



Brussels, 27 October 2022

**Detailed replies to the specific requests made by the Council complementing the report
from the Commission on the follow-up to the discharge for the 2020 financial year,
COM(2022) 331 final.**

Table of Contents

INTRODUCTION	4
INTRODUCTION	5
BUDGETARY AND FINANCIAL MANAGEMENT	7
COMPETITIVENESS FOR GROWTH AND JOBS	8
ECONOMIC, SOCIAL AND TERRITORIAL COHESION	10
NATURAL RESOURCES	11
SECURITY AND CITIZENSHIP	12
ADMINISTRATION	13
REPORT OF THE EUROPEAN COURT OF AUDITORS ON THE PERFORMANCE OF THE EU BUDGET – STATUS AT THE END OF 2020 - ECONOMIC, SOCIAL AND TERRITORIAL COHESION	14
REPORT OF THE EUROPEAN COURT OF AUDITORS ON THE PERFORMANCE OF THE EU BUDGET – GLOBAL EUROPE.....	15
EDF	16
Bodies set up under the TFEU and the Euratom Treaty in respect of the implementation of the budget for the financial year 2020	18
SR No 23/2020 "The European Personnel Selection Office: Time to adapt the selection process to changing recruitment needs"	19
SR No 25/2020 "Capital Markets Union – Slow start towards an ambitious goal"	20
SR No 2/2021: "EU humanitarian aid for education: helps children in need, but should be longer term and reach more girls"	22
SR No 4/2021 "Customs controls: insufficient harmonisation hampers EU financial interests"	26
SR No 05/2021 "Infrastructure for charging electric vehicles: more charging stations but uneven deployment makes travel across the EU complicated"	28
SR No 07/2021 "EU space programmes Galileo and Copernicus: services launched, but the uptake needs a further boost"	30
SR No 09/2021 "Disinformation affecting the EU: tackled but not tamed"	31
SR No 10/2021 "Gender Mainstreaming in the EU Budget"	34
SR No 11/2021 "Exceptional support for EU milk producers in 2014–2016: Potential to improve future efficiency"	43
SR No 12/2021 "The Polluter Pays Principle: Inconsistent application across EU environmental policies and actions"	44

SR No 13/2021 "EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient"	50
SR No 14/2021 "Interreg cooperation: The potential of the European Union's cross-border regions has not yet been fully unlocked"	51
SR No 15/2021 "Air passengers rights during COVID-19 pandemic: key rights not protected despite Commission efforts"	52
SR No 16/2021 "Common Agricultural Policy and climate - Half of EU climate spending but farm emissions are not decreasing"	55
SR No 19/2021 "Europol support to fight migrant smuggling: a valued partner, but insufficient use of data sources and result measurement"	56
SR No 22/2021 "Sustainable finance: More consistent EU action needed to redirect finance towards sustainable investment"	57
SR No 24/2021 "Performance-based financing in Cohesion policy: worthy ambitions, but obstacles remained in the 2014-2020 period"	62

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 2020¹, which formed part of the Integrated Financial and Accountability Reporting 2021. It presents in detail the answers to 109 specific requests made by the Council in the comments accompanying its recommendation on the discharge for the financial year 2020.

¹ COM(2022)331 final

INTRODUCTION

1. (Nr 2 - 2020/COU/0214) The Council takes note that for the financial year 2020, just as for the previous year, the Court has divided its annual report into two separate parts. The second part of the annual report covers the performance of spending programmes under the EU budget. In this second part, the Court covered the Annual Management and Performance Report (AMPR) from the Commission, which is the Commission's main high level performance report on the EU budget. The Council notes that this is the last phase of a pilot exercise designed by the Court and calls on both the Court and the Commission to further continue the assessment of the performance of the whole EU budget, which is a measure of the true value delivered to EU citizens.

Commission's response:

The Commission attaches the highest priority to enhancing the performance focus of the EU budget and maximizing the value added it produces for EU citizens. The 2021-2027 multiannual budget has an enhanced performance framework, with streamlined key performance indicators (included in the legal bases of the various EU spending programmes), linked to the programmes' objectives, with transparently established baselines, milestones and targets.

These recent achievements and the plans for further improvements were described in the dedicated June 2021 Communication on the EU budget performance framework 2021-2027. The Commission continues to monitor the performance of the EU budget on a yearly basis in the main performance reports: Annual Management and Performance Report, and the Programme Statements backing the Commission's proposal for the budget of the following year. Furthermore, the Commission has worked on strengthening its reporting on the mainstreaming of horizontal priorities.

2. (Nr 2 - 2020/COU/0215) The Council invites the Commission to increase focus on result-based performance indicators that can be directly linked to EU actions.

Commission's response:

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.

Without prejudice to the previous point, and the fact that the appropriate balance between the various types of indicators is programme-specific, the distribution of core performance indicators () across all EU spending programmes for the 2021-2027 MFF is approximately as follows:*

- Output and input indicators: 41%;
- Result indicators: 45%;

- Impact indicators: 14%.

These figures show there is clear focus on result indicators, which are the indicators providing more relevant information on the achievements of EU spending programmes.

In addition to this, the Commission has laid out in the dedicated June 2021 Communication on the EU budget performance framework 2021-2027 its plans to establish methodologies, on a pilot basis, to aggregate the results of the EU-funded interventions across all EU spending programmes, initially with respect to reducing greenhouse gas emissions and advancing on the digital transition, based on available information. This work is ongoing.

(*) The core performance indicators are those included in the legal basis of the programmes, and reported on in the programme statements attached to the 2023 draft budget.

BUDGETARY AND FINANCIAL MANAGEMENT

3. (Nr 4 - 2020/COU/0216) The Council supports the Court's recommendation to the Commission to standardise the recording of EU budgetary expenditure for COVID-19-related purposes and report on it to the budgetary authority at least annually, and calls on the Commission to do so as soon as possible and for as long as deemed necessary by the budgetary authority.

Commission's response:

Since 2021, the Commission has put focus on the recovery from the COVID-19 pandemic and fulfilled its reporting obligations, in particular, for the Next Generation EU (NGEU). The Commission does not intend to prepare further reporting on the immediate response beyond the already existing reports of the various instruments.

COMPETITIVENESS FOR GROWTH AND JOBS

4. (Nr 3 - 2020/COU/0217) The Council regrets that despite previously reported improvements in the programme design, the Commission's control strategy and administrative simplification of H2020, research spending is still affected by material error. The Council consequently urges the Commission to continue its efforts to reach an error rate below the materiality threshold.

Commission's response:

The Commission has intensified the frequency of its trainings and outreach activities.

In 2021, the Commission organised 7 webinars on how to 'avoid errors in declaring personnel costs in Horizon 2020 grants'. SMEs and newcomers in grants (error prone beneficiaries) approaching their respective reporting periods were specifically invited. During these events (which continue to take place on a bi-monthly basis in 2022), the Commission is encouraging the use of the personnel cost wizard to calculate their personnel costs.

5. (Nr 4 - 2020/COU/0218) The Council is concerned about the fact that, according to the Court's findings, the estimated level of error would have been 1.6 percentage points lower if the Commission or the auditors contracted by beneficiaries had made proper use of all available information to prevent, detect and correct errors before accepting the expenditure. The Council reiterates its appeal to the Commission to continue its efforts to address the causes of error, with a particular focus on the programmes subject to persistently high error levels, and to strengthen its efforts to fully implement the measures already taken in this respect.

Commission's response:

The Commission considers that the vast majority of the errors that could have been avoided with a proper use of the information made available concern the auditors contracted by the beneficiaries. Acknowledging the shortcomings and to further improve the quality and reliability of the Certificate on Financial Statements (CFS) produced by the auditors contracted by the beneficiaries, the Commission continuously organises targeted sessions addressed to the CFS auditors, to raise awareness on the most common errors during audits (e.g., personnel costs, subcontracting and other direct costs, etc.)

In addition to the self-explanatory template for Horizon 2020 audit certificates, the Commission provides feedback to the CFS auditors when errors in the CFS are identified via ex-post financial audits.

6. (Nr 5 - 2020/COU/0219) The Council supports the Court's recommendation on H2020 and renews its invitation to the Commission to implement actions providing

beneficiaries with proper guidance on complex issues, such as subcontracting rules, to enhance its information campaign and communication efforts and to further simplify the rules for calculating direct personnel costs.

Commission's response:

Besides the different targeted information campaign mentioned above, the Commission held regular Coordinator's days and National Contact Points events dedicated to the explanation of the rules and tools to be used in the implementation of the Programmes. The Commission has continuously produced and continue to produce guidances to help beneficiary understand complex rules (e.g. the H2020 Annotated Model Grant Agreement). Acknowledging the fact that personnel costs have remained the main source of errors; for the current MFF (2021-2027), which includes the Horizon Europe programme, the Commission has established a corporate Model Grant Agreement that foresees a very simple method for charging personnel costs, based on a daily rate calculation, replacing the error-prone method used in Horizon 2020.

ECONOMIC, SOCIAL AND TERRITORIAL COHESION

7. (Nr 3 - 2020/COU/0220) The Council welcomes the simplification in cohesion programmes, particularly for the 2021-2027 programming period, and the increased use of simplified cost options in view of a reduced error rate. However, the Council recognises that the main sources of error are still ineligible expenditures and ineligible projects, and urges the Commission and the Member States to continue their efforts to simplify the legislation governing EU funds, including at national level.

Commission's response:

Significant simplification measures were proposed by the Commission for the 2021-2027 cohesion policy and the regulations as adopted by the co-legislator confirmed a significant number of them (71 out of 80 proposed by the Commission in its handbook of key administrative simplifications).

The next step is now at the level of the programme authorities. To make the regulatory simplification a success on the ground, especially for beneficiaries, all authorities involved in the management of the funds need to integrate and implement these simplification opportunities in their own procedures and practices, including the issue of 'gold-plating'.

The increased use of simplified cost options (SCOs) is of particular importance for the simplification of rules and the Commission continues their active promotion among other things through the Transnational Network (TN) with Member States experts on SCOs and Financing not Linked to costs. In 2021, the focus of the TN work was to support Member States in their preparations for the 2021-2027 period. As a result, Member States submitted more than 20 SCOs methodologies to which the Commission has provided comments.

This network was extended to cover also other simplifications. To enhance simplification in the implementation of programmes, the Commission worked closely with Member States to identify best practices regarding two of the most burdensome activities for programme authorities: selection of operations and management verifications. TN members identified 16 case reports on better administrative practices with regard to selection of operations and gave substantial feedback on the Commission's draft reflection paper on the use of risk-based management verifications in 2021-2027 programmes.

All these actions should bear fruit in clearer and simpler rules for cohesion policy beneficiaries. Meanwhile, the programming for the 2021-2027 period will be the opportunity to further push Member States and regions towards e-cohesion.

The simplification agenda is also very much linked to the one related to administrative capacity building: deploying e-cohesion or simplified costs or any new procedure requires the relevant expertise and capacities in managing authorities. The initiatives and support of the Commission to the Member States in this area also contribute to boost simplification.

NATURAL RESOURCES

8. (Nr 4 - 2020/COU/0221) The Council takes note that the risk of error in this chapter is concentrated in the areas subject to the more complex eligibility rules for rural development, market measures, fisheries, and environment and climate action, and that the main sources of error were ineligible beneficiaries, activities, projects or costs and inaccurate information on areas or animals. Therefore, the Council calls on the Commission to continue to work on simplification.

Commission's response:

The Commission considers that this recommendation has been implemented.

In the last six years several legal simplification initiatives have been proposed by the Commission, affecting a number of implementing and delegated acts. Thanks to these amendments, the management and control system was simplified and new possibilities were introduced, such as the "yellow card" system for penalties and the simplification of controls for financial instruments.

By promoting administrative simplifications such as the use of Simplified Cost Options (SCOs) and IT-based checks, the Commission has seen the error rate decrease at a steady pace in the last years, a trend which is expected to continue going forward for the expenditure under the current legislative framework.

For the 2023-2027 CAP, the basic acts (Regulation (EU) 2021/2115, Regulation (EU) 2021/2116 and Regulation (EU) 2021/2117) were adopted on 7 December 2021 and will enter into force on the 1st of January 2023.

It is foreseen that 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. Under their CAP strategic plans Member States can finance training and advice to support applicants and beneficiaries.

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. The Commission prepares secondary legislation in line with the principles of subsidiarity and simplification and the results-oriented system. In combination with more limited delegated and implementing powers granted by the co-legislators, this results in a considerable reduction of provisions.

SECURITY AND CITIZENSHIP

9. (Nr 4 - 2020/COU/0222) The Council notes that the most significant area of expenditure in 2020 concerns the Emergency Support Instrument (ESI), set up in April 2020 as a last resort instrument, to help Member States address the COVID-19 pandemic. In line with the Court's recommendations, the Council calls on the Commission to check carefully the eligibility of costs submitted by the beneficiaries of this programme, in particular the regularity of procurement procedures.

Commission's response:

The Commission is committed to thoroughly and fully check the eligibility of the costs submitted by the beneficiaries of the Emergency Support Instrument within the Union (ESI) actions. In depth checks are part of the ex-ante controls and the internal control system and detected errors are corrected before the final payments.

In addition to ex-ante controls, the grant agreements financed through the ESI required the beneficiaries to submit, together with the cost claim, an audit certificate by an independent certified auditor on the eligibility of the financial statements for all grants over EUR 750.000. The certificate includes the compliance with the public procurement procedure.

Procurement procedures and the corresponding documentation are checked on a sample basis during ex-post audits. Verifying the compliance with the procurement procedures is included in the audit methodology of these financial audits.

ADMINISTRATION

10. (Nr 4 - 2020/COU/0223) The Council notes the observations and recommendations made by the Court in its report on the annual accounts of the European Schools for the financial year 2020. While welcoming the gradual improvement of the accounting system, the Council is concerned about the persistent weaknesses found in recruitment and procurement and encourages the Office of the General Secretary of the European Schools to implement the Court's recommendations in a thorough and timely manner. To this end, the Council invites the Commission, when exercising its role in the implementation of the EU budget, to closely monitor and to engage in suitable action with the Schools through the relevant bodies.

Commission's response:

The European Schools, operating in an intergovernmental framework, with the Secretary-General representing the Board of Governors of the European Schools, are responsible for implementing the audit recommendations in due time. The Commission does all that lies within the limits of its possibilities to get the European Schools to apply sound financial management. The Commission ensures that its voice is heard in the Board of Governors of the European Schools (the decision-making body for strategic issues and general policy). However, like any Member State, the Commission only has one vote in this Board.

The Commission will continue to follow the closure of the open recommendations issued to the European Schools, through the reporting on their implementation given by the Central Office of the European Schools in the Board of Governors' meetings and quarterly meetings with the European Schools' Central Office organised by the Commission in order to go deeper into details.

REPORT OF THE EUROPEAN COURT OF AUDITORS ON THE PERFORMANCE OF THE EU BUDGET – STATUS AT THE END OF 2020 - ECONOMIC, SOCIAL AND TERRITORIAL COHESION

11. (Nr 2 - 2020/COU/0224) The Council notes that the Court finds that the ESF contributed to increasing the employment rate, and to decreasing the number of people at risk of poverty or social exclusion and the share of those not completing education or training. However, these overall results cover significant differences between Member States and between social categories, and do not indicate the degree to which the programme contributes to these targets. The Council invites both the Commission and the Member States to improve the quality of indicators so that the added value of the EU programmes can be clearly discerned.

Commission's response:

The European Social Fund's indicator system included a list of common indicators in the ESF Regulation aiming at striking a balance between main information needs at EU level for data with the cost and administrative burden that exercise implies. The ESF monitoring system is not designed to capture macro-economic impacts since the ESF represents a fraction within the overall level of public spending in employment, education and social policies in the EU. For instance, monitoring results in terms of employment rate would neither be robust nor proportionate. Nevertheless, it is important to evaluate macro-economic impacts at distinct points in time. The ESF's on-going 2014-2020 ex post evaluation will carefully assess the fund's impact in terms of the main social outcomes. In particular, it will use the Rhomolo econometric model specifically developed by the Joint Research Center of the European Commission to estimate the impact to the employment level. In addition to macro-economic impacts, net effects at micro-economic level, in particular at participants' level, are analysed in counterfactual impact evaluations whenever feasible. A meta-analysis on ESF counterfactual impact evaluations has been carried out and will be published in Q4 2022. It will provide evidence on effectiveness to feed the ESF 2014-2020 ex-post evaluation.

REPORT OF THE EUROPEAN COURT OF AUDITORS ON THE PERFORMANCE OF THE EU BUDGET – GLOBAL EUROPE

12. (Nr 3 - 2020/COU/0225) With regard to the specific objectives of the IPA II instrument, the Council also notes with concern that the majority of the indicators are either not on track to meet their targets or that it is unclear whether they will meet them. Consequently, the Council invites the Commission to present indicators clearly illustrating the extent to which the programmes were delivering the expected outputs and results.

Commission's response:

The Commission provides its assessment of the “progress to target” of indicators in the publicly available programme statements. This assessment may differ from the assessment reported by the ECA in its report, due to the use of different methodologies. However, in most of the cases progress has been made and (external) factors influencing this progress have been explained.

Performance indicators are a useful tool to monitor the programme performance. For instance, they can provide early indications of performance/implementation issues that might require attention/action. However, no set of performance indicators can on its own reflect all the relevant aspects of programme performance. Thus, the fact that a performance indicator is (or is not) “on track” to meet its target does not necessarily mean that the programme itself is (or is not) ‘on track’ to meet its objectives. Assessing programme performance often requires going beyond the analysis of performance indicators, to encompass other relevant quantitative and qualitative information. The final evaluation of IPA II will provide this assessment, including IPA II’s relevance, coherence, efficiency, effectiveness and EU added value. It will be carried out jointly with the mid-term evaluation of IPA III, and the results are expected to be presented to the European Parliament and the Council by the end of 2024.

IPA II is still ongoing and many targets are likely to be met as implementation advances. As long as a significant portion of the funds is under implementation, the Commission will continue reporting on a selection of indicators relating to the IPA II programme regularly. On 7 June 2022, these indicators have been published as part of the programme statement for IPA II.

We expect that this recommendation will be fully implemented by the end of the implementation of the IPA II programme.

13. (Nr 6 - 2020/COU/0226) The Council remains concerned by the ECA's findings that in a number of cases the Commission had sufficient information to prevent, or detect and correct, the error before accepting the expenditure, and that should the Commission have used all the information at its disposal it could have lowered the estimated level of error by 1.19 percentage points. The Council is also concerned that, as in previous years, the frequency of errors points to weaknesses in the ex-ante checks and expenditure verification reports. The Council calls on the Commission to step up its efforts to prevent, detect and correct errors, pay more attention to ex-ante checks, and take measures to address existing weaknesses.

Commission's response:

The Commission underlines that many of the transactions in the ECA's sample relate to ongoing contracts. It is still possible to make corrections to these transactions, as the Commission also conducts checks even after the final payment, at contract closure. Therefore, the Commission is able to collect and analyse the information related to these transactions, including the ECA's findings, and make corrections even after the final payment.

The action plan that is adopted every year by DG INTPA includes, among others, actions that target the reduction of errors such as simplification of procedures, guidance, trainings and awareness raising on recurrent errors. The Commission will continue monitoring and taking preventing measures in order to reduce the errors in the future.

The Commission completed the evaluation of the 2018 terms of reference for expenditure verifications. The conclusion was that they are effective in terms of follow up of ineligible expenditure (the expenditure verification report template includes an annex with the list of transactions and errors). In September 2021 and May 2022, the Commission revised the terms of reference to require verifiers to report on systemic findings. The Commission foresees to further deepen the analyses of the terms of references to address other aspects such as sampling and to integrate the lessons learnt and the responses of a survey conducted in February 2022 on the Audit Framework Contract.

14. (Nr 8 - 2020/COU/0227) The Council highlights the importance of ensuring that the ECA has access to all documents needed for its work and agrees with the ECA's recommendation in this respect. The Council calls on the Commission to make sure that the related provisions of the contribution and delegation agreements with international organisations are duly implemented.

Commission's response:

The Commission is committed to fully supporting the European Court of Auditors in undertaking its audits. The Commission is aware of the cases of access to

documents in read-only format identified by the ECA and continues to draw the attention of the concerned international organisations the need to provide the auditors with the necessary information. When such cases concerning are brought to the Commission's attention, the Commission reacts quickly and enhances the dialogue with the agencies concerned to facilitate the ECA's work.

The Commission is working closely with the international organisations concerned and the European Court of Auditors to find acceptable solutions to the issue of access to documents. It must be also highlighted, that when working with International Organisations, there are several layers of sub-delegation and this increases the difficulty of accessing the documents within the required deadlines.

15. (Nr 16 - 2020/COU/0228) The Council notes with satisfaction the ECA's follow-up review finding that the Commission implemented five of the six recommendations from 2017 in full and one in most respects. The Council takes note of the finding that two recommendations from 2018 were implemented in some respects and that the Commission continues to take action to address the issues identified by the ECA. Regarding Recommendation 2 from 2019, which was not accepted by the Commission and is repeated in the 2020 report, the Council calls on the Commission and the ECA to reach a common understanding on the application of the de minimis rule.

Commission's response:

The Commission continues to take action to address the ECA's recommendations. In the light of the ECA's observations, the Commission updated the manual and methodology of the DG INTPA RER study in January 2022. The Commission is working closely with implementing partners and the Court of Auditors to find acceptable solutions to ensure that the ECA receives timely and complete access to all documents needed for its audit work.

Concerning the 'de minimis' rule, since the 2019 financial year, the Commission introduced a de minimis rule for issuing reservations in the AARs has been introduced. Its purpose is to focus the number of reservations on the significant ones only, which does not jeopardize the overall assessment of the financial management and cannot affect negatively the overall declaration of assurance. Full transparency of the management reporting remains ensured, as all cases for which the rule is applied are duly mentioned in the AARs and they are being closely followed-up. Their financial impact is included in the calculation of the overall amounts at risk.

This is why the Commission could not accept the ECA recommendation.

Bodies set up under the TFEU and the Euratom Treaty in respect of the implementation of the budget for the financial year 2020

16. *(European Border and Coast Guard Agency, Annex 18, fifth paragraph - 2020/COU/0229)* The Council calls on the Agency to take all appropriate measures to improve its budgetary management, including budget implementation and the presentation and transparency of accounts. In this regard, the Council calls on the Commission to provide horizontal guidance to EU bodies on how to calculate contributions from non-EU countries consistently.

Commission's response:

The calculation of the Schengen associated countries contribution to European Border and Coast Guard Agency is determined in separate bilateral agreements between the agency and the respective states (or other third countries if applicable). This is a different approach compared to most other decentralised agencies where the EFTA contributions are managed centrally by the Commission. In those cases, the Commission calculates the contribution following a standardised method, consistently based on a GDP key and in line with Protocol 31 (implementing protocol of Art.82 of the EEA agreement).

The European Border and Coast Guard Agency's bilateral agreements sometimes include different calculation bases as compared to the one included in Protocol 31. The Commission supports a standardisation at the time of the review of such bilateral agreements. The Commission can communicate the respective terms and conditions of Protocol 31 to the Agency on request, so they can align the renewed/new bilateral agreements with the Protocol.

17. *(European Securities and Markets Authority, Annex 28, third paragraph - 2020/COU/0230)* The Council supports the Authority's efforts already made in the past to provide the maximum assurance possible within the current regulatory framework on fees to trade repositories. The Council welcomes the submission by the Authority to the Commission of its technical advice on the amendment of Trade Repositories' fee management legislation in the second half of 2021 and it invites the Commission to work on the revision of the legislative framework.

Commission's response:

The Commission is reviewing ESMA's technical advice and assessing the recommendations.

SR No 23/2020 "The European Personnel Selection Office: Time to adapt the selection process to changing recruitment needs"

18. (Nr 10 - 2020/COU/0231) The Council asks the EU institutions to encourage their staff to serve as member of a selection board, and to acknowledge this as an integral part of their career, and Asks EPSO to vouch for the necessary training.

Commission's response:

As soon as the EU institutions have informed EPSO of the envisaged measures, EPSO will vouch for the necessary training.

19. (Nr 11 - 2020/COU/0232) The Council invited the Commission to act upon previous recommendations made by ECA on drawing up an action plan to attract, develop and retain people from a broad range of professional experience and nationalities.

Commission's response:

The new HR strategy includes a broad range of actions that will address the weakness identified by the ECA and implement the recommendation to attract, develop and retain people from a broad range of professional experience and nationalities. The actions include: revisiting internal and external talent pipelines, a more flexible response to recruitment of temporary staff, promoting diverse recruitment of staff, strengthening geographical balance, promoting internal and external mobility, ensuring career prospects for all categories of staff, focus on performance management, e.g. by identifying talent early on, enhance the training on offer.

By definition, a strategy is not a short term tactical document, but runs its course over a number of years. The entire organisation of DG HR has been overhauled to be aligned with these priorities and to facilitate the implementation of the HR Strategy. In this context, a new unit "Workforce foresight" was created with a view to analyse strategic trends and better anticipate future needs.

Given the very comprehensive actions taken to achieve the new objectives, the request is considered implemented through the implementation of the related ECA audit recommendation.

SR No 25/2020 "Capital Markets Union – Slow start towards an ambitious goal"

20. (*Nr 8, second indent - 2020/COU/0233*) The Council consider that further development of deeper, more liquid and better interconnected local and regional capital markets will require resorting to both top-down and bottom-up approaches, as follows:

- The Commission should enhance the information provided to Member States in respect of the above, and thus further support their identification of practical needs, informing their possible national prioritisation and strategies by further enhancing monitoring, including via developing targeted indicators on the state of development of national capital markets in the context of its forthcoming CMU dashboard; this should encourage Member States that have not yet identified capital market development as a key priority to do so with a view to strengthening their potential uptake of possible CSRs, based on better and updated assessment of their own needs.

Commission's response:

In 2021 the Commission published a set of CMU specific indicators that inform about the development of capital markets at EU and Member State level (SWD(2021) 544 final/2). The indicators are used to diagnose weaknesses in Member States' capital markets in the context of deriving Country Specific Recommendations. Future iterations of the CMU indicators toolkit, which is planned to be updated annually, may thus include new or adapted indicators. This information should help MS identify practical needs, set national priorities and strategies. Therefore, the Commission considers the recommendation implemented.

21. (*Nr 11 in relation with Nr 10 - 2020/COU/0234*) The Council invites the Commission, in cooperation with the Member States, to take forward the further examination and possible implementation of the above recommendations, and to report regularly on progress thereon, within the broader framework of its CMU progress reports.

Commission's response:

The Commission has been implementing ECA recommendations stemming from SR No 25/2020 "Capital Markets Union – Slow start towards an ambitious goal". In particular, the Commission has already published a set of CMU indicators in 2021 (SWD(2021) 544 final/2) which will be updated annually. In addition, the Commission reported on CMU actions' progress in a communication that accompanied the legislative package proposed in November 2021 (COM(2021) 720 final). Moreover, progress with the CMU legislative measures is being regularly reported to the Council Financial Services Committee. The foreseen completion date for the recommendations included in SR No 25/2020 yet to be implemented is end-2022.

--

SR No 2/2021: "EU humanitarian aid for education: helps children in need, but should be longer term and reach more girls"

22. (Nr 8 - 2020/COU/0235) The Council notes the Court of Auditors' finding that the Commission made limited use of the results of Enhanced Response Capacity (ERC) projects on education in emergencies, including guidance on the measurement of quality of education in emergencies, a key criterion for effectiveness. It encourages the Commission to more systematically integrate relevant tools developed with the support of the ERC in its education in emergencies activities in order to maximise the response capacity of implementing partners.

Commission's response:

The Enhanced Response Capacity (ERC) projects support global, strategic, and inclusive initiatives that aim to increase the capacity of the humanitarian community to respond to crises in the most effective and efficient manner. The guidelines and tools developed thanks to ERC funding are part of both external and internal dissemination.

As an example, the Improving Learning Environments in Emergencies (ILET) package is promoted as an open source public good by Save the Children: <https://resourcecentre.savethechildren.net/library/improving-learning-environments-together-emergencies-ilet-package>.

It is also part of the UNHCR Global Compact for Refugees platform: <https://globalcompactrefugees.org/article/improving-learning-environments-together-ilet-emergencies> and the Inter-Agency Network for Education in Emergencies (INEE):

<https://inee.org/resources/improving-learning-environments-together-emergencies-ilet>

The tools developed so far by the ERC EiE projects have been referenced in policy documents and are part of the global repository of good practice on EiE held by INEE.

23. (Nr 11 - 2020/COU/0236) The Council calls on the Commission to continue increasing the consideration given to gender equality in education programmes and to girls' and female adolescents' education, supporting community awareness campaigns, combating gender-based violence, strengthening teacher training on gender equality issues and gender-based violence, supporting and increasing the number of female teachers, and tackling the gender digital divide that particularly affects girls in the context of COVID-19.

Commission's response:

The Commission is committed to minimise the impact of crises and humanitarian emergencies on learning and the well-being of girls and boys, and to facilitate

their safe return to school. All EU-funded humanitarian aid is gender- and age sensitive and systematically integrates a gender perspective into the needs assessment, appraisal, design, implementation, monitoring and evaluation of interventions.

The Commission acknowledges that the COVID-19 pandemic has exacerbated an acute crisis for girls with dramatic increases in child marriage, early and unwanted pregnancies, increased risks of gender-based violence and risk of marginalised girls never returning to school.

Since 2021, the Commission has taken a proactive approach in addressing girls' participation in the education in emergencies actions by negotiating with partners measures towards greater equity and inclusion in education and by establishing a target of at least 50% girls' participation in the EiE interventions (unless there is a context-based justification for different targeting).

The majority of EiE projects include specific gender-related activities (such as back-to-school initiatives with specific measures addressing married girls and young mothers, awareness-raising campaigns on the importance of education, working with male heads of households/husbands to change mind-sets and identify positive role models, development of gender sensitive and inclusive curricula and textbooks, adequate sanitation facilities, combating sexual and gender-based violence), thus contributing to positive change for girls' education. To enable strategic shift in education support towards greater quality and inclusiveness, the Commission focuses increasingly on motivation and professional development of teachers. Over 70% of EU-funded EiE projects address skills and competences of teachers.

Efforts continue towards greater equity and reduction of persistent disparities in education, notably by an adequate follow-up on the gender dimension in the EiE projects, in line with the relevant international standards, policy frameworks and tools.

The Commission promotes gender-transformative agenda of the education support to adopt strategies that reformulate negative gender and social norms and ensure the availability of good quality education for all.

24. (Nr 15 - 2020/COU/0237) The Council notes the Report's finding that most assessed projects were not long enough to address children's educational needs in a protracted crisis. It endorses the Report's recommendation that the Commission provide longer-term funding for education in protracted crises. The Council welcomes ECHO's recent progress toward the provision of greater levels of multiannual funding, and urges the Commission to accelerate this process. The Council also emphasises the Commission to redouble its efforts to provide more flexible funding.

Commission's response:

As an initial step in 2021, the Commission recommended that the duration for newly selected actions on Education in Emergencies was at least 24 months and covered the full academic year(s) unless in duly justified cases.

As from the 2022 project selection, the revised Humanitarian Implementation Plan Technical Annexes (HIPTA) included the indication that EiE projects implemented in protracted crises should have an initial duration of at least 24 months, unless there is a needs- or context-based justification for a shorter duration. The requirement has been implemented in the selection of projects. Shorter lengths remain the exception and have been properly justified.

25. (Nr 18 - 2020/COU/0238) The Council calls on the Commission to using the full potential of cash and voucher assistance (CVA) as, overall, an efficient and cost-effective means of humanitarian assistance. In order to increase cost efficiency and to reduce administrative efforts, humanitarian partners are encouraged to join harmonised systems for delivering cash assistance, where possible and appropriate.

Commission's response:

The EU has a long-standing commitment to using cash transfers in humanitarian settings over other modalities, including vouchers and in-kind whenever the context allows. Our commitment is grounded in the policy and operational work of EU humanitarian work. It is enshrined in the political endorsement of Council Conclusions on Common Principles for Multi-Purpose Cash assistance, adopted in June 2015. Between 2021 and mid-2022 the European Commission took a co-lead role of the Donor Cash Forum to advance harmonization and key priorities on humanitarian cash transfers following a Joint Donor Statement. The objective is to provide more coherent, efficient and effective assistance to people affected by crises. The Commission communication on “the EU’s humanitarian action: new challenges, same principles” (2021) reinforces these long-standing commitments on cash and emphasises the links between cash and social protection as well as with digitalisation.

In March 2022 the European Commission published its new thematic policy document on cash transfers to provide guidance to EU humanitarian partners and the European Commission staff on using cash transfers as the most efficient and effective modality as far as the context allows. The policy is complemented by the large-scale cash guidance note (annex 1), with specific considerations for larger-scale cash programmes above €10 million, which seeks to strengthen cost-efficiency.

Humanitarian cash transfers have played a critical role in responding to the secondary impacts of COVID-19 by continuing to deliver aid safely.

26. (Nr 20 - 2020/COU/0239) The Council calls on the Commission to establish options for long-term and resilience-building solutions, such as the development of alternative programmes and exit strategies for cash-for-education projects, to avoid creating an aid gap. The Council sees opportunities to strengthen the strategic and operational links with long-term programmes, including with social protection or long-term strategies of achieving sustainable livelihoods to children and their

caregivers based on the humanitarian-development-peace nexus, whenever appropriate and possible.

Commission's response:

As an initial step in 2021, the Commission recommended that the newly selected cash for education projects should be accompanied by a strategy for the sustainability of the support, when necessary and to the extent possible within the local/national context, or that the projects included an exit strategy.

As from the 2022 project selection, the revised Humanitarian Implementation Plan Technical Annexes (HIPTA) provide the clear recommendation that all cash for education assistance should consider the sustainability of the intervention and, when possible, seek linkages to longer-term livelihood solutions.

In order to stress the importance of nexus implementation in the programming, joint letters by HR/VP Borrell and Commissioners Lenarčič and Urpilainen were sent to the EU Delegations and ECHO Field Offices in January and December 2021, promoting systematic development of EU joint analyses of the risks, needs, vulnerabilities, leading to joined-up planning and programming and using the nexus approach to strengthen national and local capacities to provide basic services and support resilience building.

The nexus in education was discussed at a dedicated high-level panel of the first European Humanitarian Forum in March 2022.

There are continuous efforts to strengthen the dimension of cooperation, coordination and programming in headquarters and in the field, also in relation to wider stakeholders, notably Education Cannot Wait, Global Partnership for Education, UNICEF or World Bank.

SR No 4/2021 "Customs controls: insufficient harmonisation hampers EU financial interests"

27. (Nr 12 - 2020/COU/0240) The Council invites the Commission to take into account the expertise and tools developed by Member States, including, as appropriate, within joint projects, such as CELBET, in respect of both the joint analytical capacities and the new risk management strategy.

Commission's response:

The Commission is preparing an impact assessment that will accompany a Commission proposal for an ambitious reform of the Customs Union by the end of 2022. The future approach to EU risk management and data analytics capabilities is an essential element under consideration. The Member States were associated to the reflection on the Customs reform in different fora. The Council should receive the Commission proposal for the Customs reform before the end of 2022.

28. (Nr 14 - 2020/COU/0241) The Council recognises the fact that the Commission has accepted and is committed to implementing both recommendations ('enhance the uniform application of customs controls and Develop' and 'implement a fully-fledged analysis and coordination capacity at EU level') by the Court and urges the Commission to closely cooperate with the Member States in this respect.

Commission's response:

The Commission is preparing an impact assessment that will accompany a Commission proposal for an ambitious reform of the Customs Union by the end of 2022. The future approach to EU risk management and data analytics capabilities is an essential element under consideration. The Member States were associated to the reflection on the Customs reform in different fora. The Council should receive the Commission proposal for the Customs reform before the end of 2022.

29. (Nr 15 - 2020/COU/0242) The Council invites the Commission and the Member States to continue to address the challenges for the effective protection of the EU financial interests, as well as non-fiscal risks, while maintaining a proper balance between efficient and effective controls and trade facilitation.

Commission's response:

In the EU debate on the future of the Customs Union, the Commission has called on external expertise and established a "Wise Persons Group on Challenges Facing the Customs Union". The primary role of the Group has been to reflect on the development of innovative ideas and concepts and deliver a report that contributes to a general inter-institutional debate on the future of the Customs Union. The report has identified ideas for customs reforms that would benefit the

EU Member States, the EU as whole and society at large. The Wise Persons Group has in particular addressed the challenges of e-commerce, risk management, the effective management of Customs' increasing range of non-financial tasks and the future governance.

Following up, the Commission is preparing an impact assessment that will accompany a Commission proposal for an ambitious reform of the Customs Union by the end of 2022. This reform will seek to address current challenges to effectually protect the EU financial interests, as well as citizens and businesses against non-fiscal risks. The reform will seek a balance between effective and efficient controls and the facilitation of legitimate trade.

The Commission hopes that Member States will swiftly follow-up on the proposal to bring the Customs Union to the next level.

SR No 05/2021 "Infrastructure for charging electric vehicles: more charging stations but uneven deployment makes travel across the EU complicated"

30. (Nr 5 - 2020/COU/0243) The Council invites the Commission, when reviewing and revising Directive 2014/94/EU and Regulation (EU) No 1315/2013 on Union guidelines for the development of the trans-European transport network, to consider proposing clear, consistent and appropriate requirements for a minimum electrical charging infrastructure, to be applied to the TEN-T network. While ensuring basic cross-border connectivity, these should take into account Member States' different starting points and specific national circumstances.

Commission's response:

In the Commission proposal for a Regulation on the deployment of alternative fuels infrastructure (COM(2021) 599 final), COM proposed mandatory electric recharging deployment targets along the TEN-T core and comprehensive network for both light and heavy duty vehicles in addition to fleet based targets for light duty vehicles. Those targets stipulate the maximum allowed distance between recharging stations and the total power to be provided at each of those stations with the power requirements increasing over time. In this proposal the Commission equally defined clearly the term of publicly accessible ensuring that networks are open to the general public, introduced common payment card payment options to be available at all publicly accessible recharging points and further specified data provision and price transparency requirements.

31. (Nr 6 - 2020/COU/0244) The Council recommends that synergies between the TEN-T and the Trans-European Network for Energy (TEN-E), as provided for in the Connecting Europe Facility (CEF) Regulation, be duly explored.

Commission's response:

Concerning synergies within CEF, the new CEF Regulation (EU) 2021/1153 which entered into force on 14 July 2021 provides for such synergies in its article 10 in two ways: (1) Multi-sectorial work programmes and calls for proposals jointly financed from each CEF sector involved, with the possibility to apply the highest co-funding rate of the sectors concerned and 10% top-up; and (2) 'Synergetic elements', i.e. the possibility for each CEF sector to accept as eligible costs, under its work programmes and calls for proposals, ancillary elements pertaining to another sector provided that the cost of the synergetic elements does not exceed 20 % of the total eligible costs of the action and that such elements enable the socioeconomic, climate or environmental benefits of the action to be significantly improved. The CEF Transport Multi-Annual Work Programme 2021-2027 adopted on 5 August 2021 (COM(2021) 5763) provides for the above synergetic elements. The calls' application forms were revised so that ancillary elements pertaining to another CEF sector are shown as separate activities / budget, to facilitate evaluation / reporting.

Finally, when implementing the programme CINEA ensures coordination of CEF with other programmes within its remit such as the Innovation Fund and the Just Transition Mechanism. The evaluation of the achieved synergies will be carried out in the context of the interim evaluations of the CEF programme, probably in 2025.

32. (Nr 7 - 2020/COU/0245) The Council considers that the rates of use of co-funded stations should be increased, and in this regard invites the Commission to consider including, in the grant agreements, a sustainability clause requiring the co-funded infrastructure to remain in operation and available to users for a minimum period after deployment, as well as to provide effective non-discriminatory access to all users of those stations.

Commission's response:

The text of the call (CEF-T-2021-AFIFCOEN) specifically includes a section on “Specific additional requirements for publicly accessible electricity recharging points” and a requirement for beneficiaries to “operate and maintain the supported recharging/refuelling points for a minimum period of 5 five years”.

https://cinea.ec.europa.eu/calls-proposals/2021-cef-transport-call-proposals_en

SR No 07/2021 "EU space programmes Galileo and Copernicus: services launched, but the uptake needs a further boost"

33. (Nr 15 - 2020/COU/0246) The Council calls on the Commission and on EUSPA to follow up on this report where further action is required, in coordination with relevant actors as appropriate, and to inform the Council on progress made in the implementation of these recommendations, based on relevant targets and performance indicators.

Commission's response:

In April 2021, the European Court of Auditors issued its Special Report 2021/7 entitled "EU space programmes Galileo and Copernicus: services launched, but the uptake needs a further boost." DG DEFIS accepted all four recommendations laid down in this report and started the preparatory activities paving the way to the development of both a comprehensive strategy for the uptake of EU space services and a conceptual framework for estimating the benefits. DG DEFIS with the support of EUSPA also initiated the work pertaining to the identification of regulatory and administrative barriers. The full implementation of the recommendations is a continuous and multiannual effort foreseen to last until end of 2024. The Commission is ready to inform the Council upon request.

SR No 09/2021 "Disinformation affecting the EU: tackled but not tamed"

34. (Nr 7 - 2020/COU/0247) The Council acknowledges the challenges ahead, with increasing sophistication in disinformation, diversification of actors and the fast evolution of new technologies, and invites the Commission and the High Representative to regularly update the Council about the recent trends and actions taken to address the challenges posed by disinformation; in this context, the Council notes that the European Democracy Action Plan presented at the end of 2020 represents an important policy document updating aspects of the Action Plan against Disinformation.

Commission's response:

The Commission and the EEAS will review the implementation of the EDAP in 2023, a year ahead of the European Parliament elections, including the reporting arrangements to follow.

The EEAS has published a 2021 Activity Report, outlining its work on foreign information manipulation and interference for that year. Likewise, the EEAS has briefed different Council Working Parties on its work, also in the context of Russia's use of information manipulation and interference in its war against Ukraine. The Commission has briefed different Council Working Parties regarding the progress made with the strengthened Code of Practice on Disinformation and the European Digital Media Observatory.

35. (Nr 8 - 2020/COU/0248) The Council recalls its position stated in the December 2020 Council conclusions and invites all stakeholders involved to further increase their efforts and support the implementation of the goals defined in the Action Plan against Disinformation, taking into account the fast-changing digital and traditional media landscape and related challenges, such as the need to further enhance media literacy and work on the comprehensive EU-wide media and digital literacy strategy to strengthen pluralism, independence and transparency and to exchange best practices among Member States in order to establish a more resilient democratic framework.

Commission's response:

As also announced in European Democracy Action Plan (EDAP), the EU institutions will further ensure that their internal coordination on disinformation is strengthened with a clear protocol to pull together knowledge and resources quickly in response to specific situations.

[Update to published response: The concerned services have significantly stepped up internal coordination in response to disinformation in the context of the pandemic and more recently of Russian aggression against Ukraine. Reflections on a protocol for cooperation in response to serious disinformation incidents or ahead of specific events warranting increased vigilance, will continue, taking into

account the recent events and lessons learned. It has become clear that existing cooperation mechanism are working well in such situations already: the EU's Rapid Alert System (RAS), announced in the 2018 Action Plan against Disinformation, has actively been used both during the COVID-19 infodemic and Russia's invasion of Ukraine to exchange analysis, best practices and to discuss response options and share communication material. International cooperation has been strengthened through the RAS International Cooperation Space, the G7 Rapid Response Mechanism (RRM) and other international networks, which have quickly adjusted to the changed situation and adapted their work accordingly. The Commission has also supported the work of major online platforms and other relevant stakeholders which lead to a substantially strengthened Code of Practice on Disinformation.]

The Commission has increased support for media literacy initiatives by mainstreaming its efforts under the EP Preparatory Action under a dedicated Creative Europe media literacy scheme with an enhanced budget; and through ongoing support for the European Digital Media Observatory's (EDMO) media literacy initiatives.

The media literacy expert group and the annual European media literacy week, with the next edition planned for autumn 2022, support the dissemination of good practice and amplify awareness raising activities across the EU. Also, in 2021 the European Regulators Group for Audiovisual Media Services (ERGA) produced a media literacy report entitled 'Recommendations for key principles, best practices and a Media Literacy Toolbox for Video-sharing Platforms'.

36. (Nr 10 - 2020/COU/0249) The Council underlines the importance of proper monitoring and evaluation of the progress made in implementing the actions to protect the European Union, its Member States, Union citizens and the EU institutions, bodies and agencies from disinformation and therefore invites the Commission and the High Representative to consider how to strengthen accountability, including the possibility to develop a framework for informing the public and empowering civil society, in addition to reporting to the Council, in the implementation of such actions.

Commission's response:

The Commission and the EEAS agree with Council recommendation Nr 10. Since the publication of the ECA report, the Commission and the EEAS have been implementing measures that address several of the report's concerns through the European Democracy Action Plan. Under this framework, notable achievements include the publication of the new Code of Practice on Disinformation, with a more ambitious set of commitments by signatories and a stronger monitoring framework to ensure effective implementation of the code. The new Code also foresees setting up a Transparency Center to inform the public and to further empower civil society, researchers and other relevant actors.

Other forthcoming initiatives include the Foreign Information Manipulation and Interference (FIMI) Toolbox, the joint mechanism on electoral resilience, and legislation on transparency of political advertising and media freedom.

The Commission and EEAS will continue to proactively communicate on these initiatives in order to raise awareness among citizens and demonstrate the EU's added value in the fight against disinformation and foreign information manipulation and interference. Some of these initiatives themselves have also helped in the development of outreach efforts. Services have significantly stepped up internal coordination in response to disinformation as well as foreign information manipulation and interference, including in the aftermath of Russia's aggression against Ukraine.

Reflections to further increase cooperation in response to serious disinformation and FIMI incidents or ahead of specific events will take into account recent events and lessons learned and strengthen even further the Commission and EEAS's capacities to respond to such activity and communicate on their work. The EEAS has published Stratcom Activity Report for 2021 to showcase its work on tackling foreign information manipulation and interference, including disinformation and has briefed different Council Working Parties on these efforts. Continued awareness raising was conducted also via the on-going public EUvsDisinfo campaign, including through its multi-lingual website and social media accounts.

Finally, as President von der Leyen announced in her 2022 State of the Union Address, the Commission in close cooperation with the European External Action Service will present a Defence of Democracy package to bring covert foreign influence and its funding to light. The package will include a legislative initiative to protect our democracies from entities funded by or linked to third countries and exercising economic activities in the EU that may impact public opinion and the democratic sphere. It will also be the occasion to review our actions under the European Democracy Action Plan, in 2023, a year ahead of the elections to the European Parliament, and look whether further steps are needed.

SR No 10/2021 "Gender Mainstreaming in the EU Budget"

37. (Nr 15 - 2020/COU/0250) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to step up efforts to systematically mainstream a gender perspective into future EU strategies and policies, including by developing gender budgeting, gender equality tracking methodology and gradually strengthening the gender analysis of relevant EU legislative and policy measures in accordance with the Better Regulation Guidelines, as key tools for gender mainstreaming, while also reflecting on the possibility of undertaking ex-ante and ex-post gender impact analyses.

Commission's response:

The Commission updated its Better Regulation guidelines and toolbox, which have been published in November 2021. Gender impacts should be considered in impact assessments and evaluations and analysed when they are significant for the specific programme initiative. The better regulation update supports therefore better identification, selection and qualitative and quantitative assessment of significant gender equality impacts in impact assessments and evaluations, in the limits of available data, while observing the better regulation principle of proportionate analysis.

According to this principle, the most significant impacts of each programme are selected and analysed. The Commission, in line with the IIA, has been developing a methodology to track gender equality related expenditure in the EU budget. The methodology is applied to all programmes, regardless of their management mode, on a pilot basis for the first time in Draft Budget 2023, ahead of the IIA's schedule. In addition, the Commission is progressively reinforcing the integration of gender budgeting in its internal procedures. For instance, a network of Gender Equality coordinators has been already been put in place in all Commission services with the task, among others, to screen the respective service's interventions/ policies for gender relevance. What is more, the Commission organised in 2021 a specialised training for the integration of the gender dimension in the EU budget. In 2022, a tender was launched by the Commission in order to introduce this as a recurrent training for all relevant Commission staff (the first 2022 training is expected to be delivered in fall 2022).

38. (Nr 16 - 2020/COU/0251) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to further examine the Member States' Recovery and Resilience Plans and their implementation from a gender equality perspective, and report on how they have contributed to the promotion of gender equality.

Commission's response:

The European Commission adopted its review report on the implementation of the Recovery and Resilience Facility on 29 July 2022, notably assessing the extent to which the implementation of the plans contributes to the scope and general objectives of the Facility, including how the plans tackle the inequalities between women and men (Art 16.1(a) of the RRF Regulation).

39. (Nr 17, first indent - 2020/COU/0252) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to strengthen the institutional framework for supporting gender mainstreaming in the implementation of EU actions, and, for that purpose, to use available resources to translate its commitment to gender mainstreaming into specific actions by:

a. Clarifying the roles and responsibilities for gender mainstreaming in all policy areas, nominating staff responsible for supporting gender mainstreaming in each DG, and drawing up plans for implementing gender mainstreaming in each policy area.

Commission's response:

The Taskforce on Equality coordinates the work of the Commission services in this area.

Equality coordinators have been appointed in each DG, tasked with the coordination and screening from an equality point of view, including gender, of all upcoming policy initiatives for which their DG is lead service. The Equality coordinators, supported by the Task Force on Equality Secretariat, are guiding the unit(s) in their DGs to integrate an equality dimension into initiatives listed in the Commission Work Programme 2021 and 2022, and beyond.

A large number of DGs have adopted an equality mainstreaming work plan, to raise awareness on equality and non-discrimination issues and ensure wide commitment to equality, including gender, mainstreaming. These work plans are in line with the Union of Equality strategies, in which the Commission has encouraged Member States to place equality at the heart of public policy, and to integrate equality considerations into the day-to-day business of public authorities. In the Commission, equality mainstreaming work plans relate the EU's broad equality objectives to the concrete work at DG level.

40. (Nr 17, second indent - 2020/COU/0253) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to strengthen the institutional framework for supporting gender mainstreaming in the implementation of EU actions, and, for

that purpose, to use available resources to translate its commitment to gender mainstreaming into specific actions by:

b. Steering, coordinating and monitoring effective gender mainstreaming in the EU budget, including by strengthening the gender analysis of relevant EU funding programmes.

Commission's response:

The Commission is committed to having in place a strong institutional framework for supporting gender equality. Some significant, yet not exhaustive, initiatives that the Commission has undertaken with a view to further improving the steering, coordination and monitoring of gender mainstreaming in the EU budget are the following:

-Established the Task Force on Gender Equality. Among others, the Secretariat of the Task Force has developed, in close cooperation with DG JUST, DG EMPL and Equality Coordinators, a corporate guidance/toolbox explaining to all DGs why and how to mainstream equality when preparing, designing, implementing, monitoring and evaluating EU policies, regulatory measures and spending programmes.

--Updated the Better Regulation guidelines to strengthen the analysis of the gender dimension, where relevant.

- Set up a network of Gender Equality Coordinators across all Commission Services. Among others, Gender Equality Coordinators are tasked with screening their respective Service's policy initiatives for gender relevance and take appropriate steps within their respective Service to ensure that calls for proposals and calls for tenders related to funding programmes in their Service take into account the equality dimension when appropriate. In the same vein, they are tasked with ensuring that evaluations of funding programmes include the equality dimension

- Reinforced the Draft Budget 2023 Circular's standing instructions on the drafting of the programme statements' gender mainstreaming sections to reflect the relevant Court's observations included in the Special Report.

- Worked on the development of a methodology to track gender equality related expenditure in the EU budget. The methodology is applied in the context of the Draft Budget 2023 across all programmes on a pilot basis, ahead of the timeline agreed in the IIA accompanying the MFF 2021-2027.

- Provided in 2021 a specialised training on the integration of the gender dimension in the EU budget targeting all relevant Commission staff. A tender for the introduction of a recurrent specialised training is ongoing.

The Commission remains committed to further strengthening the integration of gender mainstreaming in the EU budget, including in preparation of the Commission proposals for the coming MFF and would welcome the Council's support to this end.

-
41. (Nr 17, *third indent - 2020/COU/0254*) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to strengthen the institutional framework for supporting gender mainstreaming in the implementation of EU actions, and, for that purpose, to use available resources to translate its commitment to gender mainstreaming into specific actions by:

c. Making training on gender mainstreaming available to all staff, including specific training for relevant budgetary staff on gender mainstreaming in the EU budget.

Commission's response:

In 2021, the Commission organised several training courses addressed to staff on gender mainstreaming (on 27/04, 11/05, 25/05 and 8/12), outlining through concrete examples why and how to integrate equality into every stage of EU (policy, legal and funding) interventions. Furthermore, the Commission also organised targeted trainings on gender mainstreaming in the EU budget (on 12-18/11 and 10-17/12).

42. (Nr 17, *fourth indent - 2020/COU/0255*) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to strengthen the institutional framework for supporting gender mainstreaming in the implementation of EU actions, and, for that purpose, to use available resources to translate its commitment to gender mainstreaming into specific actions by:

d. Ensuring that DGs share information and practices and make consistent use of available tools and expertise when implementing gender mainstreaming, especially the tools and expertise of EIGE where relevant, as well as the best practices of the Member States.

Commission's response:

The Task Force on Equality Secretariat organises regular meetings of Equality coordinators, trainings and ad-hoc events, to provide continuous support for mutual learning and exchange of good practices in equality, including gender mainstreaming. It is a central hub for information sharing.

In 2021, the Secretariat of the Task Force organised 4 meetings with Equality coordinators, which have been essential to share knowledge among DGs, exchange ideas and promote good practices. During these meetings, the Commission made extensive use of a wide range of available tools and expertise, including in-house expertise, the Joint Research Centre, as well as the European

Institute for Gender Equality (EIGE). In addition, the second annual event of the Task Force on Equality that took place on 7 December was an internal capacity-building event for Commission staff. The event allowed

DGs to present examples and practical tools on how equality mainstreaming, including gender, has been integrated in their internal processes.

43. (Nr 18, first indent - 2020/COU/0256) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to enhance the integration of gender equality into the EU budget cycle, by adopting gender mainstreaming and tracking procedures, including:

a. Updating the Commission's guidelines for assessing the significant potential economic, social and environmental impact of legislative proposals so as to strengthen the analysis of impacts on gender.

Commission's response:

The Commission updated its Better Regulation guidelines and toolbox, which have been published in November 2021. Gender impacts should be considered in impact assessments and evaluations and analysed when they are significant for the specific programme initiative. The better regulation update supports therefore better identification, selection and qualitative and quantitative assessment of significant gender equality impacts in impact assessments and evaluations, in the limits of available data, while observing the better regulation principle of proportionate analysis. According to this principle, the most significant impacts of each programme are selected and analysed.

44. (Nr 18, second indent - 2020/COU/0257) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to enhance the integration of gender equality into the EU budget cycle, by adopting gender mainstreaming and tracking procedures, including:

b. Conducting gender analyses of the needs and impacts for relevant EU funding programmes and instruments, and report on the results of these analyses, including with a view to developing appropriate measures.

Commission's response:

The Commission updated its Better Regulation guidelines and toolbox, which have been published in November 2021. The better regulation update supports better identification, selection and qualitative and quantitative assessment of significant

gender equality impacts in impact assessments and evaluations, in the limits of available data, while observing the better regulation principle of proportionate analysis.

Furthermore, regardless whether they are relevant for a given initiative, there is still a need to report on fundamental rights, including gender impacts, in all impact assessments and justify why they have not been assessed further, should this be the case. (revised 2021, Tool #18 and 29– Identification of impacts). The explanatory memoranda of Commission proposals also specify significant gender equality impacts, where relevant. Full implementation will be by 31/12/2025, when the interim evaluations would start being finalised and preparations for the impact assessments for next proposals will kick-off.

45. (Nr 19 - 2020/COU/0258) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to support and promote the systematic production, collection, analysis, reporting and dissemination of sound and comparable sex-disaggregated data regarding EU funding programmes inter alia through the work of relevant specialised agencies and institutions on the EU level, as well as national statistical institutions, while avoiding administrative burdens of additional reporting obligations and in order to reinforce knowledge-based policy-making.

Commission's response:

The Commission is committed to continue supporting the production, analysis and reporting on sex disaggregated data regarding all relevant EU funding programmes.

Most recently, in the context of the preparation of the Draft Budget for 2024, the Budget Circular Standing Instructions on the drafting of Programme Statements' section 6.4 ('Contribution to gender equality') requested all Commission services to provide an assessment of the performance of their respective programme(s) in relation to gender equality by providing information on interventions funded in 2021 for the promotion of gender equality and interventions planned or identified for the remainder of the MFF 2021-2027. It was further specified that this information should include, if available, the total number of projects/interventions financed and promoting gender equality, the budget allocated, the number of female beneficiaries and the supporting narrative. To the extent possible, EU funding programmes for which such information was available did present it under section 6.4 of the respective programme statements, published on 7 June 2022.

In addition, and also in preparation for the Draft Budget 2023 exercise, the Commission provided two specialised trainings on the integration of the gender equality dimension in the EU budget, targeting all relevant staff. This training builds Commission staff's expertise in the production, analysis and reporting of sex disaggregated data. This training will be offered as recurrent training from 2022 onwards.

-
46. (Nr 20 - 2020/COU/0259) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to systematically make use of existing sex-disaggregated data, in order to reinforce knowledge-based policymaking in the context of EU funding programmes.

Commission's response:

With the DB 2023's Budget Circular Standing Instructions on the drafting of Programme Statements' section 6.4 ('Contribution to gender equality'), all Commission services were requested to provide an assessment of the programme's performance in relation to gender equality by providing information on interventions funded by the programme in 2021 for the promotion of gender equality and interventions planned or identified for the remainder of the MFF 2021-2027. It was further specified that this information should include if available, total number of projects / interventions financed and promoting gender equality, budget allocated, number of female beneficiaries and the supporting narrative. To the extent possible, EU funding programmes for which such information was available, presented it under section 6.4. However, given that most EU programmes had not entered in 2021 their programming and/ or implementation stage, it was not possible to report on the basis of such data.

As the programming and implementation of the EU spending programmes gains speed in 2023 and 2024, the reporting under section 6.4 will be strengthened accordingly with the use of this information, where available.

47. (Nr 21, first indent - 2020/COU/0260) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to seek to enhance the use of gender-related objectives, indicators and implementation measures to monitor progress, by:

- a. Identifying and using relevant existing data on gender equality, including indicators for which sex-disaggregated data is available for the 2021-2027 EU funding programmes and instruments.

Commission's response:

As far as reporting is concerned, with the DB 2023's Budget Circular Standing Instructions on the drafting of Programme Statements' section 6.4 ('Contribution to gender equality'), all Commission services were requested to provide an assessment of the programme's performance in relation to gender equality by providing information on interventions funded by the programme in 2021 for the promotion of gender equality and interventions planned or identified for the remainder of the MFF 2021-2027. It was further specified that this information

should include if available, total number of projects / interventions financed and promoting gender equality, budget allocated, number of female beneficiaries and the supporting narrative. To the extent possible, EU funding programmes for which such information was available, presented it under section 6.4. However, given that most EU programmes had not entered in 2021 their programming and/or implementation stage, it was not possible to report on the basis of such data.

As the programming and implementation of the EU spending programmes gains speed in 2023 and 2024, the reporting under section 6.4 will be strengthened accordingly with the use of this information, where available.

48. (Nr 21. second indent - 2020/COU/0261) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to seek to enhance the use of gender-related objectives, indicators and implementation measures to monitor progress, by:

b. Using sex-disaggregated performance indicators in relevant future legislative proposals, in accordance with evidence-based policymaking principles.

Commission's response:

The Commission will assess the appropriateness of collecting and reporting on such data, when preparing proposals for future EU funding programmes, in the context of evaluations and impact assessment or other preparatory steps. It will take into account the other improvements in the better regulation framework, referring to a strengthened identification, analysis and reporting of gender impacts in relevant initiatives. The 2021 revised Tool #43, Monitoring arrangements and indicators, specifies that monitoring and evaluation arrangements should be analysed in the impact assessment report, for the preferred option if one is specified or otherwise based on the initiative's objectives. This part of the impact assessment should inform the legal provisions on monitoring and evaluation to be included in the proposal itself. Main elements may include indicators and/or regulatory reporting requirements, which are a prerequisite to ensure the timely monitoring of EU initiatives. The monitoring and evaluation arrangements that were initially identified in the impact assessment will need to be reflected in the Commission's proposal. They might have to be revisited again later to reflect changes to the proposal made in the legislative process to avoid that the indicators initially chosen no longer reflect the objectives of the initiative.

49. (Nr 21. third indent - 2020/COU/0262) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to seek to enhance the use of gender-related objectives, indicators and implementation measures to monitor progress, by:

c. Reporting within the Annual Management and Performance Report (AMPR) on the contributions of EU funding programmes towards progress in gender mainstreaming based on gender-related objectives, indicators and measures.

Commission's response:

In line with the inter-institutional agreement accompanying the 2021-2027 MFF, the Commission has been developing a methodology to track the contribution of EU spending programmes to enhancing gender equality. This methodology has been applied on a pilot basis for the first time in the context of the Commission's proposal for the Draft 2023 Budget, showing that the vast majority of EU spending programmes contribute or have the potential to contribute to enhancing gender equality. Furthermore, in line with the methodology, section 6.4 of the programme statements provides an explanation of the relevance of each programme for gender equality and of its contributions towards the latter, making use-- inter alia-- of gender-related objectives, indicators and measures, where applicable and available.

50. (Nr 22 - 2020/COU/0263) The Council calls upon the European Commission, in cooperation with the Member States, in the light of the recommendations of the Special Report, to develop a robust system for tracking funds allocated and used to support gender equality and report annually on the results achieved in terms of gender equality, in order to improve accountability and budgetary transparency, and to ensure that reliable information on funds allocated to and used for the promotion of gender equality at programme level in the Multiannual Financial Framework (MFF) 2021-2027 is available.

Commission's response:

In line with the inter-institutional agreement accompanying the 2021-2027 MFF, the Commission has been developing a methodology to track the contribution of EU spending programmes to enhancing gender equality. This methodology has been applied on a pilot basis for the first time in the context of the Commission's proposal for the Draft 2023 Budget, showing that the vast majority of EU spending programmes contribute or have the potential to contribute to enhancing gender equality. The Commission intends to continue working on refining this methodology. The results of the assessment on the basis of this methodology will be reported upon in the Programme Statements on an annual basis.

SR No 11/2021 "Exceptional support for EU milk producers in 2014–2016: Potential to improve future efficiency"

51. (Nr 7 - 2020/COU/0264) The Council welcomes the Commission's broad acceptance of the Court's recommendations and invites the Commission and the Member States to take the lessons learnt from the 2014-2016 market disturbance into account when future crises (including COVID-like pandemics) occur, such as regarding the effects of exceptional aid on dairy farms' behaviour and liquidity and on market stabilisation as well as the role of risk management by producers and dairies.

Commission's response:

The Commission will launch in 2022 an external and independent study analysing the effects of the various Member State models for delivering exceptional aid provided in 2015-2016, on dairy farms' behaviour and liquidity, and on market stabilisation and the environment, together with the role of risk management by producers and dairies.

SR No 12/2021 "The Polluter Pays Principle: Inconsistent application across EU environmental policies and actions"

52. (Nr 7 - 2020/COU/0265) The Council welcomes the Commission's intention to revise the EU environmental legislation as set out in the Commission's Communications on the European Green Deal, the Zero Pollution Action Plan, the Chemicals Strategy for Sustainability and related initiatives. The Council invites the Commission to take into account the findings and recommendations of the special report in this regard.

Commission's response:

On Recommendation 1a, the Commission is strengthening integration of the Polluter Pays Principle (PPP) across all environmental policies, including waste, energy and water, and initiatives such as the Carbon Border Adjustment Mechanism and the proposal on the Industrial Emissions Directive.

The Commission has been supporting stakeholders to design national taxes in a way that is effective, efficient and just, including through a dedicated toolkit (https://ec.europa.eu/environment/economy-and-finance/ensuring-polluters-pay_en).

The Commission will evaluate through a fitness check how the PPP is applied more generally and, given the shared responsibility, how it works with Member States on PPP implementation, notably on pricing and on the phasing out of environmentally harmful subsidies.

The Environmental Liability Directive (Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (ELD) OJ L 143, 30.04.2004, p. 56.) establishes a framework to prevent and remedy environmental damage. The Commission is working to strengthen application, and adopted Guidelines on a common understanding of environmental damage (Commission Notice Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage 2021/C 118/01, C/2021/1860, OJ C 118, 7.4.2021, p. 1–49). The Commission will evaluate the Directive by April 2023 and thereby examine PPP issues raised in the resolution of the European Parliament (https://www.europarl.europa.eu/doceo/document/TA-9-2021-0259_EN.html) and in the report of the European Court of Auditors.

53. (Nr 8, first part - 2020/COU/0266) The Council calls on the Commission to ensure application of the Polluter Pays Principle, on which Union policy on the environment should be based and which should be integrated into other Union's policies and activities, particularly in the relevant EU legislation and its financing instruments, and to ensure that sectors causing pollution contribute their respective share.

Commission's response:

The Commission is strengthening integration of the Polluter Pays Principle (PPP) across all environmental policies, including waste, energy and water, and initiatives such as the Carbon Border Adjustment Mechanism and the proposal on the Industrial Emissions Directive.

The Commission has been supporting stakeholders to design national taxes in a way that is effective, efficient and just, including through a dedicated toolkit (https://ec.europa.eu/environment/economy-and-finance/ensuring-polluters-pay_en).

The Commission will evaluate through a fitness check how the PPP is applied more generally and, given the shared responsibility, how it works with Member States on PPP implementation, notably on pricing and on the phasing out of environmentally harmful subsidies.

The Environmental Liability Directive (Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (ELD) OJ L 143, 30.04.2004, p. 56.) establishes a framework to prevent and remedy environmental damage. The Commission is working to strengthen application, and adopted Guidelines on a common understanding of environmental damage (Commission Notice Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage 2021/C 118/01, C/2021/1860, OJ C 118, 7.4.2021, p. 1–49.). The Commission will evaluate the Directive by April 2023 and thereby examine PPP issues raised in the resolution of the European Parliament (https://www.europarl.europa.eu/doceo/document/TA-9-2021-0259_EN.html) and in the report of the European Court of Auditors.

54. (Nr 8, second part - 2020/COU/0267) The Council highlights in this context the relevance of producer responsibility along global value chains and product life cycles and invites the Commission to consider such approaches in future legislative proposals, where applicable; The Council stresses the importance of accompanying any legislative proposals with an impact assessment in accordance with agreed Better Regulation principles.

Commission's response:

The Commission constantly considers in a proportionate manner all relevant economic, social and environmental impacts of its legislative proposals in accordance with the Better Regulation Guidelines. This includes producer responsibility along global value chains and product life cycles where appropriate, for example, in terms of problem analysis, options and impacts. In this context, Toolboxes #19 (Sustainable Development Goals), #27 (External Trade and

Investment) and #35 (Developing Countries) of the Better Regulation Guidelines are particularly relevant.

55. (Nr 12 - 2020/COU/0268) The Council calls on the Commission to properly reflect the polluter pays principle in the upcoming soil strategy, as well as the precautionary principle and the principles that preventive action should be taken, and that environmental damage should as a priority be rectified at source.

Commission's response:

The text of the Soil Strategy that was adopted on 17 November 2021, recognizes and refers to the polluter pays principle and the importance of prevention at source in section 4.3 'preventing soil pollution'. Several precautionary measures and actions were announced fully in line with these very important principles.

56. (Nr 14 - 2020/COU/0269) The Council welcomes the Commission's intention to evaluate, by 2023, the Environmental Liability Directive's (ELD) fitness for purpose and invites the Commission to consider, in its evaluation of the ELD and associated implementing acts, developing the ELD criteria for defining the environmental damage for which the ELD should apply, especially with respect to water and soil.

Commission's response:

The Environmental Liability Directive (Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (ELD) OJ L 143, 30.04.2004, p. 56.) establishes a framework to prevent and remedy environmental damage, in accordance with the polluter pays principle.

In its Article 18(3) the Directive required the Commission to develop guidelines providing a common understanding of the term 'environmental damage'.

The Guidelines on a common understanding of environmental damage (Commission Notice Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage 2021/C 118/01, C/2021/1860,

OJ C 118, 7.4.2021, p. 1–49.) were adopted in March 2021. The guidelines examine in detail the nature and scope of land damage, water damage, and biodiversity damage in the legal and regulatory context with references to relevant CJEU cases and other sources.

The Commission is currently preparing its evaluation of the Directive (due by April 2023) which covers issues raised in the above quoted recommendation of the European Court of Auditors.

The evaluation also examines the added value of the Commission's guidelines and whether the implementation of the ELD is still hindered by the difficulties in establishing whether an environmental damage occurrence meets the significance criteria in the ELD.

57. (Nr 15 - 2020/COU/0270) The Council welcomes the Court's recommendation and invites the Commission to examine the scope for legislative changes to require the use of financial security for environmental risks for operators.

Commission's response:

The Environmental Liability Directive (Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (ELD) OJ L 143, 30.04.2004, p. 56.) establishes a framework to prevent and remedy environmental damage, in accordance with the polluter pays principle. The Directive encourages development of financial security instruments and markets by the appropriate economic and financial operators, including financial mechanisms in case of insolvency, with the aim of enabling operators to use financial guarantees to cover their responsibilities under this Directive, but does not render such financial security instruments mandatory. Some Member States have introduced mandatory financial security instruments in particular in the context of activities considered as representing high environmental risks (such as those listed in Annex III of the Directive).

The Commission is currently preparing its evaluation of the Directive (due by April 2023) which includes PPP issues raised in the resolution of the European Parliament and in the report of the European Court of Auditors, specifically the question of whether the current approach, where financial security against environmental damage is not compulsory, is appropriate.

It is too early at this stage to anticipate the conclusions of this evaluation, and whether in their turn, they would lead to any legislative changes being proposed.

58. (Nr 17 - 2020/COU/0271) The Council calls on Member States and the Commission to ensure that the use of national public and EU funds to finance cleaning pollution is conditional on having taken all the necessary steps to charge the polluter for the pollution they are responsible for; however, underlines that this should not lead to a reduction of EU funds to tackle environmental degradation or to test innovative solution in this respect, where justified.

Commission's response:

The regulatory framework to provide this guarantee is in place. However, the implementation is ongoing within the multiannual financial framework for 2021-2027 (with some funding being available until the end of 2030).

In line with the state aid rules in place, EU funds can only support cleaning pollution in cases where the polluter cannot be identified (legacy pollution and diffuse pollution) or where the polluter is insolvent.

In practice, this means that EU funds should not be used to clean up pollution where Member States are obliged to pass the bill to the firm causing it under the Environmental Liability Directive (Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, OJ L 143, 30.4.2004, p. 56–75). There are a number of conditions to observe, related to whether it is strict liability, fault based liability and there are exemptions e.g. due to pre-authorisations.

The Commission has committed to protecting EU funds from being used to finance projects that should be funded by the polluter. The Commission does this through the mechanisms put in place in the legal framework for EU funds to ensure that EU law is respected. For example:

- The Recovery and Resilience Facility (RRF): As set out in Recital 8 of the Regulation, State aid rules fully apply to the measures funded by the RRF. Therefore, Member States should ensure that all reforms and investments comply with the relevant EU State aid rules and follow all State aid procedures. Member States had to specify in their national recovery and resilience plan for each measure (reforms and investments), whether such rules were complied with more detailed information is available in the RRF Regulation (Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17–75) and the RRF Guidance (Commission Staff Working Document, Guidance to Member States, Recovery and Resilience Facility, SWD(2021) 12 final, 22.1.2021.)).*
- Cohesion policy: Member States' managing authorities are responsible for verifying that selected operations comply with applicable law, including the polluter pays principle.*
- The application of the polluter pays principle in the context of the Connecting Europe Facility (CEF) – transport takes different forms. First, the CEF Regulation includes a commitment to contribute 60 % of its overall financial envelope to climate objectives. In practice, it favours more sustainable transport modes such as railways or alternative fuels. It is in line with the overall EU transport policy which sets an overall framework for funding priorities. The EU sustainable and smart mobility strategy spells out, among others, that a shift to zero-emission mobility will require “internalisation of external costs (by implementing the ‘polluter pays’ and ‘user pays’ principles, in particular through carbon pricing and infrastructure charging mechanisms)”. Second, the CEF - Transport application process covers the compliance with key EU environmental directives (the EIA, SEA, Habitats, Water Framework Directives), including the completion of water and nature declarations to ensure environmental compliance. It helps to eliminate non-compliant projects and facilitates, for some particularly sensitive cases, the inclusion of additional environmental safeguards (e.g. animal crossings).*

The Commission is more widely working with Member States to ensure they are aware of their obligations in the context of EU funding. For example, the Commission presented the Member States' obligations under the polluter pays principle (Special report 12/2021 from ECA) to Member States authorities at a meeting of the European Network of Environmental Authorities-Managing Authorities (21/10/2021). Furthermore, as part of the Technical Support Instrument 2022, one of the flagship technical support projects available to Member States focuses on operationalising the polluter pays principle (https://ec.europa.eu/info/sites/default/files/b1-greening_taxes.pdf).

For national funds, the competent authorities are responsible for ensuring the application of the polluter pays principle.

SR No 13/2021 "EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient"

59. (Nr 6 and Nr 7 - 2020/COU/0272) The Council stresses that considerable progress remains to be achieved, especially in further developing and modernising the Union's regulatory and supervisory framework in this field, but also in relation to the implementation of the regulatory framework and more generally in pursuing the AML-CFT (anti-money laundering and countering the financing of terrorism) priority; The Council invites therefore the relevant EU Institutions and bodies to pursue their efforts and looks forward to considering further the European Commission's legislative Proposals on this matter.

Commission's response:

On 20 July 2021, the European Commission presented an ambitious package of legislative proposals to strengthen the EU's anti-money laundering and countering the financing of terrorism (AML/CFT) rules. The aim is to improve the detection of suspicious transactions and activities, and close loopholes used by criminals to launder illicit proceeds or finance terrorist activities through the financial system. The anti-money laundering (AML) package consists of four legislative proposals: the Directive on the use of the financial system for the purposes of money laundering or terrorist financing ('AMLD6', COM(2021) 423 final - 2021/0239 (COD)), the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing ('AMLR', COM(2021) 420 final - 2021/0239 (COD)), the Regulation establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('AMLA', COM(2021) 421 final) and the recast Regulation on information accompanying transfers of funds and certain crypto-assets ('TFR' COM(2021) 422 final - 2021/0241 (COD)).

All elements of the package are currently being discussed with the co-legislators. Therefore the indicative expected completion date depends on the co-legislators finalizing their examination.

SR No 14/2021 "Interreg cooperation: The potential of the European Union's cross-border regions has not yet been fully unlocked"

60. (Nr 10 - 2020/COU/0273) The Council invites the Commission to continue monitoring the COVID-19 impact on Interreg programmes.

Commission's response:

The Commission continues to monitor impact on Interreg programmes under the established regulatory monitoring procedures. These include participation of the Commission representatives in the monitoring committees, in-depth assessment of the annual implementation reports and working contacts with partners at the level of the managing authority and Joint Secretariats.

It should be noted, that contracting under the Interreg Programmes was generally well advanced, when Europe was hit by the COVID-19 pandemic. The selection of operations was progressing without major problems in case of most of the programmes. Therefore for Interreg programmes most common measures taken by the managing authorities were:

- setting up more flexible rules for their beneficiaries (extension of deadlines for implementation, reporting, closure, coverage of expenditure linked to non-realised actions due to force majeure etc.) to support projects facing sudden difficulties linked to the Covid 19 crisis;*
- elimination of delays caused because of limited possibility to carry out on the spot visits;*
- use general flexibility provided by amended CPR Regulation. Specifically, the provision of Art 2.1 of Reg. 2020/460 which stipulates that the programme may transfer "an amount of up to 8% of the allocation as of 1 February 2020 of a priority and no more than 4% of the programme budget to another priority" was considered by Interreg programmes, since it didn't trigger formal programme amendment.*

Beyond the implementation of Interreg programmes, the Commission contracted two studies on the impact of

(1) the first wave of the Covid-19 crisis , and

(2) impact of the overall Covid-19 crisis on border regions in the EU. (The effects of COVID-19 induced border closures on cross-border regions - Publications Office of the EU (<https://op.europa.eu/en/publication-detail/-/publication/46250564-669a-11eb-aeb5-01aa75ed71a1/language-en>))

The lessons learnt and some of the recommendations can feed partly in the design of the new Interreg programmes (especially using the Interreg-specific objective on "Cooperation Governance" and contribute to strengthening the resilience of border regions in view of upcoming crises.

SR No 15/2021 "Air passengers rights during COVID-19 pandemic: key rights not protected despite Commission efforts"

61. (Nr 8 - 2020/COU/0274) The Council welcomes the fact that the Commission accepts the European Court of Auditors' recommendations and invites the Commission to reflect on how to improve the current setup, based on the experiences, shortcomings and lessons learnt and the European Court of Auditors' Special report, as announced under the Commission's Sustainable and Smart Mobility Strategy.

Commission's response:

The Commission is currently conducting the impact assessment for the initiative 'Better protection for passengers and their rights' (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en), in line with Actions 63 and 64 of the Sustainable and Smart Mobility Strategy. Afterwards, proposals would be put forward based on the outcome of this assessment.

62. (Nr 9 - 2020/COU/0275) The Council invites the Commission to reflect on the possible ways how it can ensure that passengers are treated equally around the EU and that passengers are provided information so that they are aware of their rights.

Commission's response:

The Commission regularly organizes awareness campaigns to ensure that passengers are provided adequate information on their rights. Additionally, the Commission will take into account the results of impact assessment for the initiative 'Better protection for passengers and their rights' (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en).

63. (Nr 11 - 2020/COU/0276) The Council invites the Commission to improve coordination with Member States to ensure that passengers receive timely and updated information regarding measures related to crises.

Commission's response:

The Commission has taken various measures to facilitate the exercise of right to free movement during the COVID-19 pandemic and to facilitate the coordination of travel restrictions adopted by the Member States.

On 15 June 2021, the European Parliament and the Council adopted, based on a Commission proposal, the EU Digital COVID Certificate Regulation.

It applies since 1 July 2021. The EU Digital COVID Certificate has been a crucial element in Europe's response to the COVID-19 pandemic. Its rapid adoption and rollout enabled European citizens to move freely and safely at a time of significant uncertainty.

Following the adoption of the Regulation on the EU Digital COVID Certificate, the Commission also adopted guidance regarding the validation of EU Digital COVID Certificates in the context of air transport as well as guidance on the use of Digital COVID Certificates in traveller and online booking scenarios.

Council Recommendation (EU) 1475/2020, adopted in October 2020 and updated for the first time in February 2021, provided a coordinated approach to restrictions on free movement in response to the COVID 19 pandemic. The Recommendation was updated on several occasions in view of developments in the epidemiological situation.

With respect to the sharing of information by Member States on travel restrictions, the updated Council Recommendation stated that, in line with Article 11 of EU Digital COVID Certificate Regulation, Member States are to provide relevant stakeholders and the general public with clear, comprehensive and timely information about any restrictions to free movement, any accompanying requirements (for example the need to undergo a pre-departure test, which specific tests for SARS-CoV-2 infection qualify for the waiving of restrictions, or the need to submit passenger locator forms), as well as the measures applied to travellers travelling from risk areas as early as possible before new measures come into effect. As a general rule, this information should be published 24 hours before the measures come into effect, taking into account that some flexibility is required for epidemiological emergencies. That information should be regularly updated by Member States and also be made available on the 'Re-open EU' web platform, which should contain the traffic-light map published regularly by the European Centre for Disease Prevention and Control. The substance of the measures, their geographical scope and the categories of persons to whom they apply should be clearly described.

In November 2021, the Commission proposed a new coordinated approach to facilitate safe free movement during the COVID-19 pandemic, replacing Recommendation (EU) 2020/1475. This approach was adopted in January 2022.

In view of the above, the Commission considers that recommendation 2a) has been implemented.

64. (Nr 12 - 2020/COU/0277) The Council invites the Commission, in light of the recommendations by the European Court of Auditors, to reflect on possible solutions to address problems related to insolvencies of airlines and involvement of intermediaries also as highlighted in the Sustainable and Smart Mobility Strategy.

Commission's response:

The Commission is currently conducting the impact assessment for the initiative 'Better protection for passengers and their rights' (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en). Afterwards, proposals would be put forward based of the outcome of this assessment.

In this context particular attention is paid to solutions to address problems related to insolvencies of airlines and involvement of intermediaries.

65. (Nr 13 - 2020/COU/0278) The Council invites the Commission to reflect on the possible tools that could ensure the rights of passengers in future unexpected crises, whatever the magnitude.

Commission's response:

The Commission is currently conducting the impact assessment for the initiative 'Better protection for passengers and their rights' (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en). Afterwards, proposals would be put forward based of the outcome of this assessment.

In this context, particular attention is also paid to ensure the rights of passengers in future unexpected crises, whatever the magnitude.

SR No 16/2021 "Common Agricultural Policy and climate - Half of EU climate spending but farm emissions are not decreasing"

66. (Nr 8 - 2020/COU/0279) The Council invites the Commission to assess at appropriate intervals the effect of the CAP and of other factors driving greenhouse gas emissions on climate mitigation, taking into account the Member States' reports on the implementation of their Strategic Plans.

Commission's response:

The assessment of the effects of CAP measures on net greenhouse gas emissions (GHG) requires data over multiple years, including information on the various external factors impacting GHG emissions, which will be addressed through evaluations. The interim and ex-post evaluations set out in Article 141 of Regulation (EU) 2021/2115 will assess the CAP with respect to its various objectives, including on climate and GHG.

SR No 19/2021 "Europol support to fight migrant smuggling: a valued partner, but insufficient use of data sources and result measurement"

67. (Nr 5 - 2020/COU/0280) The Council emphasises the importance of Europol's ability to exchange relevant information with non-EU countries, calls on the Commission to intensify its efforts in the negotiations of international agreements with priority non-EU countries.

Commission's response:

The Commission (HOME) is making major efforts in negotiating with 'priority non-EU countries' an International Agreement, which aims at facilitating the wider cooperation with the law enforcement authorities of that third country to fight organised crime in general, which encompasses also migrant smuggling.

This is a work-in-progress.

SR No 22/2021 "Sustainable finance: More consistent EU action needed to redirect finance towards sustainable investment"

68. (Nr 8 - 2020/COU/0281) The Council stresses the importance of improving the consistency, simplicity and transparency of the EU sustainable finance legislative framework; calls on the Commission to promote international consistency and competitiveness and to carry out a comprehensive review of the effectiveness and consistency of that legislative framework in line with established reporting requirements.

Commission's response:

By pursuing its ambitious climate, social and sustainable finance objectives and setting up comprehensive environmentally sustainable activities criteria, Commission's legislative proposals, once adopted, will facilitate investment in such activities, promote consistency and competitiveness at EU and set an example at a global level. As set out in Commission communication "Strategy for Financing the Transition to a Sustainable Economy" from July 2021 (COM(2021) 390 final), within the past few years, major progress has been made in laying down the foundations for the sustainable finance framework in the EU. The three building blocks of this framework (EU Taxonomy, sustainability disclosures, and tools such as Benchmarks and the European Green Bond Standard) are either underway or being negotiated. However, work remains to be done to complete and implement this framework.

In addition, the Commission is committed to address unnecessary market fragmentation and supports interoperable and coherent global standards, however, sufficient flexibility is also needed to allow for more ambitious frameworks to be adopted by the different jurisdictions world-wide. To this aim, the Commission leads the Secretariat of the International Platform on Sustainable Finance (IPSF), a global forum composed of 18 member jurisdictions. The IPSF allows for better coordination and comparison of sustainable finance frameworks, including the identification of commonalities across different taxonomies and of a set of principles for transition finance.

The Commission is therefore committed to fully implement its ambitious 2018 Action Plan on Financing Sustainable Growth (COM(2018) 97 final) and its 2021 Strategy. To this end the Commission will closely monitor the coherence, usability and effectiveness of the implementation of the disclosure requirements and the other sustainable finance policies. As indicated in Commission's communication (COM(2021) 390 final), the Commission will report on its 2021 strategy's implementation by the end of 2023.

69. (Nr 14 in relation with Nr 13 - 2020/COU/0282) The Council notes that the current stage of deployment of the EU Taxonomy, as implemented through the EU Taxonomy Climate Delegated Act adopted by the Commission on 4 June 2021 , aims to support identification of environmentally sustainable activities and facilitate investments in such activities, including transition and enabling activities, that

substantially contribute to the quantitative goals in the Paris Agreement and verification of such alignment; The Council invites the Commission to consider options to recognise transition efforts in a just and inclusive way, as well as continue its considerations to include other sustainability objectives, as provided for in the review clause of the Taxonomy Regulation.

Commission's response:

The Commission has been reflecting on how to use the current Taxonomy framework to encourage transition and to recognize transition efforts in a just and inclusive way. As provided for in the review clause of the Taxonomy Regulation, the Commission will also consider the inclusion of other sustainability objectives. In this respect, the Platform on Sustainable Finance has already published its report on the social taxonomy concept. (https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/280222-sustainable-finance-platform-finance-report-social-taxonomy.pdf).

While this report would not prejudice any decision by the Commission, it will inform Commission's further work on the matter. In parallel, the Commission continues pursuing other policy initiatives that promote investments with a positive social impact and require consideration of social impacts in general (such as the Sustainable Finance Disclosure Regulation, the Corporate Sustainability Reporting Directive or the Corporate Sustainability Due Diligence Directive).

In order to recognize transition efforts, the Commission recently proposed a complementary climate delegated act (C(2022) 631 / 3, currently under scrutiny by co-legislators) defining additional transitional activities under the EU Taxonomy in the energy sector. Moreover, companies own transition plans referred to in the Corporate Sustainability Reporting Directive proposal will also play an important role in guiding the transition at economic actors' level.

70. (Nr 16 - 2020/COU/0283) The Council invites the Commission to further clarify with Member States arrangements for their competent authorities to supervise financial market participants' sustainability related disclosures, as necessary, to strive for supervisory convergence by ensuring consistent application of EU legislation; and encourages progress towards legislative approval of the proposed arrangements for auditing corporate sustainability reporting.

Commission's response:

Sustainability reporting standards will be developed for all companies that will fall under the scope of the future Corporate Sustainability Reporting Directive (CSRD) obligations, i.e. large companies (listed and non-listed), and SME reporting standards will be developed for listed SMEs. The Commission's proposed CSRD, which amends the provisions of the Non-Financial Reporting Directive (subject to adoption by the co-legislators expected by mid-2022), will require

auditors to verify and express an opinion on sustainability reporting's compliance with requirements (including taxonomy reporting under Article 8 of the Taxonomy Regulation).

As for disclosures of financial market participants, the Sustainable Finance Disclosure Regulation (SFDR) designates the competent authorities (the financial markets authorities of Member States) for the supervision and monitoring of such disclosures. These authorities will rely on the information that will be disclosed by financial and non-financial undertakings under the CSRD while the supervisory convergence will be entrusted to the ESAs.

In this respect and as announced in the "Strategy for Financing the Transition to a Sustainable Economy" (COM(2021) 390 final), the Commission will monitor green-washing risks and assess whether supervisory powers and tools are sufficient and effective in addressing and preventing green-washing in the financial market. Based on the ESAs progress (May 2023) and final reports (May 2024), the Commission will assess whether further measures are necessary.

71. (Nr 22 - 2020/COU/0284) The Council notes that the Taxonomy might not be the only tool to monitor transition efforts and INVITES the Commission to work towards an InvestEU reporting system on climate and sustainability reporting in line with relevant ECA Recommendations and in cooperation with all relevant stakeholders in InvestEU fund deployment, particularly the European Investment Bank (EIB) Group and national development/ promotional banks.

Commission's response:

As per the InvestEU Programme climate and environmental tracking guidance, InvestEU Implementing partners will track InvestEU supported operations using either the InvestEU markers (those listed in Annex 1 No 1 to 82), or the substantial contribution criteria of delegated acts adopted under the EU Taxonomy Regulation.

Disclosure on the proportion of InvestEU financing tracked using the EU Taxonomy can be made after signature of Guarantee Agreements with Implementing Partners and after the start of implementation. Based on the agreements signed with implementing partners and the reports submitted by such partners, the Commission shall disclose in the annual Programme Statements of operational expenditure for InvestEU Programme the proportion of InvestEU supported financing contributing to climate and environmental objectives that is tracked in alignment with the EU Taxonomy criteria.

72. (Nr 24 - 2020/COU/0285) The Council considers it crucial, including in light of the aforementioned European Council conclusions, that all efforts be made to better identify and meet the necessary investment needs across the EU; accordingly, invites the Commission to further work with the Member States, also in the context of implementation of their Recovery and Resilience Plans, as well as all relevant

stakeholders including as regards InvestEU fund deployment; in this regard, calls for a swift conclusion of the agreement between the Commission and the EIB Group, as its main implementing partner, on the specific terms and conditions for InvestEU fund implementation.

Commission's response:

In March 2022, a major milestone for the InvestEU Programme implementation was reached with the signature of the Guarantee and Advisory Hub Agreements between the European Commission and the European Investment Bank Group including the terms and conditions for the implementation of the InvestEU Fund applicable to the European Investment Bank and to the European Investment Fund

73. (Nr 31 - 2020/COU/0286) The Council invites the Commission to examine the feasibility of progressively enhancing the alignment of the relevant indicators with the EU Taxonomy, having due regard to the specificities and complexities of those instruments and programmes, as well as of enhancing the methodology and reporting as regards the climate impact of financing operations.

Commission's response:

The Commission has updated its methodology to track the climate impact of financing operations for the 2021-2027 MFF. The main enhancements have to do with attributing climate relevance to each action based on its expected effects, rather than on its objective/intent, a greater consistency of application across all EU spending programmes (thanks also to close coordination with the Parliament and the Council in the context of the trilogues for the relevant basic acts) and the introduction of a general requirement for all EU-funded actions to comply with the EU Green Deal oath to "do no harm" to the EU environmental objectives. This methodology, which has been published as a stand-alone staff working document (SWD(2022) 225 final), is already aligned to the extent possible to the EU Taxonomy, especially taking into account that it applies to many areas which are not covered by the latter.

The Commission will disclose in its future yearly reporting how much InvestEU financing is tracked using the EU Taxonomy.

74. (Nr 32 in relation with Nr 31 - 2020/COU/0287) The Council invites the Commission to update in due time its Communication on the performance framework for the EU budget under the 2021-2027 Multi-Annual Financial Framework.

Commission's response:

Although a new dedicated Communication on the performance framework may not be warranted until the new MFF, the Commission updates stakeholders on the advancements in the performance framework for the EU budget in the context of the programme statements backing the Commission's proposal for the budget of the following year. For example, in the proposal for DB 2023, published on 7/6/2022, the Commission describes the updates made to the methodologies to track the EU budget's contribution to both fighting climate change and protecting/restoring biodiversity, as well as the pilot methodology to track the EU budget contribution to enhancing gender equality.

75. (Nr 35 - 2020/COU/0288) The Council invites the Commission, in cooperation with the Member States and other relevant stakeholders, particularly as regards InvestEU deployment, to take forward the further assessment and possible implementation of the above ECA recommendations and the related considerations and conclusions by the Council, and to report regularly on progress to the Council, starting in the first quarter of 2022.

Commission's response:

The Commission has committed to implement the recommendations ECA issued in SR No 22/2021.

Their implementation will be reported on annual basis the Report of the European Court of Auditors on the performance of the EU budget. In addition, regular updates on the progress with the various Sustainable Finance related initiatives will be provided to the Member States Expert Group on Sustainable Finance.

SR No 24/2021 "Performance-based financing in Cohesion policy: worthy ambitions, but obstacles remained in the 2014-2020 period"

76. (Nr 10, first indent - 2020/COU/0289) The Council invites the Commission to:
- Regularly monitor the continued fulfilment of enabling conditions and report on Member States' fulfilment and its own enforcement activities, where relevant.

Commission's response:

The Commission will act accordingly through its representative in the monitoring committees for Common Provisions Regulation (CPR) Funds programmes.

As regards reporting, the Commission notes that there is no such obligation introduced in the CPR (Regulation (EU) 2021/1060). Nevertheless on specific request from discharge institutions in that respect, the Commission will present the requested information and thereby accepts the recommendation.

77. (Nr 10, second indent - 2020/COU/0290) The Council invites the Commission to:
- Inform Member States at an early stage about the approach to be applied for the mid-term review in 2025.

Commission's response:

The Commission will inform the Member States in due time before the mid-term review of the approach to be applied, taking into account the provisions of Article 18 of the new CPR. This will include, inter alia, investment guidance to the Member States in the context of the 2024 European Semester exercise.

78. (Nr 10, third indent - 2020/COU/0291) The Council invites the Commission to:
- Clarify with Member States how managing and audit authorities should treat public procurement and state aid when using Financing not linked to costs and Simplified Cost Options models during the 2021-2027 period.

Commission's response:

The Commission is working on an explanatory note which will clarify the elements necessary for the assurance, starting with the moment of submitting the FNLC proposals and throughout their implementation. The system for monitoring results and conditions as well as compliance with the public procurement and State aid rules as applicable will be outlined in the explanatory note. A proposal is currently being submitted for reactions to MS.

79. (Nr 10, fourth indent - 2020/COU/0292) The Council invites the Commission to:

- Clarify with Member States when using Financing not linked to costs in the context of approving or amending the programmes, how the appropriateness of the amounts linked to the fulfilment of the respective conditions or the achievement of results should be ensured.

Commission's response:

The Commission notes that programme amendments must be in line and follow the procedure of Article 18 of Regulation (EU) 2021/1060. Based on this provision the Member States should submit a reasoned request for amendment and the Commission will assess the amendment and its compliance with the CPR and with the Fund-specific Regulations, including requirements at national level.

80. (Nr 10, fifth indent - 2020/COU/0293) The Council invites the Commission to:

- Share best practices of performance-based funding models, including between funds, to encourage Member States on how to implement them.

Commission's response:

In 2018, the Commission set-up a Transnational Network (TN) for ERDF/CF Simplified Cost Options (SCOs) practitioners composed of representatives from all 27 Member States (managing authorities, coordination bodies and audit authorities). In 2020, the TN scope was extended to other topics related to simplification in the implementation of ERDF/CF programmes, including the use of financing not linked to costs (FNLC). The TN acts as a transnational platform for regular exchanges of experience and practices around SCOs and FNLC and also supports the Member States in improving the use of SCOs and FNLC.

The TN meets three times per year and during each meeting, the participants discuss best practices on the design, use and audit of performance-based funding models. Member States are also invited to share their experiences on the topic and in relation to other funds, such as ESF and Recovery and Resilience Facility (RRF). Some recent examples of practices shared, peer-reviewed and/or discussed in the TN are:

- 11th TN meeting (30/06-01/07/2022): Discussions will focus on developing FNLC schemes for technical assistance and proposals prepared from two other Member States will be presented (Bulgaria and Latvia);*
- 10th TN meeting (10-11/03/2022): Austria presented a second draft ERDF/CF proposal for FNLC under art. 95 CPR and Italy presented its proposals for interventions under RRF;*
- 9th TN meeting (28-29/10/2021): Austria and Estonia presented their ERDF/CF, and, respectively, ESF proposals for FNLC under art. 95 CPR.*

Member States are also encouraged to make use of peer-to-peer in order to exchange knowledge, experience and practice at EU level between Member States, particularly among practitioners. The matching and assessment are done jointly by units F1 and E1/DG REGIO and DG NEAR with the help of geographical units.

Up to date, 48 proposals for peer-to-peer have been received. Five events have been organised in 2019 and early 2020 (Cyprus in May 2019, Estonia, Poland, Finland in January 2020, Luxemburg in March 2020). Due to the pandemic crisis, Member States made use of the peer-to-peer possibilities at a lesser extent. However, during a recent survey amongst TN members (May 2022), DG REGIO invited Member States to express their needs and offer for peer-to-peer activities and a new matching exercise will be relaunched in June/July 2022.