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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.10.2009  
SEC(2009) 1427 final

**COMMISSION STAFF WORKING DOCUMENT**

**accompanying the REPORT FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT on the follow-up to 2007 Discharge Decisions**

{COM(2009) 526}

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## INTRODUCTION

This Commission Staff Working Document completes the Report from the Commission to the Parliament on the Follow-up to 2007 Discharge Decisions {COM(2009)XXX final}. It presents in detail the answers to the 203 specific requests made by the European Parliament in the comments accompanying its Resolutions on the 2007 Discharges<sup>1</sup>.

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<sup>1</sup> For each specific request a reference is given to the relevant Parliament document. The references for requests 1-169 are all for the 2007 General Budget Discharge.

**COMMISSION STAFF WORKING DOCUMENT accompanying the  
REPORT FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT on the follow-up to 2007 Discharge Decisions**

## Main conclusions

1. The European Parliament notes considerable improvements in the field of Research and Technological Development (RTD) financial management where error rates were reduced by more than 50% in the space of three years; invites the Commission to continue its simplification efforts in order to improve the use of programmes by final beneficiaries. (§ 4)

### Commission's response:

*FP7 has brought about a number of important simplifications already. The introduction of the participants guarantee fund allowed to considerably reduce the number of ex-ante financial checks and the use of protective measures, and replaced the collective financial responsibility of the contractors as laid down in FP6. The introduction of the certification of the beneficiary's accounting methodology in FP7 contributes to a reduction in the number of required audit certificates and will limit ex-post controls. The unique registration facility for participants avoids repeated requests to beneficiaries and improves data quality and coherence in all grant management systems. Further improvements will be achieved by the gradual introduction of fully electronic exchange systems for the whole chain of proposal and grant management procedures in the frame of the e-FP7 initiative.*

2. The European Parliament remains concerned about the lack of EU capacity in crisis management; considers that the Union is losing its political compass, visibility and accountability when using international trust funds which could have been managed by the Commission if it had respected discharge reports 2005 and 2006 and built up its own post-crisis instrument; is greatly concerned at the lack of control of EU funds implemented by certain UN agencies and the unwillingness of UN agencies to follow up on fraud cases where EU funds are involved. (§ 6 + § 163)

### Commission's response:

*The Commission is continuously working towards achieving its aim of a fully integrated and comprehensive EU response capacity to contribute to a safer and more secure Union. As a further contribution, the Commission is elaborating an inventory of Community policies and instruments for the management of crises. This is a step towards improving visibility and transparency on crisis management instruments of the Commission and of Agencies. It should enable improved effectiveness of action, as a quick reference guide in support of scenarios for operations inside and outside the EU.*

*The Commission will investigate making proposals (within the context of the revision of the Financial Regulation) to allow the Commission to set up and manage multi-donor trust funds. The issue of the use of the EC operational budget to cover related administrative costs will also be examined.*

*Recent evaluations of the Commission's cooperation with partner countries through the UN and aid delivery through the EIB and the development banks conclude that such interventions resulted in added value and tangible results, in*

*particular for the larger trust funds. In addition, participation in such initiatives enabled the Commission to intervene in politically sensitive areas, where it would otherwise have been impossible to deliver aid. However the Commission recognises that exactly because of the political sensitivity of its interventions in crisis management, more attention should be paid to its visibility as political and delivery actor. The Commission was able to benefit from the field presence and expertise of its multilateral partners in terms of implementation.*

*Under the terms of the Financial and Administrative Framework Agreement (FAFA) the EC anti-fraud office (OLAF) can use the verification clause to perform on the spot checks on UN activities to which EC funds contribute. Anti-fraud enquiries are dealt with by cooperation between OLAF and the anti-fraud services of each UN organisation concerned. The Commission has also regularly drawn the attention of the UN to OLAF's responsibilities in cases of suspected fraud or irregularity in relation to Commission funds. Moreover the 6th Annual FAFA Working Group meeting, which took place in April 2009, agreed on terms of reference for financial verification missions, which will make these missions even more effective.*

*As regards UN operations in Kosovo, the Commission would like to specify that the UN's involvement in EU-funded projects in Kosovo is at present limited to it acting as a contractor for projects in a limited number of specific areas:*

- UNDP on minorities return and reintegration in Kosovo (3.7 MEUR under IPA, project running until 4/2010);*
- UNOPS on vetting of judges (5 MEUR under Instrument for Stability, project running until 10/2009).*

*Concerning the follow-up to findings of the Investigation Task Force (ITF), following the ITF's liquidation, UNMIK transferred all ITF case files to the EU's rule of law mission in Kosovo, EULEX. EULEX have confirmed receipt. The Commission will continue to keep in close and regular contact with EULEX on any developments relating to the files concerned. The continuity of ITF functions in Kosovo is ensured by the Office of Internal Oversight Services (OIOS), which supervises UN funded operations, by OLAF, which ensures the EU's financial interests are protected, and by the Financial Intelligence Unit, which operates within the framework of EULEX.*



## Statement of Assurance

3. The Commission should pay due attention to the comments presented by the Court of Auditors in order to improve the comprehensiveness and accuracy of the basic accounting data. (§ 10)

**Commission's response:**

*The Commission always takes into account the remarks and recommendations of the Court of Auditors so as to try to improve the quality of its accounting data and accounts.*

4. The Commission should give further specification concerning the annexed notes on the other amounts to be called from Member States, totalling EUR 27.900.000.000. (§ 11)

**Commission's response:**

*The Commission has implemented the request. More details on these amounts were given in the provisional 2008 accounts.*

5. Consideration should be given to establishing a Community pension fund in order to externalise the financial commitments vis-à-vis staff. (§ 11)

**Commission's response:**

*The European Communities Pension Scheme is defined in the Staff Regulations. When in 2003, the Commission presented a proposal amending the Staff Regulations, due consideration (backed-up by a complex actuarial study) was given to setting-up a pension fund. However the analysis did not conclude in favour of such a change. Initial set-up costs as well as risks of losses by the fund due to the investment climate and policy would be particular concerns.*

*The Commission considers that the hypotheses and conditions of this analysis have not changed and therefore that the conclusions remain valid.*

*The amount of EUR 27.9 billion stated in the accounts, and to which the European Parliament refers in point 11 of its resolution, is the net amount of all the EC's liabilities less all the EC's assets. In fact, details of amounts to be paid from future budgets are already given in the balance sheet itself and the notes to the accounts (primarily under the heading current liabilities).*

6. The Commission should put forward a proposal concerning the accounting treatment of major European projects (Galileo or TENs) which require funding which goes beyond the scope of the multiannual financial framework and which it cannot therefore control. (§ 12)

**Commission's response:**

***The EC accounting rules, based on the International Public Sector Accounting Standards (IPSAS) are already sufficient to allow the Commission to account for such activities.***

7. The Commission should examine the possibility of including in the annual accounts provisions for major maintenance and refurbishment work on the European Communities' buildings stock, given the lack of a buildings depreciation schedule broken down by specific component and setting out the main tangible fixed assets to be replaced at regular intervals. Such provisions for major maintenance or refurbishment works should be backed by multiannual upkeep programmes designed to keep buildings in a good state of repair without prolonging their life. (§ 13)

**Commission's response:**

***The Commission will not be taking the requested action. The inclusion of such a provision would be clearly contrary to the EC accounting rules (these rules being based on the internationally accepted International Public Sector Accounting Standards, IPSAS).***

8. The Commission should properly verify that, in the absence of a capital tie-up, the European Communities' level of political authority in the agencies included in the consolidated accounts complies with international public-sector accounting standards. (§ 14)

**Commission's response:**

***As part of its modernisation of the accounting system project, the Commission has examined the necessary issues surrounding the consolidation of the European Communities Agencies so as to ensure that they comply with the relevant accounting rules.***

***The consolidation of the European Communities Agencies is based on the control concept and in accordance with the European Communities accounting rule based on International Public Sector Accounting Standards, IPSAS, (see also 2008 European Communities annual accounts section 1.3 "Controlled entities"). Control is defined by IPSAS 6 as "the power to govern the financial and operating policies of an entity so as to be able to benefit from the entities activities." The existence or ownership of share capital is just one indication of control.***

***The Commission confirms that, as the agencies are created by a secondary act of European Communities legislation, they are considered as being under the exclusive control of the European Communities (not the Commission.) While the Commission, through its accounting services, makes the physical consolidation, the overall "parent company" is the European Communities. Furthermore, the consolidation of the European Communities' agencies is explicitly foreseen by the Financial Regulation (Art. 121).***

9. The Commission should clarify the possibilities under the Staff Regulations of appointing ‘non category’ senior officials, unless specifically mentioned in the staff establishment plans, in the last step of the AD16 grade. (§ 15)

**Commission's response:**

*The non-category staff (listed under HC in the establishment plans) mentioned by the European Parliament concern 6 posts in the establishment plans of Parliament (1 permanent post), Council (2 permanent posts), the Court of Auditors (1 temporary post), the Economic and Social Committee (1 temporary post) and the Committee of the Regions (1 temporary post).*

*These positions have been created by the budgetary authority in the establishment plans of the institutions concerned and the actual appointing of persons on these positions is the sole responsibility of the AIPN of these institutions.*

10. The Commission should analyse and strives for simplification of complicated or unclear legal requirements in extremely important Community spending areas (agricultural spending excluding the EAGF, cohesion, research, energy and transport, external actions, education and culture). (§ 17)

**Commission's response:**

*The Commission agrees that high error rates are partly due to complex eligibility rules. It acknowledges that simplification has a role to play in improving the implementation of EU policies and reducing error rates, but points out that a certain degree of complexity in rules and eligibility criteria is unavoidable as these are often fixed in order to achieve desired policy objectives and are the outcome of a complex legislative procedure. The Commission has committed itself to seeking simplification where possible and will pursue this objective further. The impact of simplification will be visible in the medium- to long-term.*

*For example, the Commission recognises that the legal framework in the Cohesion policy area is complex, and that this increases the risk of errors at beneficiary level. The Commission has proposed measures to simplify some of the present rules and is exploring the scope for further simplifications. For the Structural Funds, the simplification implemented in the 2007-13 legislation will start to become visible in the error rates the Court is detecting on the ground in the declaration of assurance (DAS) 2010 at the earliest. Further simplification is already being prepared and will be proposed shortly, but will of course take correspondingly longer to have an impact on the Court's results.*

*As another example, the 7th Framework Programme for research and technological development (FP7) has brought about a number of important simplifications already. The introduction of the participants guarantee fund allowed to considerably reduce the numbers of ex-ante financial checking, the use of protective measures and the number of required audit certificates. The unique registration facility for participants avoids repeated requests to beneficiaries and improves data quality and coherence in all grant management systems. The project reporting was streamlined, including reduced data requirements, simplified reporting guides and longer reporting periods. Further improvements will be*

*achieved by the gradual introduction of fully electronic exchange systems for the whole chain of proposal and grant management processes in the frame of the e-FP7 initiative.*

*The Commission has also taken action in several ways to improve the situation in rural development, for example: The Council Regulation 1290/2005 gave way for the-post 2007 period to align the management and control system for the expenditure under the newly created European Agricultural Fund for Rural Development (EAFRD) with the EAGGF guarantee system. Thus, in the future, the advantages of the EAGF Guarantee system that are largely recognized will also cover the rural development expenditure.*

*As far as the Directorate-General for Education and Culture (DG EAC) is concerned the design of the new programmes 2007-2013 has taken into account the Court of Auditors' recommendations of previous years to simplify the rules and to make more use of lump sum financings. This is intended to further reduce the error rate.*

*The Commission is currently working to identify possible areas of further simplification in the context of its preparatory work for the triennial revision of the Financial Regulation. It could focus in particular on grants, in particular eligibility rules; management methods, whose provisions have become increasingly complex and which are crucial to improve the efficiency and delivery of external aid in particular; and control measures. The degree of complexity of the eligibility rules has a direct link with the intensity and cost of controls required to gain reasonable assurance on the legality and regularity of transactions. If simplified eligibility rules are decided and effectively implemented (e.g. increased use of lumps-sums and flat rates, acceptance of the use of national eligibility rules in case of co-financing by Member States) the underlying transactions will be less prone to error, which will allow to perform less extensive controls (controls can be focussed on output rather than input) and ultimately reduce the cost of controls. The Commission is also working on the concept of tolerable risk of error, which seeks to identify the intensity of the controls which is most cost-effective, i.e. to provide an appropriate balance between costs and benefits (reduction in error rates).*

11. The Commission should further step up its monitoring of controls delegated to Member States and give them clear guidance on how to prevent, identify and correct errors, and where Member States' control systems remain ineffective, it should compel Member States to meet their obligations and make the necessary improvements, in particular by imposing payment suspensions and financial corrections. (§ 18)

**Commission's response:**

*The Commission is taking the requested action.*

*In the Cohesion policy area Member States have to submit annual control reports describing the audit work done and the findings of that work. These reports are discussed with the Commission at annual bilateral audit coordination meetings. In the 2007-13 period audit bodies will use a common sampling methodology and will indicate in their control reports the error rates found, which will thus provide a*

*better pointer to the effectiveness of their control systems and help the Commission to target its own audit work on the higher-risk programmes.*

*Guidance on the day-to-day checks by management bodies and the certifying authority and on audit sampling has already been issued and the Commission is investing considerably in providing training for national officials who are expected to disseminate the information and guidance received in their home countries. The main guidance documents are being collected in an Audit Reference Manual, which will be finalised in 2009.*

*The Commission is using its powers of imposing payments suspensions and financial corrections in order to compel improvements in systems to a greater extent than in the past. In 2008 over EUR 1.5 billion of financial corrections and 10 suspension decisions were imposed, compared with EUR 330 million of corrections and one suspension decision in 2007.*

## Budgetary management - financial corrections, amounts recovered and suspension of payments

12. The European Parliament considers with regard to shared or decentralised management, however, that the Commission must apply Regulation (EC, Euratom) No 1605/2002 in full and assume its ultimate responsibility for budget implementation, and emphasises the need to make financial corrections as soon as irregularities uncorrected by Member States are detected, without waiting for the end of the multiannual cycle. (§ 20)

### Commission's response:

*The Commission is taking the requested action.*

*The Structural and Cohesion Fund regulations provide the means by which the Commission discharges its ultimate responsibility for the proper execution of the budget in the Cohesion policy area. These include both preventive and corrective mechanisms.*

*The Commission takes action to remedy weaknesses in control systems giving rise to irregularities as soon as it becomes aware of them. In such cases it agrees the implementation of an action plan with the Member State concerned. These result not only in improvements in systems but also in financial corrections to remove irregular expenditure from past claims. The Commission services have accelerated the procedures for suspension of payments and financial corrections during the programme period. Details can be found in the report on the implementation of the Action Plan of 19 February 2008 to strengthen the Commission's supervision of Member States in relation to shared management of structural actions (COM(2009) 42). In the 2007-13 period, the heads of the Structural Fund departments will be able to interrupt payments even more rapidly.*

*While most irregular expenditure should be corrected during the programme period, the closure procedure provides an essential safety net at the end of the control cycle.*

13. The European Parliament notes with concern the problems surrounding recovery of irregularly disbursed Community funds and the poor quality of the data supplied on the correction mechanism applied at Member State level, which, on occasion, are contradictory and incomplete as regards cohesion policies, and the fact that, with regard to agriculture, the ECA has doubts as to the reliability of the information supplied (paragraphs 3.26 and 5.44 of the 2007 annual report);

Points also to the importance of the final decisions and corrective measures taken with the aim of excluding from Community funding expenditure which has not been carried out in conformity with Community legislation, and restates its call for the precise budget heading and the year to which individual recoveries relate to be specified, in keeping with standard practice in the agriculture and natural resources sector;

Calls on the Commission to enhance the efficiency and effectiveness of multiannual recovery systems, including at Member State level, and to consolidate data on recoveries and financial corrections, in particular in the areas covered by the Structural Funds, in order to provide reliable figures which can be compared between the various policy areas and fund management procedures; calls on the Commission to report to Parliament in the notes accompanying the annual accounts, so that an overview can be obtained;

Calls, in view of the persistence of recovery-related problems, for the system to be evaluated. (§§ 21-24)

**Commission's response:**

*Changes have been made to the ABAC financial system in 2008 to allow the tracing of recoveries to specific errors or irregularities detected. This has allowed it to already present more complete and reliable recovery figures in the 2008 accounts. Thus the Commission will continue to include in the notes to the accounts its own financial corrections. The Commission commits itself to continue the efforts to improve the quality of information produced by the Member States on financial corrections, withdrawals and recoveries. This information is included in Annex to the annual report on the implementation of the Structural Funds. It will continue to report to the budgetary authority on this issue.*

*Furthermore, the Commission will pursue ongoing efforts and will not hesitate to proceed to financial corrections where necessary. Within the legal framework, the Commission has taken steps, under the Action plan of 19 February 2008 to strengthen its supervision of Member States in relation to shared management of structural actions, to ensure that irregularities found in the implementation of the Structural Funds are dealt with as soon as they are detected and financial corrections are applied promptly. Also, in agriculture the Commission has already taken action to improve the reliability of information provided by Member States by revising its Guidelines for financial year 2008 and by closely monitoring the situation by audit missions in 2008.*

**Annual summaries of audits and declarations available in the shared-management field, and national management declarations**

14. The Commission should ensure that annual summaries of audit by the Member States be published together with the Commission's assessment and should also be forwarded to the Parliament's committee responsible in the course of the discharge procedure. (§ 26)

**Commission's response:**

*The Commission is taking the requested action.*

*An evaluation of the annual summaries is given in the Annual Activity Reports of the Directorates General concerned and is also made available to Parliament.*

*The Commission supports the transmission of the annual summaries to the Budgetary Control Committee. However, this disclosure can only take place with the agreement of the Member States. The Commission is requesting their agreement.*

15. The Commission should analyse the summaries received in 2009 with the aim of optimising their added value in terms of the assurance they provide regarding the operation of the internal control systems employed by the Member States and should include an analysis of the annual summaries submitted by Member States in the annual report pursuant to Article 86(4) of Council Regulation (EC, Euratom) No 1605/2002, using as benchmarks the provisions of the Interinstitutional Agreement on budgetary discipline and sound financial management. (§§ 27 and 28)

**Commission's response:**

*The Commission has taken the requested action.*

*The 2009 Annual Activity Reports of the Directorates General for Regional Policy and Employment give an assessment of the contribution made by the annual summaries to the assurance regarding the operation of Member States' control systems that is presented in the reports. The summaries may make such a contribution particularly when they contain an analysis of problems or an actual statement of assurance. The Commission will continue to encourage Member States to add value to the summaries in this way. Compared to 2007, for 2008 all Member States respected the obligation set in Article 53b(3) of the Financial Regulation to provide an annual summary and complied or mostly complied with the minimum requirements. For 2008 the Commission issued new and better guidelines for the annual summaries under structural funds.*

*For agriculture an evaluation has been submitted to Parliament on the statements of assurance from the directors of the paying agencies and the related opinions from the certification bodies as well as the annual summaries from the coordination bodies which the Commission had received for agricultural expenditure. The Directorate-General for Agriculture and rural Development also informed on the annual summaries in its annual activity report for 2008.*



*As the annual summaries are not subject to audit by the Internal Auditor of the Commission, his annual report under Article 86(4) of the Financial Regulation cannot contain such an analysis.*

16. The Commission should regularly present a qualitative and quantitative evaluation of the annual summaries in the activity reports and make this information available to all the parties concerned, and to the public, during the discharge procedure; the first of these assessments should be transmitted by September 2009 and, in addition to an annual formal presentation to Parliament, this analysis of annual summaries should also be circulated to all national parliamentary public accounts committees. (§§ 29 and 30)

**Commission's response:**

*The Commission has taken the requested action.*

*The Annual Summaries do not, on their own, provide sufficient information to assess the strengths and weaknesses of Member States' management and control systems for the Structural Funds. The Commission makes its assessments, which are published Member State by Member State and programme by programme in the Directorates' General Annual Activity Reports, from numerous sources, the chief ones being its own audit work and that of the European Court of Auditors and the reports received from Member States on the results of the work their own audit authorities have carried out, which are discussed at annual bilateral audit coordination meetings with the Commission. Other information used includes Member States' reports on financial corrections, irregularities reported to OLAF and complaints. The annual summaries contribute to the assurance of the Commission when they contain analysis of problems, identify good practices, and provide an overall statement of the Member State's assurance on their systems. Not all the summaries yet do so, and the Commission is therefore continuing to encourage the Member States to add value to the summaries in such ways.*

*The Commission thus could not meet the request in Parliament's 2007 discharge resolution for an assessment of the strengths and weaknesses of control systems on the basis of the annual summaries in isolation. Instead, the assessment was provided in the Annual Activity Reports on the basis of the usual sources of assurance available. The same is true for the assessments in the Annual Activity Reports for 2008.*

*An assessment of the 2008 annual summaries has been presented in the Directorates' General Annual Activity Reports, which are published along with the Synthesis Report. To enable Parliament to make its own assessment, the Commission has requested the agreement of Member States to disclose the texts of annual summaries to the Budgetary Control Committee.*

*Reference is made to the letter of Vice-President Kallas to Mr Bösch dated 7 April 2009.*

17. The Commission should carry out, after three years, a comprehensive evaluation, analysing the added value of the annual summaries for the sound financial

management of EU funds in the Member States, as well as the degree of independence of the auditors involved. (§ 31)

**Commission's response:**

*The Commission agrees that a stocktaking of the added value of annual summaries after three years would be useful. By then the situation regarding the content of the annual summaries and the extent and usefulness of voluntary national declarations will have stabilised, and there will be more information available about the effectiveness of the control framework for Cohesion policy in the 2007-13 period and in particular about how appropriate the reporting requirements are in that framework and whether they need to be strengthened.*

*The Commission does not consider it necessary to assess the independence of national auditors in connection with the review of annual summaries. The audit authorities for structural funds programmes are required to be functionally independent, to comply with internationally accepted audit standards and to demonstrate this in their audit strategies submitted to the Commission for approval. The Commission will verify this in performing its own audit work of the national audit authorities. It does not consider that a specific study of the independence of auditors is necessary.*

18. The Commission should declare what it has done for introducing national management declarations in all Member States, taking into account previous discharge resolutions, and urgently to make all necessary efforts to upgrade the annual summaries so that they carry the same political weight as the national management declarations; the Commission should use its right of initiative to propose a Council decision to make national declarations compulsory. (§ 32)

**Commission's response:**

*The Commission will continue to support Member States that have moved towards national declarations and will continue to provide all national supreme audit institutions with annual reports on payments made in their Member State. The Commission has been available to discuss with Member States the basic issues on the preparation of national declarations and has participated in events organised for this purpose (such as a meeting in Hague in December 2008, where 21 Member States were present). The Commission is analysing those declarations and statements which have been provided, with the aim of defining the key aspects of format and scope which add value.*

*Responding to a Commission proposal, Council declined to make national declarations compulsory in November 2005. Instead it agreed to provide annual summaries of available audits and declarations, in agreement with the terms of Article 44 of the Interinstitutional Agreement of 17 June 2006. This hard won political agreement, supported firmly by the Commission, was converted into provisions in the revised Financial Regulation (Article 53b), adopted unanimously by Council in December 2006, and in its implementing rules. The Commission continues to take various steps to improve the added value of annual summaries.*

*The revised guidelines on annual summaries for structural actions issued in 2008 repeat the encouragement to undertake an overall analysis to increase the added value of the information transmitted and propose a standard statement of assurance, which, if used, could come closer to a declaration. The recommended standard statement reads:*

*"Based on the results of the above certification of expenditure and audit summaries, it is my opinion that for the year ended 31 December 20.. the management and control systems for\_\_\_\_\_ structural measures established for the programming period 2000-06 and for 2007-13 complied with the applicable regulatory requirements and functioned effectively so as to provide reasonable assurance that statements of expenditure certified to the Commission are correct and, as a consequence, reasonable assurance of the legality and regularity of the underlying transactions."*

*The Commission welcomes the initiative by seven Member States to append an assurance statement to their annual summaries for 2008 as is suggested in the revised guidelines. Together with the four national management declarations received for 2008, this brings to 11 the number of Member States providing some sort of national assurance.*

## Control systems

19. Manuals, guidance notes and participation rules applicable to grants should be consolidated and Parliament should be involved in discussion on simplifying the implementing rules. (§§ 36 and 37)

**Commission's response:**

*The Commission is taking the requested action.*

*The form in which information is given to beneficiaries on the rules and conditions attached to EU funding is important. It can considerably reduce the administrative burden if this documentation is consolidated in an easily digestible form. In the shared management area this is the responsibility of Member States. The Commission encourages them to provide information in such a form, and plays its own part in simplifying the implementation of the rules by issuing guidance which brings together the requirements and translates them into good practices. For example, the Commission has made available a digest of the eligibility rules for Cohesion policy in the 2007-13 period and it is consolidating the guidance notes on control and audit requirements in a single Structural Funds Audit Reference Manual.*

*Such documents are for use by the Member States' management and audit bodies. They will tend to be incorporated into procedure manuals for use by the staff of such bodies, but for beneficiaries a more succinct and user-friendly presentation will clearly be needed.*

20. The Commission, along with Member States and regions, should accelerate the simplification exercise of regulations whilst fully involving Parliament. (§ 38)

**Commission's response:**

*The Commission is taking the requested action.*

*The Commission is engaged in examining the legal provisions for Cohesion policy in the 2007-13 period with a view to amending the regulations to introduce simplifications of the rules approved in 2006. Some amendments, for example on flat rates and revenue-generating investments, have already been passed into law. The remaining ones will be enacted shortly. Parliament is fully involved in this process in accordance with the applicable procedures.*

21. The Commission should review the conditions for using the flat-rate method so as to increase reliability in beneficiaries' interest. (§ 39)

**Commission's response:**

*Lump sums and flat rate are currently used extensively in the Marie Curie Programme; lump sums have been also established for use by international co-operation partner countries (ICPC) partners and flat rates for CONCERTO actions. Flat rates for indirect costs are also available for certain participants. The*

*Commission has examined the potential use of flat rates and lump sums under the current legal framework and, as a result of this exercise, is in the process of introducing flat rates to cover subsistence costs incurred by beneficiaries. Additional ways of introducing flat rates and lump sums representing genuine simplification for applicants and complying at the same time with the principles of sound financial management would require changes to the legal basis (revision of the Financial Regulation, Framework Programme participation rules).*

*The Commission has also taken steps to simplify rules for structural actions by amending the relevant legislation to expand the use of flat rates, lump sums and unit costs to all types of expenditure for both ERDF and ESF. The Commission will consider proposing further measures in 2009 to simplify the implementation of the Funds on the basis of recommendations of a joint Commission/Member State working group.*

*The Commission will present its proposal for the future Financial Regulation before May 2010. The simplification of rules, in particular for the award and control of grants, is one of the main objectives assigned to this exercise.*

22. The implementation of Action 4 of the Action Plan towards an integrated internal control framework, concerning the launching of an interinstitutional initiative on the basic principles to be considered regarding the risks to be tolerated in the underlying transactions should be sped up. (§ 40)

**Commission's response:**

*In 2006 the Commission proposed a text in the Financial Regulation concerning the tolerable risk of error (within the deadlines laid down in the action plan for an integrated control framework). The proposal was rejected by Council at the end of 2006. The Commission immediately started gathering data on control costs in the Member States, which gave rise to the Communication from the Commission of 16 December 2008 "Towards a common understanding of the concept of tolerable risk of error" (COM(2008) 866).*

23. The Commission is reminded of the importance of Action 10 of the Action Plan, which proposes making an 'analysis of the costs of controls', in view of the 'need to reach an appropriate balance between the costs and benefits of controls'. (§ 41)

**Commission's response:**

*The Commission presented an analysis of the costs of control for certain policies (structural funds and agriculture) in its Communication of 16 December 2008 "Towards a common understanding of the concept of tolerable risk of error" (COM(2008) 866). The Commission undertook to analyse these costs in each budget sector by 2012 within the framework of action to develop an approach based on tolerable risk of error.*

24. The annual activity reports of the directorates-general should include, again, information on the quality of, and improvement in, controls in the Member States, and the Commission should grade all payment agencies and certification bodies. (§ 42)

**Commission's response:**

*The requested action has been taken. The Commission already assesses the effectiveness of national control systems in the Annual Activity Reports of the Directorates General. It will continue to promote quality of the annual summaries and to encourage Member States to increase their added value.*

*It will also continue to present an analysis of the quality of the systems in the annual activity reports and also to use all of the information at its disposal to present an assessment of Member States' systems in the reports.*

25. The Commission should present regular assessments of the integrated internal control system, and better coverage is expected – in the annual activity reports and the synthesis report – of Commission departments' and Member States' shared-management systems, in particular as regards technical quality and ethical considerations, e.g. the level of independence of national audit authorities. (§ 43)

**Commission's response:**

*The Authorising Officers by Delegation already provide, in their Annual activity Reports (part 2), a general appreciation of their internal control systems and a full explanation of weaknesses identified. Specifically concerning shared management, a clear link between the strands of control exercised both by the Commission and the member states' administrations has to be demonstrated, evidence should be provided on the effectiveness of control systems and an assessment of the quality of annual summaries has to be presented.*

*The Synthesis Report, which is set up on the basis of the assurances and reservations made in the Annual Activity Reports, puts in place measures to remedy any weaknesses identified and instructs the Commission services to take action to address the causes of reservations in their annual activity reports and to regularly monitor progress.*

26. The Commission should carry out a more complete and exhaustive evaluation of the resources given over to control systems, by spending area, for all Union spending areas, as called for by Parliament in its discharge resolutions in previous years and in view of the 'getting results' concept. (§ 44)

**Commission's response:**

*The Commission believes that a tolerable risk approach represents a sound and efficient stewardship of EU funds. It presented a communication on this issue in December 2008 (COM(2008) 866), using structural funds and rural development as illustrative examples.*

*Further data-gathering will be needed to underlie firm proposals on tolerable risk. The nature of the work required and timing will vary according to the different policy areas and will be focused on expenditure governed by 2007-13 legislation. As the statistics on the costs of control from this programming period will become progressively available over the next two years, the Commission plans to provide analyses of the tolerable risk of error, for the different policy areas, progressively*

***in the time period until the end of year 2012. It will make concrete proposals for tolerable risk in the areas of research, energy and transport and rural development in the first half of 2010 and on external aid, development and enlargement and administrative expenditure in the latter half of 2010.***

27. On the basis of the annual summaries received, the Commission should analyse the strengths and weaknesses of each Member State's national system for the administration and control of Community funds, together with an estimate of the cost of national systems for the control of Community funds; this comparative analysis should be sent to Parliament, Council and the Court of Auditors in early 2010, and serve as a basis for an interinstitutional dialogue on the tolerable risk of error. (§§ 45 and 46)

**Commission's response:**

***The Commission is taking the requested action.***

***As noted in the response to the requests in paragraphs 29 and 30 of the European Parliament's resolution, the Annual Summaries do not, on their own, provide sufficient information to assess the strengths and weaknesses of Member States' management and control systems for the Structural Funds. The Commission makes its assessments from numerous sources and publishes them Member State by Member State and programme by programme in the Directorates' General Annual Activity Reports.***

***The Commission will continue to encourage the Member States to add value to annual summaries so that they make a bigger contribution to the Commission's assurance on systems.***

***With regard to the cost of national control systems, the Commission has already carried out a survey of the costs of controls in the structural actions area whose results were used in the Commission's communication towards a common understanding of the concept of tolerable risk of error (COM(2008) 866). Proposals for cohesion policy will be made by the end of 2012 on the basis of 2010 payments, which will be the first year the majority of Structural Funds execution will be under the 2007-13 period legislation.***

28. The Commission should use the work done under the Communication on the tolerable risk of error further when preparing its proposal on tolerable level of risk by budgetary area, especially for structural funds and the EAFRD; the dialogue between the external auditor and the auditee should continue to comply with international auditing standards which stipulate that it is for the external auditor to decide. (§ 48)

**Commission's response:**

***As mentioned in the reply to paragraph 44 of the European Parliament's resolution, further data-gathering will be needed to underlie firm proposals on tolerable risk. The nature of the work required and timing will vary according to the different policy areas and will be focused on expenditure governed by 2007-13 legislation. As the statistics on the costs of control from this programming period will become progressively available over the next two years, the Commission plans***

*to provide analyses of the tolerable risk of error, for the different policy areas, progressively in the time period until the end of year 2012.*

*The Commission fully recognises the Court's independent role, but points out that the auditor's determination of materiality is a matter of professional judgment taking into account legislators' and regulators' expectations as regards the cost-effectiveness of controls and non-compliance, as set out by the international standards of supreme audit institutions (ISSAI 1320).*

*The tolerable risk of error - which as suggested by the Court should be decided by the political authorities - would inform the Court's judgement on materiality.*

*As the Commission has already indicated in its communication COM(2008) 866, it would not be appropriate for the Commission, as the auditee, to fix a tolerable risk level.*

29. The Commission should compile fresh statistics as to the reliability of data provided by Member States [on costs of control], plus an in-depth analysis thereof, once the impact of the 2007-2013 rules becomes clear and forward that analysis to Parliament and the Council before the end of 2011. (§§ 49 and 50)

**Commission's response:**

*The Commission has undertaken to present a new study on the costs of controls and tolerable risk of error in the Structural Funds. This will be focused on expenditure governed by 2007-13 legislation (2010 data) and, as this analysis will need to take account also of the Court's DAS errors for 2010 (for which the Court's annual report will be published in November 2011), it will be presented during 2012.*

30. The Commission should ensure a close tie-in between tolerable level of risk and an in-depth study into the cost-effectiveness of Commission and Member State control systems for each Community spending area. (§ 51)

**Commission's response:**

*The concept of tolerable risk requires the definition of cost-effectiveness of control systems. As mentioned in the reply to paragraph 44 of the European Parliament's resolution, further data-gathering will be needed to underlie firm proposals on tolerable risk. The nature of the work required and timing will vary according to the different policy areas and will be focused on expenditure governed by 2007-13 legislation. As the statistics on the costs of control from this programming period will become progressively available over the next two years, the Commission plans to provide analyses of the tolerable risk of error until 2012.*

31. The Commission, with the technical support of the Court of Auditors, to carry out an in-depth analysis in the areas of research, external relations and administrative expenditure, and to submit a report on the findings before the end of 2010. (§ 52)



**Commission's response:**

*The requested analysis will be delivered before the end of 2010, see also the reply to paragraph 44 of the European Parliament's resolution.*

32. The volume of Community funds lost because of errors should also be taken into consideration when a tolerable error rate is determined. (§ 53)

**Commission's response:**

*Errors, once detected, give rise to financial corrections and recoveries, so that normally no European funds are lost.*

*The Commission presented in its Communication towards a common understanding of the concept of tolerable risk of error (COM(2008) 0866) an economic analysis of the concept (comparing the costs of control with the amounts of error which would be likely to be detected and corrected). It is clear that under a tolerable risk approach the Commission would need to continue to make recoveries where it detects errors. The tolerable risk level fixed would therefore relate to the estimated error rate in transactions or projects which have not been subject to on the spot controls.*

*In this respect, any decision on a tolerable risk level has to be taken by the Council and Parliament, and would be based on a joint consideration of the political imperatives, the benefits of a policy (also non-financial), the inherent and reputational risks, the impact of any further simplification, and the additional cost associated with reducing error rates through more control.*

33. Tangible proposals should be produced with regard to improving the management and control of Community spending and, for some aspects, a degree of harmonisation, and, during the forthcoming budgetary procedure, Parliament should give the Commission the resources needed to undertake a study. The Commission should without delay submit its proposals for achieving the objective of a positive DAS. (§§ 54 and 55)

**Commission's response:**

*In recent years, the Commission has put significant efforts into improving its control systems, following recommendations made by the Court of Auditors and the Discharge Authority. It has set up action plans to address the deficiencies noted by its own audit work or those by the external auditor - notably the action plan towards an integrated internal control framework and the action plan to strengthen the Commission's supervisory role for Structural actions. Also, an impact report on the action plan towards an integrated internal control framework was adopted by the Commission in early 2009 (COM(2009) 43). The Commission is, on a continuous basis, further improving its control systems and those of its partners where it identifies weaknesses.*

*The context and scope of such a study can only be defined during 2010 and will depend on the progress made in the Inter-Institutional discussions on tolerable risk, on which the Commission has committed to make concrete proposals for the*

*areas of research, energy and transport and rural development in the first half of 2010 and on external aid, development and enlargement and administrative expenditure in the latter half of 2010.*

## Transparency

34. Study the possibility of creating with the European Parliament a common mandatory register for lobbyists. (§ 56)

**Commission's response:**

*The Commission seeks the full collaboration of the European Parliament (EP) on this issue. A high-level EP-Commission group agreed on 22 April to create a common register for interest representatives.*

35. The Commission should establish a new code of conduct for its Members, so as to improve and define more clearly their individual and collective political responsibility and accountability for their decisions and for the implementation of their policies by their services. (§ 57)

**Commission's response:**

*The Commission considers that the existing code of conduct for Members of the Commission already contains comprehensive and appropriate rules on responsibility and ethics. As regards ethical rules, the independent study carried out by the European Institute for Public Administration in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa, which was released by the Commission on 11 December 2007, concluded that the European Commission system is sound, and that the necessary rules and procedures are in place. The Commission will nevertheless also analyse the external study commissioned by the European Parliament (Committee on Budgetary Control) on the "The code of conduct for Commissioners – improving effectiveness and efficiency". The opinions in the report as well as the experience gained by the Commission in the implementation of the code of conduct will feed the Commission's reflexion about possible further improvement of the existing framework.*

36. The Commission should ensure the completeness, searchability and comparability of data provided on the beneficiaries of EU funding. (§ 58)

**Commission's response:**

*The Commission believes it has fulfilled its obligations with respect to the current requirements.*

*In relation to funds that are centrally managed by the Commission, information is presented through the Financial Transparency System, which provides complete, searchable and comparable data.*

*In relation to funds under shared management, the responsibility for the provision of data on beneficiaries lies on the relevant management authority (see art 30 of the Financial Regulation).*

*The Commission has adopted implementing regulations or issued guidance notes to ensure that the quality and timeliness of the data is guaranteed within each of these policy areas, or has negotiated agreements with the relevant institutions (e.g. international organisations and third countries). The Commission encourages Member States to publish this information in the most appropriate and user-friendly way allowing for potential comparison between the Member States. Furthermore, it has set up a web portal on the Europa site where all available links to relevant websites are provided.*

*The Commission considers that the information it provides, through a portal or a website, is presented in a clear, harmonious and searchable manner. The information provided, originating from the Commission services or from Member states' administrations, generally complies with the existing EU law and, when it does not, the Commission takes the necessary action to remedy the situation.*

37. The Commission should ensure complete transparency and publicity with regard to the cabinet staff of Members of the Commission not recruited in accordance with the Staff Regulations. (§ 59)

**Commission's response:**

*The Commission underlines that the rules governing the composition of the Cabinets and the Spokespersons are based on principles of rigour and transparency and are set out in a document proposed by the President and agreed by the College, SEC(2007)2602.*

*Officials are seconded to the cabinets in the interest of the service and temporary agents are employed in accordance with the specific rules adopted by the Commission. Special Advisers might be recruited by Commissioners on the basis of a transparent procedure but in any case, these do not belong to Commissioners' Cabinets.*

*Cabinet staff are subject to the Staff regulations or the Conditions of Employment of Other Staff of the Communities like all the other staff assigned to Commission services (the only exception being the so called "blue book trainees", but there again there is no difference between those assigned to a cabinet and those assigned to services).*

38. In relation to the publication of the names of recipients of EU funds, the Commission should assess the usefulness of the information published by the Member States in the light of the policy objectives set forth. (§ 60)

**Commission's response:**

*The Commission regularly monitors the adequacy and the compliance of the data it communicates regarding the beneficiaries of EU funds and it also regularly monitors the functionalities of the different websites and search tools implemented by the Member States.*

*In order to facilitate access to this information, the European Commission's Directorate General for Regional Policy operates a clickable map with the links to*

*the beneficiaries' lists published on the managing authorities' websites. The map is accessible from the Info regio website:*

*[http://ec.europa.eu/regional\\_policy/country/commu/beneficiaries/index\\_en.htm](http://ec.europa.eu/regional_policy/country/commu/beneficiaries/index_en.htm)*

*For agriculture, there is now a web page with links to the different Member States' websites publishing information on payments to beneficiaries according to the new legislation (EAFRD 2007 as from 30 September 2008 and EAGF-EAFRD 2008 as from 30 April 2009). Due to legal procedures by some beneficiaries and to local/regional court decisions, the German publication was delayed until 16 June 2009. Since this publication was covering all Länder except Bavaria, the Commission initiated an infringement procedure against Germany. However, the Land of Bavaria announced on 13 July 2009 that it will start publication of data as from August 2009. The Commission services have assessed the different Member States' websites and the various functionalities of the search tool. Some shortcomings have been noticed as regards the way the data are published (for instance, limitation of results shown, no search tool) and as regards the content (public storage not specified), reasons for which reminding letters have been sent to all Member States but Belgium, requesting them to remedy the problems by 30 September 2009.*

*See [http://ec.europa.eu/agriculture/funding/index\\_en.htm](http://ec.europa.eu/agriculture/funding/index_en.htm)*

*Information on beneficiaries of the European fisheries Fund is as yet limited, but this is linked to the fact that very few Member States have actually made payments under the new programmes. A portal leading to the existing national websites exists:*

*[http://ec.europa.eu/fisheries/cfp/structural\\_measures/transparency\\_en.htm](http://ec.europa.eu/fisheries/cfp/structural_measures/transparency_en.htm)*

*The same situation applies for the four funds managed under the programme Solidarity and Management of Migration flows. Relevant portal:*

*[http://ec.europa.eu/justice\\_home/funding/intro/funding\\_solidarity\\_en.htm](http://ec.europa.eu/justice_home/funding/intro/funding_solidarity_en.htm)*

*In the fields of external relations, the Commission has negotiated agreements with international organisations and third countries. Links to the relevant websites is available through the following portal:*

*[http://ec.europa.eu/europeaid/work/funding/beneficiaries\\_en.htm](http://ec.europa.eu/europeaid/work/funding/beneficiaries_en.htm)*

39. The Commission should enter the money from the ex-Economat off-budget bank accounts in the ordinary budget before making proposals for its use. (§ 61)

**Commission's response:**

*The requested action has been taken. The amounts from the ex-Economat have been transferred to the Commission's bank accounts (value 21.4.2009) and at the same time the corresponding off budget accounts have been closed.*

- 1. As regards the follow-up to the 2006 and 2007 discharge resolutions.*

*In September 2005 the Commission's Accounting Officer drew up an inventory of all bank accounts not established by the Accountant to evaluate if the existence of the account was still justified. No irregularities were found in the management of these funds, which included the ex-Economat accounts.*

*Regarding the latter, the conclusion was that their continued existence was no longer justified and they were thus to be closed and the sums transferred to the Community budget.*

*Since the Commission's decision of 12 November 2008 concerning the Commission's ex-Economat off budget bank accounts (COM(2008)692) was taken, the funds have been transferred from the external bank accounts to the appropriate Commission's budget lines and the accounts have been closed.*

*2. As regards the information of the budgetary authority.*

*On 12 November 2008 the Commission transmitted its Communication concerning the Commission's ex-Economat off budget bank accounts (COM(2008)692) to the European Parliament and to Council.*

*The European Parliament has been fully informed since the decision of ex-Economat off budget bank accounts was taken. Moreover a detailed explanation has been provided to Parliament through the Commission's to parliamentary questions. To respond to Parliament's concern about this issue Vice President Kallas sent a letter to President Pöttering on 3 March 2009.*

*The Commission gave detailed replies, orally in plenary and in writing, to parliamentary questions E-4819/05, H-0212/06, H-0758/06, E-5524/06 and E-5697/08 complemented by letters from Commissioner Grybauskaitė to Dr Grässle on 10 March, 23 March 2006, 2 June 2006, 13 October 2006 and again on 12 June 2008.*

*3. As regards the Commission's participation in the European Parliament's fitness centre.*

*Over the years an amount of 2.8 million € had accumulated on two bank accounts from the operational surplus of the "Economat" i.e. from the difference between revenues from sales to staff and operating costs and from the sale of its stocks to Delhaize, when this activity was contracted out by the Commission in 2002. Since then, the amounts on the bank accounts continued to generate interests.*

*Given the source of the sums on the accounts, i.e. an operating surplus mainly due to sales to staff and their families, it was decided to use the funds for social projects benefiting the staff.*

*One of the four projects is the Commission's contribution to the European Parliament's fitness centre. Given the recent decision of the Bureau of the European Parliament on the scope of the project, the Commission might review its position as soon as the scope and calendar of the follow-up project to the current renovation is defined more clearly.*

40. The Commission should ensure that a comprehensive, easily accessible public database containing information on all final beneficiaries of EU funding be available before the next European elections. (§ 62)

**Commission's response:**

*The Commission has set up the Financial Transparency System which provides complete, searchable and comparable data on funds centrally managed.*

*A portal on the Europa site provides links to national websites where information responding to the implementing rules and guidelines adopted is provided.*

41. The Commission should present by 1 January 2010 proposals for a revised and fully consolidated Financial Regulation with chapters specific to individual expenditure programmes which bring together all the requirements which a beneficiary of a programme must fulfil in one single comprehensive source and with further simplifications as regards the award and control of grants; the Commission should engage in consultations with the other institutions at a very early stage and the next 3-yearly review should be carried out by means of the conciliation procedure. (§§ 64 and 65)

**Commission's response:**

*The Commission will present its proposal for the future Financial Regulation in accordance with the provisions of the Financial regulation currently into force, i.e. before May 2010.*

*As was the case in the past, the future Financial Regulation will be discussed and negotiated in close cooperation with the Parliament and Council and in accordance with the legislative procedure foreseen in the EC Treaty. In particular, if the Lisbon Treaty has entered into force, the future Financial Regulation will be co-decided by the European Parliament and the Council. Otherwise, the Financial Regulation will be adopted as currently, which includes the recourse to the conciliation procedure with the European Parliament (Article 184 of the Financial Regulation).*

*Concerning the content of the future Financial Regulation, the Commission can confirm that the simplification of rules, in particular for the award and control of grants, is one of the main objectives assigned to this exercise. However, a consolidation would entail an integration in the FR of all exceptional measures in acts that have been decided by co-decision (for example, the participation rules for the 7th Framework Programme). The selection and attribution criteria are specific depending on the nature of the actions and are defined per programme. If these were integrated in the FR, the latter would become "illegible". Furthermore, the Treaty foresees for certain policies (Research) that specific rules can be adopted, whose inclusion in the FR would empty the basic acts of any substance.*

*In accordance with established practice, DG BUDG will carry out informal preparatory discussions with the other Institutions and organs before the adoption of the Commission's proposals.*



## Anti-Fraud Office (OLAF)

42. The Commission should give to OLAF immediate access to its databases if this is necessary in connection with an investigation, so that investigations can be opened and conducted without delay. (§ 66)

**Commission's response:**

*In compliance with the regulations in place OLAF must and does have immediate access to any information held by the Commission and required to conduct an investigation.*

*It is the Commission policy to give to OLAF immediate access to its databases if this is required for an investigation or in the evaluation phase, linked to a specific case included in OLAF's Case Management System (CMS).*

43. The Commission should ensure that beneficiary third countries give OLAF all necessary assistance during on-the-spot inspections and checks, together with all relevant information on follow-up to investigations carried out; the Commission should ensure that all future contracts stipulate that the authorities of the countries concerned must fully cooperate with OLAF. (§ 67)

**Commission's response:**

*The requested action has been taken.*

*The Commission has already incorporated a standardised provision to this effect into the General Conditions of all types of standard Financing Agreements with beneficiary third countries (cf. Article 20 of the General Conditions of the standard financing agreement under decentralised EU Budget; cf. Article 15 of the GGCC of the standard financing agreement under centralised EU Budget; cf. Article 19 of the GGCC of the standard financing agreement under FED Budget). All future contracts will (continue to) stipulate that the authorities of the countries concerned must fully cooperate with OLAF.*

44. The Commission should use all the powers available to it under the Treaties to bring about effective cooperation among national authorities in the fight against Community fraud. (§ 68)

**Commission's response:**

*Contacts are very frequent between OLAF and the national judicial authorities and OLAF is aware of what is going on at national level. While the Commission fully respects the independence of Member State police and judicial authorities, there is of course room for improvement.*

*The figure of 6.7% mentioned by the European Parliament in its resolution comes from the recent workshop organised by the Committee on budgetary control of the European Parliament on 19 February 2009 and could lead to misinterpretation. Figures were provided at the request of the rapporteur, Mrs. Grässle, by OLAF on*

***final follow up results covering the 3 years from January 2006 to December 2008. Judicial procedures take on average far longer than 3 years so the period is too short to draw any meaningful conclusions.***

45. The European Parliament notes with concern that between 2006 and 2008 only 37 out of 222 internal investigations gave rise to disciplinary proceedings and that, of these 37 investigations, only two produced genuine consequences, three were halted for lack of evidence and the other 32 – i.e. 87% – have yet to produce results; calls on the Commission to undertake to pursue internal investigations just as vigorously as external investigations and to ensure that those investigations which have not yet given rise to effective disciplinary follow-up produce results. (§ 69)

**Commission's response:**

***The Commission is reviewing its disciplinary practice with the aim of accelerating the procedure, a.o. through a better collaboration between OLAF and the Investigation and Disciplinary Office of the Commission (IDOC). In particular, cases transferred from OLAF will be handled without delay.***

***The figure of 87% does not correspond to all cases: it is based on a list of 27 cases recently transferred by OLAF. It has also to be noted that since the beginning of 2009, 2 more cases resulted in a disciplinary penalty and 4 others are waiting for the Disciplinary Board's reasoned opinion which could be delivered before the summer break (situation June 2009).***

***The Commission services are currently investigating the possibilities to increase the efficiency of the process and to impose disciplinary measures within a shorter time. The recent modification of the tables laying down the Appointing Authority contributes to this aim.***

46. The Commission should establish a mechanism for exchanges of information between OLAF and the Member States concerning the follow-up to Community anti-fraud investigations; in particular, the Commission should ensure that national judicial authorities keep OLAF regularly informed, by means of progress reports, on the outcome of the judicial action taken in the fight against Community fraud, following the forwarding of OLAF files. (§ 70)

**Commission's response:**

***The Commission agrees on the importance to improve judicial follow up but is not convinced that compulsory reporting is the most efficient approach. OLAF's judicial and legal advice unit was given extra staff to cover better the national judicial systems of the different Member States. OLAF which is in regular and close cooperation with the authorities of the Member States aims to build further on its Europe wide network of specialised magistrates to improve information exchange and identify best practice. There is of course always room for development and improvement.***

***The second protocol to the Convention on the protection of financial interests enters into force on 19 May 2009. It has been ratified by most Member States and provides specifically for direct cooperation between the European Commission and***

*the judicial authorities of the Member States in the protection of the Community's financial interests.*

## Own resources

47. The Commission should see to it that when the new own resources decision comes into force, and backdated to 1 January 2007, GNI data including FISIMs will be used to calculate Community own resources and that, on that basis, past and future payments by the Member States will be calculated afresh. (§§ 71 to 73)

**Commission's response:**

*The requested action has been taken. The Commission "proposal for a Council Decision on the allocation of financial intermediation services indirectly measured (FISIM) for the establishment of the Gross National Income (GNI) used for the purposes of the European Communities' budget and its own resources", adopted on 26 May 2009 (COM(2009)238final) provides for the retroactive allocation of FISIM to GNI for own resources purposes from 1 January 2005 - the date the allocation of FISIM became compulsory in the European System of Accounts (ESA95) (pursuant to Article 2 of Commission Regulation (EC) No 1889/2002 of 23 October 2002).*

48. Simplify, strengthen and consolidate the control rules in the rural development expenditure, and in particular in the expenditure on agri-environmental measures. (§ 74)

**Commission's response:**

*The requested action has been taken in the rural development area, where most of the errors appear (the EAGF part of agriculture expenditure has an error rate below materiality).*

*- Member States are obliged to ensure that all rural development measures are verifiable and controllable. Member States must also make sure that the rules concerning eligibility are respected.*

*- These issues were discussed intensely between the Commission and the National Authorities before the rural development programmes for 2007-2013 were approved.*

*- The Commission has given extra guidance to Member States on how to implement agri-environment measures.*

*- Audit missions will take a closer look at the origin of higher error rates in agri-environmental measures.*

*- The higher error rates in rural development, in particular agri-environmental measures seem to be due to the complex nature of the policy rather than problems in the controls.*

*The Council Regulation 1290/2005 provides for the-post 2007 period to align the management and control system for the expenditure under the newly created European Agricultural Fund for Rural Development (EAFRD) with the EAGGF guarantee system. Thus, in the future, the advantages of the EAGF Guarantee system that are largely recognized will also cover the rural development expenditure.*

49. Take the appropriate measures, consisting of at least simplifying the policy together with ensuring clearer and consistent control systems, to correct the errors in interpreting the provisions of the regulations as quickly as possible and to inform Parliament in late 2009 about the measures taken (§ 77)

**Commission's response:**

*The requested action has been taken. The Commission has addressed this issue in the Health Check: In the past, the Court has stated clearly that the design and implementation of the SPS limits the risk of irregular payments to farmers. The CAP Health Check agreement brings further simplification (e.g. reducing the types of entitlements, possibility to merge entitlements) and more decoupling of payments (e.g. arable crops, seeds, hops, animal premia). Further decoupling means in terms of administration a better controllability and that no more specific*

*sectoral criteria have to be respected (i.e. to verify that the coupled crop has been indeed produced), but only the general rules of SPS.*

*The Commission has already reported to the Parliament on these simplification actions, notable in its Annual Activity Report on 2008 and thus sees the information request by end 2009 by the Parliament as fulfilled.*

*The Commission will continue the path of simplification. A communication on simplification of the CAP was published in March 2009. This document outlines the activities that have been carried out since the 2005 Communication, take stock of the progress that has been made and sketch out ideas for future action.*

*The communication was welcomed in the May Council conclusions, in which the Commission was invited to take further action in simplifying the CAP, including considering the 39 concrete Member State suggestions until the next Council meeting in November 2009 under the Swedish Presidency.*

*In addition, besides CAP specific projects, DG AGRI is actively involved in the Simplification Rolling Programme, which includes all simplification activities of the Commission as well as the Action Programme for Reducing Administrative Burdens. This Action Programme is established with a view to the overall objective of reducing administrative burden by 25% by 2012.*

50. Suspend payments in the framework of the Integrated Administration and Control System in Greece if the Greek authorities are unable to prove that the problems have been resolved by 31 December 2009. (§ 78)

**Commission's response:**

*The requested action has been taken. The Commission was ready to suspend payments in case the action plan would not have been implemented by the 31 December 2008, the date foreseen. The latest update from Commissioner Fischer Boel (dated 12 March 2009) confirms that Greece has complied with its action plan and has created a new, operational LPIS. The new system will be used by the Greek authorities for the first time during the 2009 claims procedure. The Commission will continue to closely monitor the IACS procedure in Greece. Also, the ongoing conformity clearance procedures covering the financial risks resulting from deficiencies for the years 2006-2008 will continue. For the future, the Commission confirms it will apply appropriate measures proportionate to the eventual weaknesses.*

51. Urges the Member States, in cooperation with the Commission, to step up their checks as regards the Single Payment Scheme management and control and the area-aid eligibility checks, in particular as regards beneficiaries' compliance with eligibility requirements. (§ 81)

**Commission's response:**

*The Commission has taken the requested action. The Commission has addressed these problems in the Health Check:*

*- Member States will have the possibility to exclude beneficiaries from the SPS who do not have their main economic activity in agriculture, a point often criticized by the Court and in public.*

*- Simplification of the entitlements: the rules will be the same for normal entitlements and those coming from the national reserve; if a farmer doesn't use entitlements for two years, they revert to the national reserve. In the longer run, also special entitlements will be phased out, which means that there will only be one type of entitlements instead of three under the current legal situation.*

52. Clarify and simplify the eligibility requirements of the Single Payment Scheme as far as possible. (§ 81)

**Commission's response:**

*The requested action has been taken. The Commission has addressed these problems in the Health Check:*

*- Member States will have the possibility to exclude beneficiaries from the SPS who do not have their main economic activity in agriculture, a point often criticized by the Court and in public.*

*- Simplification of the entitlements: the rules will be the same for normal entitlements and those coming from the national reserve; if a farmer doesn't use entitlements for two years, they revert to the national reserve. In the longer run, also special entitlements will be phased out, which means that there will only be one type of entitlements instead of three under the current legal situation.*

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*In addition, besides CAP specific projects, DG AGRI is actively involved in the Simplification Rolling Programme, which includes all simplification activities of the Commission as well as the Action Programme for Reducing Administrative Burdens. This Action Programme is established with a view to the overall objective of reducing administrative burden by 25% by 2012.*

53. The Commission must propose measures to reform the clearance system to make it possible to establish clear and valid links between amounts recovered and the amount of irregular payments and ensure, as far as possible, that the cost of financial corrections is met by the final beneficiaries and not by the taxpayer and that flat-rate corrections are applied to those Member States which fail to meet their obligations. (§ 83)

**Commission's response:**

*The requested action has been taken. The current clearance of accounts practice already reflects that "as far as possible, that the cost of financial corrections is met by the final beneficiaries and not by the taxpayer and that flat-rate corrections are applied to those Member States which fail to meet their obligations".*

*1. Under the principle of shared management, the recovery of irregular payments from the final beneficiaries is the sole responsibility of Member States. The conformity clearance, in contrast, is designed to exclude expenditure from Community financing which has not been executed in compliance with Community rules, thus shielding the Community budget from expenditure that should not be charged to it (financial corrections).*

*2. Financial corrections are determined on the basis of the nature and gravity of the infringement and the financial damage caused to the Community. Wherever possible, the Commission calculates the amount on the basis of the loss actually caused or on the basis of an extrapolation. However, this often requires the cooperation of the Member State concerned which alone is in possession of all the financial information required. Only where this is not possible, flat-rates are used which take account of the severity of the deficiencies in the national control systems in order to reflect the financial risk for the Community. Therefore, it would be wrong to say that there is no link between the amount of the financial corrections and the level of irregular payments made to final beneficiaries.*

*3. Where irregular payments to final beneficiaries are or can be identified as a result of the conformity clearance procedures, Member States are required to follow them up by recovery actions against the final beneficiaries. Moreover, the new 50/50 rule enshrined in Article 32(5) of Council Regulation (EC) No 1290/2005 is a strong incentive for Member States to ensure an expeditious and effective recovery of irregular payments from the final beneficiaries. However, recovery from the final beneficiaries is often not possible because the financial corrections only relate to deficiencies in the Member States' management and control systems and it is primarily in these cases that the corrections take the form of flat rates. Still, such financial corrections are an important means to improve these systems and, thus, to prevent or detect and recover irregular payments to final beneficiaries in the future.*



## Fisheries subsidies

54. Exclude Member States which fail to implement adequately the rules of the CFP from Fisheries Partnership Agreements; (§ 87)

**Commission's response:**

*The current legal framework does not allow for it. However, according to Article 5 of Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, a Member State may not submit to the Commission applications for a fishing authorisation for fishing vessels flying their flag who do not respect a fisheries agreement.*

55. Introduce EU legislation that excludes all vessel owners convicted of serious infringements in accordance with Council Regulation (EC) No 1447/1999 from receiving Community aid under the European Fisheries Fund and/or benefiting from Fisheries Partnership Agreements (§ 88)

**Commission's response:**

*Regulation(COM(2008)0721): Article 82 (1) of this proposal establishes that the range of sanctions and measures provided for in Chapter IX of Council Regulation (EC) No 1005/2008 apply to Community fishing vessels or nationals of Member States. Article 45 (7) of Council Regulation (EC) No 1005/2008 foresees the temporary or permanent ban on access to public assistance or subsidies, as an accompanying measure to the sanctions provided for in Chapter IX of Council Regulation (EC) No 1005/2008.*

56. Ensure that Community aid is not used to modernise fleet segments characterised by overcapacities (§ 89)

**Commission's response:**

*This is already the case. The use of aid to modernise fleet is a competence of the Member States. However, according to Articles 6(5) and 25(2) of Council Regulation (EC) No 1198/2006, operations financed by the EFF shall not increase fishing effort, and the aid shall not increase the ability of the vessel to catch fish.*

57. Reminds the Commission of its commitments, within the framework of the EU Sustainable Development Strategy approved by the European Council in Göteborg in June 2001 and revised by the European Council in Vienna in June 2006, to abolish environmentally damaging subsidies and to put forward by 2008 a roadmap for the reform, sector by sector, of these subsidies with a view to eliminating them (§ 90)

**Commission's response:**

*The Commission has been mainstreaming the issue into its different sectoral policies. For example: In the area of fisheries, the 2002 reform of the Common Fisheries Policy (CFP) made already important progress in the right direction, in*

*particular by moving towards better integration of environmental concerns into fisheries management and by removing some of the financial support that directly contributed to overcapacity. The Green Paper on the reform of the CFP of April 2009 launched a public consultation which is ongoing and covers inter alia the question of public financial support to fisheries that contradicts CFP objectives. In the framework of the Health Check of the Common Agricultural Policy the Commission promoted agricultural aid that is oriented towards sustainability objectives. New State aid guidelines on environmental protection were adopted in 2008 (OJ No C 82, 01.04.2008, p.1.), which strike a balance between delivering larger environmental benefits and minimizing distortions of competition, thus helping Member States to develop sustainable environmental policies.*

*The Budget review will also provide for an opportunity to make sure that EU financing fully complies with the Union's environmental and climate objectives.*

58. Report to Parliament in early 2010 on the further actions carried out in 2009 to improve management and control systems both at Member State level and at supervisory level at the Commission and on the initial impact of the actions under the Commission's action plan. (§ 94)

**Commission's response:**

*The Commission is taking the requested action.*

*In the report on the implementation of the action plan to strengthen the Commission's supervisory role for structural actions (COM(2009) 42), the Commission has committed itself to reporting in early 2010 on the further actions carried out in 2009 and on the first impact of all the actions.*

59. Continue the revision procedure and to simplify existing regulations without delay. (§ 95)

**Commission's response:**

*The Commission is taking the requested action.*

*The Commission has continued the revision of the 2007-13 rules with a view to amending the regulations to introduce simplifications. These include the Commission implementing regulation, Regulation 1828/2006, in which in particular simplifications to the system for reporting irregularities are being introduced. Reference is also made to the response to paragraph 38 of the resolution.*

60. Make as much use as possible, without undermining the effectiveness of spending, of the scope for simplification provided for by the spending rules, and calls on the Commission to launch a discussion exercise on new simplification measures that might be adopted, including computerisation of the system; expects the Commission to come forward with concrete simplification proposals for the period 2007-2013 based on the outcome of the proceedings of the Simplification Working Group. (§ 96)

**Commission's response:**

*The Commission is taking the requested action. It refers to the answer to point 95 of the resolution.*

*The systems for communications between Member States and the Commission on 2007-13 programmes are fully computerised in the "SFC 2007" network.*

61. Make an estimate of the positive impact of cohesion policy, by Member State, and to submit to it a report on its Union-level added value. (§ 97)

**Commission's response:**

*The Commission has taken the requested action.*

*It already publishes an Annual Report on the Implementation of the Structural Funds and a Report on Economic and Social Cohesion once every three years.*

62. Bring its control requirements into line with the frequency and seriousness of errors found under the European Regional Development Fund (ERDF) from 2000 to 2006 in the Member States most affected; calls also on the Commission to inform Parliament about its response to these high rates of error in the three Member States concerned (Spain, Italy & UK). (§ 98)

**Commission's response:**

*The Commission has taken the requested action.*

*The Commission's audit work is based on a comprehensive risk assessment, which is regularly updated. This risk assessment takes into account previous results, including the level of financial corrections, and leads to more rigorous audit work in more risky areas and programmes.*

*The level of financial corrections made in 2008 as a result from EU audit work reflects the previous distribution of audit work, based on the assessment of the risks at the end of 2007 and in previous years. As the risk assessment takes into account the level of funds allocated, it is reasonable that programmes with higher volumes of EU funds are subject to more EU audits and hence more corrections. In many cases the corrections result from remedial action plans to clear out irregular expenditure due to general weaknesses in control systems or systemic errors. The current level of corrections is thus by no means always an indicator of the degree of further action required.*

*A summary of the Commission's current assessment of the effectiveness of systems in the different Member States and the degree of risk attaching to them is given in the Directorates' General Annual Activity Reports for 2008. The Commission's audit strategy for 2009 is based on its assessment of the residual risk after taking account of the corrections applied.*

*The figures for corrections resulting from EU audits should also be taken together with the figures for recoveries reported by the Member States themselves, partly resulting from their own control and audit work. A breakdown of these recoveries by Member State was given in an annex to the Commission's Annual Report on the Implementation of the Structural Funds for 2007 (SEC(2008) 2649). There will be a similar breakdown in the 2008 implementation report.*

*Thus, it would be mistaken to assume that Member States showing lower corrections resulting from EU audit work in 2008 no longer need to improve their systems or that higher figures in certain Member States reveal a low level of control activity.*

63. Bring its control requirements into line with the frequency and seriousness of errors found under the Cohesion Fund from 2000 to 2006 in the Member States most

affected; calls also on the Commission to inform Parliament about its response to these high rates of error in the two Member States concerned (Greece & Spain). (§ 99)

**Commission's response:**

*The Commission has taken the requested action.*

*Parliament is referred to the response to paragraph 98 of its resolution.*

*It should be noted that Greece and Spain account for the bulk of Cohesion Fund projects that have already been implemented or closed. Therefore, the distribution of financial corrections is not surprising.*

64. Bring its control requirements into line with the frequency and seriousness of errors found under the European Social Fund (ESF) from 2000 to 2006 in the Member States most affected; calls also on the Commission to inform Parliament about its response to these high rates of error in the two Member States concerned (Spain & Italy). (§ 100)

**Commission's response:**

*The Commission has taken the requested action.*

*Parliament is referred to the response to paragraph 98 of its resolution. Other important factors when drawing comparisons are the number of programmes and the management structure, whether at centralized national or at regional level.*

*As for the other funds, the audit work on ESF programmes is targeted at the most risky Member States and programmes. For Spain in 2009 DG EMPL will carry out three follow-up audits and five audits to verify preparations for closure. As from 2010 three audits will be carried out in Spain to verify the effectiveness of management and control systems for the 2007-13 period. For Italy four ESF audits for are planned in 2009.*

65. Continue to apply financial corrections, in conformity with the regulation in force, in order to remove any irregular items of expenditure declared at an earlier stage and to employ rigorous closure procedures for the 2000-2006 ERDF, Cohesion Fund and ESF programmes so that, when the accounts are closed, such items of expenditure have been largely eliminated; calls on the Commission, further, to continue to provide it with detailed information about the financial corrections applied and, once the closure procedure has started, to provide an estimate of the residual error rate in the programmes closed in this way. (§ 101)

**Commission's response:**

*The Commission is taking the requested action.*

*It will continue to apply financial corrections to remove irregular expenditure declared earlier and will employ rigorous closure procedures as a final safety net. It will also continue to provide Parliament with detailed information about the*

***financial corrections applied and once closure has started will attempt to provide an estimate of the level of residual error in closed programmes.***

66. Continue to identify, in annual activity reports, control problems relating to shared management in the Member States, including at payment authority level, so as to identify the specific weaknesses, by Member State and by programme, and for there to be a direct tie-in between reservations and those problems; calls on it to produce an annual grading of Member States, for each European fund, and to forward it to Parliament, specifying the error rate established. (§ 102)

**Commission's response:**

***The Commission is taking the requested action.***

***Annual Activity Reports identify problems with control systems, including those relating to paying authorities, and reservations are made to the Director General's declaration in appropriate cases.***

***The Commission cannot give an error rate per Member State, as comparable data are not yet available from Member States and the Commission itself does not audit a representative sample of transactions in all Member States every year. For the 2007-13 period programmes, Member States will be required to report error rates.***

67. Apply strictly the Community rules on the suspension of payments where a Member State fails to provide the guarantees sought. (§ 103)

**Commission's response:**

***The Commission is taking the requested action.***

***In 2008 the Commission demonstrated a more rigorous approach to suspending payments in cases where it had evidence of serious deficiencies in control systems. It adopted 10 payments suspension decisions in 2008. Reference is made to the final report on the Action Plan to strengthen the Commission's supervisory role in structural actions (COM(2009) 42).***

68. Ensure that the simplification procedures contribute to a reduction in the error rate in the future. (§ 106)

**Commission's response:**

***The Commission is taking the requested action. It refers to its responses to paragraphs 38 and 95 of the resolution about the simplifications underway.***

***The Commission is taking care to avoid any dilution in control standards as a result of the simplifications. For example, the compliance assessment procedure, which is an important safeguard that good control systems are in place before interim payments begin to be made, has not been changed.***

***The Commission has issued multiple guidance notes for the 2007-2013 period that facilitate the practical application of the rules for management and control. Further simplifications on the management and control of the EU funds are***

*underway. The Commission holds annual meetings with national audit authorities on management and control issues and held seminars in 2008 and 2009 targeted to managing and certifying authorities.*

*The Commission does not expect a significant decrease in the error rate until 2007-13 programmes begin to account for the bulk of expenditure included in interim payments. The Commission is to carry out an audit of a sample of 2007-13 operations in the second half of 2009 to provide a first estimate of the error level in the new programmes.*

69. Further clarify the difference of interpretation between the ECA and the Commission concerning rules relating to the eligibility of expenditure and calls for the interpretation of the rules as to the application of financial corrections to be harmonised. (§ 108)

**Commission's response:**

*The Commission is taking the requested action.*

*It is using various means to narrow the differences of interpretation that arise in relation to the Court's audit findings: The Commission and the Court hold "inter-institutional colloquia" on average twice a year to discuss such questions. A joint working group prepares the discussions of interpretation issues. Another means of reducing differences of interpretation is the procedure of tripartite meetings between the Court, the Commission and the Member State concerned before audit findings are reported in the Court's annual report. The procedure was introduced for the first time for the 2007 DAS and has been widely welcomed.*

*The different time perspectives adopted by the Court and the Commission in their audit work accounts for many of the differences of assessment of the financial impact of errors. The Court adopts a strictly annual perspective; the Commission looks at the entire multi-annual control cycle up to closure. There are also differences with regard to public procurement irregularities. The Commission applies a sliding scale of financial corrections depending on the seriousness of the infringement. The Court applies a 100% error rate for all serious infringements of the EU or national rules (for example failure to put a contract out to competition), but treats minor breaches of the rules as compliance errors which do not count towards the error rate.*

70. Make (Commission and ECA) a clear distinction between level of errors and fraud in future documents. (§ 110)

**Commission's response:**

*The Commission has taken the requested action. Whenever fraud is confirmed, the Commission will disclose the fact in its public statements on the case. OLAF also publishes statistics of cases of suspected fraud that Member States identify in their reports of irregularities, in its annual Article 280 report.*

## Internal policies

71. The European Parliament deplores the fact that according to the ECA, while the Commission manages internal policy actions directly, the same problems from previous years are persisting (cost reimbursement errors, complexity of the rules applied, and lack of an effective penalising mechanism), and calls on the Commission to continue its efforts to simplify, and further clarify, the proportionality rules applicable to shared-cost programmes. (§ 112)

### Commission's response:

*The Commission has committed itself to seeking simplification where possible and will pursue this objective further.*

*High error rates are due in a large part to complex eligibility rules. The Commission acknowledges that simplification has an important role to play in reducing error rates, but points out that a certain degree of complexity in rules and eligibility criteria is unavoidable as these are often fixed in order to achieve desired policy objectives.*

*The action already taken to address the risk of error in cost statements from beneficiaries has contributed to a reduction in error rates of more than 50% in the space of three years.*

*When errors are detected, the Commission will correct them rather than penalise the beneficiaries. Further, it is implementing a dissuasive mechanism to encourage avoidance of errors ("liquidated damages").*

*In addition, FP7 has already brought about a number of important simplifications.*

*The Commission has implemented measures to reinforce the effectiveness of audit certificates by improving support to certifying entities, beneficiaries and operational services within the Commission, and for FP7 two further measures were introduced:*

*(1) audit certification based on "agreed upon procedures" which consist of a compulsory set of procedures to be used by certifying auditors; and (2) optional cost calculation methodology certification for beneficiaries with multiple participations in order to prevent common methodological errors. These measures are expected to ensure, before payments are authorised, that beneficiaries' costing methodologies better comply with the contractual provisions.*

*The unique registration facility for participants avoids repeated requests to beneficiaries and improves data quality and coherence in all grant management systems. The project reporting was streamlined, including reduced data requirements, simplified reporting guides and longer reporting periods.*

*However, it should be noted that the impact of simplification will only be visible in the medium-long term. Further improvements will be achieved by the gradual introduction of fully electronic exchange systems for the whole chain of proposal*



*and grant management procedures in the frame of the e-FP7 initiative (the Participant portal).*

72. The European Parliament calls on the Commission to continue to exploit the reimbursement possibilities offered by the 7th Framework Programme, in particular to analyse further the appropriateness of the rules of the programme on flat-rate payment procedures, and to inform the parliamentary committee responsible in the context of the mid-term review of its contribution to the simplification of the rules for beneficiaries and to the necessary improvements to the system. (§ 116 )

**Commission's response:**

*A first tangible step was taken on 4 June 2007, when the Commission decided on lump sums for International Cooperation Partner Countries' beneficiaries. The Commission continues to work towards a simplification of the cost reimbursement system, gradually introducing the use of flat rates and lump-sums where appropriate (for example for subsistence and accommodation costs). Defining flat rates and lump sums for major budget items like personnel costs is a very complex task because of the difficulty of having sufficiently reliable statistical information to fix the level of the lump sum of flat rates. Wider acceptance of flat rates and lump sums will have an impact on the risk of error and therefore is relevant in fixing an appropriate tolerable rate of error for the research area. So the Commission has to move step by step, also taking account of the fact that beneficiaries do not consider flat rates and lump sums to be a simplification in all cases. Further steps will be taken after careful consideration of their likely consequences and with due regard to the principle of sound financial management.*

73. The European Parliament is concerned about 7th Framework Programme rules which deviate from the common nationally and internationally acknowledged and certified accounting and calculation methods and which do not accept the results of the national audit authorities concerning the nationally certified average hourly rates per cost centre; regards the 7th Framework Programme rules as clearly contradicting the modern accounting and calculation standards of European industry in asking for individual costs of persons actively involved in a specific research programme; asks the Commission to start a procedure making 7th Framework Programme rules compatible with general business practices that allow for calculation and charging of average hourly rates per cost centre and do not ask for individual costs of persons actively involved in a specific research programme. (§ 117)

**Commission's response:**

*The Commission very much welcomes the support of the European Parliament in its endeavours to efficiently implement the Framework Programme within the particular context of the modernisation of the research institutions' administrative and management practices. However, the Commission cannot implement the specific request for the following reasons:*

*The Rules for Participation for FP7 (Art. 31) provide that average costs can be charged as long as they do not deviate "significantly" from actual costs. However, the Rules do not define "significantly" in terms of the permissible deviation which,*

*in view of the 2% materiality threshold applied by the Court of Auditors, offers little flexibility in practice. The Commission has stipulated (in the model grant agreement) that beneficiaries may claim average costs where their cost calculation methodologies have been approved ex ante by the Commission. The Commission decided in June 2009 to work on the basis of deviation of max. 5% for cost methodologies.*

*The use of average costs needs to be reconciled with the "non-profit rule" in the Financial Regulation. Implementing the specific request would mean that the link between average and actual costs at beneficiary level would be lost: such globally-applied average rates would cause a considerable risk of significant deviations on individual transactions and beneficiaries (especially those with few participations in FP7).*

*Moreover, the types of system referred to in the request are applied only in some Member States: implementing this request would therefore require accepting all national systems (or developing them where these are not available) to ensure consistency of treatment.*

*Finally this matter should certainly be revisited in light of the progress of the inter-institutional discussions on the tolerable level of error in the field of European research policy.*

74. As regards the certificates on the methodology (CoM and CoMAv), the European Parliament is concerned at as yet unapproved certificates and urges the Commission to establish the necessary comprehensible criteria for approving certificates on the methodology for both personnel and indirect costs; believes that beneficiaries should be allowed to use average personnel costs and to apply an established methodology for calculating the indirect cost; calls for a timely start to the process of approving (or rejecting) the certificates to make sure that the funds earmarked for research can be used; asks the Commission to accept such average hourly rates per cost centre without a certification as regards the methodology at least if they are audited and certified by a national authority (§ 118)

**Commission's response:**

*The Commission fully shares the concern expressed by the European Parliament. FP7 provides two types of cost methodology certification: the mandatory certificate on the methodology on average personnel costs (CoMAv) and the certificate on the methodology for personnel and indirect costs (CoM), optional for any beneficiary of multiple grants fulfilling the eligibility criteria set by the Commission. The certification of average personnel costs was introduced to accommodate those participants who, as derogation to the general rule of actual costs, use average costs for charging personnel. FP7 rules provide that average personnel costs may be used if they are consistent with the management principles and accounting practices of the participant, do not differ significantly from actual costs, are based on a methodology certified by an independent auditor and finally approved by the Commission. The meaning of "significant deviation" has not been defined by the legislator in the FP7 rules for participation. In this context the Commission has assessed several possibilities striving to balance the need for simplification while ensuring the legality and regularity of expenditure. It is to be noted that the*

*acceptance of average rate methodologies is based on the hypothesis that upward and downward deviations between actual and average personnel costs within grant payment transactions towards a certified beneficiary should be set-off against each other over all its grants for the whole duration of the Framework Programme. The Commission will very shortly decide on a number of criteria that could at the same time provide a reasonable level of assurance in terms of the DAS and a substantial degree of simplification for the beneficiaries. The Commission also considers that this matter will need to be revisited in the future with a view to further simplification. Finally, the Commission takes note of the request to accept average hourly rates per cost centre without a certification on the methodology. It cannot implement it, however, for the reasons already highlighted in the reply to paragraph 117 as such an acceptance would be in breach of the applicable regulatory provisions.*

75. The European Parliament recalls its request, with a view to simplifying the administrative procedures and grant applications, for one single contact point to be set up for beneficiaries with the competence to decide on issues regarding the research framework. (§ 119)

**Commission's response:**

*A single contact point for beneficiaries regarding the research framework related issues has been established. Since the start of the 7th Framework Programme, the Commission operates a central enquiry service for all questions related to proposal submission and research grant management (<http://ec.europa.eu/research/index.cfm?pg=enquiries>), providing centralised and harmonised replies wherever possible, while detailed issues related to the implementation of individual grants requiring an analysis on a case-by-case basis stay under the responsibility of the relevant authorising officer. These services complement the continued role of the National Contact Points in Member States and of Cordis.*

76. The European Parliament calls on the Commission, as a requirement for legal certainty, to refrain from re-calculating the financial statements of projects under the 6th Framework Programme that it has already approved and settled, by applying new interpretations to the eligibility criteria for costs established in the General Conditions (Annex II) of the FP6 model contract. (§ 120)

**Commission's response:**

*The Commission has devised a control strategy aimed to ensure the legality and regularity of the 6th Framework Programme on a multiannual basis. It is based on the detection and correction of any errors which could not be identified before making the payment. This is achieved by ex-post auditing and thoroughly recovering any amount found to be overpaid to the audited beneficiaries, even for non-audited contracts.*

*The re-calculation of the financial statements of projects is a necessary condition to correct the detected systematic errors likely to affect non-audited contracts. The acceptance of this particular request would therefore mean that amounts receivable would not be recovered.*

*Refraining from re-calculating the financial statements affected by detected errors requires a clear commitment from the European Parliament and the Council to take this political decision into account in the framework of the discharge procedure, in particular with reference to the opinion of the Court of Auditors, since it should be noted that this will potentially lead to increased residual rates of error. This should be taken into account when a tolerable risk of error will be discussed.*

*The split of responsibility between the Commission and the beneficiaries in this respect should be maintained. When the Commission proves the existence of an error and its systematic character, the beneficiary is responsible to quantify the financial consequence of those errors. In some specific cases (lack of reliable time recording system) the assessment of the financial consequences of this non compliance of the contractor is particularly difficult or time-consuming and may even require that in specific cases the non audited closed contracts be subject to further scrutiny.*

*In order to avoid any misunderstanding, the Commission wishes to clarify that these corrections do not result from the application of new interpretations, but from the audit of cost statements submitted by beneficiaries within the same Framework Programme. In accordance with the provisions of the model grant agreement, the Commission may carry out audits up to five years after the final payment of a project and make the relevant financial adjustments.*

77. The European Parliament notes that the two-stage procedure for the 7th Framework Programme is being applied in certain areas; calls on the Commission to consult with research organisations on the appropriateness of extending this experiment to other types of project where this would result in considerable reductions in the preparation costs of initial project applications (§ 121)

**Commission's response:**

*A two-stage procedure is indeed used in some FP7 calls for proposals, particularly where a high subscription rate is expected, including in calls which are more bottom-up in nature. While this works well in many areas, it is not a panacea, since experience shows that often the efforts required to prepare a good first-stage proposal (including formulation of idea, gathering of a consortium etc.) represent a substantial part of the effort to write a full proposal. Consultations during FP6 led to an estimate that this part is around 80%. Informed observers and applicants, when consulted during FP7, have remained ambivalent about the possible benefits of two-stage procedures. Moreover, it should be recalled that two-stage procedures prolong the "time-to-grant". The Commission will continue to monitor this issue in its informal contacts with stakeholder groups, but does not consider a new specific consultation to be necessary at this stage.*

78. The European Parliament points out that, in the research field, the Commission has increased the number of research bodies, cooperation models and management

mechanisms; recalls that this is due to the considerable increase in funds made available under the financial framework 2007-2013 for research and innovation; invites the ECA to assess possible problems of transparency vis-à-vis the budgetary authority and the differing way of dealing with beneficiaries under those models; calls for the Director-General to give over a chapter of his AAR to each such body, model and mechanism in order to provide information on the use of funds and the outcomes sought with these public-private cooperation models. (§ 122)

**Commission's response:**

*The principal means to achieve transparency towards the Budgetary Authority is the discharge by the European Parliament for different management models. The Directors of executive agencies receive discharge from the European Parliament on their implementation of administrative costs; operational costs are part of the Commission's discharge. The Executive Directors of the Joint Undertakings receive discharge from the European Parliament on the implementation of the entire budget of the Joint Undertaking. In addition, the agencies' Annual Activity Reports (AARs) are annexed to the AARs of the parent DGs. Within this framework, the Commission is actively laying the ground to allow these bodies to operate autonomously.*

*In particular, in order to be able to report in the AAR:*

*The agencies and Joint Undertakings must implement in practice the governance and accountability model outlined in the internal control framework applicable in the Research DGs. For Art. 169 bodies, the Financial Regulation lists the conditions, which are largely equivalent.*

*The legal instruments that bind the body with the Commission (Delegation Act and Memorandum of Understanding for the agencies and the contracts with the Joint Undertakings and Art. 169 bodies) require reporting on the operation of the internal control systems in line with, and using the same indicators as, those agreed by the Research DGs. In addition, the DGs have the right to request further information if and when needed.*

*Furthermore, as before, the Directorates must report on the achievement of their political objectives in part 1 of the AAR, including the activities of these bodies where applicable.*

79. The European Parliament calls on the Commission to offer further assistance to applicants in the context of multiannual programmes, especially by providing specific training for applicants and user-friendly guidelines;

Welcomes the efforts to target calls for tenders more effectively and to provide more assistance to applicants, especially in public health programmes, in order to prevent the submission of project applications which are clearly not eligible for funding or are of poor quality, but notes that further work is needed in order to obtain a satisfactory situation. (§§ 127-128)

**Commission's response:**

*The Commission has taken the requested action. In the area of public health, in 2008 and 2009, EAHC introduced national info days in addition to the European info day in Luxembourg, to allow more participants to have first hand information on the annual call for proposals. In 2008, 12 national info days took place. In 2009 the number was 16, and a specific effort was made to reduce the high number of ineligible or low quality proposals in previous calls.*

*A "Guide for applicants" is produced yearly and is accessible on-line to help applicants to submit proposals that meet the required standards.*

*A special training on the application process was provided to the national focal points of the health programme in 2008, in order to enable them to provide a better service for potential applicants at national level, according to a 'train the trainers' approach.*

*Applicants receive routinely a copy of the independent evaluation of their proposal, which sets out in detail the weaknesses of proposals. This allows applicants to submit better proposals in the next round.*

*In 2009, the application process was made even more user friendly for applicants, by improving the application form based on the results of a satisfaction survey among persons submitting proposals in 2008. This resulted in fewer questions to the help desk in 2009, despite a higher number of proposals. The satisfaction survey launched in 2008 showed that 91% of the applicants in the call for proposals considered the documentation produced useful to very useful and 92% judged the support received from the help desk good to very good.*

*In September 2009, EAHC will support a specific training seminar for potential beneficiaries hosted by the Spanish national focal point, with the aim to improve the quality of proposals.*

*In the environment field, DG ENV started in 2008 to organize workshops in all Member States to provide information to potential applicants about LIFE+. For what concerns guidelines, a full set of guidelines for applicants and for the evaluators of proposals are published each year, at the same time as the call for proposals. The feedback received from applicants show that these guidelines are user-friendly and very helpful in the preparation of proposals. From one year to the next the guidelines are fine-tuned to address specific issues raised by applicants or potential applicants.*

80. The European Parliament points out that part of the Health Action Programme is implemented by the Executive Agency for Health and Consumers; reminds the Commission in this context to use programme funds of an operational nature very cost-effectively as they are also used for administrative tasks. (§ 129)

**Commission's response:**

*The implementation of the Health Action Programme by the Executive Agency for Health and Consumer Protection is performed on the basis of the delegation of the*

***Commission and under its control and responsibility. The Commission ensures the setting up within the Agency of grant award and procurement procedures, internal control and accountancy systems, which, at the same time, comply with sound financial management and the general Financial regulation and ensure the use of the Public Health Programme funds in a cost effective manner.***

81. The European Parliament points out that compliance with the administrative and financial provisions of Regulation (EC, Euratom) No 1605/2002 should not lead to unnecessary delays in awarding grants or selecting projects to be financed and calls on the Commission to continue its efforts to improve administrative procedures which have an impact on the implementation of commitment and payment appropriations. (§ 130)

**Commission's response:**

***The Commission has taken the requested action. A recent report from the Court of Auditors clearly demonstrates that, since the Public Health Programme has been put in place, significant improvements have been made in the reduction of the time to contract.***

***Since 2008, habilitation is given from the Commission to the Director General of DG SANCO in order to simplify the administrative procedures and significantly reduce the delays for awarding grants.***

***DG ENV has also implemented several measures to accelerate commitments and payments, in respect of the financial regulation.***

***DG ENV has in particular taken steps to adopt the annual financing decision foreseen by article 75 of the Financial Regulation as soon as possible (for example, in October 2008 for the 2009 budgetary year) in order to be able to launch the award procedures as soon as possible.***

***As regards the LIFE+ call for proposals for action grants, the Commission is aware of the length of procedures, but considers that the margin available to shorten the procedures is limited as the length of selection procedures is largely conditioned by the comitology requirements of the Regulation.***

***As regards payments, DG ENV revised its financial circuits for pre-financing payments in 2008. This allowed a reduction from 28 to 18 days for payment of these pre-financings.***

***Delays in payments for LIFE+ project grants are largely due to incomplete reporting by many grant beneficiaries, which leads to sometimes lengthy exchanges of correspondence concerning the eligibility of certain costs declared. The procedures for assessment of payment requests have been reviewed with a view to reducing the payment delays whilst maintaining a high level of control.***

82. The European Parliament calls on Member States to further improve their internal control systems to prevent the placing of unauthorised goods on the Community market; calls furthermore on the Commission to follow up on any shortcomings detected in the area of consumer protection in 2007. (§ 132)

**Commission's response:**

*The Commission works closely with Member States to enhance market surveillance and consumer protection. For details of its work in the area of consumer safety, the Parliament is referred to the 2008 Annual Report on the operation of the Rapid Alert System for non-food consumer products. In addition, the Commission intends to issue a Communication on enforcement in the area of Consumer Policy later in 2009.*

83. The European Parliament notes that the implementation rate of 77% for budget line 17 02 02 (consumer protection programme) is lower than in previous years; notes further that, according to the Commission, the reasons for this are the transfer of non-differentiated appropriations from the Executive Agency for Health and Consumers back to the consumer protection programme, and some late commitments made during the year 2007, with the result that payments planned for 2007 were not made; calls therefore on the Commission to improve budget planning in this area. (§ 136)

**Commission's response:**

*The Commission has implemented 96,35 % of payment credits from budget line 17 02 02 in 2008, which confirms the exceptional situation in 2007.*

84. The European Parliament notes with satisfaction that, as a result of reactions to the Court of Auditors' Special Report No 6/2005 on the trans-European network for transport , the maximum rate of financial aid for cross-border projects has been increased to 30% and the minimum funding threshold to EUR 1 500 000; notes further that the evaluation procedure for the selection of projects has been improved and monitoring has been enhanced, but deplores at the same time the fact that the structure for the description of works has not been harmonised and technical and financial monitoring has not been standardised. (§ 140)

**Commission's response:**

*Several new requirements and modifications to the existing system have in fact been put in place in order to standardise and improve the technical and financial monitoring of projects. The TEN-T Executive Agency and the Commission worked together to prepare a new model financial Decision for the programming period 2007-2013. Particular attention was paid to an improvement of the elements which allow technical and financial monitoring of the actions funded under the TEN-T programme. At the same time the definition of works and studies was also revised, taking into account the comments of the Court of Auditors on this subject.*

85. The European Parliament notes the ECA's finding that the approaches taken by the national authorities with a view to obtaining a basis for the ex ante declaration of assurance differ and that the degree of disclosure as to the procedures carried out by those authorities varies greatly; calls on the Commission to commence an exercise to harmonise those declarations and to keep Parliament and the ECA informed about the exercise. (§ 146)



**Commission's response:**

*The request has been implemented. Guidelines for the National Authorities have been issued already in 2007 and updated in March 2009. Copies of those Guidelines have been transmitted to the European Parliament and to the European Court of Auditors.*

86. The European Parliament welcomes the fact that the number of late payments in the area of education and culture is decreasing, and expects the Commission to continue its efforts to further reduce them. (§ 150)

**Commission's response:**

*The requested action has been implemented. During 2008, DG EAC has taken further measures to closely monitor the development of payment delays. The monthly reporting to management has been extended and includes both the average payment delays as well as an analysis of payments made within the different contractual time limits or exceeding those limits.*

*The regular follow-up of payment delays has resulted in a clear reduction of the average payment time (an average in 2007 of 38,80 days for procurement and 54,12 days for grants is down to a total average of 28,89 days in 2008).*

87. The European Parliament expresses its hope that the control system established by the Directorate General for Communication at the end of 2007 will make it unnecessary to enter a reservation regarding its budget management in the future, as was the case for the financial year 2007. (§ 151)

**Commission's response:**

*The Commission has taken the action required. In the light of the new control system, which has highlighted a number of errors in budgetary management for 2008, DG COMM has entered a reservation in respect of that year. The action plan introduced is designed to improve budgetary management and, if that is found to be the case, avoid the need to renew this reservation in future.*

88. The European Parliament requests further information from the Commission concerning the creation of administrative structures in Member States to assist in town-twinning activities, especially as regards the need for such structures, the costs involved and their purpose. (§ 152)

**Commission's response:**

*As of 2008, Europe for Citizens Contact points began to be established in the countries participating in the Europe for Citizens Programme. They are intended to be decentralised communication co-coordinating bodies providing information on the Programme to potential beneficiaries and the general public. They are expected to play an intermediary role between the wide diversity of stakeholders of the Programme and the European Commission as well as to actively mobilize all relevant national networks. An overview of Contact Points is available at [http://ec.europa.eu/citizenship/how-to-participate/doc714\\_en.htm](http://ec.europa.eu/citizenship/how-to-participate/doc714_en.htm).*

*The initiative to create the Contact Points came through the Europe for Citizens Programme Committee which comprises government representatives from the 27 Member States and other countries participating in the Programme. The Committee identified a lack of awareness of the Programme, especially amongst civil society. It was decided that decentralized co-coordinating bodies offering close proximity to citizens and stakeholders and the ability to communicate in the home language were the most appropriate way to respond to this need and facilitate information dissemination at national, regional and local level. The Contact Points also have a key role to play in providing guidance and assistance to broaden access to the Programme to the many small organisations active in civil society who have little or no experience of European co-funding application procedures.*

*The co-coordinating bodies were designated by the Member States and are now operating in 23 countries. In some cases, the bodies work alongside the Cultural Contact Points supported within the EU Culture Programme. 17 of the Europe for Citizens Contact points have applied for, and been awarded, co-financing to help cover the operating costs of the new information and liaison activities to be undertaken. A total of just over 417.000 Euro of Community co-financing was provided for this purpose in 2008.*

*The Europe for Citizens Contact points, which cover the whole Programme, complement the information and awareness-raising efforts of the Council of European Municipalities and Regions (CEMR) and its national member associations concerning the Town-Twinning possibilities supported by the Programme.*

89. The European Parliament requests the Commission to examine ways of making the Youth Programme more capable of reaching new groups of young people, in particular those from disadvantaged backgrounds; to this end, suggests that youth organisations, including the European Youth Forum, increase efforts to target such groups, to improve reporting standards and funding criteria and to disseminate information on the programme itself more widely amongst young people (§ 153)

**Commission's response:**

*The Commission fully shares the objective to reinforce the participation of disadvantaged young people in the Youth programme. For this reason an inclusion strategy has been developed in 2007, aiming both at increasing participation in the programme of youth with disadvantaged backgrounds and inclusion of this topic in the projects supported by the programme. In this framework, an explicit selection criterion has been introduced in the user guide in 2008, and in 2009 particular attention shall be paid to disabled young people and young people with a Roma background. The Commission has also revised reporting in order to allow a proper monitoring of the participation of disadvantaged young people.*

*Provisional results of the Youth programme for 2008 indicate that about one quarter of the participants of the programme can be considered as having fewer opportunities and about 40% of all projects aim, among other things, at promoting the inclusion of disadvantaged young people.*

90. The European Parliament calls on the Directorate-General for Freedom, Security and Justice to try to maximise the level of implementation of commitment and payment appropriations in 2008. (§ 154)

**Commission's response:**

*The Commission closely monitors the budget implementation and works for the maximisation of the implementation rate in the area of Freedom Security and Justice, in the respect of sound financial management of budget appropriations. At the end of 2008, including the transactions in the 'carry-over', the implementation rate for commitments was 98% and 88% for payments.*

91. The European Parliament reiterates its call to the Commission for gender equality to be taken into due consideration as an ongoing priority objective during budgetary planning, in accordance with the principle of gender budgeting, as it requested in its resolution of 3 July 2003 on gender budgeting, building public budgets from a gender perspective, and criticises the delay in completing the Commission's feasibility study on the topic. (§§ 157-158)

**Commission's response:**

*The Commission has taken the requested action.*

- *The study on gender budgeting was launched in 2007 in order to further explore the feasibility of and options for introducing elements of gender budgeting in the budgetary process. The study was finalised in June 2008 and was transmitted to the European Parliament (FEMM) in July 2008.*

- *The study focused on experience of gender budgeting initiatives in relevant countries. Gender budgeting raises some conceptual and methodological challenges:*

*Firstly, to do a credible and comprehensive gender budget analysis is complex and it can only be carried out gradually. For example, gender budgeting requires gender specific data and few budgetary figures are broken down by gender.*

*Secondly, in a gender analysis of expenditure it is important to make a distinction between the initial effect of spending and the long term impact, since there is not necessarily an obvious correlation between the two. To determine the long term impact of an activity is more relevant and challenging.*

*Thirdly, whereas no Member State of the EU has comprehensively implemented gender budgeting in accordance with the EP's definition, some gender budgeting initiatives exist. These initiatives take different forms in terms of both strategy and implementation, as well as the context in which the gender budgeting initiatives are carried out. Moreover, the EU budget exhibits certain differences with national budgets (no direct taxes, no social security system etc.), which influence the manner in which gender budgeting could possibly be applied at the EU level.*

- *The Commission has examined the conclusions which can be drawn from the study. One of the options put forward by the study is to consider the gender dimension in the impact assessments. Impact Assessment (or the ex-ante*

*evaluation) of new proposals is a key moment to consider the implication of policies on women and men. The Commission's new impact assessment guidelines (2009) provide ways to ensure that impacts on women and men are studied when designing new policies and programmes and that their effects on women and men are properly evaluated. A toolkit on assessment of social impacts (including impact on gender) has been developed.*

- Another option is to improve the reporting to the Budgetary Authority on gender equality policies. Consequently, a new instruction for the Activity Statements for Preliminary Draft Budget 2010 requires, where appropriate, that gender aspects be considered.*

## External actions

92. The European Parliament notes that external aid was virtually unaffected by the most recent revision of Regulation (EC, Euratom) No 1605/2002, and calls for a revision of Title IV, 'External action', of Regulation (EC, Euratom) No 1605/2002 so as to bring it more closely into line with the special conditions relating to contracts and grants in this area. (§ 162)

**Commission's response:**

*Title IV of the Part 2 of the Financial Regulation, like all other provisions of the Financial Regulation, will be examined as part of the three-yearly review in 2010.*

*On the basis of experience and wide consultation within its services, the Commission will make the relevant proposals in order to promote further simplification of the financial management system for external aid. Provisions concerning grants and contracts in the area of external aid will naturally be part of this exercise.*

93. The European Parliament calls on the Commission to ensure full financial transparency in external aid, in accordance with Articles 53 to 56 of Regulation (EC, Euratom) No 1605/2002, and to honour its undertaking to Parliament that any international organisation receiving Community funds will be required to submit the results of all internal and external audits of the use of those Community funds to the ECA and to the Commission's Internal Auditor; calls also for OLAF to be given access to data where fraud is suspected. (§164)

**Commission's response:**

*As explained by the Commission during the 2009 budgetary procedure, the Commission cannot accept this request because it is not in conformity with the Financial Regulation. The Financial Regulation specifies the conditions under which the Commission can entrust the management and implementation of projects to international organisations through joint management. The Commission must check that the key financial procedures (including internal control and external audit) of each international organisation comply with international standards, and the FR provides for the internal organisation then to apply these procedures. Moreover, the terms of the standard contribution agreement (SCA) applicable to contracts signed between the Commission and these organisations already provide for the Commission to receive a copy of the audited financial statements of the organisation as well as for access to project documents to be given to the Court of Auditors and OLAF.*

*For the UN, external audit reports issued by the UN Board of Auditors, which certify a given UN organisation's accounts for a given biennium, are public documents. Concerning internal audit reports, practice varies between agencies; for the Commission's biggest partner, UNDP, internal audit reports are internal documents, but the Commission's verification teams may request a summary of such reports and, where confidentiality considerations allow, the Commission has*

*received the information requested. OLAF will (continue to) be given access to data where fraud is suspected.*

94. The European Parliament notes that, on the basis of a number of hypotheses ('best estimates'), the total cost of the checks carried out by the Directorate-General for Humanitarian Aid (DG ECHO) has been put at EUR 25 000 000 for the financial year 2007, this being equivalent to 3.2% of the total humanitarian assistance budget for that year; deplors the lack of procedures for risk management by DG ECHO and calls for such procedures systematically to be incorporated into the control arrangements;

Notes that, according to information from the Commission, that estimate covers only part of the costs relating to humanitarian operations funded by DG ECHO, because the cost of checks carried out by humanitarian organisations, which are included in the overall cost of the grant agreements, are also funded by DG ECHO. (§§ 165-166)

**Commission's response:**

*The requested action linked to risk management is implemented. The risk management procedures and their link with control arrangements are the following: Firstly, an annual risk analysis is carried out by the management of DG ECHO. This analysis takes into account DG ECHO controls set up and the mitigation measures to strengthen the latter. Secondly a specific analysis of the risks is carried out before establishing the ex-post audits' yearly planning. Lastly, the past 2007 IAC structure corresponding to a common IAC for both DG AIDCO and ECHO was split as from 1/1/2008 in two separate entities. The Internal Audit Capability Sector for DG ECHO became operational in July. After a detailed risk analysis, a revised work plan was adopted, taking into account the key risks identified by the DG and the work performed by the Internal Audit Service of the Commission for the period 2007-2009.*

95. The European Parliament regrets that in Kenya the Commission disbursed budgetary support straight after the elections of 27 December 2007, thus giving the impression of taking sides in the debate on the legitimacy of the election results; recalls its resolution of 17 January 2008 on Kenya, and looks to the Commission to take due account thereof. (§ 169)

**Commission's response:**

*In hindsight, the Commission also regrets that this budget support payment was made. Nevertheless, the Commission wishes to recall the course of the events in this specific case:*

*A payment under the Poverty Reduction Budget Support programme (PRBSII) of € 40.6 million was agreed by letter from the Commission to the Kenyan Minister of Finance of 28 November 2007. The release of this tranche was, amongst others, agreed on the basis of and approval by the IMF Board of Directors in November 2007 of the completion of the third review of the IMF PRGF programme. The Commission approved the release in November 2007 on the basis of:*

*- satisfactory implementation of the overall macro-economic reform programme underlying the IMF PRGF agreement,*

*- improvement in public financial management based on the assessment of the implementation of the PFM action plan (on budget formulation, execution, reporting and control) reflected in the achievement of additional PEM-AAP (Public Expenditure Management Assessment and Action Plan) benchmarks, and on the basis of achievement of indicator targets in the health and education sectors. These targets are enshrined in the PRBSII Financing Agreement, as signed on 30 November 2005. Payment on 28 December 2007 General elections consisting of Presidential, Parliamentary and local elections, were held on 27th of December in Kenya. In view of the ongoing election process the European Commission decided, in consultation with Member States, to schedule the payment after the elections. Following the contract stipulations the payment had to be made before the end of the year. It was therefore decided to schedule the payment for 28 December 2007. The EU Election Observation Mission observed the Presidential and Parliamentary elections. The Parliamentary elections went well. The Presidential elections initially went well, but were marred by irregularities in the processing and tallying of votes. These irregularities only became apparent as from Friday night - Saturday 29 December, when the result aggregates of the last 49 constituencies (out of 210) faced delays in reporting at the central level. The preliminary analysis of the EU EOM (that the General Elections had fallen short of key international standards), was reported on Monday, 1 January 2008. At this stage it was too late to block the payment.*

*Since then, and based upon this experience, the Commission has put in place an enhanced approval process for budget support payments scheduled during electoral periods in order to avoid similar situations.*

96. The European Parliament notes the Court's assessment that the supervisory and control systems for external relations, enlargement and humanitarian aid are partially effective; accepts that many of the errors detected concern advance payments and are then rectified when final payments are made; nevertheless, invites the Commission to make the necessary improvements to its monitoring and verification procedures, especially at the level of implementing organisations, without this leading to unnecessary administrative burdens for the final beneficiaries; recognises at the same time the progress made by the Commission and the United Nations to date. (§ 170)

**Commission's response:**

*During recent years, measures to reinforce the controls at the level of implementing organisations were introduced by the Commission. The report from the Court of Auditors for 2007 reflects a number of improvements in the quality of such controls, leading to a reduction in the estimated error rate.*

*These include in particular the new standard Terms of Reference for the different types of audits and the introduction of CRIS-Audit for their follow-up. Given their recent introduction the full benefits of such measures were not fully apparent in 2008, but the Commission expects they will become more evident in the future. Meanwhile the Commission continues its efforts to further improve its systems – in line with the Court's recommendations – and plans to put in place complementary*

*measures, like the development of a specific tool to help implementing organisations better manage EC funds and respect EC rules, thus reinforcing preventive measures.*

97. The European Parliament deplores the continuing lack of transparency concerning the use of Community funds channelled through United Nations organisations; supports the Commission's efforts to find a solution and to ensure that the Court of Auditors receives all requested information in a timely fashion; welcomes the increasing number of verification missions performed by the Commission under the Financial and Administrative Framework Agreement between the European Community and the United Nations (FAFA agreement); expects these missions to further enhance the transparency and visibility of Community contributions to UN-led activities. (§ 171)

**Commission's response:**

*The Commission will continue to work closely with the UN to improve the conduct of verification missions and to enhance the transparency and visibility of Community contributions to the UN. In this regard, the 6th Annual FAFA Working Group meeting, which took place in April 2009, has agreed on terms of reference for verification missions - these TOR have already been successfully used on a trial basis for the past year. The Commission will also continue, in accordance with Article 30.3 of the Financial Regulation, to ensure that information on the beneficiaries of funds is made available by the UN. This information will be published either by the UN through its local offices or on Delegation websites. The Commission will also publish consolidated information centrally. Updates to the European Parliament on the situation in Pakistan, Afghanistan, Georgia and Palestine are being sent regularly. The European Parliament is also provided with updated information on Multi-donor trust funds. The Commission considers that these actions will significantly contribute to further enhancing transparency .*

98. The European Parliament calls on the Commission to further improve, and to define more clearly, the conditions and performance indicators used for the disbursement of budgetary support to third countries, so as to provide for clear, unambiguous and measurable assessment criteria with a specific timetable, if applicable. (§ 172)

**Commission's response:**

*The Commission has already established a leading role among the donor community in the promotion of the use of results and performance indicators. It continues to refine this approach and strive to ensure that criteria for disbursement are as clear and unambiguous as possible, in line with existing guidelines. Recently developed guidelines on budget support - in crisis situations - will be submitted to Parliament in September 2009.*

99. The European Parliament notes the ECA'S Special Report No 5/2007 on the Commission's management of the CARDS programme ; emphasises the importance of reinforced strategic guidance from the Commission to ensure, in close cooperation and dialogue with Parliament, an appropriate focus in selecting key areas of intervention within the framework of the Instrument for Pre-accession Assistance;



calls on the Commission to devise a comprehensive strategy to improve local ownership of the design and implementation of projects. (§ 175)

**Commission's response:**

*The Commission considers that the necessary actions, developed in the following paragraphs, have been taken to implement the request.*

*IPA strategy papers, notably the Multi-annual Indicative Planning Documents (MIPDs) allow for better match between resources, needs and absorption capacities of the beneficiaries. They are reviewed annually by the Commission in close cooperation with the beneficiary countries in the light of the Enlargement Strategy papers. This mechanism allows maintaining the balance between flexibility and sustainability of the assistance. The cooperation and dialogue with European Parliament plays a very important role in this process. The MIPDs are made available to the EP at the same time as they are circulated to Member States within the comitology procedure.*

*After the launch of IPA, the Commission launched new initiatives in the Western Balkans and Turkey such as the Infrastructure Projects Facility, the Energy Efficiency Facility, and the European Fund for South East Europe for small businesses development. Education is a key priority for IPA (participation in Erasmus Mundus, Youth in Action, Tempus). All these programmes are intended to catalyse and support regional cooperation initiatives such as the Regional School of Public Administration, Disaster Risk Reduction, and cultural heritage rehabilitation. Special attention is given to development of civil society and civil society dialogue – the Commission, following the request of the European Parliament, set up a new Financing Facility under IPA (Civil Society Facility) in 2008 which is focused on capacity building at local level.*

*Over the last two years, the beneficiary countries have made progress towards assuming a greater ownership and responsibility in the management of IPA programmes. In order to further advance the ownership, the Commission has catalysed additional mechanisms such as donor coordination. During the last years the Commission succeeded to promote broad consensus among donors of the Western Balkans and Turkey to foster the "ownership" of the coordination of assistance by the beneficiary countries as a vital element to maximise the impact of aid, as well as to support the national authorities in their efforts to assume responsibility of donor coordination. In this process the MIPDs together with the National Strategies have been recognised as key donor coordination tools.*

100. The European Parliament expects to be kept regularly informed about steps taken by the Commission concerning the implementation of the significant pledges made in support of Georgia's post-conflict recovery and future development at the international donors' conference held in Brussels on 22 October 2008. (§ 176)

**Commission's response:**

*The Commission Delegation in Georgia issues a quarterly bulletin to keep all stakeholders informed on the status of its activities.*

*The first issue was published in December 2008, while the second one was released in April 2009. The third state of play update report will be submitted to Parliament in September 2009.*

101. The European Parliament reiterates its request that the Commission regularly present to Parliament specific measures to further increase Union ownership of its external actions in their geographical contexts, in accordance with the principles of efficiency, accountability and visibility. (§ 177)

**Commission's response:**

*The European Commission has put in place over the last few years several actions that will increase EU ownership of external actions:*

- Expenditure verifications cover 98% of the amount of the grants. They are conducted according to Terms of Reference (ToR) which are mandatory since 2006;*
- Since October 2007, standard ToR for audits (financial and systems) are mandatory for all kind of projects financed by the external headings of the Budget and managed by AIDCO;*
- The compliance analysis of UN organisations' procedures with internationally accepted standards in terms of audit, accounting internal control and procurement (the "four pillars" exercise) has been performed for 15 UN organisations;*
- Common ToR for verification missions are in the process of being agreed with the UN;*
- The Commission and the UN have signed joint guidelines on reporting to improve the reporting practises;*
- A new version of the Practical Guide to Contract procedures for EC external actions applicable as from 01/01/09 has been released in 12/2008;*
- The Commission has signed an action plan on visibility in 2006, followed by the approval of joint guidelines indicating how this should be implemented. The guidelines have been incorporated in the Communication and Visibility Manual for EU External Actions, adopted in April 2008.*
- The Trust Funds and Co-financing Framework Agreement between the EC and the World Bank Group was signed on 20 March 2009 by Presidents Barroso and Zoellick, including a new annex on visibility;*
- Efforts are exercised for the Commission to be part of the governing structures of trust funds and implementing organisations, although the fact that the EC is not a member of the UN nor shareholder of the WB makes this difficult.*

*The choice of delivery channels is made on a case by case basis and the Commission cannot, and would not, always decide to undertake actions directly. This is the reason for the provision in the Financial Regulation for joint management and for more co-financing.*

## Non-governmental organisations (NGOs)

102. The European Parliament takes note of the role and growing number of NGOs in the administration of Community funds; calls on the Commission to evaluate the effectiveness of operating grants for the NGOs' Brussels headquarters, and to apply strictly the principle of the degressivity of operating grants laid down in the Financial Regulation. (§ 178)

**Commission's response:**

*In the framework of its external actions the Commission provides funds for non-state actors to implement development projects. The Commission conducts regular evaluations and audits on all operating grants, including those given to NGOs. When an operating grant is granted the Commission will continue to strictly apply the Financial Regulation including the principle of degressivity. Performance audits and/or evaluations will be launched for any ongoing Non State Actor operating grants.*

103. The European Parliament asks the Commission to compile, by the end of 2009, a comprehensive list of all NGOs which have received EU funds. (§ 179)

**Commission's response:**

*Since 2008, the Commission publishes the name of all beneficiaries of external actions funding in compliance with Article 30.3 of the Financial Regulation. This list is comprehensive, and therefore not limited to "NGOs", a generic term for which there is no commonly agreed legal definition. For contractual aspects of funding, the Commission identifies the eligibility of Non-State Actors (NSA) for EC funding on the basis of their own national legal framework. ([http://ec.europa.eu/europeaid/work/funding/beneficiaries\\_en.htm](http://ec.europa.eu/europeaid/work/funding/beneficiaries_en.htm))*

## Development

104. The European Parliament notes that the ECA has concluded once again that DG ECHO should enhance its audit strategy by ensuring better coverage of operations at implementing organisation-level and, more specifically, in the field for all types of partners (paragraph 8.33(f) of the annual report for 2007);

Encourages the Commission, in connection with the objective it set in 2007 of having each project visited at least once a year by an expert, except where this cannot be done on account of security conditions or access difficulties, to continue to check that humanitarian aid specialists are permanently in the field in order to facilitate and maximise the impact of the humanitarian operations financed by the Commission, in whatever country or region. (§§ 180-181)

### Commission's response:

*The requested action has been taken. In line with the requirements of the Financial Regulations, DG ECHO undertakes audits of partner organisations adhering to the FPA. The audit strategy is risk based which considers financial and operational strengths of the partners, the results of past audits, assessments and feedback received from ECHO staff. The strategy also ensures that all partners are audited over a 2 to 3 years cycle depending on whether the partner has been classified as having 'A' or 'P' control mechanisms. The audits themselves follow a 2-track approach: audits are performed both at DG ECHO partners' headquarters for finalised projects (at least once every three to four years and more frequently where higher risk is determined or the partner receives significant DG ECHO funds) and in the field for ongoing projects (determined by an assessment of risk and the past coverage of the partner concerned). Headquarters audits consist of two phases. Firstly, an analysis of partners' internal control systems and in particular the financial systems put in place to record and account for expenditures incurred on DG ECHO funded projects. Secondly, a control of expenditures against supporting documents for a sample of contracts. The level of transactions controlled is based on the results of the assessment of the internal control system. The results of the audits are used for the periodic assessments of the partners and for ensuring the eligibility of the funds claimed. The later may also lead to a recovery of funds due to the Commission.*

*The number of field audits had already been increased in 2007 from 20 in 2006 to 37 in 2007. For 2008, 47 field audits were initiated and 31 reports finalised. In 2009, 40 to 45 field audits are planned.*

*In addition to these financial audits which are carried out by external auditors, the monitoring of projects is also undertaken through DG ECHO which supervises projects and draw up regular reports (notably through a worldwide network of around 100 field experts continuously working for DG ECHO. These Humanitarian Aid specialists are permanently on the ground in order to facilitate and maximise the benefits of the humanitarian operations financed by the Commission).*

*Moreover, since 2007, each project is supposed to be visited at least once during its lifetime. In 2007 and 2008, 90% of projects were directly monitored in the field, the remaining 10% being projects where access, security and nature of project did not permit direct monitoring.*

*Therefore, audits have to be appreciated in the context of DG ECHO's overall control strategy which also includes the follow-up carried out by its headquarter staff and the analysis of the information provided by partners in their various reports. Indeed, the information which results from such controls is used by the external auditors when audits are carried out at partners' headquarters.*

105. The European Parliament considers that, in connection with project implementation, the Commission should ensure that the reporting requirements agreed with the United Nations in April 2007 are strictly applied and that financial reports are produced in accordance with those requirements. (§ 182)

**Commission's response:**

*The Commission attaches great importance to ensuring that provisions on reporting are fully respected, especially in terms of content and deadlines. The entry into force of reporting guidelines in 2007 has been very helpful in clarifying the responsibilities of our partners. Reporting has subsequently been addressed in the Joint Reference Group established to review implementation questions with the UN. In addition, the Frequently Asked Questions published on the EuropeAid internet site at the beginning of 2009 address reporting matters and provide further assistance to staff both from the Commission and from international organisations on the interpretation of certain reporting provisions. With regard to financial reporting, international organisations are not obliged to use a standard reporting format; however they are obliged to report in a way that enables the Commission to compare planned expenditure with that effectively realised.*

106. The European Parliament considers that thought should be given to clarifying funding structures (European Development Fund (EDF), Commission, European Investment Bank, etc.) in the development and external actions fields, with a view to giving greater visibility to Community action and ensuring better auditing of the funds committed; calls for a study to be carried out into the incorporation of the EDF into the Community budget, in preparation for a political debate on this subject.

It calls for the ending of the previous system of consecutive EDFs by means of the full consolidation of the financing of EU/ACP cooperation in the EU budget in order to ensure parliamentary oversight of the allocation of resources under the EDFs;

Welcomes the Commission engagement to "raise again its proposal to fully incorporate the EDF into the budget during discussions on the next financial framework" [Note: (SEC(2008)2579) Commission Staff Working Document. Annex to the report from the Commission to the European Parliament on the follow-up to 2006 Discharge procedure, p. 86.]; invites the Commission to keep its Committee on Budgetary Control fully informed as regards the preparation of this initiative;

Reaffirms its support for the incorporation of the EDF into the general budget of the European Union, which it considers would make it possible to enhance the

coherence, transparency and effectiveness of the EDF and to strengthen its oversight system. (§ 185 + EDF §§ 41, 77 and 78)

**Commission's response:**

*The Commission agrees with the European Parliament on the appropriateness of consolidating the financing of EU/ACP cooperation into the Community budget, which would ensure parliamentary oversight of the allocation of resources under the EDF and would contribute to aid effectiveness through further harmonisation of aid implementation.*

*The Commission expects to resubmit the proposal for post 10th EDF budgetisation in the framework of the performance review of the 10th EDF, foreseen by the end of 2010 (in accordance with the 10th EDF Internal Agreement art. 1.10). It would allow to bring the proposal in line with the next financial framework after 2013. It would also follow the budget review for which the EU's role in the globalised world will be a central issue, including questions on more effective delivery of development aid and thus also including the future of the EDF.*

*The Commission will keep the European Parliament informed as regards the preparation of this initiative.*

107. The European Parliament draws attention to the Commission's commitment to take steps to ensure that by 2009 a benchmark of 20% of its allocated assistance [under the Development Cooperation Instrument (DCI)] is devoted to basic and secondary education and basic health; calls on the Commission to provide detailed information on how this benchmark will be met through projects, programmes and budget support; calls for greater consistency between the Thematic, Country and Regional Strategy Papers in the areas of health and education, in particular when aid is provided via budget support; calls for reporting against the same benchmark to be provided for the EDFs; calls on the Commission to prioritise support to health systems and identify the most appropriate aid delivery instruments for this area.

Stresses that priority must be given to the enrolment in schools of children, including disabled children, from hard-to-reach groups in countries with critical MDG indicators. (§§ 186-187 + EDF §§ 8-9)

**Commission's response:**

*The Commission reaffirms its commitment in the limits of the respect of the ownership and aid effectiveness principles according to which it is up to the beneficiary countries to identify their priority sectors and take the lead of the donor coordination. The Commission's basic development approach focuses on poverty alleviation and, within this context, on improvements within the social sectors. Thus, the Commission concentrates on achieving development results as measured by performance indicators. The Commission will continue to promote the use of outcome indicators, not only in Performance Assessment Frameworks, but also in sector reviews thereby significantly contributing to sector dialogue and to progress towards the MDGs. The Commission is committed to ensure that the articulation between general budget support, sector budget support and sector programmes is clarified in order to ensure better synergies. In addition, the Commission is*

*improving the predictability of its General Budget Support instrument through the provision of "MDG Contracts" in performing partner countries within the framework of the 10th EDF. The Commission continues to be committed to supporting the achievement of the education and gender MDGs as well as Education For All goals, through use of a wide selection of the instruments available: the MDG-Contract, budget support, sector support, specific projects where appropriate, and through support to the Education For All Fast Track Initiative. On an international policy level the Commission has repeatedly reiterated this commitment with specific statements drawing attention to the necessity to ensure inclusive education if we are to achieve the MDGs. The prime responsibility for reaching all children however, remains with developing countries themselves.*

*Most of the hard to reach children are in the so called 'fragile states', where the Commission intends to support education service delivery and capacity development; the EC contribution will be channelled through the 'education transition fund', under the umbrella of the Education For All Fast Track Initiative, financed under the DCI Investing in People programme. A statistical update is to be submitted to Parliament in September 2009 regarding 2008 performance and 2009 projections on health and education interventions.*

108. The European Parliament urges the Commission to prioritise support for partner countries in developing parliamentary control and audit capacities, in particular when aid is provided via budget support, and invites the Commission to report regularly on the progress achieved.

Is of the view that the involvement of national parliaments, civil society and local authorities in partner countries is indispensable for achieving genuine ownership of the process; urges the Commission to make every effort to improve dialogue with these bodies at all the different stages of the programming process. (§ 188 + EDF §§ 55-56)

**Commission's response:**

*In line with its policy to foster Country Ownership, the Commission encourages and supports efforts of partner countries to develop parliamentary control and audit capacities. Thus, the Commission has been and is supporting many capacity building initiatives in this area and will report on this within its annual reports on external assistance. A study on the support to parliaments in external development and cooperation programmes (including statistics per region on funding in support of parliaments) will be submitted to Parliament in November.*

109. The European Parliament points out that due attention must be paid to the sustainability of the Commission's interventions, including the formulation of a clear exit strategy which does not compromise results and monitoring of implementation; considers that enhanced evaluation of results represents a major factor in ensuring the democratic legitimacy of Union development cooperation. (§ 189 + EDF § 5)

**Commission's response:**

*The European Consensus states that the European Communities will consistently use an approach based on results and performance indicators. The quality of projects funded by the European Communities is assessed on the basis of relevance, feasibility and effectiveness. Corresponding indicators are identified, monitored and referred to in evaluation. The evaluations realised by EuropeAid mainly consist of thematic, sectoral and geographical as well as evaluations of regulations and instruments, whose results are integrated in the decision-making process and policy/programme design on the basis of different feed-back mechanisms. At the level of projects or programmes, the results-oriented monitoring system provides the Commission with a rapid appreciation of performance.*

110. The European Parliament welcomes the adoption in 2007 of the Union Code of Conduct on Complementarity and Division of Labour in Development Policy, which is geared towards enhancing cooperation and coordination between the Commission and the Member States; calls on the Commission to redouble its efforts to ensure genuine implementation of the Code of Conduct, including by addressing persisting problems in the best interests of the partner countries. (§ 190)

**Commission's response:**

*Since May 2007 the Commission has been working on the implementation of the EU Code of Conduct on complementarity and division of labour in various ways.*

*Starting with the dissemination of the EU Code of Conduct in June 2007 with a note signed by DG DEV and 27 DGs of the Member States (MS), followed in July 2007 by a joint note from Commissioners Michel and Ferrero-Waldner, asking to take concrete steps towards its implementation, and with continuous staff awareness raising through trainings, seminars and specific support to EC Delegations.*

*The action continued with the commissioning by the EC of various studies (EU Donor Atlas (2008), Compendium on division of labour (2007), study on co-financing (2007)) on current practices. And, as stated in the Council Conclusions of 27 May 2008, the Fast Tracking Initiative for division of labour was launched: In a letter addressed to 27 EU Development Ministers, Commissioner L. Michel suggested adopting a pro-active approach by applying two of the guiding principles of the Code of Conduct: delegated cooperation and establishing a lead donorship arrangement for the coordination of all donors in a given sector. This combines with action by EC and MS to facilitate the division of labour process in partner countries. The process is further supported by an EU Toolkit with practical information on in-country division of labour processes, written by the EC together with the MS, and distributed to MS and EC Delegations.*

*Furthermore, at the international policy level, division of labour was one of the EU priorities in the EU common position for the EU participation at the IIIrd High Level Forum in Accra in September 2008. Since then the implementation of division of labour is one of the priority actions in the EC internal operational action plan for follow up of Accra. Technical seminars were organised by the*



*Commission with the Member States to prepare for Accra, and subsequently to work on the follow up. Aid effectiveness including division of labour is a recurring subject in EU-DGs meetings and the EDF Committee.*

*And finally, at the operational level EC Delegations received guidelines on the practical application of delegated cooperation. Concerning EDF Programming the Guidelines for 10th EDF annual operational reviews 2007 and 2008 ask specifically for progress on division of labour. The implementation of delegated cooperation is already progressing, with some agreements signed, and many others under preparation. To date, there are currently about 60 agreements in pipeline: 36 delegation agreements amounting to some €213 million and 14 transfer agreements amounting to some €113 million. This process should considerably reduce transaction and coordination costs through large size and multi-donor arrangements. EuropeAid is currently in the process to develop Action Plans for six countries (Ethiopia, Mozambique, Tanzania, Bangladesh, Nicaragua and Vietnam) where the EC is leading the Fast Tracking Division of Labour. The challenge is to make this operational and to produce concrete and measurable results before the next HLF IV in 2011. The Mid Term Review of country and thematic programmes, which started in 2009 with the review of the DCI and ENPI and will continue into 2010 with that of the EDF, is a unique opportunity to deepen the joint programming process. Therefore EC Delegations are encouraged to enhance the involvement of Member States, in order to achieve further division of labour through concentration and/or delegated cooperation.*

111. The European Parliament takes the view that the consultation of civil society and local authorities prior to drawing up Country Strategy Papers (CSPs) under the Development Cooperation Instrument was not sufficient to satisfy the legal obligation established under Article 19(3) of Regulation (EC) No 1905/2006, namely that ‘strategy papers shall, in principle, be based on a dialogue with the partner country or region which involves civil society and regional and local authorities’; considers, in this respect, the involvement of national parliaments in partner countries indispensable to achieving genuine ownership of the process; urges the Commission to make every effort to improve dialogue with these bodies at the various stages of the programming process. (§ 191)

**Commission's response:**

*The current Country and Regional Strategy Papers 2007-2013 for the countries covered by the DCI Regulation were prepared over the period 2005-2006, prior to the entry into force of the DCI Regulation. During that period measures were taken in the majority of the countries concerned to consult civil society, notably through the organisation of meetings and workshops as well as the publication on EC Delegation websites of Concept Papers. In the context of the Mid-Term Review of the DCI Strategy Papers, taking place in 2009 with a view to the preparation of the 2011-2013 Indicative Programmes, further specific instructions have been issued regarding consultation with civil society in the review process. Attention has also been drawn to consultation with parliamentary authorities.*

112. The European Parliament points out that, for the first time following the accession of new Member States, the Commission has introduced a cooperation and verification mechanism for Romania and Bulgaria to remedy 'shortcomings in the areas of judicial reform and the fight against corruption and organised crime and to monitor progress in these areas' (COM(2008)0063), and wonders about the effectiveness of that mechanism, as well as the relevance and reliability of the information supplied to the discharge authority.

Notes that a number of Commission directorates-general and offices are responsible for administering this mechanism, under the authority of the Secretary-General; considers the combined efforts of those bodies to be inadequate; expects better coordination and the systematic inclusion of an assessment of all the Commission bodies concerned in the progress reports; wonders what lessons for applicant countries and potential applicant countries the Commission draws from the mechanism. (§§ 192-193)

**Commission's response:**

*When Bulgaria and Romania entered the EU on 1 January 2007, a Co-operation and Verification Mechanism was set up to help remedy certain shortcomings in the areas of judicial reform, the fight against corruption and, for Bulgaria, organised crime and to monitor progress in these areas through periodical reports. Four benchmarks have been established for Romania and six for Bulgaria. In the context of the mechanism, the Commission has established a close dialogue with the authorities of the two Member States concerned but also with Civil Society, individual experts and other Member States. This dialogue takes place continuously and at different levels. The Commission reports biannually on progress under the mechanism and all reports are regularly addressed to the European Parliament and to the Council. The Council has taken a close interest and has each time adopted Council conclusions in the matter, totalling 5 to date. The close dialogue established with Bulgaria and Romania and the Commission's reports have led to concrete progress on the ground in both countries in terms of legislative, structural and procedural reforms. Romania and Bulgaria have confirmed their commitment to the mechanism, nevertheless in some areas concrete results of the reform measures taken are not yet visible and will require longer term efforts given their nature. The Commission has therefore called upon both countries to strengthen their efforts and focus them on those areas which are most in need. In addition, a special envelope under the Transition Facility has been made available for the purpose of supporting both countries in their reform efforts.*

*Financial assistance continues to be provided to support the reform of the judiciary and anti-corruption measures, in particular through the transition facility, which has a specific focus on the benchmarks to be met under the Cooperation and Verification Mechanism.*

*Through the Interservice Group Romania / Bulgaria, the views of all concerned Commission services on progress in Bulgaria and Romania are carefully taken*

*into account in the establishment of the periodic reports. In this context, the Commission has also addressed the issue of sound financial management and control which depends closely on a functioning judiciary and on an effective fight against fraud, corruption and organised crime. As the situation with the management of EU funds in Bulgaria gave rise to particular concerns from early 2008 onwards, the Commission issued a report on this matter in parallel and linked to the report under the mechanism on 23 July 2008. This report was equally transmitted to the European Parliament. Individual financing decisions are however taken in accordance with the regulations in force by the respective competent Commission services.*

*The new Instrument for Pre-Accession Assistance includes all forms of assistance provided to potential candidate and candidate countries under a single umbrella. The IPA also harmonises the management systems and control mechanisms. The Commission services concerned have also coordinated their approach as regards the accreditation of implementing structures for decentralised management.*

113. The European Parliament recalls that in its Special Report No 4/2006 concerning Phare investment projects in Bulgaria and Romania the ECA drew attention to a large number of problems concerning the management of European funds, including irregularities regarding invitations to tender and the eligibility of expenditure, cases of failure to use investment monies for their intended purpose and a lack of administrative capacity;

Voices concern, furthermore, at the fact that the Member of the Commission with responsibility for enlargement failed to provide the Committee on Budgetary Control with sufficiently detailed information about the scale of the shortcomings in good time;

Voices serious concern at the fact that the Commission suspended EUR 200 000 000 in agricultural funding for Romania and froze EUR 250 000 000 in Phare funding, EUR 105 000 000 in Sapard funding and EUR 115 000 000 in ISPA funding in Bulgaria; notes that the final loss for Bulgaria under Phare is EUR 220 000 000;

Considers that the Commission should step up technical assistance to Member States to strengthen their administrative capacity; points out that sound management of European funds is an obligation and a duty for all Member States, and supports the temporary suspension of funding by the Commission in cases where a Member State's management systems fail to function as required. (§§ 195-199)

**Commission's response:**

*The Commission has taken the necessary action to answer the Parliaments' request.*

*The Commission reacted quickly as soon as it became aware of potential risks of mismanagement in Bulgaria, and took several timely and proportional measures to protect the financial interests of the Community. Following identification of risks in its 2006 Annual Activity Report, which was available to the European Parliament, DG ELARG delayed EDIS accreditation of the Bulgarian agencies until June 2007, after accession, when it was granted conditionally. After audit*

*missions in autumn 2007 identified shortcomings in meeting the conditions, and regular monitoring revealed significant irregularities in February 2008, payments were suspended in February 2008 for the two agencies concerned (except for twinning which was not affected). This situation led to reservations in the 2007 annual activity report, presented to the European Parliament, and culminated with the withdrawal of the EDIS accreditation for the same two agencies in July 2008. Unfortunately, these measures have not yet led to sufficient improvements of the systems in Bulgaria to allow the Commission to propose the reinstatement of accreditation for the two agencies at this stage.*

*The Commission will however endeavour to ensure that the European Parliament, and particularly its Committee on Budgetary Control, will be kept informed on this issue in the future.*

*Moreover, the Commission wishes to provide some clarification regarding one of the figures indicated for Bulgaria, namely the amount of EUR 220 Million, which was lost for Bulgaria under Phare. Only part of this amount was not used as a direct consequence of the Commission's measures, as significant amounts of funds were already cancelled by the local authorities in any case.*

*With regard to the suspension of payments to two ex-ISPA projects in Bulgaria, the Commission interrupted these payments as soon as the irregularities came to light and later confirmed this formally with a suspension decision. Thus, there was a limited financial risk to the EU budget. Bulgaria submitted a report on the action plan for restructuring the roads agency in November 2008 and DG REGIO carried out an audit of the corrective action taken in January 2009. As a result the Commission was able to lift the suspension for these payments in May 2009.*

*Regarding SAPARD, the most recent information to the Bulgarian authorities on the still outstanding issues was addressed in a letter of DG AGRI on 19 May 2009. The Romanian authorities have been informed in a high level mission in February 2009 to Bucharest and in a letter in June 2009 of still outstanding points regarding the implementation of the SAPARD action plan. Only when this information is received, the Commission will consider resuming the reimbursements under the SAPARD programme.*

114. The European Parliament notes that over the period 2007 to 2013, Bulgaria is to receive EUR 6 853 000 in structural funding, and Romania EUR 19 200 000; in addition to the information given in the annual activity report and in the reports on the Structural Funds and the Cohesion Fund, calls for responsible and effective administration of these funds. (§ 200)

**Commission's response:**

*The Commission is taking the requested action. It will continue to use all the means at its disposal to ensure proper management of these funds. It is monitoring closely the compliance assessment procedure which makes sure before interim payments begin to flow that effective management and control systems have been set up to manage the funds. The programmes for the 2007-13 period contain a significant technical assistance component to increase administrative capacity.*

115. The European Parliament is of the opinion that the preparation of the absorption capacity of Romania and Bulgaria for funds in the Agricultural and Cohesion policy fields has not been treated by the Commission with the necessary seriousness, and that statements and actions of the Commission in this context were misleading, not only for Parliament but also for the Bulgarian and Romanian governments, and were one reason for the loss of funds by those Member States;

Calls on the Commission to keep it informed of the practical outcome of judicial reform and anti-corruption efforts and to include in the progress reports criteria quantifying progress in these areas;

Considers that the EU institutions should apply the principle of zero tolerance in connection with cases of misuse of Community funds, fraud and corruption; calls on the Commission to ensure that unduly paid amounts are recovered;

Agrees with the Commission that all actions and measures recently taken by Bulgaria need to be followed up by credible, structural corrective actions and a fundamental reform of all structures involved in the management of EU funds, so as to ensure the correct and timely take up of funds and a high level of transparency; calls in this context on the Commission to improve coordination and communication with the national authorities and closely monitor the implementation of the various action plans submitted to it by Bulgaria, and to keep Parliament informed thereof; asks the Commission to submit to it a special report on the state of play of the management and control of all EU funds in Bulgaria covering the period until 15 July 2009;

Calls on the Commission, in the light of the last progress report and the setbacks with regard to the fight against corruption, to submit to it a special report on the state of play of the management and control of EU funds in Romania and on the measures taken and the progress made in the fight against corruption covering the period until 15 July 2009. (§§ 201-203, 205, 206)

**Commission's response:**

*With regard to the request of the Parliament to receive a special report on the measures taken and the progress made in the fight against corruption covering the period until 15 July 2009, the Commission refers to its fifth bi-annual reports to the European Parliament and the Council in the context of the Co-operation and Verification Mechanism (CVM) on progress in Romania (COM(2009) 401 final) and Bulgaria (COM(2009) 402 final) adopted on 22 July 2009.*

*The Commission has treated the Romanian and Bulgarian accession with the appropriate seriousness and diligence. It has taken all necessary steps, before and after accession, to properly prepare and monitor both countries. The Commission continues to work in close cooperation with national authorities in order to ensure that community funds are efficiently and correctly used.*

*As regards the management and control of EU funds in Bulgaria and Romania, the Commission will in autumn 2009 provide the Parliament with information on the state of play.*

*When Bulgaria and Romania entered the EU on 1 January 2007, the aforementioned Co-operation and Verification Mechanism (CVM) was set up to*

*help Bulgaria and Romania remedy certain shortcomings in the areas of judicial reform and the fight against corruption and for Bulgaria also the fight against organised crime and to monitor progress in these areas.*

*The irregularities in the management of pre-accession funds in Bulgaria since 2007, and in Romania in 2008, have come to light thanks to the Commission's controls. They are evidence of the effectiveness of the mechanisms in place and the Commission's supervisory activities.*

*As regards the situation in Bulgaria, the Commission entertains a close and constructive dialogue since accession with the Bulgarian authorities at technical and ministerial levels which is welcomed and publicly confirmed by Bulgaria. The Commission intensively discusses with the Bulgarian authorities all the technical issues in a constructive manner and it will continue to do so with a view to solving all outstanding issues.*

*With regard to the Structural Funds programming period 2007-2013, the Commission is monitoring rigorously the compliance assessment procedure, to ensure that management and control systems are properly set-up.*

*Operational programmes in both countries have been effectively launched and projects already contracted are at satisfactory level, while many cohesion fund projects are already adopted. The JASPERS facility assists national authorities in preparing major projects and both countries are well advanced in presenting major projects for financing to the Commission.*

*In Romania, several capacity building actions have been put in place and the Commission is working in close cooperation with national authorities to promote simplification of administrative procedures. In parallel, ex-ISPA projects have increased their absorption rhythm by 50% in 2007, 45% in 2008 and aim at the same levels in 2009. A well functioning audit authority and an ad hoc structure (UCEVAP) for the ex ante control of public procurement provide to the Commission assurance on the legality and regularity of expenditure.*

*In Bulgaria, a specific absorption monitoring system (LOTHAR) has been designed in cooperation with national authorities and is now fully functional.*

*On the basis of lessons learnt from EU 10 accession the Commission strongly advised Bulgaria and Romania to take key decisions to prepare urgently and thoroughly for the absorption of pre-accession assistance, and also the EU funds after accession. The credit absorption for Romania and Bulgaria in the agricultural area is satisfying: The Commission during accession negotiations also pointed out in precise terms that the accurate implementation of the CAP and the good functioning of the Community's internal market is impossible without reliable financial management and control systems, in particular the Paying Agency and the Integrated Administration and Control System (IACS), including the Land Parcel Identification System (LPIS). In 2006 the Commission concluded that there was no sufficient progress in preparing for the IACS. As a consequence the Commission adopted a Regulation establishing a safeguard mechanism aiming at eliminating the risk of not having operational IACS in both countries, which represented an additional incentive to speed up and finalize in an acceptable way*

*the establishment of operational control systems. On this basis, the Commission informed Romania in October 2007 that the safeguard mechanism would be used involving a cut of 25 per cent of European Union farm payments to Romania unless serious shortcomings in the administration and financial control system in Romania were addressed urgently. The Commission only decided to stop this procedure when it was assured that Romania had addressed the shortcomings in a satisfactory manner. An assessment on the state of play of the management and control of EU funds is included in the relevant section of DG AGRI's annual activity report, as demonstrated by the reservations.*

116. The European Parliament calls, furthermore, on OLAF to forward to it the findings of its ongoing enquiries in Member States. (§ 204)

**Commission's response:**

*OLAF already reports to the EP on the findings of its completed investigations in Member States but has to respect the provisions of Regulation 1073/1999 which for pertinent reasons, in particular the secrecy of the investigation, do not permit it to give information on ongoing investigations.*

117. The European Parliament points out that it is the responsibility of the Commission delegations in the applicant countries and potential applicant countries to prepare those countries to ensure proper use of European funds; calls for anti-fraud strategies to be incorporated in this pre-accession process and for the relevant administrations to be trained under a programme of exchanges between the Commission and the administrations of applicant countries and potential applicant countries. (§ 207)

**Commission's response:**

*The Commission is taking the requested action.*

*The fight against corruption and organised crime is a key priority of all the Accession and/or European Partnerships for candidate and potential candidate countries.*

*The Commission has also made it an integral part of its strategy for the implementation of IPA. All Multi-annual Indicative Planning Documents for IPA (MIPDs) now include the fight against corruption as a priority.*

*Those issues concerning the legislation to be taken up in the framework of the approximation of the acquis are dealt with in the framework of several negotiating chapters within the enlargement process, such as chapters 24 (JLS) and 32 (financial control).*

*In addition, technical assistance is foreseen for the preparation of the administrations that will be in charge for the management of IPA funds, as well as for the development of public finance control systems. Twinning with Member states will be one main tool for implementing these projects.*

***More practical initiatives are to be proposed and prepared in co-operation with OLAF, possibly on the basis of those already taken in the framework of the former enlargement rounds.***

118. The European Parliament calls on the Commission to play a more active role in connection with the expenditure control systems existing in Turkey, Croatia, Serbia, the Former Yugoslav Republic of Macedonia and the other Western Balkan countries during the pre-accession stage, and requests it to provide Parliament, in its report on the progress of those countries, with more detailed information on this issue, including a detailed analysis of the reasons for any failings; calls on the Commission to introduce in the progress reports a system of traffic lights (green, amber and red lights) to denote the progress made towards achieving the various key objectives. (§ 208)

**Commission's response:**

***The Commission's authorising officers by subdelegation (AOSDs) of the level of Directors and Heads of Delegations already play a very active role in connection with the existing expenditure control systems.***

***The annual Progress Reports on candidate countries provide an overview on matters related to financial assistance and would also mention serious problems with clear political implications (such as the risk of losing the conferral of management for decentralised implementation). In addition, in acquis chapter 32 (Financial control) the Commission reports on the protection of the EU's financial interests in the candidate countries.***

***Due to the political nature of these reports, the Commission does not at present intend to extend the information provided with more detailed analysis on control systems or the introduction of a traffic light system in the reports. However, more information can be provided in the IPA annual report, the presentation of which might in future be closer aligned with that of the yearly Enlargement Package (the general enlargement activity programme for the next calendar year) in autumn.***

119. The European Parliament deplores the cases of fraud and mismanagement of European funds administered by the United Nations identified in connection with EU funding of reconstruction work in Kosovo and the lack of follow-up by the United Nations of these clearly identified cases;

recalls that the Investigation Task Force (ITF) established to investigate financial irregularities and fraud concerning EU funds in Kosovo finished its operations in August 2008, that its final report identified criminal conduct on the part of, among others, United Nations staff, and that several international warrants were issued without any results being achieved in that regard by the United Nations; asks the Commission to press for the execution of these warrants; asks the Commission, further, to present a report on the legal follow-up to all cases discovered; calls for the establishment of a successor organisation, involving the Commission and OLAF, in the fight against fraud and irregularity. (§§ 209 and 212)



**Commission's response:**

*The Commission accepts the request of the European Parliament and some of the necessary initiatives have already been taken.*

*It is correct that since 1999 several cases of fraud have been detected in Kosovo. An OLAF/OIOS (UN Office of International Oversight) Investigation Task Force conducted a series of investigations in Kosovo in 2004/2005. The ITF found several cases of wrongdoing in the Publicly Owned Enterprises and the KEK and Pristina Airport. These concerned cases of corruption, forgery of documents, sale of working certificates, etc. Some cases have resulted in successful judicial proceedings, which were concluded with the imprisonment of the perpetrators and the recovery of funds.*

*Although the ITF was dissolved in summer 2008, the fight against fraud, corruption and other irregularities is ensured in Kosovo. The UN's OIOS still supervises UN operations in Kosovo, and the FIU operates within the framework of the EU's ESDP Rule of Law mission EULEX. In accordance with the provisions of EC Regulation 1073/1999 OLAF is still competent to carry out investigations in order to protect the EU's financial interests and is in particular kept informed by ECLO (European Commission Liaison Office) and EULEX.*

*The European Reconstruction Agency (ERA) has ceased to exist, but OLAF is working closely with the Pristina office (ECLO) and is continuing to manage the investigation files submitted to it.*

*The Commission is prepared to forward to Parliament the information provided to it by the SRSG on the situation and the outcome of the UNMIK initiatives.*

120. The European Parliament proposes that the Commission ask the Kosovo Government to supply an audit certificate in respect of European funds, in particular those included in the budget, from the country's audit authorities. (§ 211)

**Commission's response:**

*The Commission has taken due note of the European Parliament's request for an audit certificate from the Kosovo Government, as under the current direct management by the Commission the appropriate audit arrangements have already been made.*

*In the context of Macro-Financial Assistance (MFA), which is to be provided in the form of budget support, the payments become possible if the Commission signs a Memorandum of Understanding (MoU) with the Kosovo authorities stipulating that payments be subject to stringent conditions. The relevant Financing Agreement already includes provisions for inspection, fraud prevention and audits as well as explicit references to the European Anti Fraud Office and the European Court of Auditors.*

*On the other hand, the Kosovo authorities are at present not involved in the management of pre-accession assistance funds. These funds are managed by the Commission itself under centralised management through the Commission's Liaison Office in Pristina and are subject to the terms and conditions of the Grant*

*and Financing Agreements for the respective programmes concerned, as well as the IPA Framework Agreement signed with the authorities. These documents include detailed descriptions of arrangements allowing for the inspection, fraud prevention and audits in line with the Financial Regulation. They also include explicit references to the right of the European Anti-Fraud Office and the European Court of Auditors to carry out controls at any time.*

*Within the framework of the provisions for decentralised management, which would be put in place in Kosovo some time in the future, the local authorities will need to appoint a national audit authority. This authority would at that point be competent to audit EU funds and would then be in a position to issue the certification suggested. In the meantime, the Commission will continue to intensify its cooperation with the competent audit bodies in Kosovo.*

## Administrative expenditure

121. The Commission should ensure that the Belgian and United Kingdom governments commit to meeting their obligations under the existing inter-governmental agreements - for Belgium the earliest possible provision of a fourth or even a fifth European school, for the UK the secondment of a sufficient number of teachers - and expects the current enrolment policy regarding the Berkendael/Laeken schools to be revised in order to avoid long and unacceptable travelling times for children. (§ 214)

**Commission's response:**

*As regards the obligations of the Belgian government, the Commission agrees with the observation, as the overcrowding of the Brussels schools is a fact. Concerning the 4th Brussels school, a provisional site has been set up (Berkendael) and the Belgian authorities have promised that the definitive site (Laeken) will be available in 2012. Concerning the 5th school, the Board of Governors of the European Schools have instructed their Secretary General to start the negotiations with the local authorities.*

*As regards the obligation of the UK government, the context is different. The Board of Governors adopted a decision in April 2009 regarding the cost sharing which gives the possibility to have non native teachers seconded by MS, after a strict quality control of the linguistic competences. The Board also agreed to consider the proportion of pupils of a given nationality as a good parameter to estimate the fair proportion of seconded teachers from the same MS. Furthermore, when part-time teachers compensate the absence of seconded teachers, the additional burden on the EU contribution will be quantified and monitored annually.*

*As regards the enrolment policy, the rather stringent policies for the school years 2007-2008 and 2008-2009 (which resulted from the overcrowding) have been revised and the new policy adopted by the Board for the school year 2009-2010 has resulted in 92% of children being registered in the school of their parents' choice.*

122. The Commission should reorganise its human resources in order to reduce the proportion of staff working in administrative support and coordination areas to 20%. (§ 217)

**Commission's response:**

*The Commission is already implementing measures to limit the proportion of staff working in the areas of support and coordination: this corresponds to the Commission's commitment not to ask for new staff until 2013 (save for institutional changes) and to redeploy staff now in support and coordination functions to the policy areas. Incidentally, it has not been shown that fixing the benchmark at 20% would be the most appropriate. Nor it is by any means proven that an administration with such a percentage would perform better.*

123. The Commission should inform the European Parliament of how staff mobility might be confined to sensitive posts. (§ 218)

**Commission's response:**

*The Commission would like to clarify that its general policy on mobility was not only intended for sensitive posts. The guidelines on mobility adopted in 2002 confirm the principle that mobility is voluntary, but encouraged after 5 years. The only cases where mobility is (ultimately) mandatory concern on the one hand management posts and on the other hand the sensitive functions. This policy is part of a wider Human Resource approach, which aims at aligning the interests of the services and those of the individuals. The Commission is aware of the possible impact of badly managed mobility, which is to be mitigated with forward-planning and good practices for file hand-over.*

*Regarding the specific situation of sensitive posts, and subsequently to the adoption by the Commission of the reviewed framework for Internal Control Standards for Effective Management (COM(2007)1341), the Secretary General and the Directors General for Budget, and for Personnel and Administration adopted on 19 December 2007 a reviewed guidance on mobility and sensitive functions (SEC(2008)77). With the experience of the previous system, they focused on truly sensitive areas, related to the risks, to the mitigating controls in place (such as the instruments of delegation, supervision and the four eyes principle) and to the real possibilities for fraud or misuse. They also proposed mobility as the ultimate measure for the management of sensitive functions, the effects of which are then mitigated by other internal control measures such as handover files and general continuity plans. The new guidelines and their implementation in the Directorates-General have resulted in a considerable reduction in the number of posts involving sensitive functions, which is expected to continue in 2009.*

124. The Commission should inform Parliament of all new projects concerning its buildings stock prior to their adoption, and should notify the Committee on Budgetary Control of all initiatives and new decisions concerning property projects, including preparatory work and invitations to tender, in respect of which it is proposed that a tender committee should be established, which would include representatives from Parliament. (§§ 219 and 220)

**Commission's response:**

*Information on building needs is provided on two separate occasions: annually with the preliminary draft budget (PDB) and for each building project with significant financial implications (see also reply to paragraph 2, p. 38 of the Council recommendation on the 2007 discharge).*

*As a standard part of the information provided with the PDB, the Commission gives all the details concerning the real estate situation (list of buildings including new and abandoned buildings, m<sup>2</sup>, contracts, costs). Subsequently to the EP's resolution on the 2008 Draft budget, the Commission has forwarded to the budgetary authority the 2009-2011 planning in this area.*

*Pursuant to Article 179 (3) of the Financial Regulation, the Commission always informs the budgetary authority for all building projects with a significant financial implication for the budget and this information is given in advance of the legal commitment and contains an updated planning. Pursuant to Art. 263 of the*

*Implementing Rules, the Commission informs at the same time the budgetary authority of its schedule for building projects.*

*The Authorising Officer by Delegation (AOD) has full responsibility for the procedure and decides autonomously on the composition of the opening and evaluation committees. Obviously, in the case of interinstitutional procedures, a representative of the EP's administration could very well be nominated by the AOD, as it has been done in several instances.*

125. OLAF should notify Parliament of any cases of fraud brought to light in the property policy field and to look into possible conflicts of interest. (§ 221)

**Commission's response:**

*OLAF agrees to provide general information on the outcome of its completed investigations while at the same time respecting the need for confidentiality for cases where action is still ongoing by the national judicial authorities.*

126. The Commission should conduct an audit of both its own buildings and the buildings of all the other Community institutions, and to look into the idea of a common property management structure. (§ 222)

**Commission's response:**

*Each authorising officer is responsible for the appropriations assigned to them and for implementing the control framework, including the audit plan.*

*Furthermore, expenditure on buildings has recently been examined in an ECA Special Report (No 2/2007). It would be inefficient for several bodies to carry out further audits on the same subject.*

*The Commission is ready to take part in any interinstitutional initiative, including one launched by the relevant administrative departments of the two arms of the budgetary authority. However, as was pointed out in a previous reply to the budgetary authority (cf. report A-0069/2007 of 29 March 2007 on general guidelines for the 2008 budget), it has identified some remaining difficulties, linked in part to political and budgetary constraints, the desire of each institution to maintain its independence and the large number of sites.*

## Follow-up measures in the light of the discharge

127. The European Parliament deplores the fact that, in the annual accounts of the European Communities for the financial year 2007, follow-up measures in the light of the discharge, stating merely that when granting discharge Parliament may highlight observations it considers important, often recommending actions that the Commission should take concerning these matters; notes that, although this is correct, the Commission fails to mention that Article 276 of the EC Treaty also requires the Commission to take all appropriate steps to act on the observations in Parliament's decisions giving discharge relating to the execution of expenditure; reminds the Commission, therefore, that the calls made in its discharge resolution are not simply non-binding recommendations, but instructions which the Commission must act on when implementing the budget. (§ 223)

### Commission's response:

*The Commission follows-up all discharge requests except where they are not in line with the existing legal framework or its institutional prerogatives. Pursuant to Article 276(3) of the EC Treaty and Article 147 of the Financial Regulation it reports each year to the European Parliament on the measures taken in the light of the observations and comments made by the Parliament in its discharge decisions. In the present report on the follow-up to the 2007 Discharge Decisions as well as in last year's report on the follow-up to the 2006 Discharge Decisions (COM(2008) 629 of 15.10.2008), the Commission accepted over 95% of the European Parliament's requests to it.*

*The Commission is thus committed to ensuring that discharge requests from the European Parliament and the Council and audit recommendations from the European Court of Auditors are systematically followed up and implemented. Each Directorate-General or service is responsible for the follow-up of external audit and discharge observations which concern them and must report in a central database on the progress made.*

**Special Report No 6/2007 on the effectiveness of technical assistance in the context of capacity development**

128. The European Parliament considers that technical assistance (TA) and other types of external aid, which is still too donor-driven, often inefficient and unsustainable, urgently needs to be reformed by, among other things, promoting local ownership, more effectively coordinating the resources between Member States at Union and international level, and ensuring that there is sufficient time to implement projects;

Notes in this context the approval by the Commission's services in July 2008 of the Backbone Strategy and the Work Plan to meet aid effectiveness targets on Technical Cooperation and Project Implementation Units; calls therefore on the Commission to inform Parliament about the implementation of this strategy for the first time before the end of March 2009, and thereafter at six-monthly intervals;

Notes the belated information on the amounts spent on TA recently provided by the Commission to the ECA following publication of the ECA's special report; is surprised that this information was not made available during the preparation of the special report; acknowledges that the definition employed by the OECD's Development Aid Committee is broad and in practice leads to differences in interpretation; hopes that the strategy adopted by the Commission will also lead to a more operational definition of TA. (§§ 224-226)

**Commission's response:**

*The Commission refers to the report on "State of progress on the implementation of the Reform on TC" sent to the European Parliament on the 30th of March 2009 and the Attached Guidelines on "Making TC more effective". A state of progress report on backbone strategy (TA/PIU) will be updated for submission to the European Parliament in September 2009.*

129. The European Parliament calls on the Commission to propose the necessary legislative changes before the end of the mandate of the current Commission, and urges Member States to take the necessary steps to ensure the widespread use of this instrument, adapted to particular needs, in those countries, and to amend the regulation on the implementation of the 10th EDF accordingly. (§ 227)

**Commission's response:**

*The possibility to extend Member State public agents expertise worldwide is not constrained by any legal provision but by the capacity and availability of such expertise in each Member State. The Commission will do its utmost to encourage Member States to mobilise this public expertise.*

*A note will be submitted to Parliament in September 2009 explaining actions in a similar spirit as the 'twinning instrument' in other regions.*

130. The European Parliament deplores the fact that the suspension clause, allowing an accelerated procurement procedure, is barely used by the Commission; requests the

Commission to use this facility wisely in order to improve the timetable for the implementation of TA operations. (§ 228)

**Commission's response:**

*The Practical Guide for contract procedures for external actions provides that in duly justified cases, tender procedures may be published with a suspension clause (i) before a financing decision is adopted or (ii) before a financing agreement between the European Commission and the beneficiary country is signed. The Community will study the possibility to extend further the use of this suspension clause.*

*As far as the EDF is concerned, the use of this clause before the adoption of the financing decision is expressly authorised under the EDF (see article 19b of Annex IV of the Cotonou Agreement) in all duly substantiated cases in order to ensure early project start-up. The Commission will investigate making proposals (within the context of the revision of the Financial Regulation) to facilitate further simplification of the financial management system for external aid e.g. to extend the use of the suspension clause in tendering procedures.*

131. The European Parliament finds it unacceptable that some companies deliberately propose experts with good CVs in order to win a contract while knowing that the expert in question will not be available to take up the assignment; agrees with the ECA that the selection criteria for TA used by the Commission are inappropriate;

Requests therefore that the Commission take much greater account of other criteria (such as those proposed by the ECA), rather than solely considering the CV of the team leader expert; suggests that this could be done, for example, by creating a database, compatible with legal requirements, of firms which fail to provide the proposed expert, which should in turn prevent them from participating in procurement for a specified period; notes that the Commission has adopted Regulation (EC, Euratom) No 1302/2008 of 17 December 2008 on the central exclusion database and Decision 2008/969/EC, Euratom of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and the executive agencies , but that these new instruments do not make it possible to exclude firms on this basis; further notes that these aspects are part of the Work Plan (Axis 3, Actions 13-15), and calls on the Commission to apply the related actions immediately;

Calls on the Commission, as far as possible, to act in a manner consistent with its transparency initiatives and to take into account Parliament's resolution of 19 February 2008 on transparency in financial matters, and recommends that a database be set up providing an overview of TA missions and results which can be used for future TA tasks and to prevent duplications. (§§ 229-230 and 232)

**Commission's response:**

*The profile and expertise of each expert remain the first critical factor for performance. The Commission reminds that the selection criteria in call procedures are pre-established in an objectively verifiable and transparent way and are adapted to the specific needs of each individual call. Proposed experts can be*



*considered only after they sign and submit their own availability and exclusivity statement.*

*AIDCO will study the possibility of setting up a data base recording performance of experts and contractors as well as the unavailability of experts at the start of the contract. However the possibility to exclude firms from future tenders is limited to the cases foreseen in the Financial Regulation.*

132. The European Parliament agrees with the ECA that there is incoherence in the Commission's approach regarding the use of partner countries' public financial management and procurement systems, which stands, sometimes, in direct contradiction to the Union's commitments in the context of the Paris Declaration on Aid Effectiveness endorsed on 2 March 2005 ; urges the Commission therefore to ensure the quick implementation of these commitments on the basis of the strategic dialogue provided for in the framework of the Accra and post Accra work stream and the Work Plan actions (Axis 1, in particular Action 20). (§ 231)

**Commission's response:**

*In line with the international commitments taken in Paris and Accra, the EC is on track to achieve the target of channelling 50% of government to government assistance through national country systems. Results scored respectively 35% and 34% for use of country public financial management systems and use of country procurement systems in 2007. Initiatives have been taken to increasingly use country systems and to ensure a coherent approach concerning the use of partner countries' public financial management and procurement systems.*

*In order to make aid more effective and in line with the European Consensus on development (2005), the Commission gives, where circumstances permit, priority to budget support, which favours by its nature the increased use of country systems. Indeed, the use of budget support strengthens country ownership, supports partner's national accountability and promotes sound and transparent management of public finances. The Commission assessed budget support projections to 2013 in order to improve medium term predictability of the public financial assistance channelled to the partner countries.*

*Furthermore, some operational tools for decentralisation have been adopted in 2008-09:*

*The new Practical Guide to Contract procedures for EC external actions has been redrafted by outlining the applicable rules for decentralised management.*

*The Commission has adopted a Short Guide on Decentralised management which details the new rules. This document provides the required framework to allow the EC to meet the objectives of Paris and Accra regarding the increased use of national country systems.*

*In order to assess whether the partner country has the capacity and the reliability to manage external EC funds, the Commission has also adopted terms of reference for assessing partner countries systems.*

*However, progress in the use of country systems is tempered by specific constraints, in particular the need to ensure that the administrations of the beneficiary countries are solid enough to guarantee the correct use of EU funds. Both the Court and European Parliament rightly insist on the Commission remedying the detected weaknesses in the financial procedures and controls of implementing organisations, among which the beneficiary administrations. Moreover, the Financial Regulation does not currently provide the appropriate flexibility to fully respond to the ambitious objectives of the Accra commitments. The Commission will rely on the support of the budgetary authority to amend the Financial Regulation on the occasion of its next revision.*

**Special Report No 1/2008 concerning the procedures for the preliminary examination and evaluation of major investment projects for the 1994-1999 and 2000-2006 programming periods**

133. The Commission should review the strict approval procedure for major projects, and rationalise decision-making by indicating real values, thereby avoiding treating the procedure as an excessively 'administrative procedure', reducing the length of the decision-making process to a reasonable duration, and establishing, as soon as possible, an independent unit for major projects with horizontal competence within the Directorate General for Regional Policy (DG REGIO); the Commission is reminded of the importance of funding investment in software but it must not reduce the number of on-the-spot checks as a result of this investment. (§ 233)

**Commission's response:**

*The Commission has taken the requested action.*

*For the 2007-13 programme period a number of improvements have been introduced in the procedures and working practices which will make for more efficient and consistent assessment of Major Project applications. These improvements include standard application forms for use by Member States, computerization of all the data, development of cost-benefit analysis software, the setting up of a dedicated assessment team to support the work of the geographical units in assessing applications, the operation of the JASPERS instrument to assist Member States, and a framework contract to provide specific technical assistance.*

134. The Commission should report on the practical application of the n+2 and n+3 rules for major projects, since some Member States have tried to 'circumvent' the ERDF rules (more specifically, the n+2 rule) by merging a number of projects such that the total figure for these fell just short of the threshold values for major projects and then waiting for the Commission decision to suspend the n+2 rule. (§ 234)

**Commission's response:**

*The Commission will not be taking the requested action.*

*To avoid the artificial grouping of projects, the Commission systematically verifies the correct application of Article 39 of Regulation No 1083/2006, and in particular that the threshold for a major project is reached and the requirement is met that a major project should be "intended in itself to accomplish an indivisible task of a precise economic or technical nature".*

*The advantage of major project status under the "n+2/n+3" rule is counterbalanced by the more stringent information requirements associated with applications.*

*Therefore, in the Commission's opinion, a report on the practical application of the rules to major projects is not necessary, as there is no real risk.*

135. The Commission should overturn the 'risk-averse' culture (with high-quality, innovative investments losing prominence), a practice which runs counter to the Community's efforts as laid down in the Lisbon Strategy. (§ 235)

**Commission's response:**

*The Commission will not be taking the requested action.*

*Member States are required to allocate 60% of the funds in the Convergence Objective and 75% of those in the Regional Competitiveness and Employment Objective to the priorities of the Lisbon Agenda including innovation, R&D, and information and communication technologies.*

*These allocations will be monitored through the data Member States are required to provide to the Commission on the categories of their expenditure. Moreover, major projects applications now have to include the NACE codes concerned.*

*During the 2007-13 programming period, the estimated investments under Cohesion Policy in the innovation area are put at €86 billion, which is 25% of total funding.*

*The Commission is engaged in many initiatives in support of innovation projects. These are summarized in its Communication on "Cohesion Policy: investing in the real economy" (COM(2008) 876).*

136. The Commission should fund education and training for its own staff (DG REGIO) instead for a separate group (JASPERS), which is located within the structure of the European Investment Bank and is therefore not accountable to the Commission for its work. (§ 236)

**Commission's response:**

*The JASPERS instrument was set up to provide assistance to Member States in the preparation of major projects before their submission to the Commission. This is an important improvement, as former experience showed that many projects submitted were insufficiently prepared (notably in the areas of State aid, public tenders, technical specifications, etc.). The recourse to JASPERS experts has no link with the appraisal of the major project applications by DG REGIO staff. Numerous training sessions are organised within DG REGIO on how to appraise major projects. Furthermore, a five-people team dedicated to the appraisal of major project has now been set up within the Coordination Unit of DG REGIO which provides support to the geographical units. Finally, in the case of particularly technical projects, outside experts can contribute through a framework contract.*

137. Monitoring of major projects needs to be focused on information to be provided for by Member States because there is currently no tangible evidence that major projects financed by Community funding are effective and that the Member States have used the funds received as effectively and productively as possible. (§ 237)

**Commission's response:**

*The Commission is taking the requested action.*

*The Commission agrees that there is a need for more harmonised information on reporting on completed major projects and has proposed some guidance in this regard in the context of clarifying reporting requirements in the implementing regulation.*

*It should be noted that the current regulation governing the Structural and Cohesion Funds in Article 49(3) is quite clear that the Commission carries out ex post evaluations at the level of operational programmes. There is no mention of project level evaluation. Nonetheless, the Commission undertakes evaluations of samples of projects (e.g., for the Cohesion Fund and ISPA 2000-2007 and in 2014/15 on the 2007-2013 period), but this work should be complemented and built on by evaluations carried out by the Member States.*

*The Commission intends to continue to encourage Member States to carry out ex post evaluations (and/ or cost benefit analyses) of major projects, recognising, however, that there is no legal obligation for them to do so. Member States' project level evaluations can add value to the broader evaluations carried out by the Commission.*

*It should be noted that the focus of this work is on evaluation and learning, not control. Requirements for control for major project are the same as those for all ERDF and Cohesion Fund expenditure.*

138. The Commission should ensure that its Internet site will enable citizens to monitor the status of any major project. (§ 238)

**Commission's response:**

*The Commission is taking the requested action.*

*The Directorate General for Regional Policy is currently developing a database of project fiches accessible on its internet site (Inforegio) which will display summary information on major projects as soon as they are adopted by the Commission, and which will be regularly updated.*

## Special Report No 2/2008 concerning Binding Tariff Information (BTI)

139. The European Parliament urges the Commission to endeavour to resolve the outstanding problems and shortcomings as a matter of urgency, since they could result in a loss of revenue for the Union in the form of traditional own resources;

Urges the Commission to resolve tariff-classification disputes by the deadlines laid down by Community law and, at the latest, within five months and, in view of the possible loss of own resources, to increase the number of staff working on BTI and classification to four persons and to ensure that those persons also carry out more risk analyses and exercise more stringent scrutiny of Member State contributions to the system, possible abuses of the period-of-grace system and BTI 'shopping';

Calls on the Commission to provide, by the end of 2009, information on all the initiatives and measures taken on the basis of the ECA's observations, together with details of their implementation. (§§ 239, 241, 242)

### Commission's response:

*As requested by Mr Staes (MEP) in his working document of October 2008 on the Special report of the Court of Auditors, the Commission informed the European Parliament of the measures taken on the basis of the observations by the Court of Auditors by the end of 2008 (letter sent to Mr Staes on 18 December 2008). The Commission will provide the European Parliament with further information on the outcome of discussions with regard to the review and fine-tuning of the final draft of Implementing Provisions of the Modernised Customs Code, including the draft provisions concerning periods of grace, which will take place during the next BTI Committee in early September 2009.*

*However, it should be noted that the legislation provides that divergent tariff classifications have to be solved within six months and shortening this time period to less than six months, as requested by the European Parliament, would not be feasible because of procedural constraints. The solution of a case of divergent classification requires that agreement is reached in the Customs Code Committee on the characteristics and description of the products to be classified, on the correct classification and on the type of measure to be adopted to solve the divergent classification. This process requires often that the same file is discussed at two or more meetings of the Committee, before the Committee can adopt an opinion on the proposed measure. The meetings of the Committee take place with an interval of at least three months and after the vote in the Committee the measure still has to be adopted by the Commission, in all Community languages. In a large majority of cases of divergent classification, a solution within five months is therefore not possible.*

**Special Report No 3/2008 on the European Union Solidarity Fund: how rapid, efficient and flexible is it?**

The European Parliament has made no specific requests to the Commission.

*Commission's response:*

*No reply necessary.*

**Special Report No 4/2008 concerning the implementation of milk quotas in the Member States which joined the European Union on 1 May 2004**

140. Continue to take all steps necessary in order to ensure effective monitoring of the establishment and management of the milk quotas system. (§ 247)

**Commission's response:**

*The requested action has been taken. Commission services are continuously taking all necessary action to ensure the effective monitoring of the milk quota regime.*

141. Ask the new Member States to adhere to the general principle that all milk marketed must be recorded. (§ 249)

**Commission's response:**

*The requested action has been taken. The Commission reminded all Member States of this general principle in a letter sent on 18 December 2008 (AGRI D/30692).*

142. Ask the new Member States to improve their database record-keeping and to avoid unnecessary checks. (§ 250)

**Commission's response:**

*The requested action has been taken. In the framework of bilateral contacts with the new Member States, the Commission has regularly encouraged new Member States to improve their database record-keeping. However, the Commission does not agree with the wording of the second part of the request "...to avoid unnecessary checks" since this wording gives the impression that there are controls that are unnecessary, thus giving an incentive to Member States to ask for removal of controls.*

143. Continue to assess developments in the dairy sector, in particular those linked to its market, to the situation of producers, and to the implications for regional development, in particular in the assessment reports to be submitted before 31 December 2010 and before 31 December 2012 under the terms of the political agreement on the common agricultural policy 'health check' concluded in November 2008. (§ 251)

**Commission's response:**

*The Commission will be taking action in line with what was agreed in the Health Check. The political agreement requests the Commission to evaluate the evolution of the milk sector, in particular of its market, and to ensure this follow up in the framework of the evaluation reports foreseen by the political agreement before the 31st December 2010 and before the 31st December 2012.*



***However, the wording by Parliament does not reflect the political agreement linked to the Health Check but goes beyond it and the Commission will not be taking action to that extent.***

144. Abide by all of the ECA's recommendations in connection with the 'health check' and to consider possible adjustments to the common market organisation for milk and the milk quota scheme, which should focus on:

(a) transitional and accompanying measures to be envisaged in regions where small producers are still very much in the majority;

(b) the need for milk producers in the new Member States to have a clear regulatory framework and clear prospects encouraging them to make the investments that are vital in order for their activity to remain viable. (§ 252)

**Commission's response:**

***The requested action has been taken.***

***A political agreement on the CAP health check was reached on 20 November 2008. It was decided at the time that the dairy industry should be made more efficient and more responsive to market trends and, in particular, to the prospect of the quota being withdrawn by 2015. As of 2009 the quota level has gradually been increased in identical fashion for all Member States. It has been decided to implement five quota increases of 1% per annum from 1 April 2009.***

***The Commission maintains that this will provide a predictable, transparent and objective development perspective for all producers irrespective of where they are located in the European Union, thus allowing for a smooth transition prior to 2015.***

***In addition, the situation of some producers deemed more vulnerable by virtue of their size or location has been taken into account by allowing for a degree of flexibility in the granting of direct payments. The direct aid regime has been adjusted to enable those Member States which wish to do so to modulate the level of aid to some producers subject to compliance with certain limits. A milk production component has been integrated into objectives for rural development measures so as to facilitate restructuring of the industry.***

***A wide-ranging review of the dairy CMO has been carried out and certain measures deemed inefficient, like private storage of cheese and marketing aid for butter, have been abandoned.***

145. The European Parliament welcomes the ECA special report and urges the Commission to note the shortcomings identified in it, as well as to take steps in line with the ECA's recommendations;

Calls on the Commission to develop and implement a general management system for the EU 'regulatory' agencies, based on explicit criteria, such as transparency, economy, efficiency, effectiveness and exchange of best practices; takes the view that the Commission should be in active communication with the Union agencies and should assist management boards in the implementation of activity-based budgeting and management (ABB/ABM);

Calls on the Commission to introduce an effective monitoring system for the Union agencies, allowing internal transfer of best practices and methodology and containing a range of both general and specific indicators for evaluation purposes;

Calls on the Commission to develop guidelines for improving the planning, monitoring, reporting on and evaluation of the agencies' activities and fully to implement the concept of 'getting results' established by Regulation (EC, Euratom) No 1605/2002 in 2002 and the framework Financial Regulation for the agencies. (§§ 253-256)

**Commission's response:**

*The Commission is looking at the assistance it can offer agencies via its departments and representatives on agencies' management boards with a view to implementing the Court's recommendations.*

*The Commission is not in a position to develop a general management system or to impose rules of conduct for planning, monitoring and reporting on agencies in view of their legal independence and the restrictions on its own powers laid down by the legislator in the act setting up each agency.*

*However, the Commission takes the view that a consistent policy on the approach to agencies would improve their transparency, efficiency and effectiveness. This stance is also reflected in the Communication of the Commission of March 2008 "European agencies – The way forward" and in the approach taken by the interinstitutional working group, which comprises representatives of the three institutions. Following the first meeting of the group at political level on 10 March 2009, intensive work is continuing at technical level. Work at this stage consists in preparing factsheets for each discussion point identified at the first meeting of the group at technical level. Work with a view to developing a common approach to agencies will be continued using these factsheets.*

*The Commission also supports the idea of exchanging best practice to enable agencies to benefit from our experience. The findings of the current evaluation of the system of decentralised agencies should help to improve availability of comparable information.*

*The information provided in 2004 on the guidelines for evaluating agencies is a good example of an exchange of best practice. In addition, the Commission regularly organises meetings with agencies to exchange best practice on evaluation and provides ad hoc assistance to agencies carrying out evaluations. The introduction and implementation of new practices should be limited until the findings of the current evaluation and the conclusions of the interinstitutional working group have been made public.*

**Special Report No 6/2008 concerning European Commission Rehabilitation Aid following the Tsunami and Hurricane Mitch**

146. The European Parliament calls on the Commission to draw all necessary conclusions from the experiences following Hurricane Mitch and the tsunami in order to improve future performance; urges the Commission to play an active role at international level with a view to remedying systemic weaknesses in international relief capacity. (§ 257)

**Commission's response:**

*The Commission, as demonstrated in its response to the tsunami, will continue to play an active and leading role in the coordination of the international response on major natural catastrophes, as well as supporting when necessary the capacity of the recipient country to ensure effective coordination and reconstruction. The Indonesia mid term evaluation will be finalised in 2009.*

*In Sri Lanka, the action plan following ECA recommendations included the reinforcement of mechanisms for internal monitoring (done in November 2007 with the recruitment of technical expertise for infrastructure and the setting up of tool for the comparison of civil works - in terms of (unit) costs, value for money and standards - which was done in mid 2008).*

147. The European Parliament calls on the Commission to pay particular attention to the following issues in future rehabilitation actions: ensuring that funding is needs-based, that the affected population – including the poor, women and children – is at the centre of the aid measures and that detailed and accurate information about the outcomes of assistance is available to both taxpayers in donor countries and the affected populations. (§ 258)

**Commission's response:**

*Disasters and crises are costly in both human lives and resources and therefore the main challenges - particularly for disaster prone countries - are to identify appropriate preparedness measures to enhance the self-capacity of the population and to prevent new disasters. There is no unique model to respond ideally to reconstruction and rehabilitation constraints, since there are no easy solutions to complex situations. The Commission has always considered that the affected population and more specifically the most vulnerable one, should be the direct beneficiaries of the EC funding mechanisms enabling them to rebuild a viable livelihood as the first step towards sustainable community development and an exit from the poverty spiral. For that purpose, extensive needs assessment are conducted on the ground in order to design a meaningful response taking into account time constraints, degree of flexibility and relevant control mechanisms.*

*Furthermore, visibility and reporting activities are systematically foreseen (regardless if the implementing partner is another international organisation, or if activities are directly financed and followed up by the Commission). These activities include inter alia adequate press coverage during the contract signing ceremonies, notice boards placed on rehabilitated infrastructure, pamphlets,*

*internet, etc. As a general rule, a non negligible percentage of the overall programmes' budget has to be dedicated to visibility activities.*

148. The European Parliament calls on the Commission to review its list of NGOs in order to exclude non bona fide NGOs, and to lay down procurement policies that prevent misappropriation of donated funds by such NGOs. (§ 260)

**Commission's response:**

*The requested action has been taken. For Humanitarian actions, the Commission implemented beginning of 2008 a new Framework Partnership Agreement (FPA). The signature of this FPA is a condition sine-qua-non before the NGO can enter into a grant agreement with the Commission. To that effect, the NGO (whose headquarter is located on the European territory) has to evidence that it has sufficient administrative and financial capacities. These capacities are analysed first before FPA signature and then continuously re-assessed. In addition, the FPA defines, inter alia, rigorous rules on procurement procedures and incorporate mechanisms of suspension and exclusion if these are not respected.*

149. The European Parliament calls on the Commission to give Union aid a sufficiently high profile without, in so doing, jeopardising overall efficiency and equity objectives. (§ 261)

**Commission's response:**

*The Commission incorporates visibility provisions in its contracts with implementing partners including international organisations. The Commission revised in 2008 the "Guidelines for the Communication and Visibility of EU External Action" in order to enhance these aspects*

150. Expects the Commission not only to accept the ECA's recommendations but also to indicate the earliest date for their implementation. (§ 263)

**Commission's response:**

*The Commission agrees with the ECA recommendations. The Commission has already adopted or plans to adopt measures in relation to the Court's recommendations by the end of 2009.*

151. Considers, moreover, that in connection with humanitarian aid it is essential for the Commission to assert the criteria governing aid effectiveness as enshrined in the Paris Declaration on Aid Effectiveness. (§ 264)

**Commission's response:**

*The requested action has been taken. The European Consensus on Humanitarian Aid, signed by the Presidents of the European Parliament, the Council and the Commission in December 2007, sets out in chapter 3 a "Common Framework to Deliver EU Humanitarian Aid" with a view to improve "Coordination, Coherence and Complementarity", to "Providing adequate and effective aid", and to ensure "Quality, effectiveness and accountability". In concrete terms, this means - inter*

*alia - a commitment to international coordination mechanisms and stronger EU coordination. The Consensus is quite concrete on the specific areas of implementation where progress can be made: throughout 2008, the Commission has begun with "real time sharing of information on situation assessments and response intentions", a enhanced "policy-level exchange on aid and intervention strategies" both in the context of the newly created Council Working Group on Humanitarian Aid and Food Aid as well as the Good Humanitarian Donorship Initiative.*

*The Working Group, as well as on the ground coordination, serve to ensure that there are no overlaps of aid of different donors. In addition, the Commission's aid is, with the exception of a reserve for sudden onset disasters, fully programmed at the beginning of each budget year. This programme is always presented to the responsible EP Committee (CODEV) and the Council. Furthermore, the Commission also ensures - in line with the Consensus - that it draws on "local and regional resources and procurements".*

*In sum, the EC humanitarian aid follows the Good Humanitarian Donorship principles, many of which relate to aid effectiveness as well as the elements of the Paris Declaration which can be used and promoted in a humanitarian context.*

*In addition to above description, assurance on aid effectiveness is complemented by the performance of policy evaluations and the development of a set of system indicators.*

152. The European Parliament calls on the Commission to set a realistic and firm deadline for funds to be made available, in order to encourage the recipient countries to implement the agreed projects in a timely manner. (§ 265)

**Commission's response:**

*When providing co-financing, the Commission requires a clear and realistic development or rehabilitation strategy together with a financing plan. All the Commission's Tsunami funds (202 million euros) were committed by the end of 2006.*

153. The European Parliament considers that, in the event of natural disasters, humanitarian aid should be provided with no political strings attached; takes the view that the Commission should nonetheless require recipient countries to ensure:
- (a) unrestricted access to victims;
  - (b) that the assistance is not subject to taxation, customs duty or any other form of fiscal burden;
  - (c) that there will be no delay in granting, and no refusal to grant, visas to international staff working for relevant aid agencies;
  - (d) that beneficiaries will not be required to pay for the donated goods and services (or that all such revenue will be channelled into reconstruction operations);

Calls on the Commission to consider suspending aid should any of the above principles be violated. (§§ 266-267)

**Commission's response:**

*The Commission fully agrees with all points and the requested action has been taken: its humanitarian aid to third countries - be it for the consequences of natural disasters or complex emergencies - is based on assessed need and is never offered with political conditionality attached. Where access is limited, the Commission vigorously advocates for access to the disaster victims - recent examples include Commissioner Michel's missions and public interventions in the wake of Cyclone Nargis and during the recent conflict in the Middle East. In the same context, the Commission has strongly demanded access for international aid personnel. In principle, the Commission's humanitarian aid is provided free of charge with the exception of specific programmes such as "work for aid" that have the double effect of providing local employment, reconstruction and injection of needed investment in a given area. Concerning taxes, tariffs or other fiscal measures, the Commission fully supports the international initiative for an "International Disaster Response Law" that would tackle these issues at national level.*

*However, the Commission does not consider suspending aid, should any of the mentioned principles be violated. Indeed, Commission is of the view that its humanitarian aid should serve the victims of disasters wherever they are. In the Commission's experience, an insistence on further access to victims while providing aid where such access is already provided is more effective than the threat of suspending all humanitarian aid because of access difficulties. This approach was effective in the instance of cyclone Nargis where international prodding led the Burmese authorities to provide increasing access after an initial refusal to do so. As a matter of fact, in most complex emergencies, access difficulties occur frequently, but can usually be overcome.*

154. Take into account and reduce in line with the principles of better regulation the costs borne by beneficiaries in preparing proposals and reporting. (§ 269)

**Commission's response:**

*A series of measures have been put in place during the past two years (2007 - 2008) aiming to reduce the costs borne by beneficiaries. Based on the experience with the first IEE programme, the funding for beneficiaries in the IEE II programme (2007-2013) was increased to 75% (compared to 50% under IEE I) and a standard flat rate of 60% was introduced for the indirect costs of all beneficiaries, thereby reducing considerably the costs of proposal preparation and financial reporting. At the same time, the number of contract amendments is reduced by approximately 50% by removing the need for EACI to authorise budget shifts below a certain value. It has been concluded that these simplifications contributed to the highest number of applications ever received in the 2007 Call (423 proposals), with nearly 50% newcomers. Fewer priority areas were opened in the Call 2008, thereby increasing the focus, and this Call received 342 proposals, which is also a very good response. In the second year of the IEE II programme (2008), an electronic submission system (adapted from EPSS) was provided, which speeds up the evaluation process and reduces the burden of proposers, and the guides for proposers include enhanced guidance on performance / impact indicators. Furthermore, the effort needed to review previously supported projects, when preparing proposals, has been reduced by the launching of a new projects database, which went online in mid 2008.*

*The time to contract was reduced in 2008 when, for the first time in IEE, proposers were notified of the evaluation results and all negotiations were started in the same year as the Call was published. Also helping the beneficiaries, the EACI has maintained average payment times of 36 days.*

*A joint DG TREN / EACI working group, ensures that the experience of managing IEE projects is fed back each year into the next annual work programme. This group has developed the improvements and simplifications cited above, and will continue for the rest of the programme.*

155. Actively pursue its policy of giving priority to the creation of energy agencies in the new Member States in order to arrive at a well-balanced distribution across the whole Union. (§ 271)

**Commission's response:**

*The Commission confirms its commitment to actively involve new Member States in the programme. In order to measure the overall effectiveness of the IEE-II programme, the Commission set, among others, specific targets for more active involvement of beneficiaries and a good proportion of new beneficiaries applying to and succeeding from New Member States. Regarding the specific case of energy agencies, the creation of agencies depends mainly on the availability of local and regional structures for co-financing and their committing to their agency in the*



*long-run. Acknowledging this diversity, the Commission encouraged in particular new MS to take up the concept of energy agencies (e.g. call 2004 gave priority to the creations of agencies in new MS).*

*This helped to build momentum and influence the decision making process at local level. As a result, after a slow start, 16 new energy agencies were established in the new Member States from 2005 to 2007 and efforts are continuing. A tender for a new study of local and regional energy agencies was launched in 2009, and this is expected to provide up-dated information on the evolving roles of such agencies, as well as on the related needs of the public authorities which establish them.*

## Special Report No 8/2008 - Is cross-compliance an effective policy?

156. Simplify the cross-compliance framework by limiting it to the principal elements of farming activities where improvements are sought and by specifying the expected results, requirements and standards. (§ 273)

### Commission's response:

*The Commission has simplified cross compliance in the framework of the Health Check in particular regarding:*

- *The better focusing of the framework to farming activity: some provisions not relevant to cross compliance have been withdrawn, some other relevant provisions have been added;*
- *The simplification of the management of cross compliance: changes already decided for the first CAP Pillar have been extended to the second Pillar.*
- *The Commission has launched discussions with Member States on further possibilities of simplifying the management rules of cross-compliance.*

*In addition, the Commission has taken the initiative to set up an expert working group with the aim of ensuring that the cross-compliance obligations at farm level are clear.*

*However, the Commission will not "specify the expected results, requirements and standards" because of the great environmental and agricultural diversity between different parts of Europe, which means that it does not make sense to set detailed standards centrally and since this would mean adding a layer of management and control resulting in doubling the administrative burden.*

157. Draw a clear distinction between cross-compliance and agri-environment; notes that elements of rural development policy, such as the approval of standards by the Commission and the obligation to lay down verifiable standards, should also apply to cross-compliance. (§ 274)

### Commission's response:

*Cross compliance represents the demarcation line between penalising farmers for the non-compliance with mandatory requirements (in line with the "polluter pays principle") and rewarding farmers for the voluntary provision of environmental benefits through agri-environmental or animal welfare commitments. Thus, cross-compliance and agri-environment or animal welfare measures complement each other without any possible overlap.*

*The Commission has no intention to approve standards or to lay down verifiable norms. This would only add complexity and administrative burden. The Commission's reply in the Court's Special report explains this clearly (paragraph 87, second bullet, page 60):*

*"A significant degree of flexibility must be offered to Member States to allow them to adapt the obligations to the specific characteristics of the areas concerned. The Commission does not intend to approve national standards within the cross compliance system. The respect by Member States of a minimum level-playing field is however ensured by the Commission through its monitoring and audit activity. Moreover, the rural development policy is based on programming periods and national programmes are approved, not individual standards. Therefore the comparison with cross compliance is not necessarily relevant. The principle that Member States shall define verifiable standards is already underlying the legislation on cross compliance."*

158. Implement a sound monitoring system to measure performance by defining relevant indicators and baseline levels; Member States are invited to submit complete and reliable data, which should be subject to closer analysis by the Commission. (§ 276)

**Commission's response:**

*The Commission is taking the requested action. The implementation of a good management system by Member States is checked during the audits carried out in Member States and any failure found with this obligation is subject to clearance of account procedure.*

*The Commission will pursue its efforts to help the Member States implementing an efficient control and sanction system. The Council issued a conclusion in this respect in the Health Check and the Commission is committed to continue the discussions with this view. Expert group meetings are envisaged in 2009 on simplification to call for contributions from Member States on aspects not covered by the Health Check. This will also give a further opportunity to Member States to present and therefore compare particular aspects of their sanctioning systems.*

*The Commission has already developed data and indicators for cross compliance, which show that the system is applied, in particular as regards the control and reduction system. However the Commission has indicated that it is currently examining the monitoring.*

*It is clear that the validity of the data could be further reinforced, as well as their timeliness. Further work will be carried out in the context of a reinforced monitoring system.*

159. Present proposals of relevant indicators and baseline levels at the latest in the context of the budget review and the next reform of the common agricultural policy. (§ 277)

**Commission's response:**

*The Commission takes note of the request to present proposals up until the timing of the budget review but would like to remind the Parliament that legal proposals will not be part of the budget review.*

**Special Report No 9/2008 - The effectiveness of EU support in the area of freedom, security and justice for Belarus, Moldova and Ukraine**

160. The European Parliament urges the Commission to carry out a full analysis of the reasons for the shortcomings and lack of results in some of the projects in Belarus, Moldova and Ukraine, and to improve the planning, management and control of Union funds in these countries. (§ 279)

**Commission's response:**

*The Commission has taken stock of the lessons learnt under TACIS while developing the ENPI. Furthermore, the full application of deconcentration measures and a streamlining of instruments at programming stage have already shown clear indications of improvements in planning, managing and control of EU funds spending in these countries. A state of play report will be submitted to Parliament in September.*

161. The European Parliament insists that the Commission continue to target Union funds to the specific priorities of Moldova, Belarus and Ukraine, bearing in mind the progress made in previous projects. (§ 280)

**Commission's response:**

*The Commission acknowledges the importance of 'lessons learnt' in the design of new targeted projects – especially in sensitive areas such as JLS. The Commission underlines that it already includes at the level of a project's preparation relevant information regarding lessons learnt. The Identification Fiche for project approach is used for screening by the Quality Support Group, and then is translated into an Action Fiche which is part of the financing decision containing a section regarding "lessons learnt" and how these have been taken on board (section 2.2). A state of play report will be submitted to Parliament in September.*

162. The European Parliament calls on the Commission to make EU funding procedures more flexible, which would allow adjustment of project dossiers, benchmarks and goals in order to reflect changes in the economic and political situation in the countries concerned. (§ 281)

**Commission's response:**

*While the ENPI does represent a more flexible instrument than its predecessor, there is still a clear case for a division of labour between funding instruments, according to the advantages and specificities of each. The focus of ENPI programmes in Ukraine and Moldova is, for example, on large, sector-wide support programmes, rather than smaller projects. This is in line with the need to improve the focus and strategic impact of ENPI funding. Other instruments however, such as the Thematic Programme for Asylum and Migration have the ability to mobilise smaller pools of funds, in a more rapid and flexible way than large-scale sector reform programmes so as to respond quickly to swift changes in the economic and political situation in the countries. A state of play report will be submitted to Parliament in September.*

163. The European Parliament requests that the Commission ensure the sustainability of Union-financed projects by clearly defining the commitments made by the recipient government at the end of each project. (§ 282)

**Commission's response:**

*The Commission agrees that the recipient country should clearly express its interests and wishes to underlines that these expressions are set out in the Partnership and Cooperation Agreements and in the ENP action plans. They are further taken into consideration at the project's identification stage following priorities identified in the Country Strategy Paper and the National Indicative Programmes in line with the ENP Action plans. National participation is envisaged and implemented according to the nature of the project. A state of play report will be submitted to Parliament in September.*

164. The European Parliament deplores the fact that the effectiveness of Community funding was insufficient in cases where, although there were shortcomings in project management, grants were awarded to the same contractors for new projects; thus urges the Commission to define clear criteria for selecting contactors and to avoid repetition of the unsatisfactory management of Community funds. (§ 283)

**Commission's response:**

*The profile and expertise of each expert remain the first critical factor for performance. The Commission reminds that the selection criteria in call procedures are pre-established in an objectively verifiable and transparent way and are adapted to the specific needs of each individual call. Proposed experts can be considered only after they sign and submit their own availability and exclusivity statement.*

*AIDCO will study the possibility of setting up a data base recording performance of experts and contractors as well as the unavailability of experts at the start of the contract. However the possibility to exclude firms from future tenders is limited to the cases foreseen in the Financial Regulation.*

165. The European Parliament recommends that the Commission improve its communication with the governments of Ukraine, Moldova and Belarus, and that it take appropriate steps to encourage and help recipient countries to establish and exercise effective donor coordination. (§ 284)

**Commission's response:**

*Although the recent creation of the Coordination Bureau for European and Euro-Atlantic Integration is a step forward towards coordination of European Union cooperation, it does not include, for the time being, the coordination of European Union (European Communities and European Union Member States) assistance. The European Union needs to encourage the government of Ukraine to extend the mandate of the Coordination Bureau for European and Euro-Atlantic Integration and reform the current inefficient and fragmented coordination system. The need for a reform is strongly supported by the Deputy Prime Minister, who is suggesting setting up a single agency with strong coordinating powers which would take over*

*all responsibilities related to external assistance. The level of the coordinating unit would be raised from the Ministry of Economy to the Cabinet of Ministers; the Vice Prime Minister would become the National Coordinator of External Assistance.*

*As regards the Republic of Moldova, the Government established an Office for Coordination of the European Integration in April 2008, following a dialogue with the Commission. This office is also in charge of coordinating overall external assistance flowing into Moldova. Furthermore, a Commission for European Integration chaired by the President of the Republic of Moldova was set-up in May 2008 to coordinate the dialogue between the government and the European Institutions and to oversee the implementation of the European Union-Moldova Action Plan. The Office for Coordination of the European Integration had been fulfilling the tasks of the Secretariat to the Commission until February 2009, when its responsibility was transferred to the Ministry for Foreign Affairs and European Integration. This new set-up should go along with an intensification of information exchange with the Office in order to maintain an adequate level of coordination between progress on policy dialogue and assistance planning activities.*

*With regards to Belarus, the European Commission is at the forefront of the donor coordination efforts through the quarterly informal donor coordination meetings chaired by RELEX in Brussels. Its purpose is to coordinate the various initiatives of main European Union Member State donor and international donor organizations to which Belarus is not participating. Furthermore, the European Commission Delegation in Minsk, with the support of the National coordination Unit regularly hosts donor meetings with Belarusian counterparts from the Ministry of Economy and the Ministry of Foreign Affairs.*

166. The European Parliament encourages the Commission to focus more on the issue of effective prosecution in the fight against organised crime, and to explore possibilities for promoting greater public involvement in anti-corruption policy by supporting civil society organisations in issues relating to the judiciary and good governance. (§ 285)

**Commission's response:**

*More effective prosecution and systematic information sharing between law enforcement bodies has to be ensured in the frame of the joint European Communities - Council of Europe project: Ukraine's International Cooperation in Criminal Matters (UPIC) since 2006 and currently ongoing.*

*Clearly, the ultimate responsibility for achievements in this very sensitive area like prosecution and improved inter-services cooperation for criminal investigations lies with the national authorities due to matters relating to national sovereignty including security.*

*Unfortunately, the legislative process was in Ukraine hampered by frequent changes in the Government after the Orange Revolution, and generally legislative processes are always slow in the region. Joint sessions with the relevant law enforcement bodies were held during the lifetime of the EC-CoE project (2006-*

*2008) in order to encourage information sharing and promote good practice on effective prosecution.*

*The matter of effective prosecution in the fight against organised crime was further addressed within the TACIS programme "Interpol-assisted International Cooperation in Criminal Matters by Ukrainian Law-enforcement" (ended in December 2008) which aimed at improving capacities of the Ukrainian law-enforcement agencies to effectively exchange criminal information through the I-24/7 worldwide Interpol network. The ongoing European Union Border Assistance Mission continues to contribute to enhancing the overall border and customs management capacities and the abilities of Moldova and Ukraine to fight against cross-border and organised crime and to approximate the standards of the border and law enforcement authorities to those of the EU.*

*Particularly under the framework of the ongoing Project against corruption (UPAC), regular round tables with Non State Actors will continue to be held. Moreover, in the frame of the Mid Term Review process of the Country Strategy Paper and National Indicative Programme, Non State Actors will be widely consulted via the web and further meetings will be held.*

**Special Report No 11/2008 - The management of the European Union support for the public storage of cereals**

167. Take into account the geographical location of the stores and in particular the quality of the cereal lots when it sets the minimum disposal price.

Make the costs of activities not directly related to the intervention storage of cereals more transparent; therefore suggests that the subsidy element of programmes, such as support for the most deprived persons or the bioethanol industry, be directly allocated to the activities concerned.

Explore the idea of constituting a Community strategic reserve of cereals should a food shortage occur at Community level. (§ 286, 287 & 291)

**Commission's response:**

*The Commission will not be taking the requested action. Under the current system the resale price of each batch is determined without taking into consideration either its quality or its geographical location. Doing otherwise would make the system very difficult to manage in practice. The Commission finds that the current system has the advantage of being straightforward, objective and more efficient.*

*An ad-hoc approach can and has been followed on several occasions for the last remaining batches at the end of each exercise.*

*As regards the support for the most deprived persons, the Commission services consider that the budgetary process followed ensures that the costs of this activity are transparent. The cereals outtakes are funded through budget item 05020401. Furthermore, the public storage accounts clearly identify separately all stock movements involving the support for the most deprived person's scheme. The combined examination of these separate accounts leads to the transparent presentation of the financial cost of this scheme to the EU budget both from the budgetary and from the stock accounting viewpoints.*

*The tender for the resale of rye in view of its processing into ethanol was a pilot project for a limited quantity of grain. The accounts for this one-off tender are included in the budget line for sales of intervention rye, together with the other three tenders opened the same marketing year. The pilot project for bio-ethanol represented less than 11 % of the quantities of intervention rye put for sale during that marketing year. It was therefore not necessary to create a specific budget line. In addition, this tender has not been reopened in subsequent years and the pilot project has not been repeated ever since.*

*The Commission is of the view that strategic reserves would not be an effective instrument for managing shortages in the cereal market and therefore does not consider the possibility of constituting such reserves. The experience of the last years shows that in a situation of high prices the production of cereals in the Community can increase rapidly. Moreover, the recent Council decisions on the Health Check have confirmed this line and turned public intervention of cereals into a safety-net mechanism for situations of low prices.*



168. Evaluate the costs of controls in the field of public storage operations of cereals; calls on the Commission to create more incentives for Member States to reduce the storage and capital costs of their interventions and to optimise the time of sale of their stocks. (§ 288)

**Commission's response:**

*The Commission is working on the most appropriate method to follow in the cases where certain Member States do not declare their interest costs, in the framework of the Commission's calculation of the specific interest rate to be used for the reimbursement of the financing costs for public storage operations.*

*However, the Commission will not act on the first part of the request. The Communication on "Tolerable risk of error" that the Commission adopted in December 2008 already covers the costs of control for a variety of measures. In this context, the Commission is of the opinion that a separate exercise for the costs of control for intervention storage of cereals is not appropriate.*

169. Strengthen its review of the costs notified by the paying agencies by systematically following up on any unusual data or trends; on-the-spot inspections should include checks of the data used; the Commission should review its standard costs for operations without movement to ensure that they do not exceed actual costs. (§ 289)

**Commission's response:**

*The Commission will be taking part of the requested action, concerning standard costs for operations without movement: The Commission is examining the situation and it will decide on the most appropriate method to follow for the calculation of entry and removal standard costs without stock movement. The review will be carried out once the public storage situation and the information received from Member States allows it.*

*The Commission currently carries out a thorough analysis of the cost information received from the Member States concerned. On the basis of the Commission's risk analysis and the limited quantities in store, on-the-spot inspections of this information cannot be justified at this point in time.*

## European Development Funds

170. The European Parliament invites the Commission - when "fine-tuning" its control strategy (points 1 to 5 of the Annual Report on the EDFs) - to identify the point where lack of results and the costs of control call for a policy change.

Notes that the Commission considers that "(g)iven the financial and human resources available to it, (...) it has set up control systems which provide reasonable assurance" (point 53 of the Annual Report on the EDFs);

Regards the Commission's answers as unsatisfactory in that it seems reluctant to review the arrangements it has put in place, and invites the Commission to give more precise information as to the notion of "reasonable assurance" and, in particular, as regards the actual cost/benefit ratio of controls and the actual error rate, as well as a breakdown indicating which additional human and financial resources are necessary to improve the control system in order to allow the Court to give the mark "effective" as the overall assessment.

Notes with satisfaction the Court's recognition of Europe Aid's efforts to develop a control strategy; takes the view that an efficient control strategy aims at preventing errors ex-ante and not primarily at recovering undue paid funds ex-post; invites the Commission to continue developing its control strategy in the light of this approach, which is a priority for the discharge authority. (*EDF §§ 2, 23, 24 and 65*)

### Commission's response:

*Ex ante controls constitute a major part of EuropeAid's current control strategy, so that errors detected during such controls can be corrected before payments are approved. These ex ante checks, which are obligatory on all transactions, are modulated in relation to the characteristics of each activity. They include, whenever needed and appropriate, audits or specific technical certification by independent experts, in relation to the type of contract/operator, resulting in a high intensity of checks at the level of the implementing organisations, notably before final payments.*

*EuropeAid is willing to continue in the light of this approach and to pursue its efforts in order to further improve the management of implementing organisations. The Commission will submit a report to Parliament and Council based on the findings of the tolerable risk/cost-effectiveness studies for external action and a review of the AIDCO control strategy will follow.*

171. Takes the view that the implementation strategy for the Tenth EDF (EUR 21 966 000 000 for the period from 2008 to 2013) should focus on areas of crucial importance for ensuring sustainable development; encourages the Commission to prioritise and avoid proliferation;

Believes that the Commission, in an effort to prioritise and concentrate its development activities, could look for opportunities to increase assistance to low-income countries. (*EDF §§ 3-4*)

**Commission's response:**

*The 10th EDF programming was based on the Joint Statement by the Council, the European Parliament and the Commission on European Development Policy (the 'European Consensus') (OJ C(2006)46 of 24.2.2006, p. 1) which identifies nine core areas of intervention and asked for concentration in two focal areas plus general budget support.*

*The 10th EDF Mid-Term Review (2009-2010) guidelines ask for more joint programming, leading to further concentration and division of labour, based on the Council conclusions of 15.5.2007 which include the adoption the EU Code of Conduct on complementarity and division of labour. This code of conduct suggests concentrating on maximum three sectors plus general budget support.*

*46 out of 77 ACP countries eligible to EDF funding, representing 94% of the ACP population are Low Income Countries. The 10th EDF aid allocation model (Commission decision C(2007)3617 of 1.8.2007) gives an important weighting to needs and vulnerability, with the LICs being allocated more than 90% of the initial country allocations for programmed aid.*

172. Welcomes the commitment of all available funding for the Ninth EDF in 2007; calls on the Commission to formulate recommendations applicable for the non-committed parts of the Eighth EDF; stresses however that speedy commitment of funds should not be carried out to the detriment of the quality of projects. (EDF § 7)

**Commission's response:**

*Almost all the funds available under the 9th EDF and all the funds available (decommitted) from previous EDFs (including the 8th) were committed by end 2007. Furthermore, in accordance with article 1(4) of the 10th EDF internal agreement, funds decommitted subsequently from the old EDFs can no longer be committed. As indicated in declaration N° 2 concerning the multiannual financial framework for the period 2008 to 2013, agreed at the 31st session of the ACP-EC Council of Ministers Port Moresby, Papua New Guinea, 1 and 2 June 2006: "based on the performance review in 2010 and a proposal by the Commission, the Council of the European Union will consider a decision by unanimity on the transfer of any funds decommitted from ACP projects funded out of the 9th and previous EDFs into the reserves of the 10th EDF." The Commission will therefore analyse the possibility to prepare a proposal in 2010 on the use of decommitted funds from the 7th, 8th and 9th EDFs on the basis of the results of the 10th EDF mid-term review.*

173. Regrets however that the Commission's follow up to observations made by the Court in a number of cases is inadequate; stresses that the Commission's action on the Court's recommendations is an important element of accountability for the discharge authority; welcomes the fact that the Commission "will provide more detailed information in the future" (point 13 of the Annual Report on the EDFs). (EDF § 11)

**Commission's response:**

*The Court's observation refers primarily to the adequacy of the information supplied by the Commission on actions taken or planned as a follow-up to observations by the Court. On the substance, the Commission always analyses the Court's observations carefully to ensure that they are implemented appropriately. The nature of some observations means that it is sometimes difficult to be precise in terms of the schedule for implementation. Nevertheless, the Commission does follow up observations and most of them are implemented according to a specific schedule and with a precise description of the measures taken. The backbone strategy, CRIS AUDIT, CRIS FED, the terms of reference for the verification of supporting documents for programme estimates and the methodology for verification missions are all examples of recommendations which have either been implemented or are currently being finalised. However care will be taken to provide more detailed information in the summary of the Commission's follow-up to observations by the Court in the future.*

174. As regards the reliability of the accounts, notes the Court's recurrent remark concerning the validity of the Commission's statistical approach used to estimate the provision for costs incurred in the reporting period for which no invoices have been received at year-end; further notes that this provision amounts to EUR 2 087 000 000 or 83% of total liabilities (point 17 of the Annual Report on the EDFs); invites the Commission to continue to fine-tune and improve its approach. (EDF § 18)

**Commission's response:**

*The Commission instructed an independent auditor to carry out a study to check whether the method used is appropriate. The study's findings show that the assumptions underpinning mathematical estimates of invoices to be received are correct in the vast majority of cases. However, the study recommends a different approach in a limited number of cases. The Court has been informed of the findings and the Commission has undertaken to implement the recommendations for the 2009 accounting year.*

175. Notes the difference of opinion between the Commission and the Court as regards the moment when financing agreements should be "drawn up" and "signed" (point 19 of the Annual Report on the EDFs); regrets the unclear message to the discharge authority, and invites the Commission to provide clarification so that all parties - Commission and ACP States - have the same understanding of "drawn up". (EDF § 19)

**Commission's response:**

*Once financing proposals have been decided on by the Commission, the financing agreement is drawn up and signed by the Commission (within 60 days) and then it is concluded i.e. given the second signature by the beneficiary (by the end of the following calendar year). Accordingly, a distinction should be made between "drawing up" (see Article 17(2) of Annex 4 to the Cotonou Agreement), which means "preparing" / "drafting" the proposed agreement (which is supposed to be done "within 60 days of the decision" of the Commission) and the second signature, which means the "conclusion" of the agreement. The deadline by which*

*the two parties must sign a financing agreement is set at 31 December of year N+1 (Article 54(2) of the Financial Regulation of the 9<sup>th</sup> EDF and Article 78(1) of the Financial Regulation of the 10<sup>th</sup> EDF). As a matter of diligent practice, the Commission does not only draw up (prepare / draft) but also sign virtually all financing agreements within 60 days of its decision. The beneficiary then has until 31 December of year N+1 to sign.*

176. Notes that the Court, in the course of checking transactions, was unable to obtain the relevant documentation from United Nations bodies in the case of two payments (out of a sample of eleven); calls on the Commission, therefore, to ensure full compliance with the financial and administrative framework agreement. (EDF § 20)

**Commission's response:**

*The Commission endeavours to ensure full compliance with the FAFA and has drawn the attention of the UN representation in Brussels to these two cases.*

177. Notes that the Court highlights the inadequacy of the controls carried out by supervisors or auditors, which indicates the weaknesses in the supervisory and control systems; calls on the Commission, therefore, to tighten up its controls and, in particular, to introduce a system of review of external audit reports to check their quality. (EDF § 25)

**Commission's response:**

*The Commission has carried out quality reviews of its EDF external audit reports since 2005. The follow-up to the main findings has led to significant improvements in the use of terms of reference for audits and the quality of audit reports. The quality review system is annually reviewed and it was significantly improved in 2008 and 2009 following lessons learned.*

178. As regards budget support, invites the Commission to provide the evidence on which it has based its conclusions and to present it in such a way that it is clear how much progress has been made (from where to where) and why this amount of progress was considered "sufficient";

Is worried by the Court's findings, but even more by the Commission's replies, which show that the Commission is very reluctant to share the information on which its decisions on budget support are based;

Regrets that it does not have sufficient useful, comprehensive and reliable information in order to carry out an effective oversight of budget support results;

Invites the Commission to draw up an annual report on the use of budget support - and its Committee on Budgetary Control to draw up an own initiative report on this annual report - including useful, comprehensive, reliable, analytical and evaluative, and not only descriptive, information on:

- planned and disbursed budget support
- achievement of expected results as set out by donor objectives and country strategies

- existence and quality of complementary conditions
- the effectiveness of the dialogue, the state of donor harmonisation, the complementary capacity building which has taken place and the effect of that capacity building
- achievement of improved country systems
- accountability institutions, public finance management institutions, monitoring and evaluation institutions
- the amount and rate of irregular expenditure
- an analysis of the typology of irregularities (systemic and non-systemic) brought to light by controls and audits
- remedial action taken;

Further invites the Commission to identify, with the utmost rigour, countries or issues in budgetary support implementation where particular parliamentary attention could prove useful in improving donor accountability;

Also invites the Commission to introduce annual monitoring of this risk;

Takes the view that the higher degree of discretion in "dynamic approach" decisions on budget support must be counterbalanced by an equally high degree of transparency; invites, therefore, the Commission to make available to its Committee on Budgetary Control and its Committee on Development the information on which it bases its assessments;

Expects in particular to receive explicit information on the Commission's risk assessments and analyses of government systems in developing countries, its judgement of the significance of system weaknesses as regards potential inefficiencies and wastage of aid and estimates, quantified to the extent possible, of these factors, as well as information on measures taken, or to be taken in future, in order to mitigate the identified risks;

Welcomes the Commission's acceptance of the Court's observations, as well as the Commission's intentions, and looks forward to being informed of the detailed design and implementation of this "enhanced approach". (EDF §§ 31, 36, 40, 42-44, 47, 48, 52, 66 and 67)

**Commission's response:**

*The Commission fully cooperated with the Court of Auditors in providing the information and analysis upon which it bases its budget support decisions. The issues raised in the Court's Annual Report 2007 on the EDF have been addressed in detail in Commissioner Michel's letter to the Member of the Court dated 9th January 2009, with copy to the European Parliament. This was followed up in April 2009 by a detailed presentation by the Directors General for EuropeAid and Development to the Members of the Court on the Commission's approach to these issues.*

*At the same time, strenuous efforts are being made to improve the analysis of eligibility and enhance the clarity of Financing Agreements and payment decisions for budget support programmes. The formulation of every budget support programme now includes detailed supplementary documentation on each of the three eligibility criteria. The information relating to all budget support programmes approved in 2008 are presented in summarised form in the Annual Action Programmes of 2008 which are available on the EuropeAid public (Europa) website (see [http://ec.europa.eu/europeaid/work/ap/aap/2008\\_en.htm](http://ec.europa.eu/europeaid/work/ap/aap/2008_en.htm)).*

*The Commission understands and accepts the demand for even greater transparency in the treatment of budget support. In this context, the Commission presented its indicative plans for all budget support disbursements in 2009 and 2010 on a country-by-country basis to the EDF Committee in March 2009. The Commission is nevertheless concerned to limit the proliferation of reporting on the EDF (e.g. Annual Activity Reports for EuropeAid and DG Development, the European Development Funds Financial Management Report, the European Development Funds Financial Report and the Annual Report on the European Community's Development and External Assistance Policies and their Implementation). The Commission therefore proposes to provide more in depth coverage of budget support issues in future annual reports on the 'European Community's Development and External Assistance Policies and their Implementation'. This more in depth coverage of budget support issues will extend to information on results, analysis and assessment of risk and draw on available public finance management (PFM) diagnostics.*

*In addition the Commission believes that evaluations provide a crucial tool for organisational learning and effective oversight. The Commission has participated in several OECD evaluations of budget support operations in order to examine its contribution to achieving sustainable results. The evaluations carried out in 2006 in Burkina Faso, Malawi, Mozambique, Nicaragua, Rwanda, Uganda and Vietnam showed that with the provision of General Budget Support (GBS), 'pro-poor expenditures' increased in those respective countries.*

*The Commission is actively supporting the involvement of national parliaments in the review of budget support programmes. We have recently seen increased participation of parliaments in annual budget support review in Tanzania and Zambia. At the same time, the Commission is providing direct support to parliaments in a number of countries in order to further strengthen accountability and transparency.*

179. Invites the Commissioner to review these intentions until rhetoric has been replaced by reality and conclusive evidence, showing the extent to which budget support has given better value for money than other aid instruments or has had an impact on income poverty is available. (EDF § 50)

**Commission's response:**

*The Commission is committed to an evidence based approach in the development of budgetary support. In this perspective the Commission has spearheaded, in collaboration with Member States and other donors, the development of a comprehensive evaluation methodology which will seek to assess the contribution*

*of budget support to poverty reduction. This approach will be tested during the course of 2009. The objective is to systematically conduct joint evaluations of GBS and SBS programmes at country level. Pilot countries have been selected (Zambia and Niger) and first evaluations will be launched in 2009. The Commission understands that the Court of Auditors will also be carrying out a performance audit in 2009/10 on general budget support operations and look forward to its conclusions.*

180. Notes that NAOs (National Authorising Officers) are obligatory in ACP States but do not exist in RELEX developing countries; invites the Commission to inform it of the advantages and disadvantages of the EDF approach and to assess best practices across ACP States in order to improve the control of EDF expenditure by NAO administrations;

Further notes that "the lack of capacity and resources within NAO administrations" is "regularly reported by delegations" (point 41 of the Annual Report on the EDFs) to EuropeAid's central services; invites the Commission to inform it of feedback given to delegations on this issue. (EDF §§ 58 and 59)

**Commission's response:**

*The NAO's functions and responsibilities exist "de jure" in accordance with Article 35 of Annex IV to the ACP-EU Partnership Agreement. This has the advantage of making the national authorities more responsible for cooperation programmes. However, the management capacity of the NAO and his departments is often not sufficient to ensure full compliance with the obligations resulting from Article 35.*

*The Commission has adapted to this by modulating the degree to which management is decentralised. In practice, most financing is put in place by way of partially decentralised management (with ex-post controls by the Commission on all transactions over a given threshold) or centralised management.*

*EuropeAid is informed of the capacity of the national authorities via delegations and follow-up missions. Discussion with delegations on this subject takes place, for example, via the External Assistance Management Reports (EAMR), to which headquarters respond through regional seminars (with bilateral meetings to provide each delegation with a situation report on the cooperation programme), and as part of annual operational reviews.*

*The Commission organises training for administrations and has set up capacity building programmes for NAOs in a large number of countries. Any new support proposals for NAOs are discussed within EuropeAid's Quality Support Group when the identification fiche and then the action fiche are processed. Delegations are informed systematically of the QSG's conclusions and must take them into account when finalising projects. Within that context, the new backbone strategy to reorganise technical cooperation and project implementation units is an important tool which provides guidance for the setting-up of support for NAOs.*

181. Notes that, according to the Court, the number of Commission staff compared to the funds committed is decreasing, and that no significant increase of staff is foreseen



despite the forecasted substantial increase of commitments under the 10th EDF (point 33 of the Annual Report on the EDFs);

Fully agrees with the Court that there "is a risk that shortage or inadequate distribution of staff or unavailability of specific skills and knowledge has an impact on the quality of the controls, verification and monitoring" (point 33 of the Annual Report on the EDFs);

Invites the Commission to explain how it envisages managing the tension - if not contradiction - between the need for additional human resources at delegations and its commitment "to maintain stable staffing once all enlargement-related personnel are integrated, with no requests for new posts for the period 2009-2013" and "to meet new staffing needs in key policy areas exclusively through redeployment within and between departments" [Note: Report from the Commission. Planning and optimising Commission human resources to serve EU priorities(SEC(2007)0530), p. 3];

Takes the view that additional human resources could be found by abolishing the split responsibility for development between RELEX and DEV; invites the current Commission to take the necessary steps with a view to facilitating this reorganisation in the new Commission; believes that the current division of labour on development co-operation between DEV and RELEX does not allow the Commission to participate fully in nurturing international efforts to promote development coherence and aid effectiveness; further invites the Commission to ensure that development co-operation is unambiguously dedicated to the primary objective of poverty eradication;

Calls on the Commission to take the necessary measures to increase the number of staff allocated to the EDF's management and control structures in view of the anticipated increase in the volume of commitments under the Tenth EDF. (*EDF* §§ 60-64)

**Commission's response:**

*The Commission may, in addition to the statutory staff (establishment plan posts) dedicated to the managing of the EDF, and in accordance with the Internal Agreement of the EDF, resort to external personnel financed from the programme itself. This is not only true for the recruitment of external personnel in delegation (as is the case for the general budget), but also – and this is new under the 10th EDF - for the recruitment of external personnel at Headquarters (see article 6, par.2, letter c) of the 10th EDF Internal Agreement).*

*According to the Draft Preliminary Budget for 2010, the external personnel in place at 1/04/2009 financed by the EDF amounts to 275 contract agents (of which 34 at headquarters) and 607 local agents. A reinforcement of some 74 FTE is foreseen for the period 2009-2014, whether in delegations or at Headquarters.*

*Moreover, the Commission's communication "Planning & Optimising Commission Human Resources to serve EU priorities" – SEC(2007)530 of 24/04/2007) allows for possible additional external personnel for the management of deconcentrated external aid action in delegations and does not concern EDF resources, since they are extra-budgetary. External personnel is financed by the*

*assigned revenue from contribution to administrative support expenditure of the EDF linked to programming and implementation.*

*According to the institutional balance set out by the Treaties, the Commission is responsible for the management of the EU budget and the EDF. The staff allocation and responsibilities between Commission departments is therefore a question of internal organisation within the Commission. In this sense, the Commission carried out in 2008 an analysis of the network structure of delegations in order to rationalize and optimize the allocation of existing resources.*

182. Believes that the Commission should inform recipient countries' administrations of its accountability obligations and request those who manage funds downstream to be subject to similar obligations;

Takes the view, therefore, that development aid in general and budget support in particular should be tied to an ex-ante disclosure statement, issued by the recipient country's government and signed by the finance minister, concerning selected issues that affect the governance and accountability structure of a beneficiary country;

Invites the Commission to take the lead and to present this proposal to other international donors - in particular the World Bank - with a view to developing and implementing such an instrument in agreement with other donors; stresses that the nature of penalties for a deliberately misleading disclosure statement will need particular attention;

Invites the Commission to inform it of a possible timeframe for these negotiations. (EDF §§ 71-76)

**Commission's response:**

*The Commission takes note of the suggestion of a Country Disclosure Statement. However the Commission believes that key information on governance is generally available through analysis carried out with the cooperation of the authorities and other actors such as the IMF and World Bank. These analyses are fully taken on board in our Country Strategy Papers and budget support Financing Agreements. If within budget support operations a government does not meet its commitments as regards public finance management reforms or performance indicators within variable tranches, this would be taken into consideration in the determination of the tranche disbursements*

183. Invites the Commission to inform it of the specific procedures it has established with the EIB in order to coordinate the two institutions' efforts to achieve EU development objectives, as well as of the efficiency of these procedures.

Invites the Commission to follow-up closely the implementation of the Investment Facility with a view to guaranteeing that it fulfils its objective as a development tool, and to inform its Committee on Budgetary Control on a regular basis of its findings. (EDF §§ 86-89)

**Commission's response:**

*Since the 9<sup>th</sup> EDF the internal agreement has provided for a clear separation between the EDF funds managed by the Commission and those managed by the EIB. The Commission does not act as authorising officer for Investment Facility funds and, as such, is not responsible for funds managed by the EIB.*

*However, as provided for in the implementing regulation for the 10<sup>th</sup> EDF, the EIB consults the Commission on strategy documents, guidelines and projects. At the same time, the Commission consults the EIB when devising strategies for the different countries or regions and the EIB's scope of intervention is normally determined in the national or regional programming documents.*

*In addition, the Commission coordinates actively with the EIB for a coherent approach to grants and loans, at technical level through dialogue between the respective services and at a strategic level e.g. in the framework of decision making structures for the EU Africa Infrastructure Trust Fund, where both the Commission and the EIB are members of the Steering Committee, and for the Water and Energy Facilities, for which the EIB sits as member of the two Informal Advisory Groups of Experts. The purpose of this coordination is to ensure consistency and to promote synergies between development aid granted by the EU and the Bank's operations.*

## Requests to the Commission in resolutions concerning the agencies

184. The European Parliament deplores the fact that the ECA again found serious problems as regards the implementation of procurement rules and the Staff Regulations in many agencies; is not prepared to accept that these weaknesses have persisted over many years; considers that the revision of the Regulation (EC, Euratom) No 2343/2002 will not do away with these problems and that a fundamental overhaul of the legal framework is needed; (P6\_TA(2009)0274 - §11)

### Commission's response:

*The fact that some weaknesses are identified under current financial rules may require that some of these rules are changed in the future.*

*The Commission will present its proposal for the modification of the Financial Regulation next year taking into account the observations of the EP. Financial Rules specific to agencies (notably the Framework Financial Regulation) will be examined, if relevant, following the triennial revision of the Financial Regulation. They will also have to take into account the work of the inter-institutional working group.*

*However, some weaknesses identified by ECA were also due to incomplete application of current financial rules, in particular when some agencies lacked adequate experience in financial management.*

*In order to improve the situation, the Commission provides a wide-ranging assistance to agencies in several areas (see full details in reply to §25 of the resolution of the European Parliament).*

185. The European Parliament notes the Commission's statement that all necessary support was granted to those agencies wishing to migrate to ABAC (Accrual Based Accounting); notes that the agencies in some cases considered the support as insufficient. (P6\_TA(2009)0274 - §12)

### Commission's response:

*The Commission is deeply involved to connecting the Agencies to ABAC. A quick overview of the connection of entities to ABAC since the start of the project shows that :*

- 19 entities have been connected at 31/12/2008. Since the first agency has been connected in 2006, the average is 6 agencies per year.*
- In 2009, according to the forecast, 10 new entities will be connected, which represents a significant effort for the Commission.*
- Now, discussions are ongoing with 5 existing Agencies which continue currently to work with the previous computer system SI2, and should migrate to ABAC in 2010.*

• *At the end of 2010, all existing entities having introduced a request should be connected to ABAC (approximately forty entities).*

186. The European Parliament urges the Commission to consider technical abatement in order to lower surpluses in case of low implementation rates and persistently high vacancy rates, which will also trigger a reduction of assigned revenue (P6\_TA(2009)0274 - §14)

**Commission's response:**

*The Commission has taken the requested action.*

*It has taken the Parliament's request into account when preparing its 2010 PDB request, as explained in more detail in the dedicated PDB Working Document on agencies (section 2.1 decentralised agencies).*

187. The European Parliament notes, in this context, the difficulties of decentralised agencies in recruiting highly qualified staff and experts; invites the Commission and the European Personnel Selection Office to strengthen their supporting efforts. (P6\_TA(2009)0274 - §15)

**Commission's response:**

*EPSO provides assistance to the Agencies on the basis of a Service Level Agreement signed on 14 March 2007. 25 Regulatory Agencies have signed the SLA between this date and today. Currently EPSO provides Agencies with support mainly on publication of posts and 3rd language testing coverage. On basis of an additional bilateral detailed service level agreement, EPSO also organised recently several open competitions for one specific agency (OHIM).*

*In the context of the implementation of the EPSO's Development Programme, EPSO would be pleased to review the terms of its service level agreement with the Agencies in the near future, with a view to formalising improvements of service:*

*- short term : provide a consultancy role that: (1) encourages the agencies to make full use of the data bases of candidates already available for recruitment eRL (laureates of competitions) /CAST (selected contract agents), (2) help Agencies to market more effectively any vacancies that they cannot fill from EPSO's existing databases, so that the Agency's selection standards are not confused with those followed by EPSO itself when selecting candidates for the Institutions and (3) to make available other IT tools to the Agencies (online application form) ;*

*- medium term: inventory of Agency needs, training for Agency Staff, allowing use of framework contracts ;*

*- long term: possible full support of EPSO where the Office would organise selection procedures for agencies through its IT system and using Computer Based Testing.*

188. The European Parliament urges the Commission to continue scrutinizing the agencies' budget implementation for 2008 and 2009 and to make the necessary adjustments to the agencies' budget proposals (P6\_TA(2009)0274 - §16)

**Commission's response:**

*The Commission has taken the requested action.*

*It has taken the Parliament's request into account when preparing its 2010 PDB request, as explained in more detail in the dedicated PDB Working Document on agencies (section 2.1 decentralised agencies).*

189. The European Parliament welcomes the Commission's efforts, since the 2009 Preliminary Draft Budget (PDB), to systematically take into account the last known surpluses (in the case of the 2009 PDB, those of year n-2) when calculating the Community contribution; in order to improve transparency and efficiency, calls on the Commission, as a principal rule, to provide detailed information on the procedures for calculating and accounting for all types of assigned revenue at the agencies' disposal, specifically those arising from previous years' surpluses. (P6\_TA(2009)0274 - §17)

**Commission's response:**

*The Commission has taken the requested action.*

*It has taken the Parliament's request into account when preparing its 2010 PDB request, as explained in more detail in the dedicated PDB Working Document on agencies (section 2.1 decentralised agencies).*

190. The European Parliament regrets that the Commission, despite Parliament's request in 2006 discharge resolutions on agencies, has not presented a rapid solution and therefore asks the Commission again to look for a quick solution in order to enhance effectiveness by grouping the administrative functions of various agencies together. (P6\_TA(2009)0274 - §24)

**Commission's response:**

*The outcome and calendar for such a proposal does not depend on the Commission exclusively.*

*This item is currently under discussion in the inter-institutional Working Group on regulatory agencies.*

*As established in the Common Statement of 10 March 2009, the inter-institutional Working Group on Regulatory Agencies will address a number of key issues put forward by the participating Institutions, including the role and position of the Agencies in the EU's institutional landscape, the creation, structure and operation of these agencies, together with funding, budgetary, supervision and management issues. At technical level, a list of specific issues have been identified and agreed upon. Work is currently ongoing within the Group and the Commission will undertake the necessary action depending on the outcome of these discussions.*

*In this context the inter-institutional Working Group will, inter alia, examine the findings of the study commissioned by the European Parliament on the opportunity and feasibility of establishing common support services for EU Agencies (April 2009).*

191. The European Parliament encourages the Commission to increase its efforts in providing all necessary administrative assistance to relatively small and especially newly-created agencies; bearing in mind negative experiences from the past; calls on the Commission to issue in the shortest possible time special guidelines for the agencies concerning the application of financial rules in relation to staff recruitment, public procurement and so on (P6\_TA(2009)0274 - §25)

**Commission's response:**

*The Commission provides wide-ranging assistance to agencies in several areas, particularly regarding budgetary (notably: annual budgetary procedure, including activity-based management, financial management and accounting) and administrative issues (for example: implementing provisions for the staff regulations and staff policy plan). Some of this assistance is provided by the Commission by legal requirement, while in many other cases the Commission assists agencies on a voluntary basis.*

*Moreover, the Commission has improved its co-operation with the agencies concerning the participation of its representatives in the Management Boards, Memoranda of Understanding and services provided.*

*In practice, agencies receive the same type of assistance than Commission services concerning budgetary and financial management issues, through the CFS Central Financial Service) helpdesk, the accounting services of the Commission, internet tools and training, to which they have already full access.*

*In particular, detailed guidance on procurement and other financial management issues is made available on a dedicated website.*

*Agencies also already have access to a number of framework contracts of the Commission, provided they are listed as potential contracting authorities in the tender documents - as for any independent entity (equivalent to an interinstitutional contract).*

*Finally, agencies are encouraged to sign a number of service-level agreements with all horizontal Commission Directorates-General for support services, notably those relating to buildings and security, IT systems (including ABAC where 22 out of 31 agencies are already using this central system, with 2 more scheduled to join by the end of 2009 and 5 more during 2010), general and language training, medical services, etc.*

*The Commission undertook a review of the support it offers to agencies, which resulted in a document mapping all the services currently delivered by the Commission. This exercise had a twofold purpose: first, to ensure that agencies are aware of the full scope of services that the Commission offers; and second, to identify areas where assistance can be improved and rendered more efficient. This*

*mapping exercise was done in close cooperation with agencies via their TROIKA. The final document will be distributed to agencies soon. Further steps could be undertaken on that basis.*

*The Commission will take into account the results of the interinstitutional Working Group in order to further improve its assistance, where necessary.*

192. The European Parliament recalls the Commission's horizontal evaluation of the decentralised agencies referred to in its above-mentioned Communication, the results of which should be available by 2009-10; calls on the Commission to ensure that evaluations of agencies become more transparent in the interests of both the agencies and stakeholders (P6\_TA(2009)0274 - §32)

**Commission's response:**

*In addition to the ongoing evaluation of decentralised agencies, the Commission has carried out two meta-studies - one in 2003 and one in 2008 - that provide a horizontal assessment of the system of decentralised agencies. Furthermore, in the context of the discussion of the PDB, the Commission has provided the budgetary authority with a set of documents containing information on existing and planned evaluations of agencies, as well a summary of main evaluation findings.*

*Regarding the evaluations of individual agencies, it is important to bear in mind that generally agencies are responsible for undertaking their own evaluation on programmes and activities, and only certain Constituent Acts also foresee a role for the Commission concerning this kind of evaluations.*

*See also reply to the European Parliament's request in § 256 of the 2007 discharge resolution concerning the guidelines on evaluation.*

193. The European Parliament recalls the suggestion made in its above-mentioned resolution that the inter-institutional working group address, inter alia, the need for a standard approach to the presentation of the agencies' activities during the financial year in question (P6\_TA(2009)0274 - §40)

**Commission's response:**

*This item is among the discussion items agreed at present by the inter-institutional Working Group.*

*As established in the Common Statement of 10 March 2009, the inter-institutional Working Group on Regulatory Agencies will address a number of key issues put forward by the participating Institutions, including the role and position of the Agencies in the EU's institutional landscape, the creation, structure and operation of these agencies, together with funding, budgetary, supervision and management issues. At technical level, a list of specific issues have been identified and agreed upon.*

194. The European Parliament Insists on the need to establish minimum common standards with regard to the setting-up of decentralised agencies in the future. (P6\_TA(2009)0274 - §43)



**Commission's response:**

*This item is currently under discussion in the inter-institutional Working Group on regulatory agencies.*

*As established in the Common Statement of 10 March 2009, the inter-institutional Working Group on Regulatory Agencies will address a number of key issues put forward by the participating Institutions, including the role and position of the Agencies in the EU's institutional landscape, the creation, structure and operation of these agencies, together with funding, budgetary, supervision and management issues. At technical level, a list of specific issues have been identified and agreed upon. Work is currently ongoing within the Group and appropriate measures may be adopted depending on the outcome of these discussions.*

195. The European Parliament asks the Commission and the agencies, in the meantime, to make available the financial documentation produced by the agencies in a complete, comparable and up-to-date manner on the common website launched by the Commission and the decentralised agencies on the Commission's intranet. (P6\_TA(2009)0274 - §44)

**Commission's response:**

*The Commission will undertake the necessary actions to keep up-to-date information on the common Commission-Agencies website.*

196. The European Parliament calls on the inter-institutional working group, in the light of the 2007 discharge exercise, to consider
- the reasons behind budget implementation problems, in particular the lack of a top-down approach concerning the agencies' budgets and staffing,
  - the question why compliance with recruitment and procurement rules is a recurrent problem in many agencies,
  - lessons learned from the specific experience of the European Anti-Fraud Office related to agencies,
  - how the implementation of policies by agencies can be made more cost efficient, for example by grouping the administrative functions of various agencies together,
  - how the Commission's different support functions and services could be made more reactive in order to respond quicker to the agencies' needs. (P6\_TA(2009)0274 - §45)

**Commission's response:**

*All these aspects are currently under discussion in the inter-institutional Working Group on regulatory agencies.*

*As established in the Common Statement of 10 March 2009, the inter-institutional Working Group on Regulatory Agencies will address a number of key issues put forward by the participating Institutions, including the role and position of the Agencies in the EU's institutional landscape, the creation, structure and operation*

*of these agencies, together with funding, budgetary, supervision and management issues. At technical level, a list of specific issues have been identified and agreed upon. Work is currently ongoing within the Group and appropriate measures may be adopted depending on the outcome of these discussions.*

197. European Translation Centre: The European Parliament insists that the Commission and the Centre strive to resolve the dispute over pension contributions for staff quickly; requests the Centre to inform the discharge authority of the outcome of the negotiations. (P6\_TA(2009)0272 - §8)

**Commission's response:**

*On 11.12.2007, the Court of Justice has transferred case C-269/06 to the Tribunal of First Instance, where it is now registered as case T-406/07.*

*The Commission is closely following this issue and will inform the European Parliament of any development in this case.*

198. European Agency for Reconstruction: The European Parliament requests the Commission to inform Parliament's competent committee of:

(a) how the unused budgetary appropriations will be implemented;

(b) whether a memorandum of understanding covering all items in the Agency's balance sheet has been concluded between the Agency and the Commission, or how the Commission has otherwise ensured the completeness of the transfer of all files and items;

(c) how the accumulated surplus of EUR 180 000 000 shown in the Agency's balance sheet at 31 December 2007 will be managed by the Commission. (P6\_TA(2009)0299 - §9)

**Commission's response:**

*The Commission will provide the information requested by the European Parliament in its fifth and final information note on the phasing out of the European Agency for Reconstruction.*

199. Fundamental Rights Agency: The European Parliament notes that OLAF has opened an investigation concerning the Agency; calls on the Agency and on the Director in particular to fully cooperate with OLAF; requests that OLAF, the Agency and the Commission inform the discharge authority of the results of the investigation and possible follow-up measures as soon as possible (P6\_TA(2009)0304 - §6)

**Commission's response:**

*OLAF is able to confirm that the case in question was closed without follow-up as no irregularities were identified.*

200. The European Parliament urges the Commission to ensure that the European Maritime Safety Agency, the European Aviation Safety Agency and the European Railway Agency maintain strict financial discipline in the future and always works

within the agreed budgets. (P6\_TA(2009)0298 - §12, P6\_TA(2009)0267 - §11 and P6\_TA(2009)0297 - §232)

**Commission's response:**

*The requested action has been taken. The Commission insists that all EU bodies should comply with EC legislation, and with the Preliminary Draft Budget for 2010 it confirms its policy to ensure that the agencies present more realistic budget proposals.*

*However, it should be noted that the regulatory agencies are independent bodies set up by Community law and that they are therefore responsible for their own administration and management.*

201. European Police College: The European Parliament asks the Commission to closely supervise the implementation of the College's budget (P6\_TA(2009)0295 - §3)

**Commission's response:**

*The Commission accepts the request. Taking account of the legal and budgetary autonomy of the agencies, the Commission is closely monitoring the implementation of the CEPOL's budget. Particular attention is paid to the cashflow position and the forecast of expenditure and implementation.*

202. European Police College: The European Parliament calls on the College, OLAF and the Commission to inform the discharge authority of the results of the OLAF investigation without delay as soon as they are available. (P6\_TA(2009)0295 - §20)

**Commission's response:**

*OLAF agrees to provide information on the outcome of its investigation while at the same time respecting the need for confidentiality for cases where action is still ongoing by the national judicial authorities.*

203. European GNSS Supervisory Authority: The European Parliament calls on the Commission, to which the Galileo and EGNOS project assets are currently being transferred, to consider the ECA's observations and ensure that these assets are properly recorded in the accounts. (P6\_TA(2009)0296 - §16)

**Commission's response:**

*The Commission is currently working together with the European Space Agency and the European GNSS Supervisory Authority (GSA) to ensure that assets from the EGNOS system and the relevant assets of the GSA are transferred to the Commission and properly recorded in the accounts. The transfer of the assets of the Galileo programme from ESA to the Commission is not foreseen to begin until the end of 2010.*