to strengthen the reliability and quality of the information provided, wherever possible, and to clearly indicate any issues in relation to the reliability of the information presented in the programme statements and the Annual Performance and Management Report. The MFF 2021-27 will allow the Commission to continue making progress in this respect.*

*However, the Commission is not in a position to fully control or guarantee the reliability of performance information provided by others, though it has taken and will continue to take steps to mitigate the related risks.*

*The European Commission is fully committed to ensuring that the 2021-2027 MFF: (i) is implemented in full accordance with the highest standards of financial management, (ii) is as effective as possible in achieving its key objectives, and (iii) delivers value for all EU citizens. Thereto, the Commission adopted a Communication on the performance framework for the EU budget under the 2021-2027 MFF (COM(2021) 366 final) on 8 June 2021, alongside the draft budget 2022 and the 2019 Annual Management and Performance Report. The Commission hereby puts performance of the EU budget front and centre with the provision of a sound performance framework. The framework comprises all the tools and procedures necessary to set objectives and measure and monitor progress towards them. It covers all EU programmes, including those financed from NextGenerationEU.*

*In an accompanying Staff Working document (SWD(2021) 133 final), Programme and Performance fiches set out the key features of each EU spending programme under the 2021-2027 MFF, namely the challenges it addresses, why an intervention at EU level can add value, the programme's objectives, the types of interventions it will finance to help achieve these objectives, and the indicators to assess its performance, including key technical information such as the source, data availability and the methodology to estimate the baselines and targets.*

23. (Nr 5 (second part) - 2019/COU/0260) The Council encourages the Commission to continue its efforts in particular to:

(b) to continue to report on the performance of EU spending programmes for at least as long as substantial amounts of payments beyond the duration of the MFF period concerned are being made during the following MFF.

**Commission's response:**

*The Commission continued reporting on the performance of the 2014-2020 programmes in the 2020 Annual Management and Performance Report, as well as the Programme Statements (Working Document I) for the draft budget 2022.*

*The Commission intends to continue providing information on the completion of the 2014-2020 programmes, taking into account the year for which the final targets of the programmes are set (in many cases: 2023). The bulk of the payments for the completion of the 2014-2020 programmes will have been made by then. The Commission will discontinue reporting as soon as related information is no longer useful. The Commission will also report on the results of the final evaluations of the 2014-2020 programmes.*

**ARP - COMPETITIVENESS FOR GROWTH AND JOBS**



**ARP - NATURAL RESOURCES**

**ARP - SECURITY AND CITIZENSHIP**

24. (Nr 2 - 2019/COU/0261) The Council notes that the indicators did not provide information on the performance of the programmes themselves, and consequently invites the Commission to present indicators clearly illustrating the extent to which the programmes were delivering expected outputs and results.

**Commission's response:**

*Regulation (EU) 2018/1046 (Financial Regulation) requires the Commission to report in the programme statements on all indicators set out in the legal bases of the spending programmes, as agreed by the European Parliament and the Council based on proposals made by the Commission.*

*The preparation of the 2021-2027 multiannual financial framework has provided the opportunity to further improve the performance framework of the EU budget, taking into account lessons learnt from the past. The Commission has made a major effort to select a set of high-quality indicators for the new programmes that provide a representative indication of performance on an annual basis throughout the cycle. The Commission has worked closely with the European Parliament and the Council to make sure that these improvements were reflected in the adopted versions of the programmes.*

*The European Commission is fully committed to ensuring that the 2021-2027 MFF: (i) is implemented in full accordance with the highest standards of financial management, (ii) is as effective as possible in achieving its key objectives, and (iii) delivers value for all EU citizens. Thereto, the Commission adopted a Communication on the performance framework for the EU budget under the 2021-2027 MFF (COM(2021) 366 final) on 8 June 2021, alongside the draft budget 2022 and the 2019 Annual Management and Performance Report. The Commission hereby puts performance of the EU budget front and centre with the provision of a sound performance framework. The framework comprises all the tools and procedures necessary to set objectives and measure and monitor progress towards them. It covers all EU programmes, including those financed from NextGenerationEU.*

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25. *(Nr 5 - 2019/COU/0262)* The Working Party is also concerned that the frequency of errors continues to point to weaknesses in the ex-ante checks and expenditure verification reports. Commission's efforts to prevent, detect and correct errors should be stepped up, more attention should be paid to ex-ante checks, and appropriate measures should be taken to address existing weaknesses.

**Commission's response:**

*The Commission strives to apply the strictest and most rigorous mechanisms to the control of its financial transactions. However, it is important to remember that - given the particular context in which external actions take place - a certain level of error, linked to specific factors, is difficult to avoid. In any event, the Commission considers that the implementation of the measures included in the 2020 action plan will mitigate the weaknesses in DG INTPA's control system.*

26. *(Nr 9 - 2019/COU/0263)* The Working Party acknowledges the satisfactory progress achieved in the implementation of the 2017 and the continued implementation of the 2018 Action Plans, and will await next year's Annual report of the Court and the assessment therein of the progress, with the implementation of the Commission's 2019 Action Plan. The Working Party looks forward to an update from the Commission on the Action Plan's implementation at the end of the first half of 2021, including an update on the implementation of the recommendations in the Court's report from 2019.

**Commission's response:**

*Based on the analysis of control findings, including the recommendations in the Court of Auditors' 2019 Annual Report, DG INTPA adopted an Action Plan in October 2020 and will assess its implementation at the latest by September 2021. The Working Party and other relevant audit and control stakeholders will be updated on the progress made.*

27. *(Nr 13 (first part) - 2019/COU/0264)* The Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors to the Commission:

1) to improve the RER study's methodology and manual so that they give more comprehensive guidance on the issues identified in the report (which the Commission has accepted).

**Commission's response:**

*In the light of the ECA's observations and the Council's recommendation, the Commission is looking into the possibilities to amend the RER manual and methodology, taking expected costs and benefits fully into account and without altering the nature of the RER study.*

28. (Nr 13 (second part) - 2019/COU/0265) The Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendations of the Court of Auditors to the Commission:

2) to issue reservations for all areas found to have a high level of risk, regardless of their share of total expenditure and their financial impact (which the Commission has not accepted).

**Commission's response:**

*Since the 2019 financial year, a de minimis rule for issuing reservations in the Directors-General Annual Activity Reports (AARs) has been introduced. Its purpose is to focus the number of reservations on the significant ones only, while maintaining the transparency in management reporting. Full transparency of the management reporting remains ensured (as the cases for which the rule has been applied are duly mentioned in the AAR). Therefore, the Commission is not in the position to accept this recommendation.*

**SR No 09/2019 'EU Support to Morocco - Limited results so far'**

29. (*Annex, Nr 13 - 2019/COU/0266*) The Council notes that Morocco is in the process of designing a renewed national development model, which is also expected to address post-COVID-19 socio-economic recovery challenges, and could provide a coherent framework for development cooperation. EU cooperation should consider how best to support the Moroccan government in its work to adopt and implement reforms identified as needed, as well as in its efforts to mitigate the consequences of the COVID-19 pandemic. In this light, the EEAS and the Commission should be pursuing a multi-faceted political and policy dialogue with the Moroccan counterparts, including civil society. Fully aware of the socioeconomic and political expectations of the Moroccan people for the pursuit and advancement of its reform agenda, the Council underlines the importance of developing EU cooperation with Morocco in line with the EU-Morocco Joint Political Declaration of June 2019, thus giving new impetus towards developing a true Euro-Moroccan partnership of shared prosperity. In line with the Court's recommendation, this cooperation should be continuously assessed, in order to optimize its effectiveness and impact.

**Commission's response:**

*All new Financing Agreements for budget support programmes contain an explicit listing of the key areas of policy dialogue, which are also reflected in relevant official correspondence with the government for all ongoing programmes, as well as in the exchanges between the Delegation and headquarters when processing budget support payments (in the disbursement files).*

*End-of-year reporting on the results of policy dialogue has been, and will continue to be part of the annual External Assistance Management Reports.*

*In addition, the Association Council's sub-committees, which resumed in 2020, provide the Commission with the necessary platform for a structured strategic dialogue in all relevant areas of cooperation. They should allow an assessment on the progress of sectoral reforms, to raise important policy issues and jointly agree the way forward.*

**SR No 15/2019 entitled "Implementation of the 2014 staff reform package at the Commission"**

30. (*Annex, Nr 6 - 2019/COU/0267*) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,
- to conduct the necessary studies and complementary analysis, which should, inter alia:
- (i) extend the scope of the assessment of the functioning of the Staff Regulations beyond the Commission to all Union institutions, bodies and agencies.

**Commission's response:**

*The Staff Regulations provide for a number of reporting obligations. Since 2014, the Commission has provided a significant number of reports. A final report on the functioning of the Staff Regulations (Article 113 SR) was adopted on 4/08/2021. The scope of the report already includes all institutions and bodies. Therefore, we consider that this recommendation is implemented.*

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0439>

31. (*Annex, Nr 6 - 2019/COU/0268*) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,
- to conduct the necessary studies and complementary analysis, which should, inter alia:
- (ii) address the fulfilment of the objective of achieving the 5% reduction of posts in establishment plans during the period 2013-2017 in all institutions, bodies and agencies<sup>1</sup>, the importance of which was underlined by the Council in its conclusions on the budget guidelines for 2020<sup>2</sup>.

1) European Court of Auditors' Rapid case review of 21 December 2017 on the implementation of 5% reduction of staff posts, <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=44567>

2) Council conclusions on the budget guidelines for 2020, para. 32.

**Commission's response:**

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

*current MFF. The 5 % reduction of posts in the establishment plan was not part of the 2014 reform of the Staff Regulations and therefore cannot be assessed in a report on the functioning of the Staff Regulations. In any case, as stated in the rapid case review on the implementation of the 5% reduction of staff posts by ECA, the Commission achieved the objective.*

32. (Annex, Nr 6 - 2019/COU/0269) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(iii) analyse the extent and budgetary implications of the increased use of contract staff.

**Commission's response:**

*The Commission analyses the use of contract staff on a regular basis and annually reports on its use pursuant to Article 79(3) of the Conditions of Employment of Other Servants of the European Union (CEOS). The related budget appropriations are requested during the annual budget procedure, within the boundaries of the ceilings of the current MFF, which has been built on a stable staffing level over the whole period. In the working documents that accompany the annual budget request, the Commission presents a comprehensive overview of the number of human resources used to fulfil its mission and the related budgetary impact.*

33. (Annex, Nr 6 - 2019/COU/0270) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(iv) analyse the extent and budgetary implications of the increased use of external outsourcing across the board.

**Commission's response:**

*In the annual draft budget, the Commission requests all the necessary budgetary resources to fulfil the tasks entrusted to the Institution by the legislator while respecting the limits of the MFF ceilings. In implementing the allocated appropriations, the Commission uses its human resources and outsources part of its tasks in a way to optimise the use of the available budget.*

34. (Annex, Nr 6 - 2019/COU/0271) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(v) analyse the pension savings achieved in relation to evolving pension expenses, monitor the development of the effective retirement age and use up-to-date comparative data regarding Member States' pension systems<sup>3</sup>.

3) E.g., data obtained by European Commission's Working Group on Article 83, OECD Pension Outlook 2018, Pensions at a Glance 2019: OECD and G20 Indicators

**Commission's response:**

*The pensionable age has been addressed by the Article 77 report which has been presented and welcomed by the Council. The data for savings delivered by the 2014 reform of the SR has been subject to a report of the European Court of Auditors to which the Commission provided all the necessary data. The report contains independent conclusions stating that "the 2014 package is delivering significant savings to the EU budget that are higher than originally expected". As regards the next rendez vous clause on the functioning of the pension system, Article 14(1) of Annex XII to the SR states that "in 2022 the Commission shall submit a report to the European Parliament and the Council. That report shall have regard to the budgetary implications of this Annex and shall assess the actuarial balance of the pension system. On the basis of that report the Commission will, if appropriate, submit a proposal to amend this Annex". The Commission will comply with the deadline set by the Staff Regulations to the end of 2022.*

35. (Annex, Nr 6 - 2019/COU/0272) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(vi) assess the overall attractiveness of the European civil service from both the perspective of current staff (turnover, job satisfaction) and the perspective of jobseekers.

**Commission's response:**

*It should be clarified that the Staff Regulations do not provide for reporting obligation in the specific area of attractiveness.*

*To date, the absence of a legal requirement did not prevent the Commission from assessing its attractiveness:*

*1. As regards staff members, the Commission regularly carries out a staff survey, which notably assesses job satisfaction;*

*2. As regards jobseekers, the European Personnel Selection Office (EPSO) publishes its Annual Activity Report. This Report provides data on the number of applications to competitions, on ongoing and closed competitions, on the laureate delivery rate and on candidate satisfaction rate. It also describes EPSO's efforts to increase the attractiveness of the EU institutions as an employer of choice. With the aim to reach a better geographical balance in applications, EPSO will collect information on potential blocking factors and identify possible solutions to be developed with the Institutions and the Member States. In addition, EPSO is stepping up its outreach activities to various population groups, the main target being greater diversity in its candidate pool.*

*Moreover, the Commission is on the process of defining a new Human Resources strategy in which attractiveness is a major priority. The aim is to provide a green, flexible, inclusive and respectful workplace and in close cooperation with EPSO promote the Commission as offering diverse career opportunities based on EU values and contributing to the lives of the millions of people we serve. Special attention will be given to attracting diverse talents (under-represented nationalities, gender, disability, racial or ethnic origin, socio-economic background, age, sexual orientation, religion or belief).*

36. (Annex, Nr 6 - 2019/COU/0273) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(vii) monitor the balance of geographical origin ('geographical balance') within the European civil service and take into consideration additional elements provided in the Court's report, such as the wider scope of function groups and grades.

**Commission's response:**

*The Staff Regulations (SR) and Conditions of Employment of Other Servants (CEOS) of the European Union provide for the obligation to report on the implementation of Articles 27 SR and 12 CEOS during the period 1.1.2014-31.12.2016. The Commission issued this report on 15 June 2018 (COM(2018)377 final/2).*

*Besides these obligations, the Commission regularly publishes Statistics on the composition of its staff, including by nationality and by grade [European Commission Statistical Bulletin - HR - Data Europa EU]. The Commission also presented recent data on geographical balance to the Staff Regulations Working Party of the Council, following an invitation by the Presidency (meeting of 13 April 2021).*

37. (Annex, Nr 6 - 2019/COU/0274) The Council invites the Commission, in fulfilling those agreed reporting obligations [to the Council and EP, under the Staff Regulations] in a timely manner,

to conduct the necessary studies and complementary analysis, which should, inter alia:

(viii) provide figures for the net savings realised from 2014 onwards, taking the above- mentioned factors into account.

**Commission's response:**

*The data for savings delivered by the 2014 reform of the SR has been subject to a report of the European Court of Auditors to which the Commission provided all the necessary data. The report contains independent conclusions stating that "the 2014 package is delivering significant savings to the EU budget that are higher than originally expected". As regards the other Commission reporting obligations, the pensionable age has been addressed by the Article 77 report submitted in 2021 which has been presented and welcomed by the Council. The overall implementation of the Staff Regulations will be the subject of the Article 113 report that the Commission is about to submit in the coming weeks. Finally, in 2022, the Commission will submit two reports on Annexes XI and XII respectively to the European Parliament and the Council.*

38. (Annex, Nr 7 - 2019/COU/0275) The Council considers that it is important, in light of the Court's assessment of the reform's impact on Commission staff, to evaluate the effects and impact of the 2014 staff reform package and its consequences for staff before introducing any new changes, while taking any efficiency needs into consideration.

**Commission's response:**

*The Commission considers that no amendment is necessary and the future Human resources strategy can be implemented within the existing Staff Regulations. Should the European Commission decide to propose amendments to the Staff Regulations, the assessment by the European Court of Auditors would certainly be taken into consideration. According to the Staff Regulations, the report under Article 77 was an avenue for making such assessment. The other*

*provisions that provide for such an assessment are Annex XI and XII. The analysis will be made in 2022.*

**SR No 17/2019: "Centrally managed EU interventions for venture capital: in need of more direction"**

39. (*Annex, Nr 9 - 2019/COU/0276*) The Council invites the Commission to continue exploring measures and strategies to further develop the EU venture capital market as a whole, taking into account local markets specificities and different stages of development, whilst making full use of all available regulatory and non-regulatory instruments and resources.

**Commission's response:**

*On 10 March 2020, the European Commission presented 'A New Industrial Strategy for Europe': [https://ec.europa.eu/info/sites/default/files/communication-eu-industrial-strategy-march-2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-eu-industrial-strategy-march-2020_en.pdf). It foresees measures in support of integrated capital markets and more funding opportunities for citizens and businesses via an action plan on the Capital Markets Union in 2020.*

*On 24 September 2020, the European Commission adopted a new Capital Markets Union action plan: [https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union/capital-markets-union-2020-action-plan\\_nl](https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union/capital-markets-union-2020-action-plan_nl).*

*This action plan sets out key measures to deliver on finally completing the Capital Markets Union. The action plan proposes 16 legislative and non-legislative actions. For example, the action plan encompasses measures in: supporting vehicles for long-term investment, encouraging more long-term and equity financing from institutional investors, directing SMEs to alternative providers of funding, building retail investors' trust in capital markets, alleviating the tax associated burden in cross-border investment, etc.*

*On 5 May 2021, the European Commission updated the 2020 New Industrial Strategy: [https://ec.europa.eu/info/sites/default/files/communication-industrial-strategy-update-2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-industrial-strategy-update-2020_en.pdf). For example, the update refers to ongoing preparation of financial products for capital support and equity investments for SMEs under InvestEU programme.*

40. (*Annex, Nr 9 - 2019/COU/0277*) The Council invites the Commission and, as appropriate, the EIF to provide updates at appropriate junctures, taking particularly into account the mid-term review of InvestEU, on relevant improvements undertaken in light of the recommendations laid down in the European Court of Auditors' Special Report and the Commission's related replies.

**Commission's response:**

*The Commission shall provide the Council with updates on the improvements undertaken in light of the respective recommendations of the European Court of Auditors' Special Report after the start of the InvestEU implementation and following the mid-term review of InvestEU. The replies of the Commission to the recommendations of the European Court of Auditors in the Special Report will be*

*appropriately addressed during the negotiation of guarantee agreements with InvestEU implementing partners, in particular with the EIF.*

**SR No 18/2019 entitled 'EU greenhouse gas emissions: Well reported, but better insight needed into future reductions'**

41. (*Annex, Nr 6 - 2019/COU/0278*) The Council invites the Commission to consider how coherence between national projections and those made by the Commission could be further improved, for example on how to assess the impacts on emissions of key EU policies and measures, such as the Emissions Trading System, the regulations on CO<sub>2</sub> emissions from road transport, and other sectors covered by the Effort Sharing Regulation, and, in the case of national projections concerning agricultural emissions, by means of additional guidance and planning assistance.

**Commission's response:**

*The Commission agrees that regular and adequate reporting and assessment of the effects of EU climate policies and measures on greenhouse gas emissions is important to evaluate their progress and effectiveness.*

*The Commission assesses the impacts of EU mitigation policies and measures on emissions ex ante. It also regularly conducts ex post evaluations, in particular when preparing policy revisions. It is working continuously to improve methodologies for assessment of the mitigation effects of individual policies. Key in continuously improving coherence with national projections is the coordinated and continuous process of the EU Reference Scenario, through which Member States are consulted on assumptions and draft results. The Commission is currently finalising the EU Reference Scenario 2020 publication and data (an update of the EU Reference Scenario 2016 - [[https://ec.europa.eu/energy/data-analysis/energy-modelling/eu-reference-scenario-2016\\_en](https://ec.europa.eu/energy/data-analysis/energy-modelling/eu-reference-scenario-2016_en)]) and plans to publish them this year. To a certain extent, some differences may persist considering that different models are used for the national and EU level projections.*

**SR No. 19/2019 "INEA: benefits delivered but CEF shortcomings to be addressed"**

42. (*Annex, Nr 8 - 2019/COU/0279*) The Council calls on the Commission and INEA to take into account the Court's recommendations for improving the conditions for the timely implementation of CEF and the monitoring of project results, including concrete commitments to take action on the recommendations, and emphasises in this context the importance of adequate long-term planning, especially concerning multi-annual CEF calls and projects.

**Commission's response:**

*In view of the entering into force of the CEF 2 programme, a comprehensive implementation process is being designed which will lead to enhanced procedures notably addressing the recommendation. This process includes inter alia the adoption of the CEF 2 Regulation, preparation of the first Multi-Annual Work Programme 2021-2023, CEF on-boarding into the e-grants IT system, a common (MOVE, ENER, CNECT) evaluation and selection approach, a new Memorandum of Understanding between the CEF DGs and CINEA/HaDEA on CEF implementation, preparation of the first CEF calls for proposals etc. In relation to the new agency mandates from 1 April 2021, a part of the CEF programme (CEF2 Digital) will be delegated almost entirely to the new agency Health and Digital (HaDEA). Both agencies CINEA and HaDEA as well as the 3 CEF DGs will ensure that the common guidelines and its application are appropriately followed up.*

**SR No 21/2019: "Addressing antimicrobial resistance: progress in the animal sector, but this health threat remains a challenge for the EU"**

43. (*Annex, Nr 9 (first indent) - 2019/COU/0280*) The Council calls upon the Commission and the Member States to continue to cooperate closely to reduce the burden of AMR through:

- full implementation of the actions set out in the 2017 One Health Action Plan against AMR.

**Commission's response:**

*The actions set out in the 2017 One Health Action Plan against AMR are being implemented; regular updates on the progress made are published on the Commission website. The last update was published in December 2020 and the next one is planned for publication in July 2021 ([https://ec.europa.eu/health/sites/default/files/antimicrobial\\_resistance/docs/amr\\_2018-2022\\_actionplan\\_progressreport\\_en.pdf](https://ec.europa.eu/health/sites/default/files/antimicrobial_resistance/docs/amr_2018-2022_actionplan_progressreport_en.pdf)).*

*The Commission foresees to carry out in 2022, with the support of an external contractor, a "future proofing analysis" of the EU AMR Action Plan in which the state of implementation will be further assessed.*

*In November 2020, the Pharmaceutical Strategy for Europe was launched. This aims at creating a future proof regulatory framework and at supporting industry in promoting research and technologies that actually reach patients in order to fulfil their therapeutic needs while addressing market failures. It includes initiatives in the area of AMR and announces piloting innovative approaches to EU R&D and public procurement for antimicrobials and their alternatives aiming to provide pull incentives for novel antimicrobials.*

*The Horizon Europe work programme for health research includes a coordination and support action (CSA) entitled "Development, procurement and responsible management of new antimicrobials". The aim of this topic is to prepare for the establishment of a pull incentive for new antimicrobials where there is an unmet public health need and a market failure, in line with the Pharmaceutical Strategy for Europe. Proposals submitted in response to this topic are expected to design a feasible option for a pull incentive that combines EU support for late stage development of antimicrobials with procurement by Member States and Associated Countries.*

44. (*Annex, Nr 9 (second indent) - 2019/COU/0281*) The Council calls upon the Commission and the Member States to continue to cooperate closely to reduce the burden of AMR through:

- further improvement of the collection of surveillance data on and monitoring of antimicrobial use and AMR.

**Commission's response:**

*The new Regulation on veterinary medicinal products, applicable as of January 2022, sets the obligation for Member States to collect data on their volume of sales of antimicrobials and on their use of antimicrobials per animal species.*

*To support Member States' data collection, the Commission plans to sign multi-annual grant agreements with Member States under the Single Market Programme (SMP) with annual instalments, over a six year period (2022-2024 and 2025-2027).*

45. (Annex, Nr 9 (third indent) - 2019/COU/0282) The Council calls upon the Commission and the Member States to continue to cooperate closely to reduce the burden of AMR through:

- better use of the outcome indicators developed to assist the Member States in measuring their progress in fighting AMR.

**Commission's response:**

*Primary and secondary indicators proposed in the 2017 Joint Scientific Opinion of the European Centre for Disease Prevention and Control (ECDC), the European Medicines Agency (EMA) and the European Food Safety Authority (EFSA) include a list of outcome indicators as regards surveillance of antimicrobial resistance and antimicrobial consumption in humans and food-producing animals' for antimicrobial consumption in food-producing animals are already being used.*

*The outcome indicators recommended by ECDC, EMA and EFSA are being analysed. The Commission presented the overall progress to Member States at the WHO-EC workshop on 16-17 June 2021.*

*The Commission Implementing Decision (EU) 2020/1729 on the monitoring and reporting of antimicrobial resistance in zoonotic and commensal bacteria and repealing Implementing Decision 2013/652/EU entered into force on 1 January 2021 and will be applicable until 2027.*

46. (Annex, Nr 10 (first indent) - 2019/COU/0283) The Council calls upon the Commission to:

- further promote the monitoring and prudent use of antimicrobial veterinary medicinal products through support to the Member States in developing systems that

comply with the data collection requirements of the new EU legislation on veterinary medicinal products.

**Commission's response:**

*To promote prudent use of antimicrobials in animals, the new Regulation on veterinary medicinal products, applicable as of January 2022, sets the obligation for Member States to collect data on their volume of sales of antimicrobials and on their use of antimicrobials per animal species.*

*To support Member States' data collection, the Commission plans to sign multi-annual grant agreements with Member States under the Single Market Programme (SMP) with annual instalments, over a six year period (2022-2024 and 2025-2027).*

47. (Annex, Nr 10 (second indent) - 2019/COU/0284) The Council calls upon the Commission to:

- continue promoting implementation in the Member States of results of the EU funded projects carried out by JAMRAI and OECD.

**Commission's response:**

*To promote the results of JAMRAI and OECD projects, a presentation and discussion was held on 14 December 2019 in the Health Security Committee (HSC). Due to the COVID-19 pandemic, the JAMRAI final conference was postponed to 11-12 February 2021 (<https://eu-jamrai.eu/eu-jamrai-final-conference/>); Information on JAMRAI was also provided to both EPSCO and AGRIFISH Council meetings in June 2021.*

*The final report of JAMRAI has been submitted at the end of June 2021; it is currently being analysed with a view to further disseminating its results; it will be taken into consideration for any future joint action.*

*The OECD project has been prolonged, also due to COVID-19. The final deliverable (report) is expected in the summer 2022.*

48. (Annex, Nr 10 (third indent) - 2019/COU/0285) The Council calls upon the Commission to:

- identify existing funding opportunities to better support the sustained implementation by the Member States of policies related to AMR, based on the One Health approach.

**Commission's response:**

*Funding opportunities such as the EU4Health programme, European Structural and Investment Funds (ESIF), InvestEU and the Technical Support Instrument (TSI) were presented to Member States at the WHO-EC workshop on 16-17 June 2021 and at a meeting dedicated to national action plans on 7 July 2021.*

*On 19 February 2021, DG SANTE provided a screening of AMR in the European Semester Country Reports for 2019 and 2020, in the State of Health in the EU and in the Technical Support Instrument 2021. In the first quarter of 2022, DG SANTE plans to perform a screening of any investments in AMR in national Recovery and Resilience Plans.*

*As a parallel process, the Commission negotiates with each Member State its investment plans to be financed by European Structural and Investment Funds (new partnership agreements and operational programmes) in the programming period 2021-2027 and will be able to screen for AMR investments by the second quarter 2022.*

*As part of its priority setting exercise for activities, the Steering Group of Promotion and Prevention (SGPP) highlighted AMR as number one priority for best practices in 2021-2025. The AMR best practice work will include reviewing the best practices collected by the OECD and suggest a set of practices for the SGPP in 2021 in view of implementation in 2022 and onwards.*

*In addition, the SGPP will be asked to identify sub priorities on AMR to steer the actions into those in the first instance. A meeting with the European Investment Bank related to AMR took place late 2020 to discuss Bank's plans for an AMR fund.*

49. (Annex, Nr 10 (fourth indent) - 2019/COU/0286) The Council calls upon the Commission to:

- strengthen support of research and development of new antimicrobials, alternative treatments and vaccines through EU funding and incentives, while evaluating in a comprehensive way its support to AMR research.

**Commission's response:**

*Due to the COVID-19 fast growing pandemic, in 2020/2021 resources in the area of infectious diseases were significantly redirected to respond to the pandemic, which was prioritised. Therefore, the terms of reference for a large study that intends to also include a comprehensive evaluation of the support the Commission has given to AMR research are being developed (expected to be published in summer 2021). The study is expected to deliver its results on the AMR evaluation in the second quarter of 2022.*

50. *(Annex, Nr 10 (fifth indent) - 2019/COU/0287)* The Council calls upon the Commission to:

- develop a strategy for its support to AMR research in the context of global and European funding programmes and initiatives, to ensure sustainability of activities across programming periods and, if appropriate, strengthen the involvement of the pharmaceutical industry, including SMEs, and other relevant stakeholders in the development of new antimicrobials and treatments.

**Commission's response:**

*The Horizon Europe work programme for health research includes a coordination and support action (CSA) entitled “A roadmap towards the creation of the European partnership on One Health antimicrobial resistance (OH AMR). This intends to enable the development of a Strategic Research and Innovation Agenda to be implemented by the expected future European partnership on One Health antimicrobial resistance (OH AMR).*

*Through the implementation of this CSA Research funders, policy makers, relevant agencies and authorities, and the research community are expected to profit from a strengthened coordination and collaboration among different fields of research and innovation with relevance to antimicrobial resistance (AMR), maintaining Europe's leading role in combating AMR.*

*Horizon Europe is also expected to launch an EU–Africa Global Health Partnership, named European and Developing Countries Clinical Trials Partnership 3. This partnership is expected to strengthen global AMR research guided by a strategic research and innovation agenda. and allows for public – private collaboration in the area of antimicrobial medicine development.*

*Additionally, a European Partnership on animal health and welfare is planned for the work-programme 2023-2024 of Horizon Europe, in order to foster research coordination on infectious animal diseases and their impact (e.g. zoonoses, Anti-microbial resistance), on the strengthening of animal welfare, to generate key knowledge and its exploitation for innovative products and evidence based policy making.*

*Furthermore, The European Commission announced the creation of a new EU authority, named HERA (Health Emergency Response Authority), which will support the European capacity and readiness to respond to cross-border threats and emergencies, including AMR. HERA will engage with industry, science, academia and clinical research organisation networks, with the aim of implementing successful public-private partnerships.*

51. *(Annex, Nr 10 (sixth indent) - 2019/COU/0288)* The Council calls upon the Commission to:

- examine, in close cooperation with the Member States, how to address the problem of withdrawals from the market of existing products, the mechanisms that affect the continuity of supply of antimicrobials and market failures hindering the development of new treatments and antimicrobials.

**Commission's response:**

***The Pharmaceutical Strategy for Europe acknowledges the importance of tackling AMR. It will address several challenges such as lack of economic interest in Research and Development, access and availability of new and old antibiotics.***

52. (Annex, Nr 10 (seventh indent) - 2019/COU/0289) The Council calls upon the Commission to:

- assess the option of integrating the monitoring of AMR occurrence in the environment into existing environmental monitoring schemes in order to collect robust evidence to underpin further policy making, in particular, when implementing the Strategic Approach to pharmaceuticals in the environment.

**Commission's response:**

***The Pharmaceutical Strategy for Europe acknowledges the importance of tackling AMR. It will address several challenges, such as inappropriate use of antimicrobials, lack of economic interest in R&D, access and availability of new and old antibiotics.***

***The Strategy takes into consideration the EU strategic approach to pharmaceuticals in the environment and the EU One Health action plan on antimicrobial resistance that set out targeted actions that are currently being implemented. Through international cooperation, the Commission addresses the environmental risks in other countries where pharmaceutical emissions from manufacturing and other sources may contribute to the spread of AMR.***

**SR No 24/2019 entitled "Asylum, relocation and return of migrants: Time to step up action to address disparities between objectives and results"**

53. (*Annex, Nr 5 - 2019/COU/0290*) The Council is looking forward for the Commission to come up with the proposal for a new Pact on Migration and Asylum, and invites the Commission to take into account the conclusions and recommendations of the Special Report when developing this new Pact.

**Commission's response:**

*The conclusions and recommendation of the European Court of Auditors' special report No 24/2019 have been taken into account when developing the New Pact on Migration and Asylum. The Commission submitted to the European Parliament and the Council the new Pact on Migration and Asylum in September 2020 (COM/2020/609 final). The new Pact provides a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management, recognising that the overall effectiveness depends on progress on all fronts. It creates faster, seamless migration processes and stronger governance of migration and borders policies, supported by modern IT systems and more effective agencies.*

*The emergency relocation schemes have been criticised for being only temporary and ineffective. The proposed Asylum and Migration Management Regulation would establish a permanent system that delivers effective solidarity to Member States facing migratory pressure or recurring disembarkations following search and rescue operations. The criticised shortage of experts and the overloaded appeal stage would be addressed by this system through solidarity contributions in the form of personnel. Likewise, the problem of low returns would be addressed by solidarity contributions in the form of return sponsorship and measures in the external dimension. The specific needs of the benefitting Member State would be taken into account when defining the solidarity contributions. Furthermore, the proposal for a Regulation to transform EASO into a fully fledged European Agency for Asylum will provide additional tools to meet the growing needs of Member States. The reinforced mandate will notably enable the Agency to provide enhanced operational support and overall improve the functioning of the Common European Asylum System. The proposed new compulsory pre-screening for identification, health and security checks, besides improvements of the Eurodac database, thus facilitating relocations, are also noteworthy in this context.*

**SR No 25/2019 on Budget Support data quality**

54. (*Annex, Nr 5 - 2019/COU/0291*) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(a) Increase the use and quality of outcome indicators in variable tranches, taking into consideration the discussions on indicators with partner countries and other budget support donors, in order to better measure longer-term results, while monitoring progress towards achieving the SDGs, in the framework of partner countries' national development plans.

**Commission's response:**

*Based on an analysis of all budget support programmes approved under the previous Multiannual Financial Framework for 2014-2020, outcome and impact indicators accounted for 29% of the total number of indicators used for the disbursement of variable tranches between 2014 and 2020. This compares positively with the rate of 13% measured in the sample audited by the Court of Auditors, which screened programmes approved in the early years of the MFF or before 2014. Alignment with the SDGs is promoted in EU dialogue on countries' policies, when designing the intervention logic of budget support programmes and when identifying performance indicators jointly with partner countries for variable tranche disbursements.*

55. (*Annex, Nr 5 - 2019/COU/0292*) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(b) Enhance quality control arrangements to improve the formulation of jointly agreed performance indicators, i.e. ensure that indicators are specific and measurable from a reliable baseline.

**Commission's response:**

*The Commission duly instructed EU Delegations to implement the Court's recommendations through a dedicated note, notably to improve the formulation of performance indicators. The Commission improved in June 2021 the guidance and templates used for the design of programmes. The training offer on the formulation of indicators and design of variable tranches has been expanded. New budget support programmes under NDICI Global Europe and IPA III instruments will be designed with a view to guaranteeing that indicators' formulation is always*

*specific, is always based on up-to-date baselines and does not allow for different interpretations.*

56. (Annex, Nr 5 - 2019/COU/0293) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(c) Safeguard the incentive effect of variable tranches to support meaningful progress, higher levels of ambitions and enhance accountability in partner countries, i.e. update and correct baseline values when necessary, and ensure that targets are not exclusively achieved through EU funded technical assistance.

**Commission's response:**

*The Commission duly instructed EU Delegations to implement the Court's recommendations through a dedicated note, notably to improve the formulation of performance indicators. The Commission improved in June 2021 the guidance and templates for the design of programmes. The training offer on the formulation of indicators and design of variable tranches has been expanded. Due care is taken to use up-to-date baselines before signing new financing agreements and when updating baselines and targets when needed for on-going programmes, and to avoid any situation whereby EU-funded technical assistance could substitute for partner governments' efforts to achieve targets.*

57. (Annex, Nr 5 - 2019/COU/0294) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(d) Simplify the disbursement process for variable tranches, i.e. reduce the number of indicators and refrain from using sub-indicators, in line with the budget support guidelines, while focusing on achieving the main policy objectives of budget support contracts.

**Commission's response:**

*The Commission duly instructed EU Delegations to implement the Court's recommendations through a dedicated note, notably to make sure the disbursement process of variable tranches always remains simple. The Commission improved in June 2021 the guidance and templates for the design of programmes. The training offer on the formulation of indicators and design of variable tranches has been expanded. New budget support programmes under*

***NDICI Global Europe and IPA III instruments will be designed with a view to keeping the number of indicators limited and refrain from using sub-indicators.***

58. (Annex, Nr 5 - 2019/COU/0295) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(e) Improve the quality of assessments of countries' statistical systems and their capacity to provide reliable performance data used in variable tranches, and ensure that the assessment includes an explicit conclusion before contracts are drawn up. Capacity development should accompany budget support if justified by the assessment.

**Commission's response:**

***The Commission duly instructed EU Delegations to implement the Court's recommendations through a dedicated note, notably to assess more explicitly statistical capacities and data quality in partner countries. The Commission improved the guidance and templates in June 2021 for the design of programmes. The training offer on the formulation of indicators and design of variable tranches has been expanded. The design of new budget support programmes under NDICI Global Europe and IPA III instruments will be designed with a view to guaranteeing that this assessment is always made explicit in action documents and to provide capacity building in this respect where needed.***

59. (Annex, Nr 5 - 2019/COU/0296) The Council underlines the importance of the Court's recommendations and calls on the Commission to continue its efforts to improve the design, monitoring and evaluation of budget support operations. In particular, it calls on the Commission to:

(f) Improve the verification of the performance data used to disburse variable tranches and agree on the means of verification with the partner beforehand.

**Commission's response:**

***The Commission duly instructed EU Delegations to implement the Court's recommendations through a dedicated note, notably to improve the verification of performance data where needed. The Commission improved in June 2021 the guidance and templates for payments. The training offer on the formulation of indicators, design of variable tranches and verification of indicators has been expanded. The Commission is taking action to make sure that all required checks are always performed as payment files are processed.***

60. (Annex, Nr 6 - 2019/COU/0297) The Council welcomes the Commission's commitment to implementing all of the Court of Auditors' recommendations, within the timeframe proposed, i.e. by the end of 2021. The Council encourages the Commission to report back to the Council within a year on the steps taken to this end and to integrate lessons learned into future budget support programmes.

**Commission's response:**

*The Commission improved in June 2021 its guidance, templates, internal review processes and training offer to make sure lessons learned feed into the implementation of on-going programmes and in the design of new operations under NDICI-Global Europe and IPA III as of 2021. The Commission will keep the Council and all other stakeholders informed of the progress in implementing the Court of Auditors' recommendations.*

61. (Annex, Nr 8 - 2019/COU/0298) The Council commends the Commission for its informative annual reports on budget support, which provide a solid overall picture of the use of the instrument in a given year. However, the Council calls on the Commission to make further efforts to increase the transparency of the instrument by providing more information on variable tranche performance and multi-annual performance trends, as appropriate. In addition, the Commission should further encourage partner countries to share multi-annual performance data in the relevant sectors supported through budget support programmes.

**Commission's response:**

*The Commission welcomes the recognition of its efforts to communicate EU budget support's contribution to results achieved by partner countries, and their progress towards SDGs. The assessment of this contribution to social, economic and environmental outcomes implies looking at trends over time and continuing to perform external evaluations, also taking account of the shocks that partner countries often face (most recently the COVID-19 pandemic). More detailed reporting on EU budget support also requires partner countries to upgrade their statistical systems and improve the use and communication of official data in their own context. Therefore, the Commission will assist partner countries with capacity building where needed to increase statistical capacities, thereby also fostering domestic accountability.*

62. (Annex, Nr 11 - 2019/COU/0299) The Council stresses the need for the Commission, the High Representative and the Member States to continue to substantially improve the systematic collection and use of sex and age disaggregated data and gender-sensitive indicators in identification, planning, implementation, monitoring and evaluation of all processes in the EU's external action, in line with the Gender Action Plan.

**Commission's response:**

*The Commission highlights that the Gender Action Plan III 2020-2025, adopted in November 2020, has a specific target regarding data disaggregation: 85% of new actions by 2025 need to provide sex-disaggregated or gender-specific data in at least the latest progress data entry, as mandated by the indicator formulation. The Commission is working at various levels to make sure this happens by:*

- Improving guidance on data disaggregation in budget support training and templates;*
- Including guidance on sex-disaggregated indicators in trainings on Gender equality and women's empowerment;*
- Ensuring that the internal quality review process of action documents, including budget support programmes, monitor and propose disaggregation of data at least by sex whenever relevant (when indicators are related to persons and not processes or structures), as well as gender specific indicators whenever possible;*
- Continuing to support national, regional and sectoral statistic bodies to facilitate such data disaggregation and to promote gender-responsive budgeting in countries (using disaggregated data) through capacity building and technical assistance.*

**SR No 01/2020 entitled "EU action on Ecodesign and Energy Labelling: important contribution to greater energy efficiency reduced by significant delays and non-compliance"**

63. (*Annex, Nr 10 - 2019/COU/0300*) The Council encourages the Commission to facilitate cooperation between market surveillance authorities while implementing the necessary instruments of Regulation (EU) 2019/1020.

**Commission's response:**

*A possible study on the impact of projects funded under Horizon 2020 in the energy efficiency field has been foreseen in the H2020 Work Programme 2018-2020, which could include such an assessment.*

**SR No. 02/2020 "The SME Instrument in action: an effective and innovative programme facing challenges"**

64. (*Annex, Nr 3 - 2019/COU/0301*) The Council notes the recommendation to preserve a scheme similar to Phase 2 and invites the European Commission to build on this in the next programming period.

**Commission's response:**

*The EIC Accelerator, piloted under Horizon 2020 in the fall of 2019 and in 2020 and fully implemented under Horizon Europe since spring 2021, is built on the SME Instrument Phase 2. Like the SME Instrument Phase 2 it offers a grant support (up to EUR 2.5 million within the limit of a maximum of 70% of eligible costs) to single SMEs (including start-ups) aiming to scale up high impact innovations with the potential to create new markets or disrupt existing ones. Beyond what was proposed under the SME Instrument Phase 2, the EIC Accelerator also offers investment to these SMEs (from EUR 0.5 to 15 million) through blended finance (i.e. a grant + an investment component) as well as through equity support only. These 3 possibilities of financial support (i.e. Grant only or Grant first ; blended finance ; and equity only) are already offered in the first EIC Work Programme 2021 (European Commission Decision C(2021) 1510 of 17 March 2021) with a total budget allocated to the EIC Accelerator calls of more than EUR 1.08 billion. The first cut-off date of the first EIC Accelerator call was on 16 June 2021. Like it was also the case under the SME Instrument Phase 2, beneficiaries of the EIC Accelerator will also receive access to a series of Business Acceleration Services (BAS) such as coaching, mentoring, expertise and training, access to global partners (leading corporates, investors, procurers, distributors, clients), access to innovation ecosystem and peers, ...*

65. (*Annex, Nr 5 - 2019/COU/0302*) The Council invites the European Commission to further improve its communication and branding strategy, including through the national contact points (NCPs), towards targeted start-ups, scale-ups and other innovative SMEs about the funding opportunities, in particular in those Member States with the lowest level of participation.

**Commission's response:**

*As far as the EIC is concerned, while respecting the EC corporate communication a specific visual entity (branding) has been launched at its launch ceremony (18 March 2021). Moreover, a communication targeting its main target group (i.e. SMEs including start-ups) has been elaborated and started to be implemented. Numerous seminar and workshops have been and will be organised in the EU all along the implementation.*

*Both the EIC Work Programme 2021 and the EU Innovation ecosystems (EIE) Work Programme 2021-2022 have among their KPIS the objective of achieving a balanced portfolio across geographical regions.*

*For improving balance across geographical regions and in particular the ‘widening’ countries defined in Horizon Europe (i.e.: Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia)*

*- National Contact Points and members of the Enterprise Europe Network will provide additional target support services for applicants from ‘widening’ countries;*

*- All applicants to the EIC Accelerator that receive a GO on their short applications will receive 3 days of coaching to prepare their full applications. This is expected to be particularly beneficial to those applicants from regions with less support available which are often the ones with the lowest participation.*

66. (Annex, Nr 6 - 2019/COU/0303) The Council notes that a substantial resubmission of proposals that have already been rejected in previous calls, which represents an excessive burden and a financial cost for the evaluation process. The Council invites the European Commission to design the conditions in the call for proposals and also an evaluation and selection process that would efficiently address this issue, where appropriate, in order to free up resources which are currently used to re-perform evaluations.

**Commission's response:**

*As far as the EIC Accelerator calls are concerned, strict and transparent rules regarding the possibility of resubmission of applications have been introduced in the first EIC Work Programme 2021 (European Commission Decision C(2021) 1510 of 17 March 2021) at each step of the evaluation process:*

***Remote evaluation of short applications:***

*- If rejected one time, the applicant may resubmit to the short application stage at any time, but will be expected to have made improvements.*

*- If rejected a second time the applicant will not be allowed to submit another application for 12 months, at which point it may only submit a new or significantly improved proposal to the short application stage.*

***Remote evaluation of the full proposal:***

*- If rejected one time, the applicant may resubmit directly to the remote evaluation of the full proposal at one of the following two cut-offs, but will be expected to have made improvements.*

*- If rejected a second time the applicant will not be allowed to submit another application for 12 months, at which point it may only submit a new or significantly improved proposal to the full application stage.*

***Face to face interviews with EIC Juries:***

*- If rejected one time but the jury decides the proposal is a potential GO if specific targeted improvements are made the applicant may be invited to resubmit a revised*

*application directly to one of the next two face to face interviews. The revised application must address the issues identified by the jury. Such a resubmission will only be permitted once.*

*- If rejected one time (including if awarded a Seal of Excellence) the applicant may resubmit directly to the remote evaluation of the full proposal at one of the following two cut-offs, but will be expected to have made improvements*

*- If rejected a second time the applicant will not be allowed to submit another application for 12 months, at which point it may only submit a new or significantly improved proposal to the short application stage.*

67. (Annex, Nr 7 - 2019/COU/0304) The Council invites the European Commission to refine its selection procedure, notably by providing remote evaluators and jury members guidelines and enough time to conduct their work, setting up relevant information channels between them, and assigning the appropriate type of experts to each stage of the evaluation.

**Commission's response:**

*The evaluation process of the various funding schemes of the EIC (e.g. Pathfinder, Transition, Accelerator ...) is specifically described in details in the EIC Work Programme 2021 (European Commission Decision C(2021) 1510 of 17 March 2021), including the use and rules of remote evaluators. The number of remote evaluators (or jury members) per application, their profile as well as the time allocated to their evaluation work is subject to the type of financing schemes concerned, the topics covered by the application and the type of beneficiaries (e.g. quickest answer for SMEs/startups under the EIC Accelerator). Each remote evaluator (or jury member) is invited to extensive and detailed briefing sessions before starting its work. Back-office support for any additional question they may have is provided by EISMEA as the Executive Agency implementing the EIC. Moreover, new functionalities provided by the EIC AI Platform allow remote evaluators to have access to the last available state of the art on innovation and technology (e.g. publications, patents, ...)*

68. (Annex, Nr 8 - 2019/COU/0305) The Council invites the Commission to strengthen the evaluation process to ensure avoiding the risk of crowding-out private investment, while acknowledging the crowding-in effect generated by the EU grant.

**Commission's response:**

*While the EIC Accelerator is addressing market failures, its purpose is not to crowd-out private investments but on the contrary to raise awareness and interests among investors to leverage and crowd-in co- and alternate investments. To ensure this key dimension in its evaluation process the EIC has notably established transparent and public investment guidelines for its investment*

*component (i.e. equity, equity-like) both in its pilot phase (2019-2020) and in its fully-fledged implementation under Horizon Europe (since 2021). These guidelines (subject to a final endorsement by the Commission at the end of the summer 2021) stipulates notably that the EIC Accelerator focusses on innovators and entrepreneurs, and complements the Single Union financial instrument (InvestEU), which is investor and financial intermediary driven. It aims at directly de-risking selected operations in order to better bridge these two worlds and crowd-in investors. For that purpose, the EIC Accelerator is designed to fulfil the role of initial or first risk-taker, where needed. Yet, as its default initial investment strategy and at any later stages as the operation unfolds, the EIC Fund will systematically seek co-investment from and syndication with other investors, on a matching basis, and even alternate investors. It will aim to crowd-in significant and fit-for-purpose additional or alternate funding needed to successfully develop an innovation, deploy it to the market and scale-up, whilst ensuring its sustainability. In addition to enhancing the impact of the Union support and contributing to stimulate the overall European investment ecosystem, bridging with and crowding-in qualified investors at the earliest stage is considered essential for the success of the investee companies and their innovation. More than funding only, “qualified investors” can add critical value to a company: they also have the knowledge, the expertise, the teams and the networks of contacts needed to help investee companies reinforce their teams and business strategies, and achieve a successful commercialisation and scale up in the specific verticals, in accordance with their high-growth potential and ambition.*

69. (Annex, Nr 9 - 2019/COU/0306) The Council calls on the European Commission to ensure effective synergies between all programmes and instruments targeted at SMEs.

**Commission's response:**

*The first EIC Work Programme 2021 (European Commission Decision C(2021) 1510 of 17 March 2021) features an integrated, agile support across the full innovation spectrum from early stage research to start-up and scale-up. The funding and support is organised into three main funding schemes: the EIC Pathfinder for advanced research to develop the scientific basis to underpin breakthrough technologies; the EIC Transition to validate technologies and develop business plans for specific applications; and the EIC Accelerator to support companies (SMEs, start-ups, spin-outs and in exceptional cases small mid-caps) to bring their innovations to market and scale up. In each case, the direct financial support to innovators is augmented with access to a range of Business Acceleration Services.*

*Linkages between these funding schemes will be maximised through proactive management and new approaches, such as additional grants to ongoing Pathfinder projects, a Marketplace to connect preliminary and final research results with entrepreneurs and investors and the Fast Track scheme from Pathfinder and Transition to enter the Accelerator.*

*Moreover, the EIC work programme has been prepared in coordination with the Horizon Europe strategic plan and work programme, and in particular the part on European Innovation Ecosystems, with the aim of integrating the direct support to innovators through the EIC with improvements to the overall European ecosystem. The EIC will also link with other components of Horizon Europe, including the European Research Council (ERC), the European Institute of Innovation and Technology (EIT) and its Knowledge and Innovation Communities (KICs), and with other Union funding programmes, such as InvestEU. In order to ensure seamless continuity and synergies between the EIC support and InvestEU, the EIC Fund and InvestEU will develop joint risk sharing mechanisms like blended debt and other hybrid instruments, which would be used where relevant to support EIC Accelerator selected companies as well as follow-on investment in EIC Accelerator companies or for the benefit of the Seal of Excellence companies. It may also include actions and collaboration to develop matching platforms in close relation with financial intermediaries supported by the InvestEU, also for the Seal of Excellence companies.*

*Moreover, concrete synergies are already established between the EEN from the COSME Pillar of the Single Market Programme (SMP) and the EIC via specific actions for the benefits of SMEs in widening countries and women-led innovative companies.*

*The Commission will ensure in the coming months and years additional synergies between Horizon Europe and other Commission programmes with the instruments targeted at SMEs.*

70. (Annex, Nr 10 - 2019/COU/0307) The Council invites the Commission and the Member States to step up efforts to operationalise and further promote the recognition of the ‘Seal of Excellence’ label.

**Commission's response:**

*The Seal was firstly launched as an initiative aimed at fostering synergies between the two programmes Horizon Europe and EISF. In this context, Supporting the Seal is a voluntary choice, and each MS/regions will consider it in relation to the other available support tools, the socio-economic situation and their administrative capacity. Therefore, even if many MS and regions have recognised the importance and the strategic value of supporting the seal, still they need guidance and support by the Commission to fully exploit this possibility, which entails a change of mentality and give-up some decision making power.*

*DG R&I, in collaboration with DG REGIO has undertaken several actions since the launch of the Seal initiative in October 2015 to support both the funding bodies and the Seal Holders to fully take advantage of the Seal of Excellence. These efforts have intensified lately due to the upcoming adoption of the Cohesion policy and preparation of the ERDF/ESF Operational Programmes.*

*Amongst the Commission initiatives to support the funding bodies, the main ones are the following:*

- *The Commission organises three to four times a year meetings of the Seal-of-Excellence Community of Practice (CoP).. Today counts a total over 240 members coming from 27 Member States and 3 Associated Countries.*
- *An IT internal platform allows members of the CoP to access presentations and important documents on the correct rules to be applied to support Seals and to exchange practices on the best modalities*
- *A dedicated website on the Seal of Excellence keeps displaying information on how to use the Seal, on the available funding opportunities, information for funding bodies and latest news.*
- *Participation & presentations to as many as possible national and regional events organised to promote synergies between Horizon and Cohesion policies*
- *Strong partnership with the Committee of the Regions in the context of the Join action plan to maximise the reach out*
- *In the near future, the intention is to bring closer together the two decision makers communities (for research funds and structural funds) through a network/platform enabling the exchange of practices and access to the same source of information*

*Thanks to this effort, we have assisted to a generalised increase of the awareness/recognition of the value of the proposals awarded a Seal of Excellence in practically all countries and most have established support schemes dedicated to seal proposals.*

*Following the available data from MS voluntary reporting, we count now 48 Seal support schemes at both regional and/or national level implemented in total 20 countries.*

*However, some funding authorities often mention as one the blocking factors the current administrative complexity due also to the application of the State Aid rules (indeed not intervening in the case of Horizon Funding). This barrier has been addressed through important simplifications in the next period (e.g. General Block Exemption Regulation (GBER) revision) Some examples as follows:*

- *In 2020, the Commission has included references to Seal of Excellence in almost all MFF EU funding programme regulations and has made an incredible effort to align the relevant provisions and reduce the administrative burden for funding bodies willing to support the seal. The General Block Exemption Regulation (GBER) under review, envisages to allow more favourable state aid conditions for the Seal. In particular, national and/or regional funding authorities (including those managing Cohesion Policy programmes) will be able to directly provide alternative funding to Seal of Excellence projects at the same financing conditions (i.e. funding rates and eligible costs) as under Horizon 2020/Horizon Europe.*

*Besides supporting the funding bodies to support the Seals, the Commission provides support also to Seal holders, or anyway to projects that are above threshold but not funded, for them to be able to find alternative funding.*

*A strand of actions is to raise the value of the Seal:*

• *For instance, in 2020, the Commission has issued thematic Seals, namely Green Deal and Covid-response Seals, in order to facilitate the uptake of these important proposals.*

• *In the future, the plan is to make the Seals eligible also for complementary non-financial support normally accessible only to Horizon projects and to make the awarding process of the Seal more selective and therefore increasing its value and reputation.*

• *Moreover, special agreements to be concluded between the Member State and/or the region concerned with the EIC Fund could also make it possible to allocate equity funding, in addition to a grant, according to the blended finance concept.*

*Last but not least, in addition to the provisions on the Seal, Cohesion Policy Managing Authorities will be allowed to voluntarily transfer funds to Horizon Europe that will be used to fund above threshold/not funded projects of the MS/regions providing the funding. Such a voluntary transfer of funds to Horizon Europe could be used for supporting through Horizon granting and project follow-up procedures, those above threshold/not funded project proposal that would otherwise receive the Seal of Excellence and then seek alternative funding in a specific region.*

71. (Annex, Nr 11 - 2019/COU/0308) The Council invites the Commission to ensure operational support for the network of NCPs from the beginning of the next framework programme, follow closely the success rates of countries and, if necessary, implement improvements specifically targeting innovative SMEs.

**Commission's response:**

*The Commission is working on the implementation of this recommendation. As regards the National Contact Points (NCPs), the Commission implement networking projects in the different Horizon Europe programme areas to address and advise the respective communities better/more specifically which is where NCPs play a very significant role.*

*The Commission also works on the information related to the calls for proposals, for further providing information to NCPs.*

*Consequently, NCPs are fully informed on the following: relevant changes in the Funding & tender opportunities Portal; Roadmaps, work programmes and upcoming calls; Changes in priorities or administrative procedures, particular provisions related to externalised bodies; Statistics of calls and evaluations (including the externalised measures) and other relevant information on funded projects; Other European R&I -programmes in all areas of the programme in the field of research and innovation .*

**SR No 11/2020 entitled "Energy efficiency in buildings: greater focus on cost-effectiveness still needed "**

72. (*Annex, Nr 4 - 2019/COU/0309*) The Council encourages the Commission to further develop planning and targeting of investments on energy efficiency measures before approving programmes for the spending of Cohesion policy funds. Commission's analysis should allow to put in place financial instruments to meet specific conditions across Member States, including market conditions, and favour the energy transition. The Commission should also assess whether the programmes regarding the Cohesion policy funds are in line with the National Energy and Climate Plans and the National Long-Term Renovations Strategies while taking into account the further promotion of the investments for the post COVID-19 pandemic economic recovery.

**Commission's response:**

*As part of informal dialogue, the Commission analyses the proposed use of grants or financial instruments for energy efficiency in buildings when assessing justification of the form of support in draft programmes (as specified in Article 22(3)(b) CPR) for those Member States which share their drafts at this stage. All programmes would be reviewed before the programmes are approved. The Commission promotes the use of financial instruments in particular through case studies prepared by fi-compass, a factsheet explaining the new rules on combination of financial instruments and grants which is very relevant for this field of support, webinars for Member States (e.g. on 15/06/2020). ]*

*The approval of cohesion policy programmes that support investments in energy is subject to the Member States being compliant with a number of 'enabling conditions', including specific ones related to energy efficiency (the Long Term Renovation Strategies (LTRS)) and national energy and climate plans (NECPs). Hence, the alignment of cohesion policy programmes with these LTRS and NECPs is ensured. The Common Provisions Regulations also includes a recital underlining that MS should prioritise operations that respect the 'energy efficiency first' principle when selecting investments.*

73. (*Annex, Nr 5 - 2019/COU/0310*) The Council encourages the Commission to set up a methodology to assess the energy savings resulting from the use of the EU funds.

**Commission's response:**

*The Commission prepared fiches for each of the common output and result indicators provided for by Annex I of the ERDF/CF Regulation 2021-2027. The fiches provide the national authorities with guidance on how to use the indicators (definition, measurement unit, baseline etc.) The fiches should ensure that the indicators are used in a consistent manner across programmes.*

*Common result indicator RCR26 (Annual primary energy consumption) will capture the energy consumption of the supported buildings before and after cohesion policy intervention.*

*However, the Commission cannot make the estimate. It is in fact not possible to define in advance the estimated energy savings, since (1) the buildings that will benefit from the cohesion policy support as well as the type of renovation they will undergo are not known in advance, (2) it cannot be anticipated if those buildings will also be subject of other changes which may influence their energy consumption (changes in the number of users and their behaviour after the completion of the intervention, modification of the equipment in the building etc.)*

*The energy savings resulting from the EU support will only be known by aggregating the data reported by programmes for result indicator RCR26.*

74. (Annex, Nr 6 - 2019/COU/0311) The Council calls on the Commission to reinforce its guidance to the Member States' managing authorities in improving projects' selection procedures and in assessing the relative costs and the multiple benefits of the projects.

**Commission's response:**

*In its proposal for cohesion policy funds 2021-2027, for the selection of operations the managing authority shall ensure that selected operations present the best relationship between the amount of support, the activities undertaken and the achievement of objectives. Selection criteria and procedures should also give priority to operations, which maximise the contribution of EU funding to the achievement of the objectives of the programme (COM(2018) 375 final, 29.5.2018, see in particular Article 67). These provisions aim at preventing the selection of projects with low contribution to the objectives of the programme. Further the provisions of the Energy Performance of Buildings Directive need to be respected, including the new requirement for Member States to link their financial measures for energy efficiency improvements in the renovation of buildings to the targeted or achieved energy savings.*

75. (Annex, Nr 8 - 2019/COU/0312) The Council encourages the Commission to make the performance framework more result-oriented to better monitor the progress towards Union's energy efficiency and the contribution to multiple policy objectives, also taking into account the lifecycle cost-effectiveness and the multiple benefits of the investments as well as improvements in accountability.

**Commission's response:**

*A common result indicator on the energy consumption of buildings receiving support from the cohesion policy (RCR26) has been included in the list of common indicators provided for in Annex I of the ERDF/CF Regulation for 2021-*

***2027. Once the programmes start reporting results associated to this indicator, the Commission will publish them on the Open Data Platform.***

***The Commission did not accept the related sub-recommendation 3b of the SR No 11/2020 entitled "Energy efficiency in buildings: greater focus on cost-effectiveness still needed ". The monitoring of cost-effectiveness of projects can only be done at the level of projects. The national authorities are free to define and use programme specific cost-effectiveness indicators when selecting the projects.***

**SR No 12/2020: "The European Investment Advisory Hub: Launched to boost investment in the EU, the Hub's impact remains limited",**

76. (*Annex, Nr 10 - 2019/COU/0313*) The Council invites the Commission and the European Investment Bank to report to the Council on the further implementation of the recommendations by mid-2021.

*Commission's response:*

*The Commission is pleased to follow the invitation of the Council to report on the further implementation of the recommendations:*

*The Commission has reported 6 recommendations out of the 13 formulated by the European Court of Auditors as already implemented as of 30/11/2020. The 7 remaining recommendations have an expected completion date of 31/12/2021 and are good on track for being implemented by this date.*

*Moreover, the Commission has produced a detailed overview of the implementation of the recommendations from the European Court of Auditors' Special Report 12/2020 "The European Investment Advisory Hub: Launched to boost investment in the EU, the Hub's impact remains limited" and has sent it to the Permanent Representative (Coreper II) of Slovenia on 6 July 2021. The responses to the recommendations that both the Commission and the European Investment Bank had accepted, have been elaborated in consultation with the Bank and reflect their contribution.*

**SR No 14/2020 on EU development aid to Kenya**

77. (*Annex, Nr 7 - 2019/COU/0314*) The Council encourages the Commission and the EEAS to continue prioritising poverty eradication and sustainable development in Kenya. Efforts should focus on fostering an appropriate investment climate and value chains, and on promoting sustainable growth, decent jobs and vocational training opportunities as well as sustainable livelihoods.

**Commission's response:**

*The Commission and the EEAS are taking action to ensure that the multiannual indicative programme (MIP) 2021-2027 for Kenya will take into account the Council's recommendations, notably to continue prioritising poverty eradication and sustainable development in Kenya.*

78. (*Annex, Nr 8 - 2019/COU/0315*) The Council welcomes the Court's observation that supporting the rule of law, the fight against corruption, good governance and public finance management in Kenya is very important. The Commission, the EEAS and Member States are encouraged to continue their efforts in this regard.

**Commission's response:**

*The Commission and the EEAS are taking action to ensure that the multiannual indicative programme (MIP) 2021-2027 for Kenya will take into account the Council's recommendations.*

79. (*Annex, Nr 9 - 2019/COU/0316*) The Council notes the Court's recommendation regarding a clear link between financial allocations and country performance as well as government commitment in Kenya. The Council invites the Commission, the EEAS and Member States to explore how Kenya's needs, capacities, commitments and performance can be better taken into account when deciding on financial allocations.

**Commission's response:**

*The allocation methodology is based on specific criteria which consider government commitment, performance, needs and capacities. For the Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe, adjustments made to the methodology based on the principles outlined in the regulation will better reflect Kenya's commitment, performance, needs and capacities.*

80. (*Annex, Nr 10 - 2019/COU/0317*) The Council acknowledges the Court's proposal to increase the EU's aid effectiveness by better focusing EU support to Kenya in

some fields of intervention. The Council calls upon the Commission, the EEAS and Member States to take this recommendation into account during the upcoming programming exercise - including when it comes to possible future Joint Programming and Team Europe Initiatives in Kenya, in an inclusive manner.

**Commission's response:**

***The multiannual indicative programme (MIP) 2021-2027 for Kenya will take into account the Council's recommendations, including the better focusing of EU assistance to only three priority areas. In addition, two Team Europe Initiatives specifically focused on Green Transition and Digitalisation are being developed, with dozen EU Member States involved.***

81. (Annex, Nr 11 - 2019/COU/0318) The Council notes the Court's observation that donor coordination in Kenya could be improved to increase development effectiveness. The Council invites the Commission, the EEAS and the Member States to further improve their efforts.

**Commission's response:**

***The Commission and the EEAS are taking action to address the Council's request. The EU Delegation to Kenya is engaging in donor coordination efforts at country level. Coordination with EU Member States has already improved with the preparation of Team Europe Initiatives in Kenya.***

82. (Annex, Nr 12 - 2019/COU/0319) The Council invites the Commission, the EEAS and Member States to jointly identify key areas where the EU could have the greatest impact and added value - both in the short and in the long term - and to align future programmes accordingly, including when jointly designing Team Europe Initiatives.

**Commission's response:**

***The Commission and the EEAS are taking action to ensure that the multiannual indicative programme (MIP) 2021-2027 for Kenya will take into account the Council's recommendations. Priority areas of the MIP and Team Europe Initiatives are being identified to ensure the impact and added value of EU initiatives.***

83. (Annex, Nr 13 - 2019/COU/0320) The Council calls on the Commission, the EEAS and Member States to design and implement jointly comprehensive approaches aimed at maximising positive development impacts in Kenya; together with relevant Kenyan partners.

**Commission's response:**

***The Commission and the EEAS are taking action to ensure that the multiannual indicative programme (MIP) 2021-2027 for Kenya will take into account the Council's recommendations. Team Europe Initiatives are being developed and will ensure joint approaches and maximum impact of EU interventions, in full engagement with Kenyan partners.***

**SR No 15/2020 entitled "Protection of wild pollinators in the EU: Commission initiatives have not borne fruit"**

84. (*Annex, Nr 6 - 2019/COU/0321*) The Council acknowledges the need for an EU-wide governance and monitoring framework, to effectively monitor and assess the status and trends of pollinators, the impact of the main drivers responsible for the decline in pollinators and of relevant EU policies, as well as the impact of conservation and restoration actions foreseen in the Habitats Directive on pollinator species; in this respect calls on the Commission to establish such a framework, in cooperation with Member States, as soon as possible and define detailed objectives and indicators regarding the key commitment 'The decline in pollinators is reversed' from the EU Biodiversity Strategy for 2030.

**Commission's response:**

*On 27 May 2021, the Commission published a report on progress in the implementation of the EU Pollinators Initiative and announced a revision of its action framework. The report summarised main achievements and outlined key challenges to be addressed during the revision, including relevant monitoring and governance aspects. The Commission will organise comprehensive consultation activities during the second half of 2021 in order to collect broad views and suggestions on how to improve the action framework and identify further measures that would be needed to fully implement the Initiative's long-term objectives. In the meantime, the Commission launched the SPRING project, a EUR 5M preparatory action which will support Member States with piloting and deployment of the EU Pollinator Monitoring Scheme during the 2021-2023 period. This scheme is the key prerequisite for the development of indicators to measure progress towards policy objectives and targets. The Commission also proposed a dedicated sub-expert group on pollinators within the governance framework of the EU Biodiversity Strategy for 2030, which is currently being prepared. This group will be the platform for discussion, coordination and cooperation with Member States on the revision of the EU Pollinators Initiative's framework and its subsequent implementation.*

85. (*Annex, Nr 13 - 2019/COU/0322*) The Council calls upon the European Food Safety Authority (EFSA) and the Commission to address specific protection goals for wild bees in the ongoing review of the Bee Guidance Document and for other pollinators in the project to develop a methodology for setting specific protection goals for the environmental risk assessment of pesticides.

**Commission's response:**

*The review of the Bee Guidance document by the European Food Safety Authority (EFSA) is on-going and depends on the setting of a Specific Protection Goal for bees.*

*Due to different views among Member States and the position of the Parliament, the Commission requested the Council Presidency to hold a public debate at Ministerial level proposing a protection goal for honeybees that took account of the various positions expressed so far and the scientific information provided by EFSA. The debate took place in the AGRIFISH Council of 28 June 2021.*

*During this Council meeting, a clear majority of Member States supported the Commission's proposal for a protection goal for honeybees of a maximum 10% reduction in colony size. This will be the basis for the further work by EFSA to complete the update of the guidance document. Commission will continue now the discussions with Member States on setting a specific protection goal for bumble bees and solitary bees.*

86. (Annex, Nr 13 - 2019/COU/0323) The Council calls upon the Commission and Member States to complement the protection goals for wild pollinators in the uniform principles for evaluation and authorisation of plant protection products and to integrate protection goals for wild pollinators in the evaluation process of biocides.

**Commission's response:**

*The Commission will establish in collaboration with the Member States a work plan for the development of test methods focusing on wild pollinators, once the revised Guidance Document from EFSA will be available and in the light of the outcome of the project to review Specific Protection Goals for the environmental risk assessment of pesticides.*

*Upon request of the Commission on 2 December 2019, the European Chemicals Agency (ECHA) is coordinating the development of a guidance document on the assessment of risks for pollinators from biocides.*

87. (Annex, Nr 15 - 2019/COU/0324) The Council calls upon the Member States and Commission to further support a higher uptake of Integrated Pest Management, prioritising non-chemical pest control methods and techniques over pesticide use, with priority given to low-risk pesticides with a lesser impact on wild pollinators.

**Commission's response:**

*The Commission is moving swiftly ahead with the evaluation and impact assessment of the Directive 2009/128/EC, the Sustainable Use of Pesticides Directive (SUD). During this process, drivers of low Integrated Pest Management (IPM) enforcement by Member States are being analysed, in order to identify the actions to be taken by the Commission and/or the Member States in line with the subsidiarity principles. A new legislative proposal is foreseen in the first quarter of 2022.*

*The Commission continues to support Member States in developing criteria for IPM enforcement and verification of compliance at farm level, according to the commitment made in its first report to the European Parliament and the Council of October 2017. The Commission organised Better Training for Safer Food (BTSF) Workshops on SUD and IPM, IPM expert meetings and SUD Working Group meetings.*

*The Commission continues to pass key messages to Member States on their obligations under Directive 2009/128/EC, the Sustainable Use Directive (SUD), including highlighting weaknesses already identified with regard to implementation of general principles of IPM by all professional users of plant protection products (PPPs), and its verification by relevant competent authorities (CAs) during their official controls at farm level.*

*The Commission also collected and promoted good examples from Member States' National Action Plans where the protection of pollinators was addressed through specific measures and targets. In the context of the Directive's revision, the Commission will explore with Member States if, and how, such provisions could be stipulated in all plans.*

*Under the SUD audit series, launched in 2018, the Commission is continuing to check compliance with SUD requirements through risk-based audits to Member States, with IPM enforcement being included within the audit scope.*

*Through a dedicated SUD webpage, the Commission continues to support, encourage and facilitate the exchange of information between Member States on SUD implementation, including implementation of IPM general principles and, in particular, existing general and crop-specific IPM Guidelines.*

**SR No 16/2020: "The European Semester - Country Specific Recommendations address important issues but need better implementation"**

88. (*Annex, Nr 10 (first part) - 2019/COU/0325*) The Council calls on the Commission, in line with the findings of the report Special Report No 16/2020: "The European Semester - Country

Specific Recommendations address important issues but need better implementation", to continue explaining the rationale underpinning its selection of reform and investment priorities in the recitals to the recommendations.

**Commission's response:**

*The European Semester has been temporarily adapted to coordinate it with the Recovery and Resilience Facility. There were no structural country-specific recommendations in 2021 given that the Member States are submitting recovery and resilience plans. In the design of the recovery and resilience plan, careful attention was paid to the selection of reform and investment priorities, in line with the country specific recommendations of 2019 and 2020.*

89. (*Annex, Nr 12 - 2019/COU/0326*) The Council invites all stakeholders to use the major opportunity of the recovery and resilience facility to stimulate investment and reform implementation, and ensure a lean and coherent policy coordination process that allows for effectively monitoring policy progress in all areas covered by the European Semester.

**Commission's response:**

*The national recovery and resilience plans were designed by Member States, which carried out consultations with stakeholders. The Commission provided assistance and guidance, in order to ensure that the policy priorities identified in the Country Specific Recommendations of 2019 and 2020 were effectively addressed through relevant reforms and investments.*

**SR No. 20/2020: "Combating child poverty - Better targeting of Commission support required"**

90. (*Annex, Nr 10 - 2019/COU/0327*) The Council calls on the Commission, in light of the recommendations of the Special Report, to include actions and objectives to tackle child poverty in its future initiatives, inter alia in the framework of the European Semester.

**Commission's response:**

*The European Pillar of Social Rights Action Plan, adopted by the Commission on 4 March 2021, proposed a headline target to reduce the number of people at risk of poverty or social exclusion by at least 15 million by 2030, 5 million of whom should be children. The target was welcomed by the European Council in June 2021.*

*The Council recommendation establishing a European Child Guarantee, proposed by the Commission on 24 March 2021 and unanimously adopted by the Council on 14 June 2021, is one of the first deliverables of the Pillar Action Plan and urges the Member States to guarantee effective and free access to a number of key services for all children at risk of poverty or social exclusion. The services in question include early childhood education and care, education and school-based activities, healthy meal each school day, and healthcare. In this manner the recommendation combats social exclusion and prevents intergenerational transfer of poverty.*

*The Member States are recommended to nominate national child guarantee coordinators and prepare, before March 2022, action plans on implementation of the European Child Guarantee recommendation, covering the period until 2030. The Member States are expected to report every two years on progress with implementation of the child guarantee, and the Commission intends to review the overall progress and report to the Council in 2026. The entire implementation process will be closely monitored by the Commission, including in the European Semester framework.*

*At least 25% of the ESF+ resources at national level should be spent to combat poverty and social exclusion. All Member States should allocate appropriate amounts from ESF+ and other sources to implement the European Child Guarantee, while the most affected Member States should invest at least 5% in measures combating child poverty.*

91. (*Annex, Nr 11 - 2019/COU/0328*) The Council calls on the Commission to ensure the completion of the necessary steps and information gathering for the preparation of the upcoming European Child Guarantee policy initiative.

**Commission's response:**

*The first two of three phases of the preparatory action for a child guarantee, have been completed, providing insights on the design, feasibility, governance and implementation of such a scheme in the EU Member States. The first phase of the preparatory action assessed the feasibility, efficiency and overall benefits of European Child Guarantee scheme and made concrete suggestions for improving policies and programmes at EU and (sub)national levels. The Final Report of this feasibility study is available at <https://ec.europa.eu/social/BlobServlet?docId=22869&langId=en>.*

*The second phase of the preparatory action built upon the findings of the first phase and provided a thorough economic analysis of the design, feasibility, governance and implementation options of a European Child Guarantee in all Member States. It started in December 2019 and was finalised in March 2021, prior to the adoption of the Commission's proposal for the European Child Guarantee recommendation. The final report is available here: <https://ec.europa.eu/social/BlobServlet?docId=23764&langId=en>.*

*In addition, the proposal for European Child Guarantee has been thoroughly consulted with various stakeholders, including – in conjecture with the consultations on the EU Strategy on the Rights of the Child – with children themselves. The results of those consultations fed into the eventual shape of the recommendation proposal.*

92. (Annex, Nr 12 - 2019/COU/0329) The Council calls on the Commission to continue supporting mutual learning and exchange of best practice among Member States, including through the SPC, and to provide, where relevant, guidance on how to establish a link with the ESI Funds.

**Commission's response:**

*The Commission intends to continue supporting mutual learning and exchange of best practice among Member States, including through the SPC. In particular, such best practice could be exchanged between the national child guarantee coordinators, whose nomination by the Member States is foreseen in the Council recommendation establishing a European Child Guarantee.*

*In the 2021-2027 programming period, the European Social Fund Plus (ESF+) will continue to support tackling of child poverty and development of quality mainstream education and care services. When programming the ESF+, the Commission will support the Member States in programming appropriate ESF+ funding to implementing the European Child Guarantee. Member States where the incidence of poverty or social exclusion risks among children was higher than the EU average between 2017 and 2019, will have to earmark 5% of the ESF+ for combatting child poverty. Other Member States will be required to earmark an appropriate amount. The Commission will encourage Member States to use other EU funding instruments and national resources available to support adequate investments in this area.*

*Working jointly with the Social Protection Committee, the Commission intends to establish a common monitoring framework and develop quantitative and qualitative outcome indicators to assess the implementation of the Guarantee. As part of this exercise, the Commission aims to enhance the availability, scope and relevance of comparable data at EU level.*

**SR No. 21/2020 "Control of State aid to financial institutions in the EU: in need of a fitness check"**

93. (*Annex, Nr 8 - 2019/COU/0330*) The Council invites the Commission to review its state-aid framework for banks in the context of the review of the crisis management framework, both starting in 2021 and to be completed in parallel by 2023. This should ensure entry into force at the same time with the review of the crisis management framework, with a view to ensuring consistency between the two frameworks, adequate burden-sharing of shareholders and creditors to protect taxpayers, and preservation of financial stability. The Council invites the Commission to start reporting progress by October 2021.

**Commission's response:**

*The Commission has committed to carry out an evaluation of current financial-sector State aid rules. The conclusions of this evaluation together with more clarity on the review of the crisis management framework (BRRD, SRMR, DGSD) will allow the Commission to decide on how the State aid rules should be reviewed. In this way, consistency between the two frameworks can be ensured.*

*Progress will be reported to the Council from October 2021 onwards.*

94. (*Annex, Nr 14 - 2019/COU/0331*) The Council invites the Commission, in cooperation with the Member States, and as part of the holistic approach to the review of the components of the crisis management framework, to take forward the examination and, where required, possible implementation of the aforementioned recommendations as well as further possible improvements concerning inter alia the Banking Communication in that broader framework; and, whilst having also regard to the upcoming review of the bank crisis management and deposit guarantee framework (BRRD/ SRMR and DGSD reviews), to report to the Council on related progress, starting in 2021.

**Commission's response:**

*The Commission has committed to carry out an evaluation of current financial-sector State aid rules.*

*As regards the review of the crisis management and deposit insurance framework, the Commission is currently carrying out a review. The Commission organized a high-level conference in March 2021 and carried out a targeted and a public consultation in the spring of 2021.*

*Progress will be reported to the Council.*

**SR No 22/2020 "Future of EU Agencies - Potential for more flexibility and co-operation"**

95. (*Annex, Nr 10 - 2019/COU/0333*) The Council encourages all parties to proceed carefully to any forthcoming review or recast of the legal base of EU agencies by taking the necessary steps to ensure a proper impact assessment of their rationale, both the relevance and coherence of their expected objectives as well as envisaged effects in line with broader EU strategic planning; to keep a particular focus on streamlining the size of their management bodies and increasing the efficiency of their governance models; to maintain high standards in relation to their accountability and performance obligations by respecting all appropriate norms.

**Commission's response:**

*The Commission confirms its commitment to the Better Regulation agenda, also in relation to agencies' founding acts, both for new and for existing agencies. In this context, It is currently adapting the wording of the Better Regulation Toolbox to encourage the use of cross-cutting evaluations of agencies in the context of fitness checks and to identify possible synergies and changes. The revised Toolbox will also provide additional guidance on impact assessments, also in relation to new agencies. The guidance in the Toolbox will furthermore be strengthened in relation to the evaluation of the agencies, including their governance bodies and the efficiency of these.*

*The improved Toolbox will provide a solid framework for increasing the use of cross-cutting evaluations of EU agencies in the context of fitness checks and for supporting the Commission's work on evaluations and impact assessment in relation to agencies. Both will serve to identify possible synergies and the need for changes, including changes to the composition of agencies' governance bodies.*

*The work on the Toolbox is scheduled to be finalised in Q3 2021.*

96. (*Annex, Nr 11 - 2019/COU/0334*) The Council emphasizes the importance of a coherent and consistent approach to be applied by all EU institutions involved in relation to the setting up and winding up of agencies, in particular through:

a) comprehensive impact assessments before the adoption of any act setting up new agencies, taking into consideration any alternative options, such as mergers, change in mandates, collaborative working, overlaps or gaps related to policy delivery; any reservations expressed by the Regulatory Scrutiny Board before the presentation of a new proposal must be properly and sufficiently addressed by the Commission; any Commission proposals must include also a financial statement as set out in Chapter 7 (Articles 33-36) of Regulation 1046/2018 as well as a sunset or a revision clause.

**Commission's response:**

*The Commission is currently adapting the wording of the Better Regulation toolbox on impact assessments, also as regards the creation of new agencies. The work on the Toolbox is scheduled to be finalised in Q3 2021.*

*The improved Toolbox will provide a solid framework for strengthening the Commission 's practice of producing impacts assessment as basis for the setting-up of new agencies, taking into consideration alternative options.*

*In that regard, the Commission recalls that its impact assessment system follows an integrated approach that assesses the environmental, social and economic impacts of a range of policy options thereby mainstreaming sustainability into Union policymaking. The impact assessment compares options, explains which is the preferred one, if such a preferred option exists or explains why no preferred option was identified. Impact assessment does not replace the political decision but it provides evidence to inform this decision.*

*Impact assessments are submitted to the Regulatory Scrutiny Board and the Commission takes into account its comments to the widest possible extent. If the Commission's Regulatory Scrutiny Board has twice given a negative opinion, only the Vice-President for Interinstitutional Relations and Foresight can submit the initiative to the College to decide whether to go ahead or not.*

*All legislative proposals concerning agencies include a financial statement. In accordance with the Common Approach, the Commission 's proposals also includes a sunset or revision clause when it proposes the setting-up of a new agency or when it aligns the founding act of an existing agency with the Common Approach.*

*See also reply to discharge request 2019/COU/0333.*

97. (Annex, Nr 11 - 2019/COU/0335) The Council emphasizes the importance of a coherent and consistent approach to be applied by all EU institutions involved in relation to the setting up and winding up of agencies, in particular through:

b) evaluation of existing agencies, including the use of cross-cutting performance and/or fitness checks to assess the coherence and relevance of their activities and their attained policy outcomes.

**Commission's response:**

*See replies to discharge requests 2019/COU/0333 and 2019/COU/0334.*

98. (Annex, Nr 11 - 2019/COU/0336) The Council emphasizes the importance of a coherent and consistent approach to be applied by all EU institutions involved in relation to the setting up and winding up of agencies, in particular through:

c) alignment of existing agencies, to the maximum extent possible, in terms of governance structures, planning, programming and accountability.

**Commission's response:**

*The Commission finds that the Common Approach has been and remains a major step towards ensuring a coherent framework for better governance and performance management of decentralised agencies. The Commission remains committed to ensuring greater consistency in the way Union bodies are governed and how they plan and report on their activities. With measures implemented in 2019 and 2020, the Commission has strengthened the conditions to ensure the performance of and reporting by decentralised agencies.*

*The Commission recalls that while the Commission makes the legislative proposal, the final decision on the setting-up and review of the founding act of an agency is the outcome of the negotiations between the co-legislators.*

*See also replies to discharge requests 2019/COU/0333 and 2019/COU/0334.*

99. (Annex, Nr 11 - 2019/COU/0337) 'Requirements ('comprehensive impact assessments before the adoption of any act setting up new agencies', 'evaluation of existing agencies' and 'alignment of existing agencies') should be laid down in the Regulations establishing agencies, or Regulations amending or recasting them, and follow all possible means for convergence without compromising the particular objectives and tasks of each specific agency.

**Commission's response:**

*See replies to discharge requests 2019/COU/0333 and 2019/COU/0334.*

100. (Annex, Nr 12 - 2019/COU/0338) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

a) ensuring that the set-up, functioning, and possible winding-up of agencies is flexible and directed to ensuring that agencies fulfil their mandate and accomplish their tasks with the aim of implementing EU policy and enhancing co-operation within the European Union, while using all possible synergies and economies of scale.

**Commission's response:**

*The Framework Financial Regulation (EU) 2019/7151 provides for coherent and binding budget, planning, reporting, performance and governance rules for decentralised agencies. All decentralised agencies have adapted their financial*

*rules to the Framework Financial Regulation during 2019 and 2020, without any deviations from the governance and performance framework set out therein.*

*The related Commission Communication on the strengthening of the governance of Union Bodies and on the guidelines for the Single Programming Document and the Consolidated Annual Activity Report, adopted by College on 20 April 2020 (C(2020)2297), further supports harmonised planning and reporting by all decentralised agencies.*

*The Commission recalls that evaluations are used to assess the performance of agencies and identify potential synergies in the agencies' tasks looking at efficiency, effectiveness, coherence, relevance and EU added value of their actions.*

*See replies to discharge requests 2019/COU/0333 and 2019/COU/0334.*

101. (Annex, Nr 12 - 2019/COU/0339) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

b) monitoring the implementation of the revised Commission guidelines (C(2020)2297) on the performance information to be provided by agencies for external scrutiny by the European Parliament, the Council and EU citizens, thereby shifting the focus from reporting on output and activities to the agencies' actual contributions to EU policy.

**Commission's response:**

*The 2021 round of Single Programming Documents is the first round where all Single Programming Documents follow the new template stemming from the Commission Guidelines (C(2020)2297).*

*In the Commission opinions on the draft Single Programming Documents, where relevant, the Commission calls upon the respective agency to link performance indicators to the agency's contribution to the implementation of EU policies, instead of focusing these solely on outputs and activities. Such link will improve the performance information included in the Single Programming Documents. A continuous improvement is expected in the upcoming Single Programming Documents published in 2021 and in 2022.*

102. (Annex, Nr 12 - 2019/COU/0340) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

c) improving budgetary supervision of agencies, especially by timely reviewing and aligning resources with evolving needs.

**Commission's response:**

*As laid down in the Interinstitutional agreement on cooperation in budgetary matters, should the tasks of an agency be altered substantially, the additional resources – budgetary and staff – are detailed out in a legislative financial statement. This allows the Budgetary Authority to assess and come to an agreement on the financing and staffing of the agency concerned. Additional resources stemming from an LFS are taken into account in the annual budget preparations. This allows resources to be aligned with mandate extensions.*

*The adequacy of resources (upwards and downwards) is assessed in the framework of the preparation of the Draft Budget of the following year. A first analysis takes place based on the agency request, followed by the Commission proposal incorporated in the Draft Budget and – where relevant – adjusted in the Amending Letter to the Draft Budget. On the latter occasion, the Commission integrates adjustments related to new initiatives with budgetary impact (LFS – see above) or related to other elements (e.g. under-execution, delay in recruitment). This is discussed with the two legs of the Budgetary Authority when presenting and negotiating the Draft Budget. This assessment and discussion currently takes place in the framework of Draft Budget 2022.*

*More substantial reviews of adequate resources take place before each MFF period, as recommended by the Court.*

103. (Annex, Nr 12 - 2019/COU/0341) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

d) assisting and supporting the EU agencies in streamlining their implementing provisions and contributing to the exchange of best practices for accountability and performance review purposes.

**Commission's response:**

*The Commission recalls that Recommendation 4 a) of the Court's report, which concerns the exchange of good practices among agencies on performance, synergies and economies of scale, is addressed to EU agencies.*

*The Commission supports agencies' efforts via the full implementation of the Framework Financial Regulation (EU) 2019/7151 and the Commission guidelines for the Single Programming Documents and the Consolidated Annual Activity Reports.*

*Moreover, the Commission has regular contacts with the EU Agencies' Network, whose mission is to enhance the value of individual EU Agencies by deepening their collaboration. According to the EU Agencies Network Strategy 2021-2027, the EU Agencies Network will coordinate the work of Agencies to: increase their efficiency through a better sharing of services, knowledge, best practice and pooling of tasks.*

104. (Annex, Nr 12 - 2019/COU/0342) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

e) continuing monitoring the governance and implementation framework of EU agencies and to adapt them, where necessary, with a view to fully meeting their objectives.

**Commission's response:**

*The Commission ensures these objectives via the adoption of its opinions on the agencies' draft single programming documents in accordance with the new Framework Financial Regulation and related guidelines.*

*The Commission is committed to ensuring that its opinions on agencies' draft Single Programming Documents set out strategies to address possible governance issues. Commission representatives in the agencies' management board are also monitoring agencies' governance and the implementation of their legal obligations.*

*See also the reply to discharge requests 2019/COU/0333 and 2019/COU/0338.*

105. (Annex, Nr 12 - 2019/COU/0343) The Council invites the commission to study and implement the Court's recommendations, in particular, as regards:

f) promoting the role of EU agencies as centres of excellence and networking in the design and implementation of EU policies as well as in the context of broader international co-operation.

**Commission's response:**

*In line with its Better Regulation Agenda, the Commission is already involving agency expertise in its policy-making. It is currently adapting the wording of the Better Regulation toolbox on stakeholder consultation and evidence-based impact assessment to encourage agency involvement. The work on this is scheduled to be finalised in Q3 2021.*

*The improved Toolbox will provide a solid framework for further strengthening the involvement of decentralised agencies and their expertise in the Commission's policy-making.*

*The Commission is also committed to ensuring that its opinions on agencies' draft Single Programming Documents set out the international strategies established by the agencies.*

106. *(Annex, Nr 14 - 2019/COU/0344)* The Council encourages the Commission and EU agencies acting together to:

a) improve governance, accountability and reporting on performance.

**Commission's response:**

*In 2020, the Commission issued new guidelines in view of the application of the Framework Financial Regulation (EU) 2019/7151, which provides for coherent and binding budget, planning, reporting, performance and governance rules for decentralised agencies. On the occasion of the adoption of its opinions on the agencies' draft Single Programming Documents, the Commission advises the agencies on the implementation of these rules.*

*See the replies to discharge requests 2019/COU/333 to 343.*

107. *(Annex, Nr 14 - 2019/COU/0345)* The Council encourages the Commission and EU agencies acting together to:

b) strengthen the role of agencies as centres of expertise and networking.

**Commission's response:**

*The EU Agencies' Network plays a key role in the networking and coordination efforts of agencies. Commission regularly prepares and participates in meetings organised by the Network, with a view to support and develop agencies' cooperation, expertise and experience, as well as their visibility.*

*See the reply to discharge request 2019/COU/0343.*

108. *(Annex, Nr 14 - 2019/COU/0346)* The Council encourages the Commission and EU agencies acting together to:

c) address ways to improve the attractiveness of agencies as employers.

**Commission's response:**

*New decisions and implementing rules adopted as part of the effort to improve attractiveness - notably as regards flexible working - will be notified to agencies under Article 110(2) of the Staff Regulations. Unless the agency receives the Commission's prior agreement to adopt individual rules, these will apply by analogy after nine months.*

*Geographical balance is an important element of attractiveness. Article 27 of the Staff Regulations specifically gives each institution and agency the responsibility for enacting its own measures with regards to geographical balance, however the Commission will systematically share its own policies and practices with the agencies.*

*Concerning the correction coefficient specifically, by March 2022 the Commission will submit a report on the implementation of Annex XI to the Staff Regulations to the European Parliament and the Council assessing the functioning of Annex XI, which provides for the system of correction coefficients. On that basis, the Commission will notably assess whether correction coefficients properly ensure equality of purchasing power among EU staff in different duty stations and will have, if appropriate, to submit a legislative proposal.*

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

109. *(EU-OSHA, Annex to ANNEX 8 (second paragraph) - 2019/COU/0332)* The Council takes note with concern of the Court's finding regarding the execution of the ESENER-3 contract. While taking note of the Agency's answer, that the documents of the contract were amended after the audit to take into account the expenditure exceeding the contractual ceiling, the Council, reminding the budgetary principle of predictability, urges the Agency to avoid signing contracts without full information on the necessary expenditure and calls on the Commission to provide such information to the Agency with appropriate speed, so as to avoid delayed signing or changes ex post to the contracts.

**Commission's response:**

*The Agency has strengthened internal controls, monitoring and coordination efforts by centralising its procurement, finance and contract management functions. With these measures, enhanced controls and monitoring are in place to ensure full compliance with sound procurement and contract management principles.*