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COMMISSION STAFF WORKING DOCUMENT
Accompanying the document

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
TO THE COUNCIL**

on the follow-up to 2014 discharge - Replies to requests from the Council

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INTRODUCTION

This Commission Staff Working Document completes the Report from the Commission to the European Parliament and the Council on the Follow-up to the 2014 discharge. It presents in detail the answers to 57 specific requests made by the Council in the comments accompanying its Recommendation on the 2014 Discharge.

COUNCIL RECOMMENDATION ON THE 2014 DISCHARGE

Introduction

1. (Nr 3 - 2014/COU/0181) The Council welcomes the findings of the Court and invites the Commission to take them into consideration, where appropriate and possible also in the ongoing work on the preparation of the mid-term review of the multiannual financial framework (MFF), in line with Article 2 of Council Regulation No 1311/20132, as well as in the preparation of the next MFF.

Commission's response:

The Commission welcomes the Court's findings and recommendations, which was as far as possible taken into consideration in the preparation of the mid-term review of the Multiannual Financial Framework (MFF).

The mid-term review adopted on 14 September 2016 examines the functioning of the current MFF, and includes proposals to improve the delivery on EU priorities, including on its ability to respond to the major challenges facing the EU.

The review also deals with the qualitative aspects: In 2016, the Commission continues to work in all areas covered by its strategy for Budget focused on results (BFOR). The BFOR aims at making the budget more results- and performance-oriented by, inter alia, strengthening its alignment on our policy priorities and European added value, increasing its leverage effect, improving our indicators and the way we report and communicate on the budget's impact, simplifying delivery and continuing our efforts to reduce further the level of errors while ensuring and enhancing the cost-effectiveness of controls.

Chapter 1 - The statement of assurance and supporting information

2. (Nr 4, §2 - 2014/COU/0182) The Council calls upon the Commission to take the appropriate actions in line with Article 32(5) of the Financial Regulation and to provide the budgetary authority, in 2016, with a comprehensive report on the areas where the level of error identified is persistently high and their root causes.

More specifically the Council requests the Commission to present in this context a timely overview, where appropriate on an aggregated level, based on systematic data that is already available such as control reports by audit authorities, the Commission's own controls, and audit results of the Court.

Commission's response:

The Commission will provide the budgetary authority, in 2016, with the results of its analyses of the areas where the level of error identified is persistently high and the root causes.

3. (Nr 5, §1 - 2014/COU/0183) The Council invites the Commission and Member States to take full advantage of the existing options when implementing the programmes under the new legislative framework for the period 2014-2020, by the appropriate use of the variety of simplification measures available.

Commission's response:

The Commission notes that the Council Recommendation is partly referred to Member States, who are responsible for the implementation of about 80% of the Union budget. The Commission accepts the Recommendation insofar as it is directly responsible for the implementation of the Union budget under the programming period 2014-2020, and will make its best efforts to maximise the use of simplification tools. The Commission will also monitor the uptake of simplification options by both the Commission and Member States through an Administrative Simplification Scoreboard, latest published on 14 September 2016.

4. (Nr 5, §2 - 2014/COU/0184) The Council calls on the Commission to continue to apply both representative sampling and risk-based checks.

Commission's response:

The Financial Regulation requires that all financial operations should be subject to control before payment, but that the extent in terms of frequency and intensity of these shall be determined based on the risks and the costs involved. Any controls after payment (ex-post, corrective controls) may be carried out on a sample basis according to risk (Article 66 (5) and (6) FR).

All Commission departments have been invited to review their control systems in order to ensure that they are risk-differentiated, taking into account their cost-effectiveness and having due regard to the management environment and the nature of the actions financed. By the end of 2015, 25 departments had done so; half had taken measures to improve cost-efficiency while the others concluded that no changes were needed. The remaining departments are expected to carry out their review in 2016.

5. (Nr 6, §1 - 2014/COU/0185) The Council calls upon the Commission and Member States to undertake further actions aiming at strengthening the quality of management and control systems and making them more efficient, with special emphasis on first level checks.

Commission's response:

The Commission has taken and is continuously taking the recommended actions.

Management and control systems can only work if Member States do their work properly. Therefore the Commission has a role to supervise the good functioning of Member States systems. In that context, DG Regional and Urban policy has carried out between 2010 and end 2015 a total of 143 targeted audits on management verifications of 88 high risk programmes in 19 Member States; DG Employment, Inclusion and Social Affairs carried out between 2013 and 2015 26 audit missions on the specific issue of management verifications in 15 Member States. These audits include visits at the level of the beneficiaries, on the spot (62 operations audited on the spot in 2014 under such audits). For 66% of these audits the Commission identified significant deficiencies in the first level controls. In 58% of the audits the deficiencies concerned public procurement. DG Agriculture and Rural Development in financial years 2013 – 2015 carried out 402 conformity audit missions, which covered all the Member States and all areas of the Common Agricultural Policy.

When the Commission identifies deficiencies in the management verifications it stops the payments. Interruptions and suspensions are incentives for Member States to have good systems in place and to timely take remedial actions, including financial corrections. The Commission uses these legal tools consistently and as soon as serious deficiencies in management verifications are identified. In case identified deficiencies have not been mitigated at the end of the reporting year, the Commission issues a reservation for the concerned operational programme in the AAR. The implementation of preventive and corrective measures, such as remedial actions plans, interruptions, suspensions and financial corrections, has led to improvements in the systems of programmes put under reservation. EU payments are resumed only where there is sufficient and reliable evidence that weaknesses have been remedied.

The Commission carries out a continuous supervision of high risk programmes after the implementation of the remedial actions. This supervision is meant to ensure that the management and control systems of programmes do not deteriorate again, due for example to staff turnover and staff restrictions in public administrations.

On the preventive side, the Commission provides the programme authorities with the necessary guidance (updated guidance for 2014-2020 provided in September 2015) and targeted trainings for each of the implementation phases of the programmes, and on the verification of public procurement or State aid issues. Commission checklists are shared with managing and audit authorities. Sharing good practices between programmes is promoted. The new Peer 2 Peer instrument available to managing authorities for exchange of expertise will further help on this.

Reinforced procedures are foreseen in the regulatory framework for the 2014-2020 programming period. Management verifications and controls (including on-the-spot checks) will have to be carried out before the annual certification to the Commission of programme accounts and submission of management declarations and the annual summary of controls and audits by the managing authorities. Audit authorities will provide an audit opinion and a control report, which will include the residual level of error after correction. The Commission may impose net financial corrections to the programme if serious deficiencies in management verifications remain undetected or uncorrected by the Member State before submission of the accounts. The Commission considers that these reinforced control procedures will result in lasting reductions of the error rate.

The Commission has simplified the rules for the 2014-2020 period. The Commission has reviewed the public procurement rules and has issued new and clearer rules for State aid. Member States are required to take up simplifications offered for the new programmes: i) avoiding 'gold plating' (adding national complexity in the eligibility rules); ii) ensuring efficient – not necessarily more – controls through continuous training; iii) ensuring that expertise is retained in the administration, avoiding unnecessary staff turnover.

All these measures have the potential to enhance the quality and reliability of first-level checks.

6. (Nr 6, §1 - 2014/COU/0186) Preventive measures by the Commission, such as interruption and suspension of payments should be applied strictly in line with the relevant rules.

Commission's response:

The Commission has continued to apply strictly interruptions and suspensions in order to safeguard the EU financial interest.

Under the new Common Agricultural Policy (CAP) Horizontal Regulation, a new legal framework for interruptions and suspensions of CAP funds entered into force in 2014, which has strengthened the Commission's powers to suspend EU financing in cases where risks of irregular payments have been identified. For EAFRD, the Regulation 1303/2013 also provides for the interruption of interim payments by the Director-General as an additional, quick preventive measure.

In the area of Cohesion, under Regulation 1303/2013: payment deadlines can be interrupted for a maximum period of six months by the Director-General and all or part of an interim payment to a Member State can be suspended by the Commission. Interruptions and suspensions are only terminated on the basis of reasonable assurance on the implementation of an action plan including corrective measures and/or after financial corrections have been implemented.

The shared management DGs report on the implementation of the interruptions and suspension in the respective AAR each year, as required by Article 59(6) of the Financial Regulation. An overview and further details on the suspensions and interruptions can also be found in the annual Commission Communication on the protection of the EU budget.

7. (Nr 7, §1 - 2014/COU/0187) The Council calls upon the Commission to continue, where appropriate, the implementation of all available corrective measures, whilst acknowledging the multiannual nature of EU funding and of the corrective capacity of the Commission.

Commission's response:

The Commission continues to apply financial corrections and recoveries rigorously. In 2015, the total financial corrections and recoveries confirmed amounted to EUR 3 403 million (2014: EUR 4 728 million). This amount contains all corrections and recoveries confirmed during 2015 regardless of the year during which the initial expenditure had been made. Financial corrections and recoveries are confirmed when they have been either agreed by the Member State concerned or adopted by a Commission decision. More details on these figures and on the preventive and corrective mechanisms can be found in the annual Communication on the protection of the EU budget 2015(COM(2016) 486 final).

In its 2015 Annual Management and Performance Report of the EU Budget, the Commission has assessed the performance of its multi-annual control systems by providing best and conservative estimates of the overall amount at risk at payment, the expected future corrections and the resulting amount at risk at closure, i.e. the level of error after all corrective measures will have been implemented at the closure of the programmes. The results of this estimation provide evidence that the multi-annual corrective mechanisms will adequately protect the EU budget from expenditure in breach of law. More details can be found in the Commission Annual Management and Performance Report for the 2015 EU Budget.

8. (Nr 8, §2 - 2014/COU/0188) The Council calls on the Commission to ensure that its information on financial instruments under shared management is adequate and transparent.

Commission's response:

The Commission has taken the recommended action.

For the 2014-2020 programming period requirements on reporting on financial instruments are provided in Article 46 CPR, and Annex I of the Commission Implementing Regulation 821/2014. The latter sets out a model for reporting on financial instruments. In section VIII of the reporting model the Member States

have to provide information on the amount of other contributions, outside ESI Funds raised by financial instruments, including public and/or private contributions, both committed in the funding agreements and paid at the level of final recipients.

See also reply to 2014/COU/0203.

Chapter 2 - Budgetary and financial management

9. (Nr 2, §2 - 2014/COU/0189) The Council calls on the Commission to continue monitoring the evolution of the amounts of outstanding commitments, by heading and by programme on a regular basis, and to settle or decommit them in a timely manner and in line with the relevant rules.

Commission's response:

The evolution of the RAL is reported on a weekly base in the weekly report sent to the Council and the European Parliament which gives the current RAL for each budget line. The RAL is further reported in working document V associated with the draft budget and in report on budgetary and financial management. Decommitting is an action where the Commission cancels its commitment to pay for some action in the future and is done in accordance with the relevant rules and regulations.

10. (Nr 3 - 2014/COU/0190) The Council calls upon the Commission to consider in its budgetary and financial management the capacity constraints in some Member States in order to avoid the underutilisation of funds, while acknowledging the actions taken so far, such as the set up of the Task Force for Better Implementation, which has already generated improvements.

Commission's response:

The Commission is taking the recommended actions and has taken the following measures:

- the temporary 10 % top-up of the co-financing rate for programme countries,*
- a specific support for the authorities of the Member States concerned,*
- revision of the Closure Guidelines to ensure the proper use of the flexibility arrangements available to Member States (in particular the use of phased projects and Financial Engineering Instruments).*

In addition DG Regional and Urban Policy established in 2013 a Competence Centre 'Administrative Capacity Building', responsible for defining and implementing targeted actions addressing administrative bottlenecks and

weaknesses hindering effective and efficient use of ESI Funds in MS and regions. The Commission's administrative capacity building initiatives (public procurement action plan, state aid action plan) and assistance already adopted will need to be fully exploited, including the TAIEX REGIO Peer to Peer initiative, the Competency Gap analysis framework and the Integrity Pacts.

The intense work undertaken in the framework of the Task Force for Better Implementation over 2015 has brought results. It pushed authorities to accelerate implementation and make full use of available flexibilities and manage actively the programmes including close monitoring. The experience sharing the Commission ensured was highly exploited by the Member States. In terms of decommitment at closure the overall figure for the 8 countries covered is expected not to exceed significantly EUR 5 billion while at the end of 2014 this figure was considered to reach easily the aggregate level of EUR 10 billion.

For 2014-2020, all national authorities (in particular those having participated in the work under the Task Force) are strongly encouraged to kick-start programme implementation. Efficient national mechanisms will need to be in place to support beneficiaries in implementing the funds and undertake regularly capacity building actions both for the beneficiaries and the authorities administering the funds. To this end a number of measures have been included in the programmes both under technical assistance financed measures and under the Thematic Objective 11 aiming at enhancing the institutional capacity of public authorities.

11. (Nr 4, §2 - 2014/COU/0191) The Council calls on the Commission to prepare and publish annually a long term forecast covering budgetary ceilings, estimated payments obligations and needs until the end of the current MFF, capacity constraints and potential decommitments.

Commission's response:

In its communication on the mid-term review of the MFF, the Commission has presented a payment forecast assessing the sustainability of the current ceilings and including the estimate of de-commitments and the evolution of RAL until the end of the current MFF.

The Commission will then continuously monitor the implementation and update its forecast accordingly in the following years. In 2017, the Commission shall update the forecast for payment appropriations after 2020 (according to point 9 of the Inter-institutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management).

12. (Nr 4, §3 - 2014/COU/0192) Moreover, the Council stresses its request to the Commission to provide, on a regular basis, clear, exhaustive, transparent and timely information about the needs for payment appropriations and the availability of funds in the annual budget.

In this context, the Council invites the Commission to accompany any proposal modifying the agreed level of commitment appropriations with information on the corresponding impact on payment appropriations over the programming period.

Commission's response:

Report on the needs of payment appropriations is done in the report called "active monitoring and forecast of budget implementation" (AMFBI) which is presented to the Council and the Parliament. Availability of fund is transmitted every week in the weekly report. When the Commission proposes modification of commitments (as it has been the case for the migration in 2015), it presents the estimates schedule of payments related to these actions. It is also the case when it requests the mobilisation of the flexibility instrument.

Chapter 3 - Getting Results from the EU budget

13. (§7 - 2014/COU/0193) The Council will engage constructively in discussions on how to improve the performance framework of the EU budget and to ensure that the EU budget delivers more and better results, where appropriate, in view of the MFF mid-term review and of the next MFF. It invites the Court to provide its input for this review in a timely manner and calls upon the Commission and Member States to take advantage of this opportunity to analyse possibilities for reinforcing a results-oriented approach within the EU.

Commission's response:

This recommendation is addressed to the Court, the Member States and the Commission. Therefore, the Commission can only partially accept this recommendation. As regards the request to the Commission to use the opportunity of the MFF review to analyse possibilities for reinforcing a results-oriented approach within the EU, it refers to its reply provided to recommendation 2014/COU/0181.

Chapter 4 - Revenue

14. (§3 - 2014/COU/0194) The Council also calls upon the Commission and, where appropriate, Member States to increase the predictability and transparency by improving the comparability of data between Member States and by providing early information on upcoming revisions and their financial impact.

Commission's response:

In April 2016 the Commission laid down the principles of the forthcoming 2016-19 verification round of GNI with the aim of improving the "reliability, comparability and exhaustiveness" of GNI, as required in the GNI Regulation (Council Regulation No. 1287/2003). Each year, Member States are reminded of the accepted guidelines on communication of major revisions of national accounts and then requested to signal forthcoming revisions to their data three months before the deadline for data transmission.

Chapter 5 - Competitiveness for growth and jobs

15. (§2 - 2014/COU/0195) The Council calls upon the Commission to strengthen its efforts to analyse and address the causes of persistently high error levels with a particular focus on the programmes that are subject to such error levels.

Commission's response:

The Commission is taken appropriate actions and will provide the budgetary authority with the result of its analyses of the areas where the level of error identified is persistently high and the root causes.

16. (Nr 1, §2 - 2014/COU/0196) The Council fully supports the Court's recommendation that the Commission, other authorities and contracted auditors should use all the relevant information to prevent, detect and correct errors before the reimbursement of cost claims.

Commission's response:

The Commission has already addressed this recommendation as follows:

First, the Commission has sent a letter to all beneficiaries of the Horizon 2020 and FP7 asking them to pay especial attention – and furthermore, to implement – all the observations that stem from their certifying auditors or from the Court of Auditors and Commission auditors.

Second, the Commission continues providing advice and information related to the legal aspects of the Framework programmes to all the beneficiaries – and their certifying auditors - that are addressing specific questions associated with their particular projects they are handling.

The Commission has organized a series of meetings targeting beneficiaries and independent certifying auditors (>300) to raise awareness of the most common errors. In addition, feedback has been provided to certifying auditors who have

made errors, and a more didactic template for audit certificates has been provided in Horizon 2020.

The Commission will continue to provide guidance to these auditors, and to try to improve the overall process.

In addition, the Commission is currently providing ad-hoc training to their own staff on the most relevant findings reported by the Court of Auditors.

17. (Nr 1, §4 - 2014/COU/0197) The Council, therefore, calls upon the Commission to provide adequate support to such beneficiaries and bodies through guidance, in particular through the Commission's Common Support Centre, which has already yielded highly appreciated positive results and which the Council supports fully.

Commission's response:

The principal source of recurrent errors is that beneficiaries include ineligible or unsubstantiated costs in their cost statements. This is "exacerbated" by the complexity of the FP7 rules for calculating eligible costs. It cannot be "corrected", only mitigated. That is why radical simplification has been introduced for Horizon 2020.

In its opinion on the Horizon 2020 rules (Opinion 6/2012), the Court considered that "the radically simplified cost-funding model will improve the reliability of the model, decrease the risk of irregularities in beneficiaries' cost claims [and] make project accounting less complex".

Therefore Horizon 2020 includes a number of radical simplifications that would reduce the inherent risk of error. For instance the simplification in productive hours, a common source of error and of great complexity in FP7, should eliminate such misunderstandings.

Comprehensive guidance and clearer templates have been, and are also being prepared. They are published on the Participant Portal. The Commission will continue to provide guidance to the auditors and to try to improve the overall process.

As far as FP7 is concerned the Commission has been running a communication campaign to remind beneficiaries and their certifying auditors of the eligibility rules. In addition the Commission has published a note addressing the most frequently recurring errors including some explanations and how to remedy them. Participants may also address questions to a help desk.

The Guide to Financial Issues for FP7, available to all beneficiaries on the Participant Portal has been improved throughout the program.

18. (Nr 3, §1 - 2014/COU/0198) The Council notes the Court's recommendation and calls upon the Commission to follow a consistent approach on the calculation of weighted average error rates and the resulting assessment of the amounts at risk.

Commission's response:

The Commission has further clarified the key concepts and definitions for better estimating error rates, amounts at risk and corrections in the 2015 AAR guidance. The various concepts and indicators have been defined in a sufficiently flexible manner to enable taking account of the specific circumstances of the various DGs and yet, ensure a sufficient degree of consistency to consolidate data. The Central Services have reviewed the draft 2015 AARs of the DGs, in particular as regards the conservativeness of the estimations of the error rates, amounts at risks and future corrections, and provided comments where needed to ensure alignment with the AAR guidance and to avoid any underestimation of the amount at risk or the overestimation of the corrective capacity.

As regards the AAR 2014 exercise and the specific case concerning the Trans-European Networks-Transport programme and the EEPR, reference is made to the written replies by Commissioner Carlos Moedas, responsible for Research, Science and Innovation to the written question from the CONT Committee (Nr 38), available on the EP website:

https://polcms.secure.europarl.europa.eu/cmsdata/upload/5f355fb3-580c-43c5-bb70-1087342afad3/Updated_2015-12-02%20Questionnaire%20Moedas%20-%20CONT%20-%20CLEAN.pdf

Chapter 6 - Economic, social and territorial cohesion

19. (§3 - 2014/COU/0199) The Council invites the Commission to continue to provide appropriate and consistent training and guidance to assist in the implementation of new programmes.

Commission's response:

The Commission has taken and is continuously taking the recommended actions.

DG Regional and Urban Policy together with DG Employment, Social Affairs and Inclusion will continue to support Member States' administrations in managing EU funds in particular through the following actions:

- in the areas of public procurement and state aid, actions plans will continue to be implemented. Key actions under the public procurement action plan will include monitoring of the ex-ante conditionality action plans on public procurement; cooperation with external experts like OECD on pilot projects in SK and BG;

promotion of transparency and open data on public procurement. In addition, integrity Pacts will be set up as from 2016 in 11 Member States to help governments, businesses and civil society to make procurement procedures more transparent and efficient and reduce the risk of fraud and corruption. Under the state aid action plan actions will focus on monitoring of the ex-ante conditionality action plans; organisation of expert seminars and webinars in specific sectors; and further knowledge development on administrative capacity.

- Actions to support further professionalization of the management of the funds include a study on an "EU Competency Framework for efficient management and implementation of ERDF/ Cohesion Fund" which includes a self-assessment tool to help Member States' administrations to identify competency gaps among their staff and define training and recruitment needs. Implementation of a strategic training programme on the new regulatory requirements for the 2014-2020 programming period will continue. Exchanges of expertise in the framework of the TAIEX-REGIO PEER2PEER instrument will be subject to an evaluation in 2016, which will enable to decide on the scope of its continuation.

- A training programme for managing, certifying and audit authorities and intermediate bodies on the implementation of the new Regulation have continued to be implemented, including a specific module on "Management and Control; Management Verifications". This module attracted high interest from Member State experts, 6 modules of 2 day trainings were organized with on average 35 participants per module from different Member States and working with ERDF, ESF and CF. Trainings were given by European Institute for Public Administration and participation from REGIO and EMPL experts for Q&A sessions.

See also reply to 2014/COU/0185.

20. (Nr 1.1, §3 - 2014/COU/0200) The Council is concerned that the major source of errors for this policy area remains non-compliance with public procurement rules, followed by errors caused by breaches of eligibility rules, and errors related to the infringement of state aid rules.

It urges the Commission to follow up the cases identified by the Court and to propose corrective measures where necessary and to strengthen cooperation within the Commission, as well as with Member States, including improvement of the guidance for national authorities.

Commission's response:

The Commission is taking the recommended actions.

Due to the type of investments co-financed within regional and urban policy, public procurement and state aid remain complex areas of potential difficulty. In order to address the identified main sources of errors the Commission has

intensified its work with the national authorities, among others as part of the targeted action plans on public procurement and state aid.

A public procurement action plan was established and is under implementation including:

☐ *A Public Procurement Guidance for Practitioners on the avoidance of errors in ESI- funded projects was published.*

☐ *All countries non-compliant with the Public procurement ex-ante conditionality have prepared and are implementing national action plans.*

☐ *Country strategies for 7 Member States should help establishing public procurement strategies.*

☐ *Integrity Pacts for an ethical behaviour in public procurement procedures are in pilot phase (in cooperation with Transparency International).*

Assessment of current practices and need for professional training and qualifications in public procurement.

As regards State aid, a State aid action plan was adopted in March 2015 and is currently implemented. It includes measures for:

☐ *review of existing good practices and their dissemination,*

☐ *strategic training programme, including expert and country specific training,*

☐ *customised assistance to Member States not fulfilling the ex-ante conditionality on state aid,*

☐ *updated checklists for auditors and managing authorities.*

In parallel, the Commission continues cooperating with national authorities to encourage them to identify and report eligibility rules that can be simplified without putting at risk the legality and regularity of the expenditure.

However, the Commission carefully considers the types of errors identified by the Court and takes actions aiming to prevent those errors from occurring. It will follow up all errors reported by the Court and will apply financial corrections where appropriate and legally possible.

The Commission has also initiated targeted measures in administrative capacity and audit capacity.

A general administrative capacity initiative has been launched with as main activities:

☐ *A peer-to-peer exchange of expertise between national authorities;*

☐ *Training sessions for national authorities on the implementation of the new Regulations (2014-2020);*

☐ *Specific workshops in Member States on implementation of effective and proportionate anti-fraud/anti-corruption measures (risks and preventive measures).*

Audit capacity initiatives are also in place for the audit authorities which do not work up to standards. Regular administrative capacity building actions (technical meetings, methodology discussions, exchange of audit tools and checklists etc.) are in place for all to ensure a robust joint audit framework. There is furthermore a tailor made approach through a delivery of specific training sessions to audit authorities on request concerning statistical tools, audit methodology for public procurement and state aid, etc. There are specific remedial action plans for those audit authorities not up to standards.

21. (Nr 1.1, §4 - 2014/COU/0201) The Council reiterates the paramount importance of first level checks in containing the risk of error. It invites the Commission and Member States to intensify their efforts in addressing those weaknesses by taking into account all available information, including peer review and sharing of best practices, and undertaking possible corrective measures and actions.

Commission's response:

See reply to 2014/COU/0185.

22. (Nr 1.1, §6 - 2014/COU/0202) The Council calls upon the Commission to continue applying suspensions and interruptions of payments whenever significant deficiencies in the functioning of management and control systems are identified, including, where appropriate, the use of net-financial corrections, in accordance with the relevant rules.

Commission's response:

See reply to 2014/COU/0185.

23. (Nr 1.1, §7 - 2014/COU/0203) The Council asks the Commission to analyse the reasons for the delays in the disbursement of EU funds through financial instruments and to take appropriate actions.

Commission's response:

The Commission has taken the recommended action.

On 1 October 2015, the Commission reported on the situation of the implementation of financial instruments at the end of 2014 which shows further progress in implementation with the absorption rate of 57%. This represents a significant increase in the payments to final recipients compared to 2013 (+40%). This percentage covers instruments established in 2008, some of which have already achieved 100% absorption and are now re-investing revolving funds, as well as instruments newly established in 2013 and 2014 for which implementation only started recently.

The use of financial instruments was considerably promoted for 2007-2013 programmes and it is undeniable that the implementation of such new instruments represented a steep learning curve for managing authorities. The slow implementation is the result of three factors:

-complexity of the setup and need to establish the necessary know-how by the managing authorities;

-in some cases over-allocation of resources as compared to the real market need, to avoid automatic decommitment,

-implementation in a time of financial crisis, and risk aversion by banks and economic operators.

The Commission services followed up with the managing authorities for those programmes most concerned by slower implementation to help ensure action was taken. Regarding the weaknesses identified in the reporting by the Member States, the Commission presented in May 2015 an updated guidance note on reporting about financial instruments http://ec.europa.eu/regional_policy/sources/thefunds/fin_inst/pdf/guidance_reporting_instruction_air2014.pdf.

For the period 2014-2020, in order to improve the functioning and implementation of the use of financial instruments, the legal basis introduced more flexible co-financing modalities as well the possibility to contribute to financial instruments set up at Union level, to implement financial instruments under all the thematic objectives and to use available standardised instruments (off-the-shelf), for which the terms and conditions have been pre-defined and laid down in a Commission Implementing Act <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0964&from=EN>.

The Commission provides also assistance and advisory services to the programmes and other stakeholders on the use of financial instruments. A dedicated technical advisory platform (fi-compass) was established early in 2015 in partnership of the four European Structural and Investment Funds DGs with the EIB. Fi-compass is designed to support ESIF managing authorities, EaSI microfinance providers and other interested parties, by providing practical know-how and learning tools on financial instruments. These include “how-to” manuals, factsheets for quick reference, e-learning modules, face-to-face seminars and networking events for the exchange of good practice and networking across Member States.

24. (Nr 1.2, §4 - 2014/COU/0204) The Council calls upon the Commission to continue providing appropriate and consistent training and guidance to the beneficiaries and to further reduce the administrative burden by promoting the use of the simplified cost options that are less prone to error, as assessed by the Court.

Commission's response:

In order to support the take-up of Simplified Costs Options (SCOs) by Member States, the Commission developed guidance documents on SCOs. The first reference document was finalised in January 2010: the COCOF note on SCOs setting out examples on how to develop, introduce and make use of the different types of SCOs. This guidance was updated by the EGESIF guidance note on SCOs in September 2014. Both of these notes were translated in all EU languages. Moreover, two specific guidance notes were developed for Article 14(1) ESF and Joint Action Plans in June 2015. In order to illustrate some good practices of SCOs, a case study on the implementation of SCOs in the ESF in Italy was published in February 2014.

DG EMPL has been promoting the use of SCOs since several years. These efforts have recently been summarized in a "Report on the implementation of SCOs in the ESF" which was sent to the ECA, the European Parliament and the Council in November 2015. The report shows that there was a relatively low uptake of the use of SCOs in the 2007-2013 programming period, but that Member States expect their use of SCOs to significantly increase in the 2014-2020 period building on the new possibilities offered by the 2014-2020 regulatory framework and the experience acquired.

DG EMPL will continue to strongly support Member States in their efforts. This in particular includes the involvement of the auditors in the hands on support (as requested by the Parliament) during the development of SCO-methodologies ultimately leading to the proposal of a delegated act (in accordance with Art. 14(1) of the ESF-Regulation); currently 4 Member States are covered by such a delegated act (Sweden, France, Czech Republic and Belgium). Other Member States (Slovakia, Italy, Malta, Germany (Bremen), Romania are in the process of developing their SCO or have submitted a proposal for an Art 14.1 application.

Additionally, the DG EMPL is participating in specific seminars and workshops in Member States. In 2016, a seminar has already taken place in Germany (February) and Romania (April) and further events have to date been scheduled in Croatia and Malta.

25. (Nr 2, §1 - 2014/COU/0205) The Council, while acknowledging the efforts already made by the Commission and Member States, calls upon them to continue improving their supervisory and control systems.

Commission's response:

See reply to 2014/COU/0185.

26. (Nr 2, §2 - 2014/COU/0206) The Council urges the Commission to continue close cooperation with national audit authorities, to assess their level of reliance, to enable improvements in terms of capacity building or methodology used, and to ensure that the same standards are applied for all audit authorities.

Commission's response:

The Commission has taken and is continuously taking the recommended action.

Over the years DG Regional and Urban Policy and DG Employment, Social Affairs and Inclusion have reviewed the work of the most important audit authorities covering over 98% of ERDF, CF and ESF allocations. The Commission is continuously monitoring the situation where the single audit status has been granted. On-the-spot re-performance of audits including at the level of beneficiaries, associated with the issuance of continuous advice, audit guidelines and methodological tools by the Commission services, has enabled comprehensive capacity-building for audit authorities since 2009. As a result, most audit authorities are now up to standards and provide the Directorates-General with reliable audit results. In 2016 DG Regional and Urban Policy and DG Employment, Social Affairs and Inclusion will continue to monitor the work of audit authorities through desk and on-the-spot audit work. This remains particular useful in view of the audit opinion for the closure of 2007-2013 programmes expected to be received in March 2017, and taking into account that most audit authorities will continue carrying out their functions for the 2014-2020 programmes.

The Directorates-General pursued during 2015 and will continue to pursue the organisation of fora for exchanges on audit issues and capacity building actions for the benefit of all audit authorities through targeted training on request, on issues such as audit of public procurement or State aid, recommended sampling technics for conclusive and reliable audit results and to ensure good implementation of 2014-2020 new features such as audit of performance indicators, e-cohesion, simplified cost options etc.. Continuous feedback will be given to the audit authorities based on the assessment of the 2015 annual control reports and audit results for better understanding of the main weaknesses identified and dissemination of good practices within the audit community.

Capacity building actions at the level of audit authorities, but also managing and certifying authorities are also carried out, which contribute to preventing and correcting errors and therefore contribute to the assurance process: there is a structured cooperation with audit authorities on methodology and reported audit results through multilateral and bilateral meetings. Also, multilateral meetings included three technical meetings in Brussels in 2015, covering the discussion on

various guidance notes and methodological issues for the period 2014-2020. The Homologues Group annual meeting of European Auditors for ESI Funds in Riga in September 2015 covered issues linked mainly to the closure of the 2007-2013 programming period.

Chapter 7 - Natural Resources

27. (§2 - 2014/COU/0207) The Council acknowledges the efforts already made by the Commission and Member States, and calls upon them to continue improving their supervisory and control systems.

Commission's response:

Under shared management it is for the Member States to organise their management and control systems. Therefore, the Commission understands this recommendation is addressed mainly to the Member States.

The Commission carries out audits to ensure that the control systems put in place by the Member States effectively protect the EU budget. If deficiencies are detected, the Commission may impose financial corrections, while indicating to the Member State concerned necessary corrective actions to rectify the weaknesses.

28. (Nr 1.1, §4 - 2014/COU/0208) The Council underlines the high level of error detected by the Court in the administrative processing of aid applications by national authorities, contributing for 0.7 percentage points to the estimated level of error.

It calls upon the Commission to continue to systematically request and closely monitor action plans by the Member States aiming at remedying the situation and to continue to apply financial corrections when necessary, in line with the conformity clearance procedures.

Commission's response:

The Commission is empowered to disallow operations executed in breach of EU law or to reduce or suspend payments in order to prevent irregular spending when action plans are not properly implemented.

These two measures aimed at ensuring sound financial management are provided for in Articles 52 and 41 of Regulation 1306/2013, respectively.

The Commission will continue to fulfil its obligations, in accordance with the above mentioned provisions. Thus, in all cases it is deemed justified, the Commission will continue to impose financial corrections or request and monitor action plans established to remedy deficiencies in the Member States' management systems.

29. (Nr 1.2, §4 - 2014/COU/0209) The Council takes note of the errors detected by the Court made by national authorities, contributing for 0.6 percentage points to the estimated level of error.

It calls upon the Commission and Member States to remedy the situation and for the Commission to continue to apply financial corrections when necessary, in line with the conformity clearance procedures.

Commission's response:

The Commission is empowered to disallow operations executed in breach of EU law or to reduce or suspend payments in order to prevent irregular spending when action plans are not properly implemented.

These two measures aimed at ensuring sound financial management are provided for in Articles 52 and 41 of Regulation 1306/2013, respectively.

The Commission will continue to fulfil its obligations, in accordance with the above mentioned provisions. Thus, in all cases it is deemed justified, the Commission will continue to impose financial corrections or request and monitor action plans established to remedy deficiencies in the Member States' management systems.

30. (Nr 2.1, §1 - 2014/COU/0210) The Council urges the Commission and Member States to pursue their efforts to ensure that IACS remains an effective and functioning system.

Commission's response:

In order to assist the Member States, a dedicated unit was established in DG Agriculture and Rural Development to support the policy implementation by working with the Member States on ensuring that IACS remain an effective and functioning system. Besides, as explained in the reply to Recommendation no 1, it is for the Member States to organise their management and control system, of which IACS is an important part.

31. (Nr 2.2, §2 - 2014/COU/0211) The Council notes that the system weaknesses detected by the Court in its sample for 2014 were very similar to those found and reported in the previous years: deficiencies in administrative checks related to eligibility conditions and persistent weaknesses in checking public procurement procedures.

It calls on the Commission to continue to work with the Member States to remedy the causes of errors, including through the action plans.

Commission's response:

Firstly, it should be emphasized that the Court of Auditors uses only a limited number of categories to report on the typology of errors. Hence, the fact that the same categories appear in consecutive years should not be automatically understood as demonstrating that the same weaknesses persist.

Besides, the Commission keeps working with the Member States on identifying and addressing the most common causes of errors. The Commission continuously provides guidance to the Member States by providing guidelines, replying to questions received in writing or by discussing different issues at management committee meetings or dedicated seminars or conferences.

32. (Nr 2.2, §3 - 2014/COU/0212) The Council underlines that the action plans are designed to implement targeted corrective actions to remedy the causes of errors and recognises the efforts from Member States to further reinforce their action plans in order to address any shortcomings detected during the audits.

Therefore the Council calls on the Commission to pursue its efforts in providing targeted guidance and in increasing the mutual understanding with the national administrations involved.

Commission's response:

The process of establishing and implementing action plans is carried out in close cooperation between the Commission and the national authorities.

Each action plan is devoted to a particular Member State or Paying Agency concerned, so it targets specific issues related to the deficiencies identified. In accordance with Article 41(2)(b) of Regulation 1306/2013, action plans are established in consultation with the Commission, which can comment or guide the Member State as to the expected content. In this process, the Commission is, in particular, focussing on the most relevant remedial actions and the reasonable time-line for the implementation.

Subsequently, when monitoring action plans, the Commission checks the results achieved against concrete remedial measures described and progress indicators included in these plans.

Finally, the Commission continuously provides guidance and explanations through its services dedicated to the management of direct payments and rural development programmes who are at the disposal of every Member State to offer clarifications or guidance.

33. (Nr 2.2, §4 - 2014/COU/0213) The Council calls upon the Commission and Member States to improve the quality of the audits carried out by national audit authorities in the field of fisheries.

Commission's response:

DG MARE will continue to monitor developments in Italy - the source of these findings - and will be following these issues up again during the course of 2016. The Commission holds annual meetings with all Member States audit authorities to discuss audit issues and the associated necessary work. Key issues have already been addressed in the Annual Co-ordination Meeting with the Italian Audit Authority and via bilateral contacts.

Eighth, ninth, tenth and eleventh European Development Funds

34. (Nr 1 - 2014/COU/0214) The Council notes with concern, however, that the Court's Annual Report concerning EDF activities for the financial year 2014 shows that the error rate has increased again compared to the previous year and that this error rate is still too high. It also notes that this error rate is substantially higher than the one observed in heading 4 of the general budget.

The Council urges the Commission to work within the agreed target of 2% error rate.

Commission's response:

The requested action has been taken.

The Commission remains fully committed to working towards the 2% materiality threshold for the error rate concerning both the implementation of the EDF and of the EU general budget:

A new Action Plan to further address the weaknesses in DG DEVCO's internal control system is being implemented from September 2015 and encompasses both targeted measures addressing the two high-risk areas of expenditure identified – i.e. direct management through grants and indirect management with international organisations – and general ones aiming at reinforcing the effectiveness of the control system (for instance the active promotion of good practices in financial management with partners and beneficiaries). It will be adjusted as a result of the new reservations made in DG DEVCO's AAR 2015, and in the light of the findings of the 2015 Residual Error Rate (RER) study, in order to better differentiate the controls put in place.

35. (Nr 2 - 2014/COU/0215) The Council invites the Commission to sustain its efforts in these matters (reduce old prefinancing and old RAL; expired contracts).

Commission's response:

The requested action has been taken.

The Commission has put in place a quarterly KPI analysis, made a new monitoring tool (Portfolio Management Dashboard) available and carried out specific monitoring campaigns on old pre-financing and old RAL, and on expired contracts. Moreover, guidelines on the clearing of pre-financing have been updated. The KPI reduction of the old pre-financing consistently exceeds the benchmark and the amount was reduced by 40% from 1,431M€ at the beginning of 2013 to 857M€ at the end of 2015. Results are similar for the KPI "reduction of old RAL" with the amount reduced by 51% from 1,107M€ at the beginning of 2013 to 538M€ at the end of 2015. Considerable progress has been made with a reduction in the number of expired contracts by 46% (from 2013 at the beginning of 2013 to 1091 at the end of 2015).

36. (Nr 4 - 2014/COU/0216) The Council invites the Commission to report on the implementation of that monitoring system by December 2016 (recovery of interests on prefinancing and the putting in place of the monitoring system to that respect).

Commission's response:

The Commission is taking the requested action.

DG DEVCO has implemented in the Common External Relations Information System (CRIS) the necessary functionality for the proper encoding of recovery of interests on prefinancings equal or below €750,000. The monitoring of the proper encoding of recovery orders for the reimbursement of interest on prefinancings will be included in the data quality dashboard.

37. (Nr 5, §1 - 2014/COU/0217) The Council invites the Commission to further refine the RER study in accordance with the Court's suggestions, so that its finding could be efficiently used to improve the implementation of the control systems.

Commission's response:

The requested action has been taken.

Following discussions with the contractor currently in charge of DG DEVCO's RER study, new versions of the RER methodology and manual were issued that address the points raised by the European Court of Auditors. Further improvements are always possible in the future.

38. (Nr 5, §2 - 2014/COU/0218) The Council calls on the Commission to pay more attention to ex-ante checks given the high-risk operational environment of the Commission.

The Council urges the Commission to implement all necessary measures to address existing weaknesses, and invites the Commission to engage with the Court of Auditors to clarify differences in approach regarding procurement.

Commission's response:

The requested action has been taken.

The vast majority of the actions contained in the Action Plan adopted in May 2013 in order to correct the weaknesses in the implementation of DG DEVCO's control system are considered as being implemented, including the ones aiming at addressing the weaknesses in ex-ante checks.

As a result of the reservation issued within DG DEVCO's AAR for 2014, an upgraded Action Plan was drawn up in the light of the findings of the 2013 RER study (and the in-depth analysis of the errors identified by the RER studies 2012-2014) and of the ECA's 2014 Annual Report. More focused measures - taking into consideration the Court's observations in terms of deficiencies in the ex-ante controls - have been defined, in addition to the actions of the previous Action Plan that are not fully completed and thus integrated into the new one. It will be further adjusted as a result of the new reservations made in DG DEVCO's AAR 2015, and in the light of the findings of the 2015 RER study, in order to better differentiate the controls put in place.

39. (Nr 6 - 2014/COU/0219) The Council invites the Commission to inform on its implementation (quality grids for audits and expenditure verification managed by the Commission itself, by the end of 2015, and, planning to adapt them to expenditure verifications managed by beneficiaries in the coming year). It further invites the Commission to address weaknesses identified by the Court in respect of the implementation of control systems and inform the ACP Working Party on its actions taken in this respect.

Commission's response:

The requested action has been taken.

As part of the Action Plan adopted in May 2013 in order to correct the weaknesses in the implementation of DG DEVCO's control system, the quality grid (intended for assessing the quality and reliability of the external audits and verifications reports and providing guidance in the event of non-compliance) has been finalised and endorsed in October 2015, following a long process of discussion and testing.

It is being applied to all verification missions to International Organisations, expenditure verifications of programme estimates and audits contracted by the Commission concluded from 1 January 2016, and has been integrated into the new IT Audit application launched in 2015 (having replaced the CRIS audit module). The application of the grid to expenditure verifications managed by contractors and beneficiaries of grants will also be discussed in 2016.

An upgraded Action Plan was drawn up in October 2015, in the light of the findings of the 2013 RER study and of the ECA's 2014 Annual Report, that takes over the measures of the previous Action Plan which completion have not yet been fully achieved (including the quality grid). The ACP working party will be kept duly informed by the Commission of the progress in the implementation of the actions through progress reports.

40. (Nr 7 - 2014/COU/0220) The Commission should demonstrate how this (improvements to be continued to be made in certain important areas) has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:

- improving internal control procedures regarding the clearance of prefinancing, especially with regards to prefinancing paid to international organisations;
- further refining the RER study and implementing the 2015 Action Plan;
- improving indicators of target values for the assessment of the efficiency and cost-effectiveness of controls;
- continuing attention to the budget support transactions, including the systematic verification of the exchange rate used by partner countries.

Commission's response:

The Commission is taking the requested action.

Appropriate measures have been taken by DG DEVCO addressing the particular issues highlighted by the Court of Auditors:

- *The Commission has clarified in the Companion the rules for the clearing of pre-financings paid to International Organisations in the framework of contribution agreements. Furthermore, a specific campaign was carried out in order to accelerate whenever possible the clearing of old pre-financings paid to International Organisations;*
- *following discussions with the contractor currently in charge of the RER study, new versions of the RER methodology and manual were issued that address the points raised by the European Court of Auditors;*

- the implementation of the new Action Plan set up in September 2015 to further correct the weaknesses in DG DEVCO's control system is on schedule. It will be further adjusted as a result of the new reservations made in DG DEVCO's AAR 2015, and in the light of the findings of the 2015 RER study, in order to better differentiate the controls put in place;

- the specific guidance set by the Commission's central services for the assessment of the cost effectiveness of controls has been duly applied by DG DEVCO in the preparation of the AAR 2015;

- updated and reinforced instructions on the exchange rate issue have been integrated into the updated guidelines on Budget Support. The finalization of the guidelines is expected for the summer 2016.

41. (Nr 9 - 2014/COU/0221) The Council invites the Commission to fully implement these recommendations (outstanding recommendations and some which have been partially implemented) at the earliest opportunity.

Commission's response:

The requested action has been taken.

As an on-going requirement, the Commission always strives to implement the recommendations made by the Court of Auditors within the timeframes it sets in its replies to those recommendations. Progress is reported, every year, in the Annual Reports of the Court of Auditors.

SR 13/2014 EU support for rehabilitation following the earthquake in Haiti

42. (Annex, Nr 7 - 2014/COU/0222) The Council calls on the Commission and the EEAS to underline the importance of public financial management (PFM) reforms in their dialogue with the Haitian government and to provide adequate capacity-building support and focus to key PFM functions.

Commission's response:

The requested action has been taken.

The Commission, together with other international partners (FMI, WB, PNUD, BID, USAID, Canada), supports PFM reforms - notably in the framework of the State Building Contract - supporting the "Stratégie de Réforme des Finances Publiques" (SRFP) adopted in 2014. Progress has been achieved in the past two years and a specific dialogue with the Haitian government on PFM continues to reach further key results (the last policy dialogue on PFM was actually held in

May 2016). In addition, a technical assistance package is being provided to the Haitian government in order to keep the momentum in the PFM reform process.

43. *(Annex, Nr 9 - 2014/COU/0223)* The Council calls on the Commission and the EEAS together and in coordination with EU Member States, as well as with other donors, and in full respect of the humanitarian principles, while recognising the central role of the UN in providing leadership and coordination of international humanitarian engagement, to keep working towards a joint analysis of humanitarian and development issues, a joint identification of solutions and burden-sharing, including in the context of joint programming where appropriate, to help build the resilience of the most vulnerable populations in Haiti.

Commission's response:

The requested action has been taken.

A joint analysis of humanitarian and development risks and needs has been undertaken in October 2015, as well as a joint identification of solutions and burden-sharing in the context of joint programming, to help building the resilience of the most vulnerable populations in Haiti.

The Commission is already implementing a LRRD (Linking Relief, Rehabilitation and Development) strategy, in close collaboration between ECHO, DEVCO and EU Member States, and will continue to do so in the framework of the resilience agenda. We are currently integrating the resilience-building approach into our bilateral cooperation programmes.

In order to improve coherence and in view of a gradual reduction of humanitarian aid, DEVCO and ECHO have developed a joint approach of integrating resilience in all activities (Joint Humanitarian Development Framework) so as to ensure a smooth eventual exiting of humanitarian aid. The orientations emerging from the JHDF work in Haiti are expected to lead to operational priorities for coordinated humanitarian and development interventions. The Commission also participates and follows closely the UN calls for international humanitarian engagement.

SR 16/2014 Effectiveness of blending regional investment facility grants with financial institution loans to support EU external policies

44. *(Annex, Nr 8 - 2014/COU/0224)* The Council further calls upon the Commission to fully capitalise on the potential of blending operations for a wider impact on sector policy.

Commission's response:

The requested action has been taken.

Following the issue raised by the Court of Auditors, a special attention is given to the policy dialogue aspects with the beneficiary country as well as to the promotion of sector reform aspects linked to blending projects. The inclusion of both aspects is pursued from the preparation of such projects. In particular, a reinforced role of the EU Delegations, the consultation with the European External Action Service (EEAS) and the involvement of all the services concerned during the analysis of the projects has allowed to further capitalise on the potential of blending operations to influence sector policies and to enhance policy dialogue with the beneficiary countries.

45. (Annex, Nr 12 - 2014/COU/0225) The Council calls upon the Commission to ensure appropriate follow-up and implementation as well as effective monitoring of the recommendations of the Special Report, and to continue improving the management of blending facilities and demonstrating the added value of the grant element, including in financial terms, and avoiding market distortions in blending operations.

Commission's response:

The requested action has been taken.

An appropriate follow-up of the recommendations from the Special Report of the Court of Auditors has been regularly carried out by the Commission through the adoption of the "Guidelines on EU Blending Operations" issued in November 2015 and taking into account almost all the recommendations made by the Court of Auditors (the only outstanding recommendation concerns the adaptation of the Results-Oriented Methodology (ROM) to the characteristics of blending and is currently being examined by the Commission services). Moreover, a regular monitoring and follow-up of all the recommendations is regularly done in the framework of the EU Platform for Blending in External Cooperation (EUBEC Platform). The EUBEC was set up as a Commission expert group and its overall objective is to improve the quality and efficiency of EU development and external cooperation blending mechanisms. The annual report on the activities of the EUBEC Platform, which is published at the end of each year, takes stock of those aspects.

As for the added value of the EU grant element in all the blending projects, a specific chapter has been included in the revised application form in force since 2014 that the Financial Institutions should submit to the relevant Blending Framework secretariat for discussion at the technical assessment meeting prior to submitting the proposal for the opinion of the Board of Member States (Blending Framework Board). The avoidance of market distortions in blending operations is systematically included in the analysis of projects proposals.

SR 18/2014 EuropeAid's evaluation and results oriented monitoring

46. (Annex, Nr 6 - 2014/COU/0226) The Council requests that the Commission reports to the Council on the measures taken to implement the Court's recommendations within the framework of its Annual Activity Report.

Commission's response:

The requested action has been taken.

The Commission has provided a feed-back on the ECA performance audit (on DG DEVCO's evaluation and results-oriented monitoring systems) in DG DEVCO's 2014 AAR (section 2.3.3: EUROPEAN COURT OF AUDITORS). The progress in the implementation of the related recommendations is regularly monitored and reported by the Commission (the last update in the RAD IT database was done in May 2016).

47. (Annex, Nr 6 - 2014/COU/0227) The Council takes note of and acknowledges the measures taken so far by the Commission to improve EuropeAid's capacity to monitor, report and evaluate policy achievements. The Council calls the Commission to ensure that these activities and the sequence of project, programme and strategic evaluations are adequately supervised and resourced.

Commission's response:

The Commission is taking the requested action.

In 2014, DG DEVCO completed workload assessments which took into account monitoring and evaluation activities. On financial resources, the IT evaluation ('EVAL') module put in production on 11 May 2016 will be used for each project evaluation and will provide all required information.

Strengthened guidance combined with strengthened monitoring and reporting is being implemented. A Network of Evaluation Correspondents in EU Delegations and Headquarters is in place to exchange on good practices.

Regarding ROM, a quality control and assurance system has been put in place and the new IT ROM module provides the additional information management tool to support the monitoring of quality. The IT evaluation module has been put in production; in addition to ROM reports, it will allow better evaluation of projects, both to serve as basis for strategic evaluations.

The establishment of a system to support task managers in carrying out programme evaluations is in the making: the call for tender for an Evaluation

Support Service Team (Helpdesk) has first to be relaunched after an unsuccessful tender procedure; the contract is planned to be signed in October 2016.

48. (Annex, Nr 11 - 2014/COU/0228) The Council invites the EU and its Member States to conduct more joint evaluations at country level, with the involvement of partner countries, notably in those countries where Joint Programming creates such opportunities. The Council also invites the Commission to reflect on ways to further enhance monitoring and evaluation mechanisms, including strengthening partner countries' statistical systems, and calls on the EU and its Member States

to continue working together to share lessons learnt and good practices among themselves and with others, particularly promoting the evaluation function in partner countries, as well as engaging in international efforts to make development cooperation policies more effective and sustainable.

Commission's response:

The requested action has been taken.

The EU and its Member States continue to conduct joint evaluations. One joint evaluation of Budget Support in Burkina Faso has been successfully conducted at country level, with strong involvement of the partner country (published in May 2016). Six joint evaluations linked to Joint Programming are planned in the 2016-2020 Evaluation work programme.

Following the 2014 Guidance note, Delegations' evaluation plans have been monitored; Monitoring of the next evaluation plans will be done through the new MEP (Monitoring and Evaluation Plan) in use since end 2015 for the 2016 plan.

Support to partner countries' statistical systems are provided through specific interventions or included in Budget Support operations. Support is also provided to the African Union to strengthening the African Statistical System to make available reliable and comparable statistics at Continental level to facilitate decision-making and policy monitoring.

DG DEVCO's Evaluation Unit belongs to several networks where lessons learnt and good practices are shared and improved: Expert Group of Member States; European Evaluation Society; OECD/DAC EVALNET. In 2014, the latter has actually launched an initiative to improve the evaluation function in partner countries (Collaborative Partner-Donor Evaluation, CPDE).

SR 19/2014 EU Pre-accession Assistance to Serbia

49. (Annex, Nr 4 - 2014/COU/0229) The Council invites the Commission to inform the IPA Management Committee regularly on the issues raised by the Court of Auditors' Special Report and to ensure that they are addressed systematically, including

through EU-Serbia Stabilisation and Association Committee meetings, as appropriate.

Commission's response:

The Commission will transmit for information the report of the Court of Auditors to the IPA Committee. However, the Commission points out that it cannot implement fully the recommendation of the Council as the role of the IPA Committee and of the Association Committees is not to monitor progress in implementation on findings of the Court of Auditors. Discussion on such issues should be part of the exchanges between the Commission and the Council in the context of the discharge procedure.

SR 20/2014 Has ERDF support to SMEs in the area of e-commerce been effective?

50. (Annex, Nr 9 - 2014/COU/0230) The Council calls on Member States and the Commission to build on lessons learned from experiences of investments in e-commerce and ICT technologies from the programming period 2007-2013.

Commission's response:

The reform of Cohesion Policy for 2014-2020 has provided a better performance and result orientation framework. The monitoring committee of the respective operational programme has the necessary incentives to approve selection criteria ensuring maximum impact for this type of investments. Countries and regions will have to decide upfront what objectives they intend to achieve with the available resources and identify precisely how they will measure progress towards those goals for each priority axis. This will allow regular monitoring and debate on how financial resources are used. The indicators chosen for tracking progress and impact will not be standard and will depend on the specific objectives of each OP. The indicators to be used reflect the variety of needs and political responses of regions and Member States.

Thematic, priority-linked ex-ante conditionality on Digital Growth was established in Part I of Regulation (EU) No 1303/2013. It includes as one of the criteria's for fulfilment the establishment of a strategic policy framework for digital growth with standard indicators to measure progress of interventions in ICT areas such as e-commerce (foreseen in ex-ante conditionality 2.1 of Annex XI of the Common Provision Regulation.)

51. (Annex, Nr 10 - 2014/COU/0231) The Council calls upon the Commission, within the existing legal framework, to strengthen the monitoring and information gathering systems in such a way that it becomes possible to assess the effectiveness of programmes and projects put forward by beneficiaries of support given, while

keeping the administrative burden as minimal as possible, and using simple and measurable indicators, in accordance with the cost-benefit principle.

Commission's response:

For the 2007–13 period, the Commission requires the Managing Authorities to report on the implementation of the programmes in line with the applicable ERDF regulations.

However, the 2014–20 ESIF programmes put a stronger emphasis on results based on targets. At priority axis level the indicators will capture the overall performance in the axis, but not the individual performances of all types of action that might be included in that axis.

In the period 2014–20, as part of the reinforcement of the result orientation, programmes are asked to clearly identify common and programme specific output indicators (with target values), and result indicators that will measure the progress towards the change sought through investment (with baselines and target values). A strategic policy framework for digital growth includes standard indicators to measure progress of interventions in ICT areas, as foreseen in ex ante conditionality 2.1 of Annex XI of the common provision regulation.

Information on the progress in programme implementation will be shared with the Commission on an annual basis (from 2016 onwards) allowing tracking over time. This information will be structured, allowing analysis, comparison and aggregation and it is also the Commission's intention to publish these data.

The 2014–20 legal framework requires result indicators in the programmes at the priority axis level and output indicators at operations level during the programming period.

The Commission will require Member States to put in place the necessary checks and controls ensuring that the data entered into the monitoring systems are reliable and consistent. The data will be subject to audits by the national authorities and by the EU auditors.

SR 21/2014 EU-funded airport infrastructures: poor value for money

52. (Annex, Nr 7 - 2014/COU/0232) The Council calls on Member States and the Commission to build on lessons learned from previous experiences of investments in airport infrastructure.

Commission's response:

The Commission has taken the recommended action.

During the negotiations on operational programmes for the period 2014-2020, the approach of the Commission's services was that EU funding to airport infrastructure had to be focused in particular to airports belonging to the core TEN-T network. The Commission also required that the Comprehensive Transport Master Plans should serve as a basis for the choice of transport investment priorities. All investments should contribute to delivering the objectives for the priority axis. For investment in any airport, economic viability and needs assessments are ensured through ex-ante assessments, plausible feasibility studies and positive cost benefit analyses.

53. (Annex, Nr 8, § 8.2 - 2014/COU/0233) The Council calls upon the Commission to ensure that Member States only allocate EU funding to airport infrastructures in those airports for which investment needs have been properly assessed and demonstrated.

Commission's response:

See reply to 2014/COU/0232.

SR 2/2015 EU-funding of Urban Waste Water Treatment plants in the Danube river basin: further efforts needed in helping Member States to achieve EU waste water policy objectives

54. (Annex, Nr 24 - 2014/COU/0234) The Council calls on Member States and the Commission to build on lessons learned from previous experiences of investments in similar infrastructure.

Commission's response:

Evaluation culture is strongly built-in in cohesion policy cycle with various evaluation techniques required at different stages of the programming process. For instance there is a requirement of ex ante evaluation of programmes (which builds on lessons learned from the past), evaluation plans during the implementation, and ex post evaluation that always serves as a starting point for improving the next programming period.

The experience from projects is being exchanged and lessons learnt based on it in a number of ways. For example, the Commission has established an informal network of environmental and managing authorities where Member States' representatives meet regularly to exchange, learn and share information. The past experiences are also usually informing the preparation of the river basin management plans which are a precondition for Cohesion policy funding for the 2014-2020 period.

Furthermore, the Commission and JASPERS work closely together to provide the MS the necessary advice and forum for exchanges of experiences to improve the quality of major projects in preparation at MS level and intended for submission for Commission approval. This extends to the possibilities given to the MS to reinforcement their administrative capacities as mature major projects and appropriate administrative capacities are a requisite for timely and qualitative implementation. In this context DG REGIO runs a PEER-to-PEER technical assistance service for the Member States, by which they can exchange their good experiences on the matter of their particular interest. In addition DG REGIO regularly reviews its training programme, partly implemented together with JASPERS, in light of the needs of the MS. Water and wastewater subject are regular on the list of trainings and workshops.

55. (Annex, Nr 24 - 2014/COU/0235) The Council invites the Member States concerned and the Commission to make use of the EU Strategy for the Danube Region to promote exchange of experiences, leverage of investments, synergies and effectiveness in the system of urban waste water management.

Commission's response:

Water management is one of the priority topics of the EUSDR Priority Area 4 'To restore and maintain the quality of waters', coordinated by Hungary and Slovakia. Representatives of the 14 countries participating in the strategy gather together in the Steering Group of this Priority Area, where several project proposals in the area of sanitation, wastewater treatment facilities and urban wastewater treatment plants have recently been discussed and given support. The projects concern Member States but also transfer of good practices to non-EU participating countries.

See the action plan for EUSDR (<http://www.danube-region.eu/component/edocman/action-plan-eusdr-pdf>)

SR 5/2015 Are financial instruments a successful and promising tool in the rural development area?

56. (Annex, Nr 7 - 2014/COU/0236) The Council asks the Commission to consider the Court's recommendation that, in order to increase the effectiveness of the financial instruments, appropriate standards and targets for leverage and revolving effects should be set.

Commission's response:

- With regard to leverage ratios and data for calculation of the leverage ratios:

Article 37(2)c) of Regulation (EU) No 1303/2013 requires an estimation of the expected leverage effect during the performance of the ex-ante assessment for FIs which is required before any decision by a managing authority to make programme contributions to a financial instrument . However, achieving leverage ratios must be balanced with public policy objectives.

As provided for in Article 46(2)(h) of Regulation (EU) No 1303/2013 and Article 2 and annex 1 of Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 managing authorities will report to the Commission the progress in achieving the expected leverage effect.

Moreover, the Commission Implementing Regulation (EU) 964/2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards standard terms and conditions for financial instruments (also known as off-the shelf financial instruments), provides for ready-to-use financial instruments which require minimum financial contributions to the financial instruments from other sources other than the programme contribution which is a key element in achieving a higher leverage.

The Commission has issued together with the European Investment Bank a General methodology for ex-ante assessment for financial instruments in the 2014-2020 programming period which contains the required steps for the assessment of the expected leverage effects of the instruments when carrying out the ex-ante assessment:

http://ec.europa.eu/regional_policy/sources/thefunds/fin_inst/pdf/ex_ante_vol1.pdf

The Commission provides assistance and advisory services to the programmes and other stakeholders on the use of financial instruments. A dedicated technical advisory platform (fi-compass) was established early in 2015 in partnership of the four European Structural and Investment Funds DGs with the EIB. Fi-compass is designed to support ESIF managing authorities and other interested parties, by providing practical know-how and learning tools on financial instruments. These include “how-to” manuals, factsheets for quick reference, e-learning modules, face-to-face training seminars and networking events for the exchange of good practice and networking across Member States

- With regard to minimum revolving periods

This topic is treated in Article 45 of the Regulation (EU) 1303/2013 which requests the minimum revolving period to be at least eight years after the end of the eligibility period.

SR 8/2015 Is EU financial support adequately addressing the needs of micro-entrepreneurs?

57. (Annex, Nr 17 - 2014/COU/0237) The Council reiterates its call on the Commission to provide guidance on the use of financial instruments and on the synergies between

different instruments in a timely, coherent, consistent and clear manner and to explore all opportunities to provide more clarity.

Commission's response:

The Commission has taken the recommended actions.

The Commission services clarified the main aspects of the 2014-2020 programming period in relation to financial instruments the following guidance notes:

- *"Financial Instruments in 2014-2020. Short reference guide to managing authorities (EGESIF_14_0038-03 of 10/12/2014),*
- *"Guidance for Member States on Article 37(2) CPR – Ex-ante assessment (EGESIF_14_0039-1 of 27/03/2015)", "Guidance for Member States on Article on Article 41 CPR - Requests for payment (EGESIF_15-0006-01 of 08/06/2015)",*
- *"Guidance for Member States on the combination of support from a financial instruments with other forms of support (EGESIF_15_0012-02 of 10/08/2015",*
- *"Guidance for Member States on Article 42(1)(d) CPR – Eligible management costs and fees (EGESIF_15-0021-01 of 26/11/2015)",*
- *"Guidance for Member States on Interest and Other Gains Generated by ESI Funds support paid to FI - Article 43 CPR (EGESIF_15-0031-01 Final of 17/02/2016)",*
- *"EC Guidance Note on selection of bodies implementing FIs, including funds of funds (EGESIF_15-0033-01 of 18/02/2016)" under finalisation,*

The following guidance notes were already presented to Member States on 28 April 2016 and are under finalisation:

- *Guidance for Member States on CPR eligibility rules for ESI Funds Financial Instruments (EGESIF EGESIF_16-0006-00),*
- *Guidance for Member States on Article 38(4) CPR - Implementation options for FIs managed by or under the responsibility of the managing authority (EGESIF_16-0007-00)*
- *and Guidance for Member States on Article 46 - reporting on financial instruments and on Article 37(2)(c) - leverage effect (EGESIF_16-0008-00).*

The Commission has also published on 22 February 2016 a guidance brochure on complementarities between ESIF and EFSI,:
http://ec.europa.eu/regional_policy/sources/thefunds/fin_inst/pdf/efsi_esif_compl_en.pdf

The brochure is designed to help local authorities and project promoters ensure complementary use of EFSI and ESI Funds. It provides an overview of the possible combinations of EFSI and ESI Funds, either at project level or through a financial instrument such as an investment platform.