



Brussels, 25 November 2021

**Detailed replies to the specific requests made by the European Parliament 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 2020. It presents in detail the answers to 206 requests made by the European Parliament in its resolution forming an integral part of its decisions on the discharge for the financial year 2019. Whenever requests concerned the same or related topics, the reply provided presents a single reply to this set of related requests<sup>2</sup>.

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

<sup>2</sup> All relevant paragraphs from the discharge resolution are introduced with the reference “§ [x] in connection with § [y]...”.

## Political priorities

1. (*§ 3 in connection with § 2 - 2019/PAR/0347*) The European Parliament expects the Commission to employ all instruments at its disposal to suspend, reduce and restrict access to Union funding in cases of rule of law deficiencies and the financial loss caused by such deficiencies. The European Parliament urges the Commission, as "Guardian of the Treaties" to apply the Regulation 2020/2092 of the European Parliament and of the Council of 16 December 2020 from the date it entered into force and to start the rule of law mechanisms when it is necessary to ensure the protection of the Union's financial interests in all dimensions; recalls that this regulation, designed to protect Union funds, will have to be applied to all commitments and payments, while providing safeguards for final beneficiaries and recipients.

### Commission's response:

*Respect for the rule of law is an essential precondition for sound financial management of the Union budget. Under Regulation 2020/2092 on a general regime of conditionality for the protection of the Union budget, the Commission may propose the Council to adopt budgetary measures where it is established that breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the financial interests of the Union in a sufficiently direct way. Since the entry into force of the Regulation, in January 2021, the Commission has been screening possible breaches of the principles of the rule of law that affect or seriously risk affecting the Union budget in a number of the Member States.*

*Under the Regulation on a general regime of conditionality, the Commission may contact the Member State concerned and request additional information where that is necessary for its assessment. The information requested will feed into the Commission's assessment of whether a written notification will be sent and whether measures will be proposed under the regime.*

*On 19 November 2021, the Commission's services sent administrative letters to two Member States to request information on issues that may be relevant under for the application of the general regime of conditionality. The countries now have two months from receipt of the letter in their National language to send the requested information.*

*To initiate a procedure under the Regulation, the Commission must have reasonable grounds to consider that all the conditions established by the Regulation are fulfilled and that no other procedures set out in Union legislation would allow it to protect the Union budget more effectively. At the same time, the Commission will continue to use all the instruments available to effectively protect the EU budget.*

2. (*§ 6 in connection with § 4, § 5, § 7, § 9 and § 10 first and second indent, § 244 8th indent, §287, §288, §357 and §377 - 2019/PAR/0348*) The European Parliament calls

on the Commission to propose a regulation for the establishment of such an interoperable IT system allowing for uniform and standardised reporting in a timely manner by Member States' authorities in the area of shared management, particularly regarding CAP and cohesion funds, for an earlier detection of systemic errors and misuse as expressed in the discharge report for the Commission for the financial year 2018. Such a system should be updated automatically with comparable and timely data to make the system capable of monitoring, controlling with the use of AI and big data; calls on the Commission to make the publication of all information on beneficial owners a legal requirement, as a prerequisite for the use of Union funds, as a matter of urgency.

**Commission's response:**

*The Commission recalls that for the MFF 21-27 and NGEU it has put forward proposals to improve the collection of data by Member States on recipients of EU funding implemented under shared management and under the Recovery and Resilience Facility (“RRF”). These proposals included the recording and storing of data on recipients of EU funding including their beneficial owners (in case the recipients are not natural persons) in standardised (electronic) format.*

*The Commission also proposed the compulsory use of a single data-mining and risk-scoring tool to access, analyse such data, and allow identifying, based on a set of risk indicators, measures, contracts and recipients that might be susceptible to risks of irregularities, fraud and conflicts of interest. Such tool would enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes and would allow Member States to better target their audit and control activities and the Commission to better target its supervisory role.*

*For both shared management funds and RRF, important progress was achieved in the final legal texts as regards the type of data, including beneficial ownership data, which now has to be collected by Member States. Unfortunately, the final legal texts do not make obligatory the use of the single data-mining and risk-scoring tool to be provided by the Commission. For CAP, there is however a review clause requiring the Commission to present, by 2025, a report which assesses the use of the single data-mining tool and its interoperability with a view to its generalised use by Member States, accompanied, if necessary, by appropriate proposals*

*For Cohesion policy, this is to be achieved through the use of Arachne by Member States authorities at all stages from project selection to verification of tender procedures and payments. Arachne is currently a voluntary support tool, but the number of connections as well as the number of active users is increasing. By the end of November 2021, 19 Member States plus UK have used Arachne for one or more programmes, and the Commission continue to actively promote its use.*

*Developments of Arachne are foreseen to adapt the tool to the 2021-2027 period for ex. to allow the integration of the ‘beneficial owner’ data in Arachne. This additional set of data will allow ARACHNE to calculate new risk indicators, for instance the risk*

*of concentration of EU resources under specific natural persons as ultimate beneficiaries. The development of new functionalities is also connected with the adaptations of ARACHNE for other/new Directorates General and Funds.*

*While the use of the data-mining tool was not made compulsory at this stage, all texts (including the Inter-institutional Agreement – “IIA”) contain a commitment by the Commission to provide Member States with a single data-mining tool that they can voluntarily use for control and audit purposes, with a view to a generalised application by Member States.*

*The Commission will keep doing its utmost to encourage the Member States to use such data-mining tool.*

*The Commission is reflecting on how to further enhance the quality and interoperability of the data on beneficiaries and final recipients of EU funding including with the use of a single data mining and risk-scoring tool. Any provision in this respect should first be assessed in the context of the up-coming revision of the Financial Regulation as the overarching regulation for the implementation and control of the EU budget.*

3. (§ 8 in connection with § 7, § 10 first indent, §287, §357 and §377 - 2019/PAR/0349)  
The European Parliament regrets that different rules and reporting requirements were agreed in the different pieces of legislation (MFF, RRF, CPR, CAP) and urges the Commission to propose a suitable provision for inclusion in the Financial Regulation without undue delay.

**Commission's response:**

*The different rules and reporting requirements (MFF, RRF, CPR, CAP) are determined by the co-legislators when deciding on the different pieces of legislation (MFF, RRF, CPR, CAP). In accordance with the Financial Regulation and sector-specific rules it is the responsibility of Member States to publish the information on beneficiaries of shared management funds.*

*Member States shall ensure annual ex-post publication of the beneficiaries of the Common Agricultural Policy funds, including information on groups of undertakings (under the future legal framework, as agreed by the co-legislators), on a single website per Member State. All the websites are available through links on europa.eu: [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/controls-and-transparency/beneficiaries\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/controls-and-transparency/beneficiaries_en).*

*For Cohesion Policy Member States must maintain a list of operations by operational programme and by Fund in a single website in a spreadsheet data format, which allows data to be sorted, searched, extracted, compared and easily published on the internet, for instance in CSV or XML format. Access to lists of beneficiaries is available through links on europa.eu:*

[https://ec.europa.eu/regional\\_policy/en/atlas/beneficiaries/](https://ec.europa.eu/regional_policy/en/atlas/beneficiaries/), including an inventory of beneficiaries lists.

*The Commission is currently developing a pilot project where information on operations will be gradually made available, stemming from the lists of operations published by member states (<https://kohesio.eu/>). This pilot project will permit to cross-check information regarding the beneficiaries involved in those operations, but the current CPR legal basis for the list of operations does not allow for systematic lists of beneficiaries.*

*The Commission is reflecting on how to further enhance transparency on recipients of EU funding and sees the up-coming revision of the Financial Regulation as the overarching regulation for the implementation and control of the EU budget, as an opportunity to enhance transparency and public scrutiny with regard to the use of the EU budget.*

4. (§9 - 2019/PAR/0350) The European Parliament urges the Commission to provide the list of the 50 largest individual ultimate beneficiaries as well as a comprehensive list of all subsidies received by all companies of the Agrofert Group under shared management in all Member States from 2014-2020 as requested without any further undue delay and urges the Member States to cooperate fully with the Commission by providing the data needed for the analysis and for compiling those lists.

**Commission's response:**

*The Commission prepared in cooperation with Member States and shared with the European Parliament on 13.10.2020 the list of the largest 50 beneficiaries of CAP and Cohesion Policy. The Commission highlights that a substantial part of CAP and Cohesion Policy supports public investment.*

*As regards cohesion policy, the largest beneficiaries for the Cohesion Policy are the public entities responsible for that public investment, while for the CAP some of the largest beneficiaries are the Member States authorities benefitting from Technical Assistance, state-owned forestry associations, as well as municipalities.*

*Under the current legislative framework, there is a clear distinction between the information which is publicly available for transparency purposes and the information available in the Member States for audit and control purposes by national and EU bodies.*

*As regards the CAP, where the information on beneficial owners is relevant for the controls done by the Paying Agencies, targeted checks are done by requesting the information to the applicants and/or by cross-checking against other registries/databases. Finally, it has to be noted that in a system of shared management there is a strict cooperation with the Member States Paying Agencies and the Commission is taking precautionary measures (as for example suspension of*

*payments), in order to ensure that the expenditure to be covered by precautionary measures can be clearly established.*

5. (§ 10 third indent - 2019/PAR/0351) The European Parliament reiterates its call on the Commission to:

– continue attaching the highest importance to the sound financial management of the Union budget, in particular through putting in place multiannual control strategies designed to prevent, detect and correct errors, as well as to continue carefully monitoring the implementation of the Union budget and to take immediate steps to correct the errors and to recover the funds incorrectly spent by Member States, intermediaries or final beneficiaries.

**Commission's response:**

*The Commission attaches great importance to the sound financial management of EU taxpayers' money. It is fully committed to ensuring the highest standards of management and to continuing to improve its management and control systems. The Commission relies on its multiannual control strategies to prevent, detect and correct errors and weaknesses. These strategies are also risk differentiated, i.e. adjusted to the different management modes, actors involved, policy areas and/or funding arrangements and their respective associated risks.*

*Thanks to its in-depth empirical approach, the Commission identifies precisely which programmes are higher, medium or low risk, allowing it to focus its action where it matters most. In addition to applying financial corrections and recoveries, including those by the Member States, the Commission is taking action to further adjust the control strategies and to address the underlying weaknesses (see also replies to recommendations 365 and 376).*

6. (§ 13 in connection with § 12 - 2019/PAR/0352) The European Parliament calls on the Commission to:

– consider the extension of the application of EDES to funds under shared management, covering shared management beneficiaries, bodies implementing financial instruments and final recipients, when proposing the revision of the Financial Regulation;

– report to the discharge authority on the reasons for why EDES only contains very limited entries;

– take the necessary action to improve the working, implementation and operability of EDES to ensure that all economic operators that fulfil the criteria of Art 136(1) (c) to (h)



of the Financial Regulation are listed; calls further on the Commission to review the criteria with a view to decreasing their complexity and to increasing their applicability in practice.

– improve its use of this tool to connect the blacklist to OLAF and the EPPO and the national databases and create an automated system, which updates this database with reliable and timely information.

**Commission's response:**

*The Commission is analysing the possibility to partially extend EDES to shared management in cases of serious misconduct (e.g. fraud, corruption, money-laundering, terrorism) in the context of the up-coming revision of the Financial Regulation.*

*As to the number of entries in the EDES database, the Commission maintains that the kind of misconduct detected and sanctioned by the authorizing officers on the basis of Panel recommendations, more than the number of cases treated, gives a clear indication about the efficiency of EDES in protecting the Union's financial interests. The objective of EDES is not only deterrence and retribution for certain kinds of past offences, but also to maintain and preserve the integrity of the award of EU funds process.*

*Finally, it is noted that access to and inter-connectivity between databases has to be considered in light of constraints related to the protection of judicial and investigative activities, and protection of the fundamental rights of persons or entities concerned. The EDES database is fed into with data of the Irregularity and Management System (IMS) where Member States and beneficiary countries may report irregularities and EPPO has access to the EDES database under the working arrangements with the Commission.*

7. (§ 18 in connection with § 17 - 2019/PAR/0353) The European Parliament reiterates its call on the Commission to ensure proper evaluation of the preventive measures taken by the Member States to avoid conflicts of interest; welcomes, in this regard, the guidelines from the Commission “Guidance on avoidance of conflicts of interest under the Financial Regulation”, distributed to the Member States in August 2020, aiming to promote a uniform interpretation and application of rules concerning conflicts of interest and to raise awareness on the applicability of these rules, including in relation to shared management; calls on the Commission to make these Guidelines public and also share the information about the audits carried out on these issues and examples of good practice with both Member States’ authorities and the Committee on Budgetary Control.

**Commission's response:**

*Developing a common EU culture for avoiding conflicts of interest requires continuous dialogue and co-operation between the Commission and Member State authorities implementing the EU budget. The Commission has committed to accompany and guide Member States in applying the new rules on conflict of interest.*

*The guidance on the avoidance and management of conflicts of interest under the Financial Regulation was adopted by the Commission on 7 April 2021 and published in the Official Journal of the European Union on 9 April 2021: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2021.121.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2021.121.01.0001.01.ENG) and has been and will continue to be subject of presentations and exchanges with Member State authorities.*

*The systems and procedures in place to prevent and detect conflict of interest situations are part of the audit scope of the Member States and Commission audits.*

*DG AGRI regularly organises and participates in conferences, seminars, workshops and similar initiatives where best practices and results of its system audits are shared with Member States and relevant stakeholders.*

8. (§19 - 2019/PAR/0354) The European Parliament is concerned about the possible narrow interpretation of the Article 61 of Regulation (EU) 2018/1046 by the Czech Paying Agency (the State Agricultural Intervention Fund) who considers it non-applicable for the members of the Government; urges the Commission to provide its opinion on the interpretation of the said article regarding national Paying Agencies; calls on the Commission to ensure that Article 61 of Regulation (EU) 2018/1046 is respected and implemented in the Czech Republic, and applied on all payments from the Union budget, including direct payments under the 1st pillar of CAP, and to monitor the independent functioning of Paying Agencies in this regard.

**Commission's response:**

*The Commission recalls that there is no difference in the interpretation of Article 61 FR between the different areas of the EU budget and that this Article applies equally to direct, indirect and shared management. It applies in Member States at all levels: 'where the impartial and objective exercise of the functions [...] is compromised [...]'. This may happen, for instance, when Member States set the conditions for support or award support through a selection procedure. Article 61 applies to shared management Funds implementation, including decisions taken at any level on preparation, audit and control and national authorities must ensure that appropriate measures are in place to avoid conflicts of interest.*

*The systems and procedures in place to prevent and detect conflict of interest situations are part of the audit scope of the Member States and Commission audits.*

9. (*§ 21 in connection with § 20 - 2019/PAR/0355*) The European Parliament welcomes the new corporate anti-fraud strategy, adopted by the Commission in April 2019, on OLAF's initiative, with the objective of enhancing the Commission's knowledge about fraud and its analytical capability to steer anti-fraud action, to ensure cooperation among departments and executive agencies in fighting fraud, and to strengthen the corporate oversight of the fight against fraud; calls on the Commission to prepare a follow-up report on the efficiency of its implementation and first results achieved and to report back to the discharge authority.

**Commission's response:**

*The Commission has well progressed in the implementation of its Anti-Fraud Strategy (CAFS) and the accompanying action plan (covering 63 actions) since the strategy's adoption in April 2019. In consideration of the strategy's two priority objectives - improving (i) data collection and analysis and (ii) coordination, cooperation and processes - , by June 2021, two-thirds of the actions were implemented, while for the remaining part implementation is ongoing.*

*The Commission has prepared an overview on the 2019 CAFS implementation and the results achieved so far; in this respect, it provides detailed information in the staff working document "Commission Anti-Fraud Strategy (CAFS) Action Plan – State of Play June 2021", which accompanies the "Report from the Commission to the European Parliament and the Council - 23rd Report on the protection of the European Union's financial interests - Fight against fraud". These documents are planned to be published on 20 September 2021."*

10. (*§ 22 in connection with § 26 - 2019/PAR/0356*) The European Parliament stresses that, in view of the MFF and the Recovery and Resilience Facility, the financial resources of the Union should support the increasing priorities and responsibilities of the Union. The protection of the Union's financial interest is of utmost importance and that the strongest efforts are necessary at all levels in order to prevent, and to fight against fraud, corruption and misuse of Union funds; calls on the Commission to propose the provision of sufficient financial and human resources for the Court, OLAF and the EPPO and to continue providing them together with a strong political support, to execute their activities of audit, investigation and prosecution in the protection of the financial interest of the Union.

**Commission's response:**

*The current Multiannual Financial Framework is based on stable staffing for all Institutions. Any increase of establishment plan posts and/or additional external staff will affect salary and pension expenditure, and thus the overall balance of heading 7. The combined need to stabilise the number of staff, and the ability to pay salaries and*

*other administrative expenditure related to staff under the ceiling of Heading 7, means that increasing the staffing of any institution will be very difficult to accommodate. For example, the Commission will have to manage the new initiatives without any additional establishment plan posts.*

*However, acknowledging the increase in workload linked to the new programmes for the European Court of Auditors (ECA), a request for a limited reinforcement of the Court's establishment plan post has been integrated into the draft budget 2022 and following the agreement on the budget for 2022 in the conciliation process, the Budget Authority will approve a total increase of 20 posts for the ECA on a temporary basis until 2027.*

*Similarly, some limited reinforcements are requested in the draft budget 2022 for the European Anti-Fraud Office (OLAF) in view of the increase in the Office's workload. With respect to EPPO (European Public Prosecutor Office), there has been an 87% increase of staff in 2021 compared to 2020 and in budget 2022, EPPO will see a near doubling of its staff. More precisely, it will receive 118 more staff (76 Temporary Agents, 13 Contract Agents and 29 Seconded National Experts), as well as an total increase in EU contribution by EUR 11.250 million to cover the salary expenses. In other words, there will be a major effort from the EU budget to support the EPPO activities, following its start of operations on 1 June 2021.*

11. (§ 30 in connection with § 29 - 2019/PAR/0357) The European Parliament regrets that the Commission could not contribute meaningful insights on the reasons nor on any country-specific differences between Member States' authorities; regrets that this lack of information on the underlying reasons for these persisting, systemic weaknesses in certain national audit authorities hinders the efficient and effective addressing and solving of these problems; calls on the Commission to conduct a thorough analysis of the underlying reasons and structural problems causing the persisting systemic weaknesses identified by the Court; asks the Commission to also include observations on best practice and based on this analysis to address clear, practical and readily implementable horizontal as well as country-specific recommendations to the national authorities as described in greater detail in the specific chapters of this resolution.

**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.*

12. (§31 - 2019/PAR/0358) The European Parliament calls on the Commission to pay increased attention and allocate increased staff and budget of the Commission to Member States, whose management and control systems are only partially or not reliable, where there is an increased risk of fraud and corruption related to funds and especially those Member States who did not join the European Public Prosecutor's Office.

**Commission's response:**

*The Commission is committed to supporting the Member States in building capacity to better prevent and detect errors leading to irregularities, fraud or corruption. Guidance and training is provided by the Commission to Member States to strengthen their capacity to prevent and detect fraud and corruption. For example, a practical guide has been prepared on how to carry out a fraud risk assessment and which measures can be put in place to mitigate the most common risks. Other guidelines deal with such topics as "red flags" (fraud indicators), conflicts of interest in public procurement, developing anti-fraud strategies, etc.*

*Beside providing extensive guidance to programme authorities the Commission has directed its technical assistance allocations to constantly widen the tool box to help Member States to increase knowledge and share good practices, to develop innovative solutions and approaches and to build capacity of the bodies involved in the implementation of funds. In June 2021 the Commission launched a new EU Funds Anti-fraud Knowledge and Resource website. This new knowledge tool for anti-fraud practitioners on prevention and detection of fraud in the EU Funds implementation provides MS practitioners with resources to improve their administrative capacity in area of anti-fraud and anti-corruption. The website gives concrete examples from Member states, presents tools that have proven to be effective, explains how to reproduce and apply good practices, shares knowledge and connects practitioners.*

***The Commission also offers to Member States a risk-scoring / data mining tool 'Arachne' free of charge to help authorities to better prevent and detect fraudulent operations, contracts and contractors.***

13. (§ 32 in connection with § 327 - 2019/PAR/0359) The European Parliament calls for the utilisation of Arachne to be made a pre-condition for the use of Union Funds by Member States.

**Commission's response:**

***The Commission recalls that for the MFF 21-27 and NGEU it has proposed the compulsory use of a single data-mining and risk-scoring tool to allow identifying, based on a set of risk indicators, measures, contracts and recipients that might be susceptible to risks of irregularities, fraud and conflicts of interest. Such tool would enhance the quality and comparability of data on the recipients of EU funding for control and audit purposes and would allow Member States to better target their audit and control activities and the Commission to better target its supervisory role.***

***Unfortunately, the final legal texts do not make obligatory the use of the single data-mining and risk-scoring tool to be provided by the Commission. While the use of the data-mining tool was not made compulsory at this stage, all texts (including the Inter-institutional Agreement – "IIA") contain a commitment by the Commission to provide Member States with a single data-mining tool that they can voluntarily use for control and audit purposes, with a view to a generalised application by Member States.***

***The Commission will keep doing its utmost to encourage the Member States to use such data-mining tool. The Commission is reflecting on how to further enhance the quality and interoperability of the data on beneficiaries and final recipients of EU funding including with the use of a single data mining and risk-scoring tool. Provisions in this respect should first be assessed in the context of the up-coming revision of the Financial Regulation as the overarching regulation for the implementation and control of the EU budget.***

14. (§ 36 in connection with § 227, 244, 9th indent, § 349 and § 390 second indent - 2019/PAR/0360) The European Parliament reiterates its call on the Commission to put in place an effective control system which would ensure that the only beneficiaries entitled to the CAP funds are those who farm the land and that they do not reach any beneficiaries who acquired the land by illegal or fraudulent means; in this regards reiterates its request for a specific complaint mechanism at Union level to support farmers or beneficiaries confronted, for example, with land-grabbing malpractices, misconduct of national authorities, pressure from criminal structures or organised crime, or persons who are subject to forced or slave labour, giving them the opportunity to

swiftly lodge a complaint with the Commission, which the Commission should check as a matter of urgency.

**Commission's response:**

*The CAP is implemented in shared management. It is the Member States authorities that have the necessary resources (information, staff) to deal with complaints from individual beneficiaries, other than those related to the infringement of EU law.*

*Under the CAP shared management rules, the Commission services ensure that Member States manage CAP funds in full respect of EU law and the general principles of union law, through, e.g., accreditation of paying agencies and audits of the Member States' management systems.*

*As concerns the land concentration, there is no secondary European legislation addressing the acquisition or use of agricultural land. The Member States have jurisdiction and discretion to regulate their land markets. In doing so, however, they must respect the basic Treaty principles, the fundamental freedoms and non-discrimination on grounds of nationality. Potential breaches can therefore be reported to the European Commission via the existing complaint procedure.*

*In any event, everybody is entitled to report fraud or other serious irregularities with a potentially negative impact for EU public funds to OLAF via the channels established for this purpose. Operation of criminal organisations, trafficking of human beings, forced labour or corruption of civil servants constitute criminal offences to be investigated by the Member States under their competence.*

*OLAF is investigating several cases of fraud related to direct payments. Many investigations have already been closed with financial, judicial and administrative recommendations. OLAF has issued a generic administrative recommendation due to concern over the management of agricultural land. OLAF investigations has revealed and confirmed a number of problems in relation to the cadastre recording land ownership, the opacity of lease contracts, and the underlying over-fragmentation of land.*

*OLAF and the EPPO has established a close cooperation. OLAF has transmitted many crime reports, which has led to the opening of EPPO investigations. In parallel, OLAF is in the process of providing training to the EPPO on numerous aspects of their work, from how to work with OLAF to how to investigate specific topics, such as cases related to the Common Agricultural Policy (CAP).*

*Nevertheless, the Commission considers this recommendation as implemented by the political compromise on the in the Horizontal Regulation on the financing, management and monitoring of the CAP (. Article 57(4) states that Member States shall introduce arrangements for ensuring the effective examination of complaints concerning the Funds and shall, upon request of the Commission, examine*

*complaints submitted to the Commission falling within the scope of their CAP Strategic Plans.*

15. (*§ 37 in connection with § 244 16th indent, § 257, § 258 and § 259 - 2019/PAR/0361*) The European Parliament reiterates its concern that outstanding commitments have continued to grow, reaching a record-level EUR 298,0 billion at the end of 2019 (compared to EUR 281,2 billion in 2018); requests the Commission to closely monitor the implementation by Member States in the case of under-implementation and low absorption rates; welcomes the Commission's effort to introduce the n+2 rule for all expenditure areas, stressing the need for other perspective instruments to replace the n+3 rule; invites again the Commission to increase the technical support to national, regional or local authorities, including civil society organisations and citizens, in order to get better absorption rates.

**Commission's response:**

*Article 99 of the Common Provisions Regulation proposal for 2021-2027 (COM (2018) 375) reduced the period after which decommitment takes place from n+3 in 2014-2020 to n+2 with a gradual phasing in. Therefore, the Commission implemented this recommendation already through the content of its proposal tabled. The Commission regrets that both the European Parliament in its position and the Member States in the conclusions of the European Council of July 2020 opted to maintain the current n+3 rule.*

*The Commission will however continue its close monitoring of the implementation of the 2014-20 programmes, in particular the ones in difficulty in order to support their sound and efficient implementation. In that respect, REGIO developed a methodology to assess the performance of programmes based on the assessment of annual implementation reports and of decommitment risk per individual programme. For those considered in difficulty, corrective actions tailored to the needs of each programme are put in place and are followed through high level meetings, technical exchanges, targeted advice and dialogue with national authorities, peer exchange of experience and good practices.*

16. (*§38 - 2019/PAR/0362*) The European Parliament calls on the Commission to monitor the implementation of the national recovery and resilience plans at regular intervals to ensure that the state aid rules are fulfilled and report to the discharge authority; stresses that a failure of this request could lead to a refusal of the Discharge procedure in 2020.



**Commission's response:**

*In the context of the RRF, the legality and regularity of the payments made by the Commission are solely linked to the satisfactory fulfilment of the milestones and targets by the Member States. If milestones and targets are met, the payment must take place (see also article 24(5) that requires the Commission to authorise the disbursements upon fulfilment of the pre-defined milestones and targets (“shall”).*

*It is the responsibility of Member States to ensure that EU State aid rules are complied with – this is a legal obligation laid down in Articles 107 and 108 TFEU. Member States should therefore first assess whether measures under their national RRFs meet the cumulative criteria of Article 107(1) TFEU. When these criteria are not met or the measure is de minimis, there is no State aid involved. When State aid is present, as a general rule, the measures must be notified by the Member State and approved by the Commission before Member States can grant the aid, unless those measures are covered by an existing aid scheme or comply with the applicable conditions of a block exemption regulation, in particular the General Block Exemption Regulation (‘GBER’), in which case no notification is needed. In this respect, the State aid analysis carried out by the Member State in the context of the RRF assessment cannot be considered a State aid notification. The Commission will deal with the formal notifications with priority and endeavour to complete its assessment concerning notifiable State aid measures within six weeks from complete notification from the Member State. In as far as the Member State considers that a specific measure contained in the RRF entails de minimis aid or aid exempted from the notification requirement, it is the responsibility of the Member State to ensure full compliance with the applicable EU State aid rules. As a result, the Commission will duly assess the notifications brought by Member States on State aid measures under the RRFs and take the relevant decision. State aid decisions are publicly available at <https://ec.europa.eu/competition/elojade/isef/>.*

*Should a Member State fail to comply with the notification obligation under Article 108(3) TFEU, the Commission may on its own initiative or on the basis of a complaint by an interested party examine such unlawful aid. If the Commission finds that the aid is not compatible with the internal market, it shall decide that the aid shall be abolished (including recovery of the unlawfully granted aid).*

17. (§ 41 in connection with § 80 third indent - 2019/PAR/0363) The European Parliament calls on the Commission to present a complete picture of the exposure of the EU budget in the annual “Report on guarantees covered by the general budget”, including the risk generated by the EFSI guarantee as well as all future financial operations concerned.

**Commission's response:**

*The Commission will present to the budgetary authorities before the end of 2021, an annual report on the Union’s budgetary guarantees, including an assessment of the*

*contingent liabilities borne by the budget arising from budgetary guarantees and financial assistance in line with Article 250 of the 2018 Financial Regulation (FR).*

*The analysis of the sustainability of contingent liabilities generated by individual guarantees (including EFSI) was already presented in the first version of the report produced by the European Commission under Article 41(5) of the 2018 FR. The report was published in June 2021 and as a Working Document XI attached to the draft annual budget:*

*[https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/db2022\\_wd\\_11\\_budgetary\\_guarantees\\_web.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/db2022_wd_11_budgetary_guarantees_web.pdf)*

18. (§ 45 in connection with § 84 - 2019/PAR/0364) The European Parliament stresses the recommendation of the Court that the indicators need to be further elaborated and better balanced between input and output, and result and impact indicators; calls on the Commission to reduce the number of objectives and indicators to a specified set of relevant and appropriate outcome and impact indicators which best measure the results achieved in terms of effectiveness and Union added value of Union spending.

**Commission's response:**

*The Commission considers that an appropriate balance between types of indicators is necessary to monitor and evaluate performance and this balance should reflect the specificities of individual programmes.*

*In the context of the preparation of the 2021-2027 multiannual financial framework 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 legal bases of the programmes.*

*Still, 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 as agreed by the European Parliament and the Council based on proposals made by the Commission.*

*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.*

*Due to the multiannual character of the spending programmes, it is important to recall that definitive conclusions on their impact will only be available after the closure of the programmes, on the basis of final evaluations.*

## Budgetary and financial management

19. (§ 64, in connection with § 65 - 2019/PAR/0365) The European Parliament acknowledges that, given the multi-annual nature of its expenditure and of its control strategies, the Commission may apply corrections until the closure of the funding programme; notes furthermore that while errors may be detected in a given year, they are corrected in the current or in subsequent years after the payment was made – up until the moment of closure; calls therefore on the Commission and Member States to continue exercising their corrective capacity, and the Commission to use the supervisory tools at its disposal, in line with its obligations under the different sectoral legal bases, in order to bring the real risk at closure ultimately well below 2% and closer to 0%.

**Commission's response:**

*The Commission's objective is that overall the risk at payment and the risk at closure are below 2% as well as per heading of the budget and per programme. It is continuously taking action to reduce the error rate and bring and/or keep the risk below 2% (see also reply to recommendation 351 and 376). The COVID-19 crisis could represent a risk to the Commission's corrective capacity: due to the very challenging economic situation faced at EU and national levels, including the possible bankruptcies of final beneficiaries, it could be difficult to recover undue amounts.*

*In that context, starting before the summer of 2020, the Commission has assessed the risks deriving from the COVID-19 pandemic to the implementation of the EU budget, and the corresponding mitigating measures. Since then, this is being closely monitored. This risk has not materialised so far. Indeed in 2020, the risk at payment and the risk at closure are overall below 2%, and in most of the individual policy areas as well. As this is below the materiality threshold of 2% – also used by the European Court of Auditors – the Commission considers that the budget as a whole is effectively protected. This is confirmed by the internal auditor's opinion."*

20. (§66 - 2019/PAR/0366) The European Parliament calls on the Commission to reduce current and prevent further outstanding commitments, to further improve its financial forecasts and, where necessary, to assist countries to find eligible projects, especially those with clear European added-value, in order to accelerate the absorption rate.

**Commission's response:**

*The Commission is constantly monitoring the evolution of payment needs, the evolution of the overall level of outstanding commitments (RAL), as well as the related underlying factors, in view of improving budget predictability and managing the related budgetary risks. The Commission regularly informs the Council and the*

*European Parliament of the forecast needs and potential risks for the future. This information is included notably in an annual report on a long-term forecast for the EU budget payments. The Commission prepares its forecast based on a wide range of available data (the execution of the previous years' budgets, the implementation and latest developments of the actual budget and the future needs presented in the draft budget for the following year). In addition, the Commission takes into account Member States' forecasts for the implementation of the European Structural and Investment Funds (ESI Funds) – the main driver behind the overall payment estimates under the MFF.*

*For the 2021-2027 period, the Commission proposed a series of simplification measures to facilitate and accelerate the implementation of cohesion policy. While most of those have been retained in the basic acts adopted by the co-legislators, the Commission regrets that the proposed return to the n+2 decommitment rule has not been approved. At this early stage of the new budgetary cycle, the Commission considers that the trend of nominally growing RAL during the 2021-2027 MFF will continue. This is in particular due to the effects of keeping the n+3 decommitment rule, in combination with the late agreement on the legislation governing most of the funds in shared management, and the focus of national authorities on the implementation of NextGenerationEU in the next years given its more limited time frame.*

*Moreover, the Commission recalls, on the one hand, that the adoption of the budget lies ultimately within the remit of the budgetary authority, which involves the authorisation of a sufficient level of payment appropriations, and on the other hand, that implementation, in particular for the funds in shared management, is managed by national authorities and largely depends on the rules set by the co-legislators in the relevant basic acts. In this context, the Commission will continue to cooperate closely with the European Parliament and the Council, as well as with national authorities in the Member States in order to facilitate implementation of EU funds and programmes.*

21. (§ 76 in connection with § 488 - 2019/PAR/0367) The European Parliament strongly calls on the Commission, the Court and the EIB to enhance the role of the Court and further strengthen its auditing powers regarding activities of the EIB in the renewal of the tripartite agreement governing the rules of engagement; supports the request made by the Court to audit the EIB's non-Union budget related operations; and calls on the Court to draw up recommendations on the results of the EIB's external lending activities.

**Commission's response:**

*The European Commission has been working together with the ECA and the European Investment Bank (EIB) on a renewed tripartite agreement. The purpose of*

*the ongoing revision of the tripartite agreement was to renew the agreement concluded on 26 September 2016, which governs cooperation between the Commission, the ECA and the EIB with respect to the audits carried out by the ECA on the EIB's activity in managing Union expenditure and revenue, including the rights of access to information held by the EIB. The revised agreement is expected to be signed shortly. The mandate of the ECA as concerns the EIB is laid down in Article 287 (3) TFEU. Article 287 (3) TFEU does not foresee the Court to audit the EIB's non-Union budget related operations.*

22. (§ 79, in connection with § 78 - 2019/PAR/0368) The European Parliament urges the Commission to encourage Member States to improve both the quality and number of controls and to share best practices in combating fraud.

**Commission's response:**

*The Commission considers that important steps were already taken in that direction since 2018.*

*The Commission applies zero tolerance towards fraud and corruption and is continuously improving the related measures to achieve a high level of protection of the EU-financial interests in the management and control systems.*

*On the one hand, the Commission, the co-legislators and the Member States are continuously refining the regulatory framework through which the European Union budget is protected. On the other hand, the Commission has implemented robust management and control systems for the management of EU budget, including extensive fraud prevention and detection measures throughout all management modes. Finally, procedures are in place ensure an adequate follow up once a case of fraud is detected.*

*The Commission believes that the already existing framework provides for adequate, effective and proportionate means of protecting EU budget. In particular, in shared management, already in the 2014-2020 programming period Member States were obliged to put in place proportionate and effective anti-fraud measures, which are risk-based (Common Provisions Regulation 1303/2013). This obligation was maintained in the 2021-2027 programming period (Common Provisions Regulation 2021/1060).*

*Member States competent authorities are responsible to put in place and to monitor the anti-fraud measures at the level of the individual projects..*

*Under Direct Management, the Commission has put in place controls at the level of project selection, contracting process, grant management and payment process and maintains a degree of ex-post financial controls that is consistent with the principle of sound management. As regards infrastructure projects funded under the CEF programme, the European Climate, Infrastructure and Environment Executive*

*Agency (CINEA) maintains a strong control strategy and dedicated antifraud measures.*

*In particular, preventive measures include a yearly risk-assessment exercise including the consideration of possible areas at fraud-risk, limitations to the grant award in line with Article 136 of the Financial Regulation, a regularly updated ex ante control strategy.*

*Detective controls include risk-based ex post audits and specific consideration of the risks related to beneficiaries and Implementing bodies, including the risk of fraud and irregularities.*

*These processes have been further reinforced by the adoption in 2018 of a revised internal control framework and by measures taken in the framework of the Commission's Common antifraud strategy (COM(2019) 196 final ) adopted in April 2019 , that provides for an increased corporate oversight, a better use of data analysis and improved coordination, including a better integration with the risk management processes.*

*Moreover the Commission has proposed to oblige Member States to make use of data analytics tools such as ARACHNE in order to access union funds in the 2021-2027 programming period. Unfortunately, the final legal texts do not make obligatory the use of the single data-mining and risk-scoring tool to be provided by the Commission.*

*While the use of the data-mining tool was not made compulsory at this stage, all texts (including the Inter-institutional Agreement – "IIA") contain a commitment by the Commission to provide Member States with a single data-mining tool that they can voluntarily use for control and audit purposes, with a view to a generalised application by Member States.*

*The Commission will keep doing its utmost to encourage the Member States to use such data-mining tool. The Commission is reflecting on how to further enhance the quality and interoperability of the data on beneficiaries and final recipients of EU funding including with the use of a single data mining and risk-scoring tool. Provisions in this respect should first be assessed in the context of the up-coming revision of the Financial Regulation as the overarching regulation for the implementation and control of the EU budget.*

23. (§ 80 first indent - 2019/PAR/0369) The European Parliament Calls on Commission to:

- closely follow payment needs, prepare possible scenarios with concrete solutions keeping in mind that the Union is not allowed to run on budgetary deficit and take action, within its institutional remit, with a view to ensuring the availability of payment appropriations taking into account the risk of insufficient payment appropriations and the extraordinary needs arising from the COVID-19 pandemic.

**Commission's response:**

*The Commission prepares regular forecasts for payment needs based on the wide range of available data (the execution of the previous year's budget, the implementation and latest developments of the actual 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' forecast for the implementation of the ESI funds - the main driver behind the overall payment estimations. These forecasts comprise:*

*- the Active Monitoring and Forecast of Budget Implementation (AMFBI) information notes, which the Commission presents to the Council and the Parliament with a view to following the implementation rates of budget appropriations and the payment needs for the running financial year.*

*- the annual Long-term forecast of future inflows and outflows report in accordance with the Article 247 (1) (c) of the Financial Regulation, which the Commission presents annually in addition to the AMFBI notes. This Report gives a multiannual view on the future payment needs, taking 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 proposed 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 accepts to continue to do so in the future.*

*As for the availability of payment appropriations during the MFF 2021-2027, the Commission considers that the payment ceilings set out in Council Regulation (EU, Euratom) 2020/2093 of 17.12.2020 laying down the multiannual financial framework have been agreed at a level compatible with the expected payment needs for honouring the commitments made in the past and programmed for the future.*

*The latest update of the long-term forecast (COM(2021) 343 final of 30.6.2021) confirmed that the forecast needs over 2021-2027 are within the limits of the payment ceilings of the multiannual financial framework. The forecast is provided on an annual basis and considers separately the automatic adjustment mechanisms, which may give rise to increases in the payment ceilings. On the side of the payment needs, the analysis of the forecast outlines the main factors and assumptions, which influence the projections made. An update of this forecast will continue to be issued annually, in line with the requirements of the Financial Regulation.*

*At the same time, 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 authorisation 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.*



24. (*§ 80 second indent in connection with § 229 and § 244 18th indent - 2019/PAR/0370*) The European Parliament Calls on Commission to:

- continue producing an annual report on the FISMs, including at the level of individual financial instruments, in the next MFF.

**Commission's response:**

*The Commission partially accepts this recommendation and considers it as implemented as it will continue its current practice of reporting on the financial instruments under the 2021-2027 period.*

*Under the next MFF, this will include a report to be prepared annually, not at the level of individual financial instruments, but at the level of priorities, and in the case of EAFRD on the level of type of interventions, covering the scope of information which is submitted to the Commission in line with the future regulatory framework.*

*Data on individual financial instruments will still be available as part of the audit trail, as in the case of operations using other forms of financing.*

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

25. (*§ 80 fourth indent - 2019/PAR/0371*) The European Parliament Calls on Commission to:

- re-assess, in the context of the COVID-19 crisis, whether the existing mechanisms to mitigate the exposure of the Union budget to risk are sufficient and appropriate and review the target provisioning rates of the guarantee funds covering the guarantees granted from the Union budget.

**Commission's response:**

*The Commission has endeavoured to give effect to this recommendation when it tabled proposals for the Recovery Plan (NextGenerationEU) and the MFF and the Commission will continue to monitor the situation.*

*To ensure that the Union is in a position to cover all its financial obligations even in cases of sudden and sharp economic downturn, such as the effect of the COVID-19 pandemic on the European economy, the Own Resources ceiling was increased to*

*1.40% of the EU27 GNI together with an additional temporary increase of 0.6% of EU GNI. This extraordinary and temporary increase of the ceilings is necessary to bear the liabilities related to the envisaged borrowing of funds under NextGenerationEU. This will guarantee the EU's ability to meet its repayment obligations while ensuring the Union retains its very strong credit rating.*

*For the established budgetary guarantees, the Commission assesses the adequacy of the provisioning levels relative to the levels established in the basic legislative acts on an ongoing basis. In this spirit the Commission, in collaboration with the implementing partners, has been monitoring closely the possible impact of the COVID-19 crisis on the Union's risk exposure stemming from budgetary guarantees. The target provisioning rates for the guarantee instruments proposed by the Commission in the context of Next Generation EU have been calculated on an accordingly prudent basis.*

26. (§ 80 fifth indent - 2019/PAR/0372) The European Parliament Calls on Commission to:

- present annual reports on how persistent low, ultra-low and negative interest rates could affect the Union budget.

**Commission's response:**

*The persistent low and even negative interest rates environment affects the asset management activities of the Commission.*

*The Commission manages the provisions that secure the operations of financial instruments, financial assistance and budgetary guarantees. These operations support investment in the EU and developing and neighbourhood countries that contributes to EU policy goals. From the 1st of January 2021, those provisions are managed in one single fund called the Common Provisioning Fund (CPF). Low or negative returns mean that the resources made available from the budget (or NGEU) to constitute the provisions for the CPF will not enjoy any organic increase due to market returns and may even slightly decline. This will not have any direct effect on the budget as declines in the absolute size of the provisioning do not need to be compensated by the budget. However, these changes in the value of the provisions may have a marginal influence on the level of provisions that are available to honour calls on the different budgetary guarantees supported by the CPF. The annual report of the Common Provisioning Fund to the European Parliament and to the Council will report on the performance of the Fund.*

*The Commission also performs asset management for competition fines provisionally received from fined companies, for the assets of the European Coal and Steel Community in liquidation (ECSC i.L) and for the health care insurance mechanism*

*for the Commission staff. Again, low or negative returns from the investment of those assets will have consequences for the financing of policies supported by these portfolios. For example, the likelihood of prolonged, subdued returns on the ECSC i.L portfolio has prompted a recently adopted revision of the Council Decision on the use of the proceeds and some of the assets in this portfolio. Comments on the performance of those assets under management, including the impact of low interest rates, are communicated to the relevant stakeholders in dedicated reports.*

*The central treasury activities of the Commission relate to the execution of payments, the collection of revenues and the deposit of excess cash with credit institutions. Information on cash balances and related charges is available in the annual accounts of the European Union.*

*In the context of the response to the COVID-19 crisis, NextGenerationEU has been adopted to finance recovery initiatives, while facilitating the green and digital transition of the Union economy. The Commission is empowered to borrow temporarily up to EUR 750 billion in 2018 prices on capital markets on behalf of the Union. Amounts, established on the basis of conservative but realistic forecasts, have been programmed for the period 2021-2027 to pay any interest and coupons owed to investors in these bonds that fall due. The continued prevailing low interest rates means that amounts needed to pay such interest and coupons to be actually made available for the initial years may be less than the originally programmed amounts. This situation is kept under close review as substantial increases in interest rates could lead to pressure on this budget line in the later years of the MFF. Against the backdrop of the currently low interest rates, the Commission has proposed to backload the amounts for the interest line, so as to keep the envelope for the period available for possible higher interest rates later in the period, and/or for early repayments.*

*A second consideration is that, under prevailing interest rate environment, the amounts held as short-term cash reserves on the NGEU liquidity account at the ECB may incur negative interest rates if they exceed EUR 20 billion. The NGEU funding strategy will be implemented in order to avoid such situations arising and ensure that funds are raised only when they need to be paid. There may be specific situations where the amounts on the liquidity account exceed the EUR 20 billion threshold, notably in the initial months of NGEU disbursements where the Commission needs to raise funds ahead of significant pre-financing payments. Any net liquidity costs – i.e. the difference between the funding costs and the interest rate charged on excess liquidity holdings – arising from such temporary and limited situations will be invoiced to the EU budget for the share of the proceeds that are used to finance NGEU non-repayables (on the basis of the methodology established in the Cost Allocation methodology Decision).*

*The Commission will report on the budgetary impacts of NGEU as part of its annual accounts and in the annual NGEU reports to Council and EP.*

## Performance of the Union budget

27. (§86 - 2019/PAR/0373) The European Parliament strongly encourages the Commission to continue to improve the reliability and accessibility of performance information as a vital tool for assessing the success of programmes; this should include the dissemination of lessons learnt from the Regulatory Scrutiny Board, especially those concerning design and methodology.

### Commission's response:

*The Commission 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 open to strengthening the reliability and quality of the information provided, where possible and to clearly indicate any issues in relation to the reliability of the information presented in the programme statements and the AMPR. The MFF 2021-27 will allow the Commission to continue making progress in this respect. However, it is not in a position to fully control or guarantee the reliability of performance information provided by others.*

*The Commission is continuously improving the accessibility of performance information. For example, in June 2021 the Commission launched webpages ([https://ec.europa.eu/info/strategy/eu-budget/performance-and-reporting/programmes-performance\\_en](https://ec.europa.eu/info/strategy/eu-budget/performance-and-reporting/programmes-performance_en)) covering the performance of the EU spending programmes. In these webpages the performance information is presented in a more dynamic and user-friendly way.*

*The Commission concurs with the importance of scrutiny by the RSB to improve the quality of selected evaluations, and the significant role that the dissemination of lessons learnt from such scrutiny has, to avoid possible flaws in the initial methodological design. The Commission will support this dissemination by continuing to organise trainings, peer review exchanges within the Better Regulation network and providing internal guidance, alongside the RSB's own outreach activities. Moreover, access to evidence supporting proposals has been made more available and accessible in various Commission's database.*

*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.*

28. (§89 - 2019/PAR/0374) The European Parliament welcomes the fact that the Commission documents the indicator data as well as the indicator baselines, milestones and targets that measure progress on programmes' general and specific objectives in the Annual Programme Statements; calls on the Commission to ensure that these indicator baselines, milestones and targets that could not have been accomplished without EU-funding and which represent EU added value concentrate on achieving such EU added value.

**Commission's response:**

*The Communication on the Performance Framework for the EU budget under the 2021-2027 MFF provides information on the methodology that will be applied to estimate the baselines, milestones and targets of the performance indicators of the spending programmes. The performance indicators will allow monitoring the performance of the programmes of which the EU added value is a key element. The baselines have been defined as the results prior to the EU budget intervention, while the milestones and targets should reflect the results after the EU budget intervention.*

*The value added of the spending programmes is also assessed in the context of the evaluations.*

29. (§90 - 2019/PAR/0375) The European Parliament calls on the Commission to include in its performance reports greater analysis of the effectiveness and economy (cost-effectiveness) of programmes when information becomes available, more systematic analysis of the significant external factors affecting programme performance; clear assessments of all the performance indicators reported on as regards whether they are on track to meet their targets; clear and balanced assessments of performance, covering all programme objectives in appropriate detail; urges the Commission to take these measures for the next discharge 2020 due to all programmes adopted in the context of the COVID-19 crisis.

**Commission's response:**

*The Commission remains committed to presenting high-quality performance information and a balanced assessment of the performance of the spending programmes. It will continue to seek further improvements in the coming years through the instructions and the preparation of the performance reports.*

*Information on the economy and efficiency of programmes is not available in general on an annual basis. These aspects result to a large extent from the regulatory framework and are typically measured in the longer term. The Commission will strengthen reporting on efficiency and economy, when the information becomes available.*

*Efficiency and effectiveness are thoroughly analysed in evaluations, that (given their regular and longer time intervals considered) are best placed to provide information on whether or not objectives have been reached and if they have been reached in the most efficient way.*

*The Commission acknowledges the role played by external factors in influencing the overall programme performance. It recognises the need to ensure that quantitative analysis is complemented with the assessment of key qualitative aspects, including external factors, depending on the characteristics of the programme concerned.*

*The objective of annual performance reporting is to provide an indication of the performance of the programme as a whole. As part of this, the Commission will aim at including in the programme statements for the upcoming reporting cycle a more systematic analysis of significant external factors which may affect the performance of programmes, to the extent that this is relevant and the data are available.*

*In the programme statements for the Draft Budget 2022 the Commission started to report on whether performance indicators are on track to meet their targets.*

## Annual management and performance report

30. (*§105 - 2019/PAR/0376*) The European Parliament observes that the Commission considered that its multiannual control systems ensured effective protection of the Union budget; notes that the Commission subdivides its portfolio for 2019 into lower-risk and higher-risk strata, using criteria recognised also by the Court and related to the nature of the funding, notably the difference between rather complex reimbursement-based schemes (higher risk expenditure with risk at payment above 2 %) and less error-prone entitlement-based payments (lower risk expenditure with risk at payment below 2 %); points out furthermore that the Commission estimates that the higher risk expenditure stands at EUR 67 billion (46 %), thus affecting a smaller part of the budget than the lower risk expenditure, which stands at EUR 80 billion (54 %); urges the Commission to adopt an ambitious action plan with measures allowing the significantly lowering of these risks.

### Commission's response:

*In 2020 also, since the overall risk at payment and the risk at closure are below 2%, thus below the materiality threshold of 2% also used by the European Court of Auditors, the Commission considers that the budget as a whole is effectively protected. This is confirmed by the internal auditor's opinion (see also reply to reco 2019/PAR/365).*

*In 2020, thanks to its in-depth empirical approach and the detailed information available, the Commission divided the funds managed in three categories, depending on their level of risk at payments (thus before any future correction is implemented):*

- *lower risk, where the risk at payment is below 1.9%, amounting to EUR 88 billion, 56% of the expenditure;*
- *medium risk, where the risk at payment is between 1.9% and 2.5%, amounting to EUR 26 billion, 16% of the expenditure*
- *higher risk, where the risk at payment is above 2.5%, amounting to EUR 44 billion, 28% of the expenditure.*

*For natural resources and cohesion, this analysis was also applied at the level of individual paying agencies and operational programmes in the Member States, irrespective of the financial corrections and recoveries to be made in subsequent years.*

*This precision allows the Commission to focus its action where it matters most.*

*In addition to applying financial corrections and recoveries, including those by the Member States, the Commission is taking action to further adjust the control strategies and to address the underlying weaknesses. For the medium and higher risk strata in particular, the Commission services will continue to work on ways to further decrease the error rates by raising beneficiaries, Member States' and other*

*implementing partners' awareness of issues, adjusting the control strategies where necessary and applying the lessons learned to the future programmes. This is being closely monitored.*

31. (§ 106, in connection with § 107 - 2019/PAR/0377) The European Parliament requests the Commission make sure that the AMPR is fully reliable and not based on projections.

**Commission's response:**

*The Commission considers that the aggregated risk at payment and risk at closure disclosed in the AMPRs are reliable.*

*As required by article 247 of the Financial Regulation, the AMPR includes "an estimation of the level of error ... and an estimate of future corrections" which are duly used to determine the estimated risk at closure. This has been the case for the Commission's previous AMPRs, including the 2020 edition.*

*Since the programmes managed by the Commission are multi-annual and the corrections, after the identification of an error, may take place at any stage of the programme until its closure, it is necessary to make an estimation of the future corrections to be able to make an estimation of the risk at closure.*

*The estimated future corrections are based on an historical average of 7 years, further adjusted to take out exceptional elements or to take into account the changes in legal bases, where applicable. In any case, the Commission applies a very conservative approach, which is described in detail in the Annual Activity Reports of the services.*

32. (§108 - 2019/PAR/0378) The European Parliament expresses disagreement with the Commission's evaluation of its methodology in calculating the error rate; despite acknowledging that the risks at payments used in the AMPR by the Commission is the closest to the Court's estimate of level of error, it is to be noted that important elements mean that the error rate by the Court and the Commission hugely differs; therefore reiterates its request to quickly align its methodology to the one used by the Court and to provide the budgetary control authority with only one error rate corresponding to the risk at payment (error rate at payment); calls on the Commission to disclose separately an estimate of the future corrections (residual error rate); urges the Commission to apply a coherent terminology across all DGs when reporting on these two estimates.



**Commission's response:**

*Article 247 of the Financial Regulation does not require the Commission to align its methodology to the one used by the Court, nor does it limit the estimation of the level of error to the disclosure of only one error rate corresponding to the risk at payment.*

*As managers of the EU budget, it is essential for the Commission to have a more detailed view of where the issues are, in order to address weaknesses found and apply targeted recoveries and corrections. Hence the empirical approach applied by the Commission.*

*The Commission's methodology nevertheless leads to comparable results to the ECA's in the sense that the Commission's risk at payment is acknowledged as being in line with the ECA's estimated level of error. Furthermore, for most of the programmes and the headings of the budget, the Commission's error rate is within the ECA's range.*

*For detailed explanations about the similarities and differences between the Commission's management approach and the ECA's audit approach, see the 2020 AMPR Volume II, section 2.1.3 and Volume III, Annex 5.*

*As in 2019 and fully in line with FR article 247, the 2020 edition of the AMPR includes a dedicated section presenting separately the risk at payment, the estimated future corrections and the risk at closure (see AMPR Volume II, section 2.2.2 and Volume III Annex 5).*

*The general terminology used for those three concepts is coherent across all DGs. Any more tailored terms used in specific management and control systems (e.g. in shared management) are explained in the AMPR.*

33. (§109 - 2019/PAR/0379) The European Parliament calls on the Commission to take the necessary measures to obtain reliable data from the Member States concerning the error rate at payment; calls on the Commission to make appropriate adjustments in a timely manner if deficiencies are detected in Member States' controls.

**Commission's response:**

*The Commission continuously monitors and re-assesses the work done by the Audit Authorities on a risk basis but ensuring also coverage over time, in order to ensure that they perform in accordance with the required high standards and provide fully reliable audit results.*

*In order to confirm the reported error rates by those authorities, the Commission carries out a thorough desk-review and assessment for each programme and then the assessment is completed by fact-finding missions or request for additional information, and, on a risk basis by on-the-spot compliance audits for programmes*

*considered at higher risk. Details of audits performed in the 2020 year are available in the respective AARs, showing in particular a specific focus on compliance audits.*

*Audit conclusions are reported to programme authorities and complemented by concrete, targeted audit recommendations to correct deficiencies, to improve systems or procedures or to correct irregularities. Audit reports are followed-up and programme authorities report on the actions carried out to implement recommendations. The Commission services follow-up their recommendations, requesting evidence of improved procedures or systems, until they can close a recommendation.*

*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; a specific workshop on the latest findings concerning public procurement aspects has taken 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.*

*With regard to agricultural expenditure, the Paying Agencies report the errors found as a result of their own controls. Where the Commission finds deficiencies in their control systems (meaning that the Paying Agencies may not be finding all the errors), the Commission makes adjustments to the reported error rates.*

*The adjustments or top-ups are determined on the basis of the opinions of the Certification bodies on legality and regularity of expenditure, the Commission's own audits and other available information from operational units, and findings by the European Court of Auditors.*

*Adjusted error rates are the basis for the Commission to discuss necessary reservations and the respective action plans to be put in place by Member States to strengthen their management and control systems.*

34. (§ 113 in connection with § 400 - 2019/PAR/0380) The European Parliament calls on the Commission to continue promoting a better gender balance and gender budgeting approach in the allocated funds.

**Commission's response:**

*Under the Inter-institutional Agreement of December 2020, the Commission agreed on the roadmap for introducing gender equality tracking methodology for the EU budget. The Commission aims at introducing the new methodology on a pilot basis in 2022, well ahead of the agreed 1 Jan 2023 deadline to implement it on certain centrally managed programmes, recognising the importance of this EU priority. The Commission also created a Task Force on Equality with Equality Coordinators as*

*part of the initiative to mainstream gender equality early in policy design. The tracking methodology will determine the amount of expenditures which significantly contribute to gender equality in all EU relevant funding programmes.*

## Revenue

35. (*§ 116 in connection with § 114 and § 115 - 2019/PAR/0381*) The European Parliament urges the Commission to propose a diversification of its revenue sources to ensure the Union becomes truly independent vis-a-vis Member States' contributions while significantly increasing the budget for Union programmes.

**Commission's response:**

*In the interinstitutional agreement of 16 December 2020 between the European Parliament, the Council and the Commission, the Commission committed to propose three new own resources. The Commission remains committed to make a proposal for new own resources and intends to make it in the second part of 2021. The timing is chosen to take into account the recent progress in the OECD discussion on corporate taxation. The proposal should ensure that the basket generates sufficient revenues to contribute to the repayment of NextGenerationEU and should contribute to a diversification of resources.*

36. (*§131 - 2019/PAR/0382*) The European Parliament notes that the Commission will follow up and hold Member States financially responsible for TOR any potential losses incurred; is concerned that provisional calculations indicate that the TOR losses in 2019 would reach 1 % of the 2019 TOR justifying a reservation in the 2019 AAR; asks the Commission to promptly inform the discharge authority about the findings and consequences of its inspections and quantification calculations once finalised.

**Commission's response:**

*The Commission will inform the discharge authority about the findings and consequences of its TOR inspections and quantification calculations once they are finalised. However, the quantification calculations on undervalued imports of textiles and shoes originating China will only be finalised once the judgement of the ECJ ruling on the so-called UK case (C-213/19) is issued. No ruling is expected before end 2021. Pending that judgement, the Commission recently notified the Member States of their preliminary calculated share in total TOR losses. A similar enforcement strategy/methodology is deployed for TOR losses caused by evasion of anti-dumping and countervailing duties on solar panels. Thereto, the Commission quantified potential TOR losses with regard to the evasion of antidumping and countervailing duties for solar panels and informed Member States concerned.*

*Such enforcement on specific fraud topics will continue in the future based on monitoring trade flows and in-depth import data analysis.*

37. (§ 136 first indent in connection with § 121 - 2019/PAR/0383) The European Parliament calls on the Commission to:

- provide Member States with regular support in selecting the riskiest importers for post-release audits by:
  - a. collecting and analysing relevant import data at Union level, and sharing the results of its analysis with Member States;
  - b. once Surveillance III becomes operational, providing guidance on how to carry out data analysis within this new system;

**Commission's response:**

*a. The Commission will use the available data on import to analyse abnormal patterns and share the information with Member States on a regular basis. This EU level information will assist individual Member States in focusing on specific situations of interest that they could further analyse from a risk management perspective to identify the operators involved.*

*b. Once SURVIII is fully operational, the Commission will exploit further the information and tools therein for several purposes, also in order to support Member States' data analysis providing the necessary guidance.*

*Both the analysis and the sharing of outcomes will be in line with the GDPR constraints and the legal framework in place. These actions would serve as support to the Member States given the fact that they remain responsible, within the scope of their competence, for the proper implementation of the customs legislation).*

*The new Customs Action Plan also provides for launching the EU Joint Analytics Capability initiative within the Commission services, as means to analyse data, under the framework of more effective customs risk management and controls.*

*The EU Joint Analytics Capability is expected to assist the Commission in reducing the response time to address fraud and emerging risks. It will be a structured and standing cooperation of Commission services (TAXUD, BUDG and OLAF), using all relevant information and data available to the parties and carrying out data analysis, in order to detect financial risks and provide Member States with information enabling them to make appropriate controls with regard to these risks.*

38. (§ 136 second indent in connection with § 129 - 2019/PAR/0384) The European Parliament calls on the Commission to:

- revise its procedures by:

- a. establishing a system for monitoring TOR open points based on quantitative and qualitative criteria that rank shortcomings detected in Member States in order of priority;
- b. setting deadlines for Member States to address such shortcomings, and for follow-up actions, including the calculation of late-payment interest and the recovery of amounts to be made available to the Union budget;
- c. simplifying the procedure, including the documentation required for access to funding, without neglecting the principles of audit and monitoring.

**Commission's response:**

*The Commission is reconsidering its monitoring system on open points along the lines recommended by the European Court of Auditors. Thereto an internal reflection how this will be taken forward is ongoing. However, the Commission considers that its database contains sufficient information for monitoring the timeliness and completeness of follow-up, except the financial impact, which is separately kept in an accounting system. This could be integrated in its follow-up database, but the correct amounts at stake cannot always be immediately determined. Further improvements are being reflected upon.*

*The Commission will also update its internal instructions/procedures to formalise the practice that the open points with the highest potential financial impact are prioritised for follow-up. Moreover, it will consider accelerate infringement procedures in case Member States do not address detected shortcomings within the set deadlines. The accounting procedures for calculating late-payment interest and recovery of amounts have been automatized and simplified.*

## Competitiveness for growth and jobs

39. (§141 - 2019/PAR/0385) The European Parliament is concerned that a high percentage (in some Member States up to 25 %) of funds from the operational programmes destined for the support of SMEs in entrepreneurship and innovations are being paid to large companies instead. Asks the Commission to develop stronger control mechanisms regarding the declarations of applicants for EU funding, as the Supreme Audit Office found that in the period 2014 – 2020, the authorities relied solely on statutory self-declarations about ownership, size and indebtedness of the companies.

**Commission's response:**

*In Horizon 2020, the SME status in actions on entrepreneurship and innovation is checked via an extended online questionnaire ('SME wizard'), supported by ex-post audits on the SME status based on sampling. Companies in doubt about their SME status according to the EU definition can ask for an ex-ante full validation of SME status.*

*Under the European Innovation Council (EIC) and especially under the Accelerator program, the funding is mainly dedicated to SMEs, including start-ups, whose status is checked during the application and selection process. In addition, if the selected SMEs requested equity, the SMEs status, ownership, size and indebtedness is also thoroughly verified by the EIC fund during the due diligence process.*

40. (§148 - 2019/PAR/0386) The European Parliament is worried about reported instances of potential beneficiaries of Union funding under the Erasmus+ programme being obliged to follow national rules that are not in line with Union principles; stresses that the Commission should monitor the situation closely and take appropriate action if necessary.

**Commission's response:**

*Erasmus+ programme 2021-2027 is being implemented with a view to providing an easy access to potential beneficiaries.*

*Furthermore, the programme implementation is governed by a series of documents to ensure a coherent set of rules for the projects (such as programme call and guide, guide for National Agencies, contribution agreements with National Agencies).*

*In particular, the model grant agreement for beneficiaries requires National Agencies to include explicitly in the agreement any legal provisions required by national law, as long as they do not contradict the other provisions of the grant agreement. In addition, the Commission monitors constantly any instances of potential conflict between the rules to avoid that they affect the implementation of the programme.*

*The Commission will constantly monitor the situation of potential beneficiaries and their accessibility to the funding opportunities offered by Erasmus+, in close contact with programme stakeholders, throughout the entire programme duration, taking into account the legal and operational limitations to interfere in national circumstances.*

41. (§150 - 2019/PAR/0387) The European Parliament calls on the Commission and the Education, Audiovisual and Culture Executive Agency to reduce bureaucratic burden by simplifying and adapting application processes to the target audiences in order to improve the accessibility of the programmes under their management; stresses that better synergies and cooperation with DG EAC are needed to achieve a streamlined application, evaluation and management processes, which would improve the quality and variety of applications.

**Commission's response:**

*In relation to the 2021-2027 Erasmus+ programme, the Commission carried out a thorough exercise of revision of all application forms in order to simplify their structure, making them more accessible also for all candidates, including newcomers. The programme rules have also been simplified, with an extended use of simplified cost options, including unit costs and lump sums.*

*The regulation establishing the programme, in its article 28.8, includes the provision that “The Commission shall ensure that the information technology systems necessary to implement the Programme objectives .....are developed in an appropriate and timely manner and in such a way as to provide easy access and to be user-friendly.’*

*The Commission has launched a completely new IT landscape for the indirect management in order to modernise and simplify the IT management systems, including the application process. For the direct management actions, EACEA is moving to the corporate eGrants system with the aim to simplify access and render it more transparent. DG EAC is working in close cooperation with EACEA and the National Agencies in all stages of the process, including to develop application forms that are simple and inclusive.*

*Further examples of actions aiming at a wider access include an extended use of accreditations in mobility actions, additional financial support for participants with fewer opportunities and the European Student Card initiative.*

42. (§159 - 2019/PAR/0388) The European Parliament draws attention to the fact that 22 of the research projects the Court audited had been conducted in currencies other than the euro, meanwhile the exchange rate applied in ten of these projects was not the one



stipulated in the rules (the financial effect of such errors is not in itself material, but their frequency demonstrates a lack of awareness of the rules); calls on the Commission to work together with Member States to pay a greater attention to this issue.

**Commission's response:**

***Regarding the exchange rate, it is clearly established in the Grant Agreement how to convert to EUR costs incurred in other currencies in Article 20.6.***

***“Currency for financial statements and conversion into euro Financial statements must be drafted in euro. Beneficiaries [and linked third parties] with accounting established in a currency other than the euro must convert the costs recorded in their accounts into euro, at the average of the daily exchange rates published in the C series of the Official Journal of the European Union, calculated over the corresponding reporting period.***

***If no daily euro exchange rate is published in the Official Journal of the European Union for the currency in question, they must be converted at the average of the monthly accounting rates published on the Commission’s website, calculated over the corresponding reporting period.***

***Beneficiaries [and linked third parties] with accounting established in euro must convert costs incurred in another currency into euro according to their usual accounting practices.”***

***On page 192 of the Annotated Grant Agreement it is explained how to do it and there is a link to the ECB website where the calculation is done automatically for the period concerned.***

***This issue was raised in particular in a Webinar organised specifically for beneficiaries from third countries, whose recording is permanently available on the Web for consultation.***

43. (\$166 - 2019/PAR/0389) The European Parliament regrets the lack of concrete data on up take of projects awarded Seals of Excellence by ERDF programmes; notes that the Commission has only partial information based on voluntary reporting from managing authorities and such schemes remains at the discretion of each country; calls on the Commission to work with the Member States under the new MFF, to improve programmes monitoring systems and to better capture this kind of information.

**Commission's response:**

***The Commission monitors the number of seals awarded in the framework of Horizon calls. The legal framework for the monitoring system for cohesion policy funds, however, does not foresee mandatory and systematic reporting by Managing Authorities on the uptake of Seals of Excellence. Instead, the Commission has set up***

*the Seals of Excellence Community of Practice which facilitates an exchange of experience and good practice among the relevant Commission and Member State actors on a voluntary basis. Through this Community of Practice information is captured about Seal of Excellence schemes set up at national and regional level in the Member States. Since its inception, there have been 11 meetings of the Seal of Excellence Community of Practice, which is co-chaired by DG R&I and DG REGIO, last on 29 January 2021.*

*More detailed information can be found at: [https://ec.europa.eu/info/research-and-innovation/funding/funding-opportunities/seal-excellence/information-funding-bodies\\_en](https://ec.europa.eu/info/research-and-innovation/funding/funding-opportunities/seal-excellence/information-funding-bodies_en)*

44. (§167 - 2019/PAR/0390) The European Parliament takes note of Commission's assessment that the Connecting Europe Facility (CEF) presents a low risk of error; requests however that the Commission, together with the Court and OLAF, closely monitor the Union's transport projects in order to prevent fraud, as public investment in infrastructure is particularly vulnerable in this regard; considers this essential also to ensure the highest safety standards for users.

**Commission's response:**

*The Commission agrees with the recommendation related to the close monitoring of transport projects in order to prevent fraud. The Commission remains highly committed to fighting against fraud or other serious irregularities with a negative impact for EU public investment in transport infrastructure. This recommendation has already been addressed by the adoption in July 2021 of Regulation (EU) 2021/1153 on the Connecting Europe Facility. This Regulation provides the Commission, the Court of Auditors, the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) with appropriate tools to prevent, investigate, detect and correct fraud, corruption and other illegal activities.*

*Under the CEF Regulation, only projects which are in conformity with EU law and policies may be funded. CEF transport projects must therefore comply inter alia with the requirements of the TEN-T Guidelines (Regulation (EU) No 1315/2013) and with the relevant EU transport policy legislation, including concerning safety standards.*

45. (§171 - 2019/PAR/0391) The European Parliament calls on the Commission to:

- to further simplify rules and procedures, provide practical and pragmatic guidance, including information and training sessions, particularly for new applicants and improve its assistance for SMEs, start-ups and other first-time applicants to level the playing field among applicants with varying level of experience and resources;

- enhance its information campaign regarding H2020 funding rules on the calculation and on the declaration of personnel costs, paying specific attention to the main types of error followed by carrying out targeted checks on their compliance with the rules;
- remind all H2020 beneficiaries of the rules for the calculation and declaration of personnel costs, paying specific attention to the main types of error;
- further simplify the rules on personnel costs under the next Research Framework Programme (Horizon Europe);
- address for H2020 the observations that arose following the Court's review of the ex post audits with regard to documentation, sampling consistency and the quality of audit procedures; as well as for the third round of contracted out audits, take appropriate measures to ensure that the auditors are fully aware of the H2020 rules, and verify the quality of their work;
- address the acute problem of geographical un-balance (concentration) of the majority of H2020 funds awarded to beneficiaries in few most-developed Member States by tackling the source of the problem in less developed countries, i.e. by supporting the research, industry - universities cooperation, universities' cooperation with governments in public policy-making, the establishment of new university programmes, academia excellence, etc..

**Commission's response:**

*The Commission has already implemented actions related to simplify rules and procedures and providing guidance and training sessions during the last years. In addition, the Commission has distributed to all Horizon 2020 beneficiaries a document entitled "How to avoid errors when claiming costs in H2020 grants" witch provides guidance on the most common errors detected by the auditors of this program.*

*In addition, in Horizon Europe a unique corporate and simpler calculation, based on a daily rate formula, is proposed for personnel costs in the Horizon Europe model grant agreement that allows for reducing errors and administrative burden for beneficiaries.*

*As regards the observations related to the ex post audit, the Commission is working on them for their implementation.*

*The Commission is aware of the diversity of situations regarding research and innovation in the EU Member States and is working to support improvements that will widen the access to excellence throughout Europe, even if this remains primarily the responsibility of Member States by investing smartly and undertaking the necessary reforms.*

*ore precisely, in Horizon 2020, a set of targeted actions with a budget of EUR 900 million were introduced to help countries lagging behind in terms of research and innovation performance to boost their R&I performance and widen their participation in the Framework Programme. It included, among others, support to various modules of cooperation with advanced partners in universities, research organisations, to links to industry, academia excellence, etc (i.e. actions like Teaming, Twinning, ERA chairs, widening fellowships and others). The efforts are reinforced for Horizon Europe, as the co-legislators have agreed to increase the budget for all widening activities to 3.3% of the total Horizon Europe budget as compared to about 1% in Horizon 2020.*

46. (§173 - 2019/PAR/0392) The European Parliament underlines that in context of the indicator for specific objective 5 'share of participating firms introducing innovations new to the company or the market' the programme statement mentions neither milestones nor a target for this indicator; therefore, it cannot be used to assess whether the programme is on track; calls on the Commission to update the programme statement so that it will include specific and measurable targets to allow for an assessment of efficiency and effectiveness;

**Commission's response:**

*The Commission (DG R&I) acknowledges the observation made by the Court of Auditors and is working on the creation of milestones and a target for the indicator on specific objective 5 in order to assess whether the programme is on track and to allow for an assessment of its efficiency and effectiveness.*

47. (§176 - 2019/PAR/0393) The European Parliament regrets the difference in investment in research and innovation across Member States and regrets that this means that researchers benefit to differing extents from the Horizon 2020 across Member States; calls on the Commission to contribute to spreading excellence by encouraging collaboration between national research organisations and top European research organisations, provide technical support and create additional programmes that aim at fostering excellence.

**Commission's response:**

*Following the European Parliament's suggestion to include into Horizon Europe "Excellence Initiatives to strengthen research and innovation excellence in the eligible countries" (Horizon Europe Regulations, recital 8f), the European Commission included a preparatory action in the Horizon Europe work programme 2021-2022 (action taken). This action will support up to 15 networks of universities to engage in institutional transformation in areas such as mainstreaming of open science, sharing of infrastructures, reinforcing academia-business cooperation and citizen engagement. The action will focus especially on entities in widening countries, in close collaboration with strong entities in other countries. The aim of this preparatory action is "Capacity building to strengthen networks of higher education institutions and cooperation with surrounding ecosystems", institutionally transforming and upgrading higher education institutions through integrated collaboration. The action will improve access to excellence for laggard institutions by sharing practices, mainstreaming a culture of excellence and value creation, and will prepare networks to engage in the future Excellence Initiative.*

*The Commission foresees the launch of the European Excellence Initiative in the 2023-2024 Work Programme of Horizon Europe (action to be taken). The institutional transformation of higher education institutions is currently piloted by the European University Initiative, which is a synergy action between Erasmus+ and Horizon 2020, supporting geographically balanced collaboration between institutions. Evaluation in 2022 of these pilots and their transformation progress will help define the modalities of the future European Excellence Initiative.*

*Under Horizon 2020 part 'Spreading excellence and widening participation' a set of targeted actions with a budget of EUR 900 million were introduced to help countries lagging behind in terms of research and innovation (R&I) to boost their R&I performance and widen their participation in the Framework Programme.*

*These widening measures have triggered advanced reforms and changes within national research and innovation systems, encouraged new partnerships, more peer reviewed international publications and so contributed to decreasing the innovation divide. In recent years EU13 countries were also increasing their participation under Horizon 2020 .*

*No single factor can fully explain a country's innovation performance or its success rates in Framework Programmes, although they are closely intertwined. Investing smartly as well as undertaking the necessary reforms remain primarily the responsibility of Member States. However, the co-legislators being fully aware of the persisting diversity of R&I situations have agreed to continue with widening measures in Horizon Europe and the budget for them increased based on the political agreement to 3,3% of the Horizon Europe (compared to 1% of the Horizon 2020).*

*In Horizon Europe, traditional widening actions encouraging collaboration between national research organisations and top European research organisations will be coupled with measures that aim at fostering brain circulation, improving the quality*

*of proposals from legal entities coming from the widening countries, boosting the activities of National Contact Points, establishing match-making services, promoting initiatives on excellence and for joining ongoing collaborative R&I projects.*

48. (§177 - 2019/PAR/0394) The European Parliament Calls on the Commission to:

- better communicate with applicants and beneficiaries (establish better procedures and controls with regard to the performance of the helpdesk functions, and in particular of RES, and raise awareness of the tools through which beneficiaries can report inconsistent treatment during the application process or during the implementation of their projects; resolve the remaining technical issues affecting the Participant Portal, improve its design, navigation and search function);
- intensify testing of lump sums (to analyse and report on the outcome of the calls already launched under Horizon 2020 as soon as the first results are available; launch new pilot initiatives on a larger scale to identify the most suitable types of project, assess possible drawbacks and design appropriate remedies);
- explore greater use of two-stage proposal evaluations (to identify a greater number of topics where the use of two-stage proposal evaluations could reduce the administrative burden for unsuccessful applicants, while ensuring the shortest possible time to award a grant if speed in reaching the market is critical);
- evaluate whether the projects designed by the Commission and (co-) financed from the EU budget in relation to the 2010-2020 European Disability Strategy have fulfilled the requirements set out in the corresponding UN convention (the UNCRPD) regarding persons with disabilities with particular focus on the projects of the Horizon 2020 Program;
- ensure that during the design and implementation stages of projects, the additionally incurred costs of persons with disabilities are fully covered by the grants, and to guarantee that the adequate monitoring arrangements are in place and that their fulfilment is safeguarded;
- re-examine remuneration conditions for expert evaluators (to update the daily remuneration rate and reassess the time needed for experts to carry out reliable evaluations of project proposals);

- stabilise rules and guidance for participants (to maintain continuity in the rules for participation between Framework Programmes wherever possible; minimise adjustments to the guidance during implementation of the Framework Programme; simplify time-sheets to avoid unnecessary reporting of effort by work package ; explore the possibility of more widely accepting the usual cost accounting practices, notably for personnel costs);

- improve the quality of outsourced ex-post audits (improve its mechanisms for examining the quality of outsourced ex post audits, and speed up such audits);

- further simplify tools, administration and guidance for SMEs (in such a way that they impose a minimal burden on SMEs, and especially on start-ups without the resources and staff to deal with their complexity).

**Commission's response:**

***On better communication with applicants:***

***The possibility to report cases of inconsistent treatment was integrated as a specific subject in the RES web form. National Contact Points were informed about this at several occasions.***

***The RES services underwent an internal review and improvements are being implemented.***

***The Participant Portal became the Funding & Tenders Portal, serving now as the one-stop shop for electronic management of all centrally managed EU grants, accompanied by a major overhaul of its look and feel and its search functions. Further improvements to its functions are continuously implemented.***

***On lump sum project funding:***

***The initial pilot under H2020 was extended with more call topics in 2019 and 2020. More than 2000 proposals for lump sum topics were evaluated and several hundred lump sum grants signed. The pilot is accompanied by close monitoring. Surveys were addressed to all applicants, experts, project officers and National Contact Points. The overall feedback is rather positive. The intention for Horizon Europe is to extend the use of lump sum project funding to more topics and areas.***

***On two-stage procedures:***

***The Commission considers the use of two-stage proposals in areas where this is appropriate, while acknowledging that this is not a universal remedy for reducing the burden of unsuccessful applicants. The reduced burden has to be balanced against the longer time-to-grant and the additional effort for evaluations in two-stage calls, in***

*particular in areas where the time from idea to grant is crucial (e.g. Innovation Actions).*

*On ensuring that during the design and implementation stages of projects, the additionally incurred costs of persons with disabilities are fully covered by the grants'*

*As a preliminary remark about this accepted recommendation, please note that during the 'design stage of projects' costs are not eligible in absolute terms, because they are incurred outside the duration of the action.*

*The Commission has paid special attention to increase the awareness of Horizon 2020 participants about the eligibility of additional costs incurred for the involvement of persons with disabilities in the research and innovation actions. For example, the Horizon 2020 Annotated Model Grant Agreement, which is the guidance document for all Horizon 2020 grants, explicitly indicates that costs to allow for the participation of disabled people may be eligible for EU funding under the grant agreement.*

*specific ad-hoc initiative has been put in place for researcher-oriented grants, namely Marie Skłodowska-Curie Actions, in order to facilitate and encourage the participation of researchers with special needs. Indeed, beneficiaries can request a specific type of grant, additional to the general funding of the action, to cover the acquisition of special needs items or services (as for example assistance by third persons, adaptation of work environment, travel/transportation costs) needed by the researcher taking part in the Horizon 2020 action.*

*Based on the H2020 experience and in line with the rules set out in the basic act, the Horizon Europe Programme from the outset takes these 'additional costs' into account in a simpler way aiming at reducing the administrative burden for applicants and beneficiaries. More precisely, these costs are covered under all HE MSCA grant agreements under a specific category of contribution (called 'special needs allowance') which will be made available, under certain conditions, for recruited researchers or seconded staff members with disabilities of such nature that their participation in the action would not be possible without the special needs items or services if requested by the beneficiary.*

*On the honorarium for expert evaluators:*

*Most of the evaluation tasks are now done remotely. For remote work done by experts, we calculate the payment based on the number of tasks (e.g. number of individual evaluations, number of consensus, panel discussion, etc.). The time available per proposal is modulated according to the complexity of the proposals for a given topic, which is revised annually. This allows for giving adequate time to experts for the evaluation of each proposal, without the need to increase the daily honorarium.*

*On stabilisation of rules etc:*

*For the current MFF, the Commission prepared a corporate model grant agreement applicable to all centrally managed EU funding programmes that should be largely*



*stable. This will be accompanied by a corporate annotated version, providing clear and stable interpretations of the articles of the grant agreement. Within this model grant agreement, the provisions for personnel cost reporting were considerably simplified, including the abolition of the need for time sheets, and the possibilities for using beneficiaries' own accounting practice were increased.*

*Concerning actions aimed at improving the quality of outsourced ex-post audits, please see the Commission's reply to 2019/PAR/0391*

*On tools for SMEs:*

*SMEs will profit in particular from the simplified rules on personnel costs.*

*The European Innovation Council is testing simplified and integrated IT tools, with artificial intelligence features to support SMEs and start-ups with the most innovative and deep-tech ideas and to allow them to create and develop the best proposals. The tools include guidance to SMEs on various aspects, such as technology, markets, financial and investment needs. Moreover, National Contact Points (NCPs) are fully involved in the EIC programmes to support SMEs in their application process.*

49. (§191 - 2019/PAR/0395) The European Parliament calls on the Commission and EIB to:

- review the use of higher-risk EIB products under EFSI (for EFSI operations with NPBIs, the EIB should look for opportunities to increase the use of a wider variety of subordinated debt finance, where duly justified; this would help ensure that EFSI financing is complementary to the financing provided by the NPBIs; the EIB should also promote the use of appropriate risk-sharing products for all NPBIs, especially those that are currently under-represented in EFSI operations); commission a study of risks of the medium-term and long-term risk-profile of higher-risk EIB products under EFSI;

- strongly encourage complementarity between Union financial instruments and Union budgetary guarantees (in the context of the new MFF programmes, the Commission should propose that the Union financial instruments are coherent and complementary in terms of the respective policy objectives to be achieved, so as to avoid competition between instruments);

- improve the assessment of whether potential EFSI projects could have been financed from other sources, such as in the case of the so-called loss due to the 'Deadweight', (the EIB should assess at the appraisal stage of the project the likely replacement of other sources of finance. The EIB should use this information in assessing the eligibility of EFSI operations.);

- estimate better the investment mobilized (the EFSI multiplier calculation methodology developed jointly by the Commission and the EIB should take proportionate measures to the effect that cases where the EIB supports an investment both directly and indirectly through different EFSI operations are identified and corrected in a timely manner, so as to avoid double counting);

- improve the geographical spread of EFSI supported investment (the Commission and EIB should, through the EFSI Steering Board assess the root causes of the observed geographical spread and provide recommendations for actions to be taken in the remaining EFSI implementation period. The EFSI Steering Board should assess the effect of the measures taken).

**Commission's response:**

*a) The Commission takes note of the EP's proposal to increase the use of higher-risk products under EFSI. However, the investment period for approving new EFSI operations ended on 31 December 2020. After that date, no new approvals can take place, only already approved EFSI operations can continue to be signed until 31 December 2022. The Commission and the EIB have been continuously monitoring the risk profile of the EFSI portfolio to ensure that it fits within the set risk-bearing capacity (i.e. provisioning rate). Hence, this was implemented by 31/12/2020.*

*In accordance with Article 18 (6) of the EFSI Regulation, the Commission will finalise the evaluation of the EFSI by the end of implementation period and this will also include, among others, an assessment of EFSI risk profile. It shall be implemented by 30/12/2022.*

*b) Under the previous MFFs, financial instruments expanded under a variety of programmes. During the 2014-2020 MFF, the Commission established 16 centrally managed financial instruments. These instruments aim to support investments in different policy areas, like Research and Innovation (R&I), small and medium-sized enterprises (SMEs) financing, infrastructure, cultural sectors, as well as promoting environmental and social sustainability.*

*The creation of the InvestEU Programme provides for a single EU investment support mechanism for internal action for the 2021-2027 MFF. The InvestEU Programme builds on the successful experience of the EFSI and the current financial instruments for internal policies. It will stand on four legs: (i) the InvestEU Fund providing for the EU guarantee; (ii) the InvestEU Advisory Hub providing in particular project development-related technical assistance; (iii) the InvestEU Portal providing an easily accessible data-base for promoting projects in search for financing; and (iv) blending operations.*

*The InvestEU Fund aims to implement the EU budget through a budgetary guarantee more efficiently, achieving economies of scale, increasing the visibility of EU action*

*and simplifying the reporting and accountability framework. The proposed structure has the objective of simplification, increased flexibility and removal of potential overlaps between seemingly similar EU support instruments. The guarantee Agreement related to InvestEU should be signed with EIB before year end so this should be implemented by 31/12/2021.*

*c) Following the entry into force of EFSI 2.0 Regulation, assessment of projects already includes qualitative assessment of additionality, including of market failure or suboptimal investment situations (including the availability of complementary and alternative sources of finance and their terms and conditions). This assessment was included in the proposals submitted to the EFSI Investment Committee. The recommendation was therefore completed 31/01/2019.*

*d) The investment mobilised, as per the methodology, reflects the best estimate of the expected investment in the real economy with actual amounts revised at project completion.*

*Moreover the EFSI Steering Board already approved, in October 2018, an updated EIB EFSI multiplier calculation methodology. The EIF EFSI Multiplier Methodology was updated in March 2018. These methodologies foresee that any double counting is eliminated as soon as identified and that, at approval, only incremental investment mobilised is accounted for. The last update was published in January 2019 ([https://www.eib.org/attachments/strategies/efsi\\_steering\\_board\\_eif\\_efsi\\_multiplier\\_methodology\\_calculation\\_en.pdf](https://www.eib.org/attachments/strategies/efsi_steering_board_eif_efsi_multiplier_methodology_calculation_en.pdf)). This recommendation was implemented 31/01/2019.*

*e) While EFSI is demand driven (there are no preallocation funds), the Commission recognises the importance of the geographical diversification of the programme. Following the results of an EFSI Steering Board study on geographical balance published in July 2019 (link: <https://www.eib.org/attachments/covid19-financing-multiple-underlying-operations-under-iiw.pdf>), the Commission and the EIB have been implementing several measures to support origination of projects and advisory activities in EU13. Moreover, geographical concentration cannot be assessed solely based on the volume of signed financing operations in each Member State. When looking at geographic concentration, the country size in terms of population and GDP of individual Member States has to be taken into account. On June 2021 the Commission presented for the first time -together with the Draft Budget for 2022-, the Working Document Part XI – Budgetary Guarantees, Common Provisioning Fund and Contingent Liabilities (link:[https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/db2022\\_wd\\_11\\_budgetary\\_guarantees\\_web.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/db2022_wd_11_budgetary_guarantees_web.pdf)). Based on the end-2020 data, in terms of the signed amounts relative to GDP per capita, the top beneficiary countries include Estonia, Greece, Bulgaria, Portugal, Spain, Italy, Poland, Lithuania, Latvia and Hungary (see attachment) . The geographical coverage should be assessed depending also on the market uptake in Member States who are also beneficiaries of other EU financing (e.g. non-reimbursable funds under cohesion*

*policy). The EFSI SB took stock of the geographical diversification in all its meetings including in the last one that took place on 17 December, 2020. The recommendation was therefore implemented by 31/12/2020*

## Economic, social and territorial cohesion

50. (§ 210 in connection with § 244 15th indent - 2019/PAR/0396) The European Parliament notes that the Court continued to find a high number of errors in relation to public procurement, state aid rules and grant award procedures, mainly in ‘Cohesion’ and ‘Natural resources’; notes that these errors contributed 20 % to the Court’s estimated level of error for high-risk expenditure (2018: 16 %), for this reason, the Commission should identify ways to reduce errors.

### Commission’s response:

*The Commission will continue to closely work with the audit authorities/certification bodies to ensure that they*

*continue to work in accordance with standards. It will also analyse with the audit authorities/certification bodies the underlying reasons for the issues detected by the ECA and Commission’s audits and how they can be further settled.*

*In particular, the Commission has offered specific tools, guidance, exchange of best practices and trainings to Member states authorities to reduce further errors and improve their detection capacity:*

- *In cohesion, dedicated action plans on public procurement and State aid with guidance, good practices, targeted training*
- *Peer-to-peer exchange of expertise*
- *Pilot action REGIO Communities of practitioners*
- *Strategic training programme for programme authorities*
- *Competency framework with a self-assessment tool*
- *Agreed typology of errors between auditors to provide feedback to managing authorities: better targeted management verifications and risk-assessment*
- *Simplification and increased use of SCOs / payments; active ESF network; development of ERDF network in 2019-2020*

*The Commission continuously undertakes actions to provide tools for audit authorities’/certification bodies’ professional development and improved detection capacity:*

- *Constant feedback on audit authorities’/certification bodies’ results*
- *Exchange of audit tools/checklists and good practices*
- *Charter of good practices for the audit community*
- *Continuous development and update of audit guidance*

- *Targeted bilateral or multilateral trainings on sampling, public procurement and financial instruments in 2020*
  - *Joint typology of errors between the Commission and the audit authorities/certification bodies' to allow for detailed analysis of the root causes of errors*
  - *Sharing of the Commission's audit findings to improve a common understanding of applicable rules*
- Alignment of the interpretation of rules between the Commission, ECA and national auditors will also bring legal clarity and certainty and hence, better compliance. The ECA is fully associated to this joint work towards a further alignment of audit methodologies.*

51. (§ 216 in connection with § 244 1st , 2nd, 3rd, 5th, 10th, 11th, 12th and 13th indent - 2019/PAR/0397) The European Parliament notes with concern that despite many irregularities which national audit authorities have already reported for the projects the Court examines, many errors still go undetected or uncorrected by any internal controls at an earlier stage; recommends, on the basis of the Court's findings and conclusions for 2019, that the Commission analyses the main sources of undetected errors and develops the necessary measures together with the audit authorities to improve the reliability of reported residual rates.

§ 244 1st indent

conduct a thorough analysis of the underlying reasons and potential structural problems causing the persisting systemic weaknesses detected by the Court in its audits every year and pay special attention to any potential country-specific differences; asks the Commission to also include observations on best practice in national authorities with low levels of errors and whose work is deemed reliable by the Court; asks the Commission to conduct this analysis in close cooperation with the Court and actively involve national authorities both regarding the problem description and potential solutions.

§ 244 2nd indent

Share the results of this analysis with the Court, the discharge authority and Member States.

§ 244 3rd indent

Based on this analysis, address clear, practical and readily implementable horizontal as well as country-specific recommendations to the national authorities; asks the

Commission to establish a structured dialogue with the national authorities and the Court to continuously work on capacity building and exchange of best practice to improve the reliability of national audit authorities' work; keep the discharge authority informed about the progress of this dialogue.

§ 244 5th indent

Take action to increase the reliability of the residual rates reported by audit authorities (analyse the main sources of undetected errors and develop the necessary measures together with audit authorities to improve the reliability of reported residual rates).

§ 244 10th indent

Continue consistently and extensively cooperating with the audit authorities to ensure robust control framework, improve the quality of the assurance work when needed and ensure the necessary detection and corrective capacities.

§ 244 11th indent

Require managing authorities to take action to tackle the most frequent errors and mitigate any risk for future expenditure and improve, where necessary, the detection capacities of both management verifications and audits.

§ 244 12th indent

Provide an error rate at payments and not a residual error rate in order to improve the evaluation of the scrutiny undertaken.

§ 244 13th indent

Continue its cooperation with the Court in order to further align audit methodologies and interpretation of legal texts;

**Commission's response:**

*The Commission considers that, overall, reliance can be placed on the work of audit authorities, with the exception of a few instances as clearly spelt out in the AARs based on all audit information available. Moreover, the Commission has effectively detected and reported in its AARs residual error rates to a figure above 2 % in eight out of nine cases reported by the ECA. It means that the Commission's detects the same issues as the Court of Auditors in its own audit work and is able to take corrective action where the national audit authorities have failed to do so. Undetected errors are discussed every year during annual coordination meetings (ACM) with*

*audit authorities and the Commission is systematically checking National System Audit Reports (NSAR) submitted by MS authorities.*

*Administrative capacity building has continued to support public administrations managing the ERDF and Cohesion Fund to strengthen their capacity to efficiently and effectively plan, implement and evaluate high quality investment programmes. The overall aim is to ensure that funds are spent well, on time, without errors, reported accurately and managed according to the principles of good governance.*

*Several initiatives (new and ongoing) aimed at increasing the effectiveness of programme authorities in a number of areas have continued to be implemented. They mainly concern:*

- A Pilot action ‘Frontloading administrative capacity building’ implemented in close cooperation with the OECD. One concrete finalised deliverable is a Self-assessment instrument designed for managing authorities, allowing them to assess their strengths and weakness, as well as to develop targeted solutions to address administrative capacity gaps.*
- A practical toolkit explaining step-by-step how to develop roadmaps for administrative capacity building in order to provide inspiration for Member State administrations, supporting them to build their administrative capacities in order to facilitate good governance and programme implementation. The toolkit is available in 14 languages and builds on experiences from the pilot action above.*
- Peer-to-peer exchange of expertise and experience between authorities managing and implementing ERDF and CF programmes in the form of study visits, expert missions, workshops and webinars. In the first six months of 2021, 241 exchanges involving 4126 participants have been implemented under TAIEX-REGIO PEER2PEER, all with positive feedback.*
- REGIO Communities of practitioners are networks of staff from administrations managing the ERDF/Cohesion Fund that provide opportunities for debate on shared issues and exchange of experience – both remotely and in person. A new network for exchange on administrative capacity building roadmaps is being set up.*
- Promotion of effective and proportionate anti-fraud/corruption measures to increase the awareness of risks and greater acceptance that preventive measures are possible. An online ‘EU Funds Anti-fraud Knowledge and Resource Centre’ was launched on 27 May 2021 that makes available tools and materials that will make it easier for Member States to prevent, detect, report and prosecute fraud and corruption in relation to EU funds*
- Pilot Integrity Pacts in cooperation with Transparency International to help governments, businesses and civil society to fight corruption in public contracting. 18 such pacts are being implemented in 11 Member States. The duration of the pilot project is extended to end 2021 in order to ensure the full benefits from the pilot and to widen communication and awareness raising activities. A support package for national actors (managing authorities and civil society organisations) for the*



*preparation of implementation of Integrity Pacts and other civil society monitoring tools in the 2021-2027 period is under development.*

- *A Competency Framework for efficient management and implementation of ERDF and CF, aimed at supporting further professionalisation of management of the funds. The accompanying web based self-assessment tool supports Member State administrations to identify and address competency gaps. The framework, the tool and comprehensive user guidelines are available in 22 EU languages.*

- *A strategic training programme with seven modules for managing, certifying and audit authorities and intermediate bodies. Virtual training sessions organised in 2021 covered ‘prevention of fraud/corruption’, ‘state aid’, and ‘development of roadmaps for administrative capacity building’.*

- *Within the framework of the Public Procurement Action Plan implemented in cooperation with DG GROW, the other ESIF DGs and the EIB, two actions can be particularly useful for Member State administrations, i.e. the E-library of good practices linked to the management of ESIF and the Guide for practitioners on how to avoid the most common errors in public procurement linked to the management of the ESIF.*

*In the first semester of 2021, the Commission has concentrated its support to audit authorities on topics concerning the start of the audit work for the 2021-2027 period. Several technical meetings took place to discuss in particular the audit work and assessment concerning SCOs to be submitted together with the programme, as well as main content elements of the delegated act for off the shelf sampling methods.*

*Further discussions concerned the increased type and amount of funds, and the limited time for their implementation and the related risks for the legality and regularity of the expenditure.*

*The Commission will continue to closely work with the audit authorities to ensure that they continue to work in accordance with standards. It will also analyse with the audit authorities the underlying reasons for the issues detected by the ECA and Commission’s audits and how they can be further settled.*

*The Commission refers to its reply under 2019/PAR/0357*

52. (§223 - 2019/PAR/0398) The European Parliament welcomes efforts to simplify requirements for project managers and management authorities in the Member States under the 2021-2027 programming period of the Common Provisions Regulation and the MFF-related funds; underlines that the key to solving this issue is through simpler national eligibility rules which might help reduce the administrative burden and the likelihood of error, thereby ensuring a high level of transparency; urges wider use of simplified cost options which the Court also considers to be a great relief for applicants and they facilitate control; shares the Court's conclusions stating that the change in the rules for the implementation of European Structural and Investment (ESI) Funds should

further accelerate the implementation process; points out that there is a need for an improvement of the audit working methods at the national level; invites the Commission, in a structured dialogue with Member States, to analyse administrative practices and procedures to eliminate inefficiencies and to disseminate examples of effective administrative practices and procedures to all competent authorities.

**Commission's response:**

*Overall the Commission considers its has a solid system to estimate the individual error levels based on reliable audit opinions and error rates reported by audit authorities, and has requested additional financial corrections where necessary. The Commission takes measures with all concerned programme authorities to address the root causes Overall the Commission considers its has a solid system to estimate the individual error levels based on reliable audit opinions and error rates reported by audit authorities, and has requested additional financial corrections where necessary. The Commission takes measures with all concerned programme authorities to address the root causes of identified errors (mainly ineligible expenditure and public procurement errors). Better targeted management verifications by managing authorities, good detection by audit authorities and simplification are key in preventing eligibility errors. This is why the Commission continuously works with all programme authorities, when needed, to improve the quality of their controls. It also discourages unnecessarily complex procedures and gold-plating, and strongly encourages Member States to use the increased legal possibilities offered for simplified cost options, which are less error-prone.*

*As explained in the respective 2020 Annual Activity Reports of REGIO and EMPL, the Commission has ongoing initiatives to analyse administrative practices and procedures with programme authorities with a view to curb the root causes of errors and eliminate inefficiencies, such as:*

- Reinforcing efforts on administrative capacity building through up-dated action plans on public procurement and State aid, peer-to-peer exchanges and technical assistance support*
- Facilitating the uptake of simplified cost options (SCO) – a radical game-changer for programme error rates - by providing assistance and support to the programme authorities to prepare and assess the SCO schemes for 2021 – 2027 programmes*
- Contributing to predictability based on methodologies approved and agreed with all actors, including with the ECA, taking account of recommendations issued by the ECA*
- Communicating, increasing trust and dialogue between programme authorities and with the Commission services and promoting simplification at all levels and fight against gold-plating at national / programme level.*

*Moreover a revised Guidance note on SCOs was adopted by Commission decision on 27 May 2021 and published in the OJ in all languages (see [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2021.200.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2021.200.01.0001.01.ENG) ). The Commission consulted Member States extensively via EGESIF and other channels (ESF Committee, Transnational Network on Simplification) to ensure that all relevant topics are covered. The updated document addresses numerous questions raised by Member States on methodology, audit, suitable data to develop SCOs, changes to the legal basis (i.e. the CPR) etc.*

53. (§234 - 2019/PAR/0399) The European Parliament regrets that the correlation between EGF cost per assisted worker and the reintegration rate is very weak or non-existent. Asks the Commission to carefully analyse and address this discrepancy.

**Commission's response:**

*The EGF is managed under shared management, as the Member States are best placed to identify the characteristics and needs of both the dismissed workers and the local labour markets. The Member States are responsible for designing the coordinated package of personalized services offered to EGF beneficiaries. The cost of those packages vary depending on the profiles of the targeted beneficiaries, and on the type of trainings or other measures proposed. The re-integration rates depend on several factors, such as the economic situation in the Member State or the region concerned, the needs of the local labour market and the extent to which the skills of the workers match those needs, as well as on the regular services that are offered to dismissed workers by the Public Employment Services in the Member State concerned. There is, therefore, no direct link between the amount spent per beneficiary and the re-integration rate. In view of the diversity of situations, the relevance of comparing reintegration rates within a Member State or across Member States is limited.*

54. (§235 - 2019/PAR/0400) The European Parliament considers that the EU Youth Guarantee falls short of expectations; calls on the Commission to ensure that programmes designed to help young people do not raise expectations which cannot be fulfilled; insists that the Commission should manage expectations by setting realistic and achievable objectives and targets.

**Commission's response:**

*Whilst fully recognising the importance of managing expectations and setting realistic and achievable objectives and targets, the Commission would however like to underline the importance of setting ambitious policy goals for the Youth Guarantee, which has contributed to creating political momentum around the Youth Guarantee*

*in the EU. Since 2014 the Youth Guarantee coupled with European funding (the Youth Employment Initiative with a total budget of €8.9 billion for the period 2014-2020) has created millions of opportunities for young people and triggered structural reforms in Public Employment Services and education systems in the Member States. Over the seven years before the recession triggered by the COVID-19 pandemic, there were approximately 1.7 million fewer young people neither in employment nor in education or training (NEETs) across the EU. The EU youth unemployment rate, which had reached a record level of over 24% in 2013, had fallen to 14.9% in 2019.*

*The Council Recommendation on A Bridge to Jobs – reinforcing the Youth Guarantee was adopted on 30 October 2020, following a Commission proposal. Under the reinforced Youth Guarantee all Member States have now committed to ensure that all young people under 30 years of age receive a good quality offer of employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or leaving formal education, in line with Principle 4 of the European Pillar of Social Rights. The reinforced Youth Guarantee builds on the experience and lessons learnt of 7 years implementation of the 2013 Youth Guarantee. These lessons originate from numerous monitoring and evaluation exercises at EU level but also from the feedback received during targeted consultations in early 2020, when the Commission reached out to, among others, civil society, social partners, national stakeholders and young people themselves.*

55. (§ 244 4th indent - 2019/PAR/0401) The European Parliament calls on the Commission to:

- clarify promptly eligibility conditions (including by defining what is meant by ‘physically completed’ and/or ‘fully implemented’ operations, in order to help Member States to verify that operations comply with Article 65(6) of the CPR and avoid the non-detection of ineligible operations);

**Commission's response:**

*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 mobilizing 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) of the CPR.*

*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.*

*The ECA has acknowledged the measures which the Commission has already initiated to clarify the concepts of 'physically completed' / 'fully implemented' operations.*

56. (§ 244, 6th and 7th indent - 2019/PAR/0402) The European Parliament calls on the Commission to:

- provide Parliament with an annual report setting out in detail the contribution of each budget item to the climate mainstreaming target and to biodiversity spending, in order to facilitate their monitoring;

- urgently start working on an effective methodology, where relevant, and in accordance with sectoral legislation, for monitoring climate spending and its performance in view of achieving an overall target of at least 30 % of the total amount of the 2021-2027 Union budget and Next Generation EU(NGEU) expenditures supporting climate objectives.

**Commission's response:**

*In line with the MFF Inter Institutional Agreement, the Commission is working towards implementing tracking of climate mainstreaming expenditures in its own financial system. The Draft Budget 2022 proposal already includes estimates for the next seven years – also on biodiversity spending. These estimates will be revised and updated on a yearly basis. The Commission will pursue a coherent approach to present this information in an uniform way.*

57. (§ 244, 14th, 17th, 19th and 20th indent. - 2019/PAR/0403) The European Parliament calls on the Commission to:

- pay increased attention, and allocate increased technical support, to Member States, whose management and control systems are only partially reliable, or not reliable, where there is an increased risk of fraud and corruption related to funds
- specify in the AARs how the amounts effected by ex post financial corrections imposed by Member States and by the Commission were reused, particularly in those cases where fraud, corruption or other criminal activity was involved;
- develop a strong strategy against conflicts of interest of high-level politicians; develop together with the Member States effective legal instruments to avoid fostering oligarch structures drawing on Union cohesion funds;
- inform Parliament on any further developments in the conflict of interest case reported in the DG REGIO Audit Report on Czech Republic.

**Commission's response:**

***The Commission is committed to supporting the Member States in building capacity to better prevent and detect errors leading to irregularities, fraud or corruption. Guidance and training is provided by the Commission to Member States to strengthen their capacity to prevent and detect fraud and corruption.***

***Beside providing extensive guidance to programme authorities the Commission has directed its technical assistance allocations to constantly widen the tool box to help Member States to increase knowledge and share good practices, to develop innovative solutions and approaches and to build capacity of the bodies involved in the implementation of funds. In June 2021 the Commission launched a new EU Funds Anti-fraud Knowledge and Resource website. This new knowledge tool for anti-fraud practitioners on prevention and detection of fraud in the EU Funds implementation provides MS practitioners with resources to improve their administrative capacity in area of anti-fraud and anti-corruption. The website gives concrete examples from Member states, presents tools that have proven to be effective, explains how to reproduce and apply good practices, shares knowledge and connects practitioners.***

***The Commission also offers to Member States a risk-scoring / data mining tool 'Arachne' for free to help authorities to better prevent and detect fraudulent operations, contracts and contractors.***

***All amounts declared as eligible by Member States are checked and certified according to the whole assurance cycle and therefore go through the different required controls put in place at both Member State and Commission level before they can be reimbursed.***

*Under the 2014-2020 programmes, financial corrections are part of the annual accounts which are reviewed and assessed by the audit authorities before submission to the Commission, with an audit opinion. The risk of having a material level of error (above 2%) in the certified programme accounts on a yearly basis is thus significantly reduced. Moreover, timely identification of deficiencies and reporting of reliable error rates is in the Member States' best interest since the European Commission shall make net financial corrections in case Member States have not appropriately addressed serious deficiencies in their management and control systems and did not do the necessary corrections before submitting their annual accounts. When it detects problems or deficiencies in the management and control systems, the Commission has all powers and tools to implement the necessary additional corrections. Member States shall make the financial corrections required in connection with individual or systemic irregularities detected in operations or operational programmes. Financial corrections shall consist of cancelling all or part of the public contribution to an operation or operational programme. According to Article 143 of CPR, the contribution from the funds cancelled may be reused by the Member State within the operational programme concerned but may not be reused for any operation that was the subject of the correction or, where a financial correction is made for a systemic irregularity, for any operation affected by the systemic irregularity. Any amounts from irregularities and/or fraud re-used for other operations are subject to the above described control cycle including several levels of control (national and EU) of their legality and regularity, including the compliance with the above mentioned Article 143. It does ensure that the re-used amounts are legal and regular as they have to follow all applicable rules. In addition, the controls performed at national level and those performed at EU level result, among others, in a specific reporting of all financial corrections imposed by both Member States and the Commission in the AARs.*

*The EU Financial Regulation, which entered into force on 2 August 2018, has strengthened the measures to protect the EU financial interests, including the rules on conflicts of interest.*

*In April 2021 the Commission issued a guidance on the avoidance and management of conflicts of interests to further strengthen the measures to protect the EU budget against fraud and irregularities(OJ C 121, 9.4. 2021).*

*Following a thorough contradictory procedure, the REGIO and EMPL joint final audit report on the functioning of the management and control systems in place to avoid conflict of interest in Czechia was issued in English on 29 November 2019 and in the national language on 5 February 2020. From February 2020, the audit entered into a follow-up stage, where the Commission services monitor the implementation of recommended actions. Considering the public interest in these audits, including a request from the European Parliament to make the final audit report public, the final audit report was made publicly available on 24 April after deletion of personal data, commercial secrets and other information subject to non-disclosure.*

*Due to the precautionary measures taken by the programme authorities at the request of the Commission, no expenditure was declared for the operations affected by the audit results, and EU funds remain protected against the risks identified during the audit.*

*The Commission kept the European Parliament regularly informed of the state of play of this audit and stands ready to continue informing it about any further developments.*

58. (§ 244, 21st to 26th indent - 2019/PAR/0404) The European Parliament calls on the Commission to:

- draw on the Court's observations on plastic waste for the review of Directive 2008/99/EC particularly with regards to minimum standards and clear definitions of different waste crimes;

- address the problem of the lack of capacity for recycling and incineration as a means to reduce waste crimes, such as waste trafficking by increasing capacity for legal disposal of plastic waste and its economic attractiveness for producers of plastics waste;

- improve the definition of recycling and the requirements for reporting on recycling, particularly for the own resource based on non-recycled plastic packaging waste; asks the Commission to assess the possibility for digitalising the reporting and monitoring of waste flows between operators to increase the ability to detect irregularities and indications for waste trafficking;

- analyse in close cooperation with the responsible national authorities the reasons behind the low absorption of funds available for waste management infrastructure and inform the discharge authority about the findings; inform the discharge authority about how the Commission is assisting Member States in increasing the absorption rate and explore further avenues of assistance;

- inform the discharge authority of any reallocation of cohesion funding from funds intended to support recycling and waste management to other areas as a result of the COVID-19 pandemic;

- prioritise as a matter of urgency the review of Essential Requirements for packaging in order to accelerate the adaptation of plastic packaging design and manufacturing in



favour of recyclability and sustainability in time to support the achievement of the 2025 plastic packaging recycling target.

**Commission's response:**

*The Commission organises its response according to the sub-points which are part of the recommendation of the European Parliament:*

*1) The Commission is currently revising Directive 2008/99/EC on the protection of the environment through criminal law to make it more effective in practice ([https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1930-Environmental-crime-reviewing-the-EU-rules\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1930-Environmental-crime-reviewing-the-EU-rules_en)). The Directive is a horizontal instrument, which also comprises waste crime. The review seeks, among others to define the various crime categories covered by the Directive more precisely.*

*In addition, the Commission also plans to propose a revision of Regulation (EC) No 1013/2006 on shipments of waste, which requires Member States to lay down rules on penalties applicable for infringements of the provisions of the Regulation, including those regulating shipments of plastic waste, and take all measures necessary to ensure that the rules on penalties are implemented. One of the objectives of this proposal is tackling illegal shipments of waste more effectively. It should be adopted in 2021. The Commission aims to strengthen the existing rules on administrative penalties against illegal shipment of waste, including plastic waste, by including common criteria for determining the types and levels of penalties to be imposed for infringements, with a view to making penalties more deterrent and applying them more consistently across the EU. These criteria would include the nature and gravity of the infringement and other factors such as the economic benefits derived from and the environmental damage caused by the infringement, insofar as these can be determined.*

*2) The EU has comprehensive legislation and an ambitious agenda to reduce waste generation and transform waste into resources. The reduction of waste and an increase in recycling rates of waste, including plastic waste, is thus an ongoing measure. The 'EU Waste package' adopted in 2018 introduced legally binding EU targets for waste recycling and reduction of landfilling. The accompanying impact assessment identified the additional capacity needed in the Member States to treat waste further up the waste hierarchy. The Single Use Plastics Directive 2019/904/EU adopted in 2019 also has an impact on the necessary waste management infrastructure in the EU. Finally, the Commission is currently reviewing the Waste Shipment Regulation (EC) No 1013/2006 (WSR) ([https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/7567584-Waste-shipments-revision-of-EU-rules\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/7567584-Waste-shipments-revision-of-EU-rules_en)) aiming to improve waste shipment procedures within the EU and stop exporting EU waste related challenges to third countries. The accompanying impact assessment will provide a more recent overview of the waste treatment capacity in the EU and identify further investments that will be required. This analysis will serve as an indication to Member States and economic operators as to the expected trends in terms of quantities and types of waste.*

*In the context of the Waste Shipment Regulation review, the Commission will also look at the possibilities to better address the illegal trafficking both for intra-EU and extra-EU shipments of waste, including plastic waste. Illegal trafficking is one of the most serious forms of environmental crimes with active organised crime networks.*

*The Commission is working closely with enforcement agencies from the EU Member States, the EU Network for the Implementation and Enforcement of Environmental Law (IMPEL), Europol and international organisations like the United Nations Office on Drugs and Crime (UNODC) and the Basel Convention to tackle illegal waste management activities and illegal waste shipments. In addition to supporting cross-border investigations and cooperation between enforcement agencies in its Member States, the EU is also providing significant financial support to operational projects, which are directly targeting waste trafficking, focusing on particular waste streams like plastic or e-waste, as well as on coordination with third countries.*

*In particular, the waste sector needs to be modernised, to extend its capacity to deal with additional waste (notably plastics and textile waste) and to engage in high-quality recycling and manufacturing industry, which needs to be skilled and equipped to increase the uptake of recycled materials in their production. The development of the recycling industry, and of the circular economy in general, could potentially generate more employment in the EU, as jobs in the reuse or recycling sector are far more labour-intensive than in activities further down in the waste hierarchy, especially landfilling and incineration.*

*With respect to plastic waste, the EU market for recycling is undergoing an important transition, which should lead to a substantial increase in its capacity.*

*It is important to highlight that to respond to the current needs and help its businesses and industries recover from the crisis linked to the COVID-19 pandemic, the EU has put in place an unprecedented level of public financial support for investments, which are specifically geared towards the green transition. This provides considerable opportunities for all actors in the waste sector, mostly SMEs, and the industries processing waste to accelerate the transition to the circular economy. It includes funding available under the multiannual financial framework for 2021-2027, especially the cohesion policy Funds, in particular the European Regional Development Fund and the Cohesion Fund ([https://ec.europa.eu/regional\\_policy/index.cfm/en/funding/accessing-funds/](https://ec.europa.eu/regional_policy/index.cfm/en/funding/accessing-funds/)). In addition, the Recovery and Resilience Facility (RRF), the key instrument at the heart of the EUR 750 billion NextGenerationEU plan, supports investments in several Member States for innovative and advanced solutions for separate collection, sorting, reuse and recycling, as well as for fostering the development and adoption of circular economy innovations ([https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en); [https://ec.europa.eu/info/strategy/recovery-plan-europe\\_en](https://ec.europa.eu/info/strategy/recovery-plan-europe_en)). [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en); [https://ec.europa.eu/info/strategy/recovery-plan-europe\\_en](https://ec.europa.eu/info/strategy/recovery-plan-europe_en)).*

*The circular economy is also embedded in the matrix of the Horizon Europe framework programme on research and innovation, notably its partnership on circularity ([https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_1122](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1122)). It is one of the pillars of the programme for the environment and climate action (LIFE) 2021–2027, the only EU funding instrument entirely dedicated to environmental and climate objectives, with an allocation of EUR 5 billion for 2021-2027 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0783>).*

*The European Investment Bank is also a key player in supporting the transition to a circular economy and has recently stepped up its engagement in this field ([https://www.eib.org/attachments/thematic/circular\\_economy\\_guide\\_en.pdf](https://www.eib.org/attachments/thematic/circular_economy_guide_en.pdf)). The EU's instrument "InvestEU", which brings additional investment support to four different policy areas, also includes the possibility to finance projects on sustainable waste management infrastructure and thus contributes to circular economy objectives ([https://ec.europa.eu/info/publications/investeu-programme\\_en](https://ec.europa.eu/info/publications/investeu-programme_en)). The European Investment Fund provides specific support to European SMEs through business loans, microfinance, guarantees and venture capital (<https://www.eif.org/>).*

*In sum, the Commission is constantly working on a transition towards a more circular economy and is supporting the Member States in reducing waste rates, increasing recycling rates and adjusting their landfilling capacities. The Commission is collaborating with agencies and other international bodies in order to combat illegal waste trafficking.*

*3) The Commission considers that new rules have already been introduced to improve the comparability and trust in data on recycled waste, in particular packaging waste. The Commission will maintain its policy course to facilitate and support the transition to digitalisation of waste data through both regulatory and measures and financial assistance.*

*The plastic own resource contribution builds on the existing definitions on recycling and calculation in the Packaging and Packaging Waste Directive and the reporting requirements on the treatment of plastic packaging. The new rules for the calculation of recycled plastic packaging waste were adopted in 2018 by the European Parliament and Council and detailed in implementing rules by the Commission in 2019 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0852>, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019D0665>).*

*Eurostat is working with the Member States to implement the new statistical methodology, which is necessary for the EU's Plastics Strategy as a whole and will guarantee comparable results across the EU.*

*The latest changes in EU waste legislation of 2018 require Member States to report data to the Commission electronically and to establish electronic registries for hazardous waste management. It also invites Member States to strive to establish electronic registries for all waste streams to simplify record keeping for businesses and administrations and improve the monitoring of waste flows in the Union. The Commission also actively supports the use of available EU funding, in particular, the*

*Cohesion Fund to facilitate the transition to the digitalisation of the waste data collection, processing and reporting. A mandatory requirement for all waste streams was not agreeable to the co-legislators. Commission legislative proposals systematically assess opportunities for digitalisation as part of the broader impact assessment exercise. For example, this was the case in the Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) 2019/1020 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0798>). It will also be a key element of the Proposal for a Regulation of the European Parliament and of the Council on shipments of waste replacing and repealing Regulation (EC) No 1013/2006 of the European Parliament and of the Council.*

*4) The Commission has already analysed the reasons for the low absorption of funds available for waste management infrastructure. Factors for the low absorption include bottlenecks to the revision of Member States waste management plans and other national legislation, the need to adapt and revise approved projects, lengthy evaluations of projects, delays in public procurement procedures, a lack of capacity by regional and local authorities to manage projects, and a lack of co-financing (see also the ‘Study on investment needs in the waste sector and on the financing of municipal waste management in Member States’, June 2019, *Economia*, <https://op.europa.eu/en/publication-detail/-/publication/4d5f8355-bcad-11e9-9d01-01aa75ed71a1>).*

*The above bottlenecks were often linked to large infrastructure projects (incineration plants, mechanical and biological treatment plants (MBT), landfills of residual waste). The EU waste legislation amendments of 2018 (Directives 94/62/EC, 1999/31/EC and 2008/98/EC) had to be transposed into national legislation and national waste management planning by July 2020. They reinforce the waste hierarchy and set different waste management targets to promote recycling, introduce new separate waste collection and extend producer responsibility obligations. Furthermore, they limit landfilling and scale up waste prevention. Hence, investments in the lower parts of the waste hierarchy (such as incinerators, landfills and MBT) should not be prioritized. This new policy approach is reflected by the criteria in the co-financing instruments of the 2021-2027 programming period. In particular, the ERDF/cohesion regulations exclude support to facilities for landfilling and residual waste treatment with limited exceptions. In addition, the investment will focus on circular economy and the inclusion of an enabling condition on planning for waste management will ensure that the right framework for investment is in place. Consequently, infrastructure for separate waste collection, sorting, preparation for re-use and recycling and other measures concerning the promotion of circular economy will be promoted compared to more ‘traditional’ waste infrastructure. The reinforcement of the extended producer responsibility rules in Union waste legislation also requires broader shouldering of financial needs for waste management on producers of products and removing the potential role for municipalities in this area.*

*In order to ensure that the absorption of funds available for waste management is improved as regards the ERDF and Cohesion Fund, the Commission will discuss the matter with the national authorities in one of the forthcoming meetings of the ENEA-MA group (European Network of Environmental Authorities and Managing Authorities). In this context, needs for support to accelerate investments in waste infrastructure, in particular in the form of technical assistance, can be clarified.*

*The research and innovation framework programme Horizon Europe will support the deployment of large-scale circular solutions, and will push towards higher technology readiness levels. This should make Horizon Europe funding more relevant in the context of the implementation of the EU waste acquis. One particular cluster of the Green Deal and the Horizon Europe projects that will have an impact on capacity building across Europe is the Circular Cities and Regions Initiative (CCRI). CCRI was launched under the mandate of the 2020 Circular Economy Action Plan, and it will support inclusive circular models across material flows, value chains and societal actors at a replicable territorial scale.*

*All key instruments where waste management infrastructure and circular economy measures are eligible for financing are accompanied by technical assistance, aiming to improve the project pipeline, such as the Technical Support Instrument, the technical assistance under ERDF/CF and the Invest EU Advisory Hub. Such technical assistance is available for Member States authorities (at all levels), as well as public and private project promoters.*

*In addition to technical assistance, guidance and financial support, the Commission facilitates compliance and implementation through several compliance promotion activities. These include:*

- The Early Warning Reports (EWR) identify those Member States at risk of non-compliance and make recommendations for improvements. The latest Report on the implementation of waste law, including the early warning report is from 2018 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1537873850842&uri=COM:2018:656:FIN>). The 2018 revised Waste Framework Directive, Packaging and Packaging Waste Directive and Landfill Directive require the European Commission, supported by the EEA, to publish EWR three years ahead of the recycling and landfilling target years. Therefore, the next EWR are due in 2022 for the targets on recycling of municipal waste and packaging waste with a 2025 deadline.*

- “Virtuous Circles” missions are high-level missions at the level of the Commissioner(s) or Director General, on the one hand, and the ministers (environment, economy, finance) on the other, bringing together private and public sector stakeholders who can make circular systems work on the ground. These dialogues aim to provide support to policy reforms in the areas of waste management and raise awareness about the benefits of the circular economy. In the period 2018-2019, virtuous circle events took place in Malta, Romania, Bulgaria, Greece, Portugal and Hungary. In view of the past successes, the 2020 Circular Economy Action Plan*

*envisaged the continuation of the “Virtuous Circles” missions in 2020 and 2021. Unfortunately, these visits were interrupted by the pandemic and have not resumed yet.*

- The Commission also seek improvements through regular dialogue with Member States, following up on recommendations to Member States in the context of the Early Warnings and/or in other bilateral contacts. The EEA, supported by its ETC/WMGE (European Topic Centre / Waste and Materials in a Green Economy), will develop first draft early warning assessments for all Member States in 2021. The draft assessments will be based on information provided by Member States and by dialogues between the EEA, the Commission and the Member States on the EEA findings.*

- The Commission is also seeking improvement of the reporting process by setting up an online form for the reporting of the biodegradable waste sent to landfill and by improving the annual reporting process in collaboration with Eurostat.*

*5) Thanks to an unprecedented mobilisation of all institutions at the European level (the European Parliament, the Council and the European Commission), the Coronavirus Response Investment Initiative (via two modifications of the Common Provision Regulation: Coronavirus Response Investment Initiative and Coronavirus Response Investment Initiative Plus) allowed to mobilise over 20 billion € of cohesion policy funding to directly address COVID-19 pandemic. The European Parliament can find all details of the cohesion policy crisis response on the following dashboard (<https://cohesiondata.ec.europa.eu/stories/s/CORONAVIRUS-DASHBOARD-COHESION-POLICY-RESPONSE/4e2z-pw8r>) created within our Open Data Platform.*

*The funding was directed mostly to the health sector and to direct support to SMEs and people that were hardly hit by the necessary restrictions linked to our strategy to contain the spread of the virus. Part of the funding was redirected from uncommitted funds in thematic objective 6 “Preserving and protecting the environment and promoting resource efficiency”, and partly also coming from waste management projects. As these projects are quite demanding in terms of the investment process (e.g. need for proper social consultations, and consensus about waste policy that usually spreads across various administrative units) and require long preparation periods, they become natural candidates to redirect funding to more urgent needs linked to COVID-19. In general, measures planned in 2014-2020 period linked to green investments have been reduced during the COVID-19 time. However, in view of incoming REACT EU resources (that will be redirected towards green and digital transition), and the funding put forward by the Resilience and Recovery Facility and cohesion policy 2021-2027, circular economy projects will be offered appropriate funding in coming years. In addition, there is now a better strategic framework for implementing such projects and namely ambitious European Green Deal and other improved EU and national policies that should allow for better prepared projects meeting the needs and ambitions of our European society and economy, and properly reflecting the externalities. 37% of RRF and 30% of ERDF and 37% of Cohesion*

*Fund resources will be spent on climate- related objectives, offering also opportunities for project promoters in the area of circular economy. The Commission also offers various forms of technical assistance to national authorities (via DG REFORM Technical Support Facility) and to project promoters (via the InvestEU Advisory Hub); the JASPERS initiative assists administrations and project promoters in preparing and accelerating their projects in the area of waste management.*

*6) The recyclability and sustainability of plastic packaging will be addressed under the ongoing review of the Packaging and Packaging Waste Directive. The Impact Assessment is ongoing, planned to be concluded by the end of 2021 and involved a public consultation and targeted consultations with stakeholders concerned ([https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules_en)).*

59. (§246 - 2019/PAR/0405) The European Parliament calls on the Commission to systematically impose net financial corrections when the conditions set by Article 145(7) of the Common Provisions Regulation are fulfilled.

**Commission's response:**

*The Commission stands ready to impose net financial corrections when the conditions set by Article 145(7) of the Common Provisions Regulation are fulfilled.*

60. (§247 - 2019/PAR/0406) The European Parliament invites the Commission to continue providing guidance and support, as well as to identify and share best practice with Member States;

**Commission's response:**

*The Commission has used and will continue to use its technical assistance allocations to support Member States. It has widened the available 'tool box' to help Member States to increase their knowledge, to share good practices, to develop innovative solutions and approaches and to build capacity of the bodies involved in the implementation of our funds.*

*The actions that the Commission is developing comprise:*

*- Pilot action on frontloading administrative capacity building for the post-2020 programming period, launched in 2018 to help managing authorities to enhance their administrative capacity and apply the concepts of good governance as part of their preparations for the upcoming programming period. The key findings of the pilot action are captured in a synthesis report drafted by OECD on the lessons learnt*

*(published in January 2020), as well as recommendations to managing authorities, national authorities and the European Commission.*

*- Practical Toolkit - Roadmaps for Administrative capacity building: designed to help Member State administrations facilitate their programme implementation.*

*- Study on technical assistance (TA): provides a better understanding of the use of TA in 2014-2020 and presents cases of TA-funded capacity building measures.*

*Anti-fraud and anti-corruption: Guidance and training is provided to strengthen Member States' capacity to prevent and detect fraud and corruption. Moreover, in June 2021 the Commission launched a new EU Funds Anti-fraud Knowledge and Resource website. This new knowledge tool for anti-fraud practitioners on prevention and detection of fraud in the EU Funds implementation provides MS practitioners with resources to improve their administrative capacity in area of anti-fraud and anti-corruption. The website gives concrete examples from Member states, presents tools that have proven to be effective, explains how to reproduce and apply good practices, shares knowledge and connects practitioners.*

*- Integrity Pacts: This pilot project launched in 2016 with Transparency International explores the benefits of civil control mechanisms in public procurement for 18 EU co-funded projects spread across different sectors in 11 Member States.*

*- Administrative capacity building actions:*

*Public Procurement Action Plan (since 2014): The present update (4th version) of the Action Plan includes a revised state of play of the actions as well as a series of new initiatives to help administrators and beneficiaries of EU funds improve their public procurement practices. It focuses on three strands of action: (i) ensuring the compliance with EU Directives on public procurement; (ii) ensuring a level playing field; (iii) encouraging the use of procurement as a strategic policy instrument (to pursue green, social and innovation goals).*

*State Aid Action Plan: The main strands of the plan for 2018-2022 are: (i) Identification and dissemination of good practices; (ii) Training programme for ESIF stakeholders, including targeted training to more complex areas; (iii) Dissemination of relevant State aid information to ESIF stakeholders.*

61. (§250 - 2019/PAR/0407) The European Parliament calls on the Commission to develop a consistent assessment framework that is able to assess whether the milestones and targets of ERDF and CF have been met.

**Commission's response:**

*The Commission has already put in place a consistent framework for the assessment of the milestones, in the context of the 2019 performance review. That framework allowed for the performance review to be carried out in accordance with the*



*applicable legislation and it resulted in the allocation or re-allocation of the performance reserve. The targets will be assessed in the context of the programmes closure procedure.*

62. (§262 - 2019/PAR/0408) The European Parliament is concerned about the lack of control and follow-up of the funding for entrepreneurs (Cohesion); calls on the Commission to develop a detailed strategy for the control of funding; and invites the Commission to assess the results of the projects funded by this financial mechanism; encourages the Commission to publish the results of its evaluation.

**Commission's response:**

*Member States are required to monitor the durability at the project level. Such monitoring should be performed in accordance with the conditions to be included in the grant agreement (document granting support to the beneficiary). Where projects fail to comply with legal durability requirements, Member States have to proceed with recoveries.*

*The Commission (and audit authorities) generally audits compliance with legal durability requirements as an established part of its audit work on the system in place for the managing authority (and in particular if such durability is verified at the level of operations). For the 2014-2020 programming period, early preventive system audits and compliance audits address the risk of non-compliance with legal durability requirements as part of the standard check-list used by auditors.*

*Durability (or sustainability of achieved results) has also been addressed through evaluations. The ex-post evaluations of ERDF and Cohesion Fund programmes in 2007-2013 included 13 work packages. While no single evaluation was specifically focusing on the issue of "durability" of results per se (as opposed to legal durability which should be assessed within the context of audits), some of these studies referred explicitly to the durability of results / impacts in a dedicated evaluation question. This is the case, for instance, in the ex-post evaluation of support to large enterprises and for tourism and culture investments.*

*The Commission is currently drafting the terms of reference of the ex-post evaluation of the Cohesion policy support during 2014-2020, which will include a package on SME support. Having in mind that the evaluation will have its own objectives, the Commission is considering the possible ways in which the durability of investments could be included in the terms of reference. It should be also noted that national authorities have conducted their own evaluations of SME support, several of which address with various levels of detail the issue of durability of results and financial sustainability of support to investments.*

63. (§268 - 2019/PAR/0409) The European Parliament Stresses with great concern that of all 10 indicators from the programme statements linked to the objective of supporting the shift towards a low-carbon economy in all sectors, only 1 – ‘Number of households with improved energy consumption classification indicator’ – is on track; demands that the Commission, also in the light of the Green Deal targets, makes improvements linked to this objective an absolute priority.

**Commission's response:**

*The values reported in the 2019 annual implementation reports for the indicators identified by the Parliament show an improvement of the relevant outputs (implemented values). Just for two of them (number of additional energy users connected to smart grids and Estimated annual decrease of GHG) the implementation rates seem to be less advanced than for the others. We note that when the decided values are considered (the existing project pipeline), all indicators seem to be on track.*

*The Commission acknowledges that progress towards the achievement of the indicators linked to the objective of supporting the shift towards a low-carbon economy is slower than anticipated. With the European Green Deal approved in December 2019, the Commission puts more focus on the initiatives to stimulate the shift towards a low-carbon economy. Within this framework, the Commission has launched several new policy initiatives to address the gaps to deliver decarbonisation in all sectors, eg. EU Strategy on Energy System Integration, Renovation Wave, strategy to boost offshore renewable energy. In July, the Commission adopted the Fit for 55 package, putting forward new legal instruments to achieve the long-term climate and energy goals. (These included a revision of the Energy Efficiency Directive and Renewable Energy Directive.) In addition, the European Structural and Investment Funds from the new Multiannual Financial Framework 2021-2027 and Recovery and Resilience Facility will provide more resources to finance energy efficiency and deployment of renewable energy in buildings.*

64. (§273 - 2019/PAR/0410) The European Parliament is concerned by the Court's opinion that there are strong indications that the Union will not meet the 2030 climate and energy targets;

highlights the Court observation that half of the Member States were at risk of not generating enough electricity from renewable energy to meet their 2020 targets; notes that in the Court's landscape review of Union action on energy and climate change, the Court reported that the reduction in greenhouse gas emissions projected by Member States falls short of the 40 % target for 2030; calls on the Commission to re-evaluate the results due to the impact of covid-19 pandemic and the Green Deal package.

**Commission's response:**

*The Commission agrees with the recommendation and determines as follows the targets dates for implementation: July 2021 (adoption of revised targets for 2030) and 2022 (assessment of the attainment of the 2020 targets).*

*The Commission's 2030 Climate Target Plan for reducing greenhouse gas emissions, published in September 2020, assessed a number of scenarios for achieving a net domestic emissions reduction of at least 55%, including consideration of the impact of COVID-19. This level of ambition, as well as the goal of climate neutrality by 2050, is now confirmed in the European Climate Law. In addition, the Commission's 2020 assessment of the National Energy and Climate Plans shows that the economy-wide emissions should reduce under national existing and planned measures by 41% below 1990 levels in 2030.*

*The recommendation to review 2030 targets has thus already been addressed by the Commission with the adoption on 14 July a comprehensive package of measures ("Green Deal's "Fit for 55 package") that includes proposals to increase the level of ambition of the targets for renewable deployment, for energy efficiency, and for GHG emissions reductions both inside and outside the ETS. Therefore, the Commission is of the opinion that implementing the "Fit for 55" proposals will put the EU on track to deliver on the 55% GHG emissions reduction target by 2030, and climate neutrality in 2050.*

*As regards the 2020 target for renewables, the EU27 reached in 2018 a share of 18.9% of renewable energy in gross final energy consumption, against a target of at least 20% for 2020, well above the indicative trajectory of 16% for 2017/2018. 22 Member States were above their indicative trajectory, while 5 Member States (Ireland, France, the Netherlands, Poland and Slovenia) were below. According to the estimates that most Member States have included in their progress reports, the EU as a whole should achieve the 20% target for 2020, and there should be an overall 12,177 ktoe 'excess production' of renewable energy at EU level, compared to the indicative trajectory, available for potential statistical transfers in 2020 for those Member States that failed to meet their national target through domestic deployment.*

65. (§ 276 and § 277 - 2019/PAR/0411) The European Parliament notes that by the sixth year of the current programming period 2014-2020 only around 31 % of the funds initially awarded had resulted in payments by January 2020, calling into question the full implementation of CEF; calls on Member States to significantly speed up investments and on the Commission to step up its monitoring in view of the urgent need for infrastructure investment for the speedy recovery from the Covid-19 related economic downturn.

The European Parliament stresses once again that in this policy area all indicators are measuring output (they mainly provide data about the programme's implementation in

terms of infrastructure built) instead of outcomes of projects achieved; urges the Commission to plan the policy so as to allow for a proper on-going and mid-term assessments of results and broader impacts achieved.

**Commission's response:**

*The Commission agrees with the recommendation to step up its monitoring in view of the urgent need for infrastructure investment. The Commission attaches the greatest importance to the full implementation and monitoring process of infrastructure projects to ensure a speedy recovery from the Covid-19 related economic downturn and to implement the EU Green Deal's goals. This recommendation has already been addressed by the adoption in July 2021 of Regulation (EU) 2021/1153 on the Connecting Europe Facility (CEF), which includes transparent and adequate monitoring and reporting measures, such as measurable indicators, in order to assess and report on the progress of the CEF towards the achievement of its general and specific objectives. This Regulation also foresees that the Commission will present progress reports on the implementation of the CEF every two years.*

66. (§280 - 2019/PAR/0412) The European Parliament calls on the Commission to further develop its mechanism and tools enabling awareness and information to citizens and stakeholders on the tourism and transport projects it funds under the ERDF and CF.

**Commission's response:**

*Following regular dialogue with the European Parliament on communicating cohesion policy, the Commission tabled a proposal for 2021-2027 shared management funds' regulations that sought to reinforce the role and the effectiveness of communication activities by member states and regions. The European Parliament and the Council agreed on most elements of the proposal, in particular the following aspects*

*-Upholding the approach to communication followed during the 2014-2020 programming period, which gave strong importance to transparency and information aspects, placing responsibilities on all involved actors;*

*-Greater simplification and harmonisation across the funds, leading to more effective communication towards stakeholders and public;*

*-Single branding: simpler requirements for acknowledging the support of EU funding (no reference to specific fund or instrument);*

*-Enhanced transparency: alongside the list of projects, Member States and managing authorities must publish a summary of funding calls at least every four months;*

*-Operations of strategic importance: special visibility (i.e. extra requirements) for operations of strategic importance and operations above EUR 10 million.*

*In parallel, the Commission has strengthened its communication efforts to reach out to both citizens and cohesion policy stakeholders, for example through campaigns such as 'Europe in my Region', events like the European Week of Regions and Cities and the RegioStars Awards, or via its various communication channels (Europa and INFOREGIO websites, cohesion data platform, Twitter, etc. ).*

*These tools will be particularly helpful in the case of transport and tourism projects, especially in the numerous regions where they are involved in operations of strategic importance or operations above EUR 10 million, for which cohesion policy managing authorities are required to roll out extensive communication activities. In addition, the projects databases of both the cohesion data platform and the INFOREGIO website have been shaped in a way to sort out specifically transport and tourism projects. This work at project level comprises a cooperation strand with the European Parliament in the context of the initiative 'What Europe does for me'.*

67. (§282 - 2019/PAR/0413) The European Parliament deplores the fact that the Commission in its legislative proposal for the ESIF for 2021-2027 removes all the appraisal requirements specific to major projects, including the cost-benefit analysis requirement. While this is recognised as bringing a reduction in the general administrative burden, this is outweighed by the increased risk that the co-financed investments will not offer the best value for money; calls strongly on the Commission to re-evaluate its proposal.

**Commission's response:**

*Under shared management funds, project selection is responsibility of Member States. The Commission had proposed to discontinue specific procedures on the selection and adoption of major projects with a view to simplifying the and unifying the rules for projects, shortening procedures and increasing the ownership of the projects on the ground, by regions and Member States.*

*Member States are expected to embed in their practise the experience and expertise gained in carrying out financial and economic analysis of projects. Member States are encouraged to continue developing their endogenous capacity to carry out economic analysis and cohesion policy funds and other EU instruments can support the development of such capacity.*

*In addition, the value for money of projects supported by the cohesion policy funds is reinforced in the new CPR by the enhanced requirements on selection of operations, pursuant to article 73(2) CPR, while the new enabling conditions applicable to sectors generating the highest number of major projects (transport, environment), have been strengthened to ensure that the supported projects are economically sound and sustainable.*

***Co-legislators, when adopting the CPR without provisions on major projects, have fully endorsed this approach.***

68. (§284 - 2019/PAR/0414) The European Parliament finds the fact that only 3 out of 9 indicators (33 %) from the programme statements linked to the ERDF specific objective –‘Enhancing the competitiveness of SMEs’ are on track to meet their targets represents an underperformance; highlights that these three indicators are output-related, measuring the number of businesses supported by the ERDF, meanwhile other indicators, such as those measuring whether the private investment matches public support to businesses, and the employment increase in supported businesses are not on track; urges the Commission to plan the policy so as to allow for proper on-going and mid-term assessments of results and broader impacts achieved, including assessing the impact of policies to combat long-term unemployment.

**Commission's response:**

***The Commission closely monitors the annual reported values for common indicators. In comparison with 2018 data, available at the time of the 2019 discharge procedure, the 2019 values published in early 2021 show important improvements in the absolute and relative progress towards the targets. For example, the implemented value for new jobs created in the supported enterprises increased from 27% to 46% of the 2023 target, while the private investment matching public support (grants) is up from 26% to 41%. These updated data were published by the Commission on the Open Data Platform (<https://cohesiondata.ec.europa.eu>).***

***It should be noted that following the COVID crisis and the CRII and CRII+ initiatives the support to enterprises was increased along with the increases in targets. The figures corresponding to 2020 were received by the Commission in May 2021 and are currently being quality checked. They will be published with the Annual Summary Report in late 2021.***

***It should also be noted that the Commission monitors the implementation of the Cohesion policy regularly and in accordance with the legal requirements. However, the results and broader impacts achieved could only be assessed by evaluation. The evaluation of 2014-2020 programming period is planned to be finalised by the end of 2024.***

69. (§301 - 2019/PAR/0415) The European Parliament calls on the Commission to:

- follow up on allegation of alleged fraud regarding the repurposing of vocational training centres; analyse whether similar problems exist in other Member States regarding the repurposing of Union-co-financed infrastructure projects;

- promptly inform the discharge authority about its findings and potential further action following this analysis;
- conduct a thorough analysis on the different national rules on durability of infrastructure investments and premature repurposing and share this analysis with the discharge authority;
- encourage Member States to create national legislation on adequate durability periods beyond the minimum requirements as already existing in a lot of Member States;
- ensure that the sustainability of investments is guaranteed for a longer period.

**Commission's response:**

*a)The Commission partly accepts this recommendation as regard the follow-up on vocational training centres in Czechia. As indicated by the Commission during the relevant CONT Committee meeting, even in Czechia the issue was addressed in 2014-2020 period, hence once such problems occur, they are subject to remedial actions of the managing authorities. As the Commission has not received any signal from other countries that there is a continuous problem with repurposing of Union-financed infrastructure, it may be considered that the issue in Czechia is rather of solitary character.*

*b)The Commission partly accepts this recommendation as regards the follow up to the issue in Czechia. As explained in the reply to point a), the Commission does not have an information suggesting that the problem is widespread.*

*c)The Commission stands ready to conduct and share an analysis on the different national rules on durability.*

*d)The CPR – as agreed by co-legislators - include provisions on durability that set out 5 years period (after the final payment to a beneficiary or within the State aid rules) in which durability requirements should be observed. Member States can reduce this period to 3 years for maintenance of investments and jobs created by SMEs. As we are committed to simplification and Better Regulation standards, the Commission is obliged and intends to strictly follow legal provisions of the regulations, hence we are not going to encourage Member States to create national legislation that goes beyond the requirements of the CPR – this could be perceived as a typical “gold-plating” practice. As the Commission established a TN Simplification group with Member states to avoid gold-plating of rules, we can analyse the ways how durability requirements are observed by Member States in order to identify best practices and reduce red tape.*

*e) In line with shared management principle, the Commission can only partly accept the recommendation to ‘ensure that the sustainability of investments is guaranteed for a longer period’, as its Member States responsibility to ensure that operations comply with the applicable EU and national law, including justification of EU support and respect of durability rules.*

*However, in line with the relevant ECA recommendations (Special report no 8/2018 “EU support for productive investments in businesses - greater focus on durability needed”*

*[https://www.eca.europa.eu/Lists/ECADocuments/SR18\\_08/SR\\_DURABILITY\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR18_08/SR_DURABILITY_EN.pdf)*

*f) the Commission*

*- at the time of programmes adoption stage will ask Member States to present (for support to business sector) the risks and factors which may affect the capacity of the businesses to be supported by the programme to deliver results in the long term , and the measures they intend to take to mitigate potential issues (if necessary). This will reduce a risk of premature re-purposing of EU projects supporting business sector, and will contribute to ensuring the sustainability of such investments for a longer period.*

70. (*§243 in connection with §242 - 2019/PAR/0551*) The European Parliament expects the Commission to inform Parliament and the Committee on Budgetary Control on the Czech government response to the recommendations included in the report; is appalled by the fact that more than 2 years after the start of the Commission’s audits, the situation around the alleged conflict of interest of Czech Prime Minister Andrej Babiš remains unsolved; urges the Commission to strengthen its efforts to comprehensively and quickly resolve the procedure, publish the audit report as soon as possible, report back to Parliament on its conclusions and where necessary suspend and/or retrieve misused funding; recalls Parliament resolution on the conflict of interest of the Czech Prime Minister of June 19th 2020, which states that if the conflict of interest of Mr. Babis is confirmed, it should either be resolved or he should resign from public duty ([https://www.europarl.europa.eu/doceo/document/TA-9-2020-0164\\_EN.htm](https://www.europarl.europa.eu/doceo/document/TA-9-2020-0164_EN.htm)).

**Commission's response:**

*Following a thorough contradictory procedure, the REGIO and EMPL joint final audit report on the functioning of the management and control systems in place to avoid conflict of interest in Czechia was issued in English on 29 November 2019 and in the national language on 5 February 2020. In accordance with the audit conclusions regarding the Agrofert case (confirming the link between EU funds disbursed to Agrofert and PM Babiš) the Commission has urged Czechia to adopt the recommendations from the audit, requiring in particular the improvement of the management and control systems in place in order to ensure that no further grants are awarded in breach of conflict-of-interest rules.*



*Since February 2020, the audit entered into a follow-up stage, where the Commission services carefully monitor the implementation of recommended actions. This step is indispensable to ensure that the Commission's recommendations have been implemented, in particular that the required improvements of the management and control systems were effectively put in place and that no further grants are awarded in breach of conflict-of-interest rules.*

*On 16 June 2021 the Commission received a payment claim for an Agrofert beneficiary company (Fatra), one of the three beneficiaries identified by the Commission's audit as falling under the conflict of interest provision Article 4.c of the national Act on conflict of Interests which prohibits the award of grants to certain companies. On 9 August 2021, the Commission interrupted the deadline for that payment application and will not reimburse payment applications submitted unless the Czech authorities take certain corrective actions. On 16 September 2021, the Commission issued a pre-suspension letter informing the Czech authorities that the conditions for suspension of affected interim payment applications may be met. The suspension decision is scheduled to be adopted within 6 months of the 9 August 2021 interruption letter.*

*Concerning the evolution of the audit, Commissioners Oettinger and Hahn have informed the CONT Committee in the "in camera" sessions of the European Parliament in April and December 2019, and July 2020. Moreover, the Commission services have briefed the CONT members in preparation for their fact-finding mission to the Czech Republic (February 2020) and replied in written to the CONT Committee's questions on Conflict of Interest (October 2021). The Commission stands ready to continue informing the Parliament about the further developments of this case.*

*The final audit report (English and Czech versions) was published on the INFOREGIO website on 23 April 2021 ([https://ec.europa.eu/regional\\_policy/en/information/publications/reports/2021/final-report-on-the-audit-of-the-functioning-of-the-management-and-control-systems-in-place-to-avoid-conflict-of-interest-in-czechia](https://ec.europa.eu/regional_policy/en/information/publications/reports/2021/final-report-on-the-audit-of-the-functioning-of-the-management-and-control-systems-in-place-to-avoid-conflict-of-interest-in-czechia)).*

71. (§290 - 2019/PAR/0552) The European Parliament is deeply concerned by discriminatory measures taken since 2019 by various Polish local governments who adopted so-called "LGBTI-free zone" resolutions or 'Regional Charters of Family Rights' discriminating in particular against single-parent and LGBTI families; notes that these authorities receive and have influence on the management of ESI-funds; Insists on the fact that, in line with Regulation No 1303/2013, the use of Union funds must comply with the principle of non-discrimination; believes that there is a serious risk of breach of these provisions in the above-mentioned municipalities and regions; calls on the Commission to ensure that cohesion funds are disbursed in compliance with the fundamental rights enshrined in the Treaties and Charter of Fundamental Rights of the European Union, as well as the Common Provisions Regulation concerning ESI-funds; calls on the Commission to carry an investigation on the compliance of ESIF in these regions with Union law, in particular the anti-discrimination provisions, to report to the

discharge authority the findings of this investigation and to make use of every tool at its disposal, including financial corrections, in case it finds clear evidence of misuse of funds on those grounds.

**Commission's response:**

*Under cohesion policy, the rules of shared management require Member States and the Commission to prevent any form of discrimination, including based on sexual orientation and gender during the preparation and implementation of programmes supported by the Funds.*

*The criteria for selecting operations supported by the Funds should also respect this principle. In case operations do not comply with applicable law, financial corrections are applied.*

*The Commission will be attentive that this criterion is duly observed also in the current programming period and that organisations affected by the national laws are not discriminated against in the project selection process.*

*The 2021-27 Regulations, in particular Article 8 ESF+ and Article 9 CPR require the COM and MS to ensure that the Funds are implemented in compliance with the EU Charter of Fundamental Rights.*

*This is among others verified during the assessment of the horizontal enabling condition by checking if effective mechanisms are in place to ensure compliance with the Charter.*

*The Commission's assessment includes whether arrangements to ensure verification of compliance of operations supported by the Funds with the Charter, and reporting arrangements to the monitoring committee on the compliance with the Charter, are in place.*

*The Commission will monitor the compliance of the enabling condition throughout the programming period, starting with the preparation of the partnership agreement and of the programmes.*

*On 27 May 2020, the Commission services addressed a letter to five regional authorities which are the Managing Authorities (MAs) of the Regional Operational Programmes co-financed by the ESI Funds in the regions where so-called "LGBT ideology-free zone" resolutions or 'Regional Charter of Family Rights' were adopted (with the remaining regional MAs in copy). In the letter, the Commission services raised amongst others concerns that, following the adoption of the aforementioned resolutions, there was a risk that potential beneficiaries of the ESI Funds who were from the LGBT community were discriminated against and that beneficiaries of EU funds discriminated against persons or organisations from the LGBT community in their actions.*

*On 20 September 2020, a second letter was addressed to all Managing Authorities of ESI co-funded Regional Operational programmes in Poland. They were encouraged*

*to further strengthen measures to prevent any form of discrimination, including discrimination based on sexual orientation, in the implementation of the ESI Funds, and suggested considering some additional measures in this respect.*

*On 15 February 2021, a third letter to PL was sent. The joint REGIO/JUST/EMPL letter contained precise questions to establish whether the adoption by regional and local authorities in Poland of so-called “LGBT ideology free zone” resolutions constitutes an infringement of EU law.*

*Despite Commission’s clear call, Poland failed to provide the requested information necessary for the Commission to complete its analysis on the possible violation of EU law.*

*Consequently, on 15 July 2021, the Commission sent a letter of formal notice to Poland for its lack of cooperation, estimating that Polish authorities had failed to provide details requested by the Commission on the so-called ‘LGBT-ideology free zones’. The letter of formal notice included multiple questions, which relate to the regional level of implementation of operations supported by the European Structural and Investment Funds (ESIF).*

*The Commission services are currently analysing the reply provided by Poland on 15 September 2021 before deciding on next steps.*

*On 3 September 2021, the Commission sent a letter to the five MAs encouraging them to undertake any possible corrective measures with regard to the resolutions in order to eliminate the risk that fundamental values enshrined in Article 2 of the Treaty on EU (TEU) as well as provisions of the Charter of Fundamental Rights are violated. This caused the revocation or amendment of the doubtful resolutions by the local governments of regional level in Malopolska, Świętokrzyskie, Podkarpackie, Lubelskie [and Łódzkie – not yet the case for the latter, the region so far only provided a reassurance to respect the principle of non-discrimination].*

*The same issues could become relevant under the Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget (the ‘Regulation’) should all the conditions for the application of such Regulation be fulfilled.*

## Natural resources

72. (§306 - 2019/PAR/0416) The European Parliament asks the Commission to publish the expenditure on direct payments and the level of drawing from the EAFRD per Member State.

**Commission's response:**

*Every year, by 30 September N+1 the Commission prepares annual reports on the implementation of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural development (EAFRD). The legal basis for the report is Article 109 of R (EU) 1309/2013 in current programming period and Article 95 of new HZR.*

*The EAGF report contains the requested detailed information in annex 9 and the EAFRD report contains the requested information in graph 3.*

*The reports for 2019 can be found via the links below:*

**EAGF**

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020SC0168>

**EAFRD**

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0387&from=EN>

73. (§ 307 in connection with § 390 third indent - 2019/PAR/0417) The European Parliament stresses that misallocations of CAP funds, particularly direct payments, lead to undesirable distributive effects, such as the concentration of subsidies in the hands of few, a capitalisation on the price of farmland and rent-seeking behaviour by financial “green investors” that see direct payments as attractive dividends on agricultural land thereby driving up the price of land to the detriment of small and medium-sized active farmers; regrets that the current CAP rules allow such legal but undesirable distributions and underlines the urgent need for effective and enforceable caps defined for natural persons that would limit these undesirable effects for the CAP 2021-2027; calls on the Commission and the Member States to support the respective proposals made by Parliament.

**Commission's response:**

*The political agreement reached by co-legislators for the CAP from 2023 includes important elements aiming at improving the distribution and targeting of income support. First, Member States must include in their intervention strategy an overview of how the aim of fairer distribution and efficient targeting of income support is*

*addressed. Secondly, it entails an obligation for Member States to allocate a minimum of 10% of the direct payment envelope to the complementary redistributive income support for sustainability (CRISS). Although the CRISS is the core instrument to address the needs of redistribution from large to smaller farms, other instruments under the CAP can also contribute to redistribution; therefore, it will be possible to derogate from the minimum allocation or the obligation overall when the redistributive needs are relevantly addressed through other means. In fact, Member States will have to determine the need for redistribution based on statistical data and analysis. If Member States demonstrate that by other instruments and interventions financed by the EAGF pursuing the objective of fairer distribution and more effective and efficient targeting of income support they adequately address the redistribution need identified, this can be a justification for a lower percentage dedicated to the CRISS or even for not implementing it. Instruments available to Member States like the payment for small farmers (depending on its design), the territorialisation of the basic income support for sustainability (BISS), the capping/degressivity of payments are fore example useful in that respect. The active farmer clause, which all Member States will have to implement, could also contribute to improving the targeting and fairer allocation of income support.*

*The political agreement made the reduction of payments and capping' instruments optional for Member States despite the proposal of the Commission that foresaw a more ambitious mandatory mechanism. However, where Member States decide to implement it, they must also make sure beneficiaries of direct payments do not circumvent its application (an example could be that a natural person managing a farm creates various companies lodging different claims for the sole purpose of avoiding being subject to capping).*

74. (§310 - 2019/PAR/0418) The European Parliament is concerned that the increased flexibility proposed under the new delivery model and to be granted to Member States in designing their own national control system and rules could lead to divergence of national practices and aggravate misuse and abuse of Union funds, and urges therefore the Commission to avoid “renationalisation” of the CAP.

**Commission's response:**

*The 2018 Commission proposals for the next CAP put performance at the heart of the future policy. A performance-based implementation mechanism (“new delivery model”) requires Member States to analyse their needs, define and monitor the results for common CAP specific objectives. The analysis should be based on a common list of indicators and respect a series of common requirements (e.g. minimum standards and budgetary ringfencing), while providing Member States with flexibility to define how best to achieve the planned results.*

*The CAP proposals thus establish a strong, common policy framework at EU level within which Member States dispose of a well-defined margin of manoeuvre to choose and define details of their interventions targeted to their needs with a view to deliver on the ambition outlined in the CAP strategic plans. The Commission will approve the plans following an assessment.*

*In the context of the Staff Working Document (SWD (2020) 93) the Commission identified how it would further reinforce its support to Member States for the preparation of their CAP strategic plan through ‘a structured dialogue’ with Member States, encompassing all CAP objectives, while paying particular attention to the EU level targets identified in the Farm to Fork and Biodiversity Strategies adopted on 20th May 2020. In the context of this dialogue, in December 2020, the Commission addressed a set of recommendations for CAP Strategic Plans to all Member States, accompanied by a Communication (COM/2020/846 final). They aim to assist in the drafting of the national CAP strategic plans by identifying the key areas on which each Member State should focus.*

*The new assurance framework carries forward on the existing governance systems including the governance bodies, such as the accredited paying agencies, the Integrated Administration and Control System (IACS), the Land Parcel Identification System (LPIS) in order to ensure that sound financial management will be applied for the CAP.*

*Simplification is in the stability of the existing structures. The added flexibility should allow Member States to customise the support to their needs and the needs of their farmers. This will reduce the complexity and administrative burden also vis-a-vis the beneficiaries. The Commission will focus on ensuring that governance systems in each Member State work effectively and continue to have corrective measures in place, such as Action Plans, suspensions and financial corrections. Another important assurance element in the new CAP will be that the Member States will have the obligation to respect the strategic plan as approved by the Commission. Apart from assurance, but also bring consistency between the plans and the national practices.*

*A political agreement on the CAP reform has been reached by the co-legislator at the end of June 2021.*

75. (§313 - 2019/PAR/0419) The European Parliament calls on the Commission to review the operation of safeguard clauses in trade agreements to facilitate and extend their application beyond temporary market situations.

**Commission's response:**

*In its Trade Policy Review Communication, the European Commission announced strengthening the implementation and enforcement of concluded trade agreements.*

*Where appropriate, this also concerns the triggering of safeguard instruments. Moreover, on 24 July 2020, the Commission has nominated a Chief Enforcement Officer who will pursue a strategic approach to enforcement.*

76. (§314 - 2019/PAR/0420) The European Parliament calls on the Commission to continue to closely monitor ongoing and future trade agreements with third countries with respect to food safety and environmental and animal welfare standards; urges the Commission to make sure that there is a strong sustainability chapter in all trade agreements and that trade partners comply fully with requirements provided for therein; notes the need for a level playing field also in terms of environmental standards and animal welfare, and calls on the Commission to further develop legislation on due diligence in the supply chain to ensure that standards in Union agriculture are not undermined or compromised.

**Commission's response:**

*The Commission has reinforced the monitoring of trade agreements with third countries making substantial efforts to improve its implementation and enforcement. Food safety is covered in the Chapter on Sanitary and Phytosanitary matters of the Agreements. The SPS Chapter always includes a clause providing that imported products have to comply with the SPS requirements of the importing Party. This clause ensures that the EU food safety standards and the level of protection are not subject to any negotiation and that, on top of import control checks, audits can take place in the exporting country to verify its compliance. This clause, which is a crucial element of the EU food safety and trade policy, will continue being included in every future Agreements that the EU will negotiate. FTAs also include provisions to promote cooperate on animal welfare issues with our trading partners. As regards environmental and animal welfare standards, they are required to be fulfilled by the relevant products when the EU legislation provides for them as import requirements. The Commission is also working on a proposal on sustainable corporate governance to ensure that supply chains are sustainable and responsible.*

*Furthermore, in pursuing the implementation of the Farm to Fork (F2F) Strategy and according to the Trade Policy Review Communication, the Commission will propose in ongoing and future negotiations a Chapter on Sustainable Food Systems (SFS). This chapter has already been proposed in the negotiations with Australia, Chile, Indonesia and New Zealand. This Chapter will have as objective to establish close cooperation with the concerned partners and promote the global transition towards competitive sustainable food systems.*

*The SFS Chapter will be closely linked to the Sanitary and Phytosanitary (SPS) Chapter of the FTAs as both Chapters will regulate the relationships of the Parties with food, animal and plant health areas and have as common objective the health protection of them.*

*In line with the F2F Strategy, the SFS Chapter should include provisions to promote:*

- *The sustainability of the food production: Reduction in the use and risk of pesticides, promotion of pesticides containing biological active substances, animal welfare, fight against antimicrobial resistance;*
- *The sustainability of the food processing and marketing: Food contact materials, nutrient profiles etc.;*
- *The sustainability of the food consumption: Front of pack nutrition labelling and other food labelling initiatives etc.;*
- *The reduction of the food loss and waste and strengthen the resilience of food systems;*
- *The fight against food fraud.*

*The Commission continues to pay high attention to the implementation of animal welfare aspects in existing trade agreements as well as during the negotiation of agreements. Improving animal welfare standards are among the sustainable agricultural practices necessary to achieve the objectives of the Farm to Fork Strategy. As a follow-up of this Strategy, the European Commission published on 6 July 2021 an inception impact assessment on the EU legislation on animal welfare with the view to make a proposal for the revision of this legislation in 2023. In addition, as requested by the EP, the Commission will present a report concerning the application of EU health and environmental standards to imported agricultural products.*

*Trade policy contributes to EU policies on sustainable development. Starting with the Free Trade Agreement concluded with Korea in 2009, all subsequent free trade agreements include dedicated chapters on Trade and Sustainable Development with legally binding commitments, notably related to labour rights and environmental protection, including climate change. These provisions are anchored in multilateral standards, notably the International Labour Organization Conventions and Multilateral Environmental Agreements, such as the Convention on Biological Diversity as well as the Basel, Rotterdam and Stockholm Conventions. The obligation to ratify and effectively implement the Paris Agreement was introduced in the EU's most recent free trade agreements (starting with Japan) as a further step towards strengthening the link between trade and environment/climate change.*

*The Trade and Cooperation Agreement between the EU and the UK is the first agreement to include the respect of the Paris Agreement as an essential element of the Agreement and, as announced in the Trade Policy Review Communication ([https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc\\_159438.pdf](https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159438.pdf)), the Commission intends to propose the same in all future negotiations. The EU will also prioritise effective implementation of the Convention on Biological Diversity in trade and investment agreements.*

*The EU approach seeks to build on rules that have already been agreed at international/multilateral level and to promote their effective implementation. Trade and Sustainable Development chapters are legally binding and enforceable through a*



*dedicated dispute settlement mechanism that, in addition to inter-governmental consultations, envisages the possibility for any Party to refer matters to an independent and impartial panel of experts with the necessary expertise in labour and environmental matters. The panel reports are binding, public and their follow-up is closely monitored, including by civil society.*

*The Commission has made substantial efforts to improve the implementation and the enforcement of Trade and Sustainable Development chapters over the past years. The 15-Point Action Plan from February 2018 ([https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc\\_156618.pdf](https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf)) has guided these efforts by providing a consistent framework and strategy. The nomination of the Chief Trade Enforcement Officer and the establishment of the new Single Entry Point complaints mechanism, together with the ruling in the Korea panel case ([https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc\\_159358.pdf](https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc_159358.pdf)), have allowed the Commission to step up enforcement activities of the existing agreements.*

*Given the evolution of trade policy and the challenges caused by the Covid-19 pandemic, and as announced in the Trade Policy Review Communication, the Commission launched a review of all relevant aspects of the implementation and enforcement related to trade and sustainable development in the summer of 2021. The review process includes a comparative study of the enforcement of Trade and Sustainable Development provisions in various countries' agreements. A broad stakeholder consultation was launched in July and is open until 31 October. The review is expected to be finalised during the first half on 2022.*

*Through the commitments in the Trade and Sustainable Development chapters, trading partners have agreed to enforce and continue upholding at least current levels of protection related to environmental and climate commitments to avoid unfair competitive advantages from the lowering of their levels of protection. To that extent, a binding and enforceable commitment of non-regression is included in the agreements, typically in the Trade and Sustainable Development chapters.*

*An important element in ensuring that supply chains are sustainable and responsible will be the Commission's proposal on sustainable corporate governance, including mandatory environmental, human and labour rights due diligence.*

*The Commission recognises the need to seek greater coherence between health and environmental standards that apply to agricultural products in the European Union and those that apply to imported agricultural products, in conformity with international trade rules. The European Green Deal and its sectoral strategies, including the European Commission communication "Farm to Fork strategy", strive to achieve this goal, and will result in a further raising of these standards applied within the EU, including, where relevant, for imported products. Two statements, one unilateral, one joint with the co-legislators, part of the political agreement for the revision of the Common Organisation of the Markets (CMO) for agricultural products, reflect this commitment.*

*The Commission is also working on actions originating from the Farm to Fork and the Biodiversity strategies, notably a legislative initiative on sustainable corporate governance — also confirmed in the 2021 Commission Work Programme-, which may, inter alia, impose a horizontal due diligence duty for sustainability impacts in companies' own operations and their supply chains. Other actions announced include an EU code and monitoring framework for responsible business and marketing conduct in the food supply chain, which entered into force on 5 July 2021 ([https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy/sustainable-food-processing/code-conduct\\_en](https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy/sustainable-food-processing/code-conduct_en)), and a proposal for a sustainable food labelling framework to empower consumers to make sustainable food choices.*

77. (§315 - 2019/PAR/0421) The European Parliament reiterates its strong concern that the reservation on reputational, legal, financial and institutional grounds related to significant security risks identified in the maintenance and the operation of the Union Registry system of the EU Emissions Trading System, as reported in AARs since 2010 and as confirmed by the latest risk assessment exercise, is repeated in DG Climate Action's 2019 AAR; deplores the abnormal duration of this reservation; calls on the Commission to resolve the situation quickly.

**Commission's response:**

*The reservation made in the 2019 AAR of DG CLIMA on reputational, financial and legal grounds has been kept in the AAR of 2020 and will be maintained in the AAR of 2021. The IAS audit of 2014 was formally closed in 2019, but the most recent risk assessment of 2019 still revealed unacceptable residual risk levels. These risks and threats coupled with the growth in value (due to the rising carbon price in recent years) seem to outpace the implementation rate of the security measures that DG CLIMA and DIGIT can sustain within their service constraints and resource allocations.*

*DG CLIMA escalated the high risk situation to the IT and Cybersecurity Board (ITCB) in September 2019, and made a request for additional resources to the Corporate Management Board (CMB). The two-year plan for allocating resources aims to implement an operational model supported by the European Banking Authority (EBA) for financial institutions. A number of the additional human resources requested were allocated and filled in 2020.*

*In addition, an independent study was also launched in 2019 to benchmark the resources and operational model of the Union Registry (the main information system underpinning the EU ETS) against other institutions with comparable systems. The results highlighted significant weaknesses in terms of economic and human resources, and suboptimal alignment with the kind of IT services observed in financial institutions. As the study conclusions and risks levels seem to point to*

*structural issues, a subsequent study was launched in December 2020 on potential alternative operating models for the Union Registry.*

*In parallel to the studies, the last risk assessment resulted in a security plan of 12 security measures to implement. The ITCB endorsed and monitors progress on DG CLIMA's proposal to plan and implement with DIGIT all measures in a two-year timeframe (September 2019-2021). In 2020 and 2021 more IT activities were devoted to implement and operate security measures. DG CLIMA's IT activities have grown over the years to the extent of possible. As of today, 4 security measures out of 12 have been fulfilled. The implementation of the 8 remaining security measures will continue beyond September 2021.*

*As part of the risk management cycle, a new risk assessment will start in September 2021, and is expected to be delivered before the end of May 2022. This forthcoming exercise will determine if the new safeguards managed to lower the residual risks to business acceptable levels or if a new operational business model may be required to bridge this gap.*

*DG CLIMA adds specific security provisions to all service provisioning contracts related to the EU Emission Trading Scheme. This includes DG CLIMA's framework contract for the development and maintenance of the Union Registry, service desk functions and auxiliary support contracts. DG CLIMA also proposes enhancements to the corporate services offered within the Commission so they can evolve to be more in line with the demanding operational and security requirements imposed by the sensitivity of the EU ETS.*

78. (§328 - 2019/PAR/0422) The European Parliament welcomes the Court's finding in Special Report No 18/2019 that the reporting of Union greenhouse gas emissions data is in line with international requirements and that inventories of emissions have improved over time; calls on the Commission to take account of suggested further improvements in reporting how Union and national mitigation policies contribute to meeting emission reduction targets.

**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. It is working continuously to improve methodologies for assessment of the mitigation effects of individual policies. It assesses the impacts of EU mitigation policies and measures on emissions ex-ante and regularly conducts ex-post evaluations of policies. The Commission with the support of the European Environment Agency is also continuing its work to improve the quality of reported greenhouse gas emission data, including in the sector of land use, land-use change and forestry (LULUCF).*

79. (*§ 345 in connection with § 390 first indent. - 2019/PAR/0423*) The European Parliament urges the Commission to ensure that the CAP is fairly allocated to active farmers and does not result in land deals that benefit a select group of political insiders often called ‘the oligarchs’; calls on the Commission to take stock of breaches, circumventions and unintended consequences of the CAP current allocation rules; notes the importance of a transparent and strong governance system and further calls on the Commission to increase efforts to prevent and detect fraud.

**Commission's response:**

*The CAP includes a series of safeguards to make sure the money goes to those who are entitled to it and to protect the financial interests of the EU. Provisions exist in the legislation that restrict the eligibility of CAP payments to the actual farming activities, to active farmers and limit the amount of payments per farmer. Secondly, the legislation also requires Member States to set up and maintain an efficient Integrated Administration and Control System – IACS to ensure sufficient control of direct payments including to address the risk of double claims. Furthermore, on top of the efficient IACS Member States’ certification bodies must carry out systematic audit of expenditure, this is further checked by the Commission in its conformity and financial audits. Any suspicions of fraud are transmitted to the European Anti-Fraud Office (OLAF).*

*The system of property ownership is a competence of the Member States (Article 345 TFEU). Member States must guarantee the rule of law, which includes the protection of private property and regulate potential conflict of interest. If the land for which a claim is introduced is obtained unlawfully or by political influence, then there is a rule of law issue and the judicial system of the Member State should act (issue also covered in recommendation 2019/PAR/0436). The Commission can assist the Member State, if necessary.*

*These layers of safeguards have delivered positive results: in 2019, according to both the European Court of Auditors (ECA) and DG AGRI’s AAR, the Commission’s direct CAP payments expenditure was free of material error for the fourth year in a row (error-rate below 2%). This high level of assurance is combined with a robust system of corrective actions, applied when necessary, resulting in final amount at risk of only 0.5% in financial year 2020.*

*The Commission’s efforts are focused on strengthening the fraud prevention and fraud detection structures and procedures in the Member States, providing guidance, training and encouraging the adoption of National Anti-Fraud Strategies (NAFS), in line with the 2019 Commission Anti-Fraud Strategy and the recent recommendations by the European Court of Auditors (Special Report 6/19 “ Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination”).*

***Moreover, in the future CAP, Member States must have functioning governance systems in place. The proper functioning of the governance systems is part of the eligibility of the vast majority of the CAP expenditure in the new CAP.***

80. (§356 - 2019/PAR/0424) The European Parliament is astonished by the Commission's evaluation that the Czech agricultural minister is not in a conflict of interest situation despite receiving substantial amounts of CAP subsidies while being in charge of the programming of agricultural programmes under the CAP; criticises the seemingly different interpretation and application of Article 61 of the Financial Regulation; calls on the Commission to provide a comprehensive report laying open whether there are any ongoing audits against any members of government in any Member State, and provide an overview over which members of governments in all Member States receive subsidies from the CAP and/or cohesion funds.

**Commission's response:**

***The Commission recalls that there is no difference in the interpretation with respect to Article 61 FR between the different areas of the EU budget and that this Article applies equally to direct, indirect and shared management. However, there are differences in the way different shared management funds are implemented. The level of discretion by Member States when implementing the EU budget is different for project based expenditure and entitlement based expenditure. In the first case, support is awarded by Member States following a selection procedure, where there is higher margin of appreciation/discretion. In the case of entitlement based expenditure like CAP direct payments (under the EAGF), support is paid by Member States without any selection procedure or award decision. The direct payment allocation is directly linked to area farmed (or number of eligible animals). The entitlement criteria are set out in EU law and there is very limited discretion at national level for decisions on disbursement. However, this does not mean that Article 61 does not apply to direct payments. As an example, Article 61 applies when a Member State takes a decision on whether to apply voluntary coupled support. A decision taken by a Member State for such change is subject to the application of Article 61. The systems and procedures in place to prevent and detect conflict of interest situations are part of the audit scope of the Member States and Commission audits. In the context of shared management it is the primary responsibility of Member States to select, fund operations and audit operations in accordance with applicable law and international audit standards. A DG AGRI audit is on-going at the moment in the Czech Republic and, among other issues, it also relates to conflict of interests. The transmission of the relevant official letters issued from the Commission side in the framework of this audit is under preparation at the moment, in accordance with the provisions of articles 3.2.1 and 3.2.3 of Annex II of the Framework Agreement on relations between the European Parliament and the European Commission.***

81. (§358 - 2019/PAR/0425) The European Parliament urges the Commission to cooperate with Member States in order to adjust the conditions set by the national authorities for receiving subsidies for larger projects, as currently most of CAP funding benefits large companies; calls on the Commission to issue recommendations and align these conditions so that they are better harmonized across the EU, while respecting national specificities.

**Commission's response:**

*As regards direct payments, the Commission had proposed to have all Member States reducing all amounts of direct payments above EUR 60 000 and capping them at EUR 100 000 per beneficiary from the year of implementation of new CAP Strategic Plans. The political agreement for the new CAP applicable from 2023 has made this mechanism optional for Member States and applicable only on the amounts of payments under the basic income support for sustainability. The Commission will collaborate with Member States in the coming months to help them implementing this mechanism when part of their intervention strategy.*

82. (§359 - 2019/PAR/0426) The European Parliament calls on the Commission to report to Parliament the results of the DG AGRI Audit procedure on the case of conflicts of interest in the Czech Republic; requests that particular attention is put on payments made to companies directly and indirectly owned by the Czech Prime Minister or other Members of the Czech Government.

**Commission's response:**

*Concerning the evolution of the file for the Czech Republic, Commissioners Oettinger and Hahn have already informed the CONT Committee in the “in camera” sessions of the European Parliament in April, December 2019, and July 2020. Moreover, the Commission services have briefed the CONT members in preparation for their fact-finding mission to the Czech Republic (February 2020).*

*Lastly, Commissioner Hahn informed the European Parliament on the state of play of the file during the EP Plenary of 19 May 2021 in Strasbourg.*

*The European Parliament will continue to be kept informed in a timely manner about the evolution of the file until the audit is completed.*

*The Commission acts to protect the EU budget and has the power to interrupt or suspend payments to recipients or to Member States, impose financial corrections and recover EU funds unduly paid.*

83. (*§ 366 in connection with § 332, § 332 and § 360 - §365 - 2019/PAR/0427*) The European Parliament Calls on the Commission to:

- conduct a thorough analysis of the underlying reasons and potential structural problems causing the persisting systemic weaknesses in the reliability and quality of the work by the certifying bodies detected by the Court in its audits every year and pay special attention to any potential country-specific differences; asks the Commission to also include observations on best practice in national authorities with low levels of errors and whose work is deemed reliable by the Court; asks the Commission to conduct this analysis in close cooperation with the Court and actively involve national authorities both regarding the problem description and potential solutions;
  
- share the results of this analysis with the Court, the discharge authority and Member States;
  
- based on this analysis, address clear, practical and readily implementable horizontal as well as country-specific recommendations to the national authorities; asks the Commission to establish a structured dialogue with the national authorities and the Court to continuously work on capacity building and exchange of best practice to improve the reliability of national audit authorities' work; keep the discharge authority informed about the progress of this dialogue;
  
- further improve the quality and enlarge the scope of auditing and controls of regularity and achieved results of the EU agricultural policy both on the national and European level as a key condition for the protection of EU financial interests.

**Commission's response:**

*The Commission notes that a significant improvement in the work of the Certification Bodies was achieved in 2019, as they delivered sound and substantial results from auditing the legality and regularity of the expenditure on all populations compared to previous years. This enabled the Commission to rely on the Certification Bodies work for assurance purposes. The Commission notes that in some cases weaknesses in the reliability and quality of the work by the certification bodies were detected during its own audits. In all these cases, appropriate recommendations were addressed. The implementation of the recommendations is continuously followed up by DG AGRI and this has, in most cases, a positive impact on the reliance that can be placed on the certification bodies' work. The result of the annual assessment of the certification bodies' work is published in DG AGRI's Annual Activity Report which is made available to the Court, the discharge authority and Member States Whenever, the weaknesses identified during the Commission audits are considered as horizontal,*

*they are presented and discussed in the Expert Group Meetings where appropriate guidance is provided for the further improvement of the certification bodies. Moreover, if the weaknesses indicate a structural problem (certification bodies' limited resources or late appointment, etc.), the recommendations are addressed to the relevant Competent Authority in the Member State concerned.*

*The Commission takes this opportunity to recall that CAP spending is managed under shared management and it is the Member States' responsibility to ensure that the certification bodies have the necessary resources and skills in order to perform their tasks. The Commission will continue to support the Member States as outlined above.*

84. (§372 - 2019/PAR/0428) The European Parliament points out that promotional funds are essential for opening and consolidating new markets; calls on the Commission to ensure that the ecological model is promoted in the same way as other equally sustainable models, such as integrated production or precision farming.

**Commission's response:**

*The objectives of Regulation (EU) 1144/2014 on information measures and promotion measures concerning agricultural products are to increase the competitiveness of the Union's agricultural sector inside and outside the EU, to increase awareness of the merits of EU agricultural products and of the high standards applicable to their production, and to increase awareness and recognition of Union quality schemes, which includes the EU organic production logo. Respect for the environment and sustainability are listed in article 3 of the regulation among the specific features that information provision and promotion measures can aim to highlight.*

*The promotion policy is implemented through annual work programmes setting out the topics and amounts allocated thereto. The Commission Decision on the 2021 annual work programme (C(2020) 8835, adopted on 16/12/2020), contains a specific focus on Commission campaigns that is in line with the ambitions of the European Green Deal and Farm to Fork Strategy including raising awareness and recognition of the EU organic production logo as well as increasing awareness of Union sustainable agriculture and the role of the agri-food sector for climate action and the environment. The work programme and the calls for proposals based thereon provided a description of the actions to be highlighted under each topic.*

85. (§374 in connection with §390 eleventh indent - 2019/PAR/0429) The European Parliament recalls that expenditure contributing to halting and reversing the decline of biodiversity should be calculated on the basis of an effective, transparent and comprehensive methodology set out by the Commission, in cooperation with Parliament and the Council; calls on the Commission to provide Parliament with an annual report



setting out in detail the contribution of each budget item to the biodiversity mainstreaming target of providing 7,5 % of annual spending under the 2021-2027 MFF to biodiversity objectives from 2024 and 10 % of annual spending under the 2021-2027 MFF to biodiversity objectives from 2026, in order to facilitate its monitoring.

**Commission's response:**

*In line with the IIA, the Commission is working towards an updated tracking methodology for biodiversity to ensure a solid reporting. The Draft Budget 2022 proposal already includes estimates for the next seven years. These estimates will be revised and updated on a yearly basis. However the level of granularity of the reporting will have to take into consideration the different type of management (shared, central, indirect) and the different level of aggregation of expenditure. The Commission will pursue a coherent approach to present this information in an uniform way.*

86. (§376 - 2019/PAR/0430) The European Parliament deplores the low level of organic farming in Europe, which is only 7,5 % given the resources invested; calls on the Commission to put in place a performance based model in the CAP that should work based on the same indicators, giving quantified values to identify milestones; insists on the need to provide significant additional information on performance towards achieving policy objectives on biodiversity and climate actions; emphasises that better insight is needed into sectors such as agriculture and forestry; calls on the Commission to take account of suggested further improvements in reporting how EU and national mitigation policies contribute to meeting emission reduction targets; proposes that the Area Monitoring System (AMS) should be compulsory in the frame of the IACS (Integrated Administration and Control System) in the Member States.

**Commission's response:**

*A performance-based implementation mechanism of the new CAP requires Member States, through their CAP Strategic Plans, to identify needs, establish a mix of mandatory and voluntary instruments to address them, and define and monitor the results for common CAP specific objectives that include those for climate and for biodiversity. Member States will develop their CAP Strategic Plans based on a SWOT analysis of their agricultural sector and rural areas for each objective, by examining, among the others, GHG emissions and sinks, soil organic carbon, status of habitats and species along the list of common context indicators. With a series of common requirements (e.g. minimum standards and budgetary ring-fencing), Member States have flexibility to define how best to achieve the planned result based on a common set of result indicators such as for areas under beneficial agricultural practices. CAP Strategic Plans will have to take into account the findings, ambitions and targets*

*developed in relevant national planning tools for environment and climate. Member States' CAP Strategic plans will be assessed and approved by the Commission.*

*In December 2020, the Commission addressed a set of recommendations for CAP Strategic Plans to all Member States, accompanied by a Communication (COM/2020/846 final). They aim to assist in the drafting of the national CAP strategic plans by identifying the key areas on which each Member State should focus, including as regards the contributions to the ambitions of the European Green Deal.*

*Both the Farm to Fork Strategy and the Biodiversity Strategy contain the target of 25% of EU agricultural land under organic farming and a significant increase in organic aquaculture by 2030. In support of the achievement of that target, the Commission has adopted on 25 March 2021 the action plan on the development of organic production (COM(2021) 141). One of the axes in that Action Plan concerns the supply of organic products including the conversion from conventional to organic farming. A key tool to support the conversion to - or maintenance of - organic farming will be the future Common Agricultural Policy (CAP). Financial support for organic farming is foreseen under both its first (e.g. eco-schemes) and its second (e.g. environmental management commitments) pillars. In its recommendations to Member States, the Commission has invited them to define national target values and interventions in their CAP strategic plans.*

*The Commission confirms that Area Monitoring System will become a compulsory element of IACS in the Member States as from 2023. The Commission is already actively supporting and advising the Member States to ensure that they put in place a good quality AMS which provides valuable, reliable and up-to-date information on CAP performance, also on environmental aspects.*

87. (§379 - 2019/PAR/0431) The European Parliament calls on the Commission to review the environmental and climate performance indicators in order to make them compatibles with checks by monitoring; urge the Commission to remove the obstacles to a wider use of the imaging technologies and to provide incentives and support to national paying agencies to use checks by monitoring.

**Commission's response:**

*The Commission is actively supporting and advising the Member States to foster the uptake of new technologies, which will contribute to a successful implementation of the green ambition of the CAP. The Area Monitoring System (AMS) will become compulsory as part of the new CAP Reform package in all Member States as from 2023. The AMS builds on the checks by monitoring technology, but with a focus on policy performance and increasing the overall robustness of the national governance systems. AMS will provide comprehensive, reliable and up-to-date information on agricultural activities, which will greatly facilitate monitoring of the policy*

*performance. In addition, the data available will enable the Member States to better support farmers in ensuring compliance with EU rules, including the environmental and climate-related requirements.*

88. (§380 - 2019/PAR/0432) The European Parliament notes the Court's observation that the information in the AMPR is aligned with the underlying data in the programme statements, but the APMR gives an over optimistic view of achievements and it does not discuss the efficiency of spending; calls on the Commission to report to the discharge authority on the measures undertaken to overcome the significant challenges noted by it in achieving policy objectives for the period 2014-2020.

**Commission's response:**

*In the Annual Management and Performance Report for 2020, as well as in the programme statements for the draft budget 2022, the Commission presented the challenges being faced to achieve the objectives of the 2014-2020 spending programmes, including the COVID-19 pandemic, and the measures the Commission implemented to overcome those difficulties.*

*Information on the economy and efficiency of programmes is not available in general on an annual basis. These aspects result to a large extent from the regulatory framework and are typically measured in the longer term. The Commission will strengthen reporting on efficiency and economy, when the information becomes available.*

89. (§381 - 2019/PAR/0433) The European Parliament asks the Commission to ensure that better consistency between the targets addressed by the indicators and the policy objectives of increasing the individual earnings of people engaged in agriculture while limiting the need for direct support.

**Commission's response:**

*As it was agreed in the political compromise on the CAP reform, Member States will have to design their intervention strategy based on their SWOT and needs assessment in respect of SO1 - support viable farm income and resilience of the agricultural sector across the Union to enhance long-term food security and agricultural diversity as well as ensuring the economic sustainability of agricultural production in the Union. Result indicators that will be of particular meaning in this context are R6 (Redistribution to smaller farms) and R7 (Enhancing support to farms in areas with specific needs) for which Member States will have to set targets in terms of additional income support for the smaller farms and for areas with specific needs. R.8 (Targeting farms in specific sectors) will reflect the share of farms benefitting from*

*coupled income support for improving competitiveness, sustainability or quality will also contribute. Those indicators will reflect the degree of targeting of income support, which aims to increase the individual earnings of farmers who need it most and reduce it for those who need it less.*

90. (§384 - 2019/PAR/0434) The European Parliament takes note of the constraints, identified by the Court for successful contribution of agri-environment-climate measures to biodiversity and invites the Commission to suggest measures for increasing schemes coverage of a substantial portion of the farmed landscape and on specific risks.

**Commission's response:**

*The Commission has already taken measures to incentivise a high coverage of farm land by practices beneficial for biodiversity, both at high strategic level and at more operational levels:*

*- In the biodiversity strategy for 2030 (COM(2020) 380 final of 20.5.2020), some high level targets were set in terms of area coverage as follows: at least 25% of the EU's agricultural land must be organically farmed by 2030, and at least 10% of agricultural area under high-diversity landscape features;*

*- Recommendations were then sent to Member States as regards their CAP Strategic plans for the period 2023-2027, notably with regard to meeting these area targets for biodiversity (COM(2020) 846 final of 18.12.2020);*

*- The new regulation for the CAP strategic plans includes operational measures to incentivise a high area coverage of farmed land by practices beneficial for biodiversity and to take into account specific risks. The regulation provides that:*

*o The CAP plans should be based on a thorough SWOT analysis and needs assessment, for each specific objective (so including the one on natural resources and biodiversity)*

*o The CAP plans should set operational targets expressed in area coverage, among which some targets specific for biodiversity, which should be made in the light of the Commission Recommendations (and thus the high level targets set at EU level);*

*o Compulsory minimum percentage of support must be dedicated to interventions for the environment and climate (35% for the European Agricultural Funds for rural development, including agri-environment-climate and organic and 25% for eco-schemes under the European Agricultural Guarantee Fund).*

*o Agri-environment-climate measures are per-hectare payments and are not expected to be degressive, so area-coverage is clearly encouraged.*

*o The baseline for support –conditionality – has been enhanced and includes among others ambitious conditions as regards landscape features to the benefit of biodiversity.*

***The exact design of support schemes is the responsibility of Member States, so as to ensure the best adaptation to local conditions.***

91. (§385 - 2019/PAR/0435) The European Parliament takes note of the modest achievement by forestry measures under EAFRD, the achievement of 60 % in 2018 of the target for more efficient irrigation systems established for 2023 and the need for further reduction of greenhouse emissions from agriculture and calls on the Commission to report on measures undertaken to improve the results of CAP implementation in these areas.

**Commission's response:**

***The Co-legislators reached a political agreement on the new CAP Strategic Plan Regulation, which through the New Delivery Model will improve the conditions allowing a wider uptake and implementation of forest interventions, more efficient irrigation systems and further reducing greenhouse gas emissions from agriculture. The Commission will report on these measures in accordance with the modalities laid down in said Regulation. The expected adoption of the CAP SP Regulation is end 2021. In addition, the EU Methane Strategy (published October 2020) includes an action plan that will seek to support reduction of methane emissions in the agriculture sector.***

***The New EU Forest Strategy also includes a set of actions that aim to increase the uptake of CAP forest interventions.***

***Furthermore, in July 2021, the Commission adopted proposals for the revision of climate legislation (Effort Sharing Regulation, and Land Use, Land Use Change and Forestry) which increases the overall climate mitigation ambition of all sectors, including agriculture, and the obligation for Member States to act on reducing net emissions in line with the EU Climate Law (adopted July 2021).***

92. (§ 390 4th - 9th indent - 2019/PAR/0436) The European Parliament calls on the Commission to:

- increase efforts to prevent and detect fraud and frequently update its analysis of CAP fraud risks more often and perform an analysis of Member States' prevention measures as a matter of priority;

- ensure that the Fifth Anti-money laundering directive is implemented fully and correctly in all member states, particularly with regard to the implementations of public registers of beneficial owners and registers of beneficial owners of trusts; Notes that

capping should apply also to the parent undertaking where there is one, rather than to the individual beneficiary or subsidiaries, in order to avoid splitting up farms to avoid capping;

- implement Parliament's requests, including the setting up of concrete instruments to evaluate the land concentration in all Member States, identify the final beneficial owners of Union funds, also via a unique business identifier at Union Level as proposed in the preliminary findings of the study on "The largest 50 beneficiaries in each Union Member State of CAP and cohesion funds<sup>15a</sup>;

- better analyse Member State legislation and policies to prevent land grabbing and to formulate guidance on best practices; invites the Member States to apply best legislative practice aimed at restricting land grabs; calls on the Commission to increase efforts to prevent and detect fraud; urges Member States, together with the Commission, to develop proper Union-level legal instrument to prevent land-grabbing;

- keep the discharge authority informed on any new developments regarding the Slovak Agricultural Paying Agency, including specific information on financial corrections;

- based on the irregularities found in Slovakia, to review the situation of Agriculture Paying Agencies in the Member States and ensure both their independence and compliance of their operations with the Union rules.

**Commission's response:**

***Concerning the recommendation under the first indent,***

***The protection of the EU's budget is a shared responsibility between the EU and its Member States. Member States' activities represent the first line of defence against any attempt to defraud the EU budget. In line with the Commission's anti-fraud strategy, the Commission supports Member States, notably with anti-fraud advice and analysis. For example, the annual report on the protection of the EU's financial interest (the so-called 'PIF report') provides analysis on different fraud types, trends and fraud prevention measures. Other efforts to prevent and detect fraud include training provided by OLAF to Member States upon request, and regular meetings organised by OLAF with members of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF) from all Member States. Recently, the Commission created an online EU Funds Anti-Fraud Knowledge & Resource Centre. OLAF is currently preparing a case book on fraud with agricultural funds specifically.***

***Moreover, the Commission considers that the fraud risk assessment 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.*

*A revision of the current fraud risk assessment for DG AGRI is planned in the context of the new legal framework related to the CAP reform.*

*In relation to the performance of analysis of Member States' fraud prevention measures, the Commission points to actions 37 to 42 of the Action Plan accompanying the Commission Anti-Fraud Strategy (COM(2019)196 final).*

*The Certification Bodies (CBs) assess on an annual basis the compliance of the Paying Agencies (PAs) with the accreditation criteria, including the measures in place to prevent and detect fraud. The Commission monitors the Paying Agencies' 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.*

*Concerning the recommendation under the second indent,*

*Regarding the 5th AML Directive (Directive 2018/843), so far 16 Member States have received letters of formal notice on partial or non-transposition, while 4 Reasoned Opinions have been sent. Conformity analysis of transposition is ongoing. In parallel, the Council of Europe is working on reports on the implementation of the EU AL/CFT regime by all Member States. These should all be completed by early 2022. Implementation of registers of beneficial ownership (BO) is a high priority for the Commission. In the context of the imminent activation of the cross-border interconnection between national BO registers the Commission is in contact with Member States.*

*Regarding the risk that farms split up to avoid capping, Article 11(4) of Regulation 1307/2013 includes a specific "no circumvention clause". No advantage by means of avoiding reductions of the payment shall be granted in favor of farmers in respect of whom it was established that they artificially created, after 18 October 2011, the conditions to avoid the effects of capping and reduction of payments. To this end, Member States have to ensure that no support is granted in case such circumvention is determined, e.g. the holding was artificially split into separate holdings, each lodging a separate application to direct payments (i.e. as separate beneficiaries) in order to avoid reduction of payments / capping.*

*Concerning the recommendation under the third indent,*

*The Commission adopted an interpretative Communication on acquisition of farmland and EU law in 2017. The communication states that the acquisition of farmland falls within the remit of EU law. Intra-EU investors enjoy the fundamental freedoms, the free movement of capital and the freedom of establishment. These freedoms are integral parts of the internal market where goods, persons, services and capital can circulate freely. The internal market also extends to agriculture.*

*The EU law recognises the specific nature of agricultural land. The Treaties allow restrictions on foreign investments in farmland where they are proportionate to protect legitimate public interests such as preventing excessive land speculation, preserving agricultural communities or sustaining and developing viable agriculture.*

*There is no secondary European legislation addressing the acquisition of agricultural land. The Member States have jurisdiction and discretion to regulate their land markets. In doing so however, they must respect the basic Treaty principles, the fundamental freedoms and non-discrimination on grounds of nationality.*

*Secondary legislation on acquisition of farmland falls within the legal remit of the Member States and there is therefore no legal basis for the Commission to establish an observatory collecting data on land acquisition, land ownership and final beneficiaries of CAP-funds.*

*As to the unique business identifier, the current legal framework does not provide for one. The current legal basis does not allow tracing all beneficial owners of CAP funds or the group of which the beneficiary might be a member of. While some information on beneficial owners may be available to Paying Agencies for control purposes in specific cases, it is not systematically available. Many Member States consider that Paying Agencies may not use such data collected by other bodies, e.g. under the anti-money laundering policy, as the latter has distinct legal basis and purpose. As a general principle from the General Data Protection Regulation, data, even publicly available, may only be collected and processed for a specific purpose and with the agreement of the data subject. Nevertheless, the publicly available information is accessible for two years while the one for audit and control purposes for five years.*

*In the new CAP, there will be an obligation for the Member States to collect information necessary for the beneficiaries' identification, including, where applicable, the identification of the group in which they participate, as defined in article 2 of Directive 2013/34/EU. This information will also be published by the Member States for transparency.*

*The Commission considers this recommendation as implemented.*

*Concerning the recommendation under the fourth indent, on preventing land grabbing,*

*In the framework of the shared management of the CAP implementation, the control of the legal titles linked with particular land parcels is at the level of the Member States, in view of the subsidiarity principle. An ineffective control framework in that respect, should be seen in the context of the application of the rule of law, rather than a non-compliance with the CAP legislation by the Paying Agencies administering the aid.*

*Land grabbing happens at a stage, which is previous to the lodging of aid applications by potential beneficiaries of direct payments. Member States must check that the land is at the lawful disposal of the applicants as one of the requirements for granting*



*direct payments. How this lawful entitlement has been obtained is not governed by the rules under the EU legislation for direct payments.*

*Concerning the recommendation under the fifth indent, on the Slovak Paying Agency,*

*The Commission is assessing the measures undertaken by Slovak authorities to see if they are sufficient and is committed to work with the Slovak authorities to solve the issues.*

*Following the reservation entered in the 2018 AAR, Slovakia has put in place an updated Action Plan (AP) agreed in January 2020. The 28 actions address deficiencies for area-related schemes and for the animal-Voluntary Coupled Support measures. According to the latest progress report of the Action Plan of 15.07.2021, there is only one ongoing action to be completed before 31.12.2021. It concerns the amendment of legislative provisions on the lease of agricultural land, farms and forest land.*

*Concerning the follow-up on the allegation of fraud as well as recoveries and thus related deficiencies as regards compliance with accreditation criteria at the request of the Commission the Slovak Competent Authority put the Paying Agency under probation as of 15.10.2020 for a period of 12 months. An action plan was drawn up by the Competent Authority to remedy the deficiencies found and the progress is followed up in related audit enquiries.*

*Furthermore, DG AGRI informed the Slovak authorities that the Paying Agency's accounts would not be proposed for clearance before 31 May 2021 for the EAGF and the EAFRD for FY2020 due to serious deficiencies that undermine the functioning of the internal control system and thus the Paying Agency's compliance with the accreditation criteria. In this context, a conformity enquiry is ongoing to determine the amounts that may be excluded from EU financing.*

*Concerning the financial corrections, a financial correction of 64.7 million EUR was applied on Slovakia for deficiencies in the management and control of EAFRD non-IACS and a financial correction of 48.6 million EUR for deficiencies in the management and control of Direct payments EAGF expenditure on 20.11.2020 by Commission Implementing Decision (EU) 2020/1734. Furthermore, audits are ongoing to ensure that the EU budget is protected and financial corrections will be applied for all the risk entailed by the issues in the Slovak Paying Agency. The discharge authority will be kept informed about this in the context of the 2020 discharge procedure, information was also provided in the DG AGRI Annual Activity Report for 2020 and further information will be provided in the DG AGRI Annual Activity Report for 2021.*

*Concerning the recommendation under the sixth indent,*

*As mentioned above in the reply to the first indent of this recommendation, the Certification Bodies (CBs) assess on an annual basis the compliance of all the CAP Paying Agencies (PA) with the accreditation criteria. DG AGRI reviews the*

*assessment and conducts audit of the Paying Agencies with focus on accreditation criteria where further audit work is considered necessary.*

93. (§ 390 12th indent - 2019/PAR/0437) The European Parliament calls on the Commission to

- urgently start working on an effective methodology, where relevant, and in accordance with sectoral legislation, for monitoring climate spending and its performance in view of achieving an overall target of at least 30 % of the total amount of the 2021-2027 Union budget and Next Generation EU (NGEU) expenditures supporting climate objectives;

**Commission's response:**

*The Commission has already reviewed its climate methodology for the most relevant programmes directly in the basic acts of its programmes, and discussed it with the co-legislator. Further work to refine the methodology is currently undergoing to ensure full alignment with the IIA and the European Green Deal objectives.*

94. (§ 378 - 2019/PAR/0548) The European Parliament Notes with concern that under the current transparency rules data is available only for a two-year period in case of CAP funding; calls for a longer time period to be applied in the case of CAP funding as is the case for structural funds.

**Commission's response:**

*Making information about beneficiaries of CAP payments accessible to the public enhances transparency regarding the use of Union funds in the CAP, thus contributing to the visibility and better understanding of that policy. It enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy, and is more effective and is more accountable to the citizen. It also brings concrete examples of the provision of "public goods" by farming to the attention of citizens, thereby underpinning the legitimacy of state support for the agricultural sector. The current rules on transparency that have been confirmed to a great extent by the recent political agreement on the future CAP achieve the aim of providing for the general publication of the relevant information without going beyond what is necessary in a democratic society in view of the need to protect the Union's financial interests. The two years rule is part of this proportionate approach and was not disputed in the recent negotiation process.*

*It should be furthermore noted that, on what concerns the information stored for audit and control purposes, the data is available for 5 years for all beneficiaries and the Commission has access, for these very purposes, to individual payments.*

95. (§ 390 13th indent - 2019/PAR/0549) The European Parliament calls on the Commission to

- provide necessary financial resources for water management, including support the quality and quantity of water resources in agricultural land, forestry and wetlands as well.

**Commission's response:**

*Funding is already available under the CAP (EAFRD) for water management in agriculture and forestry, both on quality and quantity aspects and will also be available under the future CAP 2023-2027. Improving water management is part of the specific objective to “foster sustainable development and efficient management of natural resources such as water, soil and air”.*

*Currently, improving water management is one of the focus areas under the rural development programmes. Under the new CAP, the tools to support water management will be: eco-schemes, environmental, climate and other management commitments beyond conditionality and national legal obligations, area-specific disadvantages resulting from certain mandatory requirements, training and advice for farmers, research and innovation, investments.*

*As the CAP is implemented under shared management, the precise allocation of resources to improve water management is made by the National managing authorities; under the CAP Strategic Plans, this will be based on a sound analysis at territorial level and needs identification. The Commission provided Member States with recommendations to be included in their CAP strategic plans, some of which are specific for water quality and quantity as well as other targets under the European Green Deal, which must be included. Member States will also establish targets and must propose the best set of interventions to address the identified needs, covering both direct support to farmers (EAGF) and rural development interventions (EAFRD). The Commission will approve the CAP Strategic Plans, ensuring the recommendations are included, which will be operational as of 1 January 2023.*

*Further funding for water management is available under the LIFE programme, see for example [https://cinea.ec.europa.eu/life/life-calls-proposals\\_en](https://cinea.ec.europa.eu/life/life-calls-proposals_en).*

*The Recovery and Resilience Facility has also provided Member States with the possibility to finance a wide range of investments and reforms, including in the water management and climate adaptation fields. A number of Member States have*

*included such measures in their national recovery and resilience plans, which will be implemented until 2026.*

96. (§ 388 - 2019/PAR/0550) The European Parliament Notes the figures on which the Court comments for LEADER as at the end of 2018 (13 337 jobs recorder representing 30 % of the 2023 target) as well as the fact that the Commission does not have reliable data on jobs created under LEADER; asks the commission to work together with Member States for improving the availability of reliable data for LEADER implementation.

**Commission's response:**

*Although targets and results about the jobs created in projects supported by LEADER are systematically collected through rural development programmes and their annual implementation reports, it has sometimes proven difficult to ensure consistency of the data collected across Member States.*

*The Commission addresses this issue in the framework of the European network for rural development (ENRD) through 1) providing guidance to the Member States, (for example:*

- *Thematic Workgroup 8 (2020) – “Ex post evaluation of RDPs 2014-2020: Learning from practice” [https://enrd.ec.europa.eu/evaluation/thematic-working-groups/thematic-working-group-8-ex-post-evaluation-rdps-2014-2020\\_en](https://enrd.ec.europa.eu/evaluation/thematic-working-groups/thematic-working-group-8-ex-post-evaluation-rdps-2014-2020_en),*
- *Thematic workgroup 9 (2021) – “Research Projects to Support Better Data for Evaluating the CAP” [https://enrd.ec.europa.eu/evaluation/thematic-working-groups/thematic-working-group-9-research-projects-support-better-data\\_en](https://enrd.ec.europa.eu/evaluation/thematic-working-groups/thematic-working-group-9-research-projects-support-better-data_en),*

*2) the sharing of good practices with Managing Authorities evaluators and in Good practice workshops (GPW) (for example:*

- *GPW “How to demonstrate RDP achievements and impacts: lessons learned from the evaluations reported in the AIR 2019” (2019) [https://enrd.ec.europa.eu/evaluation/good-practice-workshops/how-demonstrate-rdp-achievements-and-impacts-lessons-learned\\_en](https://enrd.ec.europa.eu/evaluation/good-practice-workshops/how-demonstrate-rdp-achievements-and-impacts-lessons-learned_en),*
- *GPW “Data management for the assessment of RDP effects” (2020) [https://enrd.ec.europa.eu/evaluation/good-practice-workshops/data-management-assessment-rdp-effects\\_en](https://enrd.ec.europa.eu/evaluation/good-practice-workshops/data-management-assessment-rdp-effects_en)) and*

*3) thematic capacity-building workshops organized in Member states in their own languages (for example:*

- *EvaluationWORKS! 2019 [https://enrd.ec.europa.eu/evaluation/capacity-building-activities/evaluationworks-2019\\_en](https://enrd.ec.europa.eu/evaluation/capacity-building-activities/evaluationworks-2019_en),*

- **EvaluationWORKS! 2020** [https://enrd.ec.europa.eu/evaluation/capacity-building-activities/evaluationworks-2020\\_en](https://enrd.ec.europa.eu/evaluation/capacity-building-activities/evaluationworks-2020_en)).

*The expected completion date of 31/12/2026 is the date by which ex post evaluations carried out by the Commission and the Member States shall be completed according to article 57 of Regulation 1303/2013, as it is the final date by which the Commission will be able to assess the effectiveness of the actions described above.*

## Security and citizenship

97. (§393 - 2019/PAR/0438) The European Parliament continues to be concerned by the apparent lack of transparency and accountability in the arrangements for the provision by the Commission of financial support to Euronews; urges therefore the Commission to increase transparency in respect of the budget for multimedia activities and to improve accountability for expenditure; asks the Commission to reflect the concerns of the European Parliament in the design of the next Framework Partnership Agreement in 2021; asks the Commission to diversify the communication channels funded under the Multimedia Actions budget line.

### Commission's response:

*Financial support is provided to Euronews in accordance with the rules and procedures set out in the Financial Regulation to ensure the protection of the financial interests of the Union through sound financial management, transparency and accountability of the expenditure operations. The financed activities are set out in the Work Programme adopted by Commission Decision and subsequently published. Expenditure is controlled through contractual obligations set under the grant agreement, including on obligatory periodic reporting, checks, reviews and audits. As part of the reporting, Euronews is obliged to submit information on all funded activities, including audience figures.*

*Furthermore, to ensure effective control and increase transparency and accountability, the Commission ordered an independent performance audit of all Multimedia Actions, examining the extent to which these actions have used EU support in accordance with the principle of sound financial management, in particular regarding economy and efficiency, and whether they fulfil the objective of covering EU affairs under European perspectives while reaching ample segments of the European public, thus contributing to the development of a 'European public sphere'. The overall reassuring audit results were delivered in summer 2020 and sent to the CULT Committee of the European Parliament. The recommendations of the audit, notably a review of the format and choice of EU-funded languages, and a strategic review of support to radio, have been taken on board in the Commission's plans for 2021. In January 2021, the Commission informed the CULT Committee of the intention to diversify the channels funded under the Multimedia Actions over the years to come. The resulting Financing Decision of 18 March 2021 adopting the Work Programme on Multimedia Actions was published without delay on <https://digital-strategy.ec.europa.eu/en/policies/multimedia-actions>.*

*Finally, concerns of the European Parliament and the explanations of the Commission were discussed before signature of the new Framework Partnership Agreement with Euronews in July 2021. On this basis, the Commission has taken comprehensive action to ensure transparency and accountability as regards the support to Euronews and the management of the Multimedia Actions budget line, in a*

*constructive spirit and in compliance with the legal framework. The Commission stands ready to continue the dialogue with the European Parliament.*

98. (§394 - 2019/PAR/0439) The European Parliament highlights that beneficiaries of programmes for rights, equality and citizenship under the Union budget must adhere to the highest standards of rule of law, independent media, and free speech; calls on the Commission to amend eligibility criteria for rights, equality and citizenship programmes under the Union budget to prevent individuals and organisations with such disturbing views from receiving Union funding;

**Commission's response:**

*All projects funded by the Citizens, Rights, Equality and Values programme must respect the EU values enshrined in Article 2 TEU as well as Article 21 of the EU Charter of Fundamental Rights. This requirement is part of the eligibility criteria for the project proposals. In addition, the Commission model grant agreement stipulates the following: "The beneficiaries must commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities)." Furthermore, DG JUST has put in place an Internal early-warning protocol (29/01/2019), which lays down procedural steps in case of a serious breach of EU values during the implementation of an action or an operating grant. Finally, DG JUST together with BUDG and LS is currently exploring possibilities to reinforce further this requirement, possibly also in other EU funding programmes.*

99. (§415 - 2019/PAR/0440) The European Parliament recalls its letter sent to the Commission on 13 February 2020 on the implementation of the two delegated acts adding the instrument for financial support for external borders and visa to ISF Delegated Regulation (EU) 2020/446 ) and adding a new specific action to AMIF Delegated Regulation (EU) 2020/445 ); notes that the delegated act to AMIF has not been used; calls on the Commission to urgently provide detailed information about the different projects funded under delegated Regulation (EU) 2020/446;

**Commission's response:**

*The Commission will provide information about the different projects that have been funded under delegated Regulation (EU)2020/446.*

100. (§ 416 in connection with § 411 and § 429 1st-3rd indent - 2019/PAR/0441) The European Parliament asks the Commission and the Member States' audit authorities to address the shortcomings identified by the Court concerning audit coverage, sampling

and audit trails in relation to Member States' audit authorities, and to report to the discharge authority.

**Commission's response:**

***The shortcomings identified by the Court concerning audit coverage, sampling and audit trails in relation to Member States' Audit Authorities have been addressed:***

***On audit coverage:***

***Following a consultation with the Audit Authorities for AMIF and the ISF in the Member States (launched on 10 May 2021), DG HOME issued the final guidance note on sub-sampling on 20 July 2021, which takes into consideration comments received on the draft text from some Member State Audit Authorities. The note underlines that Audit Authorities should aim primarily for statistical sub-sampling methods and only consider non-statistical sub-sampling methods when the size of the sub-population does not allow for statistical methods. In the latter cases, the Audit Authority is expected to detail its reasoning for non-statistical sub-sampling methods in the annual control report. The Commission would be especially attentive to the error rates reported by the AA, when the AA chooses the latter.***

***This guidance note is applicable for audits of expenditure till the end of this programming period. The Commission is preparing a Delegated Act in collaboration with Member States on the basis of Article 79 (4) of the CPR on sampling methodologies to be applied for the 2021-2027 programming period.***

***The final guidance note is uploaded in SFC2014 under the support module.***

***On sampling:***

***DG HOME has continued to provide sampling guidance and feedback via the letters to the Audit Authorities in the context of the clearance of accounts exercise.***

***With the entry into force of the revision to Delegated Regulation 1042/2014 that introduced the requirement for the national Audit Authorities to submit detailed annual control reports (ACR) as from annual accounts FY 2018, DG HOME introduced the practice of sending to each Audit Authority detailed feedback letters following the analysis of the ACR. In these letters, DG HOME provides specific and targeted feedback to each Member State Audit Authority including guidance on sampling (appropriateness /sufficiency of the audit samples, i.e. Sweden ISF and Luxembourg for AMIF) as well as on correct calculation of error rates or extrapolation of errors to the relevant population where applicable (i.e. on methodology for the calculation of TER in the case of Slovenia and Portugal ISF).***

***This provides each Audit Authority with the relevant guidance to improve on the implementation and reporting of their audit work for the subsequent financial year clearance of accounts exercise.***

***On audit trail:***



***On 4 March 2021 DG HOME sent to the Audit Authorities (AAs) for AMIF and the ISF in the Member States a brochure issued by the Commission's services entitled "Reflection paper on audit documentation" (Good practices from and for auditors).***

***The brochure is the result of a working group composed of Commission audit services for shared management and Member States national AAs to identify and develop best practices to improve the audit documentation. This responded to findings raised by ECA not only for DG HOME's Funds, but also for other EU Funds implemented under shared management (ERDF, ESF, etc.).***

***The purpose of this paper is to be a reference for the documentation of the audit fieldwork and to provide examples of good practices to auditors. It is mainly focused on audits of operations under ESIF (equivalent to the audits of expenditure under AMIF/ISF). However, it also provides guidance on general audit trail issues that can also be relevant for other types of audits (e.g. system audits). Whilst this paper is not an exhaustive manual, DG HOME strongly encouraged AAs to apply the good practices listed in this document in their working procedures.***

***The brochure is uploaded in SFC2014 under the support module.***

***With all this information, AAs have now enough guidance to document the nature, timing and extent of their audit procedures, their results, and the audit evidence collected, in a sufficient and appropriate way.***

101. (§421 - 2019/PAR/0442) The European Parliament is concerned that EU funding has neither improved the humanitarian situation in refugee camps nor effectively protected the external borders; calls on the Commission for detailed clarification, in particular for admission procedures at external borders; calls on the Commission to investigate where exactly the EU funds have been invested in the AMIF programmes and which specific improvements they brought about; requests a corresponding report from the Commission for each of the member states concerned.

**Commission's response:**

***The use of HOME funds in Member States of first reception is closely monitored by the Commission.***

***The Commission monitors the implementation of the HOME Funds through analysis of annual accounts and implementation reports; continuous monitoring (including daily contacts at desk level, regular reporting and visits on the spot); action plans and monitoring committees.***

***In addition, since 2016, Commission's staff was progressively deployed in concerned Member States (Spain, Italy, Malta, Greece and Cyprus) and developed Standard Operating Procedures for Italy and Greece, where the hotspot approach at external border is being implemented.***

*The teams supporting migration management on the ground provide analysis, final and intermediate reports on the operational aspects as regards the implementation of the EU acquis in connection with border management, asylum, reception and returns, including the developments and operational bottlenecks in these policy areas.*

*Moreover as concerns Greece, in 2020 the European Commission together with the Greek authorities and EU Agencies set up a dedicated Task Force and signed a Memorandum of Understanding, setting out the cooperation framework for the establishment of new facilities on the island of Lesbos through the implementation of a dedicated Joint Pilot. This Pilot is also linked to the further development of a strategic approach regarding migration and border management in the country. With regards to Cyprus, the Commission and EU Agencies have intensified operational support since 2019, including through the deployment of experts based on a jointly agreed action plan for migration management.*

*DG HOME will continue to analyse the improvements brought by AMIF projects and where the funds have been invested; following the analysis, DG HOME will communicate the information having in mind also the performance information already available for projects in each Member State.*

102. (§422 - 2019/PAR/0443) The European Parliament notes that the deficits are mainly caused by the length of asylum procedures, sluggish integration and insufficient return rates; calls on the Commission and the Member States to make immediate legislative progress.

**Commission's response:**

*The Commission adopted the new Pact on Migration and Asylum on 23 September 2020. It is proposing a fresh start on migration: building confidence through more effective procedures and striking a new balance between responsibility and solidarity.*

*The recent developments at the Lithuanian/EU border with Belarus, and the crisis in Afghanistan make clear that making sustainable progress on the Pact is a priority more than ever.*

*An important leap forward in the negotiations on the Pact has been reached with the political agreement on the EU Asylum Agency; that will enable the agency to better contribute to the management of migration flows and provide greater support to Member States. There are several other files, such as the new Eurodac, that are progressing, and that will provide concrete added value for both internal security and better migration management.*

*The Commission continue to play its role supporting the Presidencies and the Member States in advancing negotiations. It notably advocated on the need to make progress on legislative files that would make an instant impact on the ground. More*

*generally, making progress on negotiations will also send a clear signal that EU is serious about migration*

103. (§423 - 2019/PAR/0444) The European Parliament asks the Commission to take measures to address the shortcoming identified by the Court and to improve the information included in AMPR and programme statements, which will allow for better monitoring of the progress achieved by the Fund (AMIF).

**Commission's response:**

*In the new programming period, the HOME Funds Regulations include a set of simplified and clear common performance indicators applicable to shared, direct and indirect management. In collaboration with the Member States, DG HOME has developed definitions for each common indicator set out in the basic act. In addition, the Common Provisions Regulation, which applies to the HOME Funds, requires Member States to establish a performance framework for each of their national programmes. Underpinned by a sound methodology, Member States have to set milestones, targets and baselines for the common indicators. This will allow to measure performance of the programme and fund.*

104. (§ 430 1st-4th indent - 2019/PAR/0445) The European Parliament requests the Commission to:

- define criteria for allocating EMAS funds under shared management with Member States in the next financial framework;
  
- strengthen the performance-monitoring framework by a) ensuring that AMIF EMAS projects contain output and outcome indicators with clear targets and baselines where appropriate, and justifying when this is not the case; b) monitoring and reporting the outcomes achieved by EMAS-funded projects; c) for the new MFF 2021-2027, designing the AMIF CMEF and IMBF indicators, including their baselines and targets before the 2021-2027 projects start;
  
- implement measures to ensure complementarity and better coordination between AMIF and EASO/Frontex (e.g. in the area of forced returns or support to asylum authorities);
  
- use development aid as a tool to facilitate better cooperation with migrants' countries of origin.

**Commission's response:**

*The common output and result indicators, set out in Annex VIII of the AMIF Regulation (EC) (2021/1147), apply to all management modes, including direct management. The core performance indicators set out in Annex V of the AMIF Regulation will include monitoring data on shared, indirect and direct management mode.*

*As regards the European Parliament requests:*

*- The Commission is working on the design of work programmes within the Thematic Facility under the Home Affairs Funds of the next MFF, where general parameters for the allocation of emergency assistance will be included. Nevertheless, given the delays in the approval and entry into force of the new legal bases, the implementation of this recommendation has to be postponed until the end of 2021.*

*- on the performance-monitoring framework:*

*a) The Commission relevant services have included in the grant agreements clear measurable targets, and insisted that the evolution of targets is recorded when processing amendments. For example, in one case, Commission established a procedure with the beneficiary for better monitoring of the indicators' evolution – in amendments where there is a change of indicator, the beneficiary will insert a footnote with the initial target and explanation of the change.*

*b) In addition to the ex-post evaluation foreseen in the Regulation (EU) No 514/2014 (art.57), monitoring procedures and templates were established also for the programming period 2014-2020. It has been challenging to consistently monitor all projects on the ground, because of lack of resources and recently because of the Covid pandemic. Nevertheless, monitoring takes place regularly through the assessment of updates and regular progress reports from beneficiaries, as well as with support of DG HOME staff present in the frontline Member States where the projects are being implemented.*

*c) For the new MFF 2021-2027, the Commission's intention is to align as much as possible to the CMEF of shared management, making use of the indicators in Annex VIII to the Fund-specific Regulations. EMAS grant agreements with Member States will be aligned as much as possible to the model of e-grant used for all direct management projects, where Milestones and Deliverables (outputs/outcomes) are detailed for every “work package”, and where the indicators are “screened” in the periodic reporting to be delivered by the beneficiary. Given the delays in the approval and entry into force of the new legal bases, the implementation of this recommendation needs to be postponed until the end of 2021.*

*- The Commission has involved the six decentralised HOME Agencies, as well as the European Union Agency for Fundamental Rights in the Member States programming, so that their opinion could be timely taken into account by the Member*

*States and integrated in their programmes. In particular, Agencies' representatives have participated into two dedicated seminars to the benefit of Member States programming Authorities, one in November 2020 and one in February 2021. At those occasions, the Commission (DG HOME) distributed to the Member States a "toolbox" highlighting possible areas of complementary and effective collaboration between Member States and Agencies in the policy areas covered by the three funds.*

*In addition to the consultation process referred to above, Agencies may be consulted on the whole or relevant sections of relevant programmes, after their formal submission by the Member States. Agencies will be consulted in a targeted manner, i.e. focusing on those issues or sections of the programmes for which the feedback by the Agencies would be particularly sought. The operational details of this consultation have been agreed in a dedicated meeting between DG HOME and Agencies' nominated representatives, which was held on 22 June 2021.*

*- The New Pact on Migration and Asylum proposes to develop and deepen comprehensive, tailor-made and mutually beneficial migration partnerships with key countries of origin and transit. These partnerships will address all aspects of migration and forced displacement in a comprehensive manner, including return, readmission and reintegration, through mobilising all relevant EU policies, tools and instruments. To that end, Commission has proposed a new mechanism, including all relevant EU policies and tools, to improve the coordination of the different actions in various policy areas other than migration that the Union and the Member States may take (Article 7 of the proposed Asylum and Migration Management Regulation (COM(2020) 610 final).*

*EU development policy and funding will provide a crucial contribution to the effective implementation of these migration partnerships. To that end, the Global Europe regulation includes a migration spending target of indicatively 10% of its overall budget allocation.*

105. (§ 431 in connection with § 428 - 2019/PAR/0446) The European Parliament notes with concern that for both the AMIF and the ISF not all the available budget has been used by Member States; considers this particularly problematic in the light of the increasing use of emergency assistance to fund Member States policies in these areas; recalls that the challenges related to security and migration management are a priority for the Union; recognizes the efforts of the Commission in this respect and demands greater cooperation from all Member States.

The European Parliament calls on the Commission to fully comply with the Interinstitutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management as a matter of compliance with the Union's legal provisions and good governance principle.

**Commission's response:**

*There are clear rules about how EU funds are to be managed and a very strict and thorough monitoring system is in place to verify that all funds have been correctly spent.*

*For shared management, in addition to management verifications and audits by the national authorities, we monitor the implementation of the two Funds through:*

- analysis of annual accounts and implementation reports submitted by Member States;*
- continuous monitoring by DG HOME, including visits on the spot;*
- participation in the monitoring committees organised by national authorities.*

*Controls that take place during the implementation of operations and after closure/ payment:*

- system audits by DG HOME auditors;*
- verification of the accounts and assurance package during the annual clearance of accounts procedures;*
- ex post audits to assess the legality and regularity of the expenditure by DG HOME auditors.*

*Controls by DG HOME on AMIF and ISF expenditure will continue at least until 2024 and provide for increased assurance.*

*As a general assessment, the European Court of Auditors' 2019 Annual Report concluded that the Commission's individual assessments of Annual Control Reports are well structured, punctilious and cover all relevant legal aspects. Similarly, Member States' authorities have developed and implemented procedures of sufficient quality.*

*In order to reduce the assistance provided through emergency support, in line with the new regulations, the Commission is aiming at adopting a more strategic approach by integrating measures of a structural character, formerly supported through emergency assistance, via national programmes and the thematic facility.*

## Global Europe

106. (§441 - 2019/PAR/0447) The European Parliament support the Court's recommendation and calls the Commission to finetune its support for education in emergencies in order to reach a good level of efficiency and relevance.

**Commission's response:**

*The Commission is committed to provide relevant, effective and efficient support to education in emergencies and protracted crises. As acknowledged by the Court's audit, the Commission achieved already positive results on the ground and humanitarian aid for education in emergencies has benefitted children in need, in line with the adopted policy framework.*

*The Commission intends to implement fully the Court's recommendations as of 2022 funding, investing in quality and safe education for children living in humanitarian settings.*

*To answer the concerns of the Court, the Commission will:*

- ensure that the initial duration for actions on Education in Emergencies is at least 24 months and covers full academic year(s), unless there is a need- or context-based justification to do otherwise;*
- pay increased attention to 50% girls' participation in the Education in Emergencies actions and take measures towards greater equity and inclusion in education, including greater empowerment of girls;*
- ensure that cash for education projects in protracted crises are accompanied by a strategy for the sustainability of the support;*
- ensure more consistent use of the results of the Enhanced Response Capacity projects on education;*
- improve the costs analysis in the selection of education projects by comparing the cost of the main activities with those of previous projects in order to ensure efficiency of investment.*

107. (§445 - 2019/PAR/0448) The European Parliament regrets that humanitarian objectives, such as preserving the dignity and human rights of migrants and other vulnerable groups, such as children and women, have not been met in the implementation of actions under the TFs such as EU TF Madad and EU TF for Africa in several instances; emphasises that the protection of human rights requires decisive action; recalls furthermore that the respect for human rights, fundamental freedoms, the promotion of the rule of law, democratic principles, freedom of religion and belief, transparency, good governance and peace and stability are essential elements of the EU TF for

Colombia; calls on the Commission to increase scrutiny of the actions of the implementing partners in this regard.

**Commission's response:**

*The EU is firmly committed to the promotion of all human rights, whether civil, political, economic, social or cultural, as well as to the protection of democratic principles and the rule of law. EU Trust Funds have been and remain important tools that have allowed the EU to contribute to the dignity and human rights of migrants, internally displaced persons (IDPs) and their host communities. Moreover, the promotion of gender equality, youth and women's empowerment and the protection of the most vulnerable and excluded group, are clear objectives of EU Trust Funds throughout different regions and countries.*

*In particular, the protection of human rights of migrants is at the core of EUTF Africa programs, and migration-management activities take place in line with international humanitarian laws. In case the respect of human rights is not ensured in program implementation, the Commission can take the necessary steps and suspend activities, in line with contractual arrangements with implementing partners. The Commission's headquarters and EU delegations closely monitor implementing partners to this effect. Moreover, external experts may be asked to report on whether conditions on the ground are conducive to achieve the planned objectives in full respect of international human rights standards.*

*The EUTF Colombia team follows all projects closely: with the advancement of the vaccination campaign against COVID-19 in Colombia and the reopening of the country, field visits will restart in earnest to ensure close follow up.*

108. (§449 - 2019/PAR/0449) The European Parliament recalls that the agricultural, fisheries, trade, economic, education, migration, environment, climate, foreign and security and other policies of the Union influence the efficiency of the development policy of the Union; notes that policy coherence for development (PCD), mandated by Article 208 TFEU, is therefore also a matter of sound financial management; recalls that aid effectiveness depends upon the proper implementation of PCD; stresses that more efforts are still needed to comply with PCD principles, especially in the above mentioned fields in order to achieve aid effectiveness objectives; invites the Commission to act upon the recommendations in the 2018 external evaluation report on PCD, demonstrating commitment and assigning sufficient staff to PCD tasks in order to ensure a result-oriented strategy and progress in PCD.

**Commission's response:**

*The Commission is committed to strengthen Policy Coherence for Development (PCD) in a systematic manner. Following the recognition of PCD as a crucial*



*element of the EU's strategy to achieve the Sustainable Development Goals (SDGs) in the 2017 European Consensus on Development and the recommendations made in the 2018 external evaluation on PCD, the Commission adapted its approach to the PCD work to ensure its relevance in the new political framework. PCD was integrated in the overall Commission work on the implementation of the 2030 Agenda.*

*The Commission set up a structured and inclusive process encompassing all relevant Commission services to regularly screen planned and upcoming Commission initiatives and identify those (non-development) policy or legislative initiatives which potentially have a major impact on our partner countries' ability to achieve the SDGs. This inventory aims at facilitating inter-service planning and cooperation throughout the preparatory process of an initiative, e.g. by looking for synergies with development policy actions and for mitigating measures in case of trade-offs. It is, thus, an important instrument to promote PCD across Commission services at an early stage of policy formulation.*

*At DG INTPA level, the monitoring of identified policy initiatives with important external dimension or impact has been strengthened. Their follow-up is regularly discussed in management meetings. In particular, the thematic services, whose role as centres of expertise has been enhanced in the reorganisation of DG INTPA in January 2021, liaise closely with other Commission services, the EEAS, EU Member States and other stakeholders to ensure that the external dimension of internal policies is integrated and to maximize coherence with cooperation policy.*

*In addition, in view of the pivotal role of EU delegations in monitoring the impacts of EU policies in partner countries, confirmed by the 2018 PCD evaluation, reporting from EU delegations on PCD issues was reinforced: they constitute a specific chapter in the annual progress reports, and external experts now support their analysis. Over the years, the number of reports keeps increasing, covering over 130 partner countries in 2020.*

109. (*§ 454 in relation with § 473 and EDF resolution § 57, in connection with § 480 11th indent - 2019/PAR/0450*) The European Parliament takes notes that because of the legal provisions which leave a broad scope for interpretation by the Commission regarding the meeting of general conditions, the Court 'cannot cover what happens beyond the moment the Commission pays aid to the recipient country, since these funds then merge with that country's own budget resources'; notes that this risks undermining the level of accountability and transparency of Union action and spending; insists that the Commission ensures that the delivery of external aid is subject to the rule of law and respect for human rights in recipient countries; stresses, in particular, the need to guarantee that countries and third parties and/or natural persons, that are allocated or linked to Union funds adhere to core democratic values, respect international human rights standards and subscribe to principles of non-violence.

**Commission's response:**

*EU values are the compass of EU development assistance. The EU uses its full weight to promote democratic governance and the rule of law in its dialogue with countries. This is mutually beneficial to both the EU and our partners, and an enabler for the achievement of the Sustainable Development Goals. An assessment of the respect of human rights and the rule of law is carried out by the Commission to inform decisions on EU interventions, including for budget support. Risks in this respect are duly monitored in each country for the whole EU cooperation.*

*Adherence to fundamental values, including the rule of law, also play a central role in our programmes. Programming principles for geographic programmes of the NDICI take due account of the partner's commitments and performance, established on the basis of criteria such as political reform and economic and social development, as well as the partner's capacity and commitment to promote shared interests and values.*

*The EU can work with and through governments, in which case a financing agreement is signed. All financing agreements provide for the possibility to suspend or terminate the agreement in case of breach of an obligation relating to respect for human rights, democratic principles and the rule of law. Article 29 on the NDICI also provides that actions which might result to the violations on human rights should be excluded from EU funding.*

*In coordination with other interventions, budget support is a vector to improve governance in our partner countries. Efforts towards macroeconomic stability, improved public finance management and fiscal transparency are eligibility criteria for budget support, and governance issues can be also covered by performance indicators triggering the release of variable tranches. Budget support can only be provided if general conditions are all met and to the extent that applicable performance indicators are achieved. Reforms and results must be evidenced before any budget support is paid.*

110. (§455 - 2019/PAR/0451) The European Parliament calls on the Commission to fully introduce the principle of conditionality and regular ex-ante and ex-post checks on the regularity and performance of the Union's funds for support to third countries and ensure a legal framework that provides for these support instrument to allows for full recovery of funds in case of discovered irregularities.

**Commission's response:**

*The provision of EU budget support is conditional on four eligibility criteria that all need to be met before approving an operation and at any time in the course of implementation, particularly before approving a payment. These general conditions relate to the implementation of a relevant and credible national development strategy*

*or sector policy (depending on the context and EU cooperation priorities in the country); macroeconomic stability, progress in public finance management and domestic revenue mobilisation and fiscal transparency. In addition, the variable part of budget support instalments is subject to specific performance indicators pertaining to the relevant national or sector policies, in addition to the general conditions. The general conditions and performance indicators call for constant monitoring and numerous checks by the EU Delegation on site and EU headquarters. Each financing agreement provides for the possibility to recover funds under some conditions, in accordance with the Article 236 of the EU financial regulation.*

*Concerning the use of the ‘notional approach’, when the Commission implements funds ‘indirectly’ in accordance with article 62.1(c) of the Financial Regulation, it is underlined that the respective agreements to which the ‘notional approach’ may apply are concluded with entities, such as international or Member States organisations, whose rules and procedures have been assessed ex-ante by the Commission as ensuring a level of protection of the financial interests of the Union equivalent to the one that is provided for when the Commission implements funds directly. Of course, such agreements also provide the Commission with the possibility to exercise financial ex-post controls.*

111. (§ 467 first to sixth indent - 2019/PAR/0452) The European Parliament calls on the Commission to:

- strengthen the focus of Union budget support in Morocco, namely apply a more transparent and better documented method to allocate amounts to sectoral budget support programmes and continue to monitor the performance;
- improve the design of target and performance results;
- improve policy dialogue strategy, specifically to assess the achievements of the policy dialogue strategy and to apply a clear and appropriate definition of the objectives and expected results of the dialogue;
- enhance disbursement verification procedures, specifically to apply appropriate calculation methods and to disburse funds only when there is reliable evidence that the target has actually been achieved;
- improve monitoring procedures, such as to strengthen the assessment of sectoral strategies and to monitor their implementation using the indicators of the sectoral strategies;

- thoroughly verify the use of Union funds by third entities, their affiliates, and/or natural persons to ensure that no funds are allocated or linked to any cause or form of terrorism and/or religious and political radicalisation; and to ensure that these Union funds are proactively recovered, and recipients involved are excluded from future Union funding.

**Commission's response:**

*The Commission attaches high importance to relevance, added-value, coherence, efficiency and overall effectiveness of the EU cooperation and financial support to third party countries. Indeed, considering that budget support is the main cooperation instrument in Morocco, special attention and safeguards are given to the use and deployment of this instrument in the country. In particular, budget support has proven to be key in the EU cooperation with Morocco during the Covid-19 crisis and it has effectively supported the Moroccan government's swift response plan to mitigate the socio-economic crisis generated by the pandemic.*

*The Commission will ensure implementation of the recommendations provided by ECA when designing and implementing budget support operations under the forthcoming 2021-2027 EU-Morocco Multiannual Indicative cooperation programme.*

***In particular:***

- *On strengthening the focus of Union budget support in Morocco, namely apply a more transparent and better documented method to allocate amounts to sectoral budget support programmes and continue to monitor the performance :*

*The sectoral interventions of the EU budget support to Morocco will focus on the priorities and common interests discussed and agreed at the highest political level (i.e. the EU-Morocco Joint Declaration of 2019 and the 2021 Communication on the Renewed Partnership for the Southern Neighbourhood). The rationale for the amounts allocated to budget support programme are based on a broad qualitative assessment that takes into account several elements, notably the available resources programmed by the EU to the country and the financing needs of the partner country in the relevant sector to advance in the proposed reform. Each Action document programme will justify the amount of the budget support component as well for other complementary activities (i.e. size of the technical assistance and/or twinning support actions). The budget support achievements will be monitored independently by the Commission and will be the basis of the performance-based payments.*

- *On improving the design of target and performance results :*

*The identification of performance targets and indicators during the design of a programme is based on the policy dialogue with the respective national authority in charge of the proposed reform. To note that the Commission typically provides, along with the budget support component of a sector reform programme, a complementary assistance component (i.e. technical assistance and/or twinning) that contributes to the sector dialogue and the selection and formulation of relevant performance indicators, as well as to implement adequate monitoring systems – in line with the best European/ international best practice. In addition, the Commission uses independent technical assistance and monitoring missions in the field to assess the achievement of expected results and disburse the corresponding performance payments. Moreover, the Commission deploys expertise with units dedicated to contribute to quality-assurance of programming, monitoring and evaluation, helping geographical services and delegations in the design, implementation and monitoring of budget support Programs. The provision of training is also made available from central units to operational staff in delegations (i.e. training workshops focused on programming of budget support operations, organised for cooperation staff in Morocco in February 2021).*

*Finally, an independent global evaluation of the results and lessons learned of budget support operations in Morocco in different sectors of intervention for the period 2013-2019 is underway and expected to be completed by the end of 2021. The results and recommendations of the evaluation will feed into policy dialogue and design of new programmes.*

*- On improving policy dialogue strategy, specifically to assess the achievements of the policy dialogue strategy and to apply a clear and appropriate definition of the objectives and expected results of the dialogue :*

*The resumption of the EU-Morocco Association Council meetings in 2019, followed-up in 2020 and 2021 by sectoral sub-committees, have strengthened policy dialogue definition and follow-up actions. including in the design of new operations (i.e. EU support to the government of Morocco response to the COVID crisis). End-of-year reporting on the results of policy dialogue has been, and will continue to be part of the annual EAMR reports. Moreover, since 2020, for budget support operations, the new programmes identify the key areas for policy dialogue in their financing agreement signed with the partner country. As for existing budget support programmes, policy dialogue objectives are more systematically developed and registered in the official exchanges with the national authorities. Progress in relation to achievements is also discussed with the beneficiary at the programme's steering committee meetings.*

*- On enhancing disbursement verification procedures, specifically to apply appropriate calculation methods and to disburse funds only when there is reliable evidence that the target has actually been achieved :*

*The reliability and consistency of the sources of verification are thoroughly verified by the*

*Commission throughout the programme implementation life-cycle. The Commission endeavours to ensure tight and prudent management of EU funding, through both ex ante and ex post internal and external audits, controls and evaluations. These monitoring procedures and due diligence verification processes, supported by Headquarter Units, allow to disburse payments fairly and, in exceptional cases and when justified, to recover funds. .*

*- On improving monitoring procedures, such as to strengthen the assessment of sectoral strategies and to monitor their implementation using the indicators of the sectoral strategies :*

*Monitoring procedures for each budget support programme include (i) field visits, (ii) bilateral meetings with the government and relevant counterparts in the sector, (iii) close follow-up of non-EU sectoral and/or independent reports, (iv) independent monitoring missions and (v) consultations with other international donors (including EU Member States) and relevant civil society organisations. To note however meetings and field visits have been impacted since March 2020 due to the Covid pandemic, and have been largely replaced with online meetings and the review of electronic documentation.*

*- On thoroughly verifying the use of Union funds by third entities, their affiliates, and/or natural persons to ensure that no funds are allocated or linked to any cause or form of terrorism and/or religious and political radicalisation; and to ensure that these Union funds are proactively recovered, and recipients involved are excluded from future Union funding :*

*To date, there was no such case of irregular funding detected by internal or external controls.*

112. (§ 473 in relation with § 454 and EDF resolution § 57 - 2019/PAR/0453) The European Parliament reiterates its concerns that the increase use of financial instrument to deliver EU policies in third countries undermine the level of accountability and transparency of Union action; insists that the Commission ensure that the delivery of external aid is subject to the rule of law and respect for human rights in recipient countries.

**Commission's response:**

*The EU is firmly committed to the promotion and protection of all human rights, whether civil and political, economic, social and cultural rights, of democratic*

*principles and the rule of law. These core values are essential elements of the EU's partnerships and cooperation agreements with partner countries.*

*As mentioned in the NDICI-Global Europe, the EU is adopting a human rights-based approach, encompassing all human rights, into all development cooperation programmes and actions, this also includes financial instruments. A new Staff working document "Applying the Human Rights Based Approach to international partnerships - An updated Toolbox for placing rights-holders at the centre of EU's Neighbourhood, Development and International Cooperation" was adopted 30 June 2021 to guide the application of the HRBA. Training and awareness activities will be undertaken at both Headquarters' and delegation level. The human rights based approach follows a "people-centred" approach and applies the following 5 working principles: it applies to all rights, it strives for inclusive and meaningful participation and it promotes non-discrimination, accountability and transparency.*

*Furthermore, the EU has an internal quality assessment system, whereby all new actions including blending proposals are screened, and revised if needed, from a human rights and gender equality perspective prior to decision making.*

*Financial instruments are being implemented by pillar assessed financial institutions who have the obligation to implement international conventions, more in particular:*

*(a) promote the respect of human rights and respect applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards;*

*(b) implement each Covered Transaction in accordance with international human rights law and in accordance with the following documents, whether or not those documents fall under paragraph (a) above:*

*(c) Principles for Responsible Investment;*

*(d) UN Guiding Principles on Business and Human Rights;*

*(e) OECD Guidelines for Multinational Enterprises;*

*(f) UN Food and Agriculture Organization's Principles for Responsible Investment in Agriculture and Food Systems; and*

*(h) International Labour Organization conventions.*

113. (§ 480 1st, 4th, 6th indent - 2019/PAR/0454) The European Parliament calls on the Commission to:

- disclose the limitations of the residual error rate study in DG NEAR's 2020 AAR and future AARs;

- increase the confidence level DG NEAR uses in its methodology for calculating the grant rate to the same level applied to the rest of residual error rate population, to reflect

more accurately the higher risk in the area of direct management grants by the end of 2021;

- further improve by the end of 2021 the methodology and manual used for the residual error rate study to address the issues the Court has identified in its report, in order to make the error rate reported in the study more reliable.

**Commission's response:**

*With respect to the first indent, 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. This will be reported in future AARs as well.*

*With respect to the second indent, the Commission did not accept the associated ECA 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.*

*With respect to the third indent, the Commission takes the view that the RER methodology is well established and has been adjusted over the years (also following previous ECA observations). The Commission will keep looking into possibilities of improving the methodology, taking into account costs and benefits, and without altering the nature of the RER study, as it considers the RER study fit for the purpose of providing assurance to the authorising officer by delegation.*

114. (§ 480 2nd and 3rd indent - 2019/PAR/0455) The European Parliament calls on the Commission to:

- develop quickly guidance and strong criteria to identify NGOs in its accounting system and to verify the self-declared data submitted by the applicants;

- propose a harmonized definition of NGOs and a specific control on the funds. Calls on the Commission to receive each year the list of the 50 largest beneficiaries;



**Commission's response:**

**- Develop guidance and strong criteria to identify NGOs in its accounting system and to verify the self-declared data submitted by the applicants:**

*While the term “NGO” is widely used, it has no generally accepted definition either at the international level, or at EU level. This is the reason why the Commission has developed on its own initiative a system whereby organisations self-declare themselves as NGOs, under the prerequisite that the legal entity concerned is flagged as both a private and not-for-profit organisation. Although it may result in different groups of recipients than what stems from concepts applied at national level, the Commission prefers to follow this prudent approach, which is based on strong objective and verifiable criteria. The Commission considers that any further criteria would require an EU level harmonisation of the concept of NGO, which should be agreed by the legislator.*

**- Propose a harmonized definition of NGOs and a specific control on the funds. Calls on the Commission to receive each year the list of the 50 largest beneficiaries:**

*Currently, no financial transparency requirement specifically mentions that reporting on non-governmental organisation (NGO) funding, including the use of EU funds by NGOs, is required. In that respect, and because of the absence of a universal NGO definition, the legislator has not developed a commonly agreed NGO definition. The Commission on its own initiative has developed a system whereby organisations declare themselves as NGO, under the pre-requisite that the legal entity concerned is flagged as both private and non-profit organisation. These are generally accepted criteria, and the compliance is verified by the Commission. Any changes to the system would require an EU level harmonisation of the concept of NGO and should be agreed by the legislator.*

**- Specific control on the funds:**

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

*The Financial Regulation sets out detailed rules for the selection and award of funds to entities, based on objective criteria. In the case of humanitarian aid, NGOs need to undergo an assessment of their management and control systems and procedures to become EU certified partners. Once certified, a humanitarian operator can apply for funding for a specific action and each proposal is assessed on its own merits.*

*Alongside measures carried out by the European Court of Auditors and the European-Anti Fraud Office, the Commission makes use of the various mechanisms of reporting, monitoring, control and audit at its disposal to ensure the proper use of funds by recipients.*

*The Commission carries out ex post audits on NGOs as part of its standard control strategy to ensure that funds are used according to their intended purpose. Information made available through such monitoring or through other relevant sources may lead to exclusion from Union financing under the Early Detection and Exclusion System.*

*- Receive each year the list of the 50 largest beneficiaries:*

*The Commission wishes to be fully transparent on beneficiaries of EU funds, within the limitations set by the current regulatory framework. In line with Article 38 of the Financial Regulation, the Commission is publishing information on beneficiaries of the EU funds, for the actions that it manages directly. Records of the funding allocated is available via the Financial Transparency System ([https://ec.europa.eu/budget/fts/index\\_en.htm](https://ec.europa.eu/budget/fts/index_en.htm)). Information on beneficiaries is also available on the websites of entities implementing funds under indirect management.*

115. (§ 480 5th indent - 2019/PAR/0456) The European Parliament calls on the Commission to:

*- strengthen DG NEAR's, DG INTPA's, DG ECHO's, DG CLIMA's and FPI's checks by identifying and preventing recurrent errors (e.g. lack of time-recording systems and charging ineligible VAT to Union-funded projects) by the end of 2021;*

**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:*

*(ii) (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.*

116. (§ 480 7th indent - 2019/PAR/0457) The European Parliament calls on the Commission to:

- reintroduce reservations for all areas found to have a high level of risk, regardless of their share of total expenditure and their financial impact.

**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, for all Commission services. 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.*

117. (§ 480 8th indent - 2019/PAR/0458) The European Parliament calls on the Commission to:

- thoroughly verify the use of Union funds by third entities, their affiliates and/or natural persons to ensure that no funds are allocated or linked to any cause or form of terrorism and/or religious and political radicalisation; and to ensure that these Union funds are proactively recovered, and recipients involved are excluded from future Union funding.

**Commission's response:**

*The EU's contractual and financial procedures, which apply for the different implementation modalities, seek to ensure value for money and prevent capture or embezzlement by specific interest groups. Examples of these are the "Early Detection and exclusion system" and the "EU restrictive measures", both incorporated in our contract templates and framework agreements.*

*The "Early Detection and exclusion system" (EDES) is the system established by the Commission to reinforce the protection of the Union's financial interests and to ensure sound financial management.*

*The scope of the EDES goes beyond the prevention and detection effect on fraud and unreliable behaviours – it also ensures effective sanctions. According to the Financial Regulation, EDES encompasses: (i) the early detection of entities or persons representing risks threatening the Union's financial interests; (ii) the exclusion of unreliable entities or persons from receiving Union's funds; and/or (iii) the imposition of financial penalties on such persons or entities; (iv) the registration of the above information in the EDES Database; and (v) in the most severe cases, the publication on the Commission's internet site of information related to the exclusion and, where applicable, the financial penalty imposed in order to reinforce their deterrent effect.*

*The situations giving rise to an exclusion are listed in the Financial Regulation (Article 136), which specifically includes the following: conduct related to a criminal organisation as referred to in Article 2 of Council Framework Decision 2008/841/JHA; money laundering or terrorist financing within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council; and terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or*

*inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision.*

*The “EU restrictive measures” take the form of Council Decisions framed within article 215 of the Treaty on the Functioning of the European Union (TFEU) which provides the legal basis for the interruption or reduction, in part or completely, of the European Union's economic and financial relations with one or more third countries, where such restrictive measures are necessary to achieve the objectives of the Common Foreign and Security Policy (CFSP). When implementing the EU budget, the Commission gives full effect to EU restrictive measures, such measures being directly applicable in the European Union. The obligation to not make funds or economic resources available to entities or persons that are subject to EU restrictive measures has been incorporated in contract templates for both direct and indirect management (including budgetary guarantee agreements). In addition, a number of framework agreements with international organisations and Member State organisations include a respective obligation as well.*

118. (§ 480 9th indent - 2019/PAR/0459) The European Parliament calls on the Commission to:

- ensure that no Union funds support forced child labour.

**Commission's response:**

*The Commission has been implementing various measures to ensure that the EU funded actions do not support or unintendedly lead to child labour and forced child labour.*

*The recently adopted Staff Working Document SWD(2021) 179 final of 30 June 2021 provides a Human Rights Based approach methodology to guide all interventions under the NDICI – Global Europe. It prevents harmful outcomes from development interventions undermining human rights, by incorporating the principle of ‘do no harm’. It aims to undertake human rights impact assessments, risk analysis and due diligence in particular during the design phase of the action to check whether the action would generate unintended harm. For example, in providing incentives to create jobs, increase commodities production and prices, the assessment and risk analysis should explore whether the action would incite or lead to use child labour.*

*The Commission ensures the respect of human rights and labour standards through a set of contractual clauses. All types of contracts, agreements, tender and grants guidelines include a code of conduct laying down ethical clauses as a contractual obligation for the respect of human rights and labour standards, such as the elimination of forced and compulsory labour and the abolition of child labour.*

*Failure to comply with these ethical clauses may lead to termination of contracts, sanctions or exclusion from tenders or grants.*

*In particular, in the Practical Guide for contract procedures for EU external actions (PRAG), latest version of 1 August 2020, the Commission has been providing implementing partners with practical assistance in preparing and implementing procurement and grant contracts in compliance with the rules and regulations in force. Under the ethic clauses it is stipulated that the “contractor must respect human rights and ... the core labour standards ... including the ILO convention on the abolition of child labour” (see section 2.5.6), and it is also indicated that “an economic operator will be excluded from participation in procurement and grant procedures if it has been established by a final judgment that the economic operator is guilty of child labour...” (see section 2.6.10.1.1.).*

119. (§ 480 10th indent - 2019/PAR/0460) The European Parliament calls on the Commission to:

- ensure that Union funds are not used for purposes different from the assigned areas.

**Commission's response:**

*Ensuring that Union funds are exclusively used for the intended purpose is one of the Commission's main responsibilities and a built-in feature of its control systems. The main tools concerned are ex-ante controls carried out by staff on programmes and projects (prior to contracting, payments and clearings of pre-financings), audits and verifications by external service providers (during and/or after implementation) of reported costs, monitoring by operational officers throughout the implementation cycle and in case of development cooperation, results-oriented monitoring (ROM) system. Contractual provisions ensure that funds may be recovered if needed.*

*If suspicions of fraud arise, the Commission applies a zero-tolerance policy and ensures that all allegations are duly transmitted to OLAF for assessment. Depending on the established offences, OLAF addresses recommendations to the relevant Commission service for actions to take that may be of financial, administrative, disciplinary and/or judicial nature. Subsequently, the responsible Authorising Officer determines the final amounts to recover and implements the necessary actions to protect EU's financial interests.*

120. (§ 480 12th indent - 2019/PAR/0461) The European Parliament calls on the Commission to:

- provide an enhanced Parliament scrutiny when developing new partnership agreements with third countries, which should always be based on the principles of solidarity, shared responsibility, respect for human rights, the rule of law and international humanitarian law.

**Commission's response:**

*EU values should be the compass of EU development assistance. Predictability of funding and partners' ownership are essential conditions of a true partnership among equals. The EU strives to use its full weight to promote democratic governance and the rule of law, including through its policy dialogues with partner countries, this will be further reinforced with the Team Europe approach.*

*This approach is mutually beneficial to both us (and our EU Member States) and our partners and an enabler for the achievement of the SDGs. An assessment of the respect of the rule of law (as part of EU fundamental values) is carried out by the Commission to inform decisions on budget support, the exact nature depending on the type of contract. Adherence to fundamental values, including the rule of law, also play a central role in our programmes. Programming principles for geographic programmes of the NDICI-Global Europe take due account of the partner's commitments and performance, established on the basis of criteria such as political reform and economic and social development, as well as the partner's capacity and commitment to promote shared interests and values.*

*Finally, we re-iterate that the EU can work with and through governments, in which case a financing agreement is signed. Such agreements include a clause that enables the Commission to suspend or to terminate the agreement in case of breach of an obligation relating to respect for human rights, democratic principles and the rule of law.*

*It should be underlined that, with the adoption of the NDICI-Global Europe, the full role of the European Parliament, including that of control and scrutiny, has been extended to EU cooperation with African, Caribbean and Pacific countries previously financed under the off-budget European Development Fund. This already represents a reinforcement of the role of the European Parliament compared to the previous MFF. In addition, the Commission has committed to hold regularly geopolitical dialogue with the European Parliament to discuss NDICI-Global Europe issues.*

121. (§ 480 13th indent - 2019/PAR/0462) The European Parliament calls on the Commission to:

- provide detailed information on the decisions taken in the Operational Committees and ensure that Parliament is represented at its meetings.



**Commission's response:**

*The Commission has already implemented part of the request concerning providing information on the decisions taken by the Operational Committee. Detailed information about programmes approved by the Operational Committees of the EUTF Africa is made available through the EUTF Africa website and the Annual Reports on EUTF Africa activities which is shared with the European Parliament. The Commission, however, is not able to accept the request to have the Parliament participating in meetings of the Operational Committees. Based on negotiations held in 2017 between the Commission and the European Parliament, it was agreed that the Parliament would be granted observer status on the Board of EU Trust Funds but not on the Operational Committees. A letter from Commissioner Oettinger to the Chairs of Budget, Foreign Affairs and Development Committee dated 19.10.2017 confirms the observer status in Boards of EUTFs.*

122. (§481 - 2019/PAR/0463) The European Parliament reiterates its request to the Commission to execute fully and without any further delay the judgement of the Court of Justice (31/1/2019) regarding International Management Group (IMG); urges the Commission to consider again IMG as a suitable contractor for projects in crisis situation countries, where this organisation has proven its efficiency in managing reconstruction and assistance programmes financed by European entities and Member States over more than 20 years.

**Commission's response:**

*The International Management Group (IMG) was subject of a European Anti-Fraud Office (OLAF) investigation concluded in 2014. In light of its results, since there was doubt on IMG's status as an international organisation for the purposes of cooperation in indirect management, the Commission took the necessary precautionary measures. In its judgment of 31 January 2019, the Court found that the Commission did not have sufficient elements to justify its decisions and annulled them.*

*The Commission has fully abided by the judgment of Court of Justice of 31 January 2019 (joint Cases C-183/17 P and C-184/17 P).*

*The Court did not take a position on the question whether IMG is an international organisation within the meaning of the applicable Union financial rules and hence eligible for funding under indirect management. The Court of Justice and the EU General Court have confirmed that in order to implement the judgment, the Commission must re-assess IMG's status as an international organisation in full respect of the financial rules applicable to the Union budget (order of 9 June 2020 in Case C-183/17 P-INT; judgment of 9 September 2020 in Case T-381/15 RENV; order of 9 September 2020 in Case T-645/19).*

*Accordingly, and in respect of the principle of good administration, the Commission has asked IMG several times to provide the necessary documentation reflecting its alleged status as an 'international organisation' under the Financial Regulation (Regulation (EU, Euratom) 2018/1046. After IMG's repeated refusal to come forward with such documents and to cooperate with the Commission, the Commission contacted the 18 States which IMG alleged to be its members, inviting them to indicate: i) whether the relevant State is currently (or was at any date, and if so, during which specific period) a member of IMG; and ii) whether the State has signed an intergovernmental agreement or an international agreement constituting IMG as an international organisation or as an international public-sector organisation. In the affirmative, the Commission asked if the following could be provided: i) a certified copy of the agreement, and ii) proof that the signatory to the agreement had full powers to engage the country or, alternatively, copy of the instrument of ratification of the agreement by the country, where applicable. After receipt of the replies from these States, the Commission provided IMG with the opportunity to present its observations to the Commission's preliminary analysis of IMG's status for the purpose of eligibility for indirect management under the financial rules applicable to the Union budget and the European Development Funds. Subsequently, after assessing IMG's observations, the Commission notified its decision on the implementation of the Court's judgment to IMG on 8 June 2021.*

*As regards the second part of the recommendation, IMG continues to be eligible to apply, under the applicable contract award rules, for contracts with the Commission where it meets the eligibility criteria. While the Financial Regulation allows for flexible procedures to be used in crisis situations, such flexibility remains a derogation to the usual contract award rules. In addition, even in such cases the responsible authorising officer is under the obligation to assess the tender or application vis-à-vis the eligibility, exclusion, selection and award criteria. Therefore, the Commission cannot take a horizontal decision regarding contract awards for projects in crisis situation countries.*

123. (§483 - 2019/PAR/0464) The European Parliament calls for more analysis from the Commission on the development effectiveness of private investment subsidisation and de-risking, given the reported shortcomings of the blending and guarantee mechanisms, in particular in the recent opinion of the Court No 7/2020, related to the Commission's report on the implementation of the European Fund for Sustainable Development (EFSD).

**Commission's response:**

*The Commission recalls that it received 46 Proposed Investment Programmes from 13 different European and international financial institutions for potential coverage by the European Fund for Sustainable Development (EFSD) Guarantee. The Commission assessed them against eligibility criteria as per the EFSD Regulation,*

*including the respect of the development effectiveness principles, and presented 23 of them to the EFSD's governance.*

*The Commission also underlines that the independent assessment by an external consultant covers the Parliament's concerns. The consultant concluded that the EFSD is highly relevant to the need for a new global development finance model and also strongly relevant to the investment needs of the two regions and the gamut of EU priorities and commitments. They also concluded that the EFSD delivers on financial additionality, shows early promise of delivering on non-financial additionality, and has enabled broader engagement.*

*Going forward the Commission commits to further elaborating this analysis through an upcoming EFSD evaluation in 2022. Moreover, the Commission commits to use the eligibility criteria for the EFSD+ as laid down in the NDICI Regulation, and which include the desired aspects.*

124. (§484 - 2019/PAR/0465) The European Parliament calls on the Commission to systematically monitor the reforms undertaken and results achieved, demonstrating that Union budget support has effectively contributed to African, Caribbean and Pacific countries own development agenda and strengthened its democratic ownership.

**Commission's response:**

*Budget support is an instrument supporting national policies and is implemented fully through the countries' systems. Therefore it is by definition fully aligned with partner countries' development agenda and policies. Budget support programmes in African, Caribbean and Pacific (ACP) countries are subject to sound monitoring, verification and evaluation requirements, as is the case for budget support programmes in all countries. Reforms and results are assessed during the implementation of budget support programmes and prior to each disbursement. Once closed, programmes are evaluated individually or as part of country strategic evaluations. Moreover, every year, the Commission issues a report illustrating reforms and results to which EU budget support contributed in partner countries (ACP and others): [https://ec.europa.eu/international-partnerships/system/files/budget-support-trends-and-results\\_en.pdf](https://ec.europa.eu/international-partnerships/system/files/budget-support-trends-and-results_en.pdf). Where necessary, national institutions, including those responsible for oversight (e.g. supreme audit institutions) and result-monitoring (e.g. statistical offices) are strengthened, contributing to increased accountability.*

125. (§487 - 2019/PAR/0466) The European Parliament invites the Commission to assess the legality of withdrawing the budgetary function from Parliament through the Council decisions on establishing the EDA and PESCO.

**Commission's response:**

*The Permanent Structured Cooperation (PESCO) is a Member States-led defence initiative within the Union framework established pursuant to Article 42(6) TEU among those participating Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions.*

*The participating Member States that are partaking in PESCO projects contribute with their own resources and expertise (human resources, financial resources, expertise, equipment or contributions in kind) to the implementation of these projects (Article 4(5) of Council Decision (CFSP) 2018/909 of 25 June 2018 establishing a common set of governance rules for PESCO projects). In accordance with Article 7 of Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing PESCO and determining the list of participating Member States, the PESCO secretariat is provided by the EEAS, including the EUMS, and the EDA within their respective budgets.*

*According to Article 8 (Financing), paragraph 1, administrative expenditure of the Union institutions and the EEAS arising from the implementation of the Decision shall be charged to the Union budget and administrative expenditure of the EDA shall be subject to the relevant financing rules of the EDA in accordance with Council Decision (CFSP) 2015/1835. According to Article 8, paragraph 2, operating expenditure arising from projects undertaken within the framework of PESCO shall be supported primarily by the participating Member States that take part in an individual project, while contributions from the general budget of the Union may be made to such projects in compliance with the Treaties and in accordance with the relevant Union instruments.*

*In accordance with Article 12 of Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (EDA), this Agency has its own budget, distinct from the budget of the European Union, which is established in line with the European Union budgetary principles. The Agency may, on a case-by-case basis, receive contributions from the general budget of the Union, in full respect of the rules, procedures and decision-making processes applicable to it, including Article 41(2) TEU (see e.g. recital 16, Article 15, Article 22).*

*The decisions establishing PESCO and EDA, adopted by the Council by unanimity, thus fully respect the budgetary prerogatives of the European Parliament.*

## Administration

126. (§ 493 in connection with § 491 - 2019/PAR/0467) The European Parliament notes that concerning the Commission, several errors relating to staff costs and the PMO's management of family allowances were found.

Invites the Commission to take appropriate measures to implement all of the Court's recommendations and to report to the Parliament on the developments.

**Commission's response:**

*It is important to recall that the regularization of national allowances received can only be carried out on the basis of the declarations of the agents, and consequently the updating of the files can only be done a posteriori and not in real time. The Commission recovers the totality of the amounts declared without exception, thus there are no financial losses. In 2020 the Commission recovered 25.18€ Million.*

*The Commission already informs regularly all the agents of their obligations to declare the allowances received from other sources - articles 67 and 68 of the staff regulation. In order to reduce the risks of not declaring the amounts received, the Commission is also modernising the IT tools and reinforcing the teams in order to put in place in the coming months a complete individual follow-up of each individual file (more than 9.000 files).*

*Regarding to the situation in Belgium and in particular following the decentralisation of the funds, and upon recommendation by the Court for a systemic exchange of information with the national authorities, the PMO is investigating the feasibility of such a measure.*

127. (§ 496 first - third indent - 2019/PAR/0468) The European Parliament Calls on Commission to:

- harmonise its support for Category I pupils, i.e. children of officials, who choose to enrol in an accredited European School (at present, some civil servant families, depending on the town or country they live in, do not receive funding to enrol their children in accredited schools which do, however, give access to the same baccalaureate);

- resolve the inequality of funding between Category I pupils enrolled in the accredited Schools which results from the situation where they are sometimes substituted for the Type I European Schools and sometimes placed latter in unequal and unjustified competition depending on the school market in which they operate;

- intervene to resolve the important problems currently raised by the so-called "Cost Neutrality" policy (cf. document 2018-10-D-63-en-5), which stipulates that accredited schools should not weigh financially on the traditional European School system, but should on the contrary contribute to the costs generated by the system in place.

**Commission's response:**

*-In most duty stations of EU staff, there is either a type I ES where the staff children can be enrolled (for free), or an accredited school with which the Commission has signed a Contribution Agreement, granting a free of charge priority enrolment to the EU staff children.*

*As to families who enrol their children in an accredited school which has not concluded a Contribution Agreement with the Commission, the situation is the same as for families who opt for a national or international school: an education allowance (which can be doubled under certain circumstances) is granted if the school asks for fees.*

*There is only one duty station where there is an accredited European School with no contribution agreement: this is Brussels. Since there are already 4 Type I European Schools in Brussels (free of charge for EU staff children) and a provisional 5th school that is opening in Evere, the Commission is of the opinion that it is not relevant to conclude a Contribution Agreement with this school;*

*- The accredited European Schools are schools created within the framework of the national school networks of the Member States. They are supported by their national authorities when applying to become accredited as European School, given that there is a schooling need in that specific part of the country due to the presence of international companies or public administrations, or a willingness to promote such a European education. As soon as there are a couple of EU staff children willing to enroll, the school is tempted to conclude a Contribution Agreement with the Commission. The contribution which is then paid by the EU for their staff children enrolled can be a way for the school authorities to help it reach scale effects.*

*The fact of being accredited also gives an added value on the school market to the concerned school in comparison to its competitors;*

*- A survey had been carried out among the staff working in the Central Office of the Secretary General. The results of this survey showed that, across the 65 people working in the Office in June 2018, 4.5 Full Time Equivalent (FTE) of the staff are working for the accredited European Schools.*

*Although there was no doubt that the accredited European Schools were willing to contribute financially to the European Schools' system, it took some time to find the right way to calculate their contribution.*

*After a very long reflection and analysis by a dedicated Working Group and after several unfruitful attempts on previous proposals submitted to the Board of Governors, the "Cost Neutrality" policy (cf. document 2018-10-D-63-en-5) was finally adopted by the Board of Governors in April 2019.*

*The constantly increasing number of accredited schools had led the Central Office to dedicate a non-negligible amount of its resources to the benefit of these schools, either directly or indirectly.*

*The contribution now paid on proportion of the service received by the accredited schools decreases the balancing contribution that needs to be paid by the EU to the Central Office.*

*Among the accredited schools, there are public and private schools that benefit from the expertise and the work of the Central Office. It would have been unfair to have substantial costs of the Central Office generated by these entities covered by the E.U. budget.*

128. (§498 - 2019/PAR/0469) The European Parliament takes note that the 2014 reform of the Staff Regulations brought savings of 4,2 billion on the 2014–2020 MFF, which represents 0,4 % of the overall MFF; recalls that the 2014 reform generated unquestionable negative effects on the staff, which was confirmed by the Court in 2019, and regrets that it is nearly impossible to know their financial cost in order to have a realistic image of the savings; notes the several policies and actions designed by the Commission to help mitigate the negative effects and expects that the lessons learned will be reflected on the Commission's new HR Strategy to be adopted in 2021; reiterates the serious consequences that any budgetary cut in administration or staff reduction may have in the future of the European civil service and the implementation of the Union's policies.

**Commission's response:**

*The Commission notes that the European Court of Auditors report 15/2019 on the implementation of the 2014 staff reform package found out that savings to the EU budget are higher than originally expected. On top of the €4.2 billion savings under the current MFF, the long-term budgetary savings resulting from lower pensions spending are estimated to be €19.2 billion over the period 2014 to 2064. These amounts come on top of savings traceable to the 2004 reform.*

*The administrative expenditure as well as EU institutions' establishment plan are determined by the co-legislators when deciding on the EU budget and more in particular on Heading VII. On that basis, the Commission ensures that the allocation of resources made available by the budgetary authorities are efficiently distributed so as to ensure that the Commission can deliver on its political priorities. The new HR Strategy will mitigate negative effects on staff identified by the European Court of*

*Auditors notably by introducing flexibilities to increase the effectiveness of staff allocations whilst ensuring an attractive workplace for all, revisiting selection and recruitment processes, offering rewarding careers perspectives for all staff and placing wellbeing and mental support for staff at the heart of the new HR Strategy. These measures will be implemented within the framework of the margin allocated by EU budgetary authorities.*

129. (§499 - 2019/PAR/0470) The European Parliament strongly encourages the Commission to prevent, identify and manage burnout cases in the larger context of staffing, workload and staff well-being in its Human Resources (HR) strategy.

**Commission's response:**

*The Commission is currently not in a position to answer the recommendation for a direct accounting of burn-out cases for the following reasons:*

- The medical certificates do not bear the diagnostic making impossible to count directly the cases of burn-out;*
- Many cases of burn-out can be hidden by other pathologies or short period of absences, and it would be disproportionate for the Commission to control all persons during a medical leave in order to get precise information on the diagnostic;*
- Moreover, the absolute number of burn-out cases can be misleading due the complex nature and causes of this syndrome (history, personal life, health, work related, cultural).*

*To overcome the absence on data on burn-out, the Commission is investing in data mining of its IT medical system to count the number of cases of burn-out registered during medical controls (4000-5000/year).*

*The existing data collected and the absence of a certificate bearing the medical diagnostic could not allow the Commission services to determine accurately the number of burn out cases.*

*Therefore, the Commission decided to invest in 2021 in a new Electronic Medical Record with a market solution, as the European Parliament. This information system will allow precise encoding, according to international classifications of the diagnostic and provide more precise information.*

*The implementation will be done in 2022 and its use will start in 2023.*

130. (§500 - 2019/PAR/0471) The European Parliament is concerned that no temporary measure has been designed by the Commission to mitigate the growing problem of the purchase power disparity suffered by the European civil servants posted to Luxembourg; points out, as a relevant example, that 16 out of 200 suitable candidates selected by the EPPO have declined the job offer on account of the salary not being high



enough to live in Luxembourg; emphasises that it expects concrete proposals in the report on the salary method due by 31 March 2022.

**Commission's response:**

*Under the Staff Regulations, no correction coefficient is applicable in Belgium and Luxembourg, given the special referential role of those places of employment as principal and original seats of most of the EU institutions. Furthermore, the inflation in Luxembourg is reflected in the Joint Index based on which annual updates of remuneration are calculated. The 2018 Commission interim report on the application of Annex XI to the Staff Regulations has identified the issue of the cost of living in Luxembourg as requiring closer attention. The Commission is due to submit a its report on Annex XI by 31 March 2022 taking into consideration the issues raised by all stakeholders.*

*In the meantime, the Commission together with other EU institutions present in Luxembourg launched a high-level interinstitutional working group to identify targeted measures addressing the specific situation in Luxembourg including the high renting costs in Luxembourg that may affect disproportionately the most vulnerable staff.*

131. (§501 - 2019/PAR/0472) The European Parliament expects the Commission to take into account on an equal footing the efficient use of office spaces and the health and well-being of the staff; reiterates that staff representatives shall always be involved in substantial changes in work arrangements and spaces.

**Commission's response:**

*The Commission's office space use is in line with the relevant legislation of the host Member State. In addition, its internal procedures specifically aim to safeguard the well-being of staff by requiring the consultation on all new office space designs of: (i) the Internal Service for Prevention and Protection at Work (SIPP) and (ii) the staff representatives via the Joint Committee on Risk Prevention and Protection at Work (CPPT in Brussels / CSHT in Luxembourg).*

132. (§502 - 2019/PAR/0473) The European Parliament welcomes that the Commission adopted an action plan for equality and diversity in 2018 and its implementation in 2019; welcomes that specific actions were added in response to the staff survey; calls on the Commission to follow the same path with more specific measures with regard to the people awarded with internships in the Commission.

**Commission's response:**

*The Traineeships Office is currently implementing a diversity and equality strategy which we expect to be completed by the end of 2021. This is done in coordination with DG HR, which looks at the staff diversity and inclusion, and EPSO, which looks at the staff candidates same aspects. The strategy takes a broad view looking at various parameters and will propose measures to improve inclusion and diversity among trainee-candidates and trainees.*

133. (§501 - 2019/PAR/0474) The European Parliament welcomes that the selection process is broadly effective for large-scale competitions but expresses its concern that the selection process is not adapted to small-scale, targeted competitions, which are those most suited to the current recruitment needs of the EU institutions; calls on the Commission to timely report on the implementation of those recommendations by the EPSO.

**Commission's response:**

*Discussions on-going with the Management Board of EPSO, and within EPSO on the new framework for model for specialists, with the aim to significantly speed up the selection process. A number of pilot competitions for specialists are being prepared, trying out various new elements. Several Task forces have been established in EPSO to address various aspects/ issues (also as a follow-up to the recommendations from the Special Working Group and to the ECA Special report 23/2019), namely how to improve collaboration with the stakeholders and with the Selection Boards, introduction of a new language regime and its implications on the selection procedures, etc. EPSO is also actively involved in the HRT project, aiming at modernizing its IT tools. Business processes revision is also part of this project.*

134. (§512 - 2019/PAR/0475) The European Parliament insists on the Commission to implement a more transparent appointment procedure for all positions especially the management related ones; calls on the Commission to clarify previous appointment procedure that lack of transparency and accountability.

**Commission's response:**

*The European Commission stands by the principles of transparency, fairness and equality of opportunity in all its appointments. The Commission's current procedures, which are based on the Staff Regulations as interpreted by case law, provide the robust framework necessary to guarantee these principles during the selection and appointment process at all levels. More particularly, the Commission is transparent in publishing information on selection procedures at both middle and senior*

*management level to all interested stakeholders on a dedicated page on Europa ([https://ec.europa.eu/info/jobs-european-commission/working-eu/managers-european-commission\\_en](https://ec.europa.eu/info/jobs-european-commission/working-eu/managers-european-commission_en)). This page also provides a link to externally published vacancy notices.*

*Two interinstitutional round tables in 2018 and 2020 have allowed representatives of the institutions at political or senior management level to share how they run their management selection and appointment procedures as well as how they nurture talent, particularly female talent with a view to having gender and geographical balanced at management level. Discussions have confirmed that there is much in the way of common best practice in the way in which the different institutions operate and that there is potential to continue learning from each other. The institutions agreed to continue these constructive discussions, also at technical level. In carrying out its procedures, the Commission has the same objective as all the other institutions – to recruit, appoint and promote talented individuals, on the basis of skills, qualifications and experience.*

*The Commission notes Parliament’s call on it to clarify even further its selection and appointment procedures, particularly at management level, and will take appropriate follow-up action, particularly in the context of the new HR Strategy, whilst underlining that like all institutions, it acts autonomously within the powers conferred on it in the Treaties and within the framework of the applicable law. This includes the power to decide on its internal organisation, its rules of procedure and the exercise of its appointing authority powers under the Staff Regulations.*

135. (§513 - 2019/PAR/0476) The European Parliament calls on the Commission to establish a proper representation of nationals from all Member States, while at the same time respecting the competencies and merits of the candidates like indicated in the Article 27 of the Staff Regulations of Officials.

**Commission's response:**

*The Commission considers that geographical balance among its staff is a very important element to deliver its mandate. The following steps have been put in place:*

***1. Definition of the assessment criteria.***

*The Commission has defined guiding rates by nationality. It considers that a nationality is significantly under-represented when its actual presence is below 80% of the relevant guiding rate.*

***2. Observation and identification of the causes.***

*The Commission has observed significant imbalance between nationalities among its staff in 2018 (based on data on 1.1.2017). It also identified the cause for such imbalance: the uneven attractiveness of the Commission as an employer across Member States .*

### **3. Corrective measures**

*The following measures have been continued or initiated, at two levels:*

#### **Long-term measures:**

*• As an EPSO Board member, the Commission contributed to the establishment of an inter-institutional special working group on personnel selection. The group's report identified several areas and proposals likely to improve balanced representation of all nationalities in EPSO lists: the linguistic regime applicable to competitions, the scope of the competition (grade and field), the content of the competition (competencies tested, types of tests...) and the practical modalities of the competitions (timing, remote testing,...).*

*The feasibility assessment and implementation of the recommendations of the Special Working Group are carried out by EPSO.*

*• To improve attractiveness of the Commission as an employer, the first internal reflections, as part of the new HR strategy were launched. Extensive consultations on the various options took place in 2020. The new strategy is expected to be finalised in 2021.*

#### **Short-term measures:**

*• ongoing targeted communication and outreach activities towards so called 'Focus countries', i.e. Member States with low level participation in EPSO competitions, with a view to offer support to national administrations in raising awareness about career opportunities with the EU;*

*• developing innovative recruitment instruments that allow to recruit more under-represented nationalities (e. g. the Junior Professional Programme);*

*• inviting under-represented Member States to promote EU careers among their population, including with concrete actions such as increasing the number of Seconded National Experts, etc.*

136. (§514 - 2019/PAR/0477) The European Parliament underlines the important effect of turnover within the staff of the agencies of the Union, calls Commission to help them for the implementation of human and social policies to remedy it.

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

*Whenever the Commission adopts new HR decisions, they are communicated to agencies in line with Article 110(2) of the Staff Regulations. By virtue of this article, agencies must either apply the Commission's decisions by analogy, or if this is not appropriate in view of their unique characteristics, receive the Commission's formal agreement to adopt different rules. This ensures that appropriate HR policies are implemented in the agencies, including on career development-related topics such as*

*promotion, reclassification and learning and development or as regards flexible working.*

*The Commission also assists agencies by providing them with lists of social aids and social measures applied in the Commission, notably child-care and health and fitness-related measures, allowing the agencies the flexibility to implement these as most appropriate in their local context to reinforce their attractiveness. And finally, the Commission directly provides some relevant services to agency staff, including psychosocial support and other wellbeing services.*

137. (§516 - 2019/PAR/0478) The European Parliament welcomes the Commission's efforts to build a more diverse and inclusive work environment and culture by taking actions in favour of people with disabilities, asks the Commission to assess the possibilities of further strengthening and integrating the principles of equal opportunities in recruitment, training, career development and working conditions as well as raising staff awareness of these aspects; and on the possible reasonable improvements and modifications of the institutions' buildings (access, adequate office equipment) for people with reduced mobility or other disabilities.

**Commission's response:**

*The Commission aims to lead by example as an employer for persons with disabilities. This commitment was repeated and strengthened in the Strategy for the Rights of Persons with Disabilities adopted in March 2021. Chapter 8 of this strategy sets out in detail the commitments and timeframe for the Commission's aims.*

138. (§518 - 2019/PAR/0479) The European Parliament reiterates its call on the Commission to make the Commission special advisers status more transparent with a clear definition of their tasks and missions.

**Commission's response:**

*Detailed rules on Special Advisers were laid down by the Commission in a decision of 19 December 2007 (C(2007) 6655, as amended by Decision C(2014) 541 of 6 February 2014). The Commission engages Special Advisers in order to receive highly technical advice in very specific domains. The assistance provided by Special Advisers is based on their exceptional qualifications and/or the relevance, quality and level of their professional experience and expertise. In a meeting in April 2021 concerning the report commissioned by the Committee on Budgetary Control concerning "Special Advisers to the Commission 2014-2019", the Commission underlined that it strives for continuous improvement and referred to reinforcing instructions and guidance to*

*Commissioners concerning ex-ante assessment of existing expertise within the services before engaging Special Advisers.*

*The Commission ensures transparency by publishing the mandates of the Special Advisers, their CVs and their declarations on the honour on the Commission's Europa website. The same study on "Special Advisers to the Commission 2014-2019" confirms that the Commission processes and procedures are aligned with relevant practices and standards in other comparable organisations and the Commission even goes beyond them in a number of respects. Notably, the Commission publishes more information than Member States, for example, in terms of names, CVs, tasks, remuneration and total budget costs.*

139. (§519 - 2019/PAR/0480) The European Parliament takes note of the appointment of former President Jean-Claude Juncker as special advisors, and regrets that this function, despite being non-remunerated, will incur costs, in particular for missions, which is difficult for the public to understand; requests that the Commission provide details of the financial implications of its decision to Parliament, in order to enable Parliament to take this into consideration in future discharges.

**Commission's response:**

*In its decision of 30 October 2019 (PV(2019) 2313), the College decided to grant former Presidents a special non-remunerated Special Adviser contract with the status of former President for a maximum of 5 years. Under this contract, they may be specifically entrusted, on an ad-hoc basis, by the Commission or its President, with any activity related to their experience, knowledge, personal authority or reputation as Former President of the Commission. In this special capacity, they can rely on administrative support from the Commission like the use of an office, transport or support by Commission staff. The administrative support is only granted for tasks as former President and cannot be used for the performance of new professional or remunerated activities.*

*Mr Jean-Claude JUNCKER was engaged as Special Adviser with effect from 5 December 2019 for a (renewable) period of two years. He is not remunerated as Special Adviser, but is entitled to the reimbursement of mission expenses for official trips made in his capacity as former President, in line with the provisions of the Commission decision and his contract.*

140. (§520 - 2019/PAR/0481) The European Parliament invites the Commission to pay great attention to its relationships with former Commissioners and to assess carefully the potential risks when doing so.

**Commission's response:**

*Former Members of the Commission continue to be ambassadors of the EU, both in Europe and beyond. When entering upon their duties they give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. After ceasing to hold office, former Members continue to be bound by their duty of integrity and discretion pursuant to Article 245 of the Treaty on the Functioning of the European Union. They also continue to be bound by the duties of collegiality and discretion, as laid down in Article 5 of the Code of Conduct for the Members of the European Commission adopted on 31 January 2018 (OJ C 65 of 21.2.2019, page, 7), with respect to the Commission's decisions and activities during their term of office.*

*Potential risks arise when former Members engage in new activities. The Code of Conduct for the Members of the Commission provides for a specific procedure for notifying and authorising new professional activities. Article 11 of the Code requires former Members to notify their envisaged post-mandate professional activities to the Commission, in order to enable the Commission to assess the compatibility of their envisaged activities with the obligations of integrity and discretion and, where appropriate, set the necessary restrictions and conditions or refuse authorisation. If the planned activity is related to the portfolio of the former Member, the Commission decides only after having consulted its Independent Ethical Committee composed of three independent, external personalities. Each notification and its potential risks are thoroughly assessed as demonstrated by the decisions of the Commission and the related opinions of the Ethical Committee which have all been published: [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/former-european-commissioners-authorised-occupations\\_en](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/former-european-commissioners-authorised-occupations_en).*

*In three cases, the Ethical Committee considered adopting a negative opinion. In all three cases, the former Members decided to withdraw their notification. Consequently, no opinion and no decision were adopted.*

*More information can be found in chapters 2 and 3 of the Commission's Annual Report on the application of the Code of Conduct for the Members of the European Commission in 2020 (SEC(2021) 299): [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission\\_en#annual-reports](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission_en#annual-reports)*

141. (§521 - 2019/PAR/0482) The European Parliament reiterates its call on the Commission to enforce the existing legally binding rules of the code of conduct regarding revolving doors both for the Commission and its agencies.

Commission's response:

*With regard to the so-called “revolving doors issues” of the Commission staff members, the provisions of the Staff Regulations have been reinforced with the 2014 reform. Most importantly, Parliament and Council further strengthened the rules concerning occupational activities of senior management leaving the service in 2013. Namely, under Article 16(3) of the Staff Regulations, former senior managers are forbidden to engage in lobbying or advocacy activities during the 12 months after leaving the service, vis-à-vis staff of their former Institution for their business, clients or employers on matters for which they were responsible during the last three years in the service.*

*It is important to stress that the vast majority of requests for post service activities lodged by former Commission staff do not raise conflict of interest issues at all or if they do, in specific situations, the risks can easily be mitigated by putting in place appropriate restrictions. Typical examples of post service activities relate to academia, public international and national administrations, speaking engagements, NGOs, foundations and think tanks etc.*

*To determine the risks of the new activity of a staff member, the Commission duly checks it against the work, the role, the precise tasks and duties carried out by the former staff member in the last 3 years in the service. The assessment of new activities of former staff members and the implementation of the options provided for in Article 16 of the Staff Regulations are carefully made on a case-by-case basis. There is indeed the need to always strike an appropriate balance between the fundamental right of each former staff member to engage in work and to pursue a freely chosen or accepted occupation, as granted by Article 15 of the Charter of Fundamental Rights of the European Union, and the interests of the institution.*

*Whenever it has deemed necessary to adopt measures to protect its interests and its reputation, the Commission has made use, or informed its former staff members of its intention to make use, of the possibility provided for in Article 16 of the Staff Regulations to forbid a job move. In other instances, the Commission worked with general or specific restrictions, some open ended or limited in time, when these were equally effective and more proportionate in view of the circumstances of the individual case. These restrictions can be very strict and appropriate to exclude, or mitigate in a suitable way, potential situations of conflicts of interest and to protect the interests and reputation of the institution.*

*Once adopted, an Appointing Authority’s decision is communicated on a need-to-know basis to the former staff member’s service of origin in order to ensure proper enforcement of the restrictions. This is particularly important in case of a ban on professional contacts or on lobbying vis-à-vis the former DG or the Institution.*

*Trust is the underlying principle of the relationship between the Commission and its staff, including former staff. Current and former staff members must respect their*



*obligations arising from the Staff Regulations and the Appointing Authority's decisions concerning them individually. The Commission expects that, where necessary, its former staff members duly inform their new employers or clients about the restrictions applicable to their post-service activities. When the Commission becomes aware of potential breaches of the condition imposed, the Investigation and Disciplinary Office of the Commission (IDOC) has the power to investigate further and impose disciplinary sanctions, where appropriate.*

*All cases assessed by the Commission in the context of Article 16(3) of the Staff Regulations are published in the Annual Report on the application of the ban on lobbying and advocacy. The report is available on the Europa website. The report published last year on the requests assessed in 2019 contains statistics on the types of post-service activities.*

*With regard to the Commission enforcing rules in all EU agencies, though the EU Staff Regulations apply to all institutions and EU agencies, EU agencies are separate and independent legal entities created by legislation adopted by the European Parliament and the Council. In this context it is essential to stress that, as an inevitable legal consequence of this political choice by the EU legislator, each agency is autonomously responsible for the implementation of the rules, the compliance and for adopting individual decisions concerning their staff.*

*In order to ensure consistency and harmonisation, the EU Staff Regulations and the implementing rules adopted by the Commission apply to EU agencies pursuant Article 110 (2) of the Staff Regulations. If an agency wants to derogate from the Commission implementing rules and adopt its own rules, it can do so, but it will need to seek the Commission's agreement. As an example, all Union agencies applying the Staff Regulations, apply by analogy the Commission's Decision on outside activities and assignments and occupational activities after leaving the service. In this context, the Commission always presents to the agencies its planned new implementing rules to the Staff Regulations, including those on ethics. It also offers and provides, upon the request of agencies, explanations on the application of these rules at the Commission. The Commission shares also best practices through presentations on ethics at the agencies' annual meeting to raise awareness on Staff Regulations' provisions on ethics. Moreover, where the Commission is a member of the Management Board of an agency (as is the case for the large majority of agencies), the Commission representatives uphold the same ethical standards for post-service activity requests from senior managers of the agency.*

142. (§523 - 2019/PAR/0483) The European Parliament calls on the Commission to improve staff awareness and perception of ethical frameworks and culture; calls on the Commission to ensure, in particular, that training on ethics contains practical guidance based on real-life examples, and to improve the communication on ethics with staff; highlights the need to make sure that staff members know how to report any issues related to unethical behaviour, as well as to increase their sense of security.

**Commission's response:**

*The Commission has a highly developed ethical framework and notes that the European Court of Auditors' Special Report found that that framework compared well with the frameworks in place in the other EU institutions.*

*Moreover, while rules are essential, the Commission takes the view that they are not enough. It has therefore invested greater time and energy in training on ethics issues. The Commission has already taken extensive measures to increase staff awareness in relation to ethics and will continue to roll out these measures. The Commission will continue building on these efforts and expects this policy to improve staff awareness levels. Staff have access to training and outreach on their ethical obligations at key stages in their career.*

*While the Covid pandemic had an impact on numbers attending traditional training courses and outreach events on ethics in 2020, awareness-raising activities still managed to reach almost 1 in 10 staff. This included (but not exclusively) awareness raising and outreach to newcomers, to staff leaving the service and to newly appointed Heads of Unit. A dedicated new module on outside activities was completed and rolled out on EU Learn. This module was developed based on the provisions introduced by the Commission Decision on outside activities and assignments and occupational activities after leaving the service, which entered into force in 2018. Training courses are supplemented by information on ethical obligations, available on dedicated pages in MyIntracomm.*

143. (§526 - 2019/PAR/0484) The European Parliament urges the Commission to introduce sustainability reporting, including social and environmental aspects of procurement; believes that by incorporating responsible business standards in its procurement and purchasing policies, the Commission can safeguard the public interest and ensure the accountability of public spending.

**Commission's response:**

***Social and environmental aspects of procurement***

*In line with the provisions of the Financial Regulation, the European Commission advises practitioners (in the Vade Mecum on Public Procurement and in trainings) to include, wherever possible, in the technical specifications, environmental and social aspects such as: environmental/climate performance characteristics, accessibility criteria for persons with disabilities. In addition, the minimum requirements always require that economic operators comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to the Procurement Directive.*

*Furthermore, the European Commission is using PPMT (Public Procurement Management Tool) to prepare and launch its procurement procedures. Since 2020 the tool is compulsory for eSubmission procedures and can be used for any type of procurement procedure.*

*When preparing a procurement from PPMT, the user is reminded with the ‘green leaf’ icon, after selection of the CPV (Common Procurement code), to consider green procurement. The system also guides the user to the GPP toolkit of DG ENV for further inspiration.*

#### *Reporting on Environmental aspects*

*A report is available in PPMT to check whether GPP was triggered when preparing the procurement.*

*As regards ABAC reporting, since 2021 climate markers are fully tracked in ABAC. The climate markers are based on the qualitative Rio markers that the OECD uses for identifying specific environmental objectives for development aid projects.*

*Climate tracking concerns expenditure (commitment appropriations) in ABAC, namely budgetary commitments implemented also via procurement contracts. The budgetary commitment detail line in ABAC reflects the degree of contribution to the climate objectives.*

*Reporting and quality monitoring is being developed in EC central reporting system (ABAC Data warehouse), through a dedicated portfolio of reports under Thematic reporting, named ‘Climate’. These reports focus mainly on monitoring climate funding by programmes, budget lines and management modes, and provide an overview of climate funding per committed amounts, benefitting countries, implementing actor or EC services implementing programmes.*

#### *Reporting on Social Aspects*

*Tracking of the ‘Migration-related expenditure’ is already implemented in expenditure in ABAC systems and it serves as a pilot case for future thematic tracking in the social or other thematic areas. For this pilot exercise, DG HOME, ECHO, INTPA, NEAR and FPI were involved to track the 2015-2020 migration expenditure, following the same OECD methodology.*

*Climate tracking concerns expenditure (commitment appropriations) in ABAC, namely budgetary commitments implemented also via procurement contracts. Migration markers have been assigned only to budget lines positions that may finance it. The budgetary commitment detail line in ABAC reflects the degree of contribution to the migration-related expenditure.*

*Reporting and quality monitoring was developed in the EC central reporting system (ABAC Data Warehouse), through a dedicated portfolio of reports under Thematic reporting, named ‘Migration reporting’. The official report (‘Financial Report on the Implementation of Funding for the Migration and Refugee Crisis and its Aftermath’) monitors the funding provided for the 2015-2016 migration and refugee crisis, and its*

*implementation until the end of 2020. Its different versions were sent to the Budget Authorities and they are also available to a limited audience on BudgWeb under the “Thematic reports” section.*

*Other migration reports focus on projects targeting migration, data quality checks against posting criteria and contract subjects.*

*Forthcoming vision*

*The European Commission is now working on extending the thematic tracking system across the EU budget, reflecting new policy developments, in particular the European Green Deal and the new ‘Taxonomy of Sustainable Finance’ (see Tracking (europa.eu)). The future tracking methodology plans to take into account not just intent, but also expected effects of the actions.*

*In addition to this, in the future corporate financial system replacing current ABAC systems - SUMMA - the thematic tracking of expenditure and related procurement will be further enhanced, for better transparency and more efficient reporting.*

144. (§527 - 2019/PAR/0485) The European Parliament encourages the Commission to continue building on the principles of its open source strategy and the ISA2 Programme in order to prevent vendor lock-in, retain control over its own technical infrastructure contribute to stronger safeguards for user’s privacy and data protection and increase security and transparency for the public; asks the Commission to give preference to open source solutions in procurement and development, with the aim of promoting the sharing and re-use of software solutions, making procurement more sustainable and long-lived, and abiding by the ‘public money, public code’ principle.

**Commission's response:**

*The Commission increasingly relies on open source software. It dominates in our data centres, is used in hundreds of Commission websites and web-based projects, most recently for the Conference on the Future of Europe, and the Covenant of Mayors, and is a key component for many of our Commission-built software solutions.*

*The Commission's open source strategy that was renewed in 2020, aims to further reduce IT vendor lock-in, improve privacy and data protection, and achieve technological sovereignty.*

*To take charge of the implementation of the actions in the new strategy, the Commission created an Open Source Programme Office (OSPO). The OSPO is removing organisational barriers to promote a working culture based on the principles of open source. As a result, for new IT projects, the Commission now requests proposals to state their intention on the use and reuse of open source software components, and asks if they plan to likewise share their software solution. In 2020 and 2021 the Commission has published tens of software projects under an*

*open source licence, with the OSPO and JRC preparing a Commission Decision to overhaul the rules to allow this by default. In 2021, the Commission continued to focus on open source in its cybersecurity bug bounties and hackathons.*

*Lastly, in its subsequent interoperability programmes (ISA and ISA<sup>2</sup>) and in the Connecting Europe Facility (CEF) Digital programme the Commission has promoted the use of open source in Member State public services, and developed many such solutions. This will continue in the Digital Europe Programme.*

145. (§528 - 2019/PAR/0486) The European Parliament notes that many of the digitalisation projects concern the digitalisation of human resources and financial processes, where the Committees uses the SYSPER and ABAC systems provided by the Commission; asks the Commission to examine the possibility of negotiating better conditions to enhance and make the process of application sharing financially attractive.

**Commission's response:**

*The Commission reminds that when granting access to other institutions to its systems, common rules and pricing apply. Commission departments provide the same services to EU institutions, agencies and bodies as those provided internally in terms of quality, timing and deliverables.*

*The guidance document on the provision of services to other EU institutions, agencies and other bodies (Annex 21 to the EC Decision on the Internal Rules on the implementation of the general budget of the EU) further explains the principles to be applied by Commission departments when providing a service to external clients in order to reap the benefits of institutional cooperation.*

*This means that, when providing a service, the service providers shall:*

- apply the guidance consistently to all clients and ensure equal treatment,*
- ensure that the provision of services does not result in a surplus for the service provider or for the client ('no-profit rule'),*
- not charge twice (either to the same client or to several clients) for the same service delivered ('no double funding'), and*
- keep administrative costs of implementing the provisions of the guidance to a minimum ('administrative cost-efficiency').*

*Following this guidance provides the best assurance that the process of application sharing is fair and financially attractive for the partners.*

146. (§529 - 2019/PAR/0487) The European Parliament encourages the Commission to help DG SCIC to further increase the availability and presence of the international sign language, to ensure access to information for persons with disabilities.

**Commission's response:**

*The Commission's interpretation service, DG SCIC, actively promotes the use of sign language interpretation as one of the different languages it offers. This principally concerns the provision of interpreters competent in international sign, a means of communication allowing a greater participation of sign language users in the democratic processes at EU level. In this respect, the Commission is bound by its responsibilities under the UN Convention on the Rights of Persons with Disabilities.*

*DG SCIC has taken steps to increase the size of the pool of international sign interpreters available for EU events and meetings, in particular, through a mentoring scheme allowing interpreters of national sign languages to bridge the gap towards international sign. The Commission also provides a dedicated community in its on-line Knowledge Centre on Interpretation to help promote the learning and use of international sign. Most recently, the Commission has provided signed video versions of important announcements concerning the COVID-19 crisis and additionally includes international sign in the interpretation regime provided at the Commission's weekly press conference.*

147. (§530 - 2019/PAR/0488) The European Parliament is very concerned by the Commission decision to break the contract with the restaurant service provider, which led to the layoff of 400 workers; urgently asks the Commission to revise its decision and to explore any viable solution to protect the workers and avoid layoff, including the internalisation of the catering staff in-house.

**Commission's response:**

*The Commission rejects this recommendation as there are several incorrect factual elements.*

*There was no discontinuation of the catering contracts of the Commission in Brussels as they ended on 31/12/2020. The catering staff are not Commission staff but are employees from companies governed by Belgian law, which can benefit from the Belgian social security arrangements put in place following the COVID-19 crisis, and thus maintain the rights of affected workers.*

*The Commission did what it could to help the caterers until the end of their contracts. However, its first obligation remains to manage public funds in a sound manner.*

***The Commission is now defining its catering needs for the post-COVID-19 period, which will ultimately lead to catering services and thereby create jobs in the sector. This will be done according to the rules of sound financial management.***

148. (§531 - 2019/PAR/0489) The European Parliament requests that the European Commission respects the principles, rights and obligations laid down in the Charter of Fundamental Rights and Regulation No 1/1958, as well as in internal guidelines and decisions, such as the Code of Good Administrative Behaviour; calls, therefore, on the Commission to provide the necessary human resources to ensure that multilingualism is respected, by increasing the number of staff responsible for translation and interpretation.

**Commission's response:**

***The Commission takes note of the position of the European Parliament on point 531 and assures the Parliament of its continuous commitment to multilingualism.***

***In accordance with Regulation 1/1958 the Commission is committed to facilitate the EU's democratic decision-making process by providing translation and interpretation into the 24 official languages of the EU. It does so with highly qualified internal staff, external translation services and accredited freelance interpreters, and - particularly as far as translation is concerned - language technology. This approach allows the Commission to respond, in a flexible manner, to the variable and sometimes rapidly changing demand for multilingual services while taking full account of the political priorities, the allocation of resources within the available budget and the envisaged stable staffing level for the Commission as a whole.***

149. (§534 - 2019/PAR/0490) The European Parliament takes note of the second review of the Commission's internal guidelines in relation to the provisions on Whistleblowing in the Staff Regulations; takes note with satisfaction the 6 recommendations contained in the 2019 review and calls on the Commission to report on the implementation to the budgetary authority.

**Commission's response:**

***In 2019, the Commission carried out the second review of the Guidelines on whistleblowing, which was adopted on 4 September 2019. The report concludes that the Guidelines on whistleblowing should not be amended at this stage.***

***The six recommendations stated in the report will be duly implemented in the years to come, including a new evaluation of the effectiveness of the Guidelines on whistleblowing that will be held in 2025.***

150. (§537 - 2019/PAR/0491) The European Parliament stresses the importance of reinforcing the Transparency Register and improving the quality of its data, in particular on the occasion of the Interinstitutional Agreement reached in December 2020; takes note of the quality checks performed by the Commission and the action of the Register Secretariat upon alerts received; calls on the Commission to improve the IT solution in order to perform stricter quality checks.

**Commission's response:**

*The Register Secretariat continued to boost the quality of the data contained in the Transparency Register. All incoming entries were subject to a basic quality check aimed at verifying their eligibility and the consistency of data. In 2019, the Secretariat focused on identifying and requiring improvements of sub-optimal data in existing registrations. It checked almost 40% of the registrations – details on the data checks are available in annual reports on the operation of the Transparency Register (europa.eu). Stricter quality checks resulted in the removal of ineligible entities or those having poor data quality. Finally, the Secretariat continued to act upon any alerts received.*

*The dedicated IT solution significantly facilitates the registration and updating process for new and existing registrants. It helps registrants to avoid common errors and flags any data inconsistencies to the Secretariat, so it can provide appropriate follow-up. Moreover, synergies with Commission portals (including “Have your say”, Register of Commission Expert Groups) allow for an automatic update of information about the registrants’ activities in their profiles. In 2019, an additional reminder to update the registration and adjustments to the registration form as well as the Implementing Guidelines were put in place. These developments have already resulted in tangible improvements in the overall data quality of the Transparency Register.*

151. (§538 - 2019/PAR/0492) The European Parliament highlight the importance of an effective and valid Transparency Register; reiterates its call on the Commission to pay more attention to the validation and sample checks of entities of in the Transparency Register; notes with concern the absence of a requirement for the vast majority of Commission decision-makers to publish their meetings with interest representatives; also expresses concern on the possibility for Commission decision-makers to meet with lobbyists not registered in the Transparency Register; calls for full transparency regarding all meetings organised by the Commission with private actors or their representatives, such as consultancy organisations.



**Commission's response:**

*Commissioners and members of Cabinets as well as Directors-General are committed to apply the policy of publishing information on meetings held with interest representatives. This commitment is set out in Commission Decisions 2014/838/EU and 2014/839/EU and reiterated in the Code of Conduct for Commissioners. Information on such meetings is published on the Commissioners' transparency websites.*

*To ensure a correct and coherent application of this framework, a network of transparency and ethics correspondents within the Cabinets was established to discuss relevant matters. Apart from the network meetings, the Secretariat-General provides advice to requests coming from the Cabinets or Directors-General and monitors the meetings published on the Europa website. The Commission continues to improve the existing IT management systems and enhance the visibility of meetings with interest representatives. As far as meetings of all other staff are concerned, it is strongly recommended to check the credentials of given entities to make sure they feature on the Transparency Register and thus are bound by the Code of Conduct for interest representatives.*

152. (§539 - 2019/PAR/0493) The European Parliament takes notes of the European Ombudsman's conclusions and technical suggestions for improvement in her Decision of 28 February 2019 on how the Commission manages 'revolving doors' situations of its staff members; calls on the Commission to follow-up on both the Ombudsman's decision and the Court's relevant recommendations in its Special Report on the ethical frameworks of the Union institutions.

**Commission's response:**

*The Commission would like to recall that the European Ombudsman, in her closing Decision following the inquiry into how the Commission manages 'revolving doors' situations concerning former staff members, found no maladministration and made no formal recommendations. While acknowledging that the Commission has generally high standards in the areas of ethics and transparency, the European Ombudsman made suggestions in order to render the rules more effective. All of the accepted suggestions have been implemented.*

*The report on the Ethical framework of the EU institutions published in July 2019 by the European Court of Auditors (ECA) confirmed that, to a large extent, the audited institutions had established appropriate ethical frameworks that are in line with the main requirements of the OECD guidelines and other criteria. In particular, the ECA audit concluded that the rules and systems for dealing with the post-EU employment of staff address the risk areas and meet the criteria for acceptable activities, reporting and authorisation procedures. Therefore, the ECA did not make any specific*

*recommendation as regards the Commission ethical framework for post-service activities.*

*The Commission welcomed and implemented suggestions for improvement made by both the European Ombudsman and the European court of Auditors in its special audit.*

*As results of the improvements implemented in the last years, the Commission is of the opinion, that its procedures for dealing with the ‘revolving doors’ phenomenon are applied in a proportionate way and ensure a robust protection of the Institution’s legitimate interests. The Appointing authority decision are based on substantiated opinions*

*and are delivered within the statutory deadlines. The Commission reporting on cases assessed in the context of Article 16(3) of the Staff Regulations is transparent and respects personal data protection rules. Moreover, the Commission considers that there is more ethical awareness among its staff thanks to the guidance, training sessions and public scrutiny of the implementation of rules governing post-service activities.*

## EDF

153. (§4 - 2019/PAR/0494) The European Parliament notes the closure of the eighth EDF and the Commission's intention to close the ninth EDF by the end of 2020; calls on the Commission to keep the discharge authority informed about the achievement of that intention.

**Commission's response:**

*The operational closure of the 8th EDF and the progress made by the Commission towards the closure of the 9th EDF were reported in the Annual Activity Report 2020 of DG INTPA published on the Europa website on 06/06/2021.*

*The closure of the 8th EDF will also be stated in the report on EDF financial implementation that will be included in the EDF annual accounts for year 2021. In 2021, the Commission will pursue its efforts towards the closure of the 9th EDF.*

154. (§ 11 and § 12 - 2019/PAR/0495) The European Parliament regrets to note that the typology of errors identified is similar to previous years, namely expenditure not incurred (43,6 %, up from 22,7 % in 2018), serious failure to comply with public procurement rules (22,1 %, down from 27,1 % in 2018), ineligible expenditure (12,7 %, up from 4,3 % in 2018), an RER adapted from the DG INTPA study (9,6 %, up from 5,4 % in 2018), expenditure outside the implementation period (6,1 %) and the absence of essential supporting documents (5,9 %).

Is deeply concerned by the recurrent character of those errors; notes that the Commission included the Court's findings in its analysis supporting the 2020-2024 Control and Monitoring Strategy, adopted in June 2020, resulting in a strategic objective specifically addressing those errors; encourages the Commission to report to the discharge authority on its performance as regards that strategic objective in terms of result or outcome indicators.

**Commission's response:**

*The Commission strives to apply the most strict and rigorous mechanisms to the control of its financial transactions. However, it is important to remember that given the particular context in which external actions take place a certain level of error, linked to specific factors, is difficult to avoid.*

*In line with the 2020-2024 Control and Monitoring Strategy, the Commission has taken several actions to simplify procedures with a view to further reducing errors. Commission Decision C(2020) 5790 authorising the use of lump sums, unit costs and flat-rate financing that are not linked to outputs/results (simplified cost options) for*

*indirect management partners was adopted in September 2020. Following the Decision's adoption, DG INTPA has drafted the application form and Terms of References and shared them with interested implementing partners by end of 2020. 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. In addition, as an awareness raising measure, INTPA has communicated the ECA's findings to EU Delegations and financial units and reinforced their follow up. Recurrent errors were discussed at the regional seminar for EU Delegations in Africa held in June 2021 as well.*

155. (§18 - 2019/PAR/0496) The European Parliament notes that the Court found that the Commission and its implementing partners committed more errors in transactions relating to programme estimates, grants, contribution agreements with international organisations and delegation agreements with Member States' cooperation agencies than they did with other forms of support, such as those covering works, supply and service contracts; notes that of the 65 transactions of that type examined by the Court, 25 (38 %) contained quantifiable errors, which accounted for 71,7 % of the estimated level of error; calls on the Commission to publish comprehensive, updated and detailed information regarding funded projects and recipients, enhance its risk-based approach and invest control capacity in areas that are more error prone.

**Commission's response:**

*The Commission is continuously taking steps to reduce the errors. As a result, transactions relating to programme estimates and delegation agreements with Member States' cooperation agencies did not raise concerns in the European Court of Auditors (ECA) 2020 statement of assurance exercise for the EDF. Actions to reinforce controls relating to grants and contribution agreements with international organizations are ongoing, including addressing the related ECA recommendations.*

*The Commission remains committed to developing innovative tools to transparently share development cooperation data, such as the EU Aid Explorer tool (updated in 2020) which allows users to freely explore EU and Member States' spending on official development assistance. The updated version includes enhanced functionalities and better access to information on specific projects, such as implementing activities, disbursements at country level, targeted Sustainable Development Goals, policy markers and results. (<https://euaidexplorer.ec.europa.eu/>). Additionally, the Commission is developing a new internal IT system, which includes a dedicated module on results. Such module will also serve as a source of data and information on results that will be extracted and used for communication and publication purposes.*

156. (§19 - 2019/PAR/0497) The European Parliament calls on the Commission to proceed with a pre-established format for communication between partner countries, EDF beneficiaries and the Union with a view to reducing the errors found by the Court.

**Commission's response:**

*The forms of communication related to control are already set up in the contractual conditions and these differ according to the type of engagement (e.g. contribution agreement with international organisations, programme estimates, procurement in direct management). The Commission considers that using a uniform method for communicating with all implementing partners would not necessarily contribute to decreasing errors but would add additional bureaucracy and costs.*

157. (§19 - 2019/PAR/0498) The European Parliament is worried about the Court's observation, as in previous years, that the frequency of identified errors, including some contained in final claims which had been subject to ex-ante external audits and expenditure verifications, points to weaknesses in those checks; notes with concern that this is not only problematic in terms of the effectiveness of the checks but also in terms of the efficiency of the management and control system because the checks performed did not prevent or correct the error; reiterates its expectation that the control system be more rigorous and calls on DG INTPA to continue efforts to improve the assessment of both the effectiveness and efficiency of its control system by identifying key performance indicators for both, by setting realistic and ambitious targets and by monitoring and improving its control system; calls, furthermore, on the Commission to set up a platform covering EDF-funded projects by country, focusing on the final recipients, general and specific project goals and, above all, their practical results in terms of the desired increase in development indices.

**Commission's response:**

*All detected errors are subject to assessment as to whether they should trigger specific corrective actions. They are also taken into account for a broader assessment of needs and opportunities for improvements of the control system. Such improvements can inter alia take the form of simplification, clarification, revision of templates, provision of guidance and provision of targeted training to Commission staff as well as external stakeholders. While this broader assessment is continuous in nature, it notably leads to the adoption of an Action Plan every year when both the Annual Activity Reports and comprehensive information from the ECA's annual statement of assurance audit are available.*

*The adoption in 2018 of new terms of references for expenditure verifications, with an increased focus on the legality and regularity of expenditure and on providing*

*more factual elements to support follow-up decisions, is expected to lead to improvements. These terms of reference have since been rolled out and will soon be used for verifications of all operations based on reported expenditure, including those with international organisations. In addition, starting from 2020, the audit task management for globally operating international organisations have also been centralised in INTPA (then DEVCO) headquarters. Currently, DG INTPA is conducting an evaluation on the use and added value of the terms of reference for Expenditure Verifications adopted in 2018.*

*The Commission has continued to improve the accountability and openness of its development assistance through publishing timely, comprehensive and forward-looking data in line with the International Aid Transparency Initiative (IATI) standard, the OECD-DAC Creditor Reporting System and Forward Spending Survey as well as completing its first reporting on Total Official Support for Sustainable Development (TOSSD). The Commission also updated the EU Aid Explorer tool in 2020, allowing users to find comprehensive aggregate data as well as detailed information on international development projects funded by the EU and its Members States.*

158. (§19 - 2019/PAR/0499) The European Parliament notes DG INTPA's eighth RER study, which resulted in an RER of 1,13 %, up from 0,85 % in 2018 and below the 2 % materiality threshold fixed by the Commission; notes the Court's observation that four major factors distort the RER, contributing to the underestimation of the RER, namely the insufficient coverage of certain aspects of procurement procedures, the very low number of on-the-spot-checks in the country of project implementation, which is deemed insufficient to detect errors that are not apparent in documents, the method for determining the RER, which results in a rate that does not necessarily reflect the actual residual errors, and the possible overreliance on previous control work, which is contrary to the purpose of the RER study, namely to identify the errors that have evaded precisely those controls; calls on DG INTPA, as in previous years, to liaise with the Court and to address those issues in an update of the methodology and in a more thorough performance of next year's RER study.

**Commission's response:**

*The Commission has engaged in discussions to decide, for each of these four observations by the European Court of Auditors, whether a change to the RER manual and methodology is appropriate, taking the expected costs and benefits fully into account and without altering the nature of the RER study. For DG INTPA, the minimum number of field visits was aligned with DG NEAR's approach (i.e. increased from 9 to 12 visits). Concerning estimations, the Commission considers its current methodology, which is a consequence of exchanges with ECA auditors, appropriate.*

159. (*§19 - 2019/PAR/0500*) The European Parliament welcomes the update of DG INTPA's anti-fraud strategy in 2019 to emphasise the role of the Early Detection and Exclusion System (EDES) as a fraud sanctioning tool and encourages DG INTPA to continue to raise awareness among its staff about that system and to cooperate closely with the Commission's Directorate-General for Budget and the EDES panel when notifying cases for registration in EDES.

**Commission's response:**

*DG INTPA adopted its new Anti-Fraud Strategy in April 2021. It is the result of a thorough review process and a fraud risk assessment performed in 2020, which involved internal consultations, as well as consultations with other Commission services. The accompanying action plan focuses on three priority objectives: (i) Increase internal and external awareness on fraud-related issues; (ii) Strengthen follow-up measures taken once fraud is detected; (iii) Reinforce the coordination, cooperation and processes.*

*On this basis, DG INTPA established priority objectives for 2021: (i) Launch of a renewed online training for all staff on fraud prevention and detection. (ii) Launch of an information campaign to inform external partners on INTPA's anti-fraud policy. (iii) Strengthen the DG's follow-up of OLAF recommendations issued at closure of fraud investigations. (iv) Optimisation of the use of EDES as fraud-sanctioning tool. This includes DG INTPA's active contribution to all initiatives launched by OLAF and DG BUDG to improve the use and coordination of EDES registrations.*

160. (*§28 - 2019/PAR/0501*) The European Parliament notes that, following the entry into force in 2018 of the Financial Regulation, on 17 April 2019, a revised pillar assessment methodology was adopted; welcomes the new compulsory pillars that have been added to the assessment, namely pillar 7: exclusion from access to funding, pillar 8: publication of information on recipients, and pillar 9: protection of personal data; welcomes the fact that all pillar assessed entities have been notified of the requirement to undertake the complementary assessment on the new pillars and the target to have them completed by the end of 2020; calls on the Commission to keep the discharge authority informed about the progress and the results.

**Commission's response:**

*The Commission has been ensuring regular monitoring of pillar assessment requirements and reports. Taking into consideration the impact of the COVID-19 outbreak, the expected date for completion of the complementary assessments was postponed to the end of 2021. Up to August 2021, the complementary assessment of the three new pillars 7, 8 and 9 (exclusion from access to funding, publication of*

*information on recipients, and protection of personal data) has been completed for 18 partner organisations of the remit of INTPA. It is underway for about 90 organisations. A monitoring exercise is ongoing. In the meantime, compliance with the Financial Regulation is ensured through specific clauses included in the relevant contractual templates to be used for projects concluded with pillar assessed organisations.*

161. (§30 - 2019/PAR/0502) The European Parliament calls for the systematic treatment of identified PCD issues in impact assessments, inter-service consultations and implementation and monitoring arrangements so as to help increase the efficiency of the Union's pursuit of its development policy objectives, in accordance with Article 208 TFEU; reiterates, in that regard, its call for an in-depth analysis of the impact of economic partnership agreements on local economies and intra-regional trade in order to address concerns about their implementation in terms of regional integration and industrialisation.

**Commission's response:**

*The Commission acknowledges the importance of the use of impact assessments, inter-service consultations and monitoring and implementation arrangements for the promotion of PCD. In the recently adopted Communication “Better regulation: Joining forces to make better laws” (COM(2021)219 of 29.04.2021), the commitment to it is explicit, notably with reference to Art 208 TFEU. More particularly the Commission undertakes “to better consider the external implications of internal policies and their significant impacts on third countries”, including better consideration of external actors.*

*In relation to monitoring and evaluation, since 2018 DG INTPA pursues a more systematic approach to policy coherence. The current monitoring methodology for interventions in developing countries implies the assessment of complementarities and synergies with other interventions funded by the EU and other entities, including in relation to governance reforms. In addition, the PCD dimension is taken into account in strategic evaluations such as the evaluation of “the EU cooperation with Eastern, Southern Africa and Indian Ocean regions”, the “EU’s support to Conflict Prevention and Peace-building” or the “external action support in the area of gender equality and women’s and girl’s empowerment” (all available on the Europa website).*

*As regards analysis of the impact of economic partnership agreements (EPA), the Commission is regularly monitoring their implementation and impacts, assessing the milestones and addressing the challenges to ensure positive impact on the inclusive and sustainable growth of the local economies and on fostering regional integration (including intra-regional trade) and industrialization.*



*A recent example is the deepening of the EU-Eastern and Southern Africa (ESA) interim EPA with ESA5 countries (Comoros, Madagascar, Seychelles, Mauritius and Zimbabwe), the second negotiation round of which took place in July 2021. A sustainable impact assessment (SIA) on the Trade and Sustainable Development Chapter, as well as on the Trade in Goods and Trade in Services chapters, was carried out in the 1st half 2021, including an evaluation of the implementation of the EU-ESA EPA. The evaluation shows that the interim EPA has helped to meet its objectives, albeit rather slowly and dependent on the EU partner countries' efforts. The objectives of the EU-ESA5 EPA are poverty eradication, regional integration, ESA regional integration into the world economy, structural adjustment in the ESA region, improving trade capacity, and strengthening the relations between the partners.*

162. (§32 - 2019/PAR/0503) The European Parliament stresses that entities entrusted with the implementation of Union funds must, as a general principle, respect the principles of sound financial management and transparency; stresses that any entity must fully contribute to the protection of the financial interests of the Union and must, as a condition for receiving funds, grant the necessary rights and access required for the authorising officer responsible, for the Court and for the European Anti-Fraud Office (OLAF); notes, in that regard, the difficulty faced by the Court in getting visas for a duly announced and planned on-the-spot-visit to projects in Burundi and the resulting limitations faced by the Court; calls on the Commission and the European External Action Service (EEAS) to raise that issue and remind their counterparts in Burundi of their obligations as recipients of Union funding.

**Commission's response:**

*The Commission includes in the agreements with the entrusted entities all the necessary clauses for access to facilitate the audit of the EU funds received. The Commission clarifies that the Burundi case was an isolated one. Based on Council Decision (EU) 2016/394, the EU has put in place appropriate measures according to article 96 of the Cotonou Agreement regarding Burundi. These measures meant the suspension of direct financial aid for the Burundi administration and institutions until the country made progress in governance, democratic principles and rule of law. Since then, only development cooperation targeting the population through direct or indirect implementation (NGOs/UN/MS agencies) remains.*

*In December 2020, for the first time in five years, the President of the Republic of Burundi received in audience in European format the Ambassador of the European Union in Burundi and his colleagues from Germany, Belgium and France. The discussions focused on the resumption of dialogue at the highest level and on EU support for the priorities announced by the new President.*

*Finally, the EU Delegation has resumed its political dialogue with the Government of Burundi as of February 2021.*

163. (§33 - 2019/PAR/0504) The European Parliament calls on the Commission to carry out sample-based on-the-spot controls years after the completion of the co-financed projects to check the continued impact of the EDF interventions and to take the necessary steps to ensure the long-term impact of its operations.

**Commission's response:**

*The Commission addresses the impact of EDF interventions mainly through strategic evaluations, both at country and thematic or sector level, which include assessing the achievement of long term objectives and the impact of completed projects and programmes. A multi-year approach to strategic evaluation planning has been adopted for EDF supported countries, in order to ensure that the results of this type of evaluations are continuously feeding into decision making, especially in relation to programming and the long-term impact of operations.*

164. (§39 - 2019/PAR/0505) The European Parliament calls once more on DG INTPA, however, to strictly assess in its policy dialogue the risks related to corporate tax avoidance, tax evasion and illicit financial flows affecting, in particular, developing countries; encourages DG INTPA to assess the fiscal impact and to help establish oriented investment objectives.

**Commission's response:**

*The risk assessments related to corporate tax avoidance, tax evasion and illicit financial flows are carried-out at the Commission level by DG TAXUD and DG FISMA in line with their mandates on the EU lists exercises. DG INTPA and the EEAS are assisting DG TAXUD and DG FISMA in their technical dialogue with the third countries with deficiencies in their tax and/or financial systems. EU Delegations are systematically taking these issues in the policy and political dialogue with the authorities. Before the Covid-19 outburst, DG INTPA supported regional missions of TAXUD experts to the Southern African countries and the Pacific Islands, engaging in dialogue both at technical and political level, with positive progress. Monthly technical meeting between INTPA, TAXUD and the Global Forum experts (OECD) ensures coordination for the policy and political dialogues.*

*DG INTPA and NEAR have also reinforced their risk assessment. The revised risk management framework used internally applies to all INTPA and NEAR's implementing modalities as of 2021. It assesses on a yearly basis, and as often as necessary, the level of risk associated with these issues on the achievement of the objectives pursued in our cooperation programmes with the country. The proposed mitigating measures are systematically included in the policy dialogue and where necessary, additional analysis can be carried out by the EU or requested to the*

*partner country, notably to further mitigate some risks or evaluate the financial impact of identified deficiencies.*

165. (§45 - 2019/PAR/0506) The European Parliament calls for close monitoring and thorough policy dialogue with partner countries regarding objectives, progress towards agreed results and performance indicators; calls once more on the Commission to better define and measure expected development impact and, especially, to improve the control mechanism with regard to the conduct of the beneficiary state in the areas of corruption, respect for human rights, good governance and democracy; stresses the need to include the private sector in that strategic dialogue; remains deeply concerned about the use that could be made of Union budget support in recipient countries where there is no or only limited democratic control.

**Commission's response:**

*During the implementation of our interventions, the EU aims at close coordination in the assessment and monitoring of fundamental values, referring to the analysis and priorities of the human rights country strategy and feeding this follow-up into its political dialogue with the partner country.*

*The EU assesses risk on at least an annual basis using internally a risk management framework, paying particular attention to political risk which encompasses fundamental values and corruption. This internal framework applies to all countries receiving EU development assistance, including budget support recipients, and aims to assess risk across modalities and thematic areas. Ongoing improvements aim to ensure that risks are more effectively identified and mitigated, with increased use of international indicators, allowing greater comparability and reliability. All EU budget support is conditional on progress in public finance management and all countries are also assessed on their adherence to budget transparency. This covers the fight against corruption.*

*Any EU intervention can be put on hold if serious concerns arise over fundamental values or cases of corruption. All financing agreements signed with partner countries provide for the possibility to suspend or to terminate the agreement in case of breach of an obligation relating to respect for human rights, democratic principles and the rule of law. With respect to budget support, the provision made in the Article 236 of the EU financial regulation applies.*

166. (§46 - 2019/PAR/0507) The European Parliament reiterates its call on the Commission to carry out an evaluation on a country-by-country basis of the long-term on-going EDF-financed projects in order to demonstrate the true impact on the relevant country of decades-long Union investment and how it has effectively helped beneficiary

countries' economic, social and sustainable development; calls the Commission to limit or terminate the funding of ineffective projects in the future.

**Commission's response:**

*The Commission is implementing a long-term policy in relation to evaluation (both at project/programme and strategic levels) in order to assess the achievement of long term objectives and the impact of EDF interventions on socio-economic and sustainable development. A multi-year approach to strategic evaluation planning has been adopted for EDF supported countries, in order to ensure that priorities and needs in terms of both accountability and lessons learnt are adequately matched, also in view of continuing, limiting or terminating cooperation in a given area or sector. During the period 2015-2020 cooperation with the following countries and regions has been evaluated, in addition to the evaluation of the EU Trust Fund for Africa: Pacific, Central Africa and West Africa Regions, Madagascar, Burundi, Tmor-Leste, Uganda, Lesotho, Chad, Burkina Faso, Sierra Leone, Ghana, Ivory Coast, Rwanda.*

*This approach has also applied to project/programme evaluations since 2018 and EU Delegations are invited to define evaluation plans in a multi-year perspective. In addition in 2019, the Commission started collecting thematic meta-analysis of findings from evaluations and research at different levels to inform evidence based policy design and programming.*

167. (§47 - 2019/PAR/0508) The European Parliament notes with concern the finding of the Court that there were cases where the efficiency and effectiveness of the observed actions were compromised; calls on the Commission to look into the individual projects observed by the Court and to take action to safeguard the intended results of the actions and to protect the financial interests of the Union; calls on the Court to extend its work on the performance of the EDFs.

**Commission's response:**

*The Commission highlights that for its statement of assurance exercise, the European Court of Auditors also examines transactions relating to projects that are still ongoing. Therefore, the ECA's findings, both related to performance and to legality and regularity, can be reviewed and resolved before project closure.*

168. (§52 - 2019/PAR/0509) The European Parliament calls on the Commission to encourage international institutions, in particular in the case of co-funded and multi-donor initiatives, to approximate their results management frameworks with the Union.

**Commission's response:**

*The Commission continuously encourages international institutions to align their results management frameworks with the Union. This being done in particular through the updating financial framework partnership agreements (FFPAs), most recently with the World Bank Group (2020). At the same time, the Commission promotes focus on results and calls for shared responsibility on accountability on results in the regular meetings with key partners, for instance, in the case of the UN family in the framework of the UN-FAFA annual meetings. The Commission participates actively in dedicated fora (e.g. OECD/DAC Results Community, World Bank Group Trust Fund Reform), calling for harmonisation of results frameworks and practices.*

*The EU Results Framework for international cooperation (developed in 2015) is regularly reviewed (2018 and upcoming in 2021) to align to the Commission priorities, taking into account the recommendations from the European Parliament and the European Court of Auditors and following the dialogue undertaken in the international fora. Reporting against the EU Results Framework applies to all actions, including co-funded and multi-donor initiatives. Adherence to the EU Results Framework is ensured via the monitoring and accountability mechanisms put in place by the Commission, IT tools are being developed to enhance smooth monitoring and reporting.*

169. (§54 - 2019/PAR/0510) The European Parliament invites the Court to consider an audit of the impact of the implementation of the EUTF on Union development policy both from a budgetary and results point of view; calls, therefore, on the Commission to draw conclusions from the audit and ensure that EUTF projects that have been inefficiently implemented are terminated or greatly limited in funding.

**Commission's response:**

*The Commission cannot object to the invitation to the Court to consider an audit of the impact of the implementation of the EUTF Africa on the Union's development policy. However, the Commission underlines EUTF-funded actions have a clear developmental objective to assist partner countries to build capacities to assist migrants and forcibly displaced people, strengthen their and the host communities' resilience, and ensure that their rights are protected. EUTF programmes give priority to the needs and challenges of partner countries. In addition, the Court has already conducted a performance audit of the EUTF Africa, with the Special Report published in December 2018. The Commission considers it has duly followed up the recommendations and observations made in the Court's 2018 special report.*

*Moreover, the Commission cannot accept the invitation to draw conclusions from an audit that has not yet taken place and may not even take place, including the termination of some EUTF programmes. However, the Commission highlights that in*

*response to the Court's 2018 special report, it has taken measures to foster the efficient implementation of EUTF projects:*

*o A Monitoring and Learning System (MLS) for all three regions of the Trust Fund (Sahel and Lake Chad, Horn of Africa and North Africa) was created, and is fully operational since October 2019;*

*o Mechanisms to learn from project implementation have been put in place and funded under the Research and Evidence Facility, the Technical Cooperation Facility (TCF) or the Monitoring and Learning System (MLS).*

170. (§55 - 2019/PAR/0511) The European Parliament recalls Parliament's regular stance that the Commission should ensure that any trust fund established as a new development tool must always be in line with the Union's overall strategy and development policy objectives, i.e. the reduction and eradication of poverty.

**Commission's response:**

*As clarified in the Trust Fund Guidelines (Chapter 10 of the INTPA Companion), trust funds must follow the relevant financing instrument, including its objectives and principles and have to be coherent with development effectiveness principles and EU country strategies. The use of EU trust funds needs to be justified on a case-by-case basis and the Commission shall make a thorough assessment of the requirements listed above by conducting a pre-feasibility or needs analysis. Furthermore, the motivation for establishing an EU trust fund shall be set out in the establishment decision, which must be sent, before adoption, to the European Parliament and the Council for consultation (for emergency and post-emergency EU trust funds) or approval (for thematic EU trust funds) pursuant to Article 234(1) of the Financial Regulation.*

171. (§57 - 2019/PAR/0512) The European Parliament invites the Commission to make more stringent use of the clause included in the financial agreements with partner countries that enables the Commission to suspend or to terminate the agreement in the event of the breach of an obligation relating to respect for human rights, democratic principles and the rule of law (Article 26.1 of the General Conditions).

**Commission's response:**

*The EU is firmly committed to the promotion and protection of all human rights, whether civil and political, economic, social and cultural rights, of democratic principles and the rule of law. These values are essential elements of the EU's partnerships and cooperation agreements with partner countries. As mentioned in the NDICI- Global Europe, the EU is adopting a human rights-based approach,*

*encompassing all human rights, into all development cooperation programmes and actions.*

*The EU can work with and through governments, in which case a financing agreement is signed. Such agreements indeed include a clause that enables the Commission to suspend (Article 26.1 of the General Conditions) or to terminate (Article 27.1 of the General Conditions) the agreement in case of breach of an obligation relating to respect for human rights, democratic principles and the rule of law.*

*he application of the suspension/termination clause should only be considered on a case by case basis and is very much linked to the specific country context. Termination should in any case only be considered as a last resort given the negative impact its consequences could have on the populations targeted by our actions and programmes. The process of supporting democracy, the rule of law, human rights and fundamental freedoms is in itself complicated and highly politicized. Democratic reforms and adherence to the principles of the rule of law require political will, long period of time, and must overcome sometimes many resistances to change. It also takes time to build public trust in public institutions, particularly in weak and failed States, fragile countries and in conflict and post-conflict situation. It is important to make the case to partner countries that it is in their interest to act, to demonstrate the relevance of democratic governance for all our development strategic priorities, including business and investment climates. The EU will make use of the Team Europe collective approach to maintain policy dialogue and technical assistance for policy reform on human rights and democracy support, as well as for support to civil society. The application of the human rights based approach will be further strengthened under the NDICI- Global Europe, relevant guidance was recently updated.*

*During the implementation of our aid, the EU also aims at close coordination in the assessment and monitoring of fundamental values, referring to the analysis and priorities of the Human Rights country strategy and feeding this follow-up into its political dialogue with the partner country. Finally, risks assessments are conducted on regular basis by the EU and the contractual and financial procedures also seek to ensure value for money and prevent capture or embezzlement by specific interest groups.*

172. (§58 - 2019/PAR/0513) The European Parliament is concerned by the Commission's rejection of a recommendation of Parliament to include in the next annual activity report a structured assessment of the impact of the activities of the EDFs; invites the Commission to revise its position and respond positively to Parliament's specific request.

**Commission's response:**

*The Commission is not able to accept this recommendation. The annual activity report of DG INTPA fulfills all legal requirements defined in Article 74 of the Financial Regulation (Regulation (EU, Euratom) 2018/1046). In particular, the annual activity report of DG INTPA presents a complete information on the operations carried out, by reference to the objectives and performance considerations set in the strategic plan of DG INTPA. In addition, in accordance with Article 17 of the EDF Financial Regulation (COUNCIL REGULATION (EU) 2018/1877), the annual activity report of DG INTPA includes, in annex 3, tables showing by allocation, country, territory, region or sub-region, the total commitments, assigned funds and payments made during the financial year and aggregate totals since the opening of the respective EDF.*

*Furthermore, the assessment of the impact of the activities of the European Development Fund is already fulfilled through the production and transmission to the European Parliament of the annual report on the implementation of the European Union's instruments for financing external actions. The annual report is produced each year by the Commission in order to fulfil legal obligations on reporting (i.e. Regulation (EU) No 236/2014 and Regulation (EU) 2015/322) and also to provide a detailed overview of our external assistance policies, activities and results. With chapters on policy, implementation, management of aid and financial annexes giving detailed breakdowns by instrument, theme, regions and countries, this annual report demonstrate the impact of the European Union's instruments for financing external actions.*



## Bodies set up under the TFEU and the Euratom Treaty - Joint Undertakings

173. *(IMI 2, § 17 - 2019/PAR/0514)* The European Parliament calls on the Commission to make sure that the future IMI2 Joint Undertaking activity programme will respect also the EU4Health Programme as established in Regulation (EU) 2021/522 and all other Union strategies in the domain.

### Commission's response:

*The IMI2 Joint Undertaking launched its last call for proposal in 2020, in line with the Regulation 554/2014 setting up IMI2 JU. No new calls for proposals are going to be launched by IMI2 JU and the core of its future activities will be focused on managing its significant portfolio of running projects. Therefore, during the remaining lifetime of IMI2 JU, the Commission members of IMI2 JU Governing Board will identify potential synergies between the running projects and the EU4Health Programme. If and when IMI2 JU is replaced by the Innovative Health Initiative JU (where the legislative procedure is now ongoing), the Commission members of the future IHI JU Governing Board will ensure complementarities between IHI JU and other EU programmes, including EU4Health.*

174. *(SESAR, § 21, Clean Sky, § 17, BBI, § 22, IMI 2, § 22, FCH, § 16, Shift2Rail, § 16, Ecsel, § 11 - 2019/PAR/0515)* The European Parliament calls on Commission and the Court for a in-depth performance tracking method in view of evaluating the added value of the Joint Undertaking and including the social, employment impact as well as impact on the market. The results of the evaluation should be used for future or redistribution of Union financing.

### Commission's response:

*Article 171 of the Single Basic Act ensures the full alignment of the Joint Undertakings with the Horizon Europe monitoring and evaluation system, as required in the Horizon Europe Regulation (Article 50 and 52 and Annex III). The basic provisions in Article 171 ensure that a common system is in place to collect data and to monitor the implementation of the Joint Undertakings, in line with the requirements set out in Article 50 of Horizon Europe Regulation, Annex III and Annex V and that it feeds into the same single database.*

*For partnerships, the Commission will monitor three aspects:*

*• Project level: The Commission collects detailed information on projects, their results and expected impact through our IT systems. That allows us to trace the contributions of partnerships through their projects automatically and in a consistent manner with the rest of the programme. It also reduces reporting burden and prepares quality data*

*for evaluations. The indicators for each partnership will be available on our Horizon monitoring dashboard.*

- *Individual partnerships / JU level: The added value of partnerships goes beyond projects. For each partnership there will be reporting of progress towards general, specific and operational objectives (Part II of SBA). The obligations are set in Article 171, and all European partnerships are currently working on their monitoring framework to make it operational based on the impact assessments (setting baselines, methodologies, identifying data sources etc.). The monitoring frameworks are normally added in the Strategic R&I Agendas (to be adopted by the governing board of partnerships). Case studies (including on drivers and barriers to national impacts) will be important elements to capture the added value of individual partnerships.*

- *Partnerships in general: Each partnership is unique, yet the Commission is trying to have a consistent monitoring and evaluation approach. To make that work, the Commission has recently set up an independent Expert group that is developing common indicators on the functioning of all European Partnerships – closely linked to the new policy approach and added value generated by partnerships as compared to traditional calls – and aligned to the Horizon Europe monitoring framework. There is also a strong ERA dimension in the monitoring of partnerships (structuring effect, improvement of the national R&I systems / fabric).*

*Article 171(1) stipulates that ‘The outcomes of monitoring and periodic reviews shall feed into the monitoring of European partnerships’. This means the biennial monitoring of European Partnerships that will take place in the context of the new strategic coordinating process for partnerships, foreseen in Article 6.5. of the specific programme of Horizon Europe. It will provide an evidence-base for new policy, identify implementation barriers and track progress towards policy objectives. A first baseline report is foreseen in Q1 2022, introducing the new landscape of partnerships, their contribution to the twin transitions, and set the baseline for future reports. MS/AC and partnerships will be providing input to this exercise. An independent Commission Expert Group (chaired by Prof. Maria Chiara Carrozza) has been set up to support the development of the monitoring and reporting framework for partnerships, including supporting the drafting of the first monitoring (baseline) report foreseen to be published in 1Q 2022. The group published its first interim report in June 2021.*

*As for the evaluation, partnerships will be evaluated as an integral component of the Framework Programme, and put in perspective with other forms of implementation. This will allow assessing them in their proper policy context.*

*Each joint undertaking will be evaluated by external evaluators and, where applicable, in combination with its predecessor, to capture medium term effects (ex art 174.13 SBA “The interim evaluations shall include a final evaluation of the preceding joint undertakings”). These evaluations will feed the Commission evaluation of the Horizon Europe programme. The Commission will also conduct an*

*interim review of the overall approach of European Partnerships at the time of the interim evaluation of Horizon Europe (in 2024).*

175. *(Clean Sky, § 15 in connection with § 14, BBI, § 17, FCH, § 17, Shift2Rail, § 8, Shift2Rail, § 8, Ecsel, § 18 - 2019/PAR/0516)* The European Parliament calls on the Commission to make sure that the future Joint Undertaking's activity programme will respect the requirements and the targets provided by the Union law as far as concern the mitigation of the climate change and the digitalisation and will follow the strategies in the domain elaborated by both Commission and industry.

**Commission's response:**

*The new generation of European Partnerships to be established under Horizon Europe Framework Programme is being prepared following an impact-driven and coherent approach to use their full potential in achieving the ambitious EU policy objectives of a green, climate neutral, and digital Europe and EU-wide 'transformations' towards the Sustainable Development Goals.*

*The legal proposals for all institutionalised European Partnerships have been prepared fully in line with the principles agreed in Horizon Europe – setting clear targets by 2030, strengthening commitments from partners, and ensuring increased openness towards newcomers.*

*The articles 4 and 5 of the Single Basic Act on the objectives result from a thorough analysis made for each candidate initiative as part of their coordinated impact assessments. During this process, the Commission developed intervention logics for each initiative, as well as for partnerships in general – all in line with Horizon Europe objectives (Article 3) that highlight the need “to deliver on the Union strategic priorities and contribute to the realisation of EU objectives and policies, contribute to tackling global challenges, including the Sustainable Development Goals by following the principles of the Agenda 2030 and the Paris Agreement”.*

176. *(SESAR, § 22, Clean Sky, § 18, BBI, § 23, IMI 2, § 23, FCH, § 18, Shift2Rail, § 21, Ecsel, § 16 - 2019/PAR/0517)* The European Parliament calls on the Commission for the development of a legal framework in respect of the intellectual property rights and their implementation on the market, that covers, inter alia, special requirements and profit distribution.

**Commission's response:**

*A comprehensive legal framework already exists based on Regulation (EU) No 1290/2013 of the European Parliament and the Council of 11 December 2013 laying*

*down the rules for participation and dissemination in Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020).*

*As provided for in its Article 1(1) and in the Council Regulations establishing Joint Undertakings, the rules including those governing the exploitation and dissemination of results and Intellectual Property (IP) Rights, apply to the indirect actions funded by the Joint Undertakings. In the exceptional case of IMI2 JU, a derogatory IP regime regarding results was established by Commission Delegated Regulation (EU) No 622/2014 in accordance with Article 1(3) of the Horizon 2020 Rules for Participation setting out the possibility for different rules regarding results for funding bodies established in the area of innovative medicines in order to take into account their specific operating needs. The applicable rules regarding results are also reflected in the Model Grant Agreement used by the Joint Undertakings. As set out in the Horizon 2020 Rules for Participation, special requirements in the form of additional obligations such as additional exploitation obligations (Article 43(1)) or dissemination obligations (Article 43(2)) may be laid down in the grant agreement if specified in the work programmes.*

*Furthermore, as soon as the Council of the Single Basic Act establishing Joint Undertakings under Horizon Europe is adopted, the similar IP legal framework included in Regulation (EU) 2021/695 of the European Parliament and the Council of 28 April 2021 establishing the Horizon Europe Framework Programme will apply to all Joint Undertakings. The Horizon Europe Model Grant Agreements to be used by the Joint Undertakings would also reflect the applicable rules regarding results and refer to any special requirement specified in work programmes.*

## Performance, financial management and control of EU agencies

177. (§10 - 2019/PAR/0518) The European Parliament reiterates its request to the Commission to provide the discharge authority with the official budget and staff figures for each agency and to provide consolidated figures for the decentralised agencies that are subject to the Parliament's discharge procedure.

**Commission's response:**

*In the framework of each year's draft EU Budget preparation, the Commission consolidates the input from the agencies in Working Document III to help guiding the budgetary authority in the approval process of the draft budget of year N+1. This is fully in line with the role of the Commission in budget preparation. However, each agency is responsible for its budget implementation reporting and its discharge. To harmonise such reporting, the Commission adopted its communication on the governance of decentralised agencies to ensure a coherent budget, planning, reporting, performance and governance framework. The Commission adopted these guidelines in April 2020, including templates for the Single Programming Document and the Consolidated Annual Activity Report. The decentralised agencies are responsible for the content of these documents. The 2019 reporting exercise was the first round in which agencies used the new CAAR template. The Commission is confident that the substance and level of detail of these reports will further improve in following rounds.*

178. (§21 - 2019/PAR/0519) The European Parliament calls on the Commission to adopt a centralised set of guidelines on reporting and the setting of KPIs to ensure proper measurement of the agencies' performance.

**Commission's response:**

*In view of strengthening the performance of the planning and reporting documents of decentralised agencies, the Commission has provided decentralised agencies with extensive guidance on planning and reporting (see C(2020)2297). In particular, that Communication provided guidelines for drafting the Single Programming Document and a detailed template for the Consolidated Annual Activity Reports of decentralised agencies. The Commission also provided a list of KPIs that the agencies may use in their reporting (see SWD(2015)62).*

179. (§23 - 2019/PAR/0520) The European Parliament calls on the Commission to regularly conduct an independent evaluation of the performance of the agencies.

**Commission's response:**

*The Commission is of the opinion that regular evaluations by the Commission of all EU decentralised agencies seen as a whole would have limited added value and would require disproportionate resources. The Commission finds that evaluations should rather focus on individual agencies or groups of agencies within the same policy areas, considering that EU decentralised agencies cover a vast variety of sectors, are set up individually with governance structures tailored to their functions and needs and operate on the basis of their individual mandate and tasks.*

*The Commission recalls that, under the Common Approach and as also provided for in their founding acts, all agencies should be evaluated regularly. Moreover, the European Court of Auditors in its special report from 2020 on the future of EU agencies called on the Commission to increase the use of cross-cutting evaluations in the context of fitness checks to identify synergies and possible changes. The Commission has accepted this recommendation and is currently revising the wording of the Better Regulation toolbox on fitness checks to encourage the use of cross-cutting evaluations.*

180. (§33 - 2019/PAR/0521) The European Parliament calls on the Commission to ensure funding to support the Union agencies in securing social dialogue; notes that the Union agencies play a crucial role in securing social dialogue with Union institutions.

**Commission's response:**

*The EU contribution to agencies in the domain of employment and social policies encompasses funding for actions related to social dialogue, where such competence is foreseen in the agency's legal base. Concrete actions are decided upon by the agency and its board and laid down in the annual work programme.*

181. (§44 - 2019/PAR/0522) The European Parliament notes further in this regard that the Court's Special Report on the European Personnel Selection Office (EPSO) (Special Report 23/2020) highlights the fact that the current selection process necessitates a search for more flexible selection procedures by Union institutions to fulfil their immediate recruitment needs; emphasises the Union institutions' need for more specialised personnel, which in the case of agencies is essential given their specific mandates; call on the Commission, and in particular on EPSO, to better assist the agencies in this regard and to adapt its recruitment policies in a way that would attract the best qualified and more specialised staff; asks the Commission and EPSO to show a degree of flexibility in adapting the job offers to the particular conditions, to ensure efficient recruitment; highlights the importance of improving Union's selection procedures and job attractiveness; stresses that understaffing of agencies poses a serious risk of negative impact on performance, as well as on staff wellbeing and turnover.

**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.*

182. (§55 - 2019/PAR/0523) The European Parliament notes with concern that the Court made 82 observations addressing areas for improvement in 29 agencies; notes that most observations concern shortcomings in public procurement procedures and that this was also the case in 2018; notes that these shortcomings mostly concern sound financial management and regularity; urges the agencies to implement recommendations and eliminate shortcomings; reiterates calls on the Commission to improve its efforts to implement clear and unified budgetary measures and procedures in agencies to tackle the identified issues recurring in a majority of the agencies.

**Commission's response:**

*'Following the revision of the Financial Regulation, the Commission has adopted a new Financial Framework Regulation (Commission Delegated Regulation (EU) 2019/715), on the basis of which decentralised agencies have adapted their financial rules.*

*The above Regulation provides a clear and unified legal framework with respect to the governance, financial management, evaluation and performance of the decentralised agencies. It contains relevant provisions on performance as well as on the strengthening of the governance of the decentralised agencies (providing additional information to be provided to the Commission e.g. with respect to the follow-up to audit recommendations). The Regulation also introduces the performance concept in all steps of the budgetary cycle. The reinforcement of the*

*supervision of the decentralised agencies implementing the EU budget by the different Directorates-General involved (both budgetary and internal control), will continue under the current Multiannual Financial Framework. These actions aim to ensure identification and adequate management of the risks and to provide reasonable assurance on the legality and regularity of the financial transactions.*

*Article 90 of the Delegated Regulation foresees that Regulation 2018/1046 and Annex I shall apply as regard procurement. Therefore, a harmonised set of procurement rules applies to decentralised agencies (subject to some exceptions authorised by the Commission in order to respond to specific procurement needs).*

*Furthermore, the Communication from the Commission on the strengthening of the governance of Union Bodies (C(2020) 2297 final) sets out the measures undertaken by the Commission to ensure a coherent and binding budget, planning, reporting, performance and governance framework, thus ensuring a sound financial management of the decentralised agencies. This Communication establishes the framework for the assessment of the performance of agencies by providing for detailed guidelines on the Single Programming Document, which decentralised agencies submit at the beginning of each year, and on the ex-post reporting done through a Consolidated Annual Activity Report.*

*The existing legal framework allows for the identification of possible weaknesses with respect to procurement practices, and the reporting about the follow-up to reported weaknesses.*

*In addition to this legal framework, the Commission is providing general trainings open for participation by staff of EU decentralised agencies and specific trainings on procurement and contract management.*

*Moreover, the Commission is organising regular communities in practice for procurement officers (at both general and advanced level), to which staff of the EU decentralised agencies is invited to participate. In addition, Commission staff participates to the yearly Network of the Agencies procurement Officers meetings (NAPO) aiming to exchange good practices in procurement procedures and to update practitioners on the latest guidance/templates addressing recurring issues in the conduct of procurement procedures.*

*Furthermore, the Internal Audit Service of the Commission, which is also the auditor of the decentralised agencies, conducts a risks assessment and establishes strategic internal audit plans covering a period of three years for the agencies in collaboration with the Internal Audit Capabilities (for the agencies which have IAC). This is an additional layer allowing to identify and address potential weaknesses.*

*Finally, as a complementary measure aiming at a clearer and more unified management of the whole procurement process in agencies, the Commission is offering the possibility to Agencies to use the corporate eProcurement/contract management solution that is under development. The above solution is at this stage partially developed and implemented. It aims to become a fully automated and*



*paperless solution covering the whole procurement end-to-end process, fully integrated with the financial, budgetary & accounting system (i.e. ABAC Workflow which will be replaced by SUMMA).*

*A number of EU agencies already use existing modules such as eTendering, eSubmission and PPMT and will further benefit from the full solution when finally developed. Electronic management of procurement procedures will ensure lower risk of procedural errors, simplification and harmonisation of business processes and represent an efficient tool for reliable and accurate reporting.'*

183. (§76 - 2019/PAR/0524) The European Parliament calls on the Commission to improve its communication with the agencies to better streamline the expected timelines for the adoption of legislation and corresponding budget lines; notes the Court's Recommendation that the Commission and the agencies should allocate resources in a more flexible manner while stressing the importance of due reporting, transparency and auditing.

**Commission's response:**

*When proposing a legal initiative affecting decentralised agencies, the Commission systematically makes an estimate of the adoption date by the legislators and, accordingly, drafts the Legislative Financial Statement that clarifies when the resources (budget and staff) will be granted to the agencies to implement the related tasks. During co-legislator negotiations, the Commission informs regularly the agency about the expected timeline of adoption of the legislation (and potential change in the scope of the new activities).*

*Where there is a shift in the adoption calendar, the Commission proposes to the Budgetary Authority to shift the related resources in time, to allow implementation upon adoption of the legislation. When the proposal is on the verge of being adopted or has just been adopted, the Commission publishes an amended LFS, if the legal act to be adopted by the legislators modifies the tasks and corresponding resources needed by the agencies. This process is laid down in Article 35 of the Financial Regulation and in section B "Agencies and European Schools" of PART III of the 2020 Interinstitutional Agreement on Budgetary discipline.*

## Bodies set up under the TFEU and the Euratom Treaty

184. (*EASO, § 11 - 2019/PAR/0525*) The European Parliament notes with satisfaction that the Office's recruitment plan provides for a staff of 500 by 2020; points out the fact that the Office would not be in position to provide Member States with critical support to their asylum systems without resorting to the use of temporary agents and seconded national experts from the Member States; acknowledges the Office's proposal suggesting an asylum reserve pool of 500 Member State experts; calls on the Member States and the Commission to urgently assess and address that issue.

**Commission's response:**

*EASO's new Regulation mandates the establishment of a reserve pool of 500 Member State experts. The new (EUAA) Regulation is in the final stage of adoption.*

185. (*EBA, § 11 - 2019/PAR/0526*) The European Parliament is concerned that in contrast to the established budget, the contributions of EFTA Members' national competent authorities (NCAs) were not calculated according to the formula set out in that very same budget and thus reduced the payments of Union and EFTA NCAs by EUR 0,7 million; notes that the calculation of pension contributions needs further clarification; is aware that the calculation is an estimate and that it is subject to the composition of the staff during the year and to the possibility of making adjustments annually; calls on the Commission to ensure the receipt of missing payments.

**Commission's response:**

*In its reports on the annual accounts of the European Banking Authority (EBA) and of the European Insurance and Occupational Pensions Authority (EIOPA) for the financial year 2019, the European Court of Auditors (ECA) pointed out that the actual share of the Union's contribution to EBA's and EIOPA's budgets was somewhat less than 40%. In contrast, the contributions of national competent authorities (NCAs) was slightly higher than 60%.*

*The regulations establishing the European Supervisory Authorities (ESAs) do not lay down a precise split of the total contributions to the ESAs from the Union and from NCAs, only indicating in recital (68) of each founding regulation that:*

*“The Authority should be appropriately financed. At least initially, it should be financed 40 % from Union funds and 60 % through contributions from Member States... “ (emphasis added).*

*The reason for the discrepancy between ESAs is that in 2019 (and before), EBA and EIOPA calculated its budgets by splitting the total of the Union and the Member State NCA contributions 40:60 and then adding on top contributions of NCAs from EFTA*

*states, while ESMA considered all NCAs (MS and EFTA) contributing together to the 60% share. The Commission is currently considering whether harmonising the approach of the ESAs would be beneficial.*

*However, following the ECA's report on the 2019 annual accounts, it was identified that due to a miscalculation, in 2019 EBA overcharged the Union budget by EUR 0.461 Million. The mistake was rectified by amending the 2021 draft Union budget, i.e. the 2019 budgetary surplus split between the Union and the NCAs was adjusted. The amount the Union budget was overcharged with in 2019 was attributed to the Union's share in the 2019 budgetary surplus, and in turn reduced the surplus attributed to the NCAs.*

*As regards the calculation of the NCAs pension contributions, the Commission acknowledges that the budgeted estimates collected by the ESAs could be either above or below the actual pension contributions paid. Because this difference has so far been immaterial, the ESAs did not until 2019 adjust the NCAs pension contributions to match the actual amounts paid. However, the Commission has now introduced a mechanism allowing to resolve the differences via redistribution of the annual budgetary surplus. Hence the actual pension contributions paid by the ESAs for 2020 (and onwards) are now taken in consideration and the 2022 Union contributions to the ESAs are aligned accordingly.*

186. (*FRONTEX, § 8 - 2019/PAR/0527*) The European Parliament notes that the Agency had to implement major internal restructuring and faced the challenge of designing new tasks in order to fulfil the provisions of the new mandate; notes that the Agency was faced with an unforeseen reduction in the number of administrators to be employed in 2020 that led to adjustments in the Agency's establishment plan; is concerned by the length of the ongoing discussion between the Agency and the Commission concerning those adjustments; calls on the Commission and the Agency to quickly find an adequate solution to ensure a proper and timely implementation of the Agency's new mandate;

**Commission's response:**

*The Commission has made a lot of efforts in order to support that Frontex and its Executive Director fully deliver on all the aspects of the new mandate, in line with the EBCG Regulation, the Management Board's conclusions and guidance. The Commission will continue to support the Agency in this regard.*

*Regarding the staffing situation, the structure of the Agency's staffing for Headquarters in Warsaw was adapted in the context of the Legal Financial Statement for the new EBCG Regulation taking into account the needs of the standing corps and the high vacancy rate at that time. However, this change (swap from 100 AD to 100 AST) only concerned the Agency's Headquarters and the "old" mandate of the Agency. At the same time, that adjustment did not affect any staffing requirement*

*related to the new mandate for which all the necessary posts are provided in the Legal Financial Statement accompanying the Regulation.*

*Since the adoption of the Commission's EBCG 2.0 proposal and the accompanying Legal Financial Statement in September 2018 (LFS was revised in April 2019 following the political agreement on the proposal), the Agency has had sufficient time to consider the necessary adaptations of the recruitment plans for Headquarters, according to the new staffing reality, instead of continuing with the "old" and obsolete 2015 LFS as framework. At the same time, it is important to stress that the adjustment did not affect any staffing requirement related to the new mandate. The Commission stresses that all the needs related to the new mandate, including the standing corps are well covered under the Establishment Plan, in accordance with the Legal Financial Statement accompanying the EBCG Regulation.*

*Nevertheless, following the Agency's request, the Commission engaged in the discussion on the possible modification of the Establishment Plan. On the basis of the legal framework for the modification of the Establishment Plan, the Management Board may modify the Establishment Plan subject to the three main conditions:*

- modification should be up to 10 % of posts authorized (per grade),*
- the volume of staff appropriations corresponding to a full financial year is not affected [ie budget neutrality]; and*
- the limit of the total number of posts authorized by the Establishment Plan (total for AD +AST posts) is not exceeded.*

*In the course of 2020/2021, the Agency has made three proposals for modification of the Establishment Plan but none of them was compatible with these requirements of the Frontex Financial Regulation.*

*The Frontex Executive Director has allocated the necessary staff for the recruitment of fundamental rights monitors (additional 20 AD posts) within the existing Establishment Plan.*

187. *(FRONTEX, § 16 - 2019/PAR/0528)* The European Parliament calls on the Commission to support the Agency in finding solutions to advance the digitalisation of the Agency.

**Commission's response:**

*In the coming years, Frontex needs to develop significantly its ICT infrastructure, in particular to take into account the recently adopted implementing act on EUROSUR.*

*A Frontex ICT Implementing Plan 2020-2025 was adopted on 25 March 2021 in the format of an ED Decision.*

*It is, however, for the Management Board to endorse the way that the Agency's ICT infrastructure will be developed in the next year, also taking into account the available reduced MFF resources.*

*In order to prepare this endorsement, a number of meetings have been organized to discuss the issue and support the Agency in identifying appropriate solutions.*

188. (**FRONTEX, § 32 - 2019/PAR/0529**) The European Parliament calls on the Commission to assist the Agency in defining an adequate framework for the register that provides legal clarity regarding transparency rules while taking into account the special sensitivity and security requirements that the nature of activities of the Agency demands.

**Commission's response:**

*Frontex has already established a Transparency register in accordance with article 118 of the EBCG Regulation by adopting Decision of the Executive Director No R-ED-2021-67 of 5 May 2021. All meetings and contacts of the Executive Director, Deputy Executive Directors and Heads of Divisions in matters concerning procurement procedures and tenders for services, equipment or outsourced projects and studies are registered in this tool as of 6 May 2021 (ED Decision in force).*

189. (**FRONTEX, § 48 - 2019/PAR/0530**) The European Parliament finds disconcerting the Commission's reaction to allegations of fundamental rights violations by the Agency; expresses its uneasiness about the apparent lack of constructive and effective communication as well as cooperation between the Commission and the Agency; urges the Commission and the Agency to enhance their communication and cooperation without undue delay; calls on the Commission to provide legal guidance to ensure appropriate, lawful and timely procedures for critical situations at external (sea) borders given the complex geopolitical challenges of those operations.

**Commission's response:**

*The Commission has made a lot of efforts in order to ensure that Frontex and its Executive Director fully deliver on all important matters, in line with the Management Board's conclusions and guidance. The Commission will continue to support the Agency in this regard.*

*A number of important changes have been introduced with the objective of improving the communication and cooperation between the Agency and the Commission. It was recently agreed to have regular (monthly) high-level meetings between the senior management of DG HOME and Frontex on strategic matters, to be followed-up by discussions at technical level where necessary. A Frontex support group has also*

*been established inside DG HOME that brings together all units of the DG that cooperate with Frontex.*

*Furthermore, at the Frontex MB meeting on 16-17 June 2021 the Board continued the discussion on how to strengthen the Management Board's oversight of the Agency and, based on a concept note prepared by the COM, agreed that the Executive Board should be reinforced and entrusted with this enhanced oversight.*

190. (**FRONTEX, § 49 - 2019/PAR/0531**) The European Parliament calls on the Commission and Member States in coordination with Schengen associated countries to define a profound legal framework that provides clear guidance regarding all aspects of those specific and unique activities of the Agency.

**Commission's response:**

*The Commission provides support and guidance in the context of the Frontex Management Board and it has delivered on numerous occasions clarifications related to specific activities of the Agency.*

*Furthermore, the Commission shares with the Agency any relevant information on legal and policy developments which may affect the Agency's functioning. At the same time, it expects the Agency to alert it on any sensitive operational developments affecting the work of the Agency.*

191. (**ECHA, § 2 - 2019/PAR/0532**) The European Parliament notes that, according to the Court's report, since the first registrations in 2009, some 26 % of the companies claimed to be micro, small or medium-sized; notes with concern, however, that thanks to the Agency's effective system of ex-post verifications, the Agency has identified that some 50 % of the companies had incorrectly declared their size, resulting in lower fees; asks the Commission to propose measures to solve this situation, thereby avoiding fraud in declaring the size of the applicants and granting more stable budget planning for the Agency.

**Commission's response:**

*The SME Definition as provided in Recommendation 2003/361/EC is the structural tool to identify those enterprises, which are confronted with market failures and particular challenges (e.g. access to finance) due to their size, and therefore are allowed to receive preferential treatment in public support. It is a widely used tool in EU policies. Moreover, the SME definition is relevant in the context of some European administrative exemptions and reduced fees, such as for REACH Regulation implemented by the European Chemicals Agency (ECHA). Currently, around 100 EU legal acts contain a reference to the SME definition.*

*The implementation and the enforcement of the rules for payment of REACH fees and charges payable to ECHA under the Commission Regulation (EC) 340/2008 (the Fee Regulation) fall under the responsibility of ECHA.*

*Registrants under REACH self-declare their size on the basis at the time of dossier submissions and ECHA carries out an ex-post assessment to verify the correctness of the declarations. In case ECHA concludes that the size of registrants is larger than self-declared, a top-up fee and an administrative charge will apply. In the event that the top-up fee is not paid, the registration is revoked. The maximum level of the administrative charge is equal to 2.5 times the financial gain made from the wrong declaration.*

*Overtime ECHA accumulated a backlog. In 2019, in agreement with the Commission and ECHA Management Board, ECHA put in place an action plan to absorb the backlog and ensure level playing field.*

*The companies' size verification constitutes indeed an additional workload but at the same time, the top up fees and the charges paid by companies having eluded the payments due are an important income stream for ECHA for its operations and for enforcing the Fee Regulation.*

*The Chemical Strategy for Sustainability recognised the need to strengthen the governance of the European Chemicals Agency and increase the sustainability of its financing model and, to this end, the Commission has committed to prepare a legislative proposal for a founding regulation for the Agency. In this context, the Commission will assess the adjustments and the revisions necessary to ensure predictability and stability of ECHA income. ECHA is actively involved in this process.*

192. (EEA, § 22 - 2019/PAR/0533) The European Parliament notes that, according to the Court of Auditors' Special Report on the Future of the Agencies, the Agency faces the risks of limited resources; calls on the Commission together with the Agency to work out a sustainable plan to provide the Agency with resources according to its needs and tasks; calls on the Commission and the Agency to report back on the developments in this regard to the discharge authority.

**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 – will be 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.*

*Staffing levels are an integral part of the annual budget preparation process. The Commission indeed analyses on an annual basis the request for financial and human*

*resources of the European Environment Agency, in the context of the preparation of the annual draft budget. On top of the stable staffing baseline, additional establishment plan posts and contract agents are added to implement tasks related to new legislative initiatives, e.g. in the case of the EEA for the tasks linked to the 8th Environmental Action Programme (additional resources added already in 2021) and the Climate Law (additional resources proposed and will be added from 2022). The agency's and Commission's assessment on staffing levels can be found in Working Document III accompanying the Draft Budget.*

193. (EFSA, § 2 - 2019/PAR/0534) The European Parliament invites the Commission to grant the Authority, in duly justified cases, a set of means to use their budget in the most impactful way which would, inter alia, include the option of hiring contract agents in excess of the establishment plans, for a limited period of time and without exceeding the Authority's agreed annual budget envelope.

**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 – will be 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.*

*Staffing levels are an integral part of the annual budget preparation process, within the limits agreed by the Budgetary Authority.*

*The Commission indeed analyses yearly the request for financial and human resources of the European Food Safety Authority, in the context of the preparation of the annual draft budget. On top of the stable staffing baseline, additional establishment plan posts and contract agents are added to implement tasks related to new legislative initiatives, e.g. in the case of EFSA for the tasks linked to the General Food Law revision. Beyond this foreseen staff increase, ad-hoc requests for additional staff are assessed. For Draft Budget 2022, the Commission guidance on the number of Contract Agents includes an increase from 146 contract agents in 2021 to 167 contract agents in Draft Budget 2022. The agency's and Commission's assessment on staffing levels can be found in Working Document III accompanying the Draft Budget.*

*The Commission does not deem it warranted for agencies to increase staff numbers beyond the guidance on the number of contract agents included in the Union budget procedure.*

*Such increase would go against the level of resources agreed upon by the Budgetary Authority.*



194. (GSA, § 9 - 2019/PAR/0535) The European Parliament calls on the Commission to review the autonomy of the Agency particularly regarding its competencies on implementing the delegation agreement through a number of complex contracts with industrial partners and public sector entities; calls on the Agency to report back on the developments in that regard to the discharge authority.

**Commission's response:**

*The EU space regulation, approved in April 2021, and entered into force in May 2021, establishes the EU Agency for the Space Programme (EUSPA).*

*EUSPA, the EU Agency for the Space Programme (EUSPA) replaces and expands the European Agency for Global Navigation Satellite Systems (GSA). It will be the entity in charge of exploitation of European Global Navigation Satellite System (EGNSS) and, in doing so, will guarantee the continuity of services for EGNSS, security and the accreditation of the systems and ensure the market uptake for all components of the Space Programme.*

*EUSPA will play an enhanced role, in line with its experience, in fostering a competitive and innovative European industry, including downstream industry, for Copernicus, Galileo, EGNOS, and GOVSATCOM, and to the development of a wider European space ecosystem.*

*For Galileo, in particular, EUSPA will be the Exploitation Manager of the systems in operation, in charge of their deployment in the operational system and entry in service.*

195. (GSA, § 13 in connection with § 12 - 2019/PAR/0536) The European Parliament recalls that the inquiry board found mishandling, a technical anomaly of an equipment, a non-standard configuration of the equipment that was subject to the anomaly, recalls that the inquiry board identified root causes of different nature, related to organisation and management of Galileo, human factors, complex and non-standard system configuration; calls on the Commission and the Agency to consistently follow up the recommendations of the inquiry board, particularly regarding the continuity of service and optimising Galileo's governance as well as ensuring better institutional communication towards users and Member States for crisis situations; invites the Commission and the Agency to regularly inform the discharge authority about the follow up actions.

**Commission's response:**

□ *“Ten recommendations were issued by the independent inquiry board stemming from the July 2019 service incident. They fall under 3 categories: (i) short-term; (ii) mid-term; and (iii) long-term.*

*All short-term recommendations have been implemented.*

*All mid-term recommendations have been implemented.*

*Most of the long-term recommendations have been implemented. Most of the remaining recommendations are planned to be implemented by the end of the year 2021.*

*Some highlights can be found below:*

*With respect to governance related aspects (organisation), the new financial framework partnership agreement has implemented a different and streamlined governance:*

- linear governance with clear sharing of responsibilities and no overlap/duplication*
- enhanced role of the EUSPA as system prime of the systems in operation, being fully in control of all aspects of the operational system and service provision*
- clear chain of command for decision making on all aspect of the programme component management including operational aspects and service provision*

*With respect to the system design and operation robustness, important improvements were implemented in the system in operation and some mid and long term design modifications were implemented in the system under development for the next releases:*

- the system will be able to survive much longer in case of unplanned failures*
- the likelihood of failures will be greatly reduced*
- the operations will be much less prone to contingency situations.*

*With respect to the communication towards users, a number of improvements were implemented in accordance with the inquiry board recommendations:*

- Adaptation of the GNSS Service Centre web page to enable consultation by Users*
- Review of NAGU (Notice Advisory to Galileo Users) publication content and process in particular to enable early first notification*
- Establishment of a communication crisis cells at the Commission*
- Update of relevant operational process in accordance with the inquiry board recommendations*

*An update of the communication crisis plan is ongoing in close cooperation with the Commission and agencies (ESA and EUSPA).”*

196. (GSA, § 15 - 2019/PAR/0537) The European Parliament Is concerned that according to Court’s Special Report the Agency struggles to recruit staff with the necessary technical expertise and in order to compensate for a shortage of posts or national experts, the Agency increasingly outsources core tasks to private contractors, on whom it may then

become dependent; calls on the Commission to examine the situation carefully and to provide the Agency with the necessary means to recruit the necessary staff; calls on the Commission to report back to the discharge authority on that matter.

**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 – will be 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.*

*With the adoption of the Space Programme legislation, the agency transformed into the European Union Agency for the Space Programme, with increased staffing totalling 279 in DB2022 (of which 231 establishment plan posts, 34 contract agents and 14 seconded national experts). The corresponding required EU contribution is foreseen in the DB2022 and accompanying financial programming for future years.*

*The establishment plan provides for position in higher grades, to attract profiles with the necessary technical expertise and experience. However, the agency has to respect the Staff Regulation regarding grades, salaries and promotion speed.*

*In the highly specialised domain of Space, outsourcing specific tasks to an experienced private contractor can be the most efficient solution. The agency's and Commission's assessment on staffing levels can be found in Working Document III accompanying the Draft Budget.*

197. (EIGE § 15 - 2019/PAR/0538) The European Parliament stresses the Institute's central role in collecting, analysing, processing and disseminating data and information as regards gender equality and in developing, analysing, evaluating and disseminating methodological tools in order to support the integration of gender equality in all Union policies and resulting national policies; encourages collaboration between the Institute and other Union agencies such as the European Union Agency for Fundamental Rights, and calls on the Commission to respect the specific mission of the Institute and to refrain from merging the Institute with other Union agencies.

**Commission's response:**

*The Commission recognizes the important role played by the European Institute for Gender Equality. The Commission also supports collaboration between the Institute and other relevant Agencies (no merger is foreseen in this respect).*

198. (EMA, § 9 - 2019/PAR/0539) The European Parliament notes that, according to Special Report No 22/2020 of the Court entitled Future of EU agencies - Potential for more flexibility and cooperation, the Agency needs to improve its cooperation with the Commission; calls on the Agency and the Commission to report back on the developments in this regard to the discharge authority.

**Commission's response:**

*The European Commission has a good and structured cooperation with EMA. An intense partnership exists both on the technical and the strategic level.*

*The experience during COVID-19 has demonstrated the excellent cooperation between EMA and the European Commission which was essential to deliver in terms of public health protection. This was achieved through very frequent and intense interactions that were set up from the start of the pandemic. Some of these interactions have been taken up in the Health Union proposal of November 2020 to strengthen the EMA that is currently under discussion.*

*It is noted that the ECA Special Report only includes in its paragraph 65 an observation which states “One third of the respondents think that significant improvements are needed [..] in the relations of [...] EMA with the Commission”. This observation of the Court is based on an extremely small sample (i.e. one third of a total of 39 survey replies about EMA coming from national public bodies, industry, EU institutions, NGOs, academics etc. are about EMA) and we are not aware of any specific issues that some of the stakeholders may have referred to.*

199. (EMA, § 16 - 2019/PAR/0540) The European Parliament is concerned that, according to Special Report No 22/2020 of the Court, the Agency struggles to recruit staff with the necessary technical expertise, and in order to compensate for a shortage of posts or national experts, the Agency increasingly outsources core tasks to private contractors, on whom it may then become dependent; calls on the Commission to examine the situation carefully and to provide the Agency with the necessary means to recruit the necessary staff; calls on the Commission to report back to the discharge authority on this matter.

**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 – will be 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.*

***Following the move from London to Amsterdam, EMA had to step up recruitment to replace staff members who decided to change job in London. Logically, it took time to attract all necessary profiles, recruit and train these new staff members. The agency's and Commission's assessment on staffing levels can be found in Working Document III accompanying the Draft Budget.***

200. ***(ESMA, § 16 - 2019/PAR/0541)*** The European Parliament welcomes the Authority's Fast Track Peer Review Report of 3 November 2020 on the application of the guidelines on the enforcement of financial information (ESMA/2014/1293) by BaFin and FREP in the context of Wirecard, revealing major weaknesses in market and institutional oversight, especially with respect to investor protection and market integrity; suggests that the Authority reflect the lessons learned from this scandal in its guidelines and in its peer reviews of the implementation of those guidelines; calls on the Commission to propose measures to further harmonise Union rules regarding financial supervision.

***Commission's response:***

***In accordance with the CMU Action Plan, the Commission is focusing on supervisory convergence and the strengthening of the single rulebook. Following the Wirecard case, the Commission is carefully assessing the need to enhance the relevant regulatory and supervisory corporate reporting framework based on the feedback received from stakeholders in the context of past and forthcoming public consultations. It will take into account ESMA's recommendation to strengthen the harmonised supervision of information across the EU.***

201. ***(EUROJUST, § 2 - 2019/PAR/0542)*** The European Parliament notes that in 2019 the Agency's budget was EUR 38 100 000, EUR 3 000 000 less than the Agency's request for 2019; observes that consequently, the Agency submitted an amending budget request to the Commission to meet the shortfall in respect of temporary and contract staff salaries; notes that the Commission approved a transfer of EUR 777 000 to the Agency in October 2019; highlights that pending the outcome of the request, mitigating measures were put in place, delaying a number of activities; calls on the Commission to enhance its discussions with the Agency ahead of future annual budgetary allocations.

***Commission's response:***

***The Commission is fully aware of the budgetary constraints of the Agency to fulfil its tasks and obligations. The Multiannual Financial Framework (MFF) 2021-2027, approved in December 2020 has forecasted a total amount of EUR 348.5 Million to the Agency for the whole period. This amount includes an increase of almost EUR 100 Million from the previous MFF as well as from the first forecast of the MFF***

***2021-2027. This increase should help the agency to fulfil its financial obligations in relation with staff.***

202. (EU-LISA, § 1 - 2019/PAR/0543) The European Parliament calls on the Agency, together with the Commission, to improve the alignment of budgetary planning with the timing of legal acts; calls on the Commission to involve the Agency in the preparation of the respective legislative financial statements at the earliest possible stage.

**Commission's response:**

***The Commission concurs with the call for improved planning to increase the reliability of the estimated timing of the financial resources in the legislative financial statements (LFS) accompanying legal proposals. The Commission discusses budgetary estimates with the Agency concerned when drawing up the LFS. The Commission however highlights that the legislative financial statement is always an estimate; it is the best possible judgement based on known information and expected speed of negotiations on the proposed legal initiative.***

203. (EU-LISA, § 15 - 2019/PAR/0544) The European Parliament notes that the workload of the Agency has increased significantly over the years and that the limited number of staff remains one of the main challenges for the Agency from both a short and a long-term perspective; calls on the Commission to allow for the frontloading of some of the staff foreseen in a proposal for a legal act in order to allow the Agency to efficiently prepare for the implementation of such legal act.

**Commission's response:**

***For each agency, the budgetary impact of a legislative financial statement accompanying a legislative proposal is placed in reserve until the final adoption of the legislation by the co-legislators. Staff can be recruited only after the legal act is adopted. This sequencing ensures that the level of financial and human resources of the agency correspond to the decisions of the co-legislators. A programming of the credits on the operational budget line as opposed to placing the credits in reserve, or the recruitment of contract agents before the actual adoption of the legal base, is only proposed in very exceptional cases. Proposing a systematic frontloading for each legal act entailing additional tasks for 'eu-LISA' would undermine the role of the co-legislators.***

204. (BEREC § 8, EU-OSHA § 17, FRONTEX § 20, ECHA § 17, EEA § 18, EFCA § 13, EFSA § 15, EUROFOUND 18, GSA § 19, EIGE § 20, EIT § 9, EMSA § 15, EMA § 14, EUROPOL § 15, CEPOL § 15, ENISA § 5, ERA § 12, EU-LISA § 12, EASA § 17 (and § 20) - 2019/PAR/0545) The European Parliament:

BEREC, § 8

asks in that regard the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the BEREC Office's management board.

EU-OSHA, § 17

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating members to the Agency's management board.

FRONTEX, § 20

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

ECHA, § 17

asks the Commission and the Member States to take into account the importance of ensuring there is gender balance when appointing their members to the Agency's management board.

EEA, § 18

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

EFCA, § 13

asks the Commission and the Member States to step up their efforts to ensure gender balance when nominating their members to the Agency's administrative board.

EFSA, § 15

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Authority's management board.

EUROFOUND, § 18

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating members to the Foundation's management board.

GSA, § 19

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating members to the Agency's administrative board.

EIGE, § 20

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Institute's management board.

EIT, § 9,

asks the Commission to take into account the importance of ensuring gender balance when nominating the members to the Institute's governing board.

EMSA § 15

calls on the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's administrative board.

EMA § 14

asks the Agency to ensure that there is better gender balance in the future; asks the Commission and the Member States to take into account the importance of ensuring gender balance when appointing members to the Agency's management board.

EUROPOL, § 15

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

CEPOL, § 15



asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

ENISA, § 5

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

ERA, § 12,

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

EU-LISA, § 12

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

EASA § 17 connected with § 20

asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board.

**Commission's response:**

*The Commission fully agrees on the importance of ensuring gender balance in the management boards of all EU Agencies, in line with its own internal policy on the subject. When drafting proposals for new founding acts of agencies or revisions of existing ones, by default the Commission inserts a standard provision encouraging a balanced gender representation within agencies' management boards.*

*While recalling that the Commission is not in a position to impose upon Member States the necessity to respect gender balance in their appointment of representatives to the management boards of EU agencies, and that it has no competence with regard to the actual overall composition of an agency management board, the Commission will continue to strive and use all available tools to lead by example and positively influence the process.*

*Linked to reply 2018/PAR/0719*

205. (FRONTEX, § 24, CEPOL, § 17, EU-LISA, § 16 - 2019/PAR/0546) FRONTEX

The European Parliament underlines that the correction coefficients vary significantly from one Member State to another, having a serious impact on the ability of agencies located in Member States with lower correction coefficients to recruit and retain staff and expertise; stresses that agencies located in countries where a low correction coefficient is applied should receive further support from the Commission in implementing complementary measures in order to make them more attractive to current and prospective staff; calls on the Commission to assess the impact and viability of applying salary correction coefficients based on a regional rather than national assessment; highlights that usually the headquarters of agencies located in Member States with lower correction coefficients are in capital cities where living and subsistence costs are significantly higher than in other parts of the countries.

CEPOL

The European Parliament highlights the difficulties faced by the Agency in the recruitment and retention of qualified staff; underlines that the correction coefficients vary significantly from one Member State to another, having a serious impact on the ability of agencies located in Member States with lower correction coefficients to recruit and retain staff and expertise; calls on the Commission to consider the possibility of setting up different correction coefficients based on a regional rather than national assessment; highlights that usually the headquarters of agencies located in Member States with lower correction coefficients are in capital cities where living and subsistence costs are significantly higher than in other parts of the countries.

EU-LISA

The European Parliament calls on the Commission to consider the possibility of setting up different correction coefficients based on a regional rather than a national assessment; highlights that the headquarters of agencies located in Member States with lower correction coefficients are usually in capital cities where living and subsistence costs are significantly higher than in other parts of those Member States.

**Commission's response:**

***The correction coefficients for active staff in the EU Members States are already calculated by Eurostat with regards only to the cost of living in the capital cities, unless the establishment of a coefficient for an additional place of employment in the same Member State has been requested. The cost of living in the capitals is compared with the cost of living in Brussels to determine the value of correction coefficients applicable in each capital city. Thus, the cost of living in Warsaw, Budapest or***

*Tallinn is already the only cost of living reflected in the correction coefficients applicable to the remuneration of staff members assigned in these capital cities.*

*Furthermore, in line with the conclusions of its 2018 interim report on the implementation of Annex XI, the Commission explores possible ways to further improve the methodology under which the correction coefficients implement the principle of equality of purchasing power among EU staff in different duty stations.*

206. **(EUROPOL, § 4, CEPOL, § 14 - 2019/PAR/0547) EUROPOL**

The European Parliament notes that in 2019 the Agency received a final budget of EUR 138,3 million and an increase of 15 temporary agents; highlights, however, that the draft estimate budget adopted by the Agency's management board called for a total allocation of EUR 143,3 million and a net increase in posts of 43 temporary agents; underlines that due to the budgetary and staffing shortfall, the Agency has had to deprioritise a number of objectives and actions; calls on the Commission and the co-legislators to enhance their dialogue with the Agency with regard to addressing the budgetary and staffing shortfalls.

**CEPOL**

The European Parliament highlights that in 2019, the Agency received a high number of applications to the programmes it offers; underlines that the Agency was only able to accommodate 47% of that demand for the exchange programme and has had to decline 55 % of the applicants for a course on cybercrime activities due to a shortage in human resources; calls on the Commission and co-legislators to further engage with the Agency in the process of allocating budgetary resources in order to address staff shortfalls and allow the Agency to fully implement its mandate.

**Commission's response:**

*For EUROPOL, the budget shortfalls have been addressed through the new legislative proposal which amends the Europol Regulation. This legislative proposal foresees significant reinforcement for the Agency, in both financial and human resources. Moreover, Europol has been granted additional contract agent posts already this year.*

*For CEPOL, the Commission is currently in the process of evaluating CEPOL's Regulation, also with regard to the efficiency and effectiveness of its operations. This evaluation might identify possible further steps to enhance the Agency's capacity to carry out its activities within the current budgetary context, while maximizing synergies.*