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'II/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council
Subject: Council conclusions on European Court of Auditors' Special Report No 6/2019: "Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination"
- Adoption

1. On 20 May 2019, the European Court of Auditors' Special Report No 6/2019 entitled "Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination" was published in the *Official Journal of the European Union*¹.
2. Pursuant to the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors², the Permanent Representatives Committee (Part II), at its meeting on 29 May 2019, instructed the Working Party on Structural Measures to examine this report according to the rules laid down in the above-mentioned conclusions.

¹ OJ C 171, 20.5.2019, p. 23.

² Doc. 7515/00 + COR 1.

3. The Working Party on Structural Measures examined the Special Report at its meetings on 11 June and on 4 and 18 July 2019. All delegations agreed to the draft Council conclusions as set out in the Annex to this note in a silence procedure ending on 24 July 2019.

4. The Permanent Representatives Committee is therefore invited to recommend to the Council to adopt, as an "A" item, these draft Council conclusions as set out in the Annex to this note.

DRAFT

Council conclusions on Special Report No 6/2019 by the European Court of Auditors:

Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination

THE COUNCIL OF THE EUROPEAN UNION:

- (1) TAKES NOTE of the Special Report No 6/2019 by the European Court of Auditors (hereafter referred to as "the Court") and the Commission's observations to the Report;
- (2) NOTES that the Court's audit described in the Report focused on the work of Members States' managing authorities, responsible for the implementation of operational programmes of 2007-2013 and 2014-2020 programming periods funded under the European Regional Development Fund (ERDF), the Cohesion Fund (CF) and the European Social Fund (ESF), and covered all stages in the anti-fraud management process: prevention, detection and response (including reporting and recovery);
- (3) TAKES NOTE of the findings of the Report, in particular that:
 - Certain managing authorities do not follow a specific anti-fraud policy;
 - The fraud risks assessment process is performed systematically, but needs a further improvement;
 - Managing authorities have improved their fraud prevention measures but further progress is needed towards proactive fraud detection procedures and measures;
 - The reliability of the fraud detection rates published in PIF reports needs to be strengthened by decreasing under-reporting;
 - The fight against fraud needs clearer definition of Anti-fraud Coordination Services' (AFCOS) functions and stronger coordination amongst Member State bodies.

(4) RECALLS its conclusions of 14 May 2019 on Special Report No 1/2019 of the Court³ with regard to fighting fraud in EU spending: action needed.

(5) NOTES that, partially due to the increased capacity of Member States to detect and report irregularities, including potential fraud cases, the incidence of reported fraud (suspected and established) in EU cohesion policy is significantly higher than in other areas;

(6) CONSIDERS the Report a useful contribution to reflections of Member States on how to further improve the work of managing authorities in tackling fraud in cohesion policy;

(7) Broadly SHARES the observations of the Commission to the findings and recommendations related to cohesion policy included in the Court's Report, in particular that:

- The development of formal strategies and policies is an efficient tool to combat fraud against EU funds;
- The involvement of relevant external actors should be strengthened to make fraud risk assessment more robust insofar as this may contribute to the capacities of managing authorities;
- The generalised use of data analytics tools and the use of other "proactive" fraud detection methods improves fraud detection measures;
- The monitoring of fraud response mechanisms ensures their consistent application;
- The expanded coordination by AFCOS could be further analysed without prejudice to Member States' competence.

³ Doc. 9325/19.